CONSENT

8. Revised Title to read:
Social Services Agency - Approve non-financial Memorandum of Understanding (MOU) MCJ0318 with Fordham University for graduate fieldwork experience, 4/4/19 3/1/19 - 6/30/20; and authorize Director to execute MOU - All Districts

DISCUSSION

23. Revised Title to read:
John Wayne Airport - Approve amendment 2 to renew contract MA-280-17010947 with Flagship Airport Services Inc. for custodial maintenance services, 4/1/19 - 3/31/21 ($1,358,666 $1,066,793; new total $11,496,466 $11,204,593; cumulative total $21,634,266 $21,342,392); and authorize County Procurement Officer or authorized Deputy to execute amendment - District 2

26. Revised Title to read:
OC Community Resources - Approve use of FY 2017-18 Emergency Solutions Grant Rapid Rehousing Funds ($15,273), FY 2017-18 Bringing Families Home Program roll over funds to for Rapid Rehousing ($160,505), and General Funds ($320,278), for continued and enhanced services at Armory Emergency Shelter Program for term of the contract; approve amendment 3 to contract 18-23-0015-PS with Mercy House Living Centers, Inc. for Armory Emergency Shelter Program ($496,056; cumulative total $1,535,131); and authorize Director or designee to execute amendment - Districts 1 and 4

29. Revised Title to read:
OC Waste & Recycling - Approve contract MA-299-19010875 with Discovery Science Center of Orange County dba Discovery Cube Orange County for EcoChallenge Exhibits, EcoChallenge Brand and Strategic Marketing Plan, 3/1/19 -2/28/22 ($1,325,742); renewable for two additional one-year terms ($191,494 per year); approve agreement MA-299-19010864 with Angels Baseball LP for strategic marketing and outreach services, 3/1/19 - 2/28/22 2/29/20 ($300,000 $100,000); renewable for two additional one-year terms ($100,000 per year); approve agreement MA-299-19010701 with Anaheim Ducks Hockey Club, LLC for strategic marketing and outreach services, 3/1/19 - 2/28/22 2/29/20 ($364,500 $121,500); renewable for two additional one-year terms ($130,870); and authorize County Procurement Officer or authorized Deputy to execute contract and agreements - All Districts (Continued from 2/5/19, Item 16)

33. Revised Title to read:
Social Services Agency - Approve amendment 1 to agreement WGV0416-A1 with Illumination Foundation for Housing Support Program services, 7/1/18 - 6/30/19 ($388,000; new total $1,000,000; cumulative total $1,562,000); renewable for one additional one-year term; and authorize Director or designee to exercise cost contingency increase not to exceed 10% under certain conditions - All Districts

34. Continued to 4/23/19, 9:30 a.m.
39. Revised Title to read:
**County Executive Office** - Approve amendment 1 to renew contact with Secova, Inc. for benefits administration outsourcing services, 1/1/20 - 12/31/20 ($1,899,000; revised estimated cumulative total $11,541,655 $7,441,796); and authorize Chief Human Resource Officer or designee to execute amendment - All Districts

41. Deleted

43. **Action Item 2 continued to 3/12/19, 9:30 a.m.**
Revised Title to read:
**County Executive Office** - Approve grant applications/awards submitted by Sheriff-Coroner, District Attorney and OC Community Resources and retroactive grant applications/awards submitted by Sheriff-Coroner in 2/26/19 grant report and other actions as recommended - All Districts

THE FOLLOWING AGENDA ITEMS HAVE HAD CHANGES TO THEIR RECOMMENDED ACTIONS SINCE RELEASE OF THE AGENDA TO THE PUBLIC:

Items 8, 23, 26, 29, 33, 39 and 43

**Supplemental Item(s)**

**S45A. Supervisor Do and Supervisor Chaffee** - Approve Orange County Complete Count Committee proposed membership structure; and authorize County Executive Officer or designee to select representatives for each stakeholder group and make minor modifications as necessary

**S45B. Supervisor Do** - Approve Memorandum of Understanding between District Attorney, Health Care Agency and Public Defender regarding pre-trial mental health diversion for eligible Public Defender clients

**S45C. District Attorney** - Approve agreement with City of Laguna Hills for prosecution of violators of city ordinances, 3/1/19 - 2/28/24 - District 5

**S45D. Sheriff-Coroner** - Adopt resolution ratifying the proclamation of a local emergency by the Chairwoman of the Board of Supervisors acting as the Chairwoman of the Emergency Management Council related to 2019 Winter Storm Events; and set review to determine need for continuing local emergency for 4/23/19, 9:30 a.m. and every 60 days thereafter until terminated - All Districts

**S45E. County Executive Office** - Approve lease agreement with CF Santana LLC for office space for Health Care Agency at 200 West Santa Ana Boulevard, Santa Ana, 15 year term; authorize Chief Real Estate Officer or designee to execute subsequent lease amendments for non-monetary and/or monetary changes under certain conditions; and make California Environmental Quality Act and other findings - District 1
S45F. **County Executive Office** - Approve lease agreements with CF Santana, LLC for office space for Public Defender at 200 West Santa Ana Blvd. and 801 West Civic Center Drive, Santa Ana, 15 year term; authorize Chief Real Estate Officer or designee to execute subsequent lease amendments for non-monetary and/or monetary changes under certain conditions; delegate Chief Real Estate Officer or designee ability to exercise options to extend term of lease under certain conditions; and make California Environmental Quality Act and other findings - District 1

S45G. **County Executive Office** - Approve appointment of Agripino Alonso as Internal Audit Director, effective 4/8/19 (annual salary $210,246 ($101.86 per hour) with total compensation (including benefits) $324,007) - All Districts

SCS4. **County Counsel** - CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION - SIGNIFICANT EXPOSURE TO LITIGATION - Pursuant to Government Code Section 54956.9(d)(2): Number of Cases: One Case
Revision to ASR and/or Attachments

Date: February 13, 2019
To: Clerk of the Board of Supervisors
CC: County Executive Office
From: Debra J. Baetz, Social Services Agency Director
Re: ASR Control #: 18-001042, Meeting Date 2/26/2019, Item No. # 8
Subject: Memorandum of Understanding for Fieldwork Experience

Explanation:

The term start date of January 1, 2019, is incorrect on the Recommended Action and in the Term paragraph of the Memorandum of Understanding. The commencement date is being updated to reflect March 1, 2019.

Also please replace Attachment A with the version provided.

☑️ Revised Recommended Action(s)

Approve and authorize the Social Services Agency Director, or designee, to execute the non-financial Memorandum of Understanding between the Social Services Agency and Fordham University for the Provision of Graduate Fieldwork Experience for the period of January 1, 2019, March 1, 2019, through June 30, 2020.

☐ Make modifications to the:

☐ Subject ☐ Background Information ☐ Summary ☐ Financial Impact

☑️ Revised Attachments (attach revised attachment(s) and redlined copy(s))

Attachment A - MOU with Fordham University (MCJ0318)
MEMORANDUM OF UNDERSTANDING
BETWEEN
THE COUNTY OF ORANGE SOCIAL SERVICES AGENCY
AND
FORDHAM UNIVERSITY
FOR THE PROVISION OF
GRADUATE FIELDWORK EXPERIENCE

This Memorandum of Understanding (MOU) is entered into by and between the County of Orange, acting through its Social Services Agency, hereinafter referred to as “SSA,” and Fordham University, hereinafter referred to as “SCHOOL.” This MOU contains program content and purpose, along with guidelines to be enforced by SCHOOL, for Students in the Graduate School of Social Science at SCHOOL to obtain the required fieldwork experience in a government setting.

SSA and SCHOOL may be referred to individually as “Party” and collectively as “the Parties.” The relationship between SSA and SCHOOL, with regard to this MOU, is based upon the following:

1. SCHOOL desires to have Students who are currently enrolled in the Graduate School of Social Science, Online Master of Social Work Program at SCHOOL to obtain fieldwork experience working with SSA.

2. The Director of SSA is willing to provide opportunities for fieldwork experience for Students, in accordance with guidelines contained in this MOU.

3. This MOU sets forth guidelines authorized by both the SSA Director and SCHOOL’s Director of Fieldwork Experience for their respective employees to follow in the provision of fieldwork experience.

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MCJ0318 Page 1 of 20
# TABLE OF CONTENTS

1. TERM ........................................................................................................................................... 3  
2. PURPOSE ........................................................................................................................................ 3  
3. DEFINITIONS ................................................................................................................................... 3  
4. PROGRAM REQUIREMENTS ........................................................................................................... 4  
5. SCHOOL RESPONSIBILITIES ......................................................................................................... 5  
6. SSA RESPONSIBILITIES ................................................................................................................ 6  
7. CONFIDENTIALITY ........................................................................................................................ 8  
8. PUBLICITY, LITERATURE, ADVERTISEMENTS AND SOCIAL MEDIA ....................................... 9  
9. INDEMNIFICATION ........................................................................................................................ 10  
10. INSURANCE .................................................................................................................................. 10  
11. NOTIFICATION OF INCIDENTS, CLAIMS, OR SUITS .............................................................. 14  
12. CHILD AND DEPENDENT ADULT/ELDER ABUSE REPORTING ........................................... 14  
13. NOTICES ....................................................................................................................................... 15  
14. RESOLUTION OF CONFLICTS .................................................................................................... 16  
15. CONFLICT OF INTEREST ............................................................................................................. 16  
16. TERMINATION ............................................................................................................................. 16  
17. SIGNATURE IN COUNTERPARTS ................................................................................................. 18  
18. GENERAL PROVISIONS ................................................................................................................ 18
1. **TERM**

The term of this MOU shall commence on March 1, 2019, and end on June 30, 2020, unless earlier terminated pursuant to the provisions of Paragraph 16 of this MOU; however, the Parties shall be obligated to perform such duties as would normally extend beyond this term., including, but not limited to, obligations with respect to indemnification and confidentiality.

2. **PURPOSE**

The purpose of this MOU is to set forth the program content, along with guidelines, with regard to the Parties’ participation in fieldwork experience. This MOU is intended to:

2.1 Formalize an association between the Parties;

2.2 Establish a mutual understanding of the scope of responsibility of each Party, including legal mandates and contraints; and

2.3 Provide opportunities for Students to gain fieldwork experience in a government setting.

3. **DEFINITIONS**

3.1 **Client**: An individual to whom the Student provides social welfare services/case-related services, whether in an individual, couples, family, or group setting, under the supervision of the Field Instructor or Preceptor and within the scope of the fieldwork assignment. Individuals receiving social welfare services/case-related services pursuant to this MOU may include current SSA clients, as well as other individuals in connection with an SSA program.

3.2 **Field Instructor**: An individual who possesses a Master’s Degree in Social Work (MSW) from an accredited School of Social Work, has at least two (2) years post-graduate experience, is employed by SSA and currently assigned to the SSA placement site, and has interest in and demonstrates skill in teaching.
3.3 **Preceptor:** An SSA employee who may be called upon to provide supplementary instructional services. This individual also has a Master's Degree from an accredited school or has experience as a Senior Social Worker (SSW) or equivalent, and is part of the SSA service delivery team. The Preceptor shall report to the Field Instructor.

3.4 **SCHOOL Coordinator:** The SCHOOL employee designated to: 1) act as liaison between the school and SSA, 2) coordinate pre-assignment interviews, and 3) ensure the Student's compliance with SCHOOL's requirements.

3.5 **SSA Coordinator:** The SSA employee designated to act as a liaison between the School and SSA and coordinate the activities associated with fieldwork experience, including, but not limited to: the number and location of individual assignments; arranging pre-assignment interviews; and coordinating the match between the Field Instructor and Student.

3.6 **Student:** An individual who is currently enrolled and in good standing in the Graduate School of Social Science, Online Master of Social Work Program at SCHOOL and is participating in fieldwork in order to satisfy a specific Graduate School of Social Science program requirement at SCHOOL. The Parties hereto agree that Students are not to be considered employees or agents of either SSA or SCHOOL for any purposes, including Workers' Compensation or employee benefit program.

4. **PROGRAM REQUIREMENTS**

4.1 **Clearances – Prerequisite For Student Participation:**

SCHOOL understands and agrees that, in order for Students to participate in this program, the Students must provide the information necessary to complete the following background checks prior to fieldwork: Child Abuse Central Index (CACI), Department of Motor Vehicles (DMV), and live scan fingerprinting. The decision to
approve any Student for participation in fieldwork experience through SSA is within SSA’s sole discretion.

4.2 Mutual Responsibilities:

4.2.1 SSA and SCHOOL may mutually agree to modify the number and type of supervision hours required to be provided to Students to comply with SCHOOL rules and regulations, as they currently exist or may hereafter be amended. Any modifications must be in writing and properly executed by SSA and School.

4.2.2 SSA and SCHOOL may mutually agree to amend the number of activity hours and the types of services the Student may provide to comply with SCHOOL rules and regulations, as they currently exist or may hereafter be amended. Any modifications must be in writing and properly executed by SSA and School.

5. SCHOOL RESPONSIBILITIES

SCHOOL shall:

5.1 Consult and coordinate with appropriate SSA staff in planning for fieldwork experience to be provided to Students under this MOU.

5.2 Provide an orientation for Students and SCHOOL’s fieldwork course instructors, as deemed necessary by SSA.

5.3 Require every Student to conform to all applicable SSA policies, procedures, and regulations, as it currently exists or may hereafter be amended, which can be found at http://ssa.ocgov.com/about/policies, and all additional requirements and restrictions specified jointly by representatives of SCHOOL and SSA.

5.4 Require the SCHOOL Coordinator to work collaboratively with the SSA Coordinator on SSA requests to change a Student’s placement.

5.5 Collaborate with SSA on requests for changes in fieldwork assignments.
5.6 Arrange for periodic conferences between appropriate representatives of SCHOOL and SSA to evaluate the fieldwork experience provided under this MOU.

5.7 Ensure that each Student shall carry his/her own medical and professional liability insurance for their professional activities at SSA related to all fieldwork experience conducted through SSA, unless another entity provides it. Proof of insurance shall be provided to SCHOOL and to SSA, prior to conducting the criminal background checks and clearances as specified in Subparagraph 4.1, above, and prior to the commencement of the fieldwork assignment.

5.8 SCHOOL is responsible for any cost associated with Fair Employment and Housing Act (FEHA) and Americans with Disability Act (ADA) accommodations for its own Students at County facilities.

5.9 Require Students to conform to safety standards as set forth in the County of Orange Volunteer Safety Handbook, as it currently exists or may hereafter be amended which will be made available prior to placement.

5.10 Prohibit Students from providing transportation to any Client of SSA under any circumstances.

6. **SSA RESPONSIBILITIES**

SSA will:

6.1 Create opportunities for Students to spend weekly fieldwork hours in activities which may include case-related activities such as face-to-face client contact, staff meetings, and training.

6.2 Provide Students with appropriate workspace, including desks with drawer space, phone access, and an area for performing their fieldwork assignment(s). County may, in its sole discretion and on a case-by-case basis, provide FEHA and/or ADA accommodations at no cost to SCHOOL.
6.3 Designate Field Instructors and Preceptors (as available), who will be responsible for notification to SCHOOL Coordinator and SSA Coordinator of any changes in supervision.

6.4 Require the Field Instructor to meet with Students for a minimum of one (1) hour per week for Field Supervision.

6.5 Expense Reimbursements:

6.5.1 County may reimburse expenses directly related to their fieldwork assignment incurred by the Student including, child related incidentals (e.g., diapers, water, snacks, etc.). Expenses that must be pre-approved include meals consumed outside of Orange County and parking.

6.5.2 Expense reimbursement shall not be used as an emergency loan or a supplement to categorical-aid-grants or for meals, motels, and mileage, unless on a pre-approved trip authorized by SSA.

6.5.3 SSA will provide the appropriate COUNTY form(s) for Students to use to request expense reimbursement. Forms must be submitted monthly or quarterly to SSA. Any authorized reimbursement of out-of-pocket and personal mileage expenses shall be made at the rates authorized by COUNTY policy.

6.5.4 SCHOOL will inform Students that expenses not reimbursed to them by COUNTY may be allowable deductions for Federal and State Income Tax.

6.6 Immediately terminate from the fieldwork assignment at SSA any Student who, in the SSA Coordinator’s judgment, is not participating satisfactorily. The SCHOOL Coordinator or designee, shall be notified immediately by telephone of such termination. The reason(s) for termination shall be sent in writing within five (5) business days.

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7. **CONFIDENTIALITY**

7.1 SSA and SCHOOL agree to maintain confidentiality of all records pursuant to Welfare and Institutions Code (WIC) Sections 827 and 10850-10853, the California Department of Social Services (CDSS) Manual of Policies and Procedures (MPP), Division 19-000, and all other provisions of law, and regulations promulgated thereunder relating to privacy and confidentiality, as each may now exist or be hereafter amended.

7.2 All records and information concerning any and all clients of SSA shall be considered and kept confidential by SCHOOL'S Students, employees, agents, and volunteers. SCHOOL shall require all of its Students, employees, agents, and volunteers who may provide services for SCHOOL under this MOU to sign an agreement with SCHOOL before commencing the provision of any such services, to maintain confidentiality of any and all materials and information with which they may come in contact or the identities or any identifying characteristics or information with respect to any and all clients served by SSA, except as may be required to provide services under this MOU or to those specified in this MOU as having the capacity to audit SCHOOL, and as to the latter, only during such audit.

7.3 SCHOOL shall inform all of its Students, employees, agents, and volunteers performing services under this MOU of this provision and that any person violating the provisions of said California state law may be guilty of a crime.

7.4 SCHOOL agrees to maintain the confidentiality of SSA records with respect to Juvenile Court matters, in accordance to WIC Section 827, all applicable statutes, case law, and Orange County Juvenile Court Policy regarding Confidentiality, as it now exists or may hereafter be amended.

7.4.1 No access, disclosure, or release of information regarding a child who is the subject of Juvenile Court proceedings shall be permitted except
as authorized. If authorization is in doubt, no such information shall be released without the written approval of a Judge of the Juvenile Court.

7.4.2 SCHOOL must receive prior written approval of the Juvenile Court before allowing any child to be interviewed, photographed, or recorded by any publication or organization, or to appear on any radio, television, or internet broadcast or make any other public appearance. Such approval shall be requested through the child's Social Worker.

8. PUBLICITY, LITERATURE, ADVERTISEMENTS, AND SOCIAL MEDIA

8.1 COUNTY owns all rights to the name, logos, and symbols of COUNTY. The use and/or reproduction of COUNTY’s name, logos, or symbols for any purpose, including commercial advertisement, promotional purposes, announcements, displays, or press releases, without COUNTY’s prior written consent is expressly prohibited.

8.2 SCHOOL may develop and publish information related to this MOU where all of the following conditions are satisfied:

8.2.1 COUNTY provides its written approval of the content and publication of the information at least 30 days prior to SCHOOL publishing the information, unless a different timeframe for approval is agreed upon by COUNTY;

8.2.2 Unless directed otherwise by COUNTY, the information includes a statement that the program, wholly or in part, is funded through County, State, and Federal Government funds;

8.2.3 The information does not give the appearance that the COUNTY, its officers, employees, or agencies endorse:

8.2.3.1 any commercial product or service; and,

8.2.3.2 any product or service provided by SCHOOL, unless approved in writing by COUNTY; and
8.2.4 If SCHOOL uses social media (such as Facebook, Twitter, YouTube, or other publicly available social media sites) to publish information related to this MOU, SCHOOL shall develop social media policies and procedures and have them available to the COUNTY. SCHOOL shall comply with COUNTY Social Media Use Policy and Procedures as they pertain to any social media developed in support of the services described within this MOU. The policy is available on the Internet at http://www.ocgov.com/gov/CEO/cio/govpolicies.

9. INDEMNIFICATION

9.1 SCHOOL agrees to indemnify, defend with counsel approved in writing by COUNTY, and hold U.S. Department of Health and Human Services, the State, COUNTY, and their elected and appointed officials, officers, employees, agents, and those special districts and agencies which COUNTY's Board of Supervisors acts as the governing Board ('COUNTY INDEMNITEES') harmless from any claims, demands, or liability of any kind or nature, including, but not limited to, personal injury or property damage, arising from or related to the services, products, or other performance provided by SCHOOL pursuant to this MOU. If judgment is entered against SCHOOL and COUNTY by a court of competent jurisdiction because of the concurrent active negligence of COUNTY or COUNTY INDEMNITEES, SCHOOL and COUNTY agree that liability will be apportioned as determined by the court. Neither party shall request a jury apportionment.

10. INSURANCE

10.1 Prior to the provision of services under this MOU, SCHOOL agrees to purchase all required insurance or maintain a program of self-insurance at SCHOOL's expense, including all endorsements required herein, necessary to satisfy COUNTY that the insurance provisions of this MOU have been
complied with. SCHOOL agrees to keep such insurance coverage, Certificates of Insurance and endorsements on deposit with COUNTY during the entire term of this MOU.

10.2 All self-insured retentions (SIRs) shall be clearly stated on the Certificate of Insurance. If SCHOOL is self-insured, in addition to, and without limitation of, any other indemnity provision(s) in the MOU, agrees to all of the following:

10.2.1 In addition to the duty to indemnify and hold COUNTY harmless against any and all liability, claim, demand, or suit resulting from SCHOOL’s Student’s, employee’s, agent’s, or volunteer’s performance of this MOU, SCHOOL shall defend COUNTY at its sole cost and expense with counsel approved by Board of Supervisors against same; and

10.2.2 SCHOOL’s duty to defend, as stated above, shall be absolute and irrespective of any duty to indemnify or hold harmless; and

10.2.3 The provisions of California Civil Code Section 2860 shall apply to any and all actions to which the duty to defend stated above applies, and SCHOOL’s SIR provisions shall be interpreted as though SCHOOL was an insurer and COUNTY was the insured.

10.3 If SCHOOL fails to maintain insurance acceptable to COUNTY for the full term of this MOU, COUNTY may terminate this MOU.

10.4 Qualified Insurer:

10.4.1 The policy or policies of insurance required herein must be issued by an insurer with a minimum rating of A- (Secure A.M. Best’s Rating) and VIII (Financial Size Category as determined by the most current edition of the Best’s Key Rating Guide/Property-Casualty/United States or ambest.com). It is preferred, but not mandatory, that the insurer be licensed to do business in the state of California (California
Admitted Carrier).

10.5 If the insurance carrier does not have an A.M. Best Rating of A-/VII, the CEO/Office of Risk Management retains the right to approve or reject a carrier after a review of the company’s performance and financial rating.

10.6 The policy or policies of insurance or program of self-insurance maintained by SCHOOL shall provide the minimum limits and coverage as set forth below:

<table>
<thead>
<tr>
<th>Coverage</th>
<th>Minimum Limits</th>
</tr>
</thead>
<tbody>
<tr>
<td>Commercial General Liability</td>
<td>$1,000,000 per occurrence</td>
</tr>
<tr>
<td></td>
<td>$2,000,000 aggregate</td>
</tr>
<tr>
<td>Professional Liability Insurance</td>
<td>$1,000,000 per claims made</td>
</tr>
<tr>
<td></td>
<td>$1,000,000 aggregate</td>
</tr>
<tr>
<td>Sexual Misconduct Liability</td>
<td>$1,000,000 per occurrence</td>
</tr>
</tbody>
</table>

10.7 Required Coverage Forms

10.7.1 Commercial General Liability coverage shall be written on Insurance Services Office (ISO) form CG 00 01 or a substitute form providing liability coverage at least as broad.

10.8 Required Endorsements

10.8.1 Commercial General Liability policy shall contain the following endorsements, which shall accompany the Certificate of Insurance:

10.8.1.1 An Additional Insured endorsement using ISO form CG 20 26 04 13, or a form at least as broad, naming the County of Orange, its elected and appointed officials, officers, agents, and employees as Additional Insured or provide blanket coverage, which will state AS REQUIRED BY WRITTEN CONTRACT.

10.8.1.2 A primary non-contributing endorsement using ISO form CG 20 01 04 13, or a form at least as broad, evidencing that
SCHOOL's insurance is primary and any insurance or self-insurance maintained by the County of Orange shall be excess and non-contributing.

10.9 All insurance policies required by this MOU shall waive all rights of subrogation against the County of Orange, its elected and appointed officials, officers, agents, and employees when acting within the scope of their appointment or employment.

10.10 SCHOOL shall notify COUNTY in writing within thirty (30) days' of any policy cancellation and ten (10) days for non-payment of premium and provide a copy of the cancellation notice to COUNTY. Failure to provide written notice of cancellation may constitute a material breach of the contract, upon which the COUNTY may suspend or terminate this MOU.

10.11 If SCHOOL's Professional Liability policy is a "claims made" policy, SCHOOL shall agree to maintain professional liability coverage for two (2) years following completion of this MOU.

10.12 The Commercial General Liability policy shall contain a severability of interests clause also known as a "separation of insured" clause (standard in the ISO CG 0001 policy).

10.13 Insurance certificates should be mailed to COUNTY at the address indicated in Paragraph 13 of this MOU.

10.14 Failure of SCHOOL to provide the insurance certificates and endorsements within seven (7) days of notification by CEO/County Procurement Office or COUNTY, will result in a breach of this MOU.

10.15 COUNTY expressly retains the right to require SCHOOL to increase or decrease insurance of any of the above insurance types throughout the term of this MOU. Any increase or decrease in insurance will be as deemed by County of Orange Risk Manager as appropriate to adequately protect COUNTY.
10.16 COUNTY shall notify SCHOOL in writing of changes in the insurance requirements. If SCHOOL does not deposit copies of acceptable certificates of insurance and endorsements with COUNTY incorporating such changes within thirty (30) days of receipt of such notice, this MOU may be in breach without further notice to SCHOOL, and COUNTY shall be entitled to all legal remedies.

10.17 The procuring of such required policy or policies of insurance shall not be construed to limit SCHOOL’s liability hereunder nor to fulfill the indemnification provisions and requirements of this MOU, nor act in any way to reduce the policy coverage and limits available from the insurer.

11. **NOTIFICATION OF INCIDENTS, CLAIMS, OR SUITS**

SCHOOL shall report to COUNTY, in writing within twenty-four (24) hours of occurrence, the following:

11.1 Any accident or incident relating to services performed under this MOU that involves injury or property damage which may result in the filing of a claim or lawsuit against SCHOOL and/or COUNTY.

11.2 Any third party claim or lawsuit filed against SCHOOL arising from or relating to services performed by SCHOOL under this MOU.

11.3 Any injury to an employee of SCHOOL that occurs on COUNTY property.

11.4 Any loss, disappearance, destruction, misuse, or theft of any kind whatsoever of COUNTY property, monies, or securities entrusted to SCHOOL under the term of this MOU.

12. **CHILD AND DEPENDENT ADULT/ELDER ABUSE REPORTING**

SCHOOL shall establish a procedure acceptable to COUNTY to ensure that all of its Students, employees, agents, and volunteers performing services under this MOU report child abuse or neglect to one of the agencies specified in Penal Code Section 11165.9 and dependent adult or elder abuse as defined in Section 15610.07 of the WIC
to one of the agencies specified in WIC Section 15630. SCHOOL shall require such Students, employees agents, and volunteers performing services under this MOU to sign a statement acknowledging the child abuse reporting requirements set forth in Sections 11166 and 11166.05 of the Penal Code and the dependent adult and elder abuse reporting requirements, as set forth in Section 15630 of the WIC, and shall comply with the provisions of these code sections, as they now exist or as they may hereafter be amended.

13. NOTICES

All notices, requests, claims correspondence, reports, statements authorized or required by this MOU, and/or other communications shall be addressed as follows:

SSA: County of Orange Social Services Agency
Contracts and Procurement Services
500 N. State College, Suite 100
Orange, CA 92868

SCHOOL: Fordham University
Graduate School of Social Science
Attn: Estella C. Williamson, DSW, LCSW-R, ACSW
113 West 60th Street
New York, NY 10023

All notices shall be deemed effective when in writing and deposited in the United States mail, first class, postage prepaid and addressed as above. Any communications, including notices, requests, claims, correspondence, reports, and/or statements authorized or required by this MOU, addressed in any other fashion shall be deemed not given. The Parties each may designate by written notice from time to time, in the manner aforesaid, any change in the address to which notices must be sent.

///
14. **RESOLUTION OF CONFLICTS**

For resolution of conflicts between SSA and SCHOOL in regards to the provisions of this MOU, the following shall apply:

Step 1: Conference between the Field Instructor or SSA Coordinator and Director of Field Education.

Step 2: Conference between the SSA Program Manager or Deputy Director and Dean.

Nothing in this Paragraph limits the rights of the parties under Paragraph 16.

15. **CONFLICT OF INTEREST**

SCHOOL shall exercise reasonable care and diligence to prevent any actions or conditions that could result in a conflict with COUNTY interests. In addition to the SCHOOL, this obligation shall apply to, SCHOOL’s Students, employees, agents, and volunteers associated with accomplishing work hereunder. SCHOOL’s efforts shall include, but not be limited to, establishing precautions to prevent its Students, employees, agents, or volunteers from providing or offering gifts, entertainment, payments, loans, or other considerations which could be deemed to influence or appear to influence COUNTY staff or elected officers from acting in the best interests of the COUNTY.

16. **TERMINATION**

16.1 COUNTY may terminate this MOU without penalty, immediately with cause or after thirty (30) days’ written notice without cause, unless otherwise specified. Notice shall be deemed served on the date of mailing. Cause shall include, but not limited to, any breach of this MOU, any partial misrepresentation whether negligent or willful, fraud on the part of SCHOOL, discontinuance of the services for reasons within SCHOOL’s reasonable control, and repeated or continued violations of County ordinances unrelated to performance under this MOU that, in the reasonable opinion of COUNTY,
indicate a willful or reckless disregard for County laws and regulations. Exercise by COUNTY of the right to terminate this MOU shall relieve COUNTY of all further obligations under this MOU.

16.2 For ninety (90) calendar days prior to the expiration date of this MOU, or upon notice of termination of this MOU ("Transition Period"), SCHOOL agrees to cooperate with COUNTY in the orderly transfer of service responsibilities, case records, and pertinent documents. The Transition Period may be modified as agreed upon in writing by the Parties. During the Transition Period, services and data access shall continue to be made available to COUNTY without alteration. SCHOOL also shall assist COUNTY in extracting and/or transitioning all data in the format determined by COUNTY.

16.3 In the event of termination of this MOU, cessation of business by SCHOOL, or any other event preventing SCHOOL from continuing to provide services, SCHOOL shall not withhold the COUNTY data or refuse for any reason, to promptly provide to COUNTY the COUNTY data if requested to do so on such media as reasonably requested by COUNTY, even if COUNTY is then or is alleged to be in breach of this MOU.

16.4 The obligations under this MOU utilize COUNTY resources, for which funding, or portions of funding, may be contingent upon the State and/or federal budget; receipt of funds from and/or obligation of funds by the State and/or Federal Government; and inclusion of sufficient funding for the services hereunder in the budget approved by the COUNTY’s Board of Supervisors for each fiscal year covered by this MOU. If such approval, funding, or appropriations are not forthcoming, or are otherwise limited, COUNTY may terminate, reduce, or modify this MOU without penalty.

16.5 If any term, covenant, condition, or provision of this MOU or the application thereof is held invalid, void, or enforceable, the remainder of the provisions in
this MOU shall remain in full force and effect and shall in no way be affected, impaired, or invalidated thereby.

17. **SIGNATURE IN COUNTERPARTS**

The Parties agree that separate copies of this MOU may be signed by each of the Parties, and this MOU will have the same force and effect as if the original had been signed by all Parties. Each party represents and warrants that the person executing this MOU on its behalf is an authorized agent who has actual authority to bind that party to each and every term, condition and obligation of this MOU and that all requirements of that party have been fulfilled to provide such actual authority.

18. **GENERAL PROVISIONS**

18.1 Nothing herein contained shall be construed as creating the relationship of employer and employee, or principal and agent, between COUNTY and any participant participating in this program, or any of SCHOOL's Students, employees, agents or volunteers.

18.2 This MOU represents the entire understanding of the Parties with respect to the subject matter. No change, modification, extension, termination or waiver of this MOU, or any of the understandings herein contained, shall be valid unless made in writing and signed by duly authorized representatives of the Parties hereto.

18.3 This MOU has been negotiated and shall be governed by and construed under the laws of the State of California. In the event of any legal action to enforce or interpret this MOU, the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California, and the Parties hereto agree to and do hereby submit to the jurisdiction of such court, notwithstanding Code of Civil Procedure Section 394. Furthermore, the Parties specifically agree to waive any and all rights to request that an action be transferred for trial to another county.
18.4 SCHOOL warrants that it has all necessary licenses and permits required by the laws of the United States, State of California, County of Orange, and all other appropriate governmental agencies to perform the services described in this MOU, and agrees to maintain these licenses and permits in effect for the duration of this MOU.

18.5 In the performance of this MOU, both parties shall comply with all applicable laws and regulations of the United States, State of California, County of Orange, and County of Orange Social Services Agency, and all administrative regulations, rules, and policies adopted thereunder, as each and all may now exist or be hereafter amended.

18.6 In the performance of this MOU, SCHOOL may neither delegate its duties or obligations nor assign its rights, either in whole or in part, without the prior written consent of COUNTY. Any attempted delegation or assignment without prior written consent shall be void.

18.7 The various headings, numbers, and organization herein are for the purpose of convenience only and shall not limit or otherwise affect the meaning of this MOU.
WHEREFORE, the Parties hereto have executed the Memorandum of Understanding.

By: ____________________________
Debra J. Baetz, Director
County of Orange
Social Services Agency

Dated: ________________

By: ____________________________
Estella C. Williamson
Director of Field Education
Fordham University

Dated: 1/10/19

Approved As To Form
SSA Counsel
County of Orange, California

By: ____________________________
Carolyn S. Frost
Deputy

Dated: 01/16/19
Revision to ASR and/or Attachments

Date: February 20, 2019  
To: Clerk of the Board of Supervisors  
CC: County Executive Office  
From: Barry A. Rondinella, Airport Director, John Wayne Airport  
Re: ASR Control #:18-001433, Meeting Date 02/26/19 Agenda Item No. #23  
Subject: Renew Contract with Flagship Airport Services Inc.

Explanation: Flagship Airport Services Inc. has recently advised John Wayne Airport that medical costs for their employees will remain at their current levels for the rest of the 2019 calendar year. This results in a reduction to the recommended increase in the proposed contract amount that is being passed through to the County.

☑ Revised Recommended Action(s)

Authorize the County Procurement Officer or Authorized Deputy to execute Amendment Number Two to renew Contract with Flagship Airport Services Inc. to provide custodial maintenance services for John Wayne Airport, effective April 1, 2019, through March 31, 2021, and to increase the two-year contract amount by $1,358,666 $1,066,793 for a two-year not-to-exceed amount of $11,496,466 $11,204,593 and a four-year cumulative not-to-exceed amount of $21,634,266 $21,342,392.

☑ Make modifications to the:

☐ Subject  ☑ Background Information  ☐ Summary

☐ Budgeted:  ☑ Current Year Cost: $1,437,056 $1,400,574

☑ Annual Cost: FY 2019-20 $5,748,233 $5,602,296

FY 2020-21 $4,311,175 $4,201,723

☑ Revised Attachments (attach copy of revised attachment(s))

BACKGROUND INFORMATION:

Revise the third paragraph on Page Two as follows:
JWA seeks Board approval to execute Amendment Number Two to renew the Contract for two additional years. The two-year, not-to-exceed Contract amount would be $11,496,466 $11,204,593 which reflects an increase of $1,358,666 $1,066,793 over the current two-year term. This cost increase is attributable to the costs of supplying higher quantities and types of commodities and consumables based on usage records, as well as mandated increases in wages, vacation accrual rates and employee medical benefits pursuant to the Service Employees International Union (SEIU) agreement with Flagship. SEIU covering covers large facilities for Los Angeles and Orange counties. A smaller portion of the increase is due to upgrades and increases in the cost and consumption rates of disposable and consumable custodial products. JWA has researched and verified the proposed cost increases against the SEIU union agreement and determined that the labor cost increases are consistent with the costs in the SEIU union agreement and that the material cost increases are fair and reasonable. The final component of the annual cost increase is due to the inclusion of $125,000 per year for additional or unanticipated work directly related to the scope of the contract.

Below is a detailed breakdown of the revised recommended cost increase in the proposed two-year contract amount.

<table>
<thead>
<tr>
<th>Category</th>
<th>Initial Contract 4-1-2017 through 3-31-2019</th>
<th>Original Proposed Cost 4-1-2019 through 3-31-21</th>
<th>Revised Proposed Cost 4-1-2019 through 3-31-21</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Years 1 and 2</td>
<td>Delta from Original</td>
<td>Delta from Original</td>
</tr>
<tr>
<td>Janitorial Cost</td>
<td>$3,875,700</td>
<td>$488,338</td>
<td>$328,280</td>
</tr>
<tr>
<td>Supplies Materials and Equipment</td>
<td>$604,800</td>
<td>$76,205</td>
<td>$27,488</td>
</tr>
<tr>
<td>Carpet Cleaning</td>
<td>$310,800</td>
<td>$39,161</td>
<td>$26,325</td>
</tr>
<tr>
<td>Marble Maintenance</td>
<td>$108,400</td>
<td>$13,658</td>
<td>$9,182</td>
</tr>
<tr>
<td>Linear Vents &amp; HVAC Diffusers</td>
<td>$7,800</td>
<td>$983</td>
<td>$661</td>
</tr>
<tr>
<td>Carpet Cleaning, Outer Buildings</td>
<td>$2,990</td>
<td>$377</td>
<td>$253</td>
</tr>
<tr>
<td>Terminal Interior &amp; Exterior High Glass Cleaning Above 10 Feet</td>
<td>$53,800</td>
<td>$6,779</td>
<td>$4,557</td>
</tr>
<tr>
<td>High Cleaning Above 30 Feet</td>
<td>$29,700</td>
<td>$3,742</td>
<td>$2,516</td>
</tr>
</tbody>
</table>
Revision to ASR and/or Attachments

<table>
<thead>
<tr>
<th></th>
<th>$4,993,990</th>
<th>$629,243</th>
<th>$5,623,233</th>
<th>$399,261</th>
<th>$5,477,296</th>
</tr>
</thead>
<tbody>
<tr>
<td>Subtotal</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Additional Services</td>
<td>$74,910</td>
<td>$50,090</td>
<td>$125,000</td>
<td>$50,090</td>
<td>$125,000</td>
</tr>
<tr>
<td>Change to 2 ply Toilet Paper</td>
<td>$0</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Annual Total</td>
<td>$5,068,900</td>
<td>$679,333</td>
<td>$5,748,233</td>
<td>$533,397</td>
<td>$5,602,296</td>
</tr>
<tr>
<td>Two Year Total</td>
<td>$10,137,800</td>
<td>$1,358,666</td>
<td>$11,496,465</td>
<td>$1,066,793</td>
<td>$11,204,593</td>
</tr>
</tbody>
</table>

Please replace Attachment A – Amendment Number Two Renewal Contract MA-280-17010947 and Attachment B – Contract Summary Form.
Amendment Number Two to
Contract MA-280-17010947
For
Janitorial Services
Between
County of Orange, John Wayne Airport
And
Flagship Airport Services Inc.

This Amendment Number Two ("Amendment") is made between the County of Orange, a political subdivision of the State of California, through its department John Wayne Airport ("County" or "JWA"), and Flagship Airport Services Inc. ("Contractor"), which are sometimes individually referred to as a "Party" or collectively referred to as the "Parties."

Whereas, the Parties entered into Contract MA-280-17010947 for Janitorial Services, effective April 1, 2017 through and including March 31, 2019 in the amount of $10,137,799.70; hereinafter referred to as "Contract"; and,

Whereas, the Parties executed Amendment Number One to increase the insurance Automobile Liability coverage; and

Whereas, the Parties desire to renew Contract for two (2) additional years;

Now therefore, in consideration of the mutual obligations set forth herein, the Parties agree as follows:

1. Replace Article 6. "Change of Ownership" in its entirety with the following:

   **Change of Ownership/Name, Litigation Status, Conflicts with County Interests**

   Contractor agrees that if there is a change or transfer in ownership of Contractor’s business prior to completion of this Contract, and the County agrees to an assignment of the Contract, the new owners shall be required under the terms of sale or other instruments of transfer to assume Contractor’s duties and obligations contained in this Contract and complete them to the satisfaction of the County.

   County reserves the right to immediately terminate the Contract in the event the County determines that the assignee is not qualified or is otherwise unacceptable to the County for the provision of services under the Contract.

   In addition, Contractor has the duty to notify the County in writing of any change in the Contractor’s status with respect to name changes that do not require an assignment of the Contract. The Contractor is also obligated to notify the County in writing if the Contractor becomes a party to any litigation against the County, or a party to litigation that may reasonably affect the Contractor’s performance under the Contract, as well as any potential conflicts of interest between Contractor and County that may arise prior to or during the period of Contract performance. While Contractor will be required to provide this information without prompting from the County any time there is a change in Contractor’s name, conflict of interest or litigation status, Contractor must also provide an update to the County of its status in these areas whenever requested by the County.

   The Contractor shall exercise reasonable care and diligence to prevent any actions or conditions that could result in a conflict with County interests. In addition to the Contractor, this obligation shall apply to the Contractor’s employees, agents, and subcontractors associated with the provision of goods and services provided under this Contract. The Contractor’s efforts shall include, but not be limited to establishing rules and procedures preventing its employees, agents, and subcontractors from providing or offering gifts, entertainment, payments, loans or other considerations which could be deemed to influence or appear to influence County staff or elected officers in the performance of their duties.
2. Replace Scope of Work, Section 10. “Supplies” subsection h. with the following:
h. Supply 2-ply toilet paper in all office areas and in the Terminal. Toilet paper shall be the
maximum size that can fit in the dispensers properly.

3. Add the following line to Attachment A-2 – Cleaning Schedule, Shift 3 – 7 Days per Week –
11:00pm-6:30am, “MAINTENANCE BUILDING (3180 AIRWAY AVE.) to be serviced Monday
through Friday”:

<table>
<thead>
<tr>
<th>Service Description</th>
<th>Daily</th>
<th>Wkly</th>
<th>Mnthly</th>
<th>Qtrly</th>
<th>Yrly</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pressure wash exterior concrete walkway</td>
<td></td>
<td></td>
<td></td>
<td>1x</td>
<td></td>
</tr>
</tbody>
</table>

4. Renew Contract for two (2) additional years effective April 1, 2019 through and including March
31, 2021 in the amount not to exceed $11,204,592.62

5. Replace Attachment B – Contractor’s Pricing as follows:
II. FEES AND CHARGES - County will pay the following fees in accordance with the
provisions of this Contract.

The fixed price shall include all requirements and expenses related to the performance of
work and services set forth in the Scope of Work.

Payment terms: Payment shall be made in accordance with the provisions of this Contract
regardless of the number of days in the month:

TWO YEARS CONTRACT TOTAL AMOUNT NOT TO EXCEED $11,204,592.62

<table>
<thead>
<tr>
<th>Description</th>
<th>Unit</th>
<th>Unit Cost</th>
<th>No. of Units</th>
<th>Total Annual Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Janitorial Costs</td>
<td>Monthly</td>
<td>$350,331.63</td>
<td>12</td>
<td>$4,203,979.56</td>
</tr>
<tr>
<td>Supplies, Materials &amp; Equipment</td>
<td>Monthly</td>
<td>$59,694.43</td>
<td>12</td>
<td>$716,333.16</td>
</tr>
<tr>
<td>Carpet Cleaning</td>
<td>Monthly</td>
<td>$28,093.78</td>
<td>12</td>
<td>$337,125.36</td>
</tr>
<tr>
<td>Marble Maintenance</td>
<td>Quarterly</td>
<td>$29,395.42</td>
<td>4</td>
<td>$117,581.68</td>
</tr>
<tr>
<td>Linear Vents &amp; HVAC Diffusers</td>
<td>Semi-annual</td>
<td>$4,230.34</td>
<td>2</td>
<td>$8,460.68</td>
</tr>
<tr>
<td>Carpet Cleaning Outer Buildings</td>
<td>Semi-annual</td>
<td>$1,621.63</td>
<td>2</td>
<td>$3,243.26</td>
</tr>
<tr>
<td>Terminal Interior &amp; Exterior High Glass Cleaning Above 10 Feet</td>
<td>Semi-annual</td>
<td>$29,178.48</td>
<td>2</td>
<td>$58,356.96</td>
</tr>
<tr>
<td>High Cleaning Above 30 Feet</td>
<td>Annual</td>
<td>$32,215.65</td>
<td></td>
<td>$32,215.65</td>
</tr>
</tbody>
</table>

Annual Amount $5,477,296.31

Additional Services (lump sum with COUNTY-approved quote) $125,000.00

TOTAL ANNUAL CONTRACT AMOUNT $5,602,296.31

6. Except as amended herein, all terms and conditions, and any amendments/modifications are
incorporated by this reference as if fully set forth herein and shall remain in full force.

[SIGNATURE PAGE FOLLOWS]
In witness whereof, the Parties have executed this Amendment to the Contract on the dates shown opposite their respective signatures below.

Flagship Airport Services Inc.*

<table>
<thead>
<tr>
<th>Signature</th>
<th>Name</th>
<th>Title</th>
<th>Date</th>
</tr>
</thead>
</table>

*If Contractor is a corporation, signatures of two specific corporate officers are required as further set forth:
- The first signature must be one of the following: a Chairman of the Board; b President; c any Vice President.
- The second signature must be one of the following: a Secretary; b Chief Financial Officer; c any Assistant Secretary; or d any Assistant Treasurer.
- In the alternative, a single corporate signature is acceptable when accompanied by a corporate resolution demonstrating the legal authority of the signature to bind the company.

County Authorized Signature

<table>
<thead>
<tr>
<th>Signature</th>
<th>Name</th>
<th>Title</th>
<th>Date</th>
</tr>
</thead>
</table>

Deputy Purchasing Agent

Approved by the Board of Supervisors on: ____________________________

Approved as to Form:

County Counsel

By: ____________________________

Deputy
Contract Summary Form
Flagship Airport Services Inc.

SUMMARY OF SIGNIFICANT CHANGES

1. Costs: increase of $1,066,793. Page 2

SUBCONTRACTORS

This contract allows for subcontracting with John Wayne Airport’s) consent pursuant to Attachment B, Section B, Fees and Charges within the contract amount for the term specified. Should the addition of a subcontractor impact the scope of work and/or contract amount, the department will bring the item back to the Board of Supervisors for approval.

This contract includes the following subcontractors or pass through to other providers.

<table>
<thead>
<tr>
<th>Subcontractor Name</th>
<th>Service(s)</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Master Machine &amp;</td>
<td>Marble Restoration</td>
<td>Unknown</td>
</tr>
<tr>
<td>Maintenance</td>
<td></td>
<td></td>
</tr>
<tr>
<td>South Shore</td>
<td>Window Cleaning</td>
<td>Unknown</td>
</tr>
</tbody>
</table>

CONTRACT OPERATING EXPENSES

Appropriations for this contract are included in the FY 2018-19 Budget and will be included in the budgeting process for future years.

<table>
<thead>
<tr>
<th>Description</th>
<th>Unit</th>
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<td>2</td>
<td>$58,356.96</td>
</tr>
<tr>
<td>High Cleaning Above 30 Feet</td>
<td>Annual</td>
<td>$32,215.65</td>
<td>1</td>
<td>$32,215.65</td>
</tr>
</tbody>
</table>

Annual Amount $5,477,296.31

Additional Services (lump sum with COUNTY-approved quote) $125,000.00

TOTAL ANNUAL CONTRACT AMOUNT $5,602,296.31
Revision to ASR and/or Attachments

Date: February 19, 2019
To: Clerk of the Board of Supervisors
CC: County Executive Office
From: Dylan Wright, Director, OC Community Resources
Re: ASR Control #: 19-000063, Meeting Date 2/26/19, Item No. # 26
Subject: Third Amendment to Agreement with Mercy House Living Centers, Inc.

Explanation:

Changes are needed to Recommended Action 2 and the Background Information section to more accurately reflect use of funds related to the Bringing Families Home Program.

- Revised Recommended Action(s)

2. Approve the use of roll over funds from Fiscal Year 2017-18 from the up to $160,505 in FY 2017-18 Bringing Families Home Program Funds in the amount of $160,505 to provide for continued and enhanced services at the Armory Emergency Shelter Program Rapid Rehousing through the term of the contract.

- Make modifications to the:

  ☐ Subject    ☑ Background Information ☐ Summary ☐ Financial Impact

Please revise the fourth paragraph of the Background Information section as follows:

The approval of $496,056 in additional funds will allow both Fullerton and Santa Ana seasonal shelters to remain open through April 10, 2019, and includes Rapid Rehousing roll-over funds which will be used in support of the Social Services Agency’s (SSA) Bringing Families Home Program and the Emergency Solutions Grant (ESG) program. Of these additional funds requested, $15,273 is remaining carry forward from the FY 2017-18 Emergency Solutions Grant (ESG) funding and is recommended to be expended in FY 2018-19 for Rapid Rehousing. For SSA’s Bringing Families Home program, the state indicated that available funding from FY 2017-18 would be allowed to be rolled over and used in FY 2018-19. As a result, an additional $160,505 is remaining as carry
February 19, 2019

forward from the FY 2017-18 Social Services Agency's Bringing Families Home (BFH) Rapid Rehousing Grant and is recommended to be expended in FY 2018-19 to provide rapid rehousing services to SSA clients eligible to the Bringing Families Home program. The balance of funds being requested is $320,278 in General Funds to support the additional costs associated with the opening of the second seasonal shelter in Fullerton.

☐ Revised Attachments (attach revised attachment(s) and redlined copy(s)))
Explanation: The terms of the Sponsorship Agreement with Angels Baseball LP and Anaheim Ducks Hockey Club, LLC are being revised from three-years to one-year. Additional information is also being provided regarding OCWR's planned engagement with nonprofit and community organizations.

Revised Recommended Action(s)

1. Authorize the County Procurement Officer or authorized Deputy to execute a Contract with Discovery Science Center of Orange County dba Discovery Cube Orange County a California Non Profit Corporation for EcoChallenge Exhibits, EcoChallenge Brand and Strategic Marketing Plan, effective March 1, 2019, through February 28, 2022, in an amount not to exceed $1,325,742, renewable for two additional one-year periods in an amount not to exceed $191,494 per year.

2. Authorize the County Procurement Officer or authorized Deputy to execute a Sponsorship Agreement with Angels Baseball LP for strategic marketing and outreach services, effective March 1, 2019, through February 28, 2022, February 29, 2020, in an amount not to exceed $300,000, $100,000. renewable annually upon approval by the Board of Supervisors for two additional one year periods in an amount not to exceed $100,000 per year.

3. Authorize the County Procurement Officer or authorized Deputy to execute an Agreement with Anaheim Ducks Hockey Club, LLC for strategic marketing and outreach services, effective March 1, 2019, through February 28, 2022, February 29, 2020, in an amount not to exceed $264,500, $121,500. renewable annually upon approval by the Board of Supervisors for two additional one year periods in an amount not to exceed $121,500 per year for years two and three and $130,870 per year for years four and five.
Make modifications to the:

☐ Subject  ☑ Background Information  ☐ Summary  ☐ Financial Impact

Current Year Cost: $383,084

Annual Cost:

FY 2019-20 $903,834 $830,001
FY 2020-21 $417,994 $196,494
FY 2021-22 $285,230-$137,663

BACKGROUND INFORMATION:

Please replace page 3-4, paragraph six as indicated below:

OCWR is requesting authorization to execute three sole source contracts for strategic marketing and outreach services. Contract MA-299-19010875 with Discovery is for a three-year term effective March 1, 2019, through February 28, 2022, in an amount not to exceed $1,325,742, with the option to renew for two additional one-year terms in an amount not to exceed $191,494 per year. Sponsorship Agreement MA-299-19010864 with Angels Baseball is for a one-year term effective March 1, 2019, through February 29, 2020, in an amount not to exceed $100,000. Agreement MA-299-19010701 with Anaheim Ducks is also for a one-year term effective March 1, 2019, through February 29, 2020, in an amount not to exceed $121,500. The Angels Baseball and Anaheim Ducks agreements each contain mutual indemnification provisions approved by County Counsel and determined by CEO/Risk Management to be low risk and acceptable for these services. See Attachments J and K, Risk Assessment Forms.

OCWR is requesting authorization to execute three sole source contracts for strategic marketing and outreach services, each for a three-year term effective March 1, 2019, through February 28, 2022 with monetary limits as follows: MA-299-19010875 with Discovery, in an amount not to exceed $1,325,742, with the option to renew for two additional one-year terms in an amount not to exceed $191,494 per year; Sponsorship Agreement MA-299-19010864 with Angels Baseball in an amount not to exceed $100,000, with the option to renew for two additional one-year terms in an amount not to exceed $100,000 per year; and Agreement MA-299-19010701 with Anaheim Ducks in an amount not to exceed $121,500, with the option to renew for two additional one-year periods in an amount not to exceed $120,870 per year. The Angels-Baseball and Anaheim-Ducks agreements each contain mutual indemnification provisions approved by County Counsel and determined by CEO/Risk Management to be low risk and acceptable for these services. See Attachments J and K, Risk Assessment Forms.
to the additional time OCWR needed to complete negotiations with three separate service providers, this request for approval of the contracts is presented to the Board less than 30 days prior to its proposed start on March 1, 2019.

Please add page 4 following paragraph six in the background section as indicated below:

Within 60 days of execution of the Contracts, OC Waste & recycling OCWR will provide Board offices additional information and strategy to extend its regional outreach of recycling messaging and promotion. This engagement effort is expected to create new opportunities and potential contracts with nonprofit and community organizations. Any such emerging partnerships will further enhance OCWR's existing educational and outreach programs with schools and cities that help divert waste from County landfills.

☑ Revised Attachments (attach revised attachment(s) and redlined copy(s))

Please replace the following attachments:

Attachment B – MA-299-19010864 - Angels Baseball LP
Attachment C – MA-299-19010701 - Anaheim Ducks Hockey Club, LLC
Attachment E - Contract Summary Form - Angels Baseball LP
Attachment F - Contract Summary Form - Anaheim Ducks Hockey Club, LLC
Attachment H - Sole Source - Angels Baseball LP
Attachment I - Sole Source - Anaheim Ducks Hockey Club, LLC
ANGELS BASEBALL
SPONSORSHIP AGREEMENT

No. 832722

The following are the terms of the agreement (the “Agreement”) between Angels Baseball LP, a California limited partnership (“ABL”) and the County of Orange (“County”), a political subdivision of the State of California, through its OC Waste & Recycling Department (“OCWR”) and its OC Community Resources Department for OC Parks (“OC Parks”). ABL, County, OCWR and/or OC Parks may individually be referred to as a “Party” or collectively as the “Parties.”

1. Term. This Agreement shall commence on March 1, 2019 and shall continue for a one-year period, through February 29, 2020, unless sooner terminated as provided in the Standard Terms and Conditions to Sponsorship Agreement (the “Standard Terms”) attached hereto (the “Term”).

2. Sponsorship Elements. County, through its OCWR and OC Parks, has agreed to purchase certain advertising and sponsorship elements from ABL as more fully set forth in below, in exchange for a total annual payment to ABL in the amount of $100,000, as broken down below.

   a. County through its OCWR hereby agrees to purchase, and ABL hereby agrees to reserve and provide to County, the advertising, marketing and promotional elements (collectively, the “Sponsorship Elements”), on an annual basis, for a total net investment of $75,000/year.

   b. In addition, County/OC Parks hereby agrees to purchase, and ABL hereby agrees to reserve and provide to County, the advertising, marketing and promotional elements (collectively, the “Sponsorship Elements”) on an annual basis, for a total net investment of $25,000/year.

OCWR Sponsorship Elements

Sponsor hereby agrees to purchase, and ABL hereby agrees to reserve and provide to Sponsor, the following Sponsorship Elements:

<table>
<thead>
<tr>
<th>Inventory</th>
<th>Description</th>
<th>Quantity</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Program #1: Player Appearance</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Player Appearance</td>
<td>ABL and OC Waste &amp; Recycling to mutually agree upon a player to appear at a designated location. ABL will provide game ticket vouchers for up to 300 guests.</td>
<td>1 date</td>
</tr>
<tr>
<td>Ticket Vouchers</td>
<td>ABLP to provide Partner with 300 ticket vouchers to be distributed to guests at appearance. Ticket voucher to have designated dates and seating locations for fans to redeem from. Dates and location TBD.</td>
<td>300</td>
</tr>
<tr>
<td>Big A LED</td>
<td>ABLP to display Partner Artwork on the LED message board located on the side of The Big A facing California Route 57 South. Partner Artwork will appear one (1) time on the LED screen for five (5) seconds during a three (3) minute rotation for eighteen (18) hours each day. Partner to provide artwork to ABLP for approval no less than 5 days before the artwork will be displayed on the board.</td>
<td>2 weeks</td>
</tr>
<tr>
<td>English Radio- In-Game :30</td>
<td>Partner shall receive a total of twenty (20):30 English in-game radio spots to promote 2019 player appearance. Angels to produce and record spot on behalf of client.</td>
<td>20 spots</td>
</tr>
</tbody>
</table>
### Program #2: Recycling Trailer / Interactive Area @ Angel Stadium

<table>
<thead>
<tr>
<th>Activity</th>
<th>Description</th>
<th>Quantity/Note</th>
</tr>
</thead>
<tbody>
<tr>
<td>Concourse Table</td>
<td>ABLP shall provide Partner an area for their Mobile Recycling Unit to be displayed at Angel Stadium. Locations will need to safely accommodate the unit, one 8’ table and two (2) chairs. Designated unit and table will be at a mutually agreed upon location between ABLP and Partner, but ultimate determination will be in ABLP’s sole discretion.</td>
<td>Up to 2 games</td>
</tr>
<tr>
<td>Concourse Tabling</td>
<td>ABLP shall provide Partner with table location at “Angels Family Sunday” or other designated tabling area at Angel Stadium. Area to accommodate one (1) table and two (2) chairs (location TBD).</td>
<td>Up to 2 games</td>
</tr>
<tr>
<td>Big A LED [Mobile Recycling Unit]</td>
<td>ABLP to display Partner Artwork on the LED message board located on the side of The Big A facing California Route 57 South. Partner Artwork will appear one (1) time on the LED screen for five (5) seconds during a three (3) minute rotation for eighteen (18) hours each day. Partner to provide artwork to ABLP for approval no less than 5 days before the artwork will be displayed on the board.</td>
<td>2 weeks</td>
</tr>
<tr>
<td>English Radio- In-Game :30 [Mobile Recycling Unit]</td>
<td>Partner shall receive a total of twenty (20) :30 English in-game radio spots to drive traffic to Mobile Recycling Unit. Angels to produce and record spot on behalf of client.</td>
<td>20 spots</td>
</tr>
<tr>
<td>Spanish Radio- In-Game 30 [Mobile Recycling Unit]</td>
<td>Partner shall receive a total of twenty (20) :30 Spanish in-game radio spots to drive traffic to Mobile Recycling Unit. Angels to produce and record spot on behalf of client.</td>
<td>20 spots</td>
</tr>
<tr>
<td>Angels Social Media [Mobile Recycling Unit]</td>
<td>Angels to create a Facebook event page for OCWR at least two (2) weeks prior to event. Angels to also include at least one (1) post about event via @angels Twitter account.</td>
<td>2 total posts</td>
</tr>
</tbody>
</table>

### Program #3: Recycling Champion Program

<table>
<thead>
<tr>
<th>Activity</th>
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<th>Quantity/Note</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pre-Game Ceremony</td>
<td>Opportunity for Partner to showcase their “Recycling Champions” on field prior to a select Angels game. Champions plus District Representatives to be honored on field (up to 10 guests)</td>
<td>1</td>
</tr>
<tr>
<td>Player Meet &amp; Greet</td>
<td>Prior to pre-game ceremony, Champions plus District Representatives to meet with Angels Player (up to 10 guests). Player to be mutually agreed upon between ABLP and Partner</td>
<td>1</td>
</tr>
</tbody>
</table>

### Additional Elements

<table>
<thead>
<tr>
<th>Activity</th>
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<th>Quantity/Note</th>
</tr>
</thead>
<tbody>
<tr>
<td>Season Seat Holder E-mail</td>
<td>ABLP to send out an email to the Season Seat Holders and include a Discovery Cube//Eco Challenge Coupon. Copy and Coupon to be provided by Partner</td>
<td>1 email</td>
</tr>
<tr>
<td>Promotion Market: Kids Club</td>
<td>ABLP will insert a coupon, provided by Partner, into annual Kids Club boxes to be distributed by ABLP during the Term.</td>
<td>5000 boxes</td>
</tr>
</tbody>
</table>
### Autographed Memorabilia
<table>
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<tr>
<th>Description</th>
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</tr>
</thead>
<tbody>
<tr>
<td>Angels to provide partner up to three (3) autographed items per year of Term. Items to be mutually agreed upon between Angels and Partner</td>
<td>Up to 3 items</td>
</tr>
</tbody>
</table>

### OC Parks Sponsorship Elements

<table>
<thead>
<tr>
<th>Inventory</th>
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</tr>
</thead>
<tbody>
<tr>
<td>Player Appearance</td>
<td>ABLP and OC Parks to mutually agree upon a player to appear at a designated location. Date and Location to also be mutually agreed upon.</td>
<td>1 date</td>
</tr>
<tr>
<td>Strike Force Appearance</td>
<td>ABLP to provide two (2) Strike Force girls to attend Player Appearance. Strike Force girls should be in attendance for a minimum of four (4) hours.</td>
<td>1 appearance</td>
</tr>
<tr>
<td>English Radio- In-Game :30 [Player Appearance]</td>
<td>Partner shall receive a total of twenty (20):30 English in-game radio spots to promote 2019 player appearance. Angels to produce and record spot on behalf of client.</td>
<td>20 spots</td>
</tr>
<tr>
<td>English Radio- Pre/Post :30 [Player Appearance]</td>
<td>Partner shall receive a total of twenty (20):30 English pre/post-game radio spots to promote 2019 player appearance. Angels to produce and record spot on behalf of client.</td>
<td>20 spots</td>
</tr>
<tr>
<td>Angels Social Media [Player Appearance]</td>
<td>Angels to create a Facebook event page for OCWR at least two (2) weeks prior to event. Angels to also include at event information in Angels Community E-newsletter as well as Community Pages in Angels Magazine</td>
<td>3 total inclusions</td>
</tr>
<tr>
<td>Logo/Promotional Rights</td>
<td>County of Orange (OC Parks / OCWR) to have logo usage for promotional print materials. All materials to be approved by ABLP prior to print.</td>
<td>Full Season</td>
</tr>
</tbody>
</table>

3. **License Fee.**
   a. In consideration for the OCWR Sponsorship Elements, purchased by County hereunder, OCWR shall pay ABLP the annual net license fee in the amount of Seventy-Five Thousand Dollars ($75,000) (the "License Fee") during the Term payable in 3 installment(s) of Twenty-Five Thousand Dollars ($25,000) due and payable on April 1, May 1 and June 1, for a cumulative total amount of $75,000 for a one-year Term.

Subject to MLB regulations and if permitted by ABLP’s contract for such event or games, in addition to the License fee, County agrees it may separately purchase all of the above Sponsorship Elements for any post-season games, All-Star Events, World Baseball Classic games, and other events (“Additional Events”) which may be played at Angel Stadium of Anaheim while this agreement is in effect. County is not obligated or entitled to purchase tickets, parking, suites or other hospitality for any Additional Events, however, ABLP may, in their sole discretion and subject to availability, offer to sell County tickets to any Additional Events. County shall be obligated to pay an additional fee per game for the purchased Sponsorship Elements as determined by the ABLP rate card for the Additional Event.

Invoices for the OCWR Sponsorship Elements will be delivered to:

County of Orange, OC Waste & Recycling
300 N. Flower St
Suite 400
Santa Ana, CA 92703
Attention: Accounts Payable
Any and all production costs to provide artwork and install sign are to be paid for by County under separate invoice with County Project Manager written pre-approval; provided however, that should County Project Manager delay or fail to so approve, and as a result any Sponsorship Elements are delayed or not displayed, such delay or non-display will not be considered a breach by ABLP hereunder. With regard to any such invoices, County’s payment terms are net thirty (30) days receipt of invoice. All payments hereunder shall be deemed to include all applicable taxes, duties and charges.

b. In consideration for the OC Parks Sponsorship Elements purchased by County hereunder, OC Parks shall pay ABLP the annual net license fee in the amount of Twenty-Five Thousand Dollars ($25,000) (the "License Fee") during the Term payable in 1 installment of Twenty-Five Thousand Dollars ($25,000) due and payable on April 1, for a cumulative total amount of $25,000 for a one-year Term.

Invoices for the OC Parks Sponsorship Elements will be delivered to:

County of Orange, OC Community Resources
1770 N. Broadway
Santa Ana, CA 92706
Attention: Accounts Payable

Any and all production costs to provide artwork and install sign are to be paid for by County/OC Parks under separate invoice with County Project Manager written pre-approval. With regard to any such invoices, County’s payment terms are net thirty (30) days receipt of invoice. All payments hereunder shall be deemed to include all applicable taxes, duties and charges.

4. Art. Art, or other production, must be approved by County and delivered to ABLP in a timely manner as mutually determined between ABLP and the appropriate County Project Manager. Failure of County to deliver approved art within this time period shall not defer liability hereunder.

5. Failure to Perform. Upon acceptance of this Agreement ABLP will reserve all applicable elements as identified above. Accordingly, any non-use of any reserved element by County will not defer any portion of County’s obligations hereunder.

6. Notices. Any notice or other communication required or permitted hereunder shall be in writing and shall be deemed given upon: (i) the personal delivery to County Project Manager; (ii) transmission by facsimile transmission to the facsimile number set forth below; or (iii) pick up by overnight courier or deposit in a mailbox for a United States registered or certified mail, postage prepaid, return receipt requested, to the address set forth below, or other addresses or facsimile numbers as designated by either party by written notice to the other as provided herein:

If to County:  
County of Orange
OC Waste & Recycling
300 N. Flower St
Suite 400
Santa Ana, CA 92703
Attention: OCWR Project Manager

County of Orange
OC Parks
13042 Old Myford Road
Irvine, CA 92602
Attention: Tom Starnes,
Strategic Communications Manager
If to ABLP:  
Angels Baseball LP  
2000 Gene Autry Way  
Anaheim, California 92806  
Attention: Vice President of Sales  
Fax: 714-940-2202

With a copy to:  
Angels Baseball LP  
2000 Gene Autry Way  
Anaheim, California 92806  
Attention: Legal Department  
Fax: 714-940-2251

7. The attached Standard Terms are incorporated as part of this Agreement, and County acknowledges that County has reviewed the Standard Terms and agrees to be bound by the provisions thereof. The Standard Terms may be modified only upon mutual agreement of County and ABLP.

8. This Agreement or any supplement or amendment hereto shall not be valid or effective unless and until approved in writing by an authorized representative of County and the Vice President of Sales, ABLP and accepted by the Senior Vice-President, Finance and Administration, President, or Chairman of ABLP.

9. This Agreement may be executed in two or more counterparts, each of which together shall be deemed an original, but all of which together shall constitute one and the same instrument. In the event that any signature is delivered by facsimile transmission or by e-mail delivery of a "pdf" format data file, such signature shall create a valid and binding obligation of the party executing (or on whose behalf such signature is executed) with the same force and effect as if such facsimile or "pdf" signature page were an original thereof.

(Signatures continue on the following page)
IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the dates shown below their respective signatures below.

**********************************************************

ANGELS BASEBALL LP

By: [Signature]

Print Name: [Name]
Title: Corporate Officer
Date: 2/20/19

By: [Signature]

Print Name: [Name]
Title: Corporate Officer
Date: 2/20/19

COUNTY OF ORANGE
a political subdivision of the State of California

By: [Signature]

Print Name: [Name]
Title: [Title]
Date: [Date]

APPROVED AS TO FORM:

County Counsel

By: [Signature]

Paul Albarian, Senior Deputy 2/20/2019

* If the contracting party is a corporation, (2) two signatures are required: one (1) signature by the Chairman of the Board, the President or any Vice President; and one (1) signature by the Secretary, any Assistant Secretary, the Chief Financial Officer or any Assistant Treasurer. The signature of one person alone is sufficient to bind a corporation, as long as he or she holds corporate offices in each of the two categories described above. For County purposes, proof of such dual office holding will be satisfied by having the individual sign the instrument twice, each time indicating his or her office that qualifies under the above described provision. In the alternative, a single corporate signature is acceptable when accompanied by a corporate resolution demonstrating the legal authority of the signee to bind the corporation.
STANDARD TERMS AND CONDITIONS TO SPONSORSHIP AGREEMENT

The following sets forth the Standard Terms and Conditions to the Sponsorship Agreement (the “Main Agreement”) between ABLP and County. Capitalized terms used herein not otherwise defined shall have the same meaning as the Main Agreement. The Main Agreement and these Standard Terms and Conditions are collectively referred to as the “Agreement.”

A. License Fee. The License Fee shall be payable in full within 30 days of receipt of an invoice. County shall remain responsible for ensuring timely payment of the License Fee to ABLP. County’s failure to make full payment shall be deemed a breach of this Agreement in accordance with these Standard Terms and Conditions. County’s failure to make full payment shall be deemed a breach of this Agreement in accordance with these Standard Terms and Conditions. Time is of the essence with respect to all License Fee payments. Payment or receipt or acceptance of any payment in an amount less than the amount required to be paid under this Agreement shall not be deemed an accord and satisfaction, or a waiver of the right to receive and recover the full amount due and payable under this Agreement, notwithstanding any statement to the contrary on any check or payment or on any letter accompanying such check or payment.

B. Non-Exclusive Rights. No rights of exclusivity are granted to County by this Agreement. Nothing in this Agreement shall limit in any manner ABLP’s rights to sell advertising marketing or promotional rights of any kind to any other person or entity for any product or service, whether or not competitive with County. In the event that exclusivity is expressly granted to County, in no event shall any such exclusivity granted extend to non-baseball events.

C. Third Party Rights. County acknowledges that: (1) ABLP has no control over the promotional and sponsorship activities of Major League Baseball ("MLB"); the American or National Leagues of Professional Baseball Clubs (the “AL” and “NL” respectively) and players, managers and/or coaches (collectively, "Personnel"); (2) MLB, the AL or NL and/or Personnel may engage in promotional or sponsorship activities involving any person or entity (whether or not competitive with County); (3) ABLP has no authority to limit or prohibit the activities described in subparagraphs (1) and (2) above even where such activities take place at the stadium facility located in Anaheim, California, known as Angel Stadium of Anaheim (the “Facility”) (e.g., all-star game, playoff games, games televised pursuant to national broadcast agreements, etc.); and (4) County’s rights under this Agreement are at all times subject to any promotional licensing arrangement or agreement entered into by MLB and/or Major League Baseball Properties.

D. Protection of Commercial Relationships. County acknowledges that, insofar as ABLP maintains a variety of independent commercial relationships, ABLP shall have the unilateral right (in its sole discretion) to reject advertising based on product/service category exclusivity, the incompatibility or competitive nature of the advertising, the tenor and object of the advertising, or the promotion of a product or service which does not constitute a County product or service.

E. Promotional Rights of ABLP. ABLP and its Affiliates shall have the right to photograph, take motion pictures and sound recordings of, televise, make miniatures of or otherwise reproduce for any purpose in any manner or through any media now known or hereafter devised, the Facility, or any parts thereof throughout the universe in perpetuity (including the right to use County’s name and/or logos so long as it is not the principal focus of such use) and all of the benefits and revenues obtained there from shall be the sole and exclusive property of ABLP and its Affiliates. Except as set forth in the immediately preceding sentence, ABLP shall have no right under this Agreement to use the Intellectual Property (as defined below) of County as ABLP’s own property. For purposes of this Agreement, the term “Affiliate” shall mean a person or entity that controls, is controlled by, or is under common control with the entity or person with which the term is used.

F. Intellectual Property. Except as provided in the Main Agreement, ABLP does not grant County any rights to use any Intellectual Property of ABLP. Intellectual Property means patents, trademarks, service marks, logos, trade names, internet domain names, rights in designs, copyrights (or any derivative works thereof), moral rights, in each case whether registered or unregistered and including applications for registration, and all rights or forms of protection having equivalent or similar effect anywhere in the universe. All Intellectual Property of ABLP used by County hereunder (with ABLP’s prior written approval) shall be and remain the property of ABLP, and any and all rights therein shall inure to the benefit of and be the exclusive property of ABLP. County’s right to use the Intellectual Property of ABLP shall be nonassignable and nontransferable and shall be for the Term only. Any Intellectual Property of County used in any advertisements produced pursuant to this Agreement shall be and remain the property of County, and any and all rights therein shall inure to the benefit of and be the exclusive property of County. ABLP’s right to use the Intellectual Property of County shall be nonassignable and nontransferable and shall be for the Term only. County is responsible for providing all advertising content for use hereunder unless otherwise provided in the Main Agreement. Except as expressly provided herein, neither party shall have the right to use in any way the corporate or trade name, trademark(s), service mark(s), logo(s) or other identification of the other party (or its Affiliate) without the other party’s prior written consent.

G. Indemnification by County. County shall defend, indemnify and hold ABLP, its Affiliates and the officers, directors, partners, agents and employees (“ABL Party”) of each, harmless from and against any and all claims, suits, damages, losses, liabilities, obligations, fines, penalties, costs and expenses (whether based on tort, breach of contract, product liability, patent or copyright or trademark infringement or otherwise), including reasonable legal fees and expenses, of whatever kind or nature (collectively, “Claims”), arising out of or based on: (1) the services, products or other performance provided by County pursuant to this Agreement; (2) County’s breach or default under this Agreement; (3) the use of County’s Intellectual Property in the manner approved by County; (4) any Claims, including but not limited to Claims based on defamation, invasion of privacy, infringement of copyright, trademark or license, unfair or improper trade practices or other wrongful business conduct, violation of Federal Trade Commission rules and analogous state agencies, by reason of the broadcast, telecast or publication of the advertisements furnished by County; (4) any applicable sales or other taxes due from or on behalf of County on any sums paid by County (excluding only income taxes payable to ABLP on such sums) regardless of whether such taxes must be collected by ABLP on behalf of the taxing authority and regardless of whether County shall challenge the assessment or amount of such taxes; (5) the manner, use, sale or offering of any of County service or product pursuant to a consumer promotion approved by ABLP hereunder; and/or (6) any negligent or willful act or omission or violation of any contractual arrangement of County Indemnities, in connection with its or their performance relating to this Agreement. The provisions of this
paragraph G and paragraph I shall survive the expiration or sooner termination of this Agreement.

H. Indemnification by ABLP. ABLP shall defend, indemnify and hold County, its elected and appointed officials, officers, employees, agents and those special districts and agencies which County’s Board of Supervisors acts as the governing Board (“County Indemnitees”) harmless from and against any and all claims arising out of or based on: (1) the services, products or other performance provided by ABLP pursuant to this Agreement; (2) ABLP’s breach or default under this Agreement; (3) the use of ABLP’s Intellectual Property in the manner approved by ABLP; and (4) any negligent or willful act or omission in violation of any contractual arrangement of ABLP or its Affiliates, or the officers, directors, partners, agents or employees of each, in connection with its or their performance relating to this Agreement. The provisions of this Paragraph H and Paragraph I shall survive the expiration or sooner termination of this Agreement.

I. Assignment on Indemnity or Transfer. The Party to whom indemnification is owed (the “Indemnified Party”) shall give notice to the Party required to provide indemnification under this Agreement (the “Indemnifying Party”) of any action or proceeding for which indemnification is sought and the Indemnifying Party (at its expense) shall assume the defense of any Claim (with counsel approved in writing the Indemnified Party and with the Indemnified Party having the right (at its expense) to join in any such action or proceeding). The Indemnifying Party shall not consent to a settlement or entry of any judgment, award or order that (1) would affect the intellectual property rights or other business interests of the Indemnified Party or (2) does not include an unconditional release (including release under California Civil Code Section 1542 or other analogous law) from all liability with respect to such claim or litigation. If judgment is entered against ABLP and County by a court of competent jurisdiction because of the concurrent active negligence of County and ABLP, the Parties agree that liability will be apportioned as determined by the court.

Neither County nor ABLP shall request jury apportionment.

J. Termination by ABLP. Without prejudice to any other right or remedy available to ABLP at law or in equity and in addition to ABLP’s rights under Paragraphs L and N below, ABLP may terminate this Agreement if: (1) County conducts any promotion or uses any marketing, advertising or other promotional material containing any Intellectual Property or other identifiable marks of ABLP or its Affiliates in a manner not expressly approved by ABLP in writing in advance; (2) County shall fail to perform any material term of this Agreement and such failure shall continue uncured for a period thirty (30) days after written notice thereof from ABLP (or, if such cure cannot reasonably be accomplished within such 30-day period, County shall not in good faith have commenced such cure within such 30-day period and shall not thereafter proceed diligently to completion); (3) County’s corporate or trade name of principal line of trade or business shall no longer be the same as upon execution of this Agreement; (4) any purported assignment or transfer of County’s rights or obligations hereunder shall be made or deemed to be made that is in violation of this Agreement; (5) ABLP determines that, as the result of any occurrence or change of circumstances involving County, the continued association with County as provided for herein would have an adverse impact on the name, image, reputation, goodwill or proprietary rights of ABLP or its Affiliates; or (6) in any single transaction or series of related transactions, County consolidates with or merges with or into any other person or transfer (by lease, assignment, sale or otherwise) all or substantially all of its properties and assets to another person or group of affiliated persons, unless such person is a wholly-owned subsidiary of County or County’s parent company (a “County Affiliate”) on the date hereof; and/or (7) County experiences a change of control to the effect that any person or group of persons (other than a County Affiliate) shall have acquired beneficial ownership (within the meaning of Rule 13d-3 under the Securities Exchange Act of 1934, as amended) of securities of County or any person which directly or indirectly controls County (or other securities convertible into such securities) representing 50% or more of the combined voting power of all outstanding securities of such party entitled to vote in the election of directors. Notwithstanding the foregoing, in the event that a breach of this Agreement, then ABLP shall have the right to terminate this Agreement without any notice to County or opportunity on County’s part to cure such violation. If ABLP terminates this Agreement pursuant to this Paragraph J or Paragraph L below, then ABLP shall, without prejudice to any other right or remedy available to it, be entitled to retain any and all sums paid by County hereunder and all future payments shall be immediately due and payable through the completion of the then-current season.

K. Termination by County. Without prejudice to any other right or remedy available to County at law or in equity and in addition to County’s rights under Paragraph L below, County may terminate this Agreement if ABLP shall fail to perform any material agreement, term, covenant or condition to be performed by ABLP pursuant to this Agreement and such material failure shall continue uncured for a period of thirty (30) days after written notice thereof from County (or, if such cure cannot reasonably be accomplished within such 30-day period, ABLP shall not in good faith have commenced such cure within such 30-day period and shall not thereafter proceed diligently to completion). (2) County reasonably determines that, as the result of any occurrence or change of circumstances involving ABLP (specifically excluding ABLP’s on-field personnel), the continued association with ABLP as provided for hereunder would have an unreasonably adverse impact on the name, image, reputation, goodwill or proprietary rights of County or its Affiliates. If County terminates this Agreement before April 1 of any year of the Term pursuant to this Paragraph K or Paragraph L below or has not made any payment towards the License Fee in the year in which termination occurs, then County shall not be entitled to any reimbursement from ABLP. If County terminates this Agreement after April 1 of any year of the Term pursuant to this Paragraph K or Paragraph L below, then County shall, without prejudice to any other right or remedy available to it, be entitled to a reimbursement from ABLP of the unearned portion of any annual License Fee paid by County to ABLP for the season in which such termination occurs (pro-rated at a rate calculated by the number of remaining days on the effective date of termination until the scheduled final game of the Angels regular season by 180).

L. Other Termination Grounds. Without prejudice to any other right or remedy available to either party at law or in equity and in addition to the provisions of Paragraphs J and K above and Paragraph N below, this Agreement may be terminated by any Party if the other Party or parties, or any parent of such other Party or Parties, shall: (1) have an order for relief entered with respect to it, commence a voluntary case or have an involuntary case filed against it under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect (and such order or case is not stayed, withdrawn or settled within 60 days thereafter) (it is the intent of the Parties hereto that the provisions of Section 365(e)(2)(A) of Title 11 of the United States Code, as amended, or any successor statute thereto, be applicable to this Agreement); (2) file for reorganization, become insolvent or have a receiver or other officer having similar powers over it appointed for its affairs in any
court of competent jurisdiction, whether or not with its consent (unless dismissed, bonded or discharged within 60 days thereafter); and/or (3) admit in writing its inability to pay its debts as such debts become due.

M. Confidentiality. Except as otherwise required by law or the regulations of any securities exchange, ABLP and County agree not to disclose “Confidential Information” (as hereinafter defined) to any third party other than to their respective directors, officers, employees, partners and agents and (and directors, officers, employees, partners and agents of their respective Affiliates) and advisors (including legal, financial and accounting advisors) (collectively, “Representatives”), as needed. “Confidential Information” shall include all non-public, confidential or proprietary information that ABLP or its Representatives make available to County or its Representatives or that County or its Representatives make available to ABLP or its Representatives (1) in connection with this Agreement, including, but not be limited to, the specific terms and conditions of this Agreement, (2) information related to the past, present and future plans, ideas, business, strategies, sales figures or projections, marketing programs and other non-public information relating to either Party, and (3) information identified by the disclosing Party as being Confidential Information at the time of disclosure. Each Party hereto shall maintain all Confidential Information of the other Party in strictest confidence and in trust for the other Party’s sole benefit. Neither Party shall (a) use Confidential Information for its own benefit other than in furtherance of its work for the benefit of the other Party hereto, or (b) disclose to third parties Confidential Information of the other party except as expressly provided herein. Each Party shall disclose Confidential Information only to those who need access in order to participate in said Party’s performance of obligations to the other Party. Each Party will advise its employees to whom it provides Confidential Information pursuant to the preceding sentence that (a) the information is Confidential Information, and (b) they may not use or disclose Confidential Information contrary to the terms hereof. Confidential Information may be disclosed by a recipient thereof if such disclosure is required: (a) to the extent of a court of competent jurisdiction; or (b) in response to an inquiry or order issued by a state or federal agency of competent jurisdiction; or (c) to comply with any reporting obligation to any federal or state agency. No such disclosure shall be made by any Party, however, without first providing the other Party advance written notice sufficient to allow said other Party to oppose said disclosure and/or seek implementation of protective procedures which will preserve the confidentiality of the information in question. In the event a Party is served with subpoena or other document which would require it to disclose the other Party’s Confidential Information, the Party served with such document shall immediately send a copy thereof to the other party via fax or overnight delivery service. The provisions of this Paragraph M will survive the expiration or sooner termination of this Agreement for a period of three (3) years.

N. Subservience to MLB. Notwithstanding any other provision of this Agreement:

1. This Agreement and the rights, exclusivities and protections granted by ABLP to County hereunder shall, at the request of the Office of the Commissioner of Baseball, be subject to its review and prior written approval, and shall in all respects be subordinate to, and shall not prevent the issuance, entering into, or amendment of, any of the following, each as may be issued, entered into or amended from time to time (collectively, the “MLB Documents”): (i) any present or future agreements or arrangements regarding the telecast, broadcast, recording (audio or visual), or other transmission or retransmission (including, but not limited to, transmission via the Internet or any other medium of interactive communication, now known or hereafter developed) of Major League Baseball games, and/or the accounts and descriptions thereof, entered into with third parties by any of the Office of the Commissioner of Baseball, Major League Baseball Enterprises, Inc., Major League Baseball Properties, Inc., Major League Baseball Properties Canada Inc., MLB Advanced Media, L.P., MLB Advanced Media, Inc. (“MLBAM”), MLB Media Holdings, Inc., MLB Media Holdings, L.P., MLB Online Services, Inc., and/or any of their respective present or future affiliates, assigns or successors (collectively, the “MLB Entities”), either on its own behalf or on behalf of the Major League Baseball Clubs and/or other MLB Entities; (ii) any other present or future agreements or arrangements entered into with third parties by, or on behalf of, any of the MLB Entities, including, without limitation, those relating to ticketing, e-commerce, and/or the exploitation of intellectual property rights in any medium, including the Internet or any other medium of interactive communication; (iii) any present or future agreements or arrangements entered into by ABLP with the other Major League Baseball Clubs and/or one or more of the MLB Entities (including, without limitation, the Major League Constitution, the Basic Agreement between the Major League Baseball Clubs and the Major League Baseball Players Association, the Professional Baseball Agreement, the Major League Rules, the Interactive Media Rights Agreement, and each agency agreement and operating guidelines among the Major League Baseball Clubs and an MLB Entity); and (iv) the applicable rules, regulations, policies, bulletins or directives issued or adopted either by the Commissioner or otherwise pursuant to the Major League Constitution or any such agency agreement.

2. The territory within which County is granted rights hereunder cannot extend beyond the Home Television Territory (as defined in the MLB governing documents) of ABLP, as established and amended from time to time pursuant to the MLB Documents. Nothing herein shall be construed as conferring on County rights in areas outside of the ABLP’s Home Television Territory.

3. ABLP shall have the right, at no cost or liability to it or any other club or MLB Entity, to terminate this Agreement at any time County breaches its obligations under Paragraph 1 or 2 above. The right to terminate shall be exercisable by delivering written notice to County within 30 days after the ABLP obtains actual knowledge that such breach or retransmission has occurred and the Effective Date of such termination shall be no more than 30 days after the date such notice is given, as specified by ABLP in such notice.

4. Any right or obligation in this Agreement involving “Interactive Media,” must be approved in writing by MLBAM prior to ABLP’s execution of this Agreement. For purposes of this provision, “Interactive Media” shall mean (i) the Internet or any other on-line system or computer network; (ii) any interactive wireless service, including any interactive microwave or cellular service; (iii) any interactive satellite service; (iv) any interactive broadcast television, broadcast radio or cable television service; and (v) any other medium of interactive communication now known or hereafter devised.

5. Without limiting the generality of the foregoing, County acknowledges and agrees that: (a) various Facility signage and other advertising (including but not limited to field rotational and scoreboard signs) may be subject to blackout or preemption in connection with national television broadcasts or MLB “jewel” events such as All-Star Game exhibition and playoff and World Series games; and (b) County shall not be entitled to any consideration, refund or other relief in the event of such blackout or preemption.
O. **County Equipment.** Nothing herein shall obligate ABLP or its Affiliates to design, create, construct, set up, remove, tear down or store any equipment, tools, or other property of County (e.g., kiosks, canopies, tents, temporary structures, booths, etc.) (collectively, "County Equipment"). In the event that ABLP or its Affiliates agree to design, create, construct, set up, remove, tear down and/or store any County Equipment, County hereby releases ABLP and its Affiliates of and from any and all claims, causes of action, damages, liabilities or expenses arising out of design, creation, construction, set up, removal, tear down and/or storage of the County Equipment.

P. **Miscellaneous.**

1. County may not assign or transfer this Agreement or any interest herein (including, but not limited to, rights and duties of performance), nor shall the same be assignable by operation of law, without the prior written consent of ABLP. ABLP may assign or transfer this Agreement (or a portion thereof) to a third Party in ABLP's sole discretion.

2. Neither party hereto represents that: (i) the execution, delivery and performance of this Agreement has been duly and validly authorized by all necessary corporate or partnership action, as applicable; (ii) this Agreement constitutes the legally valid and binding obligation of such Party; and (iii) the execution, delivery and performance of this Agreement will not violate or constitute a breach or default under any other agreement by which it is bound.

Each of the Parties hereon acknowledges and agrees that, except as expressly set forth herein, neither Party has made, and neither Party is relying on, any representation or warranty, express or implied, with respect to the subject matter hereon. The representations and warranties contained herein shall survive the execution and delivery of this Agreement.

3. This Agreement shall be subject to, and the Parties hereto agree to comply with, all applicable federal, state, municipal and local laws and regulations now or hereafter in effect.

4. The performance by either Party hereto of its respective nonmonetary obligations under this Agreement shall be excused during the period of time that such performance is delayed or prevented in whole or in part by acts of God, fire, floods, storms, explosions, accidents, epidemics, war, civil disorder, strikes or other labor difficulties, or any law, rule, regulation, order or other action adopted or taken by any federal, state or local government authority, or any other cause not reasonably within such party's control, whether or not specifically mentioned herein.

5. Neither the failure to insist upon strict performance of any of the agreements, terms, covenants or conditions hereof, nor the acceptance of monies due hereunder with knowledge of a breach of this Agreement, shall be deemed a waiver of any rights or remedies that either Party hereto may have or a waiver of any subsequent breach or default in any of such agreements, terms, covenants or conditions. No delay or omission in the exercise of any right, power or remedy accruing to any Party under this Agreement shall impair any such right, power or remedy, nor shall it be construed as a waiver of any future exercise of any right, power or remedy.

6. The provisions contained herein constitute the entire Agreement between the parties hereto with respect to the subject matter hereof, supersedes any prior oral or written understandings between the Parties, and no statement or inducement with respect to the subject matter hereof by either Party hereto or by any agent or representative of either Party hereto which is not contained in this Agreement shall be valid or binding among the parties. This Agreement cannot be modified except in writing signed by an individual with authority to sign such a writing on behalf of County and an officer of ABLP. For the purposes of modifying this Agreement, electronic mail shall not be considered a writing signed by an individual. The Parties hereto are independent contractors, and nothing in this Agreement shall be deemed or construed to create, or have been intended to create, a partnership, joint venture, employment or agency relationship between the parties hereto.

Each Party hereto shall execute any and all further documents or instruments and take all necessary action that either Party hereto may deem reasonably necessary to carry out the proper purposes of this Agreement. This Agreement shall be governed by, and construed in accordance with, the laws of the State of California.

7. This Agreement has been fully reviewed and negotiated by the parties hereto and their respective legal counsel. Accordingly, in interpreting this Agreement, no weight shall be placed upon which Party hereto or its counsel drafted the provision being interpreted. Wherever this Agreement provides for one party hereto to provide approval or consent, such approval or consent shall, except as may otherwise be specified herein, be given in such Party’s sole judgment and discretion.

8. Any term or provision of this Agreement shall be found to be void or contrary to law or unenforceable, such term or provision shall, but only to the extent necessary to bring this Agreement within the requirements of law, be deemed to be severable from the other terms and provisions hereof, and the remainder of this Agreement shall be given effect as if the Parties had not included the severed term herein.

9. All arrearages in the payment of any sums due to either party hereto under the provisions of this Agreement shall bear interest from the date due until paid at the lesser of (i) one percent (1%) per month and (ii) the highest rate of interest then allowable pursuant to applicable law.

10. Each Party to this Agreement represents that it is a sophisticated commercial Party capable of understanding all of the terms of this Agreement, that it has had an opportunity to review this Agreement with its counsel, and that it enters this Agreement with full knowledge of the terms of this Agreement.

11. In the event that County receives season seats under this Agreement, the season seats shall entitle County to admission only to Angels regular season games and not to any other events at the Facility including, but not limited to: concerts, football games, and motorsports, Angels playoff games, etc. Furthermore, should County receive season seats under this Agreement, such seats will be governed by the season seat holder terms and conditions applicable to all season seats, regardless of any language to the contrary in this Agreement.

12. Unless otherwise set forth in the Main Agreement, County shall be responsible for all costs (including but not limited to creative, design, production, changes, revisions and removal) with respect to any signage purchased by County under this Agreement.

13. ABLP reserves the right to eliminate existing static signage in the Facility and replace such static signage with electronic, LED or other similar signage (collectively, “Electronic Signage”). ABLP further reserves the right to relocate existing static signage within the Facility. As and to the extent that County has licensed static signage in the Facility under this Agreement (“County Signage”), then in the event ABLP converts such static signage into Electronic Signage or relocates such static signage within the Facility, the provisions of Paragraphs P.13(a) or P.13(b), as applicable, shall control:

a) In the event that ABLP relocates the County Signage to another location or locations within the Facility, County shall be entitled (as determined by ABLP and as County’s sole and exclusive remedy) to: (i) a pro rata credit for a diminution in the value of the County Signage following such relocation (all as calculated in accordance with ABLP’s rate card in effect as of the
date of this Agreement); (ii) additional signage or other exposure within the Facility, which additional signage or exposure shall have a value equal to the diminution in the value of the County Signage following such relocation (all as calculated in accordance with ABLP’s then-current rate card); or (iii) a combination of subparagraphs (i) and (ii) above.

b) In the event that ABLP eliminates the County Signage and replaces such County Signage with Electronic Signage, County shall be entitled (as determined by ABLP and in County’s sole and exclusive remedy) to: (i) a pro rata credit for the elimination of the County Signage (as calculated in accordance with ABLP’s rate card in effect as of the date of this Agreement) or (ii) exposure on the Electronic Signage in a value equal to the value of the County Signage for the balance of the term to which County is entitled to such County Signage under this Agreement (all as calculated in accordance with ABLP’s then-current rate card); or (iii) a combination of subparagraphs (i) and (ii) above.

14. Those provisions which by their nature are intended to survive the expiration, cancellation or termination of this Agreement, including, by way of example only, the Indemnification and Confidentiality provisions, shall survive the expiration, or termination of this Agreement.

15. Section headings contained in this Agreement are for reference purposes only and shall not be used to construe or interpret this Agreement.

16. County shall pay ABLP no less than Twenty Five Dollars ($25.00) for each County check returned to ABLP as unpayable.

17. For the purposes of this Agreement, the term “Stadium” shall mean the interior areas of the outdoor venue known as Angel Stadium of Anaheim and located at 2000 E. Gene Autry Way, Anaheim, California 92806. The term “Stadium” shall not include the parking lots, offices, dressing rooms, or non-public areas at the venue.

18. County shall, at their sole cost, maintain occurrence based Commercial General Liability Insurance Policy, including but not limited to contractual liability, personal injury liability, advertising injury liability and products/completed operations liability coverage with minimum limits of $1,000,000 per occurrence, Errors & Omissions Liability, Miscellaneous Professional Liability Insurance, with a minimum limit of $10,000,000 per Claim and Umbrella Liability Insurance with excess coverage of $10,000,000 for each occurrence and $10,000,000 general aggregate. County shall provide proof of insurance and endorsements adding ABLP Parties as an additional insured.

N. Venue, Choice of Law, Attorney’s Fees. In actions related to this Agreement each Party, on behalf of its successors and assigns consent and submit to the exclusive jurisdiction of the state and federal courts located in Orange County, California and waive any objection to the propriety or convenience of venue in such courts. This Agreement shall be governed by and construed in accordance with the laws of the State of California, without regard to its conflict of laws principles. In any action or proceeding to enforce or interpret any provision of this Agreement, each Party shall bear their own attorney’s fees, costs and expenses.

O. Radio Advertising Nondiscrimination. County represents and warrants to ABLP and its radio affiliates that County does not discriminate on the basis of race, creed or color in its placement of advertisements with ABLP or its radio affiliates.
MARKETING & OUTREACH SERVICES
WITH
ANAHEIM DUCKS HOCKEY CLUB, LLC

This Agreement Number MA-299-19010701 for Marketing & Outreach Services ("Agreement") is made and entered into as of the date fully executed by and between the County of Orange, a political subdivision of the State of California, through its OC Waste & Recycling Department ("County"), and Anaheim Ducks Hockey Club, LLC, with a place of business at 2695 E. Katella Avenue, Anaheim, CA 92803 ("ADHC"). County and ADHC are collectively referred to as "Parties."

RECITALS

WHEREAS, ADHC and County are entering into this firm-fixed price Agreement for Marketing & Outreach Services as more fully described in Attachment A, Scope of Work, for one year, effective March 1, 2019 through February 29, 2020, in an amount not to exceed $121,500; and

WHEREAS, County agrees to pay ADHC the fees as further set forth in Attachment B, Compensation, Payment Terms and Invoicing Instructions, incorporated herein;

NOW, THEREFORE, the Parties mutually agree as follows:

ARTICLES

ADHC Terms and Conditions

1. Indemnification. See Exhibit "A", attached.

2. Termination and Remedies.
   A. Default: A party shall be in default under this Agreement if it fails to perform any material obligation in a timely manner. If either party is in default under this Agreement, the non-defaulting party shall deliver written notice specifying the default to the defaulting party. The defaulting party shall have ten (10) days after receipt of such notice to cure the default.
   B. Remedies: If a defaulting party fails to cure a default within ten (10) days after receipt of a notice of default, the non-defaulting party shall have the right to terminate this Agreement and shall have all other rights and remedies available at law or in equity, all of which shall be cumulative and not exclusive, including, in the event of a monetary default by County, ADHC’s right to accelerate the payment of and bring an action to collect all installments of the compensation described in Attachment B, payable by County through the Termination Date of this Agreement irrespective of the date of termination as a result of County’s default. Termination of this Agreement shall be accomplished by delivery of written notice of termination to the defaulting party.
   C. Costs: In any action to enforce or interpret any provision of this Agreement each Party shall bear its own attorney’s fees, costs and expenses, but the prevailing Party shall be entitled to collect damages on account of any default under this Agreement and any additional costs of collecting any judgment rendered in such action.

3. Assignment. This Agreement, and any rights, entitlements, duties and obligations arising from it, shall not be assigned or delegated in whole or in part by either party, except by prior written consent of the other party. Any attempted assignment by either party without the consent of the other party shall be null and void and shall entitle the other party to terminate this Agreement upon written notice of termination.

4. Notices. Any notice required or permitted to be delivered under this Agreement shall be in writing. All notices of or concerning default or termination of this Agreement shall be sent by U.S. Mail, certified, return receipt requested or by FedEx or comparable next day delivery service, addressed to the recipient at its address set forth below their signatures to this Agreement or to such other address as the recipient may subsequently have furnished in writing to the sender. All other notices may be sent by telecopy, by hand delivery, by first-class U.S. Mail postage fully prepaid or by FedEx or comparable next day delivery service.
5. NHL, Special Event and Broadcasting Limitations. County agrees and acknowledges that this Agreement and each benefit conferred on County pursuant to this Agreement are limited by and subject to the following (a) the National Hockey League ("NHL") bylaws, rules, regulations, policies, Board of Governor resolutions; any collective bargaining agreement to which the NHL or any member club is a party; all consent decrees and settlement agreements entered into between or among the NHL and its member clubs (or the NHL, NHL member clubs and/or other persons) in furtherance of NHL business or interests or as otherwise authorized directly or indirectly by the NHL Board of Governors, the NHL Commissioner, or the NHL Constitution; and corporate marketing, licensing, sponsorship, network, broadcasting or similar agreement between the NHL (or NHL affiliates) and third parties; all as the same may now exist or hereafter be amended or enacted and as they may be interpreted by the NHL. County also agrees that ADHC may terminate this Agreement on ten (10) days prior written notice in the event that the NHL, in its sole discretion, determines that the sponsorship granted pursuant to this Agreement or the County is not in compliance with NHL rules governing gambling activities; (b) ADHC and AAM (as defined below) may be required from time to time under rules, regulations and requirements related to special events (including without limitation, NCAA, Olympic-related events, multi-city tours, and NHL events that are not Ducks home games) to grant third parties rights that may result in the reduction or elimination of County’s rights under this Agreement on a temporary basis during such special events and (c) in the event County is granted any rights with respect to the broadcast of a Ducks’ game, such rights shall comply with and be subject to the standards and policies of the applicable programming provider, shall not extend to broadcasts by visiting teams of NHL or re-broadcasts and shall be subject to rights granted to a third party by the applicable programming provider. Finally, County acknowledges that County shall not be compensated by ADHC, Anaheim Arena Management, LLC ("AAM"), the NHL or any third party as a result of the occurrence of any of the circumstances described in this Section.

6. Non-Exclusive Rights and Regular Season Only. Except as expressly set forth to the contrary in this Agreement: (a) no rights of exclusivity are granted to County and nothing in this Agreement shall limit in any manner ADHC’s or AAM’s rights to sell advertising, marketing, promotional or rights of any other kind to any other person or entity for any product or service, whether or not competitive with County, (b) no rights of exclusivity are granted to any portion of the Honda Center beyond the footprint of the principal building; and (c) no rights are granted to County by this Agreement with respect to any facility branded as “The Rinks”, the Ducks’ practice facility or any minor league team affiliated in any manner with ADHC.

7. Costs. Except as expressly set forth to the contrary in this Agreement, County shall be responsible for all costs (including but not limited to creative, design, production, changes, revisions and removal) with respect to any display or signage purchased by County under this Agreement. Allocated but unused deliverables may not be carried over from contract year to contract year.

8. Use of Trademarks and Right to Advertise. Except as expressly set forth in this Agreement to the contrary, County shall have no right to use ADHC’s or any of its affiliates’ trademarks, trade names or service marks and County shall have no right to advertise or promote its sponsorship or involvement with the Anaheim Ducks and/or the Honda Center. All use of each party’s and their respective affiliate’s trademarks, trade names or service marks (collectively, the “Marks”), including the manner and quality in which the Marks are reproduced or displayed, shall be under the control and supervision of the party owning the Marks. Each party agrees that the manner of display of the Marks must be specifically approved in writing and in advance by an authorized representative of the party owning the Marks. Each party agrees to extend a seven (7) day period for a response to such written request. The failure of a party to respond during such seven (7) day period shall be deemed an approval of the requested use. Any such use shall be limited to the purpose for which approval was sought and received and shall be deemed a non-exclusive, royalty-free license for the approved use. Such license shall not include the right to sub-license such use. The license described in this Section 8 shall terminate contemporaneously with the termination of this Agreement. The other provisions of this Section 8 to the contrary notwithstanding, County may not use ADHC’s or any of its Marks without the prior written consent of ADHC which may be granted or withheld in ADHC’s sole discretion.

9. Endorsements. None of the artists, performers, athletes or promoters appearing at the Honda Center shall be deemed or required to endorse County or County’s products as a result of this Agreement.

10. Insurance. County shall, at its own expense, maintain through the Term, commercial general liability insurance (including contractual liability) with insurers reasonable and satisfactory to ADHC and a per occurrence combined single limit of a minimum of $2,000,000 for property damage and personal injury and otherwise in accordance with ADHC’s minimum insurance requirements. County shall, at the request of ADHC, provide a certificate of insurance evidencing such policy.
11. **Miscellaneous Provisions.**

A. **Severability.** If any clause or provision of this Agreement is illegal, invalid or unenforceable under applicable present or future laws, then it is the intention of the parties that the remainder of this Agreement shall not be affected but shall remain in full force and effect.

B. **Amendment.** No provision of this Agreement shall be altered, amended, revoked or waived except by mutual written consent of the parties.

C. **Entire Agreement.** This Agreement contains the entire agreement and understanding of the parties and supersedes all prior agreements and understandings, whether verbal or written, with respect to the subject matter of this Agreement and any such other agreements or understandings are hereby revoked. The County Terms and Conditions are incorporated as Exhibit A. Should there be a conflict between the ADHC Terms and Conditions ("ADHC Terms and Conditions") and the County Terms and Conditions, the terms of the ADHC Terms and Conditions shall prevail. No provision in the County Terms and Conditions shall change, diminish, or add any right to either party set forth in ADHC’s Terms.

D. **Governing Law and Venue.** This Agreement shall be governed by and interpreted in accordance with the laws of the State of California, and any action, claim or suit initiated in connection with this Agreement shall be prosecuted exclusively within the courts of the State of California located in Orange County, California, except where exclusive federal jurisdiction applies, in which case an action, claim or suit initiated in connection with this Agreement shall be prosecuted in United States District Court in Orange County, California.

E. **Performance.** The performance by either party of its non-monetary obligations under this Agreement shall be excused during the period of time that such performance is delayed or prevented in whole or in part by acts of God, fire, floods, storms, explosions, accidents, epidemics, war, civil disorder, strikes or other labor difficulties or any law, rule, regulation, order or other action adopted or taken by any federal, state or local government authority, or any other cause not reasonably within such party’s control, whether or not specifically mentioned herein.

F. **Interest.** If any amount payable by County is not paid to ADHC within thirty (30) days of the due date, such amount shall bear interest from the due date until paid at 1.5% per month (or, if less, the maximum rate then permitted by law), calculated on a simple interest basis for the actual number of days past due.

G. **Time of the Essence.** Time is of the essence with respect to this Agreement.

H. **Waiver.** No waiver of any term, provision or condition of this Agreement, whether by conduct or otherwise, in any one or more instances, shall be deemed to be, or shall constitute, a waiver of any other term, provision or condition hereof, whether or not similar, nor shall such waiver constitute a continuing waiver of any such term, provision or condition hereof. No waiver shall be binding unless executed in writing by the party making the waiver.

I. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.
Exhibit A  
COUNTY OF ORANGE  
TERMS AND CONDITIONS

A. Contingency of Funds: ADHC acknowledges that funding or portions of funding for this Agreement may be contingent upon County budget approval; receipt of funds from, and/or obligation of funds by, the state of California to County; and inclusion of sufficient funding for the services hereunder in the budget approved by County’s Board of Supervisors for each fiscal year covered by this Agreement. If such approval, funding or appropriations are not forthcoming, or are otherwise limited, County may immediately terminate or modify this Agreement without penalty.

B. Patent/Copyright Materials/Proprietary Infringement: Unless otherwise expressly provided in this Agreement, ADHC shall be solely responsible for clearing the right to use any patented or copyrighted materials provided by ADHC to County in the County’s performance of this Agreement. ADHC agrees that, in accordance with the more specific requirement contained in paragraph “V” below, it shall indemnify, defend and hold County and County Indemnities harmless from any and all such claims and be responsible for payment of all costs, damages, penalties and expenses related to or arising from such claim(s), including, but not limited to, attorney’s fees, costs and expenses. Also unless otherwise expressly provided in this Agreement, County shall be solely responsible for clearing the right to use any patented or copyrighted materials provided by County to ADHC in the ADHC’s performance of this Agreement. County agrees that, in accordance with the more specific requirement contained in paragraph “V” below, it shall indemnify, defend and hold ADHC and ADHC Indemnities harmless from any and all such claims and be responsible for payment of all costs, damages, penalties and expenses related to or arising from such claim(s), including, but not limited to, attorney’s fees, costs and expenses.

C. Consent to Breach Not Waiver: No term or provision of this Agreement shall be deemed waived and no breach excused, unless such waiver or consent shall be in writing and signed by the party claimed to have waived or consented. Any consent by any party to, or waiver of, a breach by the other, whether express or implied, shall not constitute consent to, waiver of, or excuse for any other different or subsequent breach.

D. Remedies Not Exclusive: The remedies for breach set forth in this Agreement are cumulative as to one another and as to any other provided by law, rather than exclusive; and the expression of certain remedies in this Agreement does not preclude resort by either party to any other remedies provided by law.

E. Independent Contractor: ADHC shall be considered an independent contractor and neither ADHC, its employees, nor anyone working under ADHC shall be considered an agent or an employee of County. Neither ADHC, its employees nor anyone working under ADHC shall qualify for workers’ compensation or other fringe benefits of any kind through County.

F. Performance: Not applicable.

G. Change of Ownership/Name, Litigation Status, Conflicts with County Interests: ADHC agrees that if there is a change or transfer in ownership of ADHC’s business prior to completion of this Agreement, the new owners shall be required under terms of sale or other transfer to assume ADHC’s duties and obligations contained in this Agreement and complete them to the satisfaction of County.

County reserves the right to immediately terminate the Agreement in the event the County determines that the assignee is not qualified or is otherwise unacceptable to the County for the provision of services under the Agreement.

In addition, ADHC has the duty to notify the County in writing of any change in ADHC’s status with respect to name changes that do not require an assignment of the Agreement.

ADHC shall make good faith efforts to establish rules and procedures preventing its employees, agents, and subcontractors from providing or offering gifts, entertainment, payments, loans or other considerations which could be deemed to influence or appear to influence County staff or elected officers in the performance of their duties.

II. Compliance with Laws: ADHC and County each represent and warrant that services to be provided by it under this Agreement shall fully comply, at its expense, with all standards, laws, statutes, restrictions, ordinances,
requirements, and regulations (collectively “laws”), including, but not limited to those issued by County in its governmental capacity and all other laws applicable to the services at the time services are provided to and accepted by the other party. The parties acknowledge that each party is relying on the other to ensure such compliance, and pursuant to the requirements of paragraph “P” below, each party agrees that it shall defend, indemnify and hold the other and County Indemnities and ADHC Indemnities, as applicable, harmless from all liability, damages, costs and expenses arising from or related to a violation of such laws.

I. Pricing: The Agreement rates shall include full compensation for providing all required goods, in accordance with required specifications, or services, as specified herein or when applicable, in the scope of services attached to this Agreement, and no additional compensation will be allowed therefore, unless otherwise provided for in this Agreement.

J. Terms and Conditions: ADHC acknowledges that it has read and agrees to all terms and conditions included in this Agreement.

K. Headings: The various headings and numbers herein, the grouping of provisions of this Agreement into separate clauses and paragraphs, and the organization hereof are for the purpose of convenience only and shall not limit or otherwise affect the meaning hereof.

L. Calendar Days: Any reference to the word “day” or “days” herein mean calendar day or calendar days, respectively, unless otherwise expressly provided.

M. Interpretation: This Agreement has been negotiated at arm’s length and between persons sophisticated and knowledgeable in the matters dealt with in this Agreement. In addition, each party has been represented by experienced and knowledgeable independent legal counsel of their own choosing or has knowingly declined to seek such counsel despite being encouraged and given the opportunity to do so. Each party further acknowledges that they have not been influenced to any extent whatsoever in executing this Agreement by any other party hereto or by any person representing them, or both. Accordingly, any rule or law (including California Civil Code Section 1654) or legal decision that would require interpretation of any ambiguities in this Agreement against the party that has drafted it is not applicable and is waived. The provisions of this Agreement shall be interpreted in a reasonable manner to affect the purpose of the parties and this Agreement.

N. Authority: The Parties to this Agreement represent and warrant that this Agreement has been duly authorized and executed and constitutes the legally binding obligation of their respective organization or entity, enforceable in accordance with its terms.

O. Employee Eligibility Verification: Not applicable.

P. Indemnification Provisions: ADHC agrees to indemnify, defend with counsel approved in writing by County, and hold County, its elected and appointed officials, officers, employees, agents and those special districts and agencies which County of Orange Board of Supervisors acts as the governing Board (“COUNTY INDEMNITIEES”) harmless from any claims, demands or liability of any kind or nature, including but not limited to personal injury or property damage, arising from or related to any falsity or breach of any representation or warranty or breach of any covenant or agreement made or to be performed by ADHC pursuant to this Agreement or any intentional or grossly negligent act or omission of ADHC occurring as a result of ADHC’s obligations pursuant to this Agreement, provided, however, that such indemnity shall not extend to indirect or consequential damage. If judgment is entered against ADHC and County by a court of competent jurisdiction because of the concurrent active negligence of County or COUNTY INDEMNITIEES, ADHC and County agree that liability will be apportioned as determined by the court. Neither party shall request a jury apportionment.

County agrees to indemnify and hold ADHC, its affiliates, subsidiaries, directors, officers, employees, owners, members, agents and assigns harmless from any claims, demands or liability of any kind or nature, including but not limited to personal injury or property damage, arising from or related to any falsity or breach of any representation or warranty or breach of any covenant or agreement made or to be performed by County pursuant to this Agreement or any intentional or grossly negligent act or omission of County occurring as a result of County’s obligations pursuant to this Agreement, provided, however, that such indemnity shall not extend to indirect or consequential damage. If judgment is entered against ADHC and County by a court of competent jurisdiction because of the concurrent active negligence of County, ADHC and County agree that liability will be apportioned as determined by the court. Neither party shall request a jury apportionment.
Q. **Renewable Annually with Concurrence:** Not applicable.

R. **Amendments:** No alteration or variation of the terms of this Agreement shall be valid unless made in writing and signed by the parties; no oral understanding or agreement not incorporated herein shall be binding on either of the parties; and no exceptions, alternatives, substitutes or revisions are valid or binding on County unless authorized by County in writing.

S. **Termination:** In addition to any other remedies or rights it may have by law, County has the right to immediately terminate this Agreement without penalty for cause or after 30 days’ written notice without cause at the end of each contract year, unless otherwise specified. Cause shall be defined as any material breach of the Agreement, any misrepresentation or fraud on the part of ADHC. Exercise by County of its right to terminate the Agreement shall relieve County of all further obligation but shall not relieve the County of payment for services or deliverables provided by ADHC prior to termination.
The Parties hereto have executed this Agreement on the dates shown opposite their respective signatures below.

ANAHEIM DUCKS HOCKEY CLUB, LLC

Print Name

Signature

Title

Date

2/18/19

* If the Contractor is a corporation, two (2) signatures are required: one (1) signature by the Chairman of the Board, the President or any Vice President; and one (1) signature by the Secretary, any Assistant Secretary, the Chief Financial Officer or any Assistant Treasurer. The signature of one person alone is sufficient to bind a corporation, as long as he or she holds corporate offices in each of the two categories described above. For County purposes, proof of such dual office holding will be satisfied by having the individual sign the instrument twice, each time indicating his or her office that qualifies under the above described provision. In the alternative, a single corporate signature is acceptable when accompanied by a corporate resolution demonstrating the legal authority of the signee to bind the corporation.

County of Orange, a political subdivision of the State of California

Print Name

Signature

Title

Date

APPROVED AS TO FORM:

County Counsel

By

Paul Albarian, Deputy

2/20/2019
BACKGROUND

OC Waste & Recycling serves Orange County’s solid waste disposal needs by providing waste management services, protecting the environment and promoting recycling. The Orange County waste management system includes three active landfills, landfill-to-gas energy plants, hazardous household waste collection centers and plans for future composting/organics recycling operations.

Anaheim Ducks Hockey Club, LLC (ADHC) is a recycling champion and as such, the organization is a leader in sustainability programs, aligning with OC Waste & Recycling’s (OCWR) environmental stewardship goals. From clean energy and energy conservation to water conservation and compostable food and service utensils, ADHC recycling practices continue to support its OCWR partnership. Since its inception, the OCWR-ADHC partnership has reached hundreds of thousands of residents with valuable recycling education through collection events, America Recycles Day promotions, social media cross-promotion, and other marketing communications vehicles.

GOALS AND OBJECTIVES

This Scope of Work continues the partnership between OCWR and ADHC through implementation of a strategic marketing plan, with the following goal:

- Contribute to waste diversion by educating residents about how to recycle properly, learn about organic waste, and to promote the EcoChallenge exhibit currently at Discovery Cube of OC, educational events and collection opportunities.

This plan will achieve the following key objectives:

- Implement strategic promotional opportunities to engage vast OC audiences by combining the appeal of ADHC with OCWR messaging.
- Leverage creative content and ADHC licensing for strategic social media, online and other communications opportunities.
- Host events and other educational outreach opportunities to encourage reduce, reuse, recycle best practices.

Task 1: Licensing Agreement

The ADHC partnership with OCWR provides a powerful vehicle to reach tens of thousands of Orange County residents with critical recycling and waste diversion educational messaging. OCWR will leverage the appeal of the Ducks franchise through use of the Ducks logo, video and social media content developed as part of this Agreement.

Deliverables:

1.1 Marks and logos: ADHC will provide use of the ADHC marks and logos for OCWR’s online, print and social media communication and collateral or promotional items. OCWR will obtain approval by ADHC prior to use of any material to maintain brand standards. OCWR may only use the licensing and materials for the advertising and promotion of the County as a local government, non-profit educational center. OCWR’s rights shall be subject to section 8 of ADHC’s Terms and Conditions above.

Task 2: Scoreboard In-game Features

ADHC will leverage the captive audience at home games using the center ice scoreboard to combine fun and humor with educational messages during games. Scoreboard features include Public Announcement (PA)
spots to draw attention. Each in-game feature is accompanied by dual 360 LED ring advertising per OCWR provided content (See Exhibit 1).

**Deliverables:**

2.1 **"Make Trash Cool" feature:** ADHC will produce “Make Trash Cool” video features (approximately :30 to :60 seconds) for airing on the scoreboard during break in the action at select home games. The videos will feature ADHC entertainment team employees and/or Ducks player (if available) giving tips on recycling and proper disposal of waste both in the Honda Center and in the community. ADHC will create one pre-recorded spot from a single day of filming, including script writing for OCWR and ADHC approval, then edit the video differently so that there are various versions to be alternately shown at (35) games.

2.2 **"Recycling or Trash?" feature:** ADHC will produce a fan-interactive promotion in which photos of different waste items are shown on the scoreboard. OCWR will provide input and guidance; ADHC to procure graphics, photos, etc. Fans will be asked to text their “Recycle or trash” answer for a chance to win a Ducks team store gift card for $50. Five different waste items will be identified with input from OCWR and produced by ADHC for feature at 10 games throughout each season. ADHC will provide OCWR with data following each feature on the number of total participants and correct versus incorrect responses. Data will be reported by ADHC after each game where feature is run in a timely manner as mutually agreed by ADHC and OCWR so as to evaluate effectiveness and make adjustments for remaining features.

**Task 3: Social Media & Online Promotion**

A key advantage to the Task 1: Licensing Agreement is that all creative content and marketing materials (such as those items in Task 2: Scoreboard In-game Features) can be repurposed across OCWR social media platforms and the oclandfills.com website. In addition, ADHC has proposed an in-game social media promotion that can track responses, providing valuable data for program evaluation. ADHC will grant permissions for use of all creative content for the duration of the Agreement, subject to the ADHC Terms and Conditions.

**Deliverables:**

3.1 **Licensed Content Permission:** ADHC will provide OCWR the digital content from Task 2: Scoreboard In-game Features. OCWR and ADHC will mutually determine best formats for OCWR use upon final development of content. Through the Agreement OCWR will have permission to post created content on social media platforms and on the oclandfills.com website.

3.2 **ADHC Social Media Cross Promotion:** ADHC will assist in promoting OCWR recycling messages, special events, and content developed per Task 2: Scoreboard In-game Features through the team social media platforms throughout the season.

3.3 **“Talking Trash” Social Media Promotion:** For each year of the Agreement, ADHC will develop and manage a year-long “Talking Trash” social media promotion to include:

- a. Develop and promote a “Talking Trash” feature in the form of a video or other mutually agreed upon format that highlights ADHC fans recycling in creative or impactful ways. Each year a new feature will be created.
- b. On ten (10) occasions during the Ducks season, award a $50 Ducks Team Store gift card to one selected fan who tags OCWR and the ADHC or other dedicated hashtag in a post about recycling. ADHC will monitor and manage this tactic.
- c. Two “Recycling Champions” during each year will receive a Ducks Prize Pack (Ducks game tickets, signed memorabilia and/or Ducks merchandise) delivered to them in person by Wild Wing.
at the Honda Center based on Wild Wing availability. If Wild Wing is not available, ADHC and OCWR will mutually develop a plan for how and when prizes will be presented. The prize packs will be valued at $100 each.

Task 4: On-site Events and Promotion at Honda Center
ADHC and OCWR will partner to host an on-site collection event for paper shredding, e-waste and gently used home goods/clothing to encourage waste diversion through sound recycling practices.

Deliverables:

4.1 On-site Collection Event: OCWR will receive one on-site collection event at the Honda Center, which will be promoted throughout the 30 days prior to the event (the “Promotional Period”) as follows:

a. One (1) banner advertisement (728x90) on the bottom of the ADHC website.
b. One (1) 30-second (:30) in-game advertisement during each radio broadcast of a Ducks game on AM830.
c. One (1) 15-second (:15) live drop-in during each radio broadcast of a Ducks game on AM830.
d. Inclusion in the LED panel rotation (30 minutes of aggregate exposure) during each 24-hour period on both the free-standing 57 Freeway LED sign and Katella Avenue marquee.
e. Digital Display Network (“StadiumVision”) Ducks 1 Package as follows:
   o Three minutes of aggregate exposure on all StadiumVision screens (e.g. single screens and video walls) during Ducks home games during the Promotional Period in the following areas on the Plaza level:
      • Pedestrian concourses
      • Food and beverage concession areas (except menu board screens and Plaza Level restaurant
      • The four main elevator lobbies
      • Areas on the Terrace level including the pedestrian concourses, and food and beverage concession areas (except menu board screens)

4.2 Collection Event Support: OCWR will receive the following support from ADHC for the on-site collection event:

a. Family Fun Zone set-up including ADHC inflatables, roller hockey zone and equipment, ADHC vendor booth, and Wild Wing mascot (depending on availability).
b. Appearance of ADHC street team members and Power Players.
c. Appearance and disc jockey services for music and emcee support from DJ Jojo.
d. Provide booth space for additional mutually-approved vendors, including one six-foot table and two chairs for each vendor.
e. On-site ADHC coordination and staffing the morning of the event as needed for set-up of traffic cones, family fun zone, vendor tables and chairs and at least one ADHC point of contact for the duration of the event.
f. Pre-event planning meetings and/or conference calls with OCWR Contract Manager and collection event vendors for paper shredding and e-waste/home goods collection as mutually agreed to discuss lot location, traffic management plan and other event logistics.

4.3 Promotional Items: ADHC will provide the following Ducks items for promotional incentive to increase recycling and participation at the collection event:

a. (200) admission tickets to a Ducks home game (Terrace Level) with post-game skate (game date to be mutually determined and locations of tickets subject to availability).
b. (200) vouchers for a post-game skate following the same game of provided Ducks tickets described in 4.3(a) above.

c. (10) player-autographed hockey pucks, (10) player-autographed photos (3) Ducks jerseys and (1) player autographed Ducks hockey stick (player(s) to be chosen by ADHC).

4.4 Promotion Table on Concourse: ADHC will provide one opportunity for OCWR to host a single table in the concourse of the Honda Center during one (1) Ducks home game. Parameters include:

a. Designated Ducks home game to be mutually agreed upon between ADHC and OCWR.

b. ADHC to provide (1) eight-foot, skirted table open from 30 minutes prior to doors opening, until the end of the second intermission.

c. OCWR will be responsible for staffing the table with two to three representatives, providing all materials necessary at OCWR’s cost to host the tabling site.

d. OCWR will complete set-up so that the table is open for visitors from 30 minutes before doors open until the end of the second intermission.

e. ADHC to provide working credentials and complementary parking for up to three OCWR representatives provided they are representatives working the table.

f. OCWR staffing will remain at the table and not use high-pressure sales tactics.

g. ADHC reserves the right to provide OCWR written violation warnings or the right to immediately revoke the tabling rights of OCWR in the event OCWR staff violates parameters outline in Task 4.3.

Task 5: Alumni Appearance

ADHC has a substantial amount of goodwill among fans and residents. Former Ducks players and coaches are recognizable fixtures in the community. In addition, ADHC’s environmental and sustainable green efforts align well with OCWR’s mission towards environmental stewardship. ADHC will provide one alumni appearance each year to help draw participation at OCWR events and to educate residents with recycling information in support of waste diversion goals.

Deliverables:

5.1 Alumni Appearance: OCWR will receive one (1) alumni appearance each year of the Agreement. The alumni representative will be a player or coach chosen by ADHC for use at an OCWR event and location determined by OCWR.

Task 6: Email Blasts

ADHC has more than 800,000 contacts subscribed to its combined email distribution lists for the Ducks, Honda Center and The Rinks, providing widespread reach within the community. OCWR will have the opportunity to capitalize on this audience for targeted messaging throughout each year.

Deliverables:

6.1 OCWR messaging will be included in three email blasts, one each to the season ticket holder database, Honda Center general database and The Rinks database.
ATTACHMENT B
COMPENSATION, PAYMENT TERMS AND INVOICING INSTRUCTIONS

COMPENSATION
This is an all-inclusive, firm fixed price Agreement between County and ADHC to provide items and services as specified. ADHC agrees to accept the specified compensation as set forth in this Agreement as full remuneration for performing all services and furnishing all staffing, labor, shipping, freight, insurance requirements, and materials required, for any reasonably unforeseen difficulties which may arise or be encountered in the execution of the services until acceptance, for risks connected with the services and for performance by ADHC of all its duties and obligations hereunder. ADHC shall only be compensated products/services delivered in accordance with the Scope of Work, Attachment A. County shall have no obligation to pay any sum in excess of total Agreement amount specified herein unless authorized by amendment in accordance with Articles R and S of County of Orange, General Terms and Conditions.

PAYMENT TERMS
Invoice is to be submitted in advance in an amount of $121,500 for a one-year term, effective March 1, 2019, through February 29, 2020.

ADHC shall follow the invoicing instructions below. Payment will be net 45 days after receipt of an invoice in a format acceptable to the County of Orange and verified and approved by the County Contract Manager and subject to routine processing requirements. The responsibility for providing an acceptable invoice rests with ADHC. In the event of a lost or misdirected invoice, ADHC shall re-issue the invoice at no additional charge.

Billing shall cover services and/or goods not previously invoiced. ADHC shall reimburse the County of Orange for any monies paid to ADHC for goods or services not provided or when goods or services do not meet the Agreement requirements.

Payments made by the County of Orange shall not preclude the right of the County from thereafter disputing any items or services involved or billed under this Agreement, and shall not be construed as acceptance of any part of the goods or services.

INVOICING INSTRUCTIONS
ADHC shall use company’s letterhead to submit all invoices for services rendered. Proper references must be made to the Scope of Work. Each invoice shall have a unique invoice number and include the following information:

a. ADHC’s Name and Address, including email address
b. ADHC’s Remittance Address, if different from above
c. Name of County Agency/Department: County of Orange, OC Waste & Recycling
d. Agreement Number MA-299-19010701
e. Start and End Dates of Service, Description of Services
f. Subcontractor Costs, if applicable
g. Total Invoice Amount

Invoices shall be submitted electronically, via email to ocwrinvoice@ocwr.oegov.com; or via mail to:

OC Waste & Recycling
ATTN: Accounts Payable
300 North Flower Street, Suite 400
Santa Ana, CA 92703
Payment (Electronic Funds Transfer EFT): The County of Orange offers contractors the option of receiving payment directly to their bank account via an Electronic Fund Transfer (EFT) process in lieu of a check payment. Payment made via EFT will also receive an Electronic Remittance Advice with the payment details via e-mail. An e-mail address will need to be provided to the County of Orange via an EFT Authorization Form. To request a form, please contact the department representative listed in the bid. Upon completion of the form, please mail, fax or email to the address or phone listed on the form.
Contract Summary Form

Angels Baseball LP
MA-299-19010864

SUMMARY OF SIGNIFICANT CHANGES

N/A, this is a new contract.

SUBCONTRACTORS

This Contract does not include subcontractors or pass through to other providers at this time.

CONTRACT OPERATING EXPENSES

This Contract award is in an amount not to exceed $100,000 for a one-year term.
Contract Summary Form
Anaheim Ducks Hockey Club, LLC
MA-299-19010701

SUMMARY OF SIGNIFICANT CHANGES
N/A, this is a new contract.

SUBCONTRACTORS
This Contract does not include subcontractors or pass through to other providers at this time.

CONTRACT OPERATING EXPENSES
This Contract award is in an amount not to exceed $121,500 for a one-year term.
**SECTION II – DEPARTMENT INFORMATION**  (Complete in its entirety)

<table>
<thead>
<tr>
<th>Department:</th>
<th>OC Waste &amp; Recycling and OC Parks</th>
<th>Date:</th>
<th>February 19, 2019</th>
</tr>
</thead>
<tbody>
<tr>
<td>Vendor Name:</td>
<td>Angeles Baseball LP</td>
<td>Sole Source BidSync Number:</td>
<td>299-020460-2-ID</td>
</tr>
</tbody>
</table>

**Is the above named vendor a retired employee of the County of Orange?**  ☒ Yes  ☐ No  
If “Yes”, review and Approval is required from CEO Human Resource Services prior to contract execution.

|----------------------------|---------------------------------------------------------------------| Percent Funded:             |              |
| Contract Amount?:          | $100,000                                                            | Is this renewable?         | No           |
|                            | $75,000 – 299 Enterprise Fund                                       | If yes, how many years?    |              |
|                            | $25,000 – 012-405 OC Parks                                          |                           |              |
| Type of Request:           | ☒ New                                                               | ☐ Renewal                  | ☐ Multi-Year  |
|                           |                                                                      | ☐ Amendment                | ☐ Increase   |
| Renewal Year:              | N/A                                                                  | Did vendor provide a sole source affidavit? | ☐ Yes  ☐ No |
|                           |                                                                      | If yes, please attach      |              |
| Board Date:                | February 26, 2019                                                   | If not scheduled to go to the Board explain why? | N/A         |
| ASR Number:                | 18-001295                                                           |                           |              |

**Does Contract include Non-Standard Language?**  If yes, explain in detail.  
Yes – mutual indemnification

<table>
<thead>
<tr>
<th>Was Contract Approved by Risk Mgmt.?</th>
<th>Yes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Was Contract Approved by County Counsel?</td>
<td>Yes</td>
</tr>
</tbody>
</table>

**Were any exceptions taken?**  If yes, explain in detail.  
No

☒ DPA certifies that they have read and verified that the information is true and satisfies the sole source requirements listed in the County Contract Policy Manual.
SECTION III – SOLE SOURCE JUSTIFICATION

1. **Provide a description of the type of contract to be established.** *(For example: is the contract a commodity, service, human service, public works, or other – please explain.)* Attach additional sheet if necessary.

   This is a service contract between OC Waste & Recycling and Angels Baseball LP for marketing services to drive attendance to the Discovery Cube Orange County and to promote responsible, proper recycling and waste diversion. The scope includes a Partnership Addendum, expanding outreach to OC Parks for professional advertising, marketing and promotional services needed to draw audiences to the Orange County Zoo located at Irvine Regional Park in Orange.

2. **Provide a detailed description of services/commodities and how they will be used within the department.** If this is an existing sole source, please provide some history of its origination, Board approvals, etc. *(This information may be obtained from the scope of work prepared by the County and the vendor’s proposal that provides a detailed description of the services/supplies.)* Attach additional sheet if necessary.

   In 2011, OC Waste & Recycling (OCWR) and Discovery Cube Orange County (DISCOVERY) partnered to open the three-part EcoChallenge recycling exhibit. The EcoChallenge brand and exhibits were established as the cornerstone of OCWR’s recycling education and outreach campaign to meet several state mandates for waste reduction and diversion, and is financed through AB 939 surcharge funds approved by the Board of Supervisors in 2006.

   OCWR has further expanded its outreach programs to include marketing contracts with the ANAHEIM DUCKS HOCKEY CLUB, LLC (ADHC) and ANGELS BASEBALL LP (ABLP). These contracts have provided an opportunity for OCWR to deliver valuable recycling and waste diversion messaging to tens of thousands of Orange County residents. The Contracts provided the ability to reach tens of thousands of Orange County residents with valuable recycling and waste diversion messaging. ABLP is one of only two Major League Baseball teams with three million fans per game for 15 straight years, providing a valuable audience for outreach over the March through September/October months.

   New legislation, along with an evolving recycling economy require an increased need for updated education and outreach. New recycling behaviors must be taught as residents, businesses, jurisdictions and organizations will need to understand how food recovery and organic waste diversion requirements must be met in the very near future. This contract will continue the partnership with ABLP, reaching target audiences with these critical messages. Additionally, this joint venture co-branding partnership with OC Parks includes the use of the Angels brand and marketing support, promoting and encouraging visitor attendance to the Orange County Zoo.
3. **Explain why the recommended vendor is the only one capable of providing the required services and/or commodities.** How did you determine this to be a sole source and what specific steps did you take? Please list all sources that have been contacted and explain in detail why they cannot fulfill the County’s requirements. Include vendor affidavit and/or other documentation which supports your sole source. *(Responses will include strong programmatic and technological information that supports the claim that there is only one vendor that can provide the services and/or commodities. Your response will include information pertaining to any research that was conducted to establish that the vendor is a sole source, include information pertaining to discussions with other potential suppliers and why they were no longer being considered by the County.)*

ABL is the only Major League Baseball team in Orange County. A contract with ABLP enables OCWR and OC Parks to sustain continuous marketing and education opportunities to Orange County residents during the baseball season (March – October). ABLP is one of only two MLB teams with three million fans for 15 straight years.

4. **How does recommended vendor’s prices or fees compare to the general market?**
   
   **Attach quotes for comparable services or supplies.** Attach additional sheet if necessary.

   There is no comparable general market since ABLP is the only Major League Baseball team in Orange County.

5. **If the recommended vendor was not available, how would the County accomplish this particular task?**

   Attach additional sheet if necessary.

   Without this contract, OCWR would lose a significant opportunity to reach Orange County audiences with waste diversion and recycling education. In addition, OCWR and OC Parks may experience a decrease in attendance at the County sponsored EcoChallenge exhibit at Discovery Cube OC and the Orange County Zoo. ABLP provides one of the highest redemption rates of the DISCOVERY Free Child Admission coupons distributed through their marketing efforts. Supporting OC Parks efforts to draw attendance to the Orange County Zoo is an added value to the partnership with ABLP.

6. **Please provide vendor history – name change, litigation, judgments, aka, etc. for the last 7 years.**

   No litigation or judgments exist that are pertinent to the contract with ABLP.

7. **If vendor is a retired, former employee, has the vendor previously been rehired as a contractor within the last three years?**  
   
   ☐ Yes ☒ No

   If yes, provide explanation/support for hiring the retired, former employee as a vendor and provide contract dates, scope of work, and total amounts paid under each contract.
Sole Source Request Form

Sole Source Bidsync #299-020460-2-ID

SECTION IV – AUTHOR/REQUESTOR

<table>
<thead>
<tr>
<th>Signature:</th>
<th>Print Name:</th>
<th>Date:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Lisa Smith</td>
<td>2/20/2019</td>
</tr>
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</table>

SECTION V – CEO Human Resource Services APPROVAL  (Review and approval is required when vendor is a Retired, Former Employee.)

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<thead>
<tr>
<th>Signature:</th>
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<th>Date:</th>
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<tbody>
<tr>
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SECTION VI – DEPUTY PURCHASING AGENT CONCURRENCE

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<tr>
<th>Signature:</th>
<th>Print Name:</th>
<th>Date:</th>
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<tbody>
<tr>
<td>Diane Dodson</td>
<td>Diane Dodson</td>
<td>2/20/2019</td>
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SECTION VII – DEPARTMENT HEAD APPROVAL

<table>
<thead>
<tr>
<th>Signature:</th>
<th>Print Name:</th>
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<tbody>
<tr>
<td></td>
<td>Tom Koutroulis</td>
<td>2/20/2019</td>
</tr>
</tbody>
</table>

SECTION VIII – COUNTY PROCUREMENT OFFICE

Prior to execution of a contract, the County Procurement Officer or designee shall approve All Sole Source requests for Commodities that exceed $250,000, Capitol Assets and services exceeding $75,000, and All other Sole Source requests that require Board approval despite the amount. Approvals are obtained electronically through the County’s online bidding system.
Release Bid Workflow

Name: Nicole Aragon
Phone: 714-834-3712
Email: nikki.aragon@ocwr.ocgov.com
Status: Submitter  Feb 20, 2019 12:45:27 PM PST

Bid Information
Bid Number: 299-020460-2-ID
Bid Title: Marketing & Outreach Services For EcoChallenge Exhibits
Status: Approved

View Workflow History

Questions? Contact a BidSync representative: 800-990-9339 or email: support@bidsync.com
### SECTION II – DEPARTMENT INFORMATION  
(Complete in its entirety)

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<tr>
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<tr>
<th>Vendor Name:</th>
<th>Anaheim Ducks Hockey Club, LLC</th>
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<tbody>
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<td>299-020461-2-ID</td>
</tr>
</tbody>
</table>

**Is the above named vendor a retired employee of the County of Orange?**  
☐ Yes  ☒ No

*If “Yes”, review and Approval is required from CEO Human Resource Services prior to contract execution.*

<table>
<thead>
<tr>
<th></th>
<th></th>
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<tbody>
<tr>
<td>Contract Amount?</td>
<td>$121,500</td>
</tr>
<tr>
<td>Is this renewable?</td>
<td>No</td>
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<table>
<thead>
<tr>
<th>Type of Request:</th>
<th>☒ New  ☐ Renewal  ☐ Multi-Year  ☐ Amendment  ☐ Increase</th>
</tr>
</thead>
<tbody>
<tr>
<td>Renewal Year:</td>
<td>N/A</td>
</tr>
</tbody>
</table>

| Board Date:            | February 26, 2019 |
| ASR Number:            | 18-001295       |

**Did vendor provide a sole source affidavit?**  
☐ Yes  ☒ No

If yes, please attach

**If not scheduled to go to the Board explain why?**  
N/A

**Does Contract include Non-Standard Language?**  
If yes, explain in detail.

**Yes – mutual indemnification**

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<td>Yes</td>
</tr>
</tbody>
</table>

**Were any exceptions taken?**  
If yes, explain in detail.

No

☒ DPA certifies that they have read and verified that the information is true and satisfies the sole source requirements listed in the County Contract Policy Manual.
SECTION III – SOLE SOURCE JUSTIFICATION

1. Provide a description of the type of contract to be established. (For example: is the contract a commodity, service, human service, public works, or other – please explain.) Attach additional sheet if necessary.

This is a service contract between OC Waste & Recycling and Anaheim Ducks Hockey Club, LLC for marketing services to drive attendance to the Discovery Cube and to promote responsible, proper recycling and waste diversion.

2. Provide a detailed description of services/commodities and how they will be used within the department. If this is an existing sole source, please provide some history of its origination, Board approvals, etc. (This information may be obtained from the scope of work prepared by the County and the vendor’s proposal that provides a detailed description of the services/supplies.) Attach additional sheet if necessary.

In 2011, OC Waste & Recycling (OCWR) and Discovery Cube OC (DISCOVERY) partnered to open the three-part EcoChallenge recycling exhibit. The EcoChallenge brand and exhibits were established as the cornerstone of OCWR’s recycling education and outreach campaign to meet several state mandates for waste reduction and diversion, and is financed through AB 939 surcharge funds approved by the Board of Supervisors in 2006.

OCWR has further expanded its outreach programs to include marketing contracts with the ANAHEIM DUCKS HOCKEY CLUB, LLC (ADHC) and ANGELS BASEBALL LP (ABLP). These contracts have provided an opportunity for OCWR to deliver valuable recycling and waste diversion messaging to tens of thousands of Orange County residents.

This service contract between OCWR and ADHC is for continued marketing services in support of OCWR’s established education and outreach program. This contract includes on-site collection events, development of creative content for social media and website promotion, as well as ADHC brand licensing and alumni player appearances. The goal of the OCWR contract with ADHC is to educate residents about recycling best practices and waste diversion in order to meet the new and more demanding state and regional mandates.

ADHC is a leader in sustainability programs that align with OCWR’s environmental stewardship goals. From clean energy and energy conservation to water conservation and compostable food and service utensils, ADHC actively supports recycling practices. OCWR has reached hundreds of thousands of residents with valuable recycling education through collection events, America Recycles Day promotions, social media cross-promotion, and other marketing communications vehicles with ADHC’s marketing support.

New legislation along with an evolving worldwide recycling economy require an increased need for updated education and outreach. In addition to new recycling behaviors, in the very near future residents, businesses, jurisdictions and organizations will need to adjust to new laws that mandate food recovery and organic waste management to further meet waste diversion and greenhouse gas emissions requirements.
3. Explain why the recommended vendor is the only one capable of providing the required services and/or commodities. How did you determine this to be a sole source and what specific steps did you take? Please list all sources that have been contacted and explain in detail why they cannot fulfill the County’s requirements. Include vendor affidavit and/or other documentation which supports your sole source. (Responses will include strong programmatic and technological information that supports the claim that there is only one vendor that can provide the services and/or commodities. Your response will include information pertaining to any research that was conducted to establish that the vendor is a sole source, include information pertaining to discussions with other potential suppliers and why they were no longer being considered by the County.)

ADHC is the only National Hockey League club in Orange County. A contract with ADHC provides continuous opportunities for outreach to Orange County residents during the active hockey season which runs November through March/April, with games and events held at the expansive Honda Center, Anaheim, California, accommodating over 16,500 individuals.

4. How does recommended vendor’s prices or fees compare to the general market?

Attach quotes for comparable services or supplies. Attach additional sheet if necessary.

There is no comparable general market since ADHC is the only national hockey club in Orange County with similar outreach and environmental stewardship efforts.

5. If the recommended vendor was not available, how would the County accomplish this particular task?

Attach additional sheet if necessary.

Without this contract, OCWR would lose a significant opportunity to reach a vast audience of Orange County residents with the messages of waste diversion and recycling education. In addition, OCWR may experience a decrease in attendance at the County sponsored EcoChallenge exhibit at Discovery Cube OC.

6. Please provide vendor history – name change, litigation, judgments, aka, etc. for the last 7 years.

No litigation or judgments exist that are pertinent to the services provided by this contract with Anaheim Ducks Hockey Club, LLC.

7. If vendor is a retired, former employee, has the vendor previously been rehired as a contractor within the last three years?

☐ Yes ☒ No

If yes, provide explanation/support for hiring the retired, former employee as a vendor and provide contract dates, scope of work, and total amounts paid under each contract.
Sole Source Request Form

Sole Source Bidsync #299-020461-2-ID

SECTION IV – AUTHOR/REQUESTOR

<table>
<thead>
<tr>
<th>Signature:</th>
<th>Print Name:</th>
<th>Date:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Lisa Smith</td>
<td>2/20/2019</td>
</tr>
</tbody>
</table>

SECTION V – CEO Human Resource Services APPROVAL  (Review and approval is required when vendor is a Retired, Former Employee.)

<table>
<thead>
<tr>
<th>Signature:</th>
<th>Print Name:</th>
<th>Date:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>N/A</td>
<td></td>
</tr>
</tbody>
</table>

SECTION VI – DEPUTY PURCHASING AGENT CONCURRENCE

<table>
<thead>
<tr>
<th>Signature:</th>
<th>Print Name:</th>
<th>Date:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Diane Dodson</td>
<td>2/20/2019</td>
</tr>
</tbody>
</table>

SECTION VII – DEPARTMENT HEAD APPROVAL

<table>
<thead>
<tr>
<th>Signature:</th>
<th>Print Name:</th>
<th>Date:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Tom Koutroulis</td>
<td>2/20/2019</td>
</tr>
</tbody>
</table>

SECTION VIII – COUNTY PROCUREMENT OFFICE

Prior to execution of a contract, the County Procurement Officer or designee shall approve All Sole Source requests for Commodities that exceed $250,000, Capitol Assets and services exceeding $75,000, and All other Sole Source requests that require Board approval despite the amount. Approvals are obtained electronically through the County’s online bidding system.
Release Bid Workflow

Name: Nicole Aragon
Phone: 714-834-3712
Email: nikki.aragon@ocwr.ocgov.com
Status: Submitter  Feb 20, 2019 12:45:27 PM PST

Bid Information

Bid Number: 299-020461-2-ID
Bid Title: Marketing & Outreach Services For EcoChallenge Exhibits
Status: Approved

View Workflow History

Questions? Contact a BidSync representative: 800-990-9339 or email: support@bidsync.com
Revision to ASR and/or Attachments

Date: 2/13/2019
To: Clerk of the Board of Supervisors
CC: County Executive Office
From: Debra J. Baetz, Social Services Agency Director
Re: ASR Control #: 19-000149, Meeting Date 2/26/19, Item No. # 33
Subject: First Amendment to Housing Support Program Services Agreement

Explanation:

The Social Services Agency is adding a new recommended action to request Board authorization to exercise a 10% contingency contract cost increase in order to allow for flexibility to increase the budget in the event additional State funding becomes available.

☑ Revised Recommended Action(s)

1. Approve First Amendment to Agreement with Illumination Foundation for Housing Support Program Services to increase agreement funding by $388,000 for an annual maximum obligation of $1,000,000 for the period of July 1, 2018, through June 30, 2019, for a new aggregate maximum obligation of $1,562,000 for the period of July 1, 2017, to June 30, 2019, renewable for an additional one-year term.

2. Authorize the Social Services Agency Director, or designee, to exercise a contingency contract cost increase for the entire term of the Agreement in an amount that shall not exceed a total of 10% of the original amount for the first year of the Agreement, in accordance with Contract Policy Manual Section 3.4-114 and as established by the Board of Supervisors.

☐ Make modifications to the:
☐ Subject ☐ Background Information ☐ Summary ☐ Financial Impact
Continuation or Deletion Request

Date: January 16, 2019
To: Clerk of the Board of Supervisors
From: Frank Kim, County Executive Officer
Re: ASR Control #: 18-001216, Meeting Date 2/26/19, Agenda Item No. # 34
Subject: Fourth Amendment to Orange County Fire Authority Joint Powers Agreement

☑  Request to continue Agenda Item No. # 34 to the 4/23/2019 Board Meeting.

Comments: Additional information will be provided following discussions with Orange County Fire Authority.

☐  Request deletion of Agenda Item No. # _____

Comments:
Revision to ASR and/or Attachments

Date: February 19, 2019
To: Clerk of the Board of Supervisors
CC: County Executive Office
From: Tom Hatch, Chief Human Resource Officer
Re: ASR Control #: 19-000177, Meeting Date 2/26/2019, Item No. # 39
Subject: Amendment Number One to Contract with Secova, Inc.

Explanation:
Recommended action revised to add estimated cumulative total contract cost.

☑ Revised Recommended Action(s)

Authorize the Chief Human Resource Officer or designee to execute Amendment Number One to renew the contract with Secova, Inc. for benefits administration outsourcing services, for an amount not to exceed $1,899,000, for a one-year period effective January 1, 2020, through December 31, 2020, for a revised estimated cumulative total cost of $7,441,796 for the contract term of February 23, 2016, through December 31, 2020.

☐ Make modifications to the:
   ☐ Subject ☐ Background Information ☐ Summary ☐ Financial Impact

☐ Revised Attachments (attach revised attachment(s) and redlined copy(s))
Continuation or Deletion Request

Date: February 21, 2019.
To: Clerk of the Board of Supervisors
From: Thomas (Mat) Miller, Chief Real Estate Officer
Re: ASR Control #: 18-001355, Meeting Date 02/26/19 Agenda Item No. # 41
Subject: Health Care Agency Lease at 2020 East First Street in Santa Ana

☐ Request to continue Agenda Item No. # xx to the MM/DD/YYYY Board Meeting.

Comments: Reason goes here.

☒ Request deletion of Agenda Item No. # 41

Comments: County Executive Office, Real Estate Division wishes to delete this item from the Board Hearing Agenda on February 26, 2019.
Continuation or Deletion Request

Date: February 25, 2019
To: Clerk of the Board of Supervisors
From: Frank Kim, County Executive Officer
Re: ASR Control #: 18-001180, Meeting Date 02/26/19 Agenda Item No. # 43-item 2 only

Subject: Grants Report

☑ Request to continue Agenda Item No. # 43 to the 3/12/2019 Board Meeting.

Comments: Orange County Sheriff Department would like to move item # 2 only, (Prop 47 grants program) to the March 12, 2019 Board meeting.

☐ Request deletion of Agenda Item No. # ______

Comments:
The Grants Report is a condensed list of grant requests by County Agencies/Departments that allows the Board of Supervisors to discuss and approve grant submittals in one motion at a Board meeting. County policy dictates that the Board of Supervisors must approve all grant applications prior to submittal to the grantor. This applies to grants of all amounts, as well as to new grants and those that have been received by the County for many years as part of an ongoing grant. Receipt of grants $50,000 or less is delegated to the County Executive Officer. Grant awards greater than $50,000 must be presented to the Board of Supervisors for receipt of funds. This report allows for better tracking of county grant requests, the success rate of our grants, and monitoring of County’s grants activities. It also serves to inform Orange County’s Sacramento and Washington, D.C. advocates of County grant activities involving the State or Federal Governments.

On, February 26, 2019 the Board of Supervisors will consider the following actions:

RECOMMENDED ACTIONS

Approve grant applications/awards as proposed and other actions as recommended.

ACTION ITEMS

1. Approve Retroactive Grant Application – Sheriff-Coroner Department – Medication Assisted Treatment Expansion Grant – $310,000.

2. Approve Grant Application – Sheriff-Coroner Department – Proposition 47 Grant Program – $5,000,000. Item continued to the 3/12/19 Board meeting.


4. Approve Grant Award – OC Community Resources – Continuum of Care (CoC) Program – $10,008,696.


If you or your staff have any questions or require additional information on any of the items in this report, please contact Cynthia Shintaku at 714-834-7086
ORANGE COUNTY SHERIFF'S DEPARTMENT
EXTERNAL MEMO

Date: February 5, 2018

TO: County Executive Officer Frank Kim

FROM: Commander Joe Balicki, Custody Operations Command

Subject: Retroactive Request to Apply for MAT Grant

This memo is submitted to request that the CEO place the subject grant application on the February 26, 2019 Board of Supervisors (Board) Meeting Agenda. The Sheriff-Coroner Department (Sheriff) requests retroactive approval as the grant opportunity was identified on February 4, and was not able to be submitted in time to include on previous Board Meeting Agendas. The deadline to apply for the funding is February 15, 2019.

The California Department of Health Care Services, under its federal funding for the State Opioid Response “Medication Assisted Treatment (MAT) Expansion Project 2.0 has provided funds to be distributed to county teams participating in the first cohort of Expanding Access to MAT in County Criminal Justice Settings. Funds are intended to expedite implementation of substance abuse screening, assessment, treatment, and access to MAT in county jails and drug courts while local sustainable funds are secured. As each county has unique circumstance, there is flexibility in the use of funds so long as funds support the stated objective. The County of Orange is eligible to receive $310,000. If awarded, the Sheriff-Coroner Department (Sheriff) plans to utilize funding for minor construction costs that support expanding the Medically Assisted Treatment grant program, for example, costs of fencing, door hatches and tables that allow for safe restriction of movement of inmates in Module M where inmates with substance use disorders may be housed. Counties are expected to expend these funds by January 31, 2020.

A retroactive request to accept funding is submitted as the funding opportunity was extended on February 4, 2019, and the application is due February 15, 2019. The notice of funding approval is due to be received on March 1, 2019. The Sheriff plans to return to the Board with a request to accept funding, if the grant application is accepted.

If you have any questions about the grant, please contact Nancy Nguyen at (714) 935-6869.

c: Undersheriff Bob Peterson, Sheriff-Coroner Department
Assistant Sheriff Bill Baker, Custody Operations Command

[Signature]
Department Head or Designee

[Signature]
Concur:
County Executive Officer or Designee
CEO-Legislative Affairs Office  
Grant Authorization eForm

☑ GRANT APPLICATION / ☐ GRANT AWARD

<table>
<thead>
<tr>
<th>Today’s Date:</th>
<th>February 5, 2018</th>
</tr>
</thead>
<tbody>
<tr>
<td>Requesting Agency/Department:</td>
<td>Sheriff-Coroner Department</td>
</tr>
<tr>
<td>Grant Name and Project Title:</td>
<td>Medication Assisted Treatment Expansion Grant</td>
</tr>
<tr>
<td>Sponsoring Organization/Grant Source:</td>
<td>State of California Department of Health Care Services</td>
</tr>
<tr>
<td>Application Amount Requested:</td>
<td>$310,000</td>
</tr>
<tr>
<td>Application Due Date:</td>
<td>February 15, 2019</td>
</tr>
<tr>
<td>Board Date when Board Approved this Application:</td>
<td></td>
</tr>
<tr>
<td>Awarded Funding Amount:</td>
<td></td>
</tr>
<tr>
<td>Notification Date of Funding Award:</td>
<td></td>
</tr>
<tr>
<td>Is this an Authorized Retroactive Grant Application/Award?</td>
<td>Yes</td>
</tr>
<tr>
<td>(If yes, attach memo to CEO)</td>
<td></td>
</tr>
<tr>
<td>Recurrence of Grant</td>
<td>New ☑ Recurrent ☐ Other ☐ Explain:</td>
</tr>
<tr>
<td>If this is a recurring grant, please list the funding amount applied for and awarded in the past:</td>
<td>N/A</td>
</tr>
<tr>
<td>Does this grant require CEQA findings?</td>
<td>Yes ☐ No ☑</td>
</tr>
<tr>
<td>What Type of Grant is this?</td>
<td>Competitive ☑ Other Type ☐ Explain: Formula program</td>
</tr>
<tr>
<td>County Match?</td>
<td>Yes ☐ No ☑</td>
</tr>
<tr>
<td>How will the County Match be Fulfilled?</td>
<td>N/A</td>
</tr>
<tr>
<td>Will the grant/program create new part or full-time positions?</td>
<td>N/A</td>
</tr>
</tbody>
</table>

**Purpose of Grant Funds:**

Provide a summary and brief background of why Board of Supervisors why should accept this grant application/award, and how the grant will be implemented.

The California Department of Health Care Services, under its federal funding for the State Opioid Response "Medication Assisted Treatment (MAT) Expansion Project 2.0 has provided funds to be distributed to county teams participating in the first cohort of Expanding Access to MAT in County Criminal Justice Settings. Funds are intended to expedite implementation of SUD screening, assessment, treatment, and access to MAT in county jails and drug courts while local sustainable funds are secured. As each county has unique circumstance, there is flexibility in the use of funds so long as funds support the stated objective. The County of Orange is eligible to receive $310,000.

If awarded, the Sheriff-Coroner Department (Sheriff) plans to utilize funding for minor construction costs that support expanding the Medically Assisted Treatment grant program, for example, costs of fencing, door hatches and tables that allow for safe restriction of movement of inmates in Module M where inmates with substance use disorders may be housed. Counties are expected to expend these funds by January 31, 2020.
A retroactive request to apply for funding is being submitted as the notice of funding opportunity was extended on February 4, 2019, and the application is due February 15, 2019. The notice of funding approval is due to be received on March 1, 2019.

The Sheriff plans to return to the Board with a request to accept funding, if the grant application is accepted.

<table>
<thead>
<tr>
<th>Board Resolution Required?</th>
<th>Yes ☐</th>
<th>No ☑</th>
</tr>
</thead>
</table>

**Deputy County Counsel Name:** Nicole Sims, Supervising Deputy County Counsel, has reviewed and approved the grant application.

Request authorization to apply for the grant. Resolution not required for this grant.

**Department Contact:**
Nancy Nguyen, nmnguyen@ocsd.org, 714-935-6869

**Name of the individual attending the Board Meeting:**
Nancy Nguyen
**CEO-Legislative Affairs Office**  
**Grant Authorization eForm**

<table>
<thead>
<tr>
<th><strong>GRANT APPLICATION / □ GRANT AWARD</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Today's Date:</strong> February 13, 2019</td>
</tr>
<tr>
<td><strong>Requesting Agency/Department:</strong> Sheriff-Coroner Department</td>
</tr>
<tr>
<td><strong>Grant Name and Project Title:</strong> Proposition 47 Grant Program</td>
</tr>
<tr>
<td><strong>Sponsoring Organization/Grant Source:</strong> California Board of State and Community Corrections (BSCC)</td>
</tr>
<tr>
<td><strong>Application Amount Requested:</strong> $5,000,000</td>
</tr>
<tr>
<td><strong>Application Due Date:</strong> March 18, 2019</td>
</tr>
<tr>
<td><strong>Board Date when Board Approved this Application:</strong> N/A</td>
</tr>
<tr>
<td><strong>Awarded Funding Amount:</strong> TBD</td>
</tr>
<tr>
<td><strong>Notification Date of Funding Award:</strong> TBD</td>
</tr>
<tr>
<td><strong>Is this an Authorized Retroactive Grant Application/Award?</strong> No</td>
</tr>
<tr>
<td><strong>Recurrence of Grant</strong></td>
</tr>
<tr>
<td>New ☒ Recurrent □ Other □ Explain: N/A</td>
</tr>
<tr>
<td><strong>Does this grant require CEQA findings?</strong> No ☒</td>
</tr>
<tr>
<td><strong>What Type of Grant is this?</strong> Competitive ☒ Other Type □ Explain: Formula program</td>
</tr>
<tr>
<td><strong>County Match?</strong> Yes ☐ Amount_____ or _____% No ☒</td>
</tr>
<tr>
<td><strong>How will the County Match be Fulfilled?</strong> N/A</td>
</tr>
<tr>
<td><strong>Will the grant/program create new part or full-time positions?</strong> No</td>
</tr>
<tr>
<td><strong>Purpose of Grant Funds:</strong> Provide a summary and brief background of why Board of Supervisors why should accept this grant application/award, and how the grant will be implemented.</td>
</tr>
</tbody>
</table>

The Board of State and Community Corrections (BSCC) released Proposition 47 Cohort 2 on January 18, 2019. These program funds focus on community partnerships and collaborations to encourage a proactive approach to identifying target populations and addressing known barriers to providing supportive services. If awarded, the Sheriff-Coroner Department (Sheriff) intends to pass a minimum of 50% of funding to community based organizations within its service areas and an additional 10 to 15 percent of funds to various county departments. The Sheriff will utilize the remainder of funding to support framework for software and validation of a predictive analysis model for capacity building. Ideally, the Sheriff desires to develop a proactive response that will result in mapping out the intensities of future crime activities within the jurisdictional boundaries. The Sheriff intends to mirror deployment of services in a consolidated strategy to identify “hard to serve” populations and aptly address community needs.

Collective program design will prioritize the following purpose areas:

- Diversion
- Community based treatment/mental health/substance use treatment and counseling (non-custodial)
- Stable, affordable housing
- Job Training

This problem is not confined to law enforcement and requires multi-sector collaboration is essential to expanding community engagement. Program design will complement existing countywide initiatives including the Stepping Up Initiative (approved in 2015).

The grant period will begin on August 15, 2019 and end on May 15, 2023. If awarded, the Sheriff will return to the Board for approval to accept the grant funding and approve any allocations to community-based organizations.

<table>
<thead>
<tr>
<th>Board Resolution Required? (Please attach document to eForm)</th>
<th>Yes ☐ No ☒</th>
</tr>
</thead>
<tbody>
<tr>
<td>Deputy County Counsel Name: (Please list the Deputy County Counsel that approved the Resolution)</td>
<td>Nicole Sims, Supervising Deputy County Counsel, reviewed the application packet.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Recommended Action/Special Instructions (Please specify below)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Authorize the Sheriff-Coroner to submit, on behalf of the County of Orange, the Proposition 47 Grant Program application to the California BSCC.</td>
</tr>
<tr>
<td>2. Authorize the Sheriff-Coroner, or designee, to sign all necessary application documents required for the submission of the application and supporting documentation to the California BSCC.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Department Contact: List the name and contact information (telephone, e-mail) of the staff person to be contacted for further information.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nancy M. Nguyen, Grants Manager Research and Development Division 714.935.6869 <a href="mailto:nmnguyen@ocsd.org">nmnguyen@ocsd.org</a></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Name of the individual attending the Board Meeting: List the name of the individual who will be attending the Board Meeting for this Grant Item:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nancy M. Nguyen, Grants Manager Research and Development Division 714.935.6869 <a href="mailto:nmnguyen@ocsd.org">nmnguyen@ocsd.org</a></td>
</tr>
<tr>
<td><strong>Today's Date:</strong></td>
</tr>
<tr>
<td>------------------</td>
</tr>
<tr>
<td><strong>Requesting Agency/Department:</strong></td>
</tr>
<tr>
<td><strong>Grant Name and Project Title:</strong></td>
</tr>
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<td><strong>Sponsoring Organization/Grant Source:</strong></td>
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<tr>
<td><strong>Does this grant require CEQA findings?</strong></td>
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<td><strong>What Type of Grant is this?</strong></td>
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</tr>
<tr>
<td><strong>Will the grant/program create new part or full-time positions?</strong></td>
</tr>
<tr>
<td><strong>Purpose of Grant Funds:</strong></td>
</tr>
</tbody>
</table>

The District Attorney requests Board approval of the attached FY 2019-20 Annual Grants Application Table and authorization to apply for funding for these recurring grants for fiscal year 2019-20.

The attached Annual Grants Application Table summarizes the grant programs that the District Attorney’s Office was awarded in fiscal year 2018-19. The District Attorney plans to continue to apply for funding for these recurring grants in fiscal year 2019-20 to support criminal prosecutions and mitigate net county cost requirements.

| **Board Resolution Required?** | Yes ☐ No ☑ |
| **Deputy County Counsel Name:** | (Please list the Deputy County Counsel that approved the Resolution) |
| **Recommended Action/Special Instructions** | (Please specify below) |
The District Attorney will return to obtain Board approval to accept the grant awards

<table>
<thead>
<tr>
<th>Department Contact</th>
<th>List the name and contact information (telephone, e-mail) of the staff person to be contacted for further information.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Melanie Eustice (714) 347-8443 <a href="mailto:melanie.eustice@da.ocgov.com">melanie.eustice@da.ocgov.com</a></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Name of the individual attending the Board Meeting</th>
<th>List the name of the individual who will be attending the Board Meeting for this Grant Item:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Melanie Eustice</td>
<td></td>
</tr>
</tbody>
</table>
## Summary of Anticipated Grant Applications for FY 2019-20

<table>
<thead>
<tr>
<th>#</th>
<th>Name of Grant</th>
<th>FY 2018-19 Funding</th>
<th>Sponsoring Organization / Grant Source</th>
<th>Application Due Date (Estimated)</th>
<th>Grant Status (New or Recurring)</th>
<th>Match Req. ($ amount)</th>
<th>New Full or Part-time Positions</th>
<th>Project Name and Purpose of Grant</th>
<th>Does this Grant require CEQA Findings? (See note)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Automobile Insurance Fraud Program</td>
<td>$1,533,000</td>
<td>California Department of Insurance (CDI)</td>
<td>07/03/19</td>
<td>Recurring</td>
<td>$0</td>
<td>No new positions</td>
<td>Automobile Insurance Fraud Program to investigate and prosecute automobile insurance fraud cases.</td>
<td>No</td>
</tr>
<tr>
<td>2</td>
<td>Disability and Healthcare Insurance Fraud Program</td>
<td>$1,391,843</td>
<td>California Department of Insurance (CDI)</td>
<td>08/06/19</td>
<td>Recurring</td>
<td>$0</td>
<td>No new positions</td>
<td>Disability and Healthcare Insurance Fraud Program to investigate and prosecute disability and healthcare insurance fraud cases.</td>
<td>No</td>
</tr>
<tr>
<td>3</td>
<td>Life and Annuity Consumer Protection Program</td>
<td>$231,875</td>
<td>California Department of Insurance (CDI)</td>
<td>05/08/19</td>
<td>Recurring</td>
<td>$0</td>
<td>No new positions</td>
<td>Life and Annuity Consumer Protection Program to investigate and prosecute life insurance and annuity financial abuse by insurance licensees or persons holding themselves out to be insurance licensees, or any person purporting to be engaged in the business of insurance.</td>
<td>No</td>
</tr>
<tr>
<td>4</td>
<td>High Impact Insurance Fraud Program</td>
<td>$529,145</td>
<td>California Department of Insurance (CDI)</td>
<td>10/18/19</td>
<td>Recurring</td>
<td>$0</td>
<td>No new positions</td>
<td>High Impact Insurance Fraud Program to investigate and prosecute specific insurance fraud cases that have a suspected loss of over $1,000,000.</td>
<td>No</td>
</tr>
<tr>
<td>5</td>
<td>Human Trafficking Victim Advocacy Program (HA)</td>
<td>$150,000</td>
<td>California Office of Emergency Services (OES)</td>
<td>10/20/19</td>
<td>Recurring</td>
<td>$34,720*</td>
<td>No new positions</td>
<td>Human Trafficking Victim Advocacy Program to provide supportive services including a 24-hour crisis hotline, emergency shelter, temporary housing, emergency food/clothing, counseling, referrals to existing community resources, transportation, and legal assistance to human trafficking victims.</td>
<td>No</td>
</tr>
<tr>
<td>6</td>
<td>Unserved/Underserved Victim Advocacy &amp; Outreach Services</td>
<td>$175,000</td>
<td>California Office of Emergency Services (OES)</td>
<td>09/04/19</td>
<td>Recurring</td>
<td>$43,750*</td>
<td>No new positions</td>
<td>Unserved/Underserved Victim Advocacy &amp; Outreach Services to provide support services, which include crisis intervention, emergency assistance, shelter, food and medical aid, follow-up counseling, court support, and community outreach services to victims of gang violence and their families.</td>
<td>No</td>
</tr>
<tr>
<td>7</td>
<td>Victim/Witness Assistance Program</td>
<td>$2,897,154</td>
<td>California Office of Emergency Services (OES)</td>
<td>10/12/19</td>
<td>Recurring</td>
<td>$0</td>
<td>No new positions</td>
<td>Victim/Witness Assistance Program to provide comprehensive services for victims/witnesses of crime pursuant to Penal Code Section 13835.5 including: crisis intervention, emergency assistance, resource and referral counseling, filing of compensation claims, property return assistance, orientation to the criminal justice system, case status monitoring, victim and employer notifications, restitution assistance, funeral arrangement; arrangement for transportation to court, etc.</td>
<td>No</td>
</tr>
<tr>
<td>8</td>
<td>Worker's Compensation Insurance Fraud Program</td>
<td>$5,229,447</td>
<td>California Department of Insurance (CDI)</td>
<td>04/24/19</td>
<td>Recurring</td>
<td>$0</td>
<td>No new positions</td>
<td>Worker’s Compensation Insurance Fraud Program to investigate and prosecute worker's compensation insurance fraud cases.</td>
<td>No</td>
</tr>
</tbody>
</table>

**Note:**
* Match amount will be provided by Waymakers (pass-through subrecipient)
<table>
<thead>
<tr>
<th>Today's Date:</th>
<th>February 11, 2019</th>
</tr>
</thead>
<tbody>
<tr>
<td>Requesting Agency/Department:</td>
<td>OC Community Resources/Orange County Housing Authority</td>
</tr>
<tr>
<td>Grant Name and Project Title:</td>
<td>Continuum of Care (CoC) Program</td>
</tr>
<tr>
<td>Sponsoring Organization/Grant Source:</td>
<td>U.S. Department of Housing and Urban Development</td>
</tr>
<tr>
<td>Application Amount Requested:</td>
<td>$9,666,408</td>
</tr>
<tr>
<td>Application Due Date:</td>
<td>September 18, 2018</td>
</tr>
<tr>
<td>Board Date when Board Approved this Application:</td>
<td>May 8, 2018</td>
</tr>
<tr>
<td>Awarded Funding Amount:</td>
<td>$10,008,696</td>
</tr>
<tr>
<td>Notification Date of Funding Award:</td>
<td>January 26, 2019</td>
</tr>
<tr>
<td>Is this an Authorized Retroactive Grant Application/Award?</td>
<td>No</td>
</tr>
</tbody>
</table>

- **Recurrence of Grant**
  - Since 1996, Orange County Housing Authority has competed for and been awarded CoC Program funding to operate permanent supportive housing.
  - 2017 $9,063,624, Awarded $9,777,780
  - 2016 $9,350,791, Awarded $9,350,791
  - 2015 $8,802,452, Awarded $9,086,852
  - 2014 $8,987,927, Awarded $8,803,007
  - 2013 $7,810,080, Awarded $8,464,876

- **Does this grant require CEQA findings?**
  - Yes ☒

- **What Type of Grant is this?**
  - Competitive ☒

- **County Match?**
  - Yes ☒ Amount 25 %

- **How will the County Match be Fulfilled?**
  - At minimum, 25% of funds expended by the Orange County Housing Authority will be matched by partner agencies under Memorandums of Understanding with the Orange County Housing Authority.

- **Will the grant/program create new part or full-time positions?**
  - No ☒

- **Purpose of Grant Funds:**
  - Provide a summary and brief background of why Board of Supervisors why should accept this grant application/award, and how the grant will be implemented.

- **Board Resolution Required?**
  - Yes ☒

- **Deputy County Counsel Name:**
  - (Please list the Deputy County Counsel that approved the Resolution)

- **Recommended Action/Special Instructions**
  - 1. Authorize the OC Community Resources Director or designee to receive renewal of Continuum of Care Program grant funds in the amount of $10,008,696 and execute 2018 renewal grant agreements, as well as, all documents necessary to administer the Continuum of Care Program.
Program funded projects.

2. Authorize the OC Community Resources Director or designee to execute Memorandums of Understanding and/or other related documents necessary to administer the Continuum of Care Program funded projects.

<table>
<thead>
<tr>
<th>Department Contact</th>
<th>List the name and contact information (telephone, e-mail) of the staff person to be contacted for further information.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Julia Bidwell</td>
<td><a href="mailto:Julia.Bidwell@occr.ocgov.com">Julia.Bidwell@occr.ocgov.com</a></td>
</tr>
<tr>
<td></td>
<td>(714) 480-2991</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Name of the individual attending the Board Meeting</th>
<th>List the name of the individual who will be attending the Board Meeting for this Grant Item:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Julia Bidwell</td>
<td><a href="mailto:Julia.Bidwell@occr.ocgov.com">Julia.Bidwell@occr.ocgov.com</a></td>
</tr>
<tr>
<td>(714) 480-2991</td>
<td>(714) 480-2991</td>
</tr>
</tbody>
</table>
AGENDA STAFF REPORT

MEETING DATE: 02/26/19
LEGAL ENTITY TAKING ACTION: Board of Supervisors
BOARD OF SUPERVISORS DISTRICT(S): All Districts
SUBMITTING AGENCY/DEPARTMENT: County Executive Office (Approved)
DEPARTMENT CONTACT PERSON(S): Peter DeMarco (714) 834-5777
                                       Cynthia Shintaku (714) 834-7086

SUBJECT: Grant Applications/Awards Report

<table>
<thead>
<tr>
<th>CEO CONCUR</th>
<th>COUNTY COUNSEL REVIEW</th>
<th>CLERK OF THE BOARD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Concur</td>
<td>No Legal Objection</td>
<td>Discussion</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>Budgeted: N/A</th>
<th>Current Year Cost: N/A</th>
<th>Annual Cost: N/A</th>
</tr>
</thead>
<tbody>
<tr>
<td>Staffing Impact:</td>
<td>No</td>
<td># of Positions:</td>
<td>Sole Source: N/A</td>
</tr>
<tr>
<td>Current Fiscal Year Revenue: N/A</td>
<td></td>
<td>County Audit in last 3 years: No</td>
<td></td>
</tr>
<tr>
<td>Funding Source: N/A</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Prior Board Action: N/A

RECOMMENDED ACTION(S):
Approve grant applications/awards as proposed and other actions as recommended.

1. Approve Retroactive Grant Application – Sheriff-Coroner Department – Medication Assisted Treatment Expansion Grant – $310,000.

2. Approve Grant Application – Sheriff-Coroner Department– Proposition 47 Grant Program – $5,000,000.


4. Approve Grant Award – OC Community Resources – Continuum of Care (CoC) Program – $10,008,696.

5. Receive and File Grant Report.

SUMMARY:
See the attached Grants Report.
BACKGROUND INFORMATION:
See the attached Grants Report.

FINANCIAL IMPACT:
N/A

STAFFING IMPACT:
N/A

ATTACHMENT(S):
Attachment A-Grants Report
Grants Report

County Executive Office/Legislative Affairs

February 26, 2019
Item No. 43

County of Orange Report on Grant Applications/Awards

The Grants Report is a condensed list of grant requests by County Agencies/Departments that allows the Board of Supervisors to discuss and approve grant submittals in one motion at a Board meeting. County policy dictates that the Board of Supervisors must approve all grant applications prior to submittal to the grantor. This applies to grants of all amounts, as well as to new grants and those that have been received by the County for many years as part of an ongoing grant. Receipt of grants $50,000 or less is delegated to the County Executive Officer. Grant awards greater than $50,000 must be presented to the Board of Supervisors for receipt of funds. This report allows for better tracking of county grant requests, the success rate of our grants, and monitoring of County's grants activities. It also serves to inform Orange County's Sacramento and Washington, D.C. advocates of County grant activities involving the State or Federal Governments.

On, February 26, 2019 the Board of Supervisors will consider the following actions:

RECOMMENDED ACTIONS

Approve grant applications/awards as proposed and other actions as recommended.

ACTION ITEMS

1. Approve Retroactive Grant Application – Sheriff-Coroner Department – Medication Assisted Treatment Expansion Grant – $310,000.

2. Approve Grant Application – Sheriff-Coroner Department – Proposition 47 Grant Program – $5,000,000.


4. Approve Grant Award – OC Community Resources – Continuum of Care (CoC) Program – $10,008,696.


If you or your staff have any questions or require additional information on any of the items in this report, please contact Cynthia Shintaku at 714-834-7086
ORANGE COUNTY SHERIFF'S DEPARTMENT
EXTERNAL MEMO

Date: February 5, 2018

TO: County Executive Officer Frank Kim

FROM: Commander Joe Balicki, Custody Operations Command

Subject: Retroactive Request to Apply for MAT Grant

This memo is submitted to request that the CEO place the subject grant application on the February 26, 2019 Board of Supervisors (Board) Meeting Agenda. The Sheriff-Coroner Department (Sheriff) requests retroactive approval as the grant opportunity was identified on February 4, and was not able to be submitted in time to include on previous Board Meeting Agendas. The deadline to apply for the funding is February 15, 2019.

The California Department of Health Care Services, under its federal funding for the State Opioid Response “Medication Assisted Treatment (MAT) Expansion Project 2.0 has provided funds to be distributed to county teams participating in the first cohort of Expanding Access to MAT in County Criminal Justice Settings. Funds are intended to expedite implementation of substance abuse screening, assessment, treatment, and access to MAT in county jails and drug courts while local sustainable funds are secured. As each county has unique circumstance, there is flexibility in the use of funds so long as funds support the stated objective. The County of Orange is eligible to receive $310,000. If awarded, the Sheriff-Coroner Department (Sheriff) plans to utilize funding for minor construction costs that support expanding the Medically Assisted Treatment grant program, for example, costs of fencing, door hatches and tables that allow for safe restriction of movement of inmates in Module M where inmates with substance use disorders may be housed. Counties are expected to expend these funds by January 31, 2020.

A retroactive request to accept funding is submitted as the funding opportunity was extended on February 4, 2019, and the application is due February 15, 2019. The notice of funding approval is due to be received on March 1, 2019. The Sheriff plans to return to the Board with a request to accept funding, if the grant application is accepted.

If you have any questions about the grant, please contact Nancy Nguyen at (714) 935-6869.

c: Under sheriff Bob Peterson, Sheriff-Coroner Department
   Assistant Sheriff Bill Baker, Custody Operations Command

[Signature]

[Handwritten signature]

Department Head or Designee

Concur: [Handwritten signature]

County Executive Officer or Designee
**CEO-Legislative Affairs Office**  
Grant Authorization eForm

- **GRANT APPLICATION / GRANT AWARD**

<table>
<thead>
<tr>
<th>Today's Date:</th>
<th>February 5, 2018</th>
</tr>
</thead>
<tbody>
<tr>
<td>Requesting Agency/Department:</td>
<td>Sheriff-Coroner Department</td>
</tr>
<tr>
<td>Grant Name and Project Title:</td>
<td>Medication Assisted Treatment Expansion Grant</td>
</tr>
<tr>
<td>Sponsoring Organization/Grant Source:</td>
<td>State of California Department of Health Care Services</td>
</tr>
<tr>
<td>Application Amount Requested:</td>
<td>$310,000</td>
</tr>
<tr>
<td>Application Due Date:</td>
<td>February 15, 2019</td>
</tr>
<tr>
<td>Board Date when Board Approved this Application:</td>
<td></td>
</tr>
<tr>
<td>Awarded Funding Amount:</td>
<td></td>
</tr>
<tr>
<td>Notification Date of Funding Award:</td>
<td></td>
</tr>
<tr>
<td>Is this an Authorized Retroactive Grant Application/Award?</td>
<td>Yes</td>
</tr>
<tr>
<td>(If yes, attach memo to CEO)</td>
<td></td>
</tr>
<tr>
<td>Recurrence of Grant</td>
<td>New ☒ Recurrent ☐ Other ☐ Explain:</td>
</tr>
<tr>
<td>If this is a recurring grant, please list the funding amount applied for and awarded in the past:</td>
<td>N/A</td>
</tr>
<tr>
<td>Does this grant require CEQA findings?</td>
<td>Yes ☐ No ☒</td>
</tr>
<tr>
<td>What Type of Grant is this?</td>
<td>Competitive ☒ Other Type ☐ Explain: Formula program</td>
</tr>
<tr>
<td>County Match?</td>
<td>Yes ☒ No ☐</td>
</tr>
<tr>
<td>How will the County Match be Fulfilled? (Please include the specific budget)</td>
<td>N/A</td>
</tr>
<tr>
<td>Will the grant/program create new part or full-time positions?</td>
<td>N/A</td>
</tr>
<tr>
<td>Purpose of Grant Funds:</td>
<td>Provide a summary and brief background of why Board of Supervisors why should accept this grant application/award, and how the grant will be implemented.</td>
</tr>
</tbody>
</table>

The California Department of Health Care Services, under its federal funding for the State Opioid Response “Medication Assisted Treatment (MAT) Expansion Project 2.0 has provided funds to be distributed to county teams participating in the first cohort of Expanding Access to MAT in County Criminal Justice Settings. Funds are intended to expedite implementation of SUD screening, assessment, treatment, and access to MAT in county jails and drug courts while local sustainable funds are secured. As each county has unique circumstance, there is flexibility in the use of funds so long as funds support the stated objective. The County of Orange is eligible to receive $310,000.

If awarded, the Sheriff-Coroner Department (Sheriff) plans to utilize funding for minor construction costs that support expanding the Medically Assisted Treatment grant program, for example, costs of fencing, door hatches and tables that allow for safe restriction of movement of inmates in Module M where inmates with substance use disorders may be housed. Counties are expected to expend these funds by January 31, 2020.
A retroactive request to apply for funding is being submitted as the notice of funding opportunity was extended on February 4, 2019, and the application is due February 15, 2019. The notice of funding approval is due to be received on March 1, 2019.

The Sheriff plans to return to the Board with a request to accept funding, if the grant application is accepted.

<table>
<thead>
<tr>
<th>Board Resolution Required?</th>
<th>Yes ☐</th>
<th>No ☒</th>
</tr>
</thead>
<tbody>
<tr>
<td>Deputy County Counsel Name:</td>
<td>Nicole Sims, Supervising Deputy County Counsel, has reviewed and approved the grant application.</td>
<td></td>
</tr>
<tr>
<td>Request authorization to apply for the grant. Resolution not required for this grant.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Department Contact:</td>
<td>Nancy Nguyen, <a href="mailto:nmnguyen@ocsd.org">nmnguyen@ocsd.org</a>, 714-935-6869</td>
<td></td>
</tr>
<tr>
<td>Name of the individual attending the Board Meeting:</td>
<td>Nancy Nguyen</td>
<td></td>
</tr>
</tbody>
</table>
## GRANT APPLICATION / ☐ GRANT AWARD

<table>
<thead>
<tr>
<th><strong>Today's Date:</strong></th>
<th>February 13, 2019</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Requesting Agency/Department:</strong></td>
<td>Sheriff-Coroner Department</td>
</tr>
<tr>
<td><strong>Grant Name and Project Title:</strong></td>
<td>Proposition 47 Grant Program Request for Proposals - Cohort 2</td>
</tr>
<tr>
<td><strong>Sponsoring Organization/Grant Source:</strong></td>
<td>California Board of State and Community Corrections (BSCC)</td>
</tr>
<tr>
<td><strong>Application Amount Requested:</strong></td>
<td>$5,000,000</td>
</tr>
<tr>
<td><strong>Application Due Date:</strong></td>
<td>March 18, 2019</td>
</tr>
<tr>
<td><strong>Board Date when Board Approved this Application:</strong></td>
<td>N/A</td>
</tr>
<tr>
<td><strong>Awarded Funding Amount:</strong></td>
<td>TBD</td>
</tr>
<tr>
<td><strong>Notification Date of Funding Award:</strong></td>
<td>TBD</td>
</tr>
<tr>
<td><strong>Is this an Authorized Retroactive Grant Application/Award?</strong></td>
<td>No</td>
</tr>
<tr>
<td><strong>(If yes, attach memo to CEO)</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Recurrence of Grant</strong></td>
<td>New ☒ Recurrent ☐ Other ☐ Explain: N/A</td>
</tr>
<tr>
<td><strong>If this is a recurring grant, please list the funding amount applied for and awarded in the past:</strong></td>
<td>N/A</td>
</tr>
<tr>
<td><strong>Does this grant require CEQA findings?</strong></td>
<td>No ☒</td>
</tr>
<tr>
<td><strong>What Type of Grant is this?</strong></td>
<td>Competitive ☒ Other Type ☐ Explain: Formula program</td>
</tr>
<tr>
<td><strong>County Match?</strong></td>
<td>Yes ☐ Amount ___ or ___ % No ☒</td>
</tr>
<tr>
<td><strong>How will the County Match be Fulfilled?</strong></td>
<td>N/A (Please include the specific budget)</td>
</tr>
<tr>
<td><strong>Will the grant/program create new part or full-time positions?</strong></td>
<td>No</td>
</tr>
<tr>
<td><strong>Purpose of Grant Funds:</strong></td>
<td>Provide a summary and brief background of why Board of Supervisors why should accept this grant application/award, and how the grant will be implemented.</td>
</tr>
</tbody>
</table>

The Board of State and Community Corrections (BSCC) released Proposition 47 Cohort 2 on January 18, 2019. These program funds focus on community partnerships and collaborations to encourage a proactive approach to identifying target populations and addressing known barriers to providing supportive services. If awarded, the Sheriff-Coroner Department (Sheriff) intends to pass a minimum of 50% of funding to community based organizations within its service areas and an additional 10 to 15 percent of funds to various county departments. The Sheriff will utilize the remainder of funding to support framework for software and validation of a predictive analysis model for capacity building. Ideally, the Sheriff desires to develop a proactive response that will result in mapping out the intensities of future crime activities within the jurisdictional boundaries. The Sheriff intends to mirror deployment of services in a consolidated strategy to identify “hard to serve” populations and aptly address community needs.

Collective program design will prioritize the following purpose areas:

- Diversion
- Community based treatment/mental health/substance use treatment and counseling (non-custodial)
- Stable, affordable housing
- Job Training

This problem is not confined to law enforcement and requires multi-sector collaboration is essential to expanding community engagement. Program design will complement existing countywide initiatives including the Stepping Up Initiative (approved in 2015).

The grant period will begin on August 15, 2019 and end on May 15, 2023. If awarded, the Sheriff will return to the Board for approval to accept the grant funding and approve any allocations to community-based organizations.

<table>
<thead>
<tr>
<th>Board Resolution Required?</th>
<th>Yes ☐</th>
<th>No ☒</th>
</tr>
</thead>
<tbody>
<tr>
<td>Deputy County Counsel Name:</td>
<td>Nicole Sims, Supervising Deputy County Counsel, reviewed the application packet.</td>
<td></td>
</tr>
<tr>
<td>Recommended Action/Special Instructions</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

1. Authorize the Sheriff-Coroner to submit, on behalf of the County of Orange, the Proposition 47 Grant Program application to the California BSCC.

2. Authorize the Sheriff-Coroner, or designee, to sign all necessary application documents required for the submission of the application and supporting documentation to the California BSCC.

<table>
<thead>
<tr>
<th>Department Contact</th>
<th>List the name and contact information (telephone, e-mail) of the staff person to be contacted for further information.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nancy M. Nguyen, Grants Manager Research and Development Division</td>
<td>714.935.6869 <a href="mailto:nmnguyen@ocsd.org">nmnguyen@ocsd.org</a></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Name of the individual attending the Board Meeting:</th>
<th>List the name of the individual who will be attending the Board Meeting for this Grant Item:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nancy M. Nguyen, Grants Manager Research and Development Division</td>
<td>714.935.6869 <a href="mailto:nmnguyen@ocsd.org">nmnguyen@ocsd.org</a></td>
</tr>
</tbody>
</table>
Today's Date: February 19, 2019
Requesting Agency/Department: District Attorney
Grant Name and Project Title: Various
Sponsoring Organization/Grant Source: Various
Application Amount Requested: $12,137,464 (estimated)
Application Due Date: Various
Board Date when Board Approved this Application: N/A
Awarded Funding Amount: N/A
Notification Date of Funding Award: N/A
Is this an Authorized Retroactive Grant Application/Award? No
(if yes, attach memo to CEO)
Recurrence of Grant: Recurrent
If this is a recurring grant, please list the funding amount applied for and awarded in the past:
See Attached
Does this grant require CEQA findings? Yes
What Type of Grant is this? Competitive
County Match? Yes Amount or %
How will the County Match be Fulfilled? Various
Will the grant/program create new part or full-time positions? No
Purpose of Grant Funds: Provide a summary and brief background of why Board of Supervisors why should accept this grant application/award, and how the grant will be implemented.

The District Attorney requests Board approval of the attached FY 2019-20 Annual Grants Application Table and authorization to apply for funding for these recurring grants for fiscal year 2019-20.

The attached Annual Grants Application Table summarizes the grant programs that the District Attorney’s Office was awarded in fiscal year 2018-19. The District Attorney plans to continue to apply for funding for these recurring grants in fiscal year 2019-20 to support criminal prosecutions and mitigate net county cost requirements.
The District Attorney will return to obtain Board approval to accept the grant awards

**Department Contact:**
List the name and contact information (telephone, e-mail) of the staff person to be contacted for further information.
Melanie Eustice (714) 347-8443  melanie.eustice@da.ocgov.com

**Name of the individual attending the Board Meeting:**
List the name of the individual who will be attending the Board Meeting for this Grant Item:
Melanie Eustice
## Summary of Anticipated Grant Applications for FY 2019-20

<table>
<thead>
<tr>
<th>#</th>
<th>Name of Grant</th>
<th>FY 2019-20 Funding</th>
<th>Operating Organization / Grant Source</th>
<th>Application Due Date (Estimated)</th>
<th>Grant Dollars (awarded or amount)</th>
<th>Match Dollars (if any)</th>
<th>New Full Time or Part Time Positions</th>
<th>Project Name and Purpose of Grant</th>
<th>Does this Grant Use + OMAA Funding (See Note)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Automobile Insurance Fraud Program</td>
<td>$1,632,900</td>
<td>California Department of Insurance (CDI)</td>
<td>07/01/18</td>
<td>$0</td>
<td>No</td>
<td>No new positions</td>
<td>Automobile Insurance Fraud Program: Investigate and prosecute automobile insurance fraud cases.</td>
<td>No</td>
</tr>
<tr>
<td>2</td>
<td>Disability and Healthcare Insurance Fraud Program</td>
<td>$1,387,842</td>
<td>California Department of Insurance (CDI)</td>
<td>06/30/17</td>
<td>$0</td>
<td>No</td>
<td>No new positions</td>
<td>Disability and Healthcare Insurance Fraud Program: Investigate and prosecute disability and healthcare insurance fraud cases.</td>
<td>No</td>
</tr>
<tr>
<td>3</td>
<td>Life and Annuity Consumer Protection Program</td>
<td>$217,670</td>
<td>California Department of Insurance (CDI)</td>
<td>05/09/19</td>
<td>$0</td>
<td>No</td>
<td>No new positions</td>
<td>Life and Annuity Consumer Protection Program: Investigate and prosecute life insurance and annuity financial abuse by insurance businesses or persons holding themselves out as life insurance businesses, or any person purporting to be engaged in the business of insurance.</td>
<td>No</td>
</tr>
<tr>
<td>4</td>
<td>High Impact Insurance Fraud Program</td>
<td>$576,145</td>
<td>California Department of Insurance (CDI)</td>
<td>10/28/19</td>
<td>$0</td>
<td>No</td>
<td>No new positions</td>
<td>High Impact Insurance Fraud Program: Investigate and prosecute specific insurance fraud cases that have a suspected loss of over $500,000.</td>
<td>No</td>
</tr>
<tr>
<td>5</td>
<td>Human Trafficking Victims Advocacy Program (HVP)</td>
<td>$161,000</td>
<td>California Office of Emergency Services (OES)</td>
<td>12/09/19</td>
<td>$34,127</td>
<td>No</td>
<td>No new positions</td>
<td>Human Trafficking Victims Advocacy Program: Provide support services including a 24/7 crisis hotline, emergency shelter, temporary housing, emergency fund-building, counseling, referrals to a domestic violence resource, transportation, and legal assistance to human trafficking victims.</td>
<td>No</td>
</tr>
<tr>
<td>6</td>
<td>Domestic/International Victims Advocacy &amp; Outreach Services</td>
<td>$175,500</td>
<td>California Office of Emergency Services (OES)</td>
<td>09/26/19</td>
<td>$40,750</td>
<td>No</td>
<td>No new positions</td>
<td>Domestic/International Victims Advocacy &amp; Outreach Services: Provide support services which include, child protection, emergency assistance, shelter, food and medical aid, counseling, court support, and community referral services to victims of human trafficking and their families.</td>
<td>No</td>
</tr>
<tr>
<td>7</td>
<td>Older/Youth Assistance Program</td>
<td>$2,687,550</td>
<td>California Office of Emergency Services (OES)</td>
<td>10/01/19</td>
<td>$0</td>
<td>No</td>
<td>No new positions</td>
<td>Older/Youth Assistance Program: To provide comprehensive services for individuals/children of some assistance to Penal Code Section 1253.6(b) building, child intervention, emergency assistance, resources and mental counseling, referral to compensation claims, property, return assistance, orientation to the criminal justice system, case status monitoring, victims and victim advocates, victim assistance, victim assistance, victim assistance, transportation to court, etc.</td>
<td>No</td>
</tr>
<tr>
<td>8</td>
<td>Workers' Compensation Insurance Fraud Program</td>
<td>$5,206,400</td>
<td>California Department of Insurance (CDI)</td>
<td>04/25/15</td>
<td>$0</td>
<td>No</td>
<td>No new positions</td>
<td>Workers' Compensation Insurance Fraud Program: Investigate and prosecute workers' compensation insurance fraud cases.</td>
<td>No</td>
</tr>
</tbody>
</table>

* Match amount will be provided by Waymakers (pass-through subrecipient)
| **CEO-Legislative Affairs Office**  
**Grant Authorization eForm** | **Attachment A** |
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>GRANT APPLICATION / ☒ GRANT AWARD</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Today's Date:</strong></td>
<td>February 11, 2019</td>
</tr>
<tr>
<td><strong>Requesting Agency/Department:</strong></td>
<td>OC Community Resources/Orange County Housing Authority</td>
</tr>
<tr>
<td><strong>Grant Name and Project Title:</strong></td>
<td>Continuum of Care (CoC) Program</td>
</tr>
</tbody>
</table>
| **Sponsoring Organization/Grant Source:**  
(if the grant source is not a government entity, please provide a brief description of the organization/foundation) | U.S. Department of Housing and Urban Development |
| **Application Amount Requested:** | $9,666,408 |
| **Application Due Date:** | September 18, 2018 |
| **Board Date when Board Approved this Application:** | May 8, 2018 |
| **Awarded Funding Amount:** | $10,008,696 |
| **Notification Date of Funding Award:** | January 26, 2019 |
| **Is this an Authorized Retroactive Grant Application/Award? No**  
(If yes, attach memo to CEO) | |
| **Recurrence of Grant** | New ☐  
Recurrent ☒  
Other ☐ Explain: |
| If this is a recurring grant, please list the funding amount applied for and awarded in the past: | Since 1996, Orange County Housing Authority has competed for and been awarded CoC Program funding to operate permanent supportive housing.  
2017 $8,063,624, Awarded $8,777,750  
2016 $6,350,791, Awarded $9,350,791  
2015 $9,302,452, Awarded $9,066,852  
2014 $8,987,027, Awarded $8,039,007  
2013 $7,810,086, Awarded $6,464,876 |
| **Does this grant require CEQA findings?** | Yes ☒  
No ☐ |
| **What Type of Grant is this?** | Competitive ☒  
Other Type ☐ Explain: |
| **County Match?** | Yes ☒ Amount 25%  
No ☐ |
| **How will the County Match be Fulfilled?**  
(Please include the specific budget) | At minimum, 25% of funds expended by the Orange County Housing Authority will be matched by partner agencies under Memorandums of Understanding with the Orange County Housing Authority. |
| **Will the grant/program create new part or full-time positions?** | No |
| **Purpose of Grant Funds:** | Provide a summary and brief background of why Board of Supervisors why should accept this grant application/award, and how the grant will be implemented. |
| **The Continuum of Care (CoC) renewal grant funding will provide for affordable, permanent supportive housing assistance throughout the County of Orange and ongoing support to stably house approximately 550 homeless, and formerly homeless households that are comprised of at least one disabled family member. Funding awarded was higher than that for which was applied due to the increase in Fair Market Rent, which took place between the application date and award date.** | |
| **Board Resolution Required?**  
(please attach documentation to eForm) | Yes ☐  
No ☒ |
| **Deputy County Counsel Name:**  
(please list the Deputy County Counsel that approved the Resolution) | |
| **Recommended Action/Special Instructions**  
(please specify below) | 1. Authorize the OC Community Resources Director or designee to receive renewal of Continuum of Care Program grant funds in the amount of $10,008,696 and execute 2018 renewal grant agreements, as well as, all documents necessary to administer the Continuum of Care |
Program funded projects.

2. Authorize the OC Community Resources Director or designee to execute Memorandums of Understanding and/or other related documents necessary to administer the Continuum of Care Program funded projects.

<table>
<thead>
<tr>
<th>Department Contact</th>
<th>List the name and contact information (telephone, e-mail) of the staff person to be contacted for further information.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Julia Bidwell</td>
<td><a href="mailto:Julia.Bidwell@occr.ocgov.com">Julia.Bidwell@occr.ocgov.com</a></td>
</tr>
<tr>
<td>(714) 480-2991</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Name of the individual attending the Board Meeting</th>
<th>List the name of the individual who will be attending the Board Meeting for this Grant item:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Julia Bidwell</td>
<td></td>
</tr>
<tr>
<td><a href="mailto:Julia.Bidwell@occr.ocgov.com">Julia.Bidwell@occr.ocgov.com</a></td>
<td></td>
</tr>
<tr>
<td>(714) 480-2991</td>
<td></td>
</tr>
</tbody>
</table>
MEMORANDUM

To: Robin Stieler, Clerk of the Board

From: Supervisor Andrew Do, 1st District and Supervisor Doug Chaffee, 4th District

Subject: Supplemental Agenda Item relating to the 2020 Census

Please add a supplemental item of business to the February 26, 2019 Board Agenda. The title of the supplemental item should read:

2020 Census Orange County Complete Count Committee Proposed Structure and Membership
Meeting Date: 02/26/19

Legal Entity: Board of Supervisors

Board of Supervisors District(s): First District; Fourth District

Submitting Agency/Department: Supervisor Andrew Do, 1st District
Supervisor Doug Chaffee, 4th District

Department Contact Person: Chris Wangsaporn (714) 834-3110
LaShe Rodriguez (714) 834-3440

Recommended Actions:

1. Approve the Orange County Complete Count Committee proposed membership structure.

2. Authorize County Executive Officer or designee to select representatives for each stakeholder group set forth in the approved Orange County Complete Count membership structure.

3. Authorize the County Executive Officer to make minor modifications, as necessary, to the membership of the Orange County Complete Count Committee.

Summary:

On October 30, 2018, the Board of Supervisors (Board) adopted a resolution reflecting the County’s participation in the 2020 California Complete Count census effort. Additionally, the Board authorized the 2020 Census Planning Ad Hoc Committee (Ad Hoc) and instructed the Ad Hoc to bring back for final selection and approval by the Board a list of recommend membership stakeholders for the Orange County Complete Count Committee (OCCCC). On January 29, 2019, the Board authorized the County Executive Officer to enter into the 2020 Census Outreach Agreement with the California Complete Count Census Office. Part of that Agreement includes the formation of a local CCC.

The OCCCC will be the County’s primary network and strongest tool to educate, motivate and activate Orange County residents to participate in the Census. The Ad Hoc is recommending a CCC consisting of five subcommittees who will be responsible for achieving the following goals:
OCCC Subcommittees

1. Government Agencies & Cities
2. Media, Communication & Advertising
3. Immigrant, Limited English & Language Access
4. Homeless, Unconventional Housing & Low-income
5. Outreach, Recruitment, Data Protection & Technology

OCCC Goals for 2020 Census Outreach

1. Educate County residents on the Census timeline and purpose with a particular emphasis on the Hard-to-Count (HTC) populations
2. Identify HTC populations and best strategies to educate them on the Census
3. Reduce the HTC populations’ fear and distrust of government
4. Build trust around the Census
5. Motivate HTC populations to participate in the Census
6. Reduce barriers for HTC populations to participate in the Census

The OCCC kick-off meeting is planned for March. The proposed OCCC structure and membership can be found in Attachment A.

ATTACHMENT(S):
Attachment A -- OC Complete Count Committee Governance Structure
**Complete Count Committee Governance Structure – 2.15.2019**

**Members**

- Supervisor Do
- Supervisor Chaffee
- Chairs from the sub-committees, plus District 1 representative, District 4 representative, and CEO appointed representatives
- All members of the Complete Count Committee, consisting of sub-committees with a chair

**Responsibilities**

- Make recommendations to Board
- Recommend strategies and tactics
- Operationalize strategic plan
- Report to Ad Hoc Committee
- Identify Strategies & tactics to reach HTC population
- Report to Steering Committee

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**Board of Supervisors**

**2020 Census Planning Ad Hoc Committee**

**CCC Steering Committee**

**Complete Count Committee**

---

**Members**

- Government Agencies & Cities
  - CEO
  - CA CCC Office
  - U.S. Census Bureau
  - Santa Ana
  - Anaheim
  - Garden Grove
  - Irvine
  - Fullerton
  - Westminster
  - Tustin
  - Costa Mesa

- Media, Communication & Advertising
  - CEO Comm
  - Advertising Expert
  - Messaging Expert
  - Social Media Expert
  - Latino Media Expert
  - Vietnamese Media Expert
  - Korean Media Expert
  - Chinese Media Expert

- Immigrant, Limited English & Language Access
  - Catholic Diocese of OC
  - OC Interfaith Network
  - MECCA
  - Refugee Forum of OC
  - Latino Community Leader
  - Vietnamese Community Leader
  - Korean Community Leader
  - Chinese Community Leader

- Homeless, Unconventional Housing & Low-income
  - OC Care Coordination
  - City Net
  - Mercy House
  - Midnight Mission
  - SSA
  - HCA
  - OC Housing Authority
  - Garden Grove Housing Authority
  - Santa Ana Housing Authority
  - Anaheim Housing Authority

- Outreach, Recruitment, Data Protection & Tech.
  - ACBO reps
  - Hospital Network rep
  - CalOptima
  - Superintendent of Schools rep
  - University Rep (CSUF)
  - OC Child Care Dev. Planning Council
  - Office on Aging
  - Veterans Service Office

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**Attachment A**
To: Robin Stieler, Clerk of the Board
From: Supervisor Andrew Do, 1st District
Date: February 21, 2019

Subject: Memorandum of Understanding Regarding Pre-Trial Mental Health Diversion

Please add a supplemental item of business to the February 26, 2019 Board Agenda. The title of the supplemental item should read:

Approve Memorandum of Understanding between the District Attorney, the Health Care Agency, and the Public Defender regarding pre-trial mental health diversion for eligible Public Defender clients.
MEETING DATE: 02/26/19
LEGAL ENTITY TAKING ACTION: Board of Supervisors
BOARD OF SUPERVISORS DISTRICT(S): All Districts
SUBMITTING AGENCY/DEPARTMENT: Supervisor Andrew Do, First District
DEPARTMENT CONTACT PERSON(S): Chris Wongsaporn (714) 834-3110

SUBJECT: Memorandum of Understanding Regarding Pre-Trial Mental Health Diversion

<table>
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<tr>
<th>Budgeted: N/A</th>
<th>Current Year Cost: N/A</th>
<th>Annual Cost: N/A</th>
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</thead>
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<tr>
<td>Staffing Impact: N/A</td>
<td># of Positions:</td>
<td>Sole Source: N/A</td>
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<tr>
<td>Current Fiscal Year Revenue: N/A</td>
<td></td>
<td>County Audit in last 3 years N/A</td>
</tr>
<tr>
<td>Funding Source: N/A</td>
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<td></td>
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</table>

Prior Board Action: 11/20/18 #S41E

RECOMMENDED ACTION(S)

Approve Memorandum of Understanding between the District Attorney, the Health Care Agency, and the Public Defender regarding pre-trial mental health diversion for eligible Public Defender clients.

SUMMARY:

Approving the Memorandum of Understanding between the District Attorney, the Health Care Agency, and the Public Defender regarding pre-trial mental health diversion will provide a process whereby the Health Care Agency can assess and, where capacity exists, provide mental health treatment services for eligible Public Defender clients.

BACKGROUND INFORMATION:

**AB 1810 and SB 215—Mental Health Diversion Law**

In 2018 the Legislature enacted Assembly Bill 1810 and Senate Bill 215 to create an option of pre-trial mental health diversion for some criminal defendants who suffer from mental health disorders. Pre-trial mental health disorder diversion means the postponement of prosecution to allow the defendant to undergo mental health treatment. The new mental health disorder diversion law is designed to "to
mitigate the individuals’ entry and reentry into the criminal justice system while protecting public safety” and allow “local discretion and flexibility for counties in the development and implementation of diversion for individuals with mental disorders across a continuum of care settings.”

Not all defendants are eligible for pre-trial mental health diversion. Defendants charged with certain serious crimes, such as murder or rape, are not eligible for diversion. Before a defendant can be deemed eligible for pre-trial mental health diversion, the defendant must convince the court that he or she meets each of the following six criteria listed in subdivision (b) of Penal Code section 1001.36:

(1) The court is satisfied the defendant suffers from a mental disorder as identified in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders, including, but not limited to, bipolar disorder, schizophrenia, schizoaffective disorder, or post-traumatic stress disorder, but excluding antisocial personality disorder, borderline personality disorder, and pedophilia;

(2) The court is satisfied the defendant’s mental disorder was a significant factor in the commission of the charged offense;

(3) In the opinion of a qualified mental health expert, the defendant’s symptoms of the mental disorder motivating the criminal behavior would respond to mental health treatment;

(4) The defendant waives his right to a speedy trial;

(5) The defendant agrees to participate in the diversion program and to comply with treatment as a condition of diversion;

(6) The court is satisfied the defendant will not pose an unreasonable risk of danger to public safety if treated in the community.

Where a court is satisfied that a recommended inpatient or outpatient program of mental health treatment will meet the specialized mental health treatment needs of a criminal defendant, the defendant may be given pre-trial mental health diversion and referred to a program of mental health treatment utilizing existing inpatient or outpatient mental health resources. Under subdivision (c) of Penal Code section 1001.36, “the treatment may be procured using private or public funds, and a referral may be made to a county mental health agency, existing collaborative courts, or assisted outpatient treatment only if that entity has agreed to accept responsibility for the treatment of the defendant, and mental health services are provided only to the extent that resources are available and the defendant is eligible for those services.”

If a defendant performs satisfactorily through the end of his diversion program, a court must dismiss the defendant’s criminal charges. The standard for successful completion of the diversion program is as follows: (1) the defendant substantially complied with the requirements of diversion; (2) the defendant avoided significant new violations of law unrelated to the defendant’s mental health condition; and, (3) the defendant has a plan in place for long-term mental health care.

Implementation of Mental Health Diversion

The criminal defense bar is beginning to bring petitions in the Superior Court for orders of pre-trial mental health diversion for allegedly eligible criminal defendants. Those with the means to retain private counsel generally have the means to obtain mental health assessments and treatment using their own resources, including private insurance. The Public Defender’s clients are often unable to utilize private
resources for their mental health care and generally rely on public resources, such as the Health Care Agency (HCA), to provide mental health assessments and treatment.

The proposed Memorandum of Understanding (MOU) is the culmination of collaborative efforts among Supervisor Andrew Do, the District Attorney, the Health Care Agency, the Public Defender, the County Executive Office, and County Counsel. The following are the key provisions of the MOU:

- The MOU only applies to the Public Defender’s clients. HCA is not, through this MOU, consenting to pre-trial mental health diversion services for privately-represented criminal defendants.

- The Public Defender is solely responsible for obtaining evidence, including psychiatric evaluations, and making her case for her client’s eligibility for mental health pre-trial diversion.

- Once a court has found a Public Defender’s client is eligible for pre-trial mental health diversion, HCA will perform an assessment that determines:
  - whether the Public Defender’s client meets the medical necessity criteria for treatment as specified under applicable federal and state regulations;
  - which of the current HCA programs that would best meet the mental health needs of the Public Defender’s client;
  - whether the Public Defender’s client is eligible for the recommended HCA program(s); and,
  - whether the recommended HCA program(s) has the capacity to provide the recommended treatment to the Public Defender’s client.

- After receiving HCA’s assessment, if the Public Defender wants to proceed with mental health diversion for her client, then HCA’s assessment will be shared with the court and District Attorney after receiving her client’s knowing and intelligent consent on the record.

- If the court orders pre-trial mental health diversion, the Public Defender’s client will be enrolled in eligible HCA programs that have capacity.

- HCA will provide periodic reports to the court, Public Defender, and District Attorney as required under AB 1810/SB215. The Public Defender and HCA will develop a protocol for those reports.

FINANCIAL IMPACT:
The Public Defender does not currently believe the Health Care Agency will assess and treat a substantial number of her clients. Consistent with AB 1810/SB 215, the MOU only provides for mental health treatment of eligible Public Defender clients where there is capacity in existing Health Care Agency programs. Accordingly, it is not anticipated the approval of this MOU will have a substantial financial or staffing impact on existing operations.

STAFFING IMPACT:
Please see the discussion on Financial Impact.

ATTACHMENT(S):
Attachment A – Memorandum of Understanding
Attachment B – Penal Code section 1001.36.
MEMORANDUM OF UNDERSTANDING BETWEEN THE DISTRICT ATTORNEY, THE HEALTH CARE AGENCY—BEHAVIORAL HEALTH SERVICES DIVISION, AND THE PUBLIC DEFENDER REGARDING PRE-TRIAL MENTAL HEALTH DIVERSION FOR ELIGIBLE PUBLIC DEFENDER CLIENTS

This Memorandum of Understanding ("MOU") between the Orange County District Attorney ("District Attorney"), the Orange County Health Care Agency—Behavioral Health Services Division ("HCA"), and the Orange County Public Defender ("Public Defender") is entered to coordinate responsibilities for pre-trial mental health diversion for eligible Public Defender clients.

Background

In 2018 Assembly Bill 1810 and Senate Bill 215 were enacted to create an option of pre-trial mental health diversion for criminal defendants who meet specified criteria under Penal Code section 1001.36. In enacting these bills, the Legislature expressly provided for “local discretion and flexibility for counties in the development and implementation of diversion for individuals with mental disorders across a continuum of care settings.” (Pen. Code, § 1001.35.)

Pre-trial mental health diversion is defined under section 1001.36 as, “the postponement of prosecution, either temporarily or permanently, at any point in the judicial process from the point at which the accused is charged until adjudication, to allow the defendant to undergo mental health treatment.” (Pen. Code, § 1001.36, subd. (c).)

A criminal defendant may be eligible for pre-trial mental health diversion only if he or she meets each of six criteria listed in subdivision (b) of Penal Code section 1001.36, including the defense providing evidence of a recent diagnosis of the defendant’s mental disorder by a qualified mental health expert and that the defendant’s symptoms of the mental disorder motivating the criminal behavior would respond to mental health treatment in the opinion of a qualified mental health expert. (Pen. Code, § 1001.36, subd. (b).)

Where a court is satisfied that a recommended inpatient or outpatient program of mental health treatment will meet the specialized mental health treatment needs of a criminal defendant, the defendant may be given pre-trial mental health diversion and referred to a program of mental health treatment utilizing existing inpatient or outpatient mental health resources. (Pen. Code, § 1001.36, subd. (c).) Under subdivision (c) of Penal Code section 1001.36, “the treatment may be procured using private or public funds, and a referral may be made to a county mental health agency, existing collaborative courts, or assisted outpatient treatment only if that entity has agreed to accept responsibility for the treatment of the defendant, and mental health services are provided only to the extent that resources are available and the defendant is eligible for those services.”

Where a court has ordered pre-trial mental health diversion, the provider of the mental health treatment program must provide regular reports on the defendant’s progress in treatment to the court, the defense, and the prosecution. (Pen. Code, § 1001.36, subd. (c).)
Parties

The District Attorney is the public prosecutor who initiates and conducts on behalf of the People of the State of California all prosecutions for public offenses in the County of Orange. (Govt. Code, § 26500.) The District Attorney may supervise or participate in any program to improve the administration of justice. (Govt. Code, § 26500.) The court considers the District Attorney’s position in making decisions related to pre-trial mental health diversion. (Pen. Code, § 1001.36.)

HCA administers local mental health services for the County of Orange. (Welf. & Inst. Code, § 5607.) These services are largely administered through Medi-Cal and an Orange County Board of Supervisors-approved three-year program and expenditure plan that is based on available funds and estimated revenue allocations provided by the state and in accordance with established stakeholder engagement and planning. (Welf. & Inst. Code, § 5847, 14600 et seq.)

The Public Defender, upon order of the court, is responsible for the defense of any person who is not financially able to employ counsel and is charged with the commission of any contempt or offense triable in the superior courts at all stages of the proceedings, including those relating to the nature or conditions of detention, other restrictions prior to adjudication, of treatment, or of punishment resulting from criminal proceedings. (Govt. Code, § 27706.) The court considers the Public Defender’s position in making decisions related to pre-trial mental health diversion for the Public Defender’s clients. (Pen. Code, § 1001.36.)

Rights and Responsibilities

I. Proceedings under Penal Code section 1001.36, subdivision (b).

A. The Public Defender shall provide for:
   1. evidence of a recent diagnosis of the client’s mental disorder by a qualified mental health expert;
   2. the opinion of a qualified mental health expert that the defendant’s symptoms of the mental disorder motivating the criminal behavior would respond to mental health treatment.

B. Except to the production of records in response to a lawful subpoena duces tecum, nothing in this MOU shall be construed to identify or create any HCA obligation to participate in proceedings or provide services to determine a Public Defender client’s eligibility for pre-trial mental health diversion under subdivision (b) of Penal Code section 1001.36.

C. The Public Defender agrees that for the purposes of any hearing pursuant to Penal Code section 1001.36(b) only, if the Public Defender is proceeding with an expert witness, the report of that expert witness will be provided to the prosecution within a reasonable period of time prior to the expert taking the stand. To the extent that there are any statements made by the defendant, they will be redacted pursuant to the law. (Andrade v. Superior Court (1996) 46 Cal. App. 4th 1609).
D. This report will be provided for the purposes of the Penal Code section 1001.36(b) only and the District Attorney's office agrees that it will not be shared with the trial attorney or used in the prosecution of the criminal case pending.

II. Proceedings under Penal Code section 1001.36, subdivision (c). The terms of this Article apply to cases where the Court has determined that the Public Defender client meets the criteria under Penal Code Section 1001.36, subdivision (b).

A. Assessments
1. HCA shall assess the Public Defender's client in cases meeting each of the following criteria:
   a. the Public Defender is representing a client in a criminal proceeding;
   b. the Public Defender client is indigent or is eligible for mental health services through Medi-Cal; and,
   c. the court has determined the Public Defender client meets the criteria of subdivision (b) of Penal Code section 1001.36.

2. Assessments under this Article means determining all of the following:
   a. whether the Public Defender's client meets the medical necessity criteria for treatment of the client as specified under applicable federal and state regulations;
   b. which of the current HCA programs that would best meet the mental health needs of the Public Defender's client;
   c. whether the Public Defender's client is eligible for the recommended HCA program(s); and,
   d. whether the recommended HCA program(s) has the capacity to provide the recommended treatment to the Public Defender's client.

3. HCA shall provide its assessment to the Public Defender, provided the Public Defender's client signs a written authorization.

4. Upon request of the Public Defender, and after a knowing and intelligent waiver on the record, HCA shall provide its assessment to the court and the District Attorney.

B. Treatment
1. HCA shall provide pre-trial mental health treatment services to the extent resources are available to the Public Defender's client in cases meeting each of the following criteria:
   a. the Public Defender is representing a client in a criminal proceeding;
   b. the Public Defender client is indigent or is eligible for mental health services through Medi-Cal;
   c. the court has determined the Public Defender client meets the criteria of subdivision (b) of Penal Code section 1001.36; and,
   d. The court has made a referral for the Public Defender client to an existing mental health program(s) administered by HCA where:
1. HCA has assessed the Public Defender’s client under Article 2, Section A of the Rights and Responsibilities of this MOU;
2. HCA has determined the Public Defender’s client is eligible for the HCA program(s); and,
3. the HCA program(s) has existing capacity to provide the treatment to the Public Defender’s client.

2. HCA shall provide regular reports to the court, the Public Defender, and the District Attorney on the Public Defender client’s progress in a HCA treatment program under this MOU. HCA and the Public Defender shall work in good faith to develop protocols on the content and timing of reports to ensure compliance with this MOU and Penal Code section 1001.36.

**General Provisions**

I. This MOU applies only to cases where Public Defender is appointed as counsel for a criminal defendant.

II. This MOU is only effective upon approval of the Orange County Board of Supervisors. The District Attorney, HCA, or the Public Defender may terminate this MOU upon prior 30-days written notice to the County Executive Officer.

III. The obligations under this MOU are contingent upon the continued availability funds, including federal and state funds, and inclusion of sufficient funding for the services hereunder in the budget approved by the Board of Supervisors.

IV. The Public Defender understands and acknowledges that, as applied to Mental Health Diversion (Penal Code section 1001.36), the reciprocal discovery rules set out in Penal Code section 1054.3 are not applicable. *Jones v. Superior Court* (2004) 115 Cal. App. 4th 48

V. The District Attorney, HCA, and the Public Defender each reserve its respective rights and do not waive its respective rights by entering into and operating under this MOU.

[Signatures]

Todd Spitzer, District Attorney

Sharon Petrosino, Public Defender

Richard Sanchez, Director, HCA

Leon J. Page, County Counsel

By: [Signature] Chief Asst.
1. HCA has assessed the Public Defender’s client under Article 2, Section A of the Rights and Responsibilities of this MOU;
2. HCA has determined the Public Defender’s client is eligible for the HCA program(s); and,
3. the HCA program(s) has existing capacity to provide the treatment to the Public Defender’s client.

2. HCA shall provide regular reports to the court, the Public Defender, and the District Attorney on the Public Defender client’s progress in a HCA treatment program under this MOU. HCA and the Public Defender shall work in good faith to develop protocols on the content and timing of reports to ensure compliance with this MOU and Penal Code section 1001.36.

General Provisions

I. This MOU applies only to cases where Public Defender is appointed as counsel for a criminal defendant.

II. This MOU is only effective upon approval of the Orange County Board of Supervisors. The District Attorney, HCA, or the Public Defender may terminate this MOU upon prior 30-days written notice to the County Executive Officer.

III. The obligations under this MOU are contingent upon the continued availability funds, including federal and state funds, and inclusion of sufficient funding for the services hereunder in the budget approved by the Board of Supervisors.

IV. The Public Defender understands and acknowledges that, as applied to Mental Health Diversion (Penal Code section 1001.36), the reciprocal discovery rules set out in Penal Code section 1054.3 are not applicable. (Jones v. Superior Court (2004) 115 Cal. App. 4th 48)

V. The District Attorney, HCA, and the Public Defender each reserve its respective rights and do not waive its respective rights by entering into and operating under this MOU.

Todd Spitzer, District Attorney

Sharon Petrosino, Public Defender

Richard Sanchez, Director, HCA

Approved as to Form
Leon J. Page, County Counsel

By: ____________________________

Page 4 of 4
1. HCA has assessed the Public Defender’s client under Article 2, Section A of the Rights and Responsibilities of this MOU;
2. HCA has determined the Public Defender’s client is eligible for the HCA program(s); and,
3. the HCA program(s) has existing capacity to provide the treatment to the Public Defender’s client.

2. HCA shall provide regular reports to the court, the Public Defender, and the District Attorney on the Public Defender client’s progress in a HCA treatment program under this MOU. HCA and the Public Defender shall work in good faith to develop protocols on the content and timing of reports to ensure compliance with this MOU and Penal Code section 1001.36.

**General Provisions**

I. This MOU applies only to cases where Public Defender is appointed as counsel for a criminal defendant.

II. This MOU is only effective upon approval of the Orange County Board of Supervisors. The District Attorney, HCA, or the Public Defender may terminate this MOU upon prior 30-days written notice to the County Executive Officer.

III. The obligations under this MOU are contingent upon the continued availability funds, including federal and state funds, and inclusion of sufficient funding for the services hereunder in the budget approved by the Board of Supervisors.

IV. The Public Defender understands and acknowledges that, as applied to Mental Health Diversion (Penal Code section 1001.36), the reciprocal discovery rules set out in Penal Code section 1054.3 are not applicable. (Jones v. Superior Court (2004) 115 Cal. App. 4th 48)

V. The District Attorney, HCA, and the Public Defender each reserve its respective rights and do not waive its respective rights by entering into and operating under this MOU.

---

Todd Spitzer, District Attorney

Sharon Petrosino, Public Defender

Richard Sanchez, Director, HCA

Approved as to Form

Leon J. Page, County Counsel

By: __________________________
PENAL CODE - PEN
PART 2. OF CRIMINAL PROCEDURE [681 - 1620] (Part 2 enacted 1872.)

TITLE 6. PLEADINGS AND PROCEEDINGS BEFORE TRIAL [976 - 1054.10] (Heading of Title 6 amended by Stats. 1951, Ch. 1674.)

CHAPTER 2.8A. Diversion of individuals with Mental Disorders [1001.35 - 1001.36] (Chapter 2.8A added by Stats. 2018, Ch. 34, Sec. 24.)

1001.36. (a) On an accusatory pleading alleging the commission of a misdemeanor or felony offense, the court may, after considering the positions of the defense and prosecution, grant pretrial diversion to a defendant pursuant to this section if the defendant meets all of the requirements specified in paragraph (1) of subdivision (b).

(b) (1) Pretrial diversion may be granted pursuant to this section if all of the following criteria are met:
(A) The court is satisfied that the defendant suffers from a mental disorder as identified in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders, including, but not limited to, bipolar disorder, schizophrenia, schizoaffective disorder, or post-traumatic stress disorder, but excluding antisocial personality disorder, borderline personality disorder, and pedophilia. Evidence of the defendant's mental disorder shall be provided by the defense and shall include a recent diagnosis by a qualified mental health expert. In opining that a defendant suffers from a qualifying disorder, the qualified mental health expert may rely on an examination of the defendant, the defendant's medical records, arrest reports, or any other relevant evidence.
(B) The court is satisfied that the defendant's mental disorder was a significant factor in the commission of the charged offense. A court may conclude that a defendant's mental disorder was a significant factor in the commission of the charged offense if, after reviewing any relevant and credible evidence, including, but not limited to, police reports, preliminary hearing transcripts, witness statements, statements by the defendant's mental health treatment provider, medical records, records or reports by qualified medical experts, or evidence that the defendant displayed symptoms consistent with the relevant mental disorder at or near the time of the offense, the court concludes that the defendant's mental disorder substantially contributed to the defendant's involvement in the commission of the offense.
(C) In the opinion of a qualified mental health expert, the defendant's symptoms of the mental disorder motivating the criminal behavior would respond to mental health treatment.
(D) The defendant consents to diversion and waives his or her right to a speedy trial, unless a defendant has been found to be an appropriate candidate for diversion in lieu of commitment pursuant to clause (iv) of subparagraph (B) paragraph (1) of subdivision (a) of Section 1370 and, as a result of his or her mental incompetence, cannot consent to diversion or give a knowing and intelligent waiver of his or her right to a speedy trial.
(E) The defendant agrees to comply with treatment as a condition of diversion.
(F) The court is satisfied that the defendant will not pose an unreasonable risk of danger to public safety, as defined in Section 1170.18, if treated in the community. The court may consider the opinions of the district attorney, the defense, or a qualified mental health expert, and may consider the defendant's violence and criminal history, the current charged offense, and any other factors that the court deems appropriate.
(2) A defendant may not be placed into a diversion program, pursuant to this section, for the following current charged offenses:
(A) Murder or voluntary manslaughter.
(B) An offense for which a person, if convicted, would be required to register pursuant to Section 290, except for a violation of Section 314.
(C) Rape.

(D) Lewd or lascivious act on a child under 14 years of age.

(E) Assault with intent to commit rape, sodomy, or oral copulation, in violation of Section 220.

(F) Commission of rape or sexual penetration in concert with another person, in violation of Section 264.1.

(G) Continuous sexual abuse of a child, in violation of Section 288.5.

(H) A violation of subdivision (b) or (c) of Section 11418.

(3) At any stage of the proceedings, the court may require the defendant to make a prima facie showing that the defendant will meet the minimum requirements of eligibility for diversion and that the defendant and the offense are suitable for diversion. The hearing on the prima facie showing shall be informal and may proceed on offers of proof, reliable hearsay, and argument of counsel. If a prima facie showing is not made, the court may summarily deny the request for diversion or grant any other relief as may be deemed appropriate.

(c) As used in this chapter, "pretrial diversion" means the postponement of prosecution, either temporarily or permanently, at any point in the judicial process from the point at which the accused is charged until adjudication, to allow the defendant to undergo mental health treatment, subject to all of the following:

(1) (A) The court is satisfied that the recommended inpatient or outpatient program of mental health treatment will meet the specialized mental health treatment needs of the defendant.

(B) The defendant may be referred to a program of mental health treatment utilizing existing inpatient or outpatient mental health resources. Before approving a proposed treatment program, the court shall consider the request of the defense, the request of the prosecution, the needs of the defendant, and the interests of the community. The treatment may be procured using private or public funds, and a referral may be made to a county mental health agency, existing collaborative courts, or assisted outpatient treatment only if that entity has agreed to accept responsibility for the treatment of the defendant, and mental health services are provided only to the extent that resources are available and the defendant is eligible for those services.

(2) The provider of the mental health treatment program in which the defendant has been placed shall provide regular reports to the court, the defense, and the prosecutor on the defendant's progress in treatment.

(3) The period during which criminal proceedings against the defendant may be diverted shall be no longer than two years.

(4) Upon request, the court shall conduct a hearing to determine whether restitution, as defined in subdivision (f) of Section 1202.4, is owed to any victim as a result of the diverted offense and, if owed, order its payment during the period of diversion. However, a defendant's inability to pay restitution due to indigence or mental disorder shall not be grounds for denial of diversion or a finding that the defendant has failed to comply with the terms of diversion.

(d) If any of the following circumstances exists, the court shall, after notice to the defendant, defense counsel, and the prosecution, hold a hearing to determine whether the criminal proceedings should be reinstated, whether the treatment should be modified, or whether the defendant should be conserved and referred to the conservatorship investigator of the county of commitment to initiate conservatorship proceedings for the defendant pursuant to Chapter 3 (commencing with Section 5350) of Part 1 of Division 5 of the Welfare and Institutions Code:

(1) The defendant is charged with an additional misdemeanor allegedly committed during the pretrial diversion and that reflects the defendant's propensity for violence.

(2) The defendant is charged with an additional felony allegedly committed during the pretrial diversion.

(3) The defendant is engaged in criminal conduct rendering him or her unsuitable for diversion.

(4) Based on the opinion of a qualified mental health expert whom the court may deem appropriate, either of the following circumstances exists:

(A) The defendant is performing unsatisfactorily in the assigned program.

(B) The defendant is gravely disabled, as defined in subparagraph (B) of paragraph (1) of subdivision (h) of Section 5008 of the Welfare and Institutions Code. A defendant shall only be conserved and referred to the conservatorship investigator pursuant to this finding.

(e) If the defendant has performed satisfactorily in diversion, at the end of the period of diversion, the court shall dismiss the defendant's criminal charges that were the subject of the criminal proceedings at the time of the initial diversion. A court may conclude that the defendant has performed satisfactorily if the defendant has substantially complied with the requirements of diversion, has avoided significant new violations of law unrelated to the defendant's mental health condition, and has a plan in place for long-term mental health care. If the court dismisses the charges, the clerk of the court shall file a record with the Department of Justice indicating the
disposition of the case diverted pursuant to this section. Upon successful completion of diversion, if the court dismisses the charges, the arrest upon which the diversion was based shall be deemed never to have occurred, and the court shall order access to the record of the arrest restricted in accordance with Section 1001.9, except as specified in subdivisions (g) and (h). The defendant who successfully completes diversion may indicate in response to any question concerning his or her prior criminal record that he or she was not arrested or diverted for the offense, except as specified in subdivision (g).

(f) A record pertaining to an arrest resulting in successful completion of diversion, or any record generated as a result of the defendant's application for or participation in diversion, shall not, without the defendant's consent, be used in any way that could result in the denial of any employment, benefit, license, or certificate.

(g) The defendant shall be advised that, regardless of his or her completion of diversion, both of the following apply:

(1) The arrest upon which the diversion was based may be disclosed by the Department of Justice to any peace officer application request and that, notwithstanding subdivision (f), this section does not relieve the defendant of the obligation to disclose the arrest in response to any direct question contained in any questionnaire or application for a position as a peace officer, as defined in Section 830.

(2) An order to seal records pertaining to an arrest made pursuant to this section has no effect on a criminal justice agency's ability to access and use those sealed records and information regarding sealed arrests, as described in Section 851.92.

(h) A finding that the defendant suffers from a mental disorder, any progress reports concerning the defendant's treatment, or any other records related to a mental disorder that were created as a result of participation in, or completion of, diversion pursuant to this section or for use at a hearing on the defendant's eligibility for diversion under this section may not be used in any other proceeding without the defendant's consent, unless that information is relevant evidence that is admissible under the standards described in paragraph (2) of subdivision (f) of Section 28 of Article I of the California Constitution. However, when determining whether to exercise its discretion to grant diversion under this section, a court may consider previous records of participation in diversion under this section.

(i) The county agency administering the diversion, the defendant's mental health treatment providers, the public guardian or conservator, and the court shall, to the extent not prohibited by federal law, have access to the defendant's medical and psychological records, including progress reports, during the defendant's time in diversion, as needed, for the purpose of providing care and treatment and monitoring treatment for diversion or conservatorship.

(Amended by Stats. 2018, Ch. 1005, Sec. 1. (SB 215) Effective January 1, 2019.)
February 20, 2019

To: Clerk of the Board of Supervisors
From: Frank Kim, County Executive Officer
Subject: Exception to Rule 21

The County Executive Office is requesting a Supplemental Agenda Staff Report for the February 26, 2019, Board Hearing.

Agency: District Attorney
Subject: Agreement with City of Laguna Hills for Prosecution Services
Districts: 5

Reason for supplemental: This Agenda Staff Report needs to be heard as soon as possible to avoid Prosecution Services contract expiration with the City of Laguna Hills. This Agenda Staff Report and attachments were finalized after the filing deadline to the Clerk of the Board.

Concur:
Chairwoman Lisa A. Bartlett, Supervisor, Fifth District

cc: Board of Supervisors
County Executive Office
County Counsel
SUPPLEMENTAL AGENDA ITEM
AGENDA STAFF REPORT

MEETING DATE: 02/26/19
LEGAL ENTITY TAKING ACTION: Board of Supervisors
BOARD OF SUPERVISORS DISTRICT(S): 5
SUBMITTING AGENCY/DEPARTMENT: District Attorney
DEPARTMENT HEAD REVIEW: Department Head Signature
DEPARTMENT CONTACT PERSON(S): Melanie Eustice (714) 347-8443
Shawn Nelson (714) 347-8402

SUBJECT: Agreement with City of Laguna Hills for Prosecution Services

Budgeted: Yes  Current Year Cost: N/A  Annual Cost: N/A

Staffing Impact: No  # of Positions: 

Current Fiscal Year Revenue: See Financial Impact Statement  Sole Source: No
Funding Source: Other: 100% (Fees)  County Audit in last 3 years: No

Prior Board Action: 01/28/2014 #8

RECOMMENDED ACTION(S)
Authorize execution of the attached agreement with the City of Laguna Hills for Prosecution Services for the five-year period from March 1, 2019, through February 28, 2024, and direct Clerk of the Board to return the duplicates to the Office of the District Attorney.

SUMMARY:
Approving a five-year agreement with the City of Laguna Hills will allow the Office of the District Attorney to provide services for a fee for the prosecution of violators of city ordinances pursuant to Sections 51301 and 51302 of the Government Code.
BACKGROUND INFORMATION:

The Office of the District Attorney (DA) provides Prosecution Services to various cities within Orange County for the violators of city ordinances pursuant to Sections 51301 and 51302 of the Government Code. These Agreements provide for each City to refer suspected violations of its criminal ordinances by persons 18 years or older to the DA for a determination as to whether a criminal complaint should be filed. Due to the DA’s on-site staff location at the criminal courts and expertise in criminal law, the DA offers this service as a more efficient alternative for the cities than utilizing their own city attorney or other legal staff. Each City will pay the County $258.15 for each referral. In the event that the services performed for a referral are in excess of one day, or if a City requests the DA to file, answer, and litigate appeals of convictions of violations of City ordinances, the DA will charge $158.15 per hour of attorney time and $100 per hour of clerical support’s time. The fees are based on a cost study prepared by the Auditor-Controller and are updated annually, as stipulated in the agreement. During FY 2017-18, 70 referrals were made to the DA’s office, totaling revenue of approximately $19,000.

On January 28, 2014, the Board approved a five-year agreement with the City of Laguna Hills for the term of March 1, 2014, through February 28, 2019.

The DA requests to authorize the execution of the five-year agreement for Prosecution Services with the City of Laguna Hills for the period from March 1, 2019, through February 28, 2024, and the Clerk of the Board to return the duplicates for the contract to the Office of the District Attorney.

Subcontractors
This Agreement does not include subcontracts or pass through agreements to other providers. See Attachment D for Contract Summary Form.

This Agreement is being presented to the Board in less than 30 days prior to the commencement of this Agreement due to the time needed for the City to approve the Agreement through their internal review processes. This Agreement was approved by the City of Laguna Hills’ City Council on February 12, 2019.

FINANCIAL IMPACT:

Appropriations and Revenue related to this Agreement are included in District Attorney’s FY 2018-19 Budget and will be included in the budgeting process for future years. Each City will pay the County $258.15 for each referral. In the event that the services performed for a referral are in excess of one day, or if a City requests the DA to file, answer, and litigate appeals of convictions of violations of City ordinances, the DA will charge $158.15 per hour of attorney time and $100 per hour of clerical support’s time.

STAFFING IMPACT:

N/A

ATTACHMENT(S):

Attachment A – Agreement with City of Laguna Hills
Attachment B – Agreement Laguna Hills Redline
Attachment C – Government Code Sections 51301 and 51302
Attachment D – Contract Summary Form
AGREEMENT FOR PROSECUTION SERVICES

THIS AGREEMENT FOR PROSECUTION SERVICES ("AGREEMENT") made and entered into by and between the COUNTY OF ORANGE, CALIFORNIA, a political subdivision of the State of California and a body politic and corporate (hereinafter designated as "COUNTY"), and the City of Laguna Hills, a municipal corporation, located in the County of Orange (hereinafter designated as "CITY").

In consideration of the terms herein COUNTY and CITY agree as follows:

1. COUNTY, through its District Attorney (DA), shall render to CITY such services as may be required to prosecute criminal violations of CITY's ordinances by persons 18 years of age or older in courts.

2. COUNTY shall provide all staffing and supervision necessary to prosecute criminal violations of CITY ordinances as contemplated by this AGREEMENT.

3. The final authority for rendition of services, standards of performance, and other matters incident to the performance of prosecution services and the control of COUNTY personnel shall remain in COUNTY. The DA shall have the exclusive authority to file a criminal complaint and conduct the prosecution of any criminal violations of CITY ordinances.

4. CITY, its officers, agents, and employees are not liable for the direct payment of any salaries, wages, or other compensation to any COUNTY personnel performing services under this Agreement. CITY, its officer, agents, and employees are not liable for compensation or indemnity to any COUNTY employee for any injury or sickness arising out of his or her employment.

5. COUNTY, its officers, agents, and employees are not liable for the acts or omissions of CITY, its officers, agents, or employees.

6. CITY and COUNTY shall hold each other harmless from liability for acts or omissions under this Agreement of the officers, agents, and employees of the other.

7. (a) **Referrals for Complaints.** CITY may refer suspected violations of its criminal ordinances by persons 18 years or older to the DA for a determination as to whether a criminal complaint should be filed.

CITY shall pay COUNTY the sum of $258.15 for each referral, without regard to the issuance of a complaint. For the purposes of this AGREEMENT a "referral" means an occurrence constituting an alleged violation of one or more CITY ordinances by one person. CITY shall provide investigation materials, reports, copies of its ordinances, and additional records or information as requested by the DA. In cases where prosecution is authorized by the DA, the DA will draft and prepare the complaint. When "not guilty" pleas are entered on such complaints, the DA will prosecute such cases through trial without further charge, except as provided in Paragraph 7(c) herein. CITY shall pay COUNTY $158.15 per hour of attorney time and $100.00 per hour of clerical support's time for services performed under this paragraph for prosecutions in excess of one day.
(b) **Additional Trial Prosecution.** Trials on CITY citations and trials on CITY complaints not issued pursuant to Paragraph 7(a) above will not be tried by the DA without the consent of the Assistant DA in charge of the branch service the judicial district in which CITY is located. The DA may determine that CITY ordinances of exclusively local concern should be prosecuted by the CITY attorney. Except as provide in Paragraph 7(c), CITY shall pay COUNTY $258.15 for each DA prosecution of a CITY citation or a CITY complaint not issued pursuant to Paragraph 7(a). For the purposes of this paragraph, “DA prosecution” means the DA’s appearance in Court after witnesses are subpoenaed on the first setting for a defendant’s trial. Where CITY asks the DA to request dismissal before subpoenas have been issued and the DA agrees to that request, no charge will be made. As prosecutor, the DA has the right to control the disposition of all complaints, trials, and appeals herein described in accordance with the duties of his office. CITY will provide investigation materials, reports, citations, copies of its ordinances, and additional records or information necessary for trial as requested by the DA. CITY shall pay COUNTY $158.15 per hour of attorney time and $100.00 per hour of clerical support’s time for services performed under this paragraph for prosecutions in excess of one day.

(c) **Appeals.** CITY may request the DA to file, answer, and litigate appeals of convictions of violations of CITY’s ordinances. CITY shall pay COUNTY $158.15 per hour of attorney time and $100.00 per hour of clerical support’s time for services performed under this paragraph.

(d) The rates for services specified in this AGREEMENT shall be reviewed annually by COUNTY’s Auditor-Controller and, if it is determined that a change in the rate is necessary to reflect change in costs to COUNTY, COUNTY shall notify CITY of such change prior to June 30, and the change shall become effective the following July 1.

8. Within ten days following the end of each calendar quarter, COUNTY shall render to CITY a statement of the cost of services performed under this AGREEMENT, and CITY shall pay COUNTY the amount charged within 20 days after receipt of such statement. Such statement shall consist of the number of referrals for complaints, additional trial prosecutions, and itemized appeals. If such payment is not received by COUNTY within 30 days after rendition of billing, COUNTY may satisfy such indebtedness from any funds of CITY on deposit with COUNTY without giving further notice to CITY of COUNTY’s intention to do so.

9. Upon execution of this AGREEMENT, CITY shall provide two copies of its municipal ordinances to the DA. CITY shall further provide the DA with complete details on any additions, deletions, or corrections to the municipal ordinances that may occur during the term of this AGREEMENT.

10. This AGREEMENT shall continue in full force and effect for a five-year period, commencing March 1, 2019, and terminating on February 28, 2024, provided that either party may terminate the AGREEMENT upon 30 days’ written notice. CITY shall pay all compensation for services rendered under this AGREEMENT irrespective of the termination or expiration of this AGREEMENT. Termination of this AGREEMENT shall not affect the duties of the parties already initiated that extend beyond the termination of this AGREEMENT.
IN WITNESS WHEREOF, COUNTY has caused this AGREEMENT to be executed by the Chairman of its Board of Supervisors and Attested by the Clerk of said Board, and CITY has caused this AGREEMENT to be executed by its Mayor and attested by the CITY Clerk on the dates set opposite their respective signatures.

Dated: _____________, 2019

“COUNTY”
COUNTY OF ORANGE, a political subdivision of the State of California

By ______________________________
Chairman of the Board of Supervisors

“CITY”
City of Laguna Hills
A municipal corporation

By: ______________________________
Dore J. Gilbert, M.D., Mayor
Dated: February 12, 2019

ATTEST:
By: ______________________________
Melissa Au-Yeung, City Clerk
Dated: February 12, 2019
AGREEMENT FOR PROSECUTION SERVICES

THIS AGREEMENT FOR PROSECUTION SERVICES (“AGREEMENT”), made and entered into by and between the COUNTY OF ORANGE, CALIFORNIA, a political subdivision of the State of California and a body politic and corporate (hereinafter designated as “COUNTY”), and the City of Laguna Hills, a municipal corporation, located in the County of Orange (hereinafter designated as “CITY”).

WITHNESSETH

In consideration of the terms, covenants, conditions, and promises to be kept, performed and observed by the parties, hereto, it is agreed herein COUNTY and CITY agree as follows:

1. COUNTY, through its District Attorney (DA) and deputies, officers and employees of his department, shall render to CITY such services as may be required to prosecute criminal violations of CITY’s ordinances by persons 18 years of age or older in courts.

2. For the purpose of performing said functions, COUNTY shall provide all staffing and supervision necessary to prosecute criminal violations of CITY ordinances as contemplated by this AGREEMENT and maintain the services to be rendered hereunder.

3. The final authority for rendition of services, standards of performance, and other matters incident to the performance of prosecution services and the control of COUNTY personnel shall remain in COUNTY. The DA shall have the exclusive authority to file a criminal complaint and conduct the prosecution of any criminal violations of CITY ordinances. The final authority for rendition of services, standards of performance, and other matters incident to the performance of such services and the control of COUNTY personnel shall remain in COUNTY. The DA shall have the sole exclusive authority to determine whether a criminal complaint shall be filed and the conduct of legal proceedings with respect to any suspected violations of the CITY criminal ordinances and with respect to any additional prosecutions handles by the DA for CITY.

4. CITY, its officers, agents, and employees are not liable for the direct payment of any salaries, wages, or other compensation to any COUNTY personnel performing services hereunder. CITY, its officer, agents, and employees are not liable for compensation or indemnity to any COUNTY employee for any injury or sickness arising out of his or her employment. CITY shall not be called upon to assume any liability for the direct payment of any salaries, wages or other compensation to any COUNTY personnel performing services hereunder or any liability other than that provided for by this Agreement. Except as herein otherwise specified, CITY shall not be liable for compensation or indemnity to any COUNTY employee for any injury or sickness arising out of his employment.

5. COUNTY, its officers, agents, and employees are not liable for the acts or omissions of CITY, its officers, agents, or employees. COUNTY, its officers, agents and employees shall not be deemed to have assumed any liability for the negligence of CITY or any of its officers or employees; and CITY shall hold COUNTY, its officers and employees harmless from any and all claims for damages resulting therefrom.
6. **Both** CITY and COUNTY shall hold each other harmless from liability for acts or omissions under this Agreement of the officers, agents, and employees of the other.

7. (a) **Referrals for Complaints.** CITY may refer suspected violations of its criminal ordinances by persons 18 years or older to the DA for a determination as to whether a criminal complaint should be filed.

   CITY shall pay COUNTY the sum of $258.15 for each referral, without regard to the issuance of a complaint. For the purposes of this AGREEMENT a “referral” means an occurrence constituting an alleged violation of one or more CITY ordinances by one person. CITY shall provide investigation materials, reports, copies of its ordinances, and additional records or information as requested by the DA. In cases where prosecution is authorized by the DA, the DA will draft and prepare the complaint. When “not guilty” pleas are entered on such complaints, the DA will prosecute such cases through trial without further charge, except as provided in Paragraph 7(c) herein. CITY shall pay COUNTY $158.15 per hour of attorney time and $100.00 per hour of clerical support’s time for services performed under this paragraph for prosecutions in excess of one day. CITY agrees to pay COUNTY the sum of two hundred thirty four dollars ($234.00) for each referral, without regard to the issuance of a complaint. As used herein, a “referral” means an occurrence constituting an alleged violation of one or more CITY ordinances by one person. CITY shall provide investigation materials, reports, copies of its ordinances, and additional evidence as requested by the DA. In cases where prosecution is authorized by the DA, the DA will draft and prepare the complaint. When “not guilty” pleas are entered on such complaints, the DA will prosecute such cases through trial without further charge, except as provided in Paragraph 7(c) herein.

   (b) **Additional Trial Prosecution.** Trials on CITY citations and trials on CITY complaints not issued pursuant to Paragraph 7(a) above will not be tried by the DA without the consent of the Assistant DA in charge of the branch service the judicial district in which CITY is located. The DA may determine that CITY ordinances of exclusively local concern should be prosecuted by the CITY attorney. Except as provide in Paragraph 7(c), CITY shall pay COUNTY $258.15 for each DA prosecution of a CITY citation or a CITY complaint not issued pursuant to Paragraph 7(a). For the purposes of this paragraph, “DA prosecution” means the DA’s appearance in Court after witnesses are subpoenaed on the first setting for a defendant’s trial. Where CITY asks the DA to request dismissal before subpoenas have been issued and the DA agrees to that request, no charge will be made. As prosecutor, the DA has the right to control the disposition of all complaints, trials, and appeals herein described in accordance with the duties of his office. CITY will provide investigation materials, reports, citations, copies of its ordinances, and additional records or information necessary for trial as requested by the DA. CITY shall pay COUNTY $158.15 per hour of attorney time and $100.00 per hour of clerical support’s time for services performed under this paragraph for prosecutions in excess of one day. Trials on CITY citations and trials on CITY complaints not issued pursuant to Paragraph 7(a) above will not be tried by the DA without the consent of the Assistant DA in charge of the branch service the judicial district in which CITY is located. The DA has the right to determine that special ordinances of exclusively local concern should be prosecuted by the city attorney. Except as provide in Paragraph 7(c) below, CITY agrees to pay COUNTY two hundred thirty four dollars ($234.00) for each of a CITY citation and each prosecution of a CITY complaint not issued pursuant to Paragraph 7(a). As used herein, “prosecution” means the DA’s appearance in Court after witnesses are
subpoenaed on the first setting for one Defendant’s trial. Where CITY asks the DA to request dismissal before subpoenas have been issued, nor charge will be made. As prosecutor, the DA has the right to control the disposition of all complaints, trials, and appeals herein described in accordance with the duties of his office. CITY will provide investigation, reports, citations, copies of its ordinances, and additional evidence necessary for trial as requested by the DA.

(c) Appeals. CITY may request the DA to file, answer, and litigate appeals of convictions of violations of CITY’s ordinances. CITY shall pay COUNTY $158.15 per hour of attorney time and $100.00 per hour of clerical support’s time for services performed under this paragraph. Special Costs. CITY may request the DA to file, answer, and litigate appeals of convictions of violations of CITY’s ordinances. CITY agrees to pay COUNTY for such services on appeals the sum of one hundred fifty dollars ($150.00) per hour of attorney time and eighty four dollars ($84.00) per hour of clerical support’s time. In addition to charges described in paragraphs 7 (a) and 7 (b) herein, CITY agrees to pay COUNTY for all time, including preparation spent in prosecutions in excess of one day, at the rate specified in this paragraph.

(d) The rates for services specified in this AGREEMENT shall be reviewed annually by COUNTY’s Auditor-Controller and, if it is determined that a change in the rate is necessary to reflect change in costs to COUNTY, COUNTY shall notify CITY of such change prior to June 30, and the change shall become effective the following July 1st. The above rates shall be reviewed annually by COUNTY’s Auditor-Controller and, if it is determined that a change in the rate is necessary to reflect change in costs to COUNTY, COUNTY shall notify CITY of such change prior to June 30th, and the change shall become effective the following July 1st.

8. Within ten (10) days following the end of each calendar quarter, COUNTY shall render to CITY a statement of the cost of services performed under this AGREEMENT, and CITY shall pay COUNTY therefore amount charged within 20 days after receipt of such statement. Such statement shall consist of the number of referrals for complaints, additional trial prosecutions, and itemized appeals. If such payment is not received by COUNTY within 30 days after rendition of billing, COUNTY may satisfy such indebtedness from any funds of CITY on deposit with COUNTY without giving further notice to CITY of COUNTY’s intention to do so.

9. Upon execution of this AGREEMENT, CITY shall provide two copies of its municipal ordinances to the DA. CITY shall further provide the DA with complete details on any additions, deletions, or corrections to the municipal ordinances that may occur during the term of this AGREEMENT.

10. This AGREEMENT shall continue in full force and effect for a five-year period, commencing March 1, 2019 and terminating on February 28, 2024, provided that either party may terminate the AGREEMENT upon 30 days’ written notice. CITY shall pay all compensation for services rendered under this AGREEMENT irrespective of the termination or expiration of this AGREEMENT. Termination of this AGREEMENT shall not affect the duties of the parties already initiated that extend beyond the termination of this AGREEMENT.

IN WITNESS WHEREOF, COUNTY has caused this AGREEMENT to be executed by the Chairman of its Board of Supervisors and Attested by the Clerk of said Board, and CITY has caused this AGREEMENT to be
executed by its Mayor and attested by the CITY Clerk on the dates set opposite their respective signatures.

Dated: ____________________ 2019 2013

“COUNTY”
COUNTY OF ORANGE, a political subdivision of the State of California

By ________________________________
Chairman of the Board of Supervisors

SIGNED AND CERTIFIED THAT A COPY OF THIS DOCUMENT HAS BEEN DELIVERED TO THE CHAIRMAN OF BOARD

____________________________
Robin Stieler
Clerk of the Board of Supervisors of Orange County, California

“CITY”

APPROVED AS TO FORM

____________________________
Nicholas S. Chrisos LEON J. PAGE, COUNTY COUNSEL
A municipal corporation

By: ________________________________
Dated: ___________________________ 2019 2013

By: ________________________________
Dated: ___________________________ 2019 2013

Mayor

ATTEST:

By: ________________________________
City Clerk

Dated: ___________________________ 2019 2013
A board of supervisors may contract with a city, governed under general laws or charter, within the county, and the city legislative body may contract with the county for the performance by its appropriate officers and employees, of city functions.

The term of the contract shall not exceed five years but may continue for periods of five years each, unless the legislative body of either local agency votes not to continue the term at a meeting more than one year before the expiration of any five–year period.
SUMMARY OF SIGNIFICANT CHANGES

1. Revenue Fee: Increase from $234.00 per hour to $258.15 per hour. Page 2

SUBCONTRACTORS

This contract does not currently include subcontractors or pass through to other providers.

CONTRACT OPERATING EXPENSES

Revenue Fees of $258.15 per referral, which consists of $158.15 per hour of attorney time and $100.00 per hour of clerical support’s time.
County Executive Office

Memorandum

February 20, 2019

To: Clerk of the Board of Supervisors

From: Frank Kim, County Executive Officer

Subject: Exception to Rule 21

The County Executive Office is requesting a Supplemental Agenda Staff Report for the February 26, 2019, Board Hearing.

Agency: Sheriff-Coroner Department
Subject: Resolution Ratifying Proclamation of Local Emergency Winter Storm Events
Districts: All Districts

Reason for supplemental: This Agenda Staff Report needs to be heard as soon as possible to initiate the process to receive matching funds from the Cal OES and Federal Emergency Management Administration to aid County agencies with the damage recovery and recover some of the expenses associated with services provided during and after the 2019 Winter Storm Events. This Agenda Staff Report and attachments were finalized after the filing deadline to the Clerk of the Board.

Concur: Chairwoman Lisa A. Bartlett, Supervisor, Fifth District

cc: Board of Supervisors
    County Executive Office
    County Counsel
AGENDA STAFF REPORT

MEETING DATE: 2/26/19
LEGAL ENTITY TAKING ACTION: Board of Supervisors
BOARD OF SUPERVISORS DISTRICT(S): All Districts
SUBMITTING AGENCY/DEPARTMENT: Sheriff-Coroner Department
DEPARTMENT HEAD REVIEW: [Signature]
DEPARTMENT CONTACT PERSON(S): Jeff Hallock (714) 647-1804
                                      Donna Boston (714) 628-7059

SUBJECT: Resolution Ratifying Proclamation of Local Emergency Winter Storm Events

CEO CONCUR  COUNTY COUNSEL REVIEW  CLERK OF THE BOARD
[Signature]  [Signature]  Discussion 3 Votes Board Majority

Budgeted: N/A  Current Year Cost: See Financial Impact Section  Annual Cost: N/A
Staffing Impact: N/A  # of Positions:  Sole Source: N/A
Current Fiscal Year Revenue: N/A  Funding Source: N/A  County Audit in last 3 years: N/A
Prior Board Action: N/A

RECOMMENDED ACTION(S)

1. Adopt resolution ratifying the Chairwoman of the Emergency Management Council’s Proclamation of Local Emergency of the 2019 Winter Storm Events.

2. Direct staff to agendize this item on the Board of Supervisors meeting agenda for April 23, 2019, to consider whether to continue the Proclamation of Emergency in effect, pursuant to Government Code Section 8630 and Section 3-1-6 (a) of the Codified Ordinances of the County of Orange, which requires review of the need for continuing the local emergency at least every 60 days until the emergency is terminated.

SUMMARY:
Adopting the resolution to ratify the proclamation will allow the County to obtain necessary resources to mitigate the damages caused by the 2019 Winter Storm Events, and the continued agendizing of the item will ensure that damages are appropriately addressed before ending the proclamation.
BACKGROUND INFORMATION:

Beginning in mid-January 2019, a series of major winter storms impacted a majority of Southern California, including Orange County. Beginning on February 13, 2019, an atmospheric river storm system descended upon Orange County negatively impacting areas already heavily impacted by the earlier storms. Public agencies, businesses and thousands of residents were impacted by the storm event through power outages, debris flows, slope failures, road closures, school impacts, debris removal, swift water rescues, flood channel overflows, water facility failures, public building, infrastructure damage and private property damage. Additional storms are predicted and may worsen the situation in Orange County.

Orange County Operational Area (Operational Area) jurisdictions have been assessing damage assessments related to the winter storm event, with estimates at the time of this report reaching well into the millions of dollars in damage. On February 20, 2019, Supervisor Bartlett, the Chairwoman of the Emergency Management Council, proclaimed the existence of a local emergency in Orange County. Pursuant to Government Code Section 8630 and Section 3-1-6 (a) of the Codified Ordinance of the County of Orange, the Proclamation of Local Emergency of the 2019 Winter Storm Events is presented to the Board of Supervisors (Board) for ratification.

Public Assistance efforts with California Governor’s Office of Emergency Services (Cal OES) have begun. The County of Orange (County) has requested that the governor declare a State of Emergency and make all relevant funds available to the County and all eligible organizations. The County also requests that the governor request the President of the United States make a Presidential declaration of emergency for the County, and make all relevant funds available including but not limited to: California Disaster Assistance Act funds, State Private Nonprofit Organization Assistance Program funds, Stafford Act, Federal Highways Administration funds and the Small Business Administration funding.

Once the Initial Damage Assessment Process has been approved by Cal OES, the Orange County Sheriff-Coroner Department (Sheriff), Emergency Management Division will coordinate the arrival and escort of preliminary damage assessment teams from the state and federal agencies. The Board will be kept apprised of this process by the Sheriff’s Emergency Management Division. This item will be agendized on April 23, 2019 to determine if the Board may declare the termination of this emergency situation.

FINANCIAL IMPACT:

Initial damage reports from the Operational Area place the damage caused by the winter storm well into the millions of dollars. By receiving matching funds from the Cal OES and Federal Emergency Management Administration, County agencies will be able to assist the community with damage recovery and recover some of the expenses associated with services provided during and after the 2019 Winter Storm Events.

STAFFING IMPACT:

N/A

ATTACHMENT(S):

Attachment A - Proclamation of Local Emergency of the 2019 Winter Storm Events
Attachment B - Government Code Section 8630 and Section 3-1-6 (a) of the Codified Ordinances of the County of Orange
Attachment C - Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1988
Attachment D - Draft Resolution
COUNTY OF ORANGE
STATE OF CALIFORNIA
PROCLAMATION OF A LOCAL EMERGENCY

REQUEST FOR GOVERNOR TO DECLARE A STATE OF EMERGENCY

WHEREAS, in accordance with Government Code Section 8630, a local emergency may be proclaimed by the Board of Supervisors of the County of Orange or by an official so designated by ordinance adopted by the Board of Supervisors; and

WHEREAS, Section 3-1-6(a) of the Codified Ordinances of the County of Orange provides that the Director of Emergency Services shall request the Board of Supervisors to proclaim a local emergency when the Board of Supervisors is in session and the Chair of the Emergency Management Council to so proclaim when the Board of Supervisors is not in session; and

WHEREAS, the Board of Supervisors is not currently in session, and the Director of Emergency Services has requested that the Chair of the Emergency Management Council proclaim a local emergency; and

WHEREAS, beginning on February 13, 2019, an atmospheric river storm system descended upon Orange County negatively impacting areas already heavily impacted by a series of severe winter storms which had occurred mid-January 2019 and had involved lower than normal temperatures, high winds and significant rainfall.

WHEREAS, Orange County is predicted to experience additional storms which will likely cause further damage and add rainfall to already saturated areas; and
WHEREAS, the experienced storms have caused or are likely to cause flooding, debris flows, mudslides, slope failure, erosion, wind damage, tidal surge, road failures, utility outages, levee failure, damage to flood control systems, economic and agriculture damage, damage to other essential infrastructure and related damage throughout the geographic territory of the County of Orange which experienced historical flooding due to atmospheric river conditions; and

WHEREAS, existing conditions have led to the evacuation of residents residing in canyon communities, communities located near areas recently burned by fires that are subject to flooding or debris flows, and other communities which experienced flooding and damage; and

WHEREAS, existing conditions, coupled with projected weather conditions, collectively constitute conditions of extreme peril to the safety of persons and property within the territorial limits of the County of Orange which conditions are or are likely to be beyond the control of the services, personnel, equipment and facilities of the County of Orange, and require the combined forces of other political subdivisions to combat;

IT IS HEREBY PROCLAIMED that a local emergency exists within the geographic area of the County of Orange;

IT IS FURTHER PROCLAIMED AND ORDERED that as of this date all County departments and agencies take those actions, measures and steps deemed necessary to assure the safety and welfare of Orange County residents and property, including requesting mutual aid to the extent such aid is necessary.

ACCORDINGLY, THE CHAIR OF THE BOARD OF SUPERVISORS
ACTING AS THE CHAIR OF THE EMERGENCY MANAGEMENT COUNCIL
HEREBY REQUESTS that the Governor proclaim a State of Emergency and make all relevant funds available to the County of Orange and all eligible community members and businesses, including but not limited to California Disaster Assistance Act funds and State Private Nonprofit Organization Assistance Program funds, and that the Governor request that the President of the United States make a Presidential Declaration of Emergency in and for the County of Orange and make all relevant program and funds available to the County of Orange and all eligible community members and businesses, including, but not limited to the Stafford Act, Federal Highways Administration funds, and aid provided by the Small Business Administration.

Date: 2/20/19

Signed: [Signature]

Lisa A. Bartlett,
Chairwoman of the Board of Supervisors Acting as the Chair of the Emergency Management Council
County of Orange
Government Code Section 8630

GOVERNMENT CODE - GOV
TITLE 2. GOVERNMENT OF THE STATE OF CALIFORNIA [8000 - 22980]
(Title 2 enacted by Stats. 1943, Ch. 134.)

DIVISION 1. GENERAL [8000 - 8899.24]
(Division 1 enacted by Stats. 1943, Ch. 134.)

CHAPTER 7. California Emergency Services Act [8550 - 8668]
(Chapter 7 added by Stats. 1970, Ch. 1454.)

ARTICLE 14. Local Emergency [8630 - 8634]
(Article 14 added by Stats. 1970, Ch. 1454.

Effective: January 1, 2019


§ 8630. Proclamation by local governing body; review; termination

Currentness

(a) A local emergency may be proclaimed only by the governing body of a city, county, or city and county, or by an official designated by ordinance adopted by that governing body.

(b) Whenever a local emergency is proclaimed by an official designated by ordinance, the local emergency shall not remain in effect for a period in excess of seven days unless it has been ratified by the governing body.

(c) The governing body shall review the need for continuing the local emergency at least once every 60 days until the governing body terminates the local emergency.

(d) The governing body shall proclaim the termination of the local emergency at the earliest possible date that conditions warrant.

Credits: (Added by Stats.1970, c. 1454, p. 2859, § 2. Amended by Stats.1995, c. 110 (A.B.441), § 1; Stats.2009, c. 6 (A.B.486), § 1; Stats.2018, c. 395 (A.B.2898), § 1, eff. Jan. 1, 2019.)
Section 3-1-6 (a) of the Codified Ordinances of the County of Orange

- Sec. 3-1-6. - Director of Emergency Services.

By resolution adopted pursuant to this Article, the Board of Supervisors shall designate a Director of Emergency Services. The Director of Emergency Services shall have the following duties and powers:

(a) **Emergency proclamations.**

1. **Board in session.** If the Board of Supervisors is in session, the Director of Emergency Services shall request that the Board of Supervisors proclaim the existence or threatened existence of a "local emergency," and recommend that the Board of Supervisors request that the Governor proclaim a "state of emergency" when, in the opinion of the Director of Emergency Services, the locally available resources are inadequate to cope with the emergency.

2. **Board not in session—Emergency Management Council Chair.** In the event the Board of Supervisors is not in session, the Director of Emergency Services shall request the Chair of the Emergency Management Council to issue a proclamation of local emergency. The Chair of the Emergency Management Council is hereby designated to proclaim a local emergency when the Board of Supervisors is not in session.

3. **Board not in session—Emergency Management Council Chair absent.** In the event Emergency Management Council Chair and alternate are absent, the Chair of the Board of Supervisors, or successor as set forth in the applicable Board resolution, is hereby designated to proclaim a local emergency when requested by the Director of Emergency Services when the Board is not in session.

4. **Director of Emergency Services.** The Director of Emergency Services is hereby designated to proclaim a local emergency when the board is not in session, and when the Emergency Management Council Chair and alternate, and all members of the Board of Supervisors are absent.

(b) **Emergency powers.** In the event of a proclamation of local emergency as herein provided, the proclamation of a state of emergency by the Governor or the Director of the State Office of Emergency Services, or the existence of a "state of war emergency," the Director of Emergency Services is hereby empowered to:

1. **Rules and regulations.** Make and issue rules and regulations on matters reasonably related to the protection of life and property as affected by such emergency.

2. **Obtain supplies and equipment.** Obtain vital supplies, equipment, and any other properties found lacking and needed for the protection of life and property and to bind the county for the fair value thereof and, if required immediately, to commandeer the same for public use.

3. **Command the aid of citizens.** Require emergency services of any County officer or employee and, in the event of a state of war emergency, state of emergency, or local emergency, command the aid of as many citizens of this County as (s)he deems necessary in the execution of his/her duties; such persons shall be entitled to all privileges, benefits, and immunities as are provided by state law for disaster services workers.

4. **Requisition county personnel and material.** Requisition necessary personnel or material of any County agency/department.

(c) **Initial emergency measures.** All emergency measures taken by the Director of Emergency Services prior to the issuance of an official proclamation of emergency, or prior to any decision of the Board not to issue such proclamation, shall be legal and binding upon the County.

(Ord. No. 98-4, §§ 1, 2, 4-14-98; Ord. No. 98-15, § 25, 12-8-98)

This information is available on the following link:

RESOLUTION OF THE BOARD OF SUPERVISORS OF
ORANGE COUNTY, CALIFORNIA
February 26, 2019

WHEREAS, Government Code section 8630 and section 3-1-6(a) of the Codified
Ordinances of the County of Orange empower the Director of Emergency Services to request the
Chair of the Emergency Management Council to proclaim the existence or threatened existence
of a local emergency, subject to ratification by the Board of Supervisors within seven days; and

WHEREAS, beginning on February 13, 2019, an atmospheric river storm system
descended upon Orange County impacting areas already heavily impacted by a series of severe
winter storms which had occurred mid-January 2019 and had involved lower than normal
temperatures, high winds and significant rainfall; and

WHEREAS, Orange County is predicted to experience additional storms which will
likely cause further damage and add rainfall to already saturated areas; and

WHEREAS, the experienced storms have caused or are likely to cause health and safety
risks to homeless populations, flooding, debris flows, mudslides, slope failure, erosion, wind
damage, harbor damage, tidal surge, road failures, utility outages, levee failure, damage to flood
control systems, economic and agricultural damage, damage to other essential infrastructure and
related damage throughout the geographic territory of the County of Orange with particularly
high potential for risk to persons and property in the areas burned by recent fires; and

WHEREAS, the predicted storms are likely to cause additional such risks and damage;
and

WHEREAS, the locally available resources are inadequate to cope with the emergency
and such conditions are beyond the control of the services, personnel, equipment, and facilities
of the County, requiring the combined forces of other political subdivisions to combat; and

WHEREAS, at the request of the Director of Emergency Services, the Chair of the
Emergency Management Council, on February 20, 2019, did proclaim the existence of local emergency within the County of Orange; and

WHEREAS, the Board of Supervisors does hereby find that the aforesaid conditions of extreme peril did warrant and necessitate the proclamation of the existence of a local emergency; and

WHEREAS, the Board of Supervisors also finds a local emergency does exist and shall be deemed to continue to exist until its termination is proclaimed by the Board of Supervisors;

NOW, THEREFORE, BE IT RESOLVED that the Orange County Board of Supervisors does hereby ratify the Chair of the Emergency Management Council’s February 20, 2019, Proclamation of a Local Emergency.

BE IT FURTHER RESOLVED that all powers, functions, and duties of the emergency organization of the County of Orange shall be vested in such persons as prescribed by federal and state law, by County ordinances and resolutions, and by the Orange County Emergency Plan now in effect.

BE IT FURTHER RESOLVED that all County departments and agencies take those actions, measures, and steps deemed necessary to assure the safety and welfare of Orange County citizens and property, including requesting mutual aid to the extent such aid is necessary.
February 21, 2019

To: Clerk of the Board of Supervisors

From: Frank Kim, County Executive Officer

Subject: Exception to Rule 21

The County Executive Office is requesting a Supplemental Agenda Staff Report for the February 26, 2019, Board Hearing.

Agency: County Executive Office
Subject: Health Care Agency Leases for 200 W. Santa Ana Blvd. Santa Ana
Districts: 1

Reason for supplemental: This Agenda Staff Report needs to be heard as soon as possible to secure a consolidated lease for housing additional Health Care Agency, Behavioral Health Services staff. This Agenda Staff Report and attachments were finalized after the filing deadline to the Clerk of the Board.

Concur:
Chairwoman Lisa A. Bartlett, Supervisor, Fifth District

cc: Board of Supervisors
    County Executive Office
    County Counsel
SUPPLEMENTAL AGENDA ITEM
AGENDA STAFF REPORT

MEETING DATE: 02/26/19
LEGAL ENTITY TAKING ACTION: Board of Supervisors
BOARD OF SUPERVISORS DISTRICT(S): 1
SUBMITTING AGENCY/DEPARTMENT: County Executive Office
DEPARTMENT HEAD REVIEW:
DEPARTMENT CONTACT PERSON(S): Thomas A. Miller (714) 834-6019
                                           Richard Sanchez (714) 834-2830

SUBJECT: Health Care Agency Leases for 200 W. Santa Ana Blvd. Santa Ana

Budgeted: N/A  Current Year Cost: N/A  Annual Cost: See Financial Impact Section

Staffing Impact: N/A  # of Positions: N/A
Current Fiscal Year Revenue: N/A
Funding Source: GF: 9%, FED: 9%, State: 67% Fee/Other: 15%

Sole Source: N/A
County Audit in last 3 years: No
Prior Board Action: 06/07/2011 #35, 06/07/2011 #36, 10/02/2001 #37

RECOMMENDED ACTION(S)

1. Find that the project is categorically exempt from the California Environmental Quality Act, Class 1 (Existing Facilities), pursuant to CEQA guidelines, section 15301.

2. Approve the Lease Agreement with CF Santana LLC, a Delaware limited liability company, for 78,609 rentable square feet of office space located on the first, sixth, eighth, ninth and tenth floors of 200 West Santa Ana Boulevard in Santa Ana for 15 years, for Health Care Agency use.

3. Authorize the Chief Real Estate Officer or designee to execute subsequent lease amendments that make non-monetary and/or monetary changes which do not increase County costs by more than $50,000 per year.
SUMMARY:
Approval of the Lease with CF Santana LLC, a Delaware limited liability company, will provide the Health Care Agency with 78,609 rentable square feet of office space at 200 West Santa Ana Boulevard in the City of Santa Ana for 15 years for Behavioral Health Services, Birth and Death Registration, California Children Services, Custodian of Records and Information Technology.

BACKGROUND INFORMATION:
On October 2, 2001, the Board of Supervisors (Board) approved a 10-year Lease agreement (Initial Lease) for 35,481 rentable square foot (RSF) of office space on the first and ninth floors of 200 West Santa Ana Boulevard, Santa Ana (Building) to support the Health Care Agency's (HCA) Behavioral Health Services, California Children Services and Custodian of Records. The Lease was amended on June 7, 2011, (Amendment), to provide continuity of service at this site through October 31, 2021.

On June 7, 2011, the same date that the Board approved the Amendment, the Board approved another 10-year Lease agreement (Secondary Lease) for 37,307 RSF of office space on the sixth, eighth and tenth floors of the Building to support HCA’s Information Technology, Purchasing and Accounting Divisions.

CEO Real Estate is now proposing a new 15-year Lease (Proposed Lease) that will consolidate the Initial Lease and Secondary Lease, both of which have a few years remaining on their terms, and will also expand the total space leased by an additional 5,821 RSF on the first floor of the Building (Expansion Premises), for a total leased premises of 78,609 RSF (Premises). The Expansion Premises is necessary due to program growth requiring additional space for HCA Correctional Health Services staff and to internally relocate Custodian of Records staff. The Expansion Premises will be delivered in “turn-key” condition, according to a mutually agreed upon plan and finish schedule, saving HCA an estimated nearly $500,000 in tenant improvement costs for the Expansion Premises. The commencement of the Proposed Lease (Lease Commencement), will be based upon substantial completion of the tenant improvements, which is anticipated to be on or near July 1, 2019. Upon Lease Commencement, the Initial Lease and Secondary Lease will be terminated by agreement of the parties as set forth in the Proposed Lease.

Under the terms of the Proposed Lease, the first year’s rental rate is at $1.88 per RSF full-service gross, with no pass through for Building operating expenses. This rental rate, which is below market for the Civic Center area, is a blended rental rate for the first two years, taking into consideration the existing rental schedules currently in place for the Initial Lease and Secondary Lease, and current market rent for the Expansion Premises. The monthly rental rate adjusts upwards materially at year two to current market rental rate for the entire Premises, and will increase each year thereafter at three percent.

A significant additional benefit of the Proposed Lease includes an allowance to HCA from the owner of $943,000 (County Allowance). At HCA’s sole and absolute discretion the County Allowance may be used within 60 months of the Lease Commencement, and used interchangeably at HCA’s option for construction of the Premises including, but not limited to purchase and installation of telephone and data cabling and equipment and supplemental HVAC system, furniture, fixtures and/or equipment, space planning and design costs and County property management, rent offset, County of Orange General Fund offset, and/or converted to cash. The only limitation to HCA is that they may not convert the County Allowance to cash or to a rent credit during the initial 12 months of the Proposed Lease term.
The Proposed Lease allows HCA any time after October 31, 2021, to reduce the County’s square footage up to 43,312 RSF, with evidence of loss of program funding, and by providing a six-month written notice. The Proposed Lease also provides additional flexibility to HCA, by allowing any of its programs the ability to have the right of first offer to lease any additional space on the first, sixth, seventh and ninth floors of the building, as long as certain terms of the lease are met. In addition, there are two five-year options to extend the lease.

The Proposed Lease is consistent with HCA’s program goals and allows the flexibility that the programs require for future years.

**Compliance with CEQA:** The proposed project is Categorically Exempt (Class 1) from the provisions of CEQA pursuant to Section 15301, because it involves leasing of existing private facilities for health care services involving negligible or no expansion of use beyond that currently existing.

**FINANCIAL IMPACT:**

Appropriations for this Agreement will be included in the FY 2019-20 Recommended Budget and will be included in the budgeting process for future years. The proposed lease allows HCA to reduce the County’s square footage up to 43,312 RSF after October 31, 2021.

**200 W. Santa Ana Blvd.**

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The funding percentages are an aggregate of funding sources within multiple programs anticipated to utilize this lease agreement.

**STAFFING IMPACT:**

N/A

**REVIEWING AGENCY:**

Health Care Agency

**ATTACHMENT(S):**

Attachment A - Lease
Attachment B - Acquisition Questionnaire
Attachment C - Lease Summary
LEASE

THIS IS A LEASE AGREEMENT (hereinafter referred to as “Lease”) made 2019 ( "Effective Date"), by and between CF SANTANA LLC (hereinafter referred to as “Lessor”) and the COUNTY OF ORANGE, a political subdivision of the State of California (hereinafter referred to as “County”) without regard to number and gender. The Lessor and County may individually be referred to herein as a “Party,” or collectively as the “Parties.”

RECITALS

I. Pursuant to a lease dated October 2, 2001, County leased from Lessor approximately 35,481 rentable square feet (“RSF”) located on portions of the first (1st) and ninth (9th) floors at 200 West Santa Ana Boulevard in Santa Ana, California (“Building”). The term of the lease commenced on November 1, 2001 and was to terminate on October 31, 2011. The Parties amended the lease on June 7, 2011 to extend the term of the lease through October 31, 2021.

II. Pursuant to a lease dated June 7, 2011, County leased from Lessor approximately 37,307 RSF located on portions of the sixth (6th), eighth (8th) and entire tenth (10th) floors at the Building. The term of the lease commenced on November 1, 2011 and is scheduled to expire on October 31, 2021.

III. The Parties agree, consistent with this Lease, that County shall lease from Lessor, which will expand the total space leased by the County, under the two leases referenced in Recitals I and II herein (collectively, the “Existing Leases”) and adding approximately 5,821 RSF located on the first (1st) floor of the Building (“Expansion Premises”), to increase the total space leased by the County at the Building to 78,609 RSF (“Premises”). Upon the Commencement Date of this Lease, the Existing Leases will be terminated.

1. DEFINITIONS (1.0 SA)

“Board of Supervisors” means the Board of Supervisors of the County of Orange, a political subdivision of the State of California.

“Chief Real Estate Officer” means the Chief Real Estate Officer, County Executive Office, County of Orange, or upon written notice to Lessor, such other entity as shall be designated by the County Executive Officer.

“County Counsel” means the County Counsel, County of Orange, or designee, or upon written notice to Lessor, such other person or entity as shall be designated by the County Executive Officer or the Board of Supervisors.

“County Executive Officer” means the County Executive Officer, County Executive Office, County of Orange, or designee, or upon written notice to Lessor, such other person or entity as shall be designated by the Board of Supervisors.

“CEO/Office of Risk Management” means the Risk Manager, County Executive Office, Risk
Management, County of Orange, or designee, or upon written notice to Lessor, such other person or entity as shall be designated by the County Executive Officer or the Board of Supervisors.

"Health Care Agency" means the Health Care Agency, County of Orange, or designee, or upon written notice to Lessor, such other person or entity as shall be designated by the County Executive Officer or the Board of Supervisors.

"HCA/Facilities Operations Manager" means the Manager, Health Care Agency/Facilities Operations, County of Orange, or designee, or upon written notice to Lessor, such other person or entity as shall be designated by the Director of the Health Care Agency.

2. **PREMISES (1.1 NA)**

Lessor leases to County that certain property described in Exhibit A and shown on Exhibit B, which exhibits are attached hereto and by reference made a part hereof, of approximately 78,609 RSF in the Building (the "Premises"), together with non-exclusive, in common use of elevators, stairways, washrooms, hallways, driveways for vehicle ingress and egress, pedestrian walkways, other facilities and common areas appurtenant to the Premises.

County acknowledges and agrees that County is currently in possession of the Existing Premises (defined below), and shall remain in possession of the Existing Premises in its current, "as is" condition; provided that the foregoing shall not release Lessor from any of its maintenance and repair obligations under this Lease (or under the Existing Leases). The "Existing Premises" means all portions of the Premises that are not part of the Expansion Premises (i.e., all of the space leased by County under the Existing Leases).

3. **USE (1.2 NA)**

County shall use the Premises for administrative and office purposes and any other lawful purpose that is incidental to administrative and office use. County shall not use the Premises or any portion thereof for any other purpose, or for any illegal or unlawful purpose and will not cause or permit a nuisance to be created or maintained therein.

4. **PARKING (1.3 NA)**

Throughout the Term of the Lease and including any Extension Term pursuant to Clause 7 (OPTION TO EXTEND TERM), County shall have (a) the exclusive right, without additional charge, to use fifteen (15) parking spaces and (b) the non-exclusive right to use three hundred and twenty-three (323) parking passes for parking on unreserved parking spaces in the "Parking Facilities" serving the Building as shown on Exhibit B. County’s use of said parking spaces shall be subject to all reasonable rules and regulations which are prescribed by Lessor from time to time for the efficient operation of the Parking Facilities for the Building and provided to County in writing.

County’s visitors may park in the Parking Facilities on a space-available basis, upon payment of the prevailing fee for visitor parking in the Parking Facilities. County shall have the right to purchase from Lessor, at Lessor’s then prevailing rate, Parking Validations (defined below), to be used only by County’s visitors for parking in the Parking Facilities without charge. County shall receive a twenty percent (20%) discount on the initial one-thousand dollars ($1000.00) worth (on an undiscounted basis) of Parking Validations purchased during any calendar month. "Parking Validations" means
validations, in such form as Lessor, in its sole but good faith discretion, shall offer from time to time, permitting persons using such validations to park in the Parking Facilities for specified periods of time without charge (i.e., a 20-minute validation would permit parking without charge in the applicable Parking Facility for a period up to 20 minutes).

In addition to said parking that is provided to County, Lessor shall also provide parking for disabled persons ("ADA Spaces") in accordance with the Americans with Disabilities Act, Section 7102 of the California Uniform Building Code and the applicable codes and/or ordinances relating to parking for disabled persons as established by the local jurisdiction in which the Premises is located where the provisions of such local codes and/or ordinances exceed or supersede the State requirements.

5. TERMINATION OF PRIOR AGREEMENTS (1.4 SA)

It is mutually agreed that, upon the Commencement Date (defined below), this Lease shall terminate and supersede any prior agreement between the Parties hereto covering all or any portion of the Premises including that certain lease GA1254-161, dated October 2, 2001 and subsequently amended on June 7, 2011 and lease GA1254-278, dated June 7, 2011, EXCEPT for those terms of any such prior agreement relating to continuing obligations for events during the terms of any such prior agreement between the Parties hereto, including but not limited to indemnification, and that all personal property and/or equipment (e.g., fixtures, partitions, counters, shelving) attached to and/or placed upon any portion of the Premises by County pursuant to the terms of any prior agreement between the Parties hereto shall remain the personal property of County, who shall have the right to remove same.

6. TERM (1.5 SA)

The Term of this Lease ("Term") shall be for fifteen (15) years, commencing on the date ("Commencement Date") that is the later of: (a) the first day of the first full calendar month following the Substantial Completion Date, as defined in Clause 13 (CONSTRUCTION) below and (b) July 1, 2019.

The Parties agree that the Commencement Date of this Lease will be confirmed in writing by either Party upon demand by the other.

7. OPTIONS TO EXTEND TERM (1.6 NA)

Provided there is no current County Default under this Lease (as further defined in Clause 29 DEFAULTS AND REMEDIES), either at the time of the exercise of the Option or upon commencement of the Extension Term, County shall have the option to extend the term (the "Option(s)") of this Lease for two (2) five (5) year periods (each an "Extension Term") beyond the Term, to be exercised by the Chief Real Estate Officer and memorialized in an amendment on the same terms and conditions of this Lease except this Clause 7, Clause 10 (RENT ADJUSTMENT), the Fair Market Rental Value which shall be negotiated at the time of the Option(s) as set forth below and shall not exceed fair market value at the time of the renewal notice, and such other terms and conditions clearly not applicable during the Extension Term. County shall give Lessor written notice of its intent to exercise its Option(s) to extend the Term no sooner than twelve (12) months and no later than nine (9) months prior to the Lease termination date. Time is of the essence in the exercise of the Option(s). The Option(s) shall be personal to County and shall not be exercised by any assignee or sublessee of County. "Term" as used in this Lease shall mean the initial Term and the Extension Term(s) if the Option(s) are duly exercised.
Mutual Agreement. Lessor and County shall have thirty (30) days after County exercises any Option to extend in which to agree on the Fair Market Rental Value, as defined below, for the Extension Term. If Lessor and County are unable to agree on the Fair Market Rental Value for the option period within such thirty (30) days, the provisions of the Arbitration section below shall apply.

Factors for Determining Fair Market Rental Value. The “Fair Market Rental Value” of the Premises (or applicable portion thereof) shall be the amount that a willing, comparable, new (i.e., non-renewal), non-equity tenant would pay, and that a willing landlord of a comparable space in comparable buildings in the Civic Center and Central Orange County submarkets in Orange County would accept at arms’ length. Appropriate consideration shall be given to (A) the annual rental rate per rentable square foot; (B) the definition of rentable square feet (and the applicable measurement standard) for purposes of comparing the rate; (C) location, quality and age of the Premises and the improvements therein; (D) the financial condition (e.g., creditworthiness) of Tenant; (E) escalation (including type, base year and stop) and abatement provisions reflecting free rent and/or no rent during the period of construction; (F) brokerage commissions, if any; (G) length of the lease Term; (H) size and location (including floor level) of the Premises; (I) building standard work letter and/or tenant improvement allowance, if any (taking into consideration the cost of anticipated tenant improvements as compared to market tenant improvement allowances), provided, however, the Fair Market Rental Value shall not include the unique value to County of any tenant improvements or any alterations made by County; (J) condition of space; (K) lease takeover/assumptions; (L) moving expenses and other concessions; (M) extent of services to be provided; (N) distinctions between “gross”, “modified gross” and “net” leases; (O) base year figures or expense stops for escalation purposes for both operating costs and ad valorem/real estate taxes; (P) the time the particular rental rate under consideration becomes or is to become effective; (Q) applicable caps on the amount of real estate taxes and assessments passed through to tenants; and (R) the Rent shall increase during the Extension Term every twelve (12) months by three percent (3%), calculated by multiplying the Rent then in effect by 1.03; and (S) other generally applicable conditions of tenancy for the space in question. During the Extension Term. County shall obtain the same rent and other benefits that Lessor would otherwise give to any comparable prospective tenant.

Arbitration. If after the expiration of the thirty (30) day period described in the Mutual Agreement section above, the Parties have not mutually agreed on the Fair Market Rental Value for the Extension Term in question, then the Parties shall use the following method to determine the Fair Market Rental Value (the “Three Broker Method”): within ten (10) business days after the expiration of such thirty-day period, each Party shall give written notice to the other setting forth the name and address of a “Broker” (as hereinafter defined) selected by such Party who has agreed to act in such capacity, to determine the Fair Market Rental Value. If either Party has failed to select a Broker as aforesaid within the above described ten (10) business day period, the Fair Market Rental Value shall be determined by the Broker selected by the other Party. Each Broker shall thereupon independently make his or her determinations of the Fair Market Rental Value within twenty (20) days after the appointment of the second Broker. If the two Brokers’ determinations are not the same, but the higher of such two values is not more than one hundred five percent (105%) of the lower of them, then the Fair Market Rental Value shall be deemed to be the average of the two values. If the higher of such two values is more than one hundred five percent (105%) of the lower of them, then the two Brokers shall jointly appoint a third Broker within ten (10) days after the second of the two determinations described above has been rendered. The third Broker shall independently make his determination of the Fair Market Rental Value within twenty (20) days after his appointment. The highest and the lowest determinations of value among the three Brokers shall be disregarded and the remaining determination shall be deemed
to be the Fair Market Rental Value.

Broker. For the purpose of this Clause 7, "Broker" shall mean a real estate broker or salesperson licensed in California, who has been regularly engaged in such capacity in the business of commercial office leasing in the Orange County market for at least ten (10) years immediately preceding such person’s appointment hereunder. Each Party shall pay for the cost of its Broker and one half of the cost of the third Broker.

8. OPTION TO TERMINATE LEASE (1.7 SA) - intentionally omitted

9. RENT (1.8 NA)

County agrees to pay to Lessor as rent for the Premises the sum of One-Hundred Forty-seven Thousand seven Hundred forty-one and Nine Cents ($147,741.09) per month commencing on the Commencement Date and adjusted annually pursuant to the Rent Adjustment schedule in Clause 10 (RENT ADJUSTMENT) below.

To obtain rent payments and payment of any amounts hereunder Lessor (or Lessor’s designee) shall submit to County’s HCA/Facilities Operations Manager, in a form acceptable to said HCA/Facilities Operations Manager, a written claim for said rent payments.

Payment shall be due and payable within twenty (20) days after the later of the following:

A. The first day of the month following the month earned; or

B. Receipt of Lessor’s written claim by the HCA/Facilities Operations Manager.

Should County occupy the Premises before the Commencement Date, Lessor shall be entitled to pro rata Rent for the period of occupancy and the amount of space occupied prior to the beginning of the Lease Term based upon the monthly Rent installment above. Said Rent shall be included in the Rent claim submitted by Lessor for the first full month of the Lease Term and shall be paid by County at the time of payment for said month.

County shall also pay Additional Rent in accordance with this Clause. “Additional Rent” consists of additional utility charges under Clause 20 (UTILITIES), additional parking charges under Clause 4 (PARKING), and additional repair and maintenance charges under Clause 19 (REPAIR, MAINTENANCE, AND JANITORIAL SERVICES) of this Lease.

10. RENT ADJUSTMENT (1.9 SA)

The monthly rent payable by County for the Premises ("Rent") shall be automatically adjusted as follows:

<table>
<thead>
<tr>
<th>Months</th>
<th>Monthly Rental</th>
<th>Per Square Foot</th>
</tr>
</thead>
<tbody>
<tr>
<td>13-24</td>
<td>$153,279.70</td>
<td>$1.95</td>
</tr>
<tr>
<td>25-36</td>
<td>$185,661.65</td>
<td>$2.36</td>
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<tr>
<td>37-48</td>
<td>$206,798.30</td>
<td>$2.63</td>
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<tr>
<td>49-60</td>
<td>$213,002.25</td>
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<tr>
<td>61-72</td>
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<td>$2.79</td>
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<tr>
<td></td>
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<td>----</td>
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</tr>
<tr>
<td>73-84</td>
<td>$225,974.09</td>
<td>$2.87</td>
</tr>
<tr>
<td>85-96</td>
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<td>97-108</td>
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<td>121-132</td>
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<tr>
<td>133 - 144</td>
<td>$261,965.90</td>
<td>$3.33</td>
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<tr>
<td>145 - 156</td>
<td>$269,824.88</td>
<td>$3.43</td>
</tr>
<tr>
<td>157 - 168</td>
<td>$277,919.63</td>
<td>$3.54</td>
</tr>
<tr>
<td>169 - 180</td>
<td>$286,257.22</td>
<td>$3.64</td>
</tr>
</tbody>
</table>

The monthly Rent, above, is the amount to be paid by County. The “Per Square Foot” rate, above, is an estimate for statistical purposes only and for no other purpose.

11. **ADJUSTMENT FOR COST OF LESSOR SERVICES (2.0 SA) - intentionally omitted**

12. **RIGHT OF FIRST OFFER; RIGHT TO EXPAND (2.1 NA) - intentionally omitted**

13. **CONSTRUCTION (2.2 NA)**

A. **Completion Schedule:** Lessor hereby agrees to complete, at Lessor’s expense, on or before the Target Substantial Completion Date, the alterations, repairs, and other work with respect to the Expansion Premises (the “Work”) as defined and in accordance with the plans and specifications attached hereto and made a part hereof as Exhibit C), in order for County to have sufficient time to commence moving furniture, fixtures and equipment into the Expansion Premises in preparation of occupancy. Lessor agrees to use commercially reasonable efforts to cause the Expansion Premises to be Substantially Complete (as defined below) on or before the Target Substantial Completion Date (defined below). Without limiting any available remedies to County, if Substantial Completion fails to occur on or prior to the Late Substantial Completion Date (defined below), County shall have the option, after notice to Lessor as set forth in Clause 16 (ALTERATIONS), below, to complete the Work and deduct the cost thereof, including labor, materials, contractor’s overhead and an administrative charge equal to ten percent (10%) of the cost of the Work completed by County) from any Rent payable hereunder. The “**Target Substantial Completion Date**” is July 1, 2019, provided that such date shall be extended on a day for day basis by each day of delay caused by or resulting from Force Majeure Delays and/or County Delays (as such terms are defined below). The “**Late Substantial Completion Date**” is September 1, 2019, provided that such date shall be extended on a day for day basis by each day of delay caused by or resulting from Force Majeure Delays and/or County Delays (as such terms are defined below).

B. **County Remedies:** If the Substantial Completion fails to occur on or prior to the Late Substantial Completion Date, Lessor shall be obligated to pay a penalty to County of Five-Hundred dollars ($500) per day for the period from the Late Substantial Completion Date through the day prior to the date on which Substantial Completion occurs. The Parties agree that this amount is a reasonable and fair assessment of the County’s damages in such a situation. Notwithstanding the foregoing, in the event that Lessor’s performance of the Work causes a material disruption in the ability of County to use the Premises for its intended purposes including failing to maintain a safe place of employment or any circumstances
which require the County to vacate any substantial portion of the Premises, County shall be entitled to pursue all available remedies at law or equity and pursuant to this Lease (as further defined in Clause 29 (DEFAULTS AND REMEDIES)).

C. **Approvals**: All planning and architectural/design costs required to accomplish the Work shall be Lessor’s responsibility and shall be approved by HCA/Facilities Operations Manager. Such approvals will not be unreasonably withheld, conditioned or delayed and if a written disapproval of any request by Lessor is not received within five (5) working days after submission, such request shall be deemed approved. Lessor shall have the right, without liability, to stop construction pending receipt of any approval (which shall be deemed a County Delay), provided that Lessor has given County prior written notice that it intends to stop construction pending receipt of any such approval. Such approvals by the HCA/Facilities Operations Manager shall not relieve Lessor of the responsibility for complying with all applicable codes and construction requirements, nor of obtaining necessary permits or approvals from the authorities of proper jurisdiction.

D. **Punch List**: Upon Substantial Completion (as defined below) of the Work, Lessor shall request the HCA/Facilities Operations Manager approval and acceptance of such Work, which approval will not be unreasonably withheld, conditioned or delayed. Said approval shall be manifested by letter from the HCA/Facilities Operations Manager (the “Work Acceptance Letter”), and may be subject to completion of items on a “punch list,” which shall be generated by County and included in the Work Acceptance Letter. County shall not be required to send the Work Acceptance Letter until County is satisfied that the Work has reached Substantial Completion (other than punch list items, if any) pursuant to this Lease, in County’s reasonable discretion. As used in this Clause 13(D), “Substantial Completion” means that the Work shall have been completed in accordance with the provisions of this Lease and any mutually approved plans and specifications, such that the Premises may be fully occupied and ready for operation by County for the intended purposes, evidenced by signed off permits for such Work which have been issued in connection with such Work, subject to any “punch list” items, if any.

In the event County’s approval and acceptance of the Work is given along with a punch list, Lessor shall use commercially reasonable efforts to complete all punch list items within twenty-one (21) days following receipt of the Work Acceptance Letter. Should the items on the punch list not be completed within twenty-one (21) days other than as a result of actions (or inactions) of County or events of Force Majeure, Lessor shall be obligated to pay a penalty to County of Two-Hundred fifty dollars ($250) per day for the period from the Substantial Completion Date through the date that all punch list items have been completed or County shall have the option to complete the punch list items and deduct the cost thereof, including labor, materials, and overhead from any rent payable.

E. **Final Improvement Date**: The “Final Improvement Date” means Lessor’s completion of the Work as determined by County and as evidenced by the Work Acceptance Letter, and completion of the items set forth in the punch list set forth in the Work Acceptance Letter (if any). The determination of whether the Final Improvement Date has occurred will be made in County’s reasonable discretion.

F. **Project Management Oversight**: County may, at County’s option, select a project manager
or construction manager, at County’s sole discretion, cost and expense, to assist in County’s oversight of the Work (the “Project Manager”). The Project Manager will represent the County’s best interest during the construction of the Work to confirm that the Work is being performed pursuant to the terms of this Lease and will act as the liaison between Lessor and County in all items that are subject to approval by County as provided in Clause 13(C) above.

G. **County Alterations to Work:** The Parties agree that should County make alterations or revisions to the Work, (“County Alterations”) and such County Alterations cause the County Improvement Costs to exceed the County Allowance, County will reimburse Lessor for the cost of any County Alterations to the extent such County Alterations cause the County Improvement Costs to exceed the County Allowance in accordance with Clause 61(A) (COUNTY ALLOWANCE).

H. **Performance of Work:** Lessor agrees that any improvement being constructed by, or under the direction of, Lessor shall be constructed in substantial compliance with County approved plans and if and to the extent applicable, in compliance with the requirements of California Public Contract Code Section 22000 et seq., which requires those improvements to be constructed as if such improvements had been constructed under the direction and supervision, or under the authority, of County. In partial satisfaction of the requirements of Section 22000 et seq., if applicable: (a) Lessor shall be required to secure the faithful performance of construction and completion of construction of the improvement by appropriate contractor’s bonds as required by the California Public Contracts Code and shall require its contractor or contractors to pay the prevailing rate of per diem wages for work of a similar character in the locality of the County and not less than the general prevailing rate of per diem wages for holiday and overtime work, as provided in Clause 31 (LABOR CODE COMPLIANCE) of this Lease; (b) Lessor shall publicly advertise for bids for such improvements, as provided in Orange County Codified Ordinances 1-8-1 et seq., and shall provide County a list of all bids received for the contract; and (c) thereafter, with the prior written approval of County as to the winning bid, Lessor shall award the contract or contracts for such improvements.

I. **Force Majeure Delay:** The occurrence of an event of Force Majeure (as defined in Clause 55 (FORCE MAJESTRE) shall excuse the performance by that Party for a period equal to the prevention, delay or stoppage (except the obligations imposed with regard to the payment of Rent and other sums to be paid by County pursuant to this Lease), provided the affected Party gives the other Party notice within thirty (30) days of the event causing the prevention, delay or stoppage. In addition, any failure of the City of Santa Ana to issue (in “ready to issue” form) all permits and approvals required for commencement of the Work on or before April 15, 2019 shall be deemed a Force Majeure Delay.

J. “County Delays” shall mean any delays caused in whole or in part by or through County and/or County’s representatives or contractors, including, without limitation, County’s failure to reasonably cooperate with Lessor in the procurement of required licenses and permits, and/or failure to approve any plans and specifications in a timely fashion to the extent County’s approval is required under the Lease or by any governmental or quasi-governmental authority (in which event, County’s failure to respond within five (5) business days following request by Lessor (together with reasonably complete substantiating documentation, if applicable) shall be deemed a “County Delay”), any material interference
by any of County’s contractor, subcontractors, employees, representatives and/or agents with any obligations to be performed on the part of Lessor, requests for changes or postponements in construction (including postponements required by requested changes), submission of materially inaccurate or incomplete information to Lessor, failure to pay any fees or charges when due, and/or failure to provide any required authorizations in a timely fashion where such authorization is required under the Lease or by any governmental or quasi-governmental authority. In addition, each of the following shall be deemed to be a County Delay: (a) County’s failure to provide completed construction drawings (in a form that is sufficient for Landlord to obtain all required permits and approvals required for commencement and construction of the Work on or before February 19, 2019 or (b) County’s failure to approve and execute this Lease on or before February 26, 2019.

14. PAINTING BY LESSOR (2.3 SA) - intentionally omitted

15. CARPETING BY LESSOR (2.4 SA) - intentionally omitted

16. ALTERATIONS (2.5 NA)

County may make improvements and changes in the Premises, including, but not limited to, the installation of fixtures, partitions, counters, shelving, and equipment as deemed necessary or appropriate by the County in its discretion. It is agreed that any such fixtures, partitions, counters, shelving, or equipment attached to or placed upon the Premises by County shall be considered as personal property of County, as defined below in Clause 34 (COUNTY PROPERTY), who shall have the right, but not the obligation, to remove same. County agrees that the Premises shall be left in as good condition as when received, reasonable wear and tear exempted.

Notwithstanding the foregoing, except for Permitted Alterations (defined below), County shall not have the right to make any Alterations (defined below), without Lessor’s prior written consent which shall not be unreasonably withheld. Any requests for consent shall be presented to Lessor in written form with proposed detailed plans. Any Alterations by County during the term of this Lease shall be done at County’s sole cost and liability and in a good and workmanlike manner, with good and sufficient materials consistent with the quality of the Building, and in compliance with all applicable law. County shall give Lessor not less than ten (10) business days’ notice prior to the commencement of any work in, on or about the Premises, and Lessor shall have the right to post notices of non-responsibility in or on the Premises as provided by law. County shall within a reasonable time after completion thereof furnish Lessor with as-built plans and specifications therefor. “Alterations” means any modification of the improvements on the Premises, which are provided by Lessor or made by County under the terms of this Lease, other than trade fixtures, whether by addition or deletion. “Permitted Alterations” means cosmetic Alterations (such as carpet and paint) that do not affect the structural portions of the Building or any of the Building Systems and are not visible from outside of the Building and that cost less than fifty thousand dollars ($50,000) in any year.

County shall pay, when due, all claims for labor or materials furnished or alleged to have been furnished to or for County at or for use on the Premises, which claims are or may be secured by any mechanics’ materialmen’s or design professionals’ lien against the Premises or any interest therein. If County shall, in good faith, contest the validity of any such lien, claim or demand, then County shall, at its sole expense defend and protect itself, Lessor and the Premises against the same and shall pay and satisfy any such adverse judgment that may be rendered thereon before
the enforcement thereof against the Lessor or the Premises. If County or any person with whom County is engaged in business causes any damage to the Premises during Alterations, County shall upon demand promptly repair all such damage to the reasonable satisfaction of Lessor.

17. COUNTY-REQUESTED ALTERATIONS (2.6 NA)

County through HCA/Facilities Operations Manager, may, during the Term of the Lease, request Lessor to make improvements and changes to the Premises. Any such request must describe the County’s requested improvements and changes in reasonable detail. The granting or conditioning of any such request shall be at Lessor’s sole and absolute discretion and in no event shall Lessor have any obligation whatsoever to grant such request or perform such improvements or changes in the Premises. All plans and working drawings for the improvements and changes, as well as the final work, shall have the written approval of HCA/Facilities Operations Manager. All such improvements and changes shall be made by Lessor, at Lessor’s sole cost, and reimbursed in a lump sum as additional Rent by County upon receipt by County from Lessor of a written claim for such reimbursement. County agrees that said reimbursement may include a five percent (5%) management/construction fee which shall be considered as part of the costs and expenses of the alterations.

County shall have the right to audit said claim and require additional support documentation from Lessor prior to making reimbursement payment. County shall evidence acceptance of such claim by written letter to Lessor. Once Lessor’s claim has been accepted by County as complete and adequate, the claim amount shall be reimbursed by County to Lessor at the same time as the next scheduled monthly Rent payment following the date of written acceptance of said claim.

Lessor agrees that any improvement so being designed and constructed by, or under the direction of Lessor, shall be constructed in substantial compliance with city approved plans and to the extent applicable, in compliance with Federal, California and local laws, including by not limited to, the requirement of California Public Contract Code Section 22000 et seq., and shall require, to the extent applicable, its contractor or subcontractors to pay the prevailing rate of per diem wages for work of a similar character in the locality of the County and not less than the general prevailing rate of per diem wages for work of a similar character in the locality of the County and not less than the general prevailing rate of per diem wages for holiday and overtime work, as provided in Clause 31 (LABOR CODE COMPLIANCE) of this Lease.

Following the written approval to let a contract for improvements, Lessor shall, to the extent applicable, publicly advertise for bids for such improvements, as provided in Orange County Codified Ordinances 181 et seq., and shall provide County a list of all bids received for the contract. Thereafter, with the prior written approval of County as to the winning bid, Lessor shall award the contract or contracts for such improvements. County’s approval of the bid shall be limited to the dollar value only, to ensure it is within County’s budget.

County acknowledges that County will be occupying the Premises during the period that work is performed by Lessor pursuant to this Clause 17, that such work may be performed and the applicable improvements may be constructed during County’s Normal Business Hours (as defined below) and that County may encounter disturbances and interferences in connection with Lessor’s performance of such work and construction of such improvements. Lessor will use reasonable efforts to minimize such disturbances and interferences to County and may perform work and/or construct improvements outside of Normal Business Hours. If Lessor fails to use reasonable efforts to minimize such
disturbances and interferences, County agrees that Lessor may be liable for any such disturbances and/or interferences, and County may be entitled to any rent abatement or other offsets in the event that Lessor's performance of work or construction of improvements pursuant to this Clause 17 disturbs or interferes with County's use of any portion of the Premises. County agrees to reasonably cooperate with Lessor in connection with Lessor's performance of work or construction of improvements pursuant to this Clause 17, and shall provide access to the Premises in connection therewith.

18. ORANGE COUNTY TELECOMMUNICATIONS NETWORK (2.7 NA)

Lessor agrees that County may install, at County's sole cost and expense, telecommunication devices in, on, or around the Premises and Building in accordance with the relevant and applicable County telecommunications network plans and specifications, provided that the provisions of Clause 16 (ALTERATIONS), shall be applicable to such work. It shall be County's responsibility to obtain all governmental permits and/or approvals required for such installation; however, Lessor shall reasonably cooperate with County as necessary or appropriate, to obtain said permits and/or approvals. Additionally, subject to all of the terms and conditions of this Lease and to Lessor's reasonable access control programs, County or County subcontractor has the right to enter the Premises and/or common areas of the Building to maintain, repair or replace the County telecommunications network consistent with said contract between County and service provider. Subject to all of the applicable terms and conditions of this Lease, County may, in its discretion, remove any cabling, conveyance systems or cabling conduit installed by County. When the Lease is terminated, subject to all of the applicable terms and conditions of this Lease, County reserves all rights to remove, in its discretion, any such telecommunication improvements from the Premises and/or Building.

19. REPAIR, MAINTENANCE, AND JANITORIAL SERVICES (2.8 NA)

A. Lessor Services: Lessor shall provide, at its sole cost and expense (except as otherwise provided in this Lease) any and all necessary repair, maintenance and replacement for the Premises as it is affected by the Work done to the ninth floor, and Building (and systems therein) in good order, condition and repair, including, but not limited to, the replacement, repair and maintenance of the structural portions of the Building, the roof of the Building, the parking facilities and all Building systems including the Heating, Ventilation, Air Conditioning ("HVAC") system, the plumbing, electrical and mechanical systems, fire/life safety system, elevators, roof, paving, fire extinguishers, pest control, and whether capital or non-capital (the "Services"), consistent with Exhibit D, which is attached hereto and by reference made a part hereof. Upon request, Lessor shall provide County with a complete copy of the janitorial and any other contracts for Services of an ongoing nature. Any repairs or replacements performed by Lessor must be at least equal in quality and workmanship to the original work and be in accordance with all applicable laws and local permit regulations. The Services shall be made promptly to keep the Premises and the Building in the condition described in this Clause 19. Should Lessor default in its obligations under this clause, the County may exercise those remedies set forth in Clause 19(B) below.

To the extent any required repair or replacement is due to the negligence or intentional misconduct of County's agent, employees, contractors, licensees or business invitees (including, without limitation, by any persons entering upon the Premises to use the services of the County, but specifically excluding repairs or replacements necessitated solely as the result of reasonable wear and tear), such repairs or replacements shall be undertaken by Lessor at County's sole cost and expense. All costs and expenses incurred by Lessor in
undertaking such repairs and replacements shall be reimbursed by County as Additional
Rent within thirty (30) days after Lessor’s delivery to County of written demand therefor.

B. **County Self-Help** County may provide written notice to Lessor of any Lessor failure to
provide Services under Clause 19(A) above or written notice of Lessor’s failure to provide
or commence to provide any of its obligations under Clause 21 (BUILDING AND SAFETY
REQUIREMENTS) below ("Lessor Failure"). Such County notice shall specify such Lessor
Failure and afford Lessor fifteen (15) days to complete the cure of such Lessor Failure,
provided, however, that if the cure cannot reasonably be completed within such time period,
Lessor shall be afforded an additional reasonable amount of time to complete the cure, as
long as Lessor commences the cure within such time period, notifies County of such
commencement with written notice, and diligently pursues same to completion, without
limiting any available remedy to County (including, but not limited to, County Remedies as
defined in Clause 29 (DEFAULTS AND REMEDIES). After such fifteen (15) day period,
if Lessor has not commenced the action required to cure the applicable Lessor Failure,
County may, after a second written notice to Lessor and Lessor’s Lender and an additional
fifteen (15) day cure period during which Lessor may send County a written objection
(describing in reasonable detail its reasons for objecting), at its sole discretion, perform or
arrange for the performance of such Services or such obligations. If such Services or
obligations were required to be provided by Lessor under Clause 19(A) above or Clause 21
(BUILDING AND SAFETY REQUIREMENTS) below and Lessor fails to reimburse
County for the costs incurred by County in connection with such performance within thirty
(30) days after County’s delivery to Lessor of a reasonably detailed statement ("County Self
Help Statement") describing the Services performed by County in reasonable detail,
including a detailed breakdown of the costs incurred together with supporting
documentation, County shall be entitled to deduct an amount equal to the out of pocket cost
incurred by County in taking such action plus an administrative charge of ten percent (10%)
of the cost from the Rent first coming due thereafter ("County Self Help Costs").
Notwithstanding the foregoing, if Lessor fails to object (including a reasonable description
for said objection) to County’s allegation that a Lessor Failure has occurred within fifteen
(15) days after Lessor’s receipt of the second notice referenced above, County shall have no
obligation to deliver a County Self Help Statement prior to deducting the County Self Help
Costs from Rent next coming due under the Lease (and Lessor shall have no right to object to
such deduction).

On the condition that Lessor reasonably objects to County’s allegation that a Lessor Failure
has occurred within fifteen (15) days after Lessor’s receipt of the second notice referenced
above, and if the County Self Help Costs exceed one hundred thousand dollars
($100,000.00), Lessor may deliver a reasonably detailed written objection to such County
Self Help Statement within thirty (30) days after Lessor’s receipt of such County Self Help
Statement, setting forth with reasonable particularity, Lessor’s reasons that no Lessor
Failure occurred. County shall not be entitled to deduct the amount described in the County
Self Help Statement (from the County’s obligations to pay RENT as provided above), and
the matter shall proceed to resolution by the selection of an arbitrator to resolve the
dispute, which arbitrator shall be selected and qualified pursuant to the then current

C. **Warranties** Lessor shall initiate at purchase, and keep in force, all manufacturers’
warranties including extended warranties for all building equipment. When manufacturers’
warranties for the HVAC, roof and elevator expire, Lessor will contract with an industry standard maintenance company ("Vendor") that specializes in the maintenance of such equipment (and for the roof) for regular and scheduled inspections as recommended by the manufacturer, and immediately authorize said Vendor to perform any and all recommended maintenance to the equipment and roof upon receipt of any inspection report. Lessor shall authorize Vendor(s) to provide County with copies of said report(s) upon County request. Should Lessor fail to comply with the provisions of this clause, County may exercise those remedies set forth in Clause 19(B) above.

In order for the County to comply with the California Code of Regulations, Title 8, Section 5142 ("Regulation 5142"), and as it may be subsequently amended, Lessor shall regularly inspect and maintain the HVAC system as required by Regulation 5142 and provide repair and maintenance accordingly. Inspections and maintenance of the HVAC system shall be documented in writing and Lessor shall retain such records for at least five (5) years. Lessor shall make all HVAC records required by this section available to County for examination and copying, within forty-eight (48) hours of a written request. Lessor acknowledges that County may be subject to fines and/or penalties for failure to provide said records to regulatory agencies within the given timeframes. Should County incur fines and/or penalties as a direct result of Lessor’s failure to provide said records to County in a timely manner and as set forth herein, Lessor shall reimburse County for said fines and/or penalties within thirty (30) days upon written notice. Should Lessor fail to reimburse County within thirty (30) days, County may deduct the amount of the fine and/or penalty from any Rent payable without further notice.

D. **HVAC System:** Lessor shall make reasonable efforts to provide and supply air conditioning to cause the temperature in the Premises and Building at a temperature consistent with other office buildings in Orange County, California, which are typically not less than 70°F nor greater than 75°F, during all Normal Business Hours as defined below in Clause 19(E). County shall be responsible for and shall pay to Lessor any additional costs incurred by Lessor because of the failure of the HVAC system to perform its function due to: (a) any use by County in any portion of the Premises of heat-generating machinery or equipment other than normal office equipment, or (b) any occupancy of any portion of the Premises at densities above customary general office levels.

E. **Normal Business Hours:** County acknowledges that the HVAC services to the Building shall operate only from 7:00 a.m. to 6:00 p.m. Monday through Friday and Saturday from 10:00 a.m. to 2:00 p.m., excluding governmental holidays ("Normal Business Hours"). A list of government holidays shall be provided to Lessor on a yearly basis upon request to County.

Notwithstanding the utilities provided during Normal Business Hours, Lessor shall provide HVAC services to the Premises prior to the beginning of Normal Business Hours in order for the temperature parameters required by this Lease, above, to be met and maintained at the beginning and throughout Normal Business Hours. There shall be no extra utility charges for HVAC services provided prior to the beginning of Normal Business Hours in order to cause the temperature parameter (described above) to be maintained during Normal Business Hours.

F. **Emergency Services:** If County requires same day emergency repairs that are required to be
performed by Lessor under this Lease and are necessary to prevent imminent danger to persons or property ("Emergency Services") and Lessor cannot be contacted for such Emergency Services (as reasonably determined by the County), or if Lessor following such contact by County is unable or refuses to provide the necessary Emergency Services, then at any time prior to the date on which Lessor commences any such Emergency Services, County may have the necessary Emergency Services performed to the extent required to remedy the emergency condition, and may deduct the out of pocket cost thereof, including labor, materials, and overhead from the Rent first coming due after the date that is thirty (30) days after County provides Lessor with a reasonably detailed statement (the "County Emergency Self Help Statement") describing the Services performed by County in reasonable detail, providing a reasonably detailed breakdown of the costs incurred together with reasonable supporting documentation. If County takes such action, and such work will affect the Building systems or any of the Structural components of the Building, County shall use only those contractors used by Lessor in the Building for work on such systems; provided, however, that if such contractors are unwilling or unable to perform such work or, if required by applicable law, do not comply with Clause 31 (LABOR CODE COMPLIANCE) and Clause 32 (RIGHT TO WORK AND MINIMUM WAGE LAWS), County may utilize the services of any other qualified and licensed contractor that normally and regularly performs similar work and is approved by Lessor in its reasonable discretion.

G. **Operations Shutdown:** Should County be forced to completely shut down its operations within the Premises and/or Building due to Lessor’s failure to provide any Services that Lessor is required to provide by this Clause 19 (other than as a result of any event of Force Majeure) for a period of twenty four (24) consecutive hours, excluding weekends and holidays, County’s obligations to pay Rent shall be equitably abated, commencing upon expiration of such twenty-four (24) hour period and continuing through the date such Services are provided.

20. **UTILITIES (2.9 SA)**

Lessor shall be responsible for and pay, prior to the delinquency date, all charges for utilities supplied to the Premises except telephone and other telecommunications, which shall be the obligation of County. Should Lessor fail to pay any utility for (prior to delinquency date), utility service to the Premises, and such failure shall continue for twenty (20) days following Lessor’s receipt of notice thereof from County, County may pay the applicable utility for such utility service and deduct the cost thereof, including overhead, from any Rent payable thereafter.

Should County require HVAC services at times other than during Normal Business Hours as defined in Clause 19(E) above, County shall pay Lessor a reimbursement equal to Landlord’s prevailing rate therefore (currently Sixty-Five dollars ($65) per hour (or partial hour) per floor (or partial floor) for each hour HVAC services are used on any floor during times other than Normal Business Hours. Lessor shall provide County with a written statement of its monthly usage in the form of an invoice, which shall include a statement showing the date, time, location and duration of such usage, along with a summary of the County’s monthly charges. County shall pay Lessor for excess usage with the following month’s Rent.

21. **BUILDING AND SAFETY REQUIREMENTS (3.0 NA)**

Lessor shall cause the Work done on the first (1st) floor in accordance with Clause 13
(CONSTRUCTION) above to comply with all laws (including the requirements of the ADA) in effect (and as enforced) as of the date of Substantial Completion. During the Term and Extension Term(s) of this Lease, Lessor, at Lessor’s sole cost, agrees to maintain the Base Building and the Building common areas in compliance with all applicable laws, rules, regulations, building codes, statutes, and orders as they are applicable on the date of this Lease, and as they may be subsequently amended, including but not limited to the California Building Code, Title 24, Seismic Code, Fire and Life Safety requirements and, if applicable, California Green Building Standard Code. The “Base Building” means the structural components of the Building together with all of the Building utility systems (excluding any portions of any such systems that exclusively serve any rentable space in the Building).

Included in this provision is compliance with the Americans with Disabilities Act (“ADA”) and all other federal, state, and local codes, statutes, and orders relating to disabled access as they are applicable on the dates of this Lease, and as they may be subsequently amended and all regulations issued by the U.S. Attorney General or other agencies under the authorization of the ADA. However, Lessor shall not be responsible for (and County shall be responsible for) any ADA violations resulting from, or to the extent compliance is required as a result of any alterations made by or for County or the placement of County’s furniture, fixtures or equipment by County.

Lessor shall use commercially reasonable efforts to repair and maintain the Premises as a “safe place of employment,” as defined in the California Occupational Safety and Health Act (California Labor Code, Division 5, Part 1, Chapter 3, beginning with Section 6400) and the Federal Occupational Safety and Health Act, where the provisions of such Act exceed, or supersede, the California Act, as the provisions of such Act are applicable on the date of this Lease, and as they may be subsequently amended. County agrees to notify Lessor of any repair or maintenance necessary within the Premises or Building to comply with such Act and Lessor agrees to diligently act to repair or maintain appropriately so long as such repair or maintenance of the Premises is a Lessor expense as defined in Clause 19(A) (REPAIR MAINTENANCE, AND JANITORIAL SERVICES) above. In the event that such repair or maintenance is necessary and is the result of County negligence, provided that County approves a work order with associated expense estimate, Lessor agrees to perform such repair or maintenance and County agrees to reimburse Lessor within thirty (30) days.

In the event Lessor neglects, fails, or refuses to either: (a) cause the Work done on the ninth floor in accordance with Clause 13 (CONSTRUCTION) above to comply with all laws (including the requirements of the ADA) in effect (and as enforced) as of the date of Substantial Completion or (b) maintain said Base Building, the Building common areas as aforesaid, following thirty (30) days after written notice from County to Lessor providing notice of such neglect or failure or refusal County may exercise its self-help rights under Clause 19(B) above.

Lessor agrees to reimburse and indemnify, and defend County for any expenses incurred because of Lessor’s failure to perform its obligations under this Clause 21, including the costs of any governmental enforcement agency, or any court, any and all fines, civil penalties, and damages awarded against County resulting from a violation or violations of the above-cited laws, rules, regulations, building codes, statutes, and orders and regulations, and all reasonable legal expenses incurred in defending claims made under the above-referenced laws, rules, regulations, building codes, statutes, and orders, including reasonable attorneys’ fees. Should Lessor fail to comply with the provisions of this Clause 21, the County may also exercise those remedies set forth in Clause 19(B) (REPAIR MAINTENANCE, AND JANITORIAL SERVICES).

22. ASSIGNMENT AND SUBLETTING (3.1 NA)
A. **General.** County shall not assign this Lease or sublet the Premises in whole or in part without Lessor's prior written consent, which consent shall not be unreasonably withheld. Lessor shall respond in writing to County's request to assign this Lease or sublet all or any portion of the Premises within fifteen (15) days of County's request. In the event Lessor withholds consent to any such request by County, Lessor shall provide reasonable details of its reason for such withholding of consent. In any event, County may sublease up to twenty percent (20%) of the Premises without obtaining Lessor’s prior written consent. In the event Lessor fails to timely respond to County’s request, Lessor shall be deemed to have disapproved such request. County hereby waives the provisions of Section 1995.310 of the California Civil Code, or any similar or successor Laws, now or hereinafter in effect, and all other remedies, including, without limitation, any right at law or equity to terminate this Lease, on its own behalf and, to the extent permitted under all applicable Laws, on behalf of the proposed transferee.

B. **Justifications for Withholding Consent.** By way of example and not limitation, Lessor shall be deemed to have reasonably withheld consent to a proposed assignment or sublease if in Lessor’s reasonable opinion (i) the Premises are or may be in any way materially adversely affected thereby; (ii) the business reputation of the proposed assignee or subtenant is unacceptable; (iii) the financial worth of the proposed assignee or subtenant is insufficient to meet the obligations of the subject sublease or assignment; or (iv) the proposed assignee or sublessee (or one of its affiliates) currently leases space in the Building or has been or is currently in of has in the preceding 120 days been in negotiations with Lessor to lease space at the Building. Notwithstanding anything to the contrary contained herein, in no event shall it be reasonable for Lessor to withhold its consent on the basis that there is vacancy in the Building.

C. **Excess Profit.** If County shall make any assignment or sublease, with Lessor’s consent, for a rental in excess of the rent payable under this Lease, Lessor shall not be entitled to receive any of such excess which shall be held by County.

D. Notwithstanding the consummation or attempted consummation of any sublease, assignment or other transfer under this Clause 22, County shall remain as fully and primarily liable for the payment of Rent and for the performance of all other obligations of the County contained in this Lease to the same extent as if the sublease, assignment or other transfer had not occurred.

23. **INSURANCE (3.2 SA)**

**Commercial Property Insurance:** Lessor shall obtain and keep in force during the Term of this Lease a policy or policies of commercial property insurance written on ISO form CP 00 10 10 12, or a substitute form providing coverage at least as broad, with all risk or special form coverage, covering the loss or damage to the Premises to the full insurable value of the improvements located on the Premises (including the full value of all improvements and fixtures owned by Lessor) at least in the amount of the full replacement cost thereof, and in no event less than the total amount required by any lender holding a security interest.

Lessor agrees to and shall include in the policy or policies of commercial property insurance a standard waiver of the right of subrogation against the County of Orange, its elected and appointed officials, officers, agents and employees by the insurance company issuing said policy or policies.
Lessor shall provide the County of Orange with a Certificate of Insurance as evidence of compliance with these requirements prior to the Commencement Date of this Lease.

**Commercial General Liability Insurance:** Lessor shall obtain and keep in force during the Term of this Lease a policy or policies of commercial general liability insurance covering all injuries occurring within the building and the Premises. The policy or policies evidencing such insurance shall provide the following:

A. An Additional Insured endorsement using ISO form CG 20 26 04 13 or a form at least as broad naming the County of Orange, its elected and appointed officials, officers, agents and employees as an additional insured, or provide blanket coverage which will state, **AS REQUIRED BY WRITTEN AGREEMENT**;

B. A primary and non-contributory endorsement using ISO form CG 20 01 04 13, or a form at least as broad evidencing that the Lessor’s insurance is primary and any insurance or self-insurance maintained by the County of Orange shall be excess and non-contributing;

C. Lessor shall notify County in writing within thirty (30) days of any policy cancellation and ten (10) days for non-payment of premium and provide a copy of the cancellation notice to County. Lessor shall furnish County with a current and valid certificate and required endorsements with respect to any insurance or a binder within one day prior to the date of cancellation or expiration of the current policy. If Lessor shall fail to provide such evidence of coverage, this may constitute a material breach of this lease;

D. Shall provide a limit of One Million Dollars ($1,000,000) per occurrence with a Two Million Dollars ($2,000,000) aggregate; and

E. The policy or policies of insurance must be issued by an insurer with a minimum rating of A- (Secure A.M. Best's Rating) and VIII (Financial Size Category as determined by the most current edition of the **Best's Key Rating Guide/Property-Casualty/United States or ambest.com**). It is preferred, but not mandatory, that the insurer be licensed to do business in the state of California (California Admitted Carrier).

If the insurance carrier does not have an A.M. Best Rating of A-/VIII, the CEO/Office of Risk Management retains the right to approve or reject a carrier after a review of the company's performance and financial ratings. Prior to the Commencement Date of this Lease and upon renewal of such policies, Lessor shall submit to County a Certificate of Insurance and required endorsements as evidence that the foregoing policy or policies are in effect.

If Lessor fails to procure and maintain the insurance required to be procured by Lessor under this Lease, County may, but shall not be required to, order such insurance and deduct the cost thereof plus any County administrative charges from the rent thereafter payable.

**24. INDEMNIFICATION (3.3 SA)**

Lessor hereby agrees to indemnify, hold harmless, and defend County, its officers, agents, and employees, with counsel approved by County, against any and all claims, loss, demands, damages, cost, expenses or liability arising out of the ownership, maintenance, or use of the Premises, except for liability arising out of the negligence of County, its officers, agents, and/or employees, including the cost of defense of any lawsuit arising therefrom.
County hereby agrees to indemnify, hold harmless, and defend Lessor, its officers, agents, and employees, against any and all claims, loss, demands, damages, cost, expenses or liability arising out of the use of the Premises, except for liability arising out of the negligence of Lessor, its officers, agents, or employees, including the cost of defense of any lawsuit arising therefrom.

In the event County is named as co-defendant, Lessor shall notify County of such fact and shall represent County, with counsel approved by County, in such legal action unless County undertakes to represent itself as co-defendant in such legal action, in which event Lessor shall pay to County its litigation costs, expenses and attorney’s fees. In the event judgment is entered against County and Lessor because of the concurrent negligence of County and Lessor, their officers, agents, or employees, an apportionment of liability to pay such judgment shall be made by a court of competent jurisdiction. Neither Party shall request a jury apportionment.

25. TAXES AND ASSESSMENTS (3.4 SA)

All taxes and assessments which become due and payable upon the Premises shall be the full responsibility of Lessor, and Lessor shall cause said taxes and assessments to be paid prior to the due date. Should Lessor fail to pay taxes and assessments due upon the Premises prior to the due date, County may pay such amount due and deduct the cost thereof, including overhead, from the rent thereafter payable.

26. TOXIC MATERIALS (3.5 SA)

County hereby warrants and represents that County will comply with all laws and regulations relating to the storage, use and disposal of hydrocarbon substances and hazardous, toxic or radioactive matter, including, but not limited to, those materials identified in Title 26 of the California Code of Regulations (collectively “Toxic Materials”). County shall be responsible for and shall indemnify and hold Lessor, its officers, directors, employees, agents, and representatives, harmless from and against all claims, costs and liabilities, including attorneys’ fees and costs arising out of or in connection with the storage, use, and disposal of Toxic Materials on the Premises by County. If the storage, use, and disposal of Toxic Materials on the Premises by County results in contamination or deterioration of water or soil resulting in a level of contamination greater than maximum allowable levels established by any governmental agency having jurisdiction over such contamination, County shall promptly take any and all action necessary to clean up such contamination.

Likewise, Lessor hereby warrants and represents that Lessor has in the past and will hereafter comply with all laws and regulations relating to the storage, use and disposal of Toxic Materials. If the previous, current and future storage, use, and disposal of Toxic Materials on the Premises by Lessor results in contamination or deterioration of water or soil resulting in a level of contamination greater than maximum allowable levels established by any governmental agency having jurisdiction over such contamination (and such violation does not arise out of any acts or omissions of County, its agents, employees or contractors), Lessor shall promptly take any and all action necessary to clean up such contamination.

27. SUBORDINATION, ATTORNEYS AND NON-DISTURBANCE (3.6 NA)

This Lease and all rights of the County hereunder are subject and subordinate to any ground or master lease, mortgage or deed of trust which does now or may hereafter cover the Premises or any interest of Lessor therein, and to any and all advances made on the security thereof, and to any and all increases, renewals, modifications, consolidations, replacements and extensions of any such mortgage
or deed of trust (collectively, "Security Instruments") except, insofar as County is meeting its obligations under this Lease, any termination of any ground or master lease or foreclosure of any mortgage or deed of trust shall not result in the termination of this Lease or the displacement of County.

In the event of transfer of title of the Premises in connection with any termination or foreclosure of any Security Instrument, including any proceedings brought for foreclosure or in the event of the exercise of the power of sale under any mortgage or deed of trust, or by any other transfer of title covering the Premises, County shall attorn to and recognize any subsequent title holder as the Lessor under all terms, covenants and conditions of this Lease. County’s possession of the Premises shall not be disturbed by the Lessor, or its successors in interest, and this Lease shall remain in full force and effect. Said attornment shall be effective and self-operative immediately upon succession of the current title holder, or its successors in interest, to the interest of Lessor under this Lease.

Notwithstanding the above, Lessor shall obtain and deliver to County a Subordination, Attornment and Non-Disturbance Agreement from Lessor’s Lender, within sixty (60) days of the date of full execution of this Lease. The inability or failure of Lessor to obtain such Subordination, Attornment and Non-Disturbance Agreement shall not constitute a default by Lessor hereunder. Lessor shall require all future lenders on the Premises, upon initiation of their interest in the Premises or within a reasonable time thereafter, to enter into a Subordination, Attornment and Non-Disturbance Agreement with County, thereby insuring County of its leasehold interest in the Premises. Said Subordination, Attornment and Non-Disturbance Agreement shall be in the form of County’s standard form Subordination, Attornment and Non-Disturbance Agreement attached hereto as Exhibit E or in another form reasonably approved by the HCA/Facilities Operations Manager, the Chief Real Estate Officer and County Counsel. Accordingly, notwithstanding anything to the contrary herein, County’s obligation to enter into an agreement to subordinate its interest under this Lease to a lien or ground lease not in existence as of the date of this Lease shall be conditioned upon the holder of such lien, or a ground lessor, as applicable, confirming in writing and substantially in the form of County’s standard form Subordination, Attornment and Non-Disturbance Agreement attached hereto as Exhibit E (or another form reasonably approved by the HCA/Facilities Operations Manager, the Chief Real Estate Officer and County Counsel) that County’s leasehold interest hereunder shall not be disturbed so long as no County Default exists under this Lease.

Foreclosure shall not extinguish this Lease, and any lender or any third party purchasing the Premises at foreclosure sale shall do so subject to this Lease and shall thereafter perform all obligations and be responsible for all liabilities of the Lessor accruing thereafter under the terms of this Lease.

Upon default by Lessor of any note or deed of trust, County may, if requested by the Lender holding first priority security interest with respect to the Building, make all lease payments directly to such Lender, and same shall be applied to the payment of any and all delinquent or future installments due under such note or deed of trust.

28. ESTOPPEL CERTIFICATE (3.7 SA)

County agrees that the HCA/Facilities Operations Manager shall furnish upon receipt of a written request from Lessor or the holder of any deed of trust or mortgage covering the Premises or any interest of Lessor therein (“Lessor Representative”), County’s standard form Estoppel Certificate (consistent with the form attached hereto in Exhibit E) containing information as to the current status of the Lease. Said standard form Estoppel Certificate shall be completed by County in a timely manner, if applicable, upon receipt of the Lessor Representative-signed County standard form Subordination, Attornment and Non-Disturbance Agreement, agreed pursuant to Clause 27 (SUBORDINATION,
ATTORNEY AND NON-DISTURBANCE). The Estoppel Certificate shall be approved by Chief Real Estate Officer and County Counsel, and if applicable, shall be processed and approved concurrently with the Subordination, Attornment and Non-Disturbance Agreement, by Chief Real Estate Officer and County Counsel.

29. DEFAULTS AND REMEDIES (3.8 NA).

County Default:

County shall be deemed in default of this Lease if: a) in the event of any monetary breach of this Lease by County, Lessor shall notify County in writing of such breach, and County shall have ten (10) days from such notice in which to cure said breach or b) in the event of any non-monetary breach of this Lease, County fails within fifteen (15) days after receipt by County of written notice specifying wherein such obligation of County has not been performed; provided however, that if the nature of County's obligation is such that more than fifteen (15) days after such notice are reasonably required for its performance, then County shall not be in breach of this Lease if performance is commenced as soon as reasonably possible within such fifteen (15) day period and thereafter diligently pursued to completion (each, a "County Default").

Lessor Default:

Lessor shall be deemed in breach of this Lease if: a) in the event of any monetary breach of this Lease by Lessor, County shall notify Lessor in writing of such breach, and Lessor shall have ten (10) days from such notice in which to cure said breach or b) in the event of any non-monetary breach of this Lease, Lessor fails within fifteen (15) days after receipt by Lessor of written notice specifying wherein such obligation of Lessor has not been performed; provided however, that if the nature of Lessor's obligation is such that more than fifteen (15) days after such notice are reasonably required for its performance, then Lessor shall not be in breach of this Lease if performance is commenced as soon as reasonably possible within such fifteen (15) day period and thereafter diligently pursued to completion (each, a "Lessor Default").

County Remedies:

If the Lessor Default is a result of a monetary breach by Lessor in the payment of any amounts due hereunder, County may withhold such amount from the next scheduled Rent payment. County's remedies as the result of Lessor Default for monetary or non-monetary breach shall be the right to damages, injunctive relief, termination of Lease and/or any other rights at law or in equity.

Lessor Remedies:

If the County Default is a result of a monetary breach by County in the payment of the Rent, pursuant to Clause 9 (RENT), Lessor may declare all rent payments to the end of County’s current fiscal year to be due, including any delinquent rent from prior budget years. However, in no event shall Lessor be entitled to a remedy of acceleration of the total rent payments due over the term of this Lease. Lessor’s remedies as the result of County Default for monetary or non-monetary breach shall be the right to damages, injunctive relief, and/or any other rights at law or in equity.

30. DEBT LIMIT (3.9 SA)

Lessor acknowledges and agrees that the obligation of the County to pay rent under this Lease is
contingent upon the availability of County funds which are appropriated or allocated by the County's Board of Supervisors for the payment of rent hereunder. In this regard, in the event that this Lease is terminated due to an uncured default of the County hereunder, Lessor may declare all rent payments to the end of County's current fiscal year to be due, including any delinquent rent from prior budget years. In no event shall Lessor be entitled to a remedy of acceleration of the total rent payments due over the Term of the Lease. The Parties acknowledge and agree that the limitations set forth above are required by Article 16, section 18, of the California Constitution. Lessor acknowledges and agrees that said Article 16, section 18, of the California Constitution supersedes any law, rule, regulation or statute, which conflicts with the provisions of this paragraph. Notwithstanding the foregoing, Lessor may have other rights or civil remedies to seek relief due to the County’s Default under the Lease.

31. LABOR CODE COMPLIANCE (4.0 SA)

Lessor acknowledges and agrees that all improvements or modifications required to be performed pursuant to this Lease or any such future improvements or modifications performed by Lessor at the request of County shall be governed by, and performed in accordance with, the provisions of Article 2 of Chapter 1, Part 7, Division 2 of the Labor Code of the State of California (Sections 1770, et seq.), as applicable. These provisions may be applicable to improvements or modifications costing more than $1,000, unless an exception applies, including but not limited to the definition of public works under § 1720.2.

Pursuant to the provisions of Section 1773 of the Labor Code of the State of California, Lessor shall comply with the general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime work in the locality applicable to this Lease for each craft, classification, or type of workman needed to execute the aforesaid improvements or modifications. The rates are available at the following website: http://www.dir.ca.gov/dslr/DPreWageDetermination.htm from the Director of the State Department of Industrial Relations. Lessor shall post a copy of such wage rates at the job site and shall pay the adopted prevailing wage rates at all times for all improvements or modifications to be completed for County within the Premises. Lessor shall comply with the provisions of Sections 1775 and 1813 of the Labor Code.

As required by applicable law, Lessor shall maintain payroll records for all workers that will be assigned to the improvements or modifications. Said payroll records shall contain, but not be limited to, the complete name, address, telephone number, social security number, job classification, and prevailing wage rate for each worker. Upon request Lessor shall provide the HCA/Facilities Operations Manager updated, certified payroll records for all workers that shall include, but not be limited to, the weekly hours worked, prevailing hourly wage rates, and total wages paid.

Except as expressly set forth in this Lease, nothing herein is intended to grant authority for Lessor to perform improvements or modifications on space currently leased by County or for which County has entered into a lease or lease amendment.

32. RIGHT TO WORK AND MINIMUM WAGE LAWS (4.1 SA)

In accordance with the United States Immigration Reform and Control Act of 1986, Lessor shall require its employees that directly or indirectly service the Premises or terms and conditions of this Lease, in any manner whatsoever, to verify their identity and eligibility for employment in the United States. Lessor shall also require that its contractors or any other persons servicing the Premises or terms and conditions of this Lease, in any manner whatsoever, verify the identity of their employees and their eligibility for employment in the United States.
Pursuant to the United States of America Fair Labor Standard Act of 1938, as amended, and State of California Labor Code, Section 1178.5, Lessor shall pay no less than the greater of the Federal or California Minimum Wage to all its employees that directly or indirectly service the Premises, in any manner whatsoever. Lessor shall require that all its contractors or other persons servicing the Premises on behalf of the Lessor also pay their employees no less than the greater of the Federal or California Minimum Wage.

Lessor shall comply and require that its contractors comply with all other Federal and State of California laws for minimum wage, overtime pay, record keeping, and child labor standards pursuant to the servicing of the Premises or terms and conditions of this Lease.

Notwithstanding the minimum wage requirements provided for in this clause, Lessor, where applicable, shall comply with the prevailing wage and related requirements, as provided for in Clause 31 (LABOR CODE COMPLIANCE) of this Lease.

33. COMMISSION (4.2 NA)

County’s obligations and responsibilities under this Lease are contingent upon the Lessor paying to County’s broker, Jones Lang LaSalle, Eight-Hundred Seventy-Six Thousand Six-Hundred Ninety-Six dollars and Thirty-Two cents ($876,696.32) commission as a result of this lease transaction. Said commission shall be paid to Jones Lang LaSalle within thirty (30) working days after execution of this Lease by County.

Should Jones Lang La Salle not receive the above amount within the specified time period, and such failure continues for thirty (30) days following County’s delivery of written notice thereof, County may deduct any unpaid amount from future Rent.

34. COUNTY PROPERTY (4.3 SA)

All trade fixtures, merchandise, inventory, telecommunications equipment, supplemental air conditioning equipment and all personal property placed in or about the Premises by, at the direction of or with the consent (express or implied) of the County, its employees, agents, licensees or invitees, shall be at the sole risk of the County, and Lessor shall not be liable for any loss of or damage to said property resulting from any cause whatsoever unless such loss or damage is the result of Lessor’s gross negligence or willful misconduct and not otherwise waived pursuant to Clause 35 (LESSOR’S RIGHT OF ENTRY) below. Lessor hereby waives any and all lien rights, whether statutory or common law or established pursuant to this Lease, that Lessor may have as “landlord” with respect to any and all goods, wares, equipment, fixtures, furniture, improvements and other personal property of County presently or which may hereafter be situated within the Premises.

35. LESSOR’S RIGHT OF ENTRY (4.4 SA)

Upon reasonable verbal notice (which shall not be less than forty-eight (48) hours) to County (except (a) in an emergency [which shall mean immediate risk of injury to person or property] in which case no notice shall be required, provided that Lessor shall use reasonable efforts to first call County or (b) for purposes of providing routine services (such as janitorial services) to the Premises in which case no notice shall be required) and in the presence of County (except in the case of an emergency or in connection with provision of routine services to the Premises), Lessor, its agents, employees and contractors and any mortgagee of the Premises shall have the right to enter the Premises during regular business hours (a) to inspect the Premises; (b) to exhibit the Premises to prospective tenants during the
last nine (9) months of Term or any Extension Term, as applicable, or any time County is in material
default hereunder, or to prospective lenders or purchasers of the Building (or of Lessor); (c) for any
purpose which Lessor shall deem necessary for the operation and maintenance of the Premises; (d)
to abate any condition which constitutes a violation of any covenant or condition of this Lease; or
(e) to perform any of Lessor’s obligations or exercise any of Lessor’s rights under this Lease.

36. SIGNAGE (4.5 NA)

Lessor agrees to allow County to install and maintain any sign or display within the Premises and/or
Building.

37. ACCESS CONTROL SERVICES (4.6 NA)

Lessor shall provide access control services for the Building, which security services shall be
substantially similar to the access control services provided in similar office buildings in the
surrounding area where the Building is located. In addition, during the Term (as the same may be
extended), County may, at its sole cost and expense, engage its own security personnel to provide
security in the Premises and to County’s employees, personnel, agents, licensees and/or invitees going
to and from the Premises. Such security personnel engaged by County shall be solely for the benefit
of County and shall not be relied on by Lessor.

38. AUTHORITY (4.7 SA)

County AND Lessor each warrant that the persons executing the Lease below on behalf of County or
Lessor have the power and authority to bind County or Lessor to this Lease.

39. LEASE ORGANIZATION (4.8 SA)

The various headings in this Lease, the numbers thereof, and the organization of the Lease into separate
sections and paragraphs are for purposes of convenience only and shall not be considered otherwise.

40. SUCCESSORS IN INTEREST (4.9 SA)

Unless otherwise provided in this Lease, the terms, covenants, and conditions contained herein shall
apply to and bind the heirs, successors, executors, administrators, and assigns of all the Parties hereto,
all of whom shall be jointly and severally liable hereunder.

41. DESTRUCTION OF OR DAMAGE TO PREMISES (5.0 NA)

“Partial Destruction” of the Premises shall mean damage or destruction to the Premises, for which the
repair cost is less than 25 percent (25%) of the then replacement cost of the Premises (including tenant
improvements), excluding the value of the land.

“Total Destruction” of the Premises shall mean damage or destruction to the Premises, for which the
repair cost is 25 percent (25%) or more of the then replacement cost of the Premises (including tenant
improvements), excluding the value of the land.

In the event of a Partial Destruction of the Premises, Lessor shall promptly pursue completion of all
repairs necessary to restore the Premises to the condition which existed immediately prior to said
Partial Destruction. Said restoration work (including any demolition required) shall be completed by
Lessor, at Lessor’s sole cost, within sixty (60) days of the occurrence of said Partial Destruction or within an extended time frame as may be authorized, in writing, by County. The Partial Destruction of the Premises shall in no way render this Lease and/or any option to purchase, granted herein, null and void; however, rent payable by County under the Lease shall be abated in proportion to the extent County’s use and occupancy of the Premises is adversely affected by said Partial Destruction, demolition, or repair work required thereby. Should Lessor fail to complete necessary repairs, for any reason, within sixty (60) days, or other time frame as may be authorized by County, County may, at County’s sole option, terminate the Lease or complete necessary repair work and deduct the cost thereof, including labor, materials, and overhead from any rent thereafter payable, but only if Lessor has not previously commenced such repair work.

In the event of Total Destruction of the Premises or the Premises being legally declared unsafe or unfit for occupancy, this Lease and/or any option granted herein shall in no way be rendered null and void and Lessor shall immediately instigate action to rebuild or make repairs, as necessary, to restore the Premises (including replacement of all tenant improvements) to the condition which existed immediately prior to the destruction. All rent payable by County shall be abated until complete restoration of the Premises is accepted by County. In the event Lessor refuses to diligently pursue or is unable to restore the Premises to an occupiable condition (including replacement of all tenant improvements) within one hundred and eighty (180) days of the occurrence of said destruction or within an extended time frame as may be authorized, in writing, by County, County may, at County’s sole option, terminate this Lease or complete the restoration and deduct the entire cost thereof, including labor, materials, and overhead from any rent payable thereafter, but only if Lessor has not previously commenced such repair work.

Notwithstanding the foregoing, Lessor shall have no obligation to repair the Premises and shall have the right to terminate this Lease in any case where: (a) any material portion of the Building is damaged AND (b) any of the following conditions exist: (i) Lessor estimates in good faith that the restoration of the Premises (including replacement of all tenant improvements) cannot reasonably be completed (without the payment of overtime) within 180 days of (or if the damage occurs during the last eighteen (18) months of the Term, within ninety (90) days of the occurrence of said destruction), (ii) Lessor’s lender requires any insurance proceeds with respect to such destruction to be applied to the outstanding balance of the applicable loan, or (iii) the casualty damage is caused by a risk not covered under a typical “all risk” policy of property insurance and the cost of the restoration of the Premises (including replacement of all tenant improvements) is not fully covered by insurance proceeds available to Landlord and/or payments received by Landlord from tenants. Such right of termination shall be exercisable by Lessor by delivery of written notice to County at any time following the destruction until sixty (60) days following the Lessor’s discovery or determination of any of the events described in clauses (i) through (iii) of the preceding sentence, and shall be effective upon delivery of such notice of termination (or if County has not vacated the Premises, thirty (30) days thereafter).

Further, unless this Lease is terminated as a result of any casualty, Lessor, at County’s request and subject to availability, shall use commercially reasonable efforts to provide a suitable, County-approved temporary facility (“Facility”) for County’s use during the restoration period for the Premises. The Facility may be leased, at market rate, under a short-term lease, for which the County will reimburse Lessor the cost thereof, on a monthly basis.

42. AMENDMENT (5.1 SA)

This Lease sets forth the entire agreement between Lessor and County and any modification must be in the form of a written amendment executed by Lessor and County.
43. **PARTIAL INVALIDITY (5.2 SA)**

If any term, covenant, condition, or provision of this Lease is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired, or invalidated thereby.

44. **CIRCUMSTANCES WHICH EXCUSE PERFORMANCE (5.3 SA)**

If either Party hereto shall be delayed or prevented from the performance of any act required hereunder by reason of Force Majeure as defined below in Clause 55 (FORCE MAJEURE), performance of such act shall be excused for the period of the delay; and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay. Financial inability shall not be considered a circumstance excusing performance under this Lease.

45. **STATE AUDIT (5.4 SA)**

Pursuant to and in accordance with Section 8546.7 of the California Government Code, in the event that this Lease involves expenditures and/or potential expenditures of State funds aggregating in excess of ten thousand dollars ($10,000), Lessor shall be subject to the examination and audit of the Auditor General of the State of California for a period of three years after final payment by County to Lessor under this Lease. The examination and audit shall be confined to those matters connected with the performance of the contract, including, but not limited to, the costs of administering the contract.

46. **WAIVER OF RIGHTS (5.5 SA)**

The failure of Lessor or County to insist upon strict performance of any of the terms, conditions, and covenants in this Lease shall not be deemed a waiver of any right or remedy that Lessor or County may have, and shall not be deemed a waiver of any right or remedy for a subsequent breach or default of the terms, conditions, and covenants herein contained.

47. **HOLDING OVER (5.6 NA)**

In the event County shall continue in possession of the Premises after the Term of this Lease, such possession shall not be considered a renewal of this Lease but a tenancy from month to month and shall be governed by the conditions and covenants contained in this Lease, except that the base monthly Rent in effect at the expiration of the Term shall be increased to one hundred twenty-five percent (125%) of the base monthly Rent in effect at the expiration during the first three (3) months of the holdover period; and shall be increased to one hundred fifty percent (150%) of the base monthly Rent in effect at the expiration of the Term after the third month of the holdover period.

48. **HAZARDOUS MATERIALS (5.7 SA)**

Lessor warrants that, to Lessor's actual knowledge, the Premises is free and clear of all hazardous materials or substances.

49. **EARTHQUAKE SAFETY (5.8 NA)**

Lessor hereby confirms that to Lessor's actual knowledge, the Premises was in compliance with all applicable seismic safety regulations and building codes at the time of construction.
50. QUIET ENJOYMENT (5.9 SA)

Lessor agrees that, subject to the terms, covenants and conditions of this Lease, County may, upon observing and complying with all terms, covenants and conditions of this Lease, peaceably and quietly occupy the Premises.

51. ADMINISTRATIVE COSTS (6.0 SA) - intentionally omitted

52. GOVERNING LAW AND VENUE. (6.1 SA)

This agreement has been negotiated and executed in the State of California and shall be governed by and construed under the laws of the State of California. In the event of any legal action to enforce or interpret this agreement, the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California, and the Parties hereto agree to and do hereby submit to the jurisdiction of such court, notwithstanding Code of Civil Procedure section 394.

53. TIME (6.2 SA)

Time is of the essence of this Lease.

54. INSPECTION OF PREMISES BY A CERTIFIED ACCESS SPECIALIST (6.3 NA)

In accordance with California Civil Code 1938(e), "A Certified Access Specialist (CASp) can inspect the subject premises and determine whether the subject premises comply with all of the applicable construction-related accessibility standards under state law. Although state law does not require a CASp inspection of the subject premises, the commercial property owner or lessor may not prohibit the lessee or tenant from obtaining a CASp inspection of the subject premises for the occupancy or potential occupancy of the lessee or tenant, if requested by the lessee or tenant. The Parties shall mutually agree on the arrangements for the time and manner of the CASp inspection, the payment of the fee for the CASp inspection, and the cost of making any repairs necessary to correct violations of construction-related accessibility standards within the premises."

Pursuant to California Civil Code 1938, Lessor hereby represents that the Premises has not undergone an inspection by a certified access specialist and no representations are made with respect to compliance with accessibility standards. However, if it is determined that a violation of handicapped access laws (including the Americans with Disabilities Act) existed in the Expansion Premises as of the Commencement Date, Lessor shall correct such non-compliance at Lessor's cost (with it being understood that County is responsible for correcting any such violations that may exist in its Existing Premises as of the Commencement Date).

55. FORCE MAJEURE (6.4 SA)

For purposes of this Lease, the term "Force Majeure" means any of the following events which are beyond the control of either Party: act of God, unavailability of equipment or materials (but only if such equipment and materials were ordered in a timely fashion), enemy or terrorist act, act of war, riot or civil commotion, strike, lockout or other labor disturbance, fire, earthquake, explosion, governmental delays (including nonstandard delays in issuance of any permit or other necessary governmental approval or the scheduling of any inspections or tests), nonstandard delays by third party utility providers, or any other matter of any kind or character beyond the reasonable control of the Party delayed or failing to perform under this Lease despite such Party's Best Efforts (as defined below)
to fulfill the obligation. "Best Efforts" includes anticipating any potential force majeure event and addressing the effects of any such event (a) as it is occurring and (b) after it has occurred, to prevent or minimize any resulting delay to the greatest extent possible. Force Majeure shall not include inability to obtain financing or other lack of funds. Lessor and County shall be excused for the period of any delay in the performance of any obligation hereunder when such delay is occasioned by causes beyond its control.

56. CONDEMNATION (6.5 SA)

If the Premises or any portion thereof are taken under the power of eminent domain or sold under the threat of the exercise of said power (collectively, "Condemnation"), this Lease shall terminate as to the part taken as of the date the condemning authority takes title or possession, whichever first occurs. If all or a material portion of the rentable area of the Premises are taken by Condemnation, County may, at County’s option, to be exercised in writing within ten (10) days after Lessor shall have given County written notice of such taking (or in the absence of such notice, within ten (10) days after the condemning authority shall have taken possession) terminate this Lease as of the date the condemning authority takes such possession. Lessor shall also have the right to terminate this Lease if there is a taking by Condemnation of any portion of the Building or property which would have a material adverse effect on Lessor’s ability to operate the remainder of the Building. If neither Party terminates this Lease in accordance with the foregoing, this Lease shall remain in full force and effect as to the portion of the Premises remaining, except that the rent shall be reduced in proportion to the portion of the Premises taken by such Condemnation. Condemnation awards and/or payments shall be the property of Lessor, whether such award shall be made as compensation for diminution in value of the leasehold, the value of the part taken or for severance damages. County hereby waives any and all rights it might otherwise have pursuant to Section 1265.130 of the California Code of Civil Procedure, or any similar or successor Laws.

57. CONSENT OR APPROVAL (6.6 SA)

Unless expressly stated otherwise, where the consent or approval of a Party is required, such consent or approval will not be unreasonably withheld, conditioned or delayed.

58. UNENFORCEABLE PROVISIONS (6.7 SA)

If any paragraph or clause hereof shall be determined illegal, invalid or unenforceable, it is the express intention of the Parties hereto that the remainder of the Lease shall not be affected thereby, and it is also the express intentions of the Parties hereto that in lieu of each paragraph or clause of this Lease which may be determined to be illegal, invalid or unenforceable, there may be added as a part of this Lease a paragraph or clause as similar in terms to such illegal or invalid or unenforceable paragraph or clause as may be possible and may be legal, valid and enforceable.

59. NOTICES (6.8 SA)

All written notices pursuant to this Lease shall be addressed as set forth below or as either Party may hereafter designate by written notice and shall be deemed delivered upon personal delivery, delivery by facsimile machine, or seventy-two (72) hours after deposit in the United States Mail. Notwithstanding the above, notices may also be provided by electronic mail and any such notice so given shall be deemed to have been given upon receipt.
TO: Lessor

CF Santana Inc.
c/o Ocean West Management
Attn: Ted Bischak
2101 Rosecrans Ave., Suite 3270
El Segundo, California 90245

With a copy to:

Ocean West Management
200 W. Santa Ana Boulevard, suite 200
Santa Ana, CA 92701

With a copy to:

Banc of California, National Association
3 MacArthur Place,
Santa Ana, California 92707
Attn: Commercial Loan Service Center

TO: County

County of Orange
Health Care Agency
405 N. Fifth Street
Santa Ana, CA 92701
Attn: Director, Administrative Services

With a copy to:

County Executive Office
333 W. Santa Ana Boulevard, 3rd Floor
Santa Ana, CA 92701
Attention: Chief Real Estate Officer

60. ATTACHMENTS (7.0 S)

This Lease includes the following, which are attached hereto and made a part hereof:

I. EXHIBITS

Exhibit A - Description of Premises
Exhibit B - Depiction of Premises
Exhibit C - Tenant Improvements and Performance Specifications
Exhibit D - Janitorial Specifications
Exhibit E - Form of Subordination, Attornment and Non-Disturbance Agreement and Estoppel Certificate

61. COUNTY ALLOWANCE (N)

A. Lessor shall provide County with an allowance ("County Allowance") of Nine Hundred Forty-Three Thousand dollars and zero cents ($943,000.00), for hard and soft construction costs, fees, licenses and permits in connection with the Work (collectively, "County Improvement Costs"). Any County Improvement Costs incurred by Lessor in excess of the County Allowance shall be paid by County to Lessor upon demand.

B. To the extent is not used by Lessor for County Improvement Costs, the County Allowance may be, at County’s sole and absolute discretion, used within sixty (60) months of the Commencement Date and used interchangeably at County’s option for construction of the Premises, including, but not limited to purchase and installation of telephone and data cabling and equipment and supplemental HVAC system, FF&E, space planning and design costs and County project management, rent offset, County of Orange General Fund offset, and/or converted
to cash. Notwithstanding the foregoing, County may not convert the County Allowance to cash or to a Rent credit during the initial twelve (12) months of the Lease Term. Subject to the immediately preceding sentence, at any time during the initial sixty (60) months, County may request County Allowance with written notice to Lessor and Lessor shall disburse said requested County Allowance within thirty (30) days of receipt of County’s written request. At the end of the sixtieth (60th) month after the Lease Commencement Date, any unused portion of the County Allowance shall be paid to County in a lump sum cash payment, within thirty (30) days.

62. **RIGHT TO CONTRACT (N)**

From and after October 31, 2021, County shall have an ongoing right to contract up to 43,312 RSF of the Premises, consisting of Suite Nos. 650, 800, 910 and 1000 ("**Contract Premises**"), with six (6) months prior written notice to Lessor and evidence of loss of funding for or the relocation to a County-owned facility of the program(s) occupying all or a portion of the Contract Premises. County’s right to contract may be in segmented portions of the Premises (in each case, consisting of one or more of the Suites described above), but will not exceed a total contraction amount of 43,312 RSF over the Term.

If Tenant exercises its right to contract, for each month during the remainder of the Term (after the date that the contraction becomes effective), Tenant’s obligations to pay Rent shall be reduced by an amount equal to the area in rentable square feet, and the per rentable square foot rental rate applicable to such month, as specified in the table below.

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<th>Months</th>
<th>Per Square Foot Rental Rate</th>
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<td>$3.38</td>
</tr>
<tr>
<td>169 - 180</td>
<td>$3.48</td>
</tr>
</tbody>
</table>
IN WITNESS WHEREOF, the Parties have executed this Agreement the day and year first above written.

APPROVED AS TO FORM:

OFFICE OF COUNTY COUNSEL
ORANGE COUNTY, CALIFORNIA

By: [Signature]
Deputy
Date 2/15/19

RECOMMENDED FOR APPROVAL:

Health Care Agency

By: [Signature]
Director of Administration

County Executive Office

By: [Signature]
Real Estate Manager

SIGNED AND CERTIFIED THAT A COPY OF THIS DOCUMENT HAS BEEN DELIVERED TO THE CHAIR OF THE BOARD PER GC § 25103, RESO. 79-1535

Attest:

ROBIN STIELER
Clerk of the Board of Supervisors
County of Orange, California

Lessor

By: CF SANTANA LLC, a Delaware limited liability company

By: [Signature]
Name: William Covino
Chief Financial Officer

County

COUNTY OF ORANGE

Chairman of the Board of
Supervisors County of
Orange, California

LMT: 2/4/19
Health Care Agency

Page 30 of 43
CBO/ALS/HCA-019-004
Standard Acquisition Lease Form
EXHIBIT A
LEASE DESCRIPTION (10.1 S)

PROJECT NO: CEO/ALS/HCA-019-004
PROJECT: Health Care Agency – 200 Santa Ana
DATE: 2/5/2019
VERIFIED BY: Laurel Tippett

All the Premises shown crosshatched on a plot plan marked Exhibit B, attached hereto and made a part hereof, being portions of the first (1st), sixth (6th), eighth (8th) and ninth (9th) floors, and the entire tenth (10th) floor of that certain ten-story building located at 200 Santa Ana Blvd in the City of Santa Ana, County of Orange, State of California, comprising approximately 78,609 rentable square feet, together with the free use of three hundred and thirty-eight (338) parking spaces in the parking lot shown on Exhibit B consisting of fifteen (15) reserved parking spaces and three hundred and twenty-three (323) unreserved parking spaces.

NOT TO BE RECORDED
ATTACHMENT A

EIGHTH FLOOR

NINTH FLOOR
EXHIBIT C

COUNTY IMPROVEMENT PERFORMANCE SPECIFICATIONS (10.3 S)

Lessor shall construct the initial leasehold improvements in the Premises (or the applicable portions thereof) per a mutually agreed upon plan and finish schedule between the Parties. The County Improvement Costs incurred by Lessor in so constructing such leasehold improvements shall be deducted from the County Allowance.
EXHIBIT D

JANITORIAL SPECIFICATIONS

It is the intent of this Exhibit to provide general guidelines for minimum janitorial service. Any absence of a specific janitorial service from this Exhibit does not relieve Lessor of the obligation to provide such service should it become necessary.

"Five-day-per-week" janitorial service as required in Clause 19 (REPAIR, MAINTENANCE AND JANITORIAL SERVICES), of this Lease, shall be inclusive of, but not limited to, the services as detailed below:

OFFICE AREAS

NIGHTLY: Monday through Friday, inclusive. (Holidays of the County of Orange excepted).

1. Empty and clean all waste receptacles, supply liners for waste receptacles, replace light bulbs and fluorescent tubes, remove waste materials from the Premises and wash receptacles as necessary;
2. Mop all uncarpeted areas;
3. Vacuum all carpeted areas in offices, lobby and corridors;
4. Hand-dust all office furniture, fixtures and all other horizontal surfaces;
5. Remove all finger marks and smudges from doors, door frames, around light switches, private entry glass and partitions;
6. Wash, clean and polish water fountain;
7. Spot clean carpet as necessary;
8. Clean sink and wipe down tables and counter areas in all break areas and office bars.

WEEKLY:

1. Wipe clean and polish all metal and bright work;
2. Mop and polish all resilient flooring;
3. Dust in place all picture frames, charts, graphs, and similar wall hangings;
4. Spot-clean all wall marks;
5. Sweep all sidewalks and ramps.

MONTHLY:

1. Dust all mini-blinds within the Premises;
2. Vacuum all HVAC vents, high moldings and other areas not reached by nightly or weekly cleaning;
3. Scrub and wax uncarpeted floors.

SEMI-ANNUALLY:

1. Clean ceiling light diffusers;
2. Clean carpet in high traffic areas (corridors, near lunchroom, etc.) and other areas as needed;
3. Clean interior walls, as needed;
4. Strip and wax uncarpeted floors.

ANNUALLY:

1. Clean carpet throughout Premises.
RESTROOMS

NIGHTLY:

1. Clean and damp-mop floors;
2. Wash all mirrors, bright work and enameled surfaces;
3. Wash and sanitize all basins, bowls, urinals, and toilet seats;
4. Dust, clean, and wash where necessary, all partitions, tile walls, dispensers, and receptacles;
5. Empty and sanitize all receptacles and sanitary napkin disposals;
6. Provide materials and fill all toilet tissue, towel, seat cover, sanitary napkin, and soap dispensers.

MONTHLY:

1. Machine strip restroom floors and apply finish/sealer where applicable;
2. Wash all partitions, tile walls, and enamel surfaces;
3. Vacuum all louvers, vents, and dust light fixtures.

MISCELLANEOUS SERVICES

1. Maintain building lobby, corridors, and other public areas in a clean condition;
2. Parking lot is to be cleaned on a monthly basis;
3. All interior and exterior windows of the building are to be cleaned quarterly.
EXHIBIT E

SUBORDINATION, ATTORNMENT AND NON-DISTURBANCE AGREEMENT

THIS IS A SUBORDINATION, ATTORNMENT AND NON-DISTURBANCE AGREEMENT, made ________, 2019, by and between the County of Orange ("County") and ____________ ("Lender").

A. By lease dated ____________, ("Lease"), ____________, ("Lessor") leased to County and County leased from Lessor those certain Premises described as ________________, Santa Ana, California.

B. Lender is the holder or about to become the holder of a mortgage or Deed of Trust ("Note") which constitutes or will constitute a lien against the Premises leased by County pursuant to the aforesaid Lease.

C. Lender has requested that County execute a Subordination, Attornment and Non-Disturbance Agreement in accordance with the terms of the Lease.

NOW, THEREFORE, the parties hereto do hereby agree as follows:

1. Subject to the terms and conditions of the Lease, all rights of County thereunder are or shall become subordinate to the Note and to any and all advances made on the security thereof, and to any and all increases, renewals, modifications, consolidations, replacements and extensions thereof.

2. In the event that Lender succeeds to the interest of lessor under the Lease, by reason of foreclosure of the Note, by other proceedings brought to enforce any rights of Lender under the Note, by deed in lieu of foreclosure, or by any other method, County shall promptly attorn to Lender under all of the terms, covenants, and conditions of the Lease for the balance of the then-current term (and any extension or renewals thereof which may be effective in accordance with any option therefor contained in the Lease), with the same force and effect as if Lender were the Lessor under the Lease. Lender or its successors in interest shall not disturb the interests of County under said Lease, but shall allow said interests to continue in full force and effect for the balance of the then-current term and any extension available to County which may be provided in accordance with the Lease. Said attornment shall be effective and self-operative immediately upon Lender's succession to the interest of Lessor under the Lease.

3. This agreement may not be modified orally or in any manner other than by written agreement signed by the parties hereto or their respective successors or assigns. All of the terms, covenants, and conditions herein shall run with the land and shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.
COUNTY:

By: ___________________________ Date: ___________________________
Thomas A. Miller, Chief Real Estate Officer
County Executive Office
Per Resolution No. 98-75 and Minute Order
3/10/1998 of the Board of Supervisors

APPROVAL AS TO FORM
COUNTY COUNSEL
By: ___________________________ Date: ___________________________
Deputy

LENDER:

(Lender Name, same as above)

By: ___________________________

Name: ___________________________ (Print)

Title: ___________________________

Project/Parcel No.:
ESTOPPEL CERTIFICATE

TO:

As of the date of this Estoppel Certificate the undersigned, as a "tenant" under that lease dated _________, between ("Lessor") and the County of Orange, a political subdivision of the State of California ("County"), does hereby acknowledge the following:

1. The aforesaid lease, subject to article 2 below, constitutes the entire agreement between Lessor and County and is in full force and effect.

2. (Check One)
   - ☐ The aforesaid lease has not been modified, altered, or amended.
   - ☐ The aforesaid lease has been modified pursuant to that document(s) attached hereto.

3. The term of the lease is ___ years. The lease commenced on __________ and will expire on __________.

4. The term of the lease is subject to County's option to terminate/extend as follows:

5. The lease rental rate is $ __________ per month, no rent has been paid in advance except as set forth in the lease, and County (in its capacity as "tenant," and not as a governmental agency) has received no notice of a prior assignment, hypothecation, or pledge of the lease from Lessor.

6. County has accepted and is now in possession of the leased premises.

7. The addresses for notices to be sent to County are set forth in Clause 59 (NOTICES) of the lease.

8. County has no charge, lien, or claim of offset under this lease against rents or other charges due or to become due and, to the actual knowledge of County, Lessor is not now in default under the lease.

APPROVED AS TO FORM
OFFICE OF COUNTY COUNSEL

COUNTY
County of Orange

By: ____________________________
   Deputy

Date:

By: ____________________________
   Thomas A. Miller, Chief Real Estate Officer
   County Executive Office/Real Estate

Certificate Date:
Real Property Acquisition Questionnaire* for ASR
(*Applies to property purchase, or acquisition lease, license or easement)

Instructions:
- This questionnaire was developed with input from Auditor Controller, Internal Auditor and CEO Real Estate to assure that County leadership is fully informed.
- Insert the complete answer after each question below.
- When completed, save and include as an Attachment to your ASR.
- In the body of the ASR focus on the considerations relevant to the decision.
- If you need assistance, please contact CEO Real Estate.

1. What property interest is being considered for acquisition (fee, lease, license, easement)?
   
   **200 West Santa Ana Blvd., Santa Ana, CA**

   a) Why is this property being considered for acquisition? The office building, located within the Civic Center complex, is the optimal location wherein to consolidate various Health Care Agency (HCA) departments. The location is adjacent to HCA administrative and program offices located at 405 W. 5th Street in the City of Santa Ana. Under the proposed lease, HCA Behavioral Health Services, California Children Services, Correctional Health Services, and Custodian of Records. The building offers the necessary rentable square feet at market rate.

   b) How and who identified this property for a potential acquisition? CEO/Real Estate and Health Care Agency agreed this is the best site option at this time.

   c) What factors are key in recommending this property for acquisition? Price, location and program service requirements are the key factors for recommending this site.

   d) How does the proposed acquisition fit into the County's/District's strategic or general plan? Providing a convenient central Orange County location for HCA's Behavioral Health clients to access a multitude of County's Behavioral Health services. This site will help HCA improve staffing efficiencies, optimize space and best plan for program growth.

   e) What are the short and long term anticipated uses of the property? The Health Care Agency will use the site to provide a multi-functional Behavioral Health Service Center for both children and adults.

   f) Are there any limitations on the use of the property for its intended purposes? No surgical services may be performed at this site.

2. What analysis has been performed as to whether to acquire the proposed real property interest?
   
   CEO/Real Estate Services and HCA collaborated to determine that this location was the best option to meet HCA program and client needs.

   a) Have there been any internally or externally prepared reports regarding this property acquisition? A market rate analysis and lease cost comparison was completed.

   b) Who performed the analysis? Jones Lang La Salle (JLL)

   c) Provide details about the analysis and cost/benefit comparison: This site was determined to be the best relocation option for the consolidation of Behavioral Health clinics/offices and other programs in HCA. This determination is based upon the price, location and program service requirements. The landlord will provide the County with a significant County Improvement Allowance of nearly $1 million to complete improvements on the various floors of the building.
3. How was the acquisition price, or lease/license rent, determined? CEO/Real Estate and JLL negotiated with the landlord for the optimal full service gross lease rate.
   a) Who performed the appraisal or market study and what certifications do they possess? CEO/Real Estate and JLL, utilizing market data obtained through CoStar.
   b) How does the price/rent compare with comparable properties? The rental rate is at current market for the central Orange County area.
   c) Does the setting of the price/rent follow industry standards and best practices? Yes
   d) What are the specific maintenance requirements and other costs within the agreement and who is responsible? The Lessor is responsible for all interior and exterior maintenance.
   e) Provide an estimate of the costs to the County/District if applicable. The County is not responsible for maintenance costs.

4. What additional post-acquisition remodeling or upgrade costs will be needed for the property to meet its intended use? None
   a) Will any of the upgrades be required to meet County, ADA, or other standards and requirements? N/A
   b) Include estimates of the costs. N/A
   c) What department will be responsible for the costs? N/A

5. Can the County terminate the purchase/easement, lease/license? No. HCA has the Right to Contract up to 43,312 RSF of the premises consisting of space on the 6th, 8th, 9th and 10th floors of the leasehold premises.

6. What would be necessary to terminate the agreement, and when can it be terminated? N/A
   a) Are there penalties to terminate the purchase/easement, or lease/license? N/A

7. What department will be responsible for the acquisition payments? Health Care Agency
   a) Are the acquisition costs budgeted in the department’s budget? Yes
   b) What fund number will the funds for the acquisition ultimately be drawn from? 100-042 County General/Health Care Agency
   c) Will any restricted be used for the acquisition? (Check with the Auditor Controller’s General Accounting Unit and Counsel if you have questions about whether restricted funds are involved.) No
   d) If restricted funds will be used, has County Counsel advised that this is an allowable use of the proposed restricted funds? N/A

8. Does the proposed purchase/lease/license/easement agreement comply with the CEO Real Estate standard language? Yes
   e) List any modified clauses and reasons for modification. N/A

9. If this is a lease, is it a straight lease, an operating lease, a lease with an option to purchase, or a capital lease (see details below)? Straight lease

   Capital Lease Determination: At the inception of any potential capital lease, it is important to contact the Auditor-Controller’s Capital Asset Unit for further guidance to ensure that proper classification and
accounting for the lease occurs. There are specialized accounting rules and required forms for capital leases. See further details in the County’s Accounting Manual, Policy No. FA-1: Accounting for Lease Purchases (Capital Leases), located on the intranet. For accounting purposes only, a capital lease exists if ANY one (1) of the following four (4) criteria is met:

i) Lease transfers ownership to the County by the end of the term.
ii) Lease contains an option to purchase the property by the end of the term for a price lower than the expected fair market value of the property? (For example $1 or $1,000, and based on this option price, for accounting purposes only, the ultimate purchase of the property is deemed reasonably assured at the inception of the lease.)
iii) Lease term is equal to 75% or more of the remaining estimated useful life of the leased property.*
iv) Present value of the minimum lease payments is equal to 90% or more of the fair value of the property at the inception of the lease.*

*Criteria iii) and iv) don’t apply if the lease term begins in the last 25% of a property's estimated useful life.

To validate whether a lease is a capital lease for accounting purposes, please contact the Auditor-Controller’s Capital Asset Unit at capitalassets@ac.ocgov.com.
LEASE SUMMARY

LEASE

LESSOR
CF Santana, LLC

COUNTY
County of Orange

LOCATION
200 West Santa Ana Blvd., Santa Ana, CA 92703

PREMISES
Approximately 78,609 rentable square feet of the office building.

PARKING
COUNTY has exclusive right to use fifteen (15) and non-exclusive use of 323 parking spaces, including ADA designated spaces, located on the Premises.

TERM
Fifteen (15) years, commencing on the date that is the later the first day of the first full calendar month following the Substantial Completion Date and/or July 1, 2019.

OPTION TO TERMINATE
N/A

OPTION TO EXTEND TERM
The County shall have the option to extend the term of the Lease for two (2) successive five (5) year periods, on the same terms and conditions, except the base rent shall be the current Fair
Market Rent for similar offices in the area of the Premises and as agreed by County and Lessor.

County shall give Lessor written notice of its intent to exercise its Option(s) to extend the Term no sooner than twelve (12) months and no later than six (6) months prior to the Lease termination date.

RENT

The monthly full service gross rental rate based on RSF, full service gross as follows:

<table>
<thead>
<tr>
<th>Commencing</th>
<th>Monthly Rental</th>
<th>RSF</th>
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<tbody>
<tr>
<td>Months 01-12</td>
<td>$147,741.09</td>
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<td>Months 13-24</td>
<td>$153,279.70</td>
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<td>Months 25-36</td>
<td>$185,661.65</td>
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<td>Months 37-48</td>
<td>$206,798.30</td>
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<td>Months 49-60</td>
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<td>Months 61-72</td>
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<tr>
<td>Months 109-120</td>
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<tr>
<td>Months 121-132</td>
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<tr>
<td>Months 133-144</td>
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<tr>
<td>Months 169-180</td>
<td>$286,257.22</td>
<td>$3.64</td>
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</table>

ADJUSTMENT FOR COST OF LESSOR SERVICES

N/A

TENANT IMPROVEMENTS

Lessor hereby agrees to complete, at Lessor’s expense, on or before the Target Substantial Completion Date, the alterations, repairs, and other work with respect to the Expansion Premises (the “Work”) as defined and in accordance with the plans and specifications attached hereto and made a part hereof as Exhibit C), in order for County to have sufficient time to commence moving furniture, fixtures and equipment into the Expansion Premises in preparation of occupancy.
PAINTING BY LESSOR
N/A

FLOOR COVERINGS BY LESSOR
N/A

INSURANCE

LESSOR shall provide:

<table>
<thead>
<tr>
<th>Coverage</th>
<th>Limits</th>
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<tbody>
<tr>
<td>Property and Fire</td>
<td>Full Value of Improvements</td>
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<tr>
<td>Liability Insurance</td>
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</tbody>
</table>

COUNTY shall self-insure for general liability

SERVICES PROVIDED BY LESSOR

- Interior and exterior maintenance and repair
- Property/Fire Insurance and Liability Insurance
- Taxes and Assessments
- Janitorial Service – 5 days per week

SERVICES PROVIDED BY COUNTY

- General liability insurance

HOLDOVER

COUNTY has the right to holdover except that the Base Rent during such holdover shall be increased to one hundred and twenty five percent (125%) of the base rent in effect at the expiration of the term or any extension term after the first three (3) months of
holdover and shall be increased to one hundred fifty percent (150%) of the base monthly rent in effect at the expiration of the Term after the third month of the holdover period.
February 21, 2019

To: Clerk of the Board of Supervisors

From: Frank Kim, County Executive Officer

Subject: Exception to Rule 21

The County Executive Office is requesting a Supplemental Agenda Staff Report for the February 26, 2019, Board Hearing.

Agency: County Executive Office
Subject: Public Defender Leases for 200 W. Santa Ana Blvd. and 801 W. Civic Center Dr.
Districts: 1

Reason for supplemental: This Agenda Staff Report needs to be heard as soon as possible to secure a lease for a new Public Defender office space as demolition on their current location begins in July 2019. This Agenda Staff Report and attachments were finalized after the filing deadline to the Clerk of the Board.

Concur:
Chairwoman Lisa A. Bartlett, Supervisor, Fifth District

cc: Board of Supervisors
    County Executive Office
    County Counsel
SUPPLEMENTAL AGENDA ITEM  
AGENDA STAFF REPORT

MEETING DATE: 02/26/19
LEGAL ENTITY TAKING ACTION: Board of Supervisors
BOARD OF SUPERVISORS DISTRICT(S): 1
SUBMITTING AGENCY/DEPARTMENT: County Executive Office
DEPARTMENT HEAD REVIEW: 
Department Head Signature

DEPARTMENT CONTACT PERSON(S): Thomas A. Miller (714) 834-6019  
Sharon Petrosino (714) 834-2144

SUBJECT: Public Defender Leases for 200 W. Santa Ana Blvd. and 801 W. Civic Center Dr.

CEO CONCUR 

COUNTY COUNSEL REVIEW 

CLERK OF THE BOARD Discussion  
3 Votes Board Majority

Budgeted: N/A  
Current Year Cost: N/A  
Annual Cost: See Financial Impact Section

Staffing Impact: No  
# of Positions: N/A  
Sole Source: N/A

Current Fiscal Year Revenue: N/A  
Funding Source: GF: 100%  
County Audit in last 3 years No

Prior Board Action: N/A

RECOMMENDED ACTION(S)

1. Find the project is categorically exempt from the California Environmental Quality Act, Class 1 (Existing Facilities), pursuant to CEQA guidelines, Section 15301.

2. Approve the Lease Agreement with CF Santana, LLC, a Delaware limited liability company, for 14,157 rentable square feet of office space for the Public Defender at 200 West Santa Ana Blvd. in Santa Ana, for 15 years with an anticipated commencement date of July 1, 2019.

3. Approve the Lease Agreement with CF Santana, LLC, a Delaware limited liability company, for 71,197 rentable square feet of office space for the Public Defender at 801 West Civic Center Drive in Santa Ana, for 15 years with an anticipated commencement date of July 1, 2019.
4. Authorize the Chief Real Estate Officer or designee to execute subsequent lease amendments that make non-monetary and/or monetary changes which do not increase County costs by more than $50,000 per year under each lease.

5. Delegate to the Chief Real Estate Officer or designee the ability to exercise any of the two five-year options to extend the term of the leases pursuant to the terms of each lease. The exercise of said option shall not result in a rent increase that exceeds fair market value at the time of the extension.

SUMMARY:

Approval of the leases with CF Santana, LLC, a Delaware limited liability company, will enable the relocation of the Public Defender’s offices from 14 West Civic Center Drive, Santa Ana to 200 West Santa Ana Blvd. and 801 West Civic Center Drive, both in Santa Ana for 15 years to accommodate the Civic Center Facilities Strategic Plan implementation schedule.

BACKGROUND INFORMATION:

On April 25, 2017, the Board of Supervisors (Board) approved a comprehensive Civic Center Facilities Strategic Plan (Civic Center FSP) for the County of Orange Civic Center area. The updated Civic Center FSP phased implementation included the demolition and replacement of buildings in the Civic Center. As Phase 1 with the new Building 16 nears completion by mid-year, Phase 2 in the current buildout plan will commence with the demolition of the building currently occupied by the Public Defender (PD) at 14 West Civic Center Drive. Demolition is scheduled to start late July, 2019.

In anticipation of Phase 2, CEO Real Estate and the PD initiated a market survey last year in search of suitable office space wherein to relocate PD’s approximately 400 employees. The PD’s future relocation also created an opportunity to move the Offices of the District Attorney (DA) to 300 Flower Street as set forth in the Civic Center FSP. As part of the many departmental moves throughout the Civic Center complex, Phase 2 of the master plan has records and archives from the Hall of Records moving to 401 West Civic Center for storage during demolition and construction of the new County Administration North (CAN) building, which will replace the former Buildings 11, 12 and 14. This Phase also includes the renovation of the Osborne Building at 300 North Flower in Santa Ana for the DA as OC Public Works and OC Waste and Recycling vacate Osborne and move into the new County Administration South (CAS) building. Once the DA has consolidated its operations at 401 and 801 Civic Center Drive into Osborne, the intention will be to consolidate remaining PD staff into the building at 801 West Civic Center Drive.

The important parameters for the search included a building in/or adjacent to the “judicial neighborhood” as detailed in the Civic Center FSP and office space suitable for lawyers and support staff. The total square footage currently occupied by both offices is 140,240 square feet. Following months of evaluation, CEO Real Estate recommends two leases as suitable office space to accomplish the relocations.

CEO Real Estate and the PD are proposing a new lease (Proposed Lease One) with CF Santana, LLC (Lessor) at 200 West Santa Ana Blvd. in Santa Ana. According to current industry measurement standards, the Premises offers PD 14,157 rentable square feet (RSF) of office space to provide criminal defense services and administrative support. To ensure continuity of service, CEO Real Estate and the PD are recommending Proposed Lease One for 15 years. Proposed Lease One will be effective July 1, 2019, through June 30, 2034 (Term).
Under the terms of Proposed Lease One, the rental rate will be a monthly rate of $32,561.10 or $2.30 per RSF full service gross. The monthly rate will adjust by approximately 3% annual increase over the term of Proposed Lease One beginning July 1, 2020.

Proposed Lease One includes a Lessor contributed tenant improvement allowance equal to $61.88 per RSF to be used within the initial five years of the term at the County’s option for construction and/or furniture, fixtures and equipment (FF&E). Additionally, PD shall have the ability to apply any unused tenant improvement allowance to offset rent within the initial five years of the term.

CEO Real Estate and the PD are also proposing a second lease (Proposed Lease Two) with Lessor at 801 West Civic Center Drive in Santa Ana that compromises the additional office space necessary to accommodate department employees. According to current industry measurement standards, the Premises offers the PD 71,197 RSF of office space. To ensure continuity with Proposed Lease One, CEO Real Estate and the PD are recommending Proposed Lease Two for 15 years commencing July 1, 2019, through June 30, 2034 (Term).

Under the terms of the Proposed Lease Two, the base rental rate will be a monthly rate of $157,883.79 or $2.22 per RSF full service gross. The monthly rate will adjust by approximately 3% annual increase over the term of Proposed Lease 2 beginning July 1, 2020.

Proposed Lease Two includes a Lessor contributed tenant improvement allowance equal to $63.06 per RSF to be used within the initial five years of the commencement date and used at the County’s option for FF&E. Additionally, PD shall have the ability to apply any unused tenant improvement allowance to offset Rent within the initial five years of the Term. Proposed Lease Two at 801 West Civic Center Drive involves an expansion of the Premises of 28,360 RSF that comprises the total 71,197 RSF. The tenant improvement allowance will be used to renovate a portion of the Premises to accommodate legal and support staff.

CEQA Compliance: The proposed project is Categorically Exempt (Class 1) from the provisions of CEQA pursuant to Section 15330 because it involves a lease of an existing private facility for County office space, resulting in negligible or no expansion of use beyond that existing.

FINANCIAL IMPACT:

Appropriations for these lease agreements will be included in the Public Defender’s FY 2019-20 Budget for Budget Control 058, and will be included in the budgeting process for future fiscal years.

200 W. Santa Ana Blvd.

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801 W. Civic Center

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<th>Amount</th>
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FY 2020-2021 $1,932,793.56
FY 2021-2022 $1,970,406.12
FY 2022-2023 $2,004,993.24
FY 2023-2024 $2,033,897.76
FY 2024-2025 $2,253,591.02
FY 2025-2026 $2,575,713.72
FY 2026-2027 $2,646,104.40

FY 2028-2029 $2,793,284.40
FY 2029-2030 $2,870,202.18
FY 2030-2031 $2,949,427.55
FY 2031-2032 $3,031,029.68
FY 2032-2033 $3,115,079.68
FY 2033-2034 $3,201,651.58

STAFFING IMPACT:

N/A

REVIEWING AGENCIES:

Public Defender

ATTACHMENT(S):

Attachment A – Lease (200 W. Santa Ana Blvd.)
Attachment B – Lease Summary (200 W. Santa Ana Blvd.)
Attachment C – Acquisition Questionnaire (200 W. Santa Ana Blvd.)
Attachment D – Lease (801 W. Civic Center Dr.)
Attachment E – Lease Summary (801 W. Civic Center Dr.)
Attachment F – Acquisition Questionnaire (801 W. Civic Center Dr.)
LEASE

THIS IS A LEASE AGREEMENT (hereinafter referred to as “Lease”) made ____________, 2019 (“Effective Date”), by and between CF SANTANA LLC (hereinafter referred to as “Lessor”) and the COUNTY OF ORANGE, a political subdivision of the State of California (hereinafter referred to as “County”) without regard to number and gender. The Lessor and County may individually be referred to herein as a “Party,” or collectively as the “Parties.”

RECITALS

The Parties agree, consistent with this Lease, that County shall lease from Lessor a total of approximately 14,157 rentable square feet (“RSF”) (“Premises”), in the Building located at 200 W. Santa Ana Blvd in Santa Ana, California which includes: (a) approximately 2,185 RSF on the first (1st) floor of the Building (b) approximately 3,701 RSF on the sixth (6th) floor of the Building and (c) approximately 8,271 RSF on the ninth (9th) floor of the Building.

1. DEFINITIONS (1.0 SA)

“Board of Supervisors” means the Board of Supervisors of the County of Orange, a political subdivision of the State of California.

“Chief Real Estate Officer” means the Chief Real Estate Officer, County Executive Office, County of Orange, or upon written notice to Lessor, such other entity as shall be designated by the County Executive Officer.

“County Counsel” means the County Counsel, County of Orange, or designee, or upon written notice to Lessor, such other person or entity as shall be designated by the County Executive Officer or the Board of Supervisors.

“County Executive Officer” means the County Executive Officer, County Executive Office, County of Orange, or designee, or upon written notice to Lessor, such other person or entity as shall be designated by the Board of Supervisors.

“CEO/Office of Risk Management” means the Risk Manager, County Executive Office, Risk Management, County of Orange, or designee, or upon written notice to Lessor, such other person or entity as shall be designated by the County Executive Officer or the Board of Supervisors.

“Public Defender” means the Public Defender, County of Orange, or designee, or upon written notice to LESSOR, such other person or entity as shall be designated by the County Executive Officer or the Board of Supervisors.

“Public Defender/Facilities Services Manager” means the Manager, Public Defender/Facilities Services, County of Orange, or designee, or upon written notice to LESSOR, such other person or entity as shall be designated by the Public Defender.

2. PREMISES (1.1 NA)
Lessor leases to County that certain property described in Exhibit A and shown on Exhibit B, which exhibits are attached hereto and by reference made a part hereof, of approximately 14,157 RSF in the Building (the “Premises”), together with non-exclusive, in common use of elevators, stairways, washrooms, hallways, driveways for vehicle ingress and egress, pedestrian walkways, other facilities and common areas appurtenant to the Premises.

3. USE (1.2 NA)

County shall use the Premises for administrative and office purposes and any other lawful purpose that is incidental to administrative and office use; provided that the portion of the Premises located on the first (1st) floor of the Building shall be used only for storage of dry goods. County shall not use the Premises or any portion thereof for any other purpose, or for any illegal or unlawful purpose and will not cause or permit a nuisance to be created or maintained therein.

4. PARKING (1.3 NA)

Throughout the Term of the Lease), County shall have the non-exclusive right to use fifty-four (54) parking passes for parking in unreserved parking spaces in the “Parking Facilities” serving the Building as shown on Exhibit B. County’s use of said parking spaces shall be subject to all reasonable rules and regulations which are prescribed by Lessor from time to time for the efficient operation of the Parking Facilities for the Building and provided to County in writing.

County’s visitors may park in the Parking Facilities on a space-available basis, upon payment of the prevailing fee for visitor parking in the Parking Facilities. County shall have the right to purchase from Lessor, at Lessor’s then prevailing rate, Parking Validations (defined below), to be used only by County’s visitors for parking in the Parking Facilities without charge. “Parking Validations” means validations, in such form as Lessor, in its sole but good faith discretion, shall offer from time to time, permitting persons using such validations to park in the Parking Facilities for specified periods of time without charge (i.e., a 20-minute validation would permit parking without charge in the applicable Parking Facility for a period up to 20 minutes).

In addition to said parking that is provided to County, Lessor shall also provide parking for disabled persons (“ADA Spaces”) in accordance with the Americans with Disabilities Act, Section 7102 of the California Uniform Building Code and the applicable codes and/or ordinances relating to parking for disabled persons as established by the local jurisdiction in which the Premises is located where the provisions of such local codes and/or ordinances exceed or supersede the State requirements.

5. TERMINATION OF PRIOR AGREEMENTS (1.4 SA) - intentionally omitted

6. TERM (1.5 SA)

The Term of this Lease (“Term”) shall be for approximately one hundred eighty (180) months (fifteen (15) years), commencing on the first day of the first full calendar month after the Substantial Completion Date, as defined in Clause 13 (CONSTRUCTION) (the “Commencement Date”), and ending on the last day of the one hundred eightieth month after the Commencement Date. The Commencement Date is projected to occur on July 1, 2019.

The Parties agree that the Commencement Date of this Lease will be confirmed in writing by either Party upon demand by the other.
7. OPTIONS TO EXTEND TERM (1.6 NA)

Provided there is no current County Default under this Lease (as further defined in Clause 29 (DEFAULTS AND REMEDIES)), either at the time of the exercise of the Option or upon commencement of the Extension Term, County shall have the option to extend the term (the “Option(s)” of this Lease for two (2) five (5) year periods (each an “Extension Term”) beyond the Term, to be exercised by the Chief Real Estate Officer and memorialized in an amendment on the same terms and conditions of this Lease except this Clause 7, Clause 10 (RENT ADJUSTMENT), the Fair Market Rental Value which shall be negotiated at the time of the Option(s) as set forth below and shall not exceed fair market value at the time of the renewal notice, and such other terms and conditions clearly not applicable during the Extension Term. County shall give Lessor written notice of its intent to exercise its Option(s) to extend the Term no sooner than twelve (12) months and no later than nine (9) months prior to the Lease termination date. Time is of the essence in the exercise of the Option(s). The Option(s) shall be personal to County and shall not be exercised by any assignee or sublessee of County. “Term” as used in this Lease shall mean the initial Term and the Extension Term(s) if the Option(s) are duly exercised.

Mutual Agreement. Lessor and County shall have thirty (30) days after County exercises any Option to extend in which to agree on the Fair Market Rental Value, as defined below, for the Extension Term. If Lessor and County are unable to agree on the Fair Market Rental Value for the option period within such thirty (30) days, the provisions of the Arbitration section below shall apply.

Factors for Determining Fair Market Rental Value. The “Fair Market Rental Value” of the Premises (or applicable portion thereof) shall be the amount that a willing, comparable, new (i.e., non-renewal), non-equity tenant would pay, and that a willing landlord of a comparable space in comparable buildings in the Civic Center and Central Orange County submarkets in Orange County would accept at arms’ length. Appropriate consideration shall be given to (A) the annual rental rate per rentable square foot; (B) the definition of rentable square feet (and the applicable measurement standard) for purposes of comparing the rate; (C) location, quality and age of the Premises and the improvements therein; (D) the financial condition (e.g., creditworthiness) of Tenant; (E) escalation (including type, base year and stop) and abatement provisions reflecting free rent and/or no rent during the period of construction; (F) brokerage commissions, if any; (G) length of the lease Term; (H) size and location (including floor level) of the Premises; (I) building standard work letter and/or tenant improvement allowance, if any (taking into consideration the cost of anticipated tenant improvements as compared to market tenant improvement allowances), provided, however, the Fair Market Rental Value shall not include the unique value to County of any tenant improvements or any alterations made by County; (J) condition of space; (K) lease takeover/assumptions; (L) moving expenses and other concessions; (M) extent of services to be provided; (N) distinctions between “gross”, “modified gross” and “net” leases; (O) base year figures or expense stops for escalation purposes for both operating costs and ad valorem/real estate taxes; (P) the time the particular rental rate under consideration becomes or is to become effective; (Q) applicable caps on the amount of real estate taxes and assessments passed through to tenants; and (R) the Rent shall increase during the Extension Term every twelve (12) months by three percent (3%), calculated by multiplying the Rent then in effect by 1.03; and (S) other generally applicable conditions of tenancy for the space in question. During the Extension Term, County shall obtain the same rent and other benefits that Lessor would otherwise give to any comparable prospective tenant.

Arbitration. If after the expiration of the thirty (30) day period described in the Mutual Agreement
section above, the Parties have not mutually agreed on the Fair Market Rental Value for the Extension Term in question, then the Parties shall use the following method to determine the Fair Market Rental Value (the “Three Broker Method”): within ten (10) business days after the expiration of such thirty-day period, each Party shall give written notice to the other setting forth the name and address of a “Broker” (as hereinafter defined) selected by each Party who has agreed to act in such capacity, to determine the Fair Market Rental Value. If either Party has failed to select a Broker as aforesaid within the above described ten (10) business day period, the Fair Market Rental Value shall be determined by the Broker selected by the other Party. Each Broker shall thereupon independently make his or her determinations of the Fair Market Rental Value within twenty (20) days after the appointment of the second Broker. If the two Brokers’ determinations are not the same, but the higher of such two values is not more than one hundred five percent (105%) of the lower of them, then the Fair Market Rental Value shall be deemed to be the average of the two values. If the higher of such two values is more than one hundred five percent (105%) of the lower of them, then the two Brokers shall jointly appoint a third Broker within ten (10) days after the second of the two determinations described above has been rendered. The third Broker shall independently make his determination of the Fair Market Rental Value within twenty (20) days after his appointment. The highest and the lowest determinations of value among the three Brokers shall be disregarded and the remaining determination shall be deemed to be the Fair Market Rental Value.

Broker. For the purpose of this Clause 7, “Broker” shall mean a real estate broker or salesperson licensed in California, who has been regularly engaged in such capacity in the business of commercial office leasing in the Orange County market for at least ten (10) years immediately preceding such person’s appointment hereunder. Each Party shall pay for the cost of its Broker and one half of the cost of the third Broker.

8. OPTION TO TERMINATE LEASE (1.7 SA) - intentionally omitted

9. RENT (1.8 NA)

County agrees to pay to Lessor as rent for the Premises the sum of Thirty-Two Thousand Five Hundred Sixty-One Dollars and Ten Cents ($32,561.10) per month commencing on the Commencement Date and adjusted annually pursuant to the Rent Adjustment schedule in Clause 10 (RENT ADJUSTMENT) below.

To obtain rent payments and payment of any amounts hereunder Lessor (or Lessor’s designee) shall submit to County’s Public Defender/Facilities Services Manager, in a form acceptable to said Public Defender/Facilities Services Manager, a written claim for said rent payments.

Payment shall be due and payable within twenty (20) days after the later of the following:

A. The first day of the month following the month earned; or

B. Receipt of Lessor’s written claim by the Public Defender/Facilities Services Manager.

Should County occupy the Premises before the Commencement Date, Lessor shall be entitled to pro rata Rent for the period of occupancy and the amount of space occupied prior to the beginning of the Lease Term based upon the monthly Rent installment above. Said Rent shall be included in the Rent claim submitted by Lessor for the first full month of the Lease Term and shall be paid by County at the time of payment for said month.
County shall also pay Additional Rent in accordance with this Clause. "**Additional Rent**" consists of additional utility charges under Clause 20 (UTILITIES), additional parking charges under Clause 4 (PARKING), and additional repair and maintenance charges under Clause 19 (REPAIR, MAINTENANCE, AND JANITORIAL SERVICES), and as applicable, under Clause 61 (COUNTY ALLOWANCE) of this Lease.

10. **RENT ADJUSTMENT (1.9 SA)**

The monthly rent payable by County for the Premises ("**Rent**") shall be automatically adjusted as follows:

<table>
<thead>
<tr>
<th>Months</th>
<th>Monthly Rental</th>
<th>Per Square Foot</th>
</tr>
</thead>
<tbody>
<tr>
<td>13-24</td>
<td>$33,537.93</td>
<td>$2.37</td>
</tr>
<tr>
<td>25-36</td>
<td>$34,544.07</td>
<td>$2.44</td>
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<tr>
<td>37-48</td>
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<tr>
<td>49-60</td>
<td>$36,647.80</td>
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<tr>
<td>61-72</td>
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<tr>
<td>73-84</td>
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<tr>
<td>85-96</td>
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<tr>
<td>97-108</td>
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<td>109-120</td>
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<td>121-132</td>
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<td>133 – 144</td>
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<tr>
<td>145 - 156</td>
<td>$46,424.34</td>
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<tr>
<td>157 - 168</td>
<td>$47,817.07</td>
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</tr>
<tr>
<td>169 - 180</td>
<td>$49,251.59</td>
<td>$3.48</td>
</tr>
</tbody>
</table>

The monthly Rent, above, is the amount to be paid by County. The "Per Square Foot" rate, above, is an estimate for statistical purposes only and for no other purpose.

11. **ADJUSTMENT FOR COST OF LESSOR SERVICES (2.0 SA) - intentionally omitted**

12. **RIGHT OF FIRST OFFER; RIGHT TO EXPAND (2.1 NA) - intentionally omitted**

13. **CONSTRUCTION (2.2 NA)**

A. **Completion Schedule**: Lessor hereby agrees to complete, at Lessor’s expense, on or before the Target Substantial Completion Date, the alterations, repairs, and other work with respect to the Premises (the "**Work**") as defined and in accordance with the plans and specifications attached hereto and made a part hereof as Exhibit C, in order for County to have sufficient time to commence moving furniture, fixtures and equipment into the Premises in preparation of occupancy. Lessor agrees to use commercially reasonable efforts to cause the Premises to be Substantially Complete (as defined below) on or before the Target Substantial Completion Date (defined below). Without limiting any available remedies to County, if Substantial Completion fails to occur on or prior to the Late Substantial Completion Date (defined below), County shall have the option, after notice to Lessor as set forth in Clause 16 (ALTERATIONS), below, to complete the Work and deduct the cost thereof, including labor, materials, contractor’s overhead and an administrative charge equal to ten percent (10%) of the cost of the Work completed by County) from any Rent payable hereunder. The
“Target Substantial Completion Date” is July 1, 2019, provided that such date shall be extended on a day for day basis by each day of delay caused by or resulting from Force Majeure Delays and/or County Delays (as such terms are defined below). The “Late Substantial Completion Date” is September 1, 2019, provided that such date shall be extended on a day for day basis by each day of delay caused by or resulting from Force Majeure Delays and/or County Delays (as such terms are defined below).

B. **County Remedies:** If the Substantial Completion fails to occur on or prior to the Late Substantial Completion Date, Lessor shall be obligated to pay a penalty to County of Five-Hundred dollars ($500) per day for the period from the Late Substantial Completion Date through the day prior to the date on which Substantial Completion occurs. The Parties agree that this amount is a reasonable and fair assessment of the County’s damages in such a situation. Notwithstanding the foregoing, in the event that Lessor’s performance of the Work causes a material disruption in the ability of County to use the Premises for its intended purposes including failing to maintain a safe place of employment or any circumstances which require the County to vacate any substantial portion of the Premises, County shall be entitled to pursue all available remedies at law or equity and pursuant to this Lease (as further defined in Clause 29 (DEFAULTS AND REMEDIES)).

C. **Approvals:** All planning and architectural/design costs required to accomplish the Work shall be Lessor’s responsibility and shall be approved by Public Defender/Facilities Services Manager. Such approvals will not be unreasonably withheld, conditioned or delayed and if a written disapproval of any request by Lessor is not received within five (5) working days after submission, such request shall be deemed approved. Lessor shall have the right, without liability, to stop construction pending receipt of any approval (which shall be deemed a County Delay), provided that Lessor has given County prior written notice that it intends to stop construction pending receipt of any such approval. Such approvals by the Public Defender/Facilities Services Manager shall not relieve Lessor of the responsibility for complying with all applicable codes and construction requirements, nor of obtaining necessary permits or approvals from the authorities of proper jurisdiction.

D. **Punch List:** Upon Substantial Completion (as defined below) of the Work, Lessor shall request the Public Defender/Facilities Services Manager approval and acceptance of such Work, which approval will not be unreasonably withheld, conditioned or delayed. Said approval shall be manifested by letter from the Public Defender/Facilities Services Manager (the “Work Acceptance Letter”), and may be subject to completion of items on a “punch list,” which shall be generated by County and included in the Work Acceptance Letter. County shall not be required to send the Work Acceptance Letter until County is satisfied that the Work has reached Substantial Completion (other than punch list items, if any) pursuant to this Lease, in County’s reasonable discretion. As used in this Clause 13(D), “Substantial Completion” means that the Work shall have been completed in accordance with the provisions of this Lease and any mutually approved plans and specifications, such that the Premises may be fully occupied and ready for operation by County for the intended purposes, evidenced by signed off permits for such Work which have been issued in connection with such Work, subject to any “punch list” items, if any.

In the event County’s approval and acceptance of the Work is given along with a punch list, Lessor shall use commercially reasonable efforts to complete all punch list items within
twenty-one (21) days following receipt of the Work Acceptance Letter. Should the items on
the punch list not be completed within twenty-one (21) days other than as a result of actions
(or inactions) of County or events of Force Majeure, Lessor shall be obligated to pay a
penalty to County of Two-Hundred fifty dollars ($250) per day for the period from the
Substantial Completion Date through the date that all punch list items have been completed or
County shall have the option to complete the punch list items and deduct the cost thereof,
including labor, materials, and overhead from any rent payable.

E. Final Improvement Date: The “Final Improvement Date” means Lessor’s completion of
the Work as determined by County and as evidenced by the Work Acceptance Letter, and
completion of the items set forth in the punch list set forth in the Work Acceptance Letter (if
any). The determination of whether the Final Improvement Date has occurred will be made
in County’s reasonable discretion.

F. Project Management Oversight: County may, at County’s option, select a project manager
or construction manager, at County’s sole discretion, cost and expense, to assist in County’s
oversight of the Work (the “Project Manager”). The Project Manager will represent the
County’s best interest during the construction of the Work to confirm that the Work is being
performed pursuant to the terms of this Lease and will act as the liaison between Lessor and
County in all items that are subject to approval by County as provided in Clause 13(C) above.

G. County Alterations to Work: The Parties agree that should County make alterations or
revisions to the Work, (“County Alterations”) and such County Alterations cause the
County Improvement Costs to exceed the County Allowance, County will reimburse Lessor
for the cost of any County Alterations to the extent such County Alterations cause the County
Improvement Costs to exceed the County Allowance in accordance with Clause 61(A)
(COUNTY ALLOWANCE).

H. Performance of Work: Lessor agrees that any improvement being constructed by, or under
the direction of, Lessor shall be constructed in substantial compliance with County approved
plans and if and to the extent applicable, in compliance with the requirements of California
Public Contract Code Section 22000 et seq., which requires those improvements to be
constructed as if such improvements had been constructed under the direction and
supervision, or under the authority, of County. In partial satisfaction of the requirements of
Section 22000 et seq., if applicable: (a) Lessor shall be required to secure the faithful
performance of construction and completion of construction of the improvement by
appropriate contractor’s bonds as required by the California Public Contracts Code and shall
require its contractor or contractors to pay the prevailing rate of per diem wages for work of
a similar character in the locality of the County and not less than the general prevailing rate
of per diem wages for holiday and overtime work, as provided in Clause 31 (LABOR CODE
COMPLIANCE) of this Lease; (b) Lessor shall publicly advertise for bids for such
improvements, as provided in Orange County Codified Ordinances 1-8-1 et seq., and shall
provide County a list of all bids received for the contract; and (c) thereafter, with the prior
written approval of County as to the winning bid, Lessor shall award the contract or contracts
for such improvements.

I. Force Majeure Delay: The occurrence of an event of Force Majeure (as defined in Clause 55
(FORCE MAJEURE) shall excuse the performance by that Party for a period equal to the
prevention, delay or stoppage (except the obligations imposed with regard to the payment of Rent and other sums to be paid by County pursuant to this Lease), provided the affected Party gives the other Party notice within thirty (30) days of the event causing the prevention, delay or stoppage. In addition, any failure of the City of Santa Ana to issue (in “ready to issue” form) all permits and approvals required for commencement of the Work on or before April 15, 2019 shall be deemed a Force Majeure Delay.

J. **County Delays:** shall mean any delays caused in whole or in part by or through County and/or County’s representatives or contractors, including, without limitation, County’s failure to reasonably cooperate with Lessor in the procurement of required licenses and permits, and/or failure to approve any plans and specifications in a timely fashion to the extent County’s approval is required under the Lease or by any governmental or quasi-governmental authority (in which event, County’s failure to respond within five (5) business days following request by Lessor (together with reasonably complete substantiating documentation, if applicable) shall be deemed a “County Delay”), any material interference by any of County’s contractor, subcontractors, employees, representatives and/or agents with any obligations to be performed on the part of Lessor, requests for changes or postponements in construction (including postponements required by requested changes), submission of materially inaccurate or incomplete information to Lessor, failure to pay any fees or charges when due, and/or failure to provide any required authorizations in a timely fashion where such authorization is required under the Lease or by any governmental or quasi-governmental authority. In addition, each of the following shall be deemed to be a County Delay: (a) County’s failure to provide completed construction drawings (in a form that is sufficient for Landlord to obtain all required permits and approvals required for commencement and construction of the Work on or before February 19, 2019 or (b) County’s failure to approve and execute this Lease on or before February 26, 2019.

14. **PAINTING BY Lessor (2.3 SA) - intentionally omitted**

15. **CARPETING BY Lessor (2.4 SA) - intentionally omitted**

16. **ALTERATIONS (2.5 NA)**

County may make improvements and changes in the Premises, including, but not limited to, the installation of fixtures, partitions, counters, shelving, and equipment as deemed necessary or appropriate by the County in its discretion. It is agreed that any such fixtures, partitions, counters, shelving, or equipment attached to or placed upon the Premises by County shall be considered as personal property of County, as defined below in Clause 34 (COUNTY PROPERTY), who shall have the right, but not the obligation, to remove same. County agrees that the Premises shall be left in as good condition as when received, reasonable wear and tear exempted.

Notwithstanding the foregoing, except for Permitted Alterations (defined below), County shall not have the right to make any Alterations (defined below), without Lessor’s prior written consent which shall not be unreasonably withheld. Any requests for consent shall be presented to Lessor in written form with proposed detailed plans. Any Alterations by County during the term of this Lease shall be done at County’s sole cost and liability and in a good and workmanlike manner, with good and sufficient materials consistent with the quality of the Building, and in compliance with all applicable law. County shall give Lessor not less than ten (10) business days’ notice prior to the commencement of any work in, on or about the Premises, and Lessor shall have the right to
post notices of non-responsibility in or on the Premises as provided by law. County shall within
a reasonable time after completion thereof furnish Lessor with as-built plans and specifications
therefor. “Alterations” means any modification of the improvements on the Premises, which are
provided by Lessor or made by County under the terms of this Lease, other than trade fixtures,
whether by addition or deletion. “Permitted Alterations” means cosmetic Alterations (such
as carpet and paint) that do not affect the structural portions of the Building or any of the Building
Systems and are not visible from outside of the Building and that cost less than fifty thousand
dollars ($50,000) in any year.

County shall pay, when due, all claims for labor or materials furnished or alleged to have been
furnished to or for County at or for use on the Premises, which claims are or may be secured by
any mechanics’ materialmen’s or design professionals’ lien against the Premises or any interest
therein. If County shall, in good faith, contest the validity of any such lien, claim or demand, then
County shall, at its sole expense defend and protect itself, Lessor and the Premises against the
same and shall pay and satisfy any such adverse judgment that may be rendered thereon before
the enforcement thereof against the Lessor or the Premises. If County or any person with whom
County is engaged in business causes any damage to the Premises during Alterations, County
shall upon demand promptly repair all such damage to the reasonable satisfaction of Lessor.

17. COUNTY-REQUESTED ALTERATIONS (2.6 NA)

County through Public Defender/Facilities Services Manager, may, during the Term of the Lease,
request Lessor to make improvements and changes to the Premises. Any such request must describe
the County’s requested improvements and changes in reasonable detail. The granting or conditioning
of any such request shall be at Lessor’s sole and absolute discretion and in no event shall Lessor have
any obligation whatsoever to grant such request or perform such improvements or changes in the
Premises. All plans and working drawings for the improvements and changes, as well as the final
work, shall have the written approval of Public Defender/Facilities Services Manager. All such
improvements and changes shall be made by Lessor, at Lessor’s sole cost, and reimbursed in a lump
sum as additional Rent by County upon receipt by County from Lessor of a written claim for such
reimbursement. County agrees that said reimbursement may include a five percent (5%)
management/construction fee which shall be considered as part of the costs and expenses of the
alterations.

County shall have the right to audit said claim and require additional support documentation from
Lessor prior to making reimbursement payment. County shall evidence acceptance of such claim by
written letter to Lessor. Once Lessor’s claim has been accepted by County as complete and adequate,
the claim amount shall be reimbursed by County to Lessor at the same time as the next scheduled
monthly Rent payment following the date of written acceptance of said claim.

Lessor agrees that any improvement so being designed and constructed by, or under the direction of
Lessor, shall be constructed in substantial compliance with city approved plans and to the extent
applicable, in compliance with Federal, California and local laws, including by not limited to, the
requirement of California Public Contract Code Section 22000 et seq., and shall require, to the extent
applicable, its contractor or subcontractors to pay the prevailing rate of per diem wages for work of a
similar character in the locality of the County and not less than the general prevailing rate of per diem
wages for work of a similar character in the locality of the County and not less than the general
prevailing rate of per diem wages for holiday and overtime work, as provided in Clause 31 (LABOR
CODE COMPLIANCE) of this Lease.

Following the written approval to let a contract for improvements, Lessor shall, to the extent applicable, publicly advertise for bids for such improvements, as provided in Orange County Codified Ordinances 1 8 1 et seq., and shall provide County a list of all bids received for the contract. Thereafter, with the prior written approval of County as to the winning bid, Lessor shall award the contract or contracts for such improvements. County’s approval of the bid shall be limited to the dollar value only, to ensure it is within County’s budget.

County acknowledges that County will be occupying the Premises during the period that work is performed by Lessor pursuant to this Clause 17, that such work may be performed and the applicable improvements may be constructed during County’s Normal Business Hours (as defined below) and that County may encounter disturbances and interferences in connection with Lessor’s performance of such work and construction of such improvements. Lessor will use reasonable efforts to minimize such disturbances and interferences to County and may perform work and/or construct improvements outside of Normal Business Hours. If Lessor fails to use reasonable efforts to minimize such disturbances and interferences, County agrees that Lessor may be liable for any such disturbances and/or interferences, and County may be entitled to any rent abatement or other offsets in the event that Lessor's performance of work or construction of improvements pursuant to this Clause 17 disturbs or interferes with County's use of any portion of the Premises. County agrees to reasonably cooperate with Lessor in connection with Lessor’s performance of work or construction of improvements pursuant to this Clause 17, and shall provide access to the Premises in connection therewith.

18. ORANGE COUNTY TELECOMMUNICATIONS NETWORK (2.7 NA)

Lessor agrees that County may install, at County’s sole cost and expense, telecommunication devices in, on, or around the Premises and Building in accordance with the relevant and applicable County telecommunications network plans and specifications, provided that the provisions of Clause 16 (ALTERATIONS), shall be applicable to such work. It shall be County’s responsibility to obtain all governmental permits and/or approvals required for such installation; however, Lessor shall reasonably cooperate with County as necessary or appropriate, to obtain said permits and/or approvals. Additionally, subject to all of the terms and conditions of this Lease and to Lessor’s reasonable access control programs, County or County subcontractor has the right to enter the Premises and/or common areas of the Building to maintain, repair or replace the County telecommunications network consistent with said contract between County and service provider. Subject to all of the applicable terms and conditions of this Lease, County may, in its discretion, remove any cabling, conveyance systems or cabling conduit installed by County. When the Lease is terminated, subject to all of the applicable terms and conditions of this Lease, County reserves all rights to remove, in its discretion, any such telecommunication improvements from the Premises and/or Building.

19. REPAIR, MAINTENANCE, AND JANITORIAL SERVICES (2.8 NA)

A. **Lessor Services:** Lessor shall provide, at its sole cost and expense (except as otherwise provided in this Lease) any and all necessary repair, maintenance and replacement for the Premises as it is affected by the Work done to the ninth floor, and Building (and systems therein) in good order, condition and repair, including, but not limited to, the replacement, repair and maintenance of the structural portions of the Building, the roof of the Building, the parking facilities and all Building systems including the Heating, Ventilation, Air Conditioning ("HVAC") system, the plumbing, electrical and mechanical systems, fire/life
safety system, elevators, roof, paving, fire extinguishers, pest control, and whether capital or non-capital (the "Services"), consistent with Exhibit D, which is attached hereto and by reference made a part hereof. Upon request, Lessor shall provide County with a complete copy of the janitorial and any other contracts for Services of an ongoing nature. Any repairs or replacements performed by Lessor must be at least equal in quality and workmanship to the original work and be in accordance with all applicable laws and local permit regulations. The Services shall be made promptly to keep the Premises and the Building in the condition described in this Clause 19. Should Lessor default in its obligations under this clause, the County may exercise those remedies set forth in Clause 19(B) below.

To the extent any required repair or replacement is due to the negligence or intentional misconduct County’s agent, employees, contractors, licenses or business invitees (including, without limitation, by any persons entering upon the Premises to use the services of the County, but specifically excluding repairs or replacements necessitated solely as the result of reasonable wear and tear), such repairs or replacements shall be undertaken by Lessor at County’s sole cost and expense. All costs and expenses incurred by Lessor in undertaking such repairs and replacements shall be reimbursed by County as Additional Rent within thirty (30) days after Lessor’s delivery to County of written demand therefor.

B. **County Self-Help:** County may provide written notice to Lessor of any Lessor failure to provide Services under Clause 19(A) above or written notice of Lessor’s failure to provide or commence to provide any of its obligations under Clause 21 (BUILDING AND SAFETY REQUIREMENTS) below ("Lessor Failure"). Such County notice shall specify such Lessor Failure and afford Lessor fifteen (15) days to complete the cure of such Lessor Failure, provided, however, that if the cure cannot reasonably be completed within such time period, Lessor shall be afforded an additional reasonable amount of time to complete the cure, as long as Lessor commences the cure within such time period, notifies County of such commencement with written notice, and diligently pursues same to completion, without limiting any available remedy to County (including, but not limited to, County Remedies as defined in Clause 29 (DEFAULTS AND REMEDIES). After such fifteen (15) day period, if Lessor has not commenced the action required to cure the applicable Lessor Failure, County may, after a second written notice to Lessor and Lessor’s Lender and an additional fifteen (15) day cure period during which Lessor may send County a written objection (describing in reasonable detail its reasons for objection), at its sole discretion, perform or arrange for the performance of such Services or such obligations. If such Services or obligations were required to be provided by Lessor under Clause 19(A) above or Clause 21 (BUILDING AND SAFETY REQUIREMENTS) below and Lessor fails to reimburse County for the costs incurred by County in connection with such performance within thirty (30) days after County’s delivery to Lessor of a reasonably detailed statement ("County Self Help Statement") describing the Services performed by County in reasonable detail, including a detailed breakdown of the costs incurred together with supporting documentation, County shall be entitled to deduct an amount equal to the out of pocket cost incurred by County in taking such action plus an administrative charge of ten percent (10%) of the cost from the Rent first coming due thereafter ("County Self Help Costs"). Notwithstanding the foregoing, if Lessor fails to object (including a reasonable description for said objection) to County’s allegation that a Lessor Failure has occurred within fifteen (15) days after Lessor’s receipt of the second notice referenced above, County shall have no obligation to deliver a County Self Help Statement prior to deducting the County Self Help
Costs from Rent next coming due under the Lease (and Lessor shall have no right to object to such deduction).

On the condition that Lessor reasonably objects to County’s allegation that a Lessor Failure has occurred within fifteen (15) days after Lessor’s receipt of the second notice referenced above, and if the County Self Help Costs exceed one hundred thousand dollars ($100,000.00), Lessor may deliver a reasonably detailed written objection to such County Self Help Statement within thirty (30) days after Lessor’s receipt of such County Self Help Statement, setting forth with reasonable particularity, Lessor’s reasons that no Lessor Failure occurred. County shall not be entitled to deduct the amount described in the County Self Help Statement (from the County’s obligations to pay RENT as provided above), and the matter shall proceed to resolution by the selection of an arbitrator to resolve the dispute, which arbitrator shall be selected and qualified pursuant to the then current arbitration rules of the American Arbitration Association.

C. **Warranties:** Lessor shall initiate at purchase, and keep in force, all manufacturers’ warranties including extended warranties for all building equipment. When manufacturers’ warranties for the HVAC, roof and elevator expire, Lessor will contract with an industry standard maintenance company (“Vendor”) that specializes in the maintenance of such equipment (and for the roof) for regular and scheduled inspections as recommended by the manufacturer, and immediately authorize said Vendor to perform any and all recommended maintenance to the equipment and roof upon receipt of any inspection report. Lessor shall authorize Vendor(s) to provide County with copies of said report(s) upon County request. Should Lessor fail to comply with the provisions of this clause, County may exercise those remedies set forth in Clause 19(B) above.

In order for the County to comply with the California Code of Regulations, Title 8, Section 5142 (“Regulation 5142”), and as it may be subsequently amended, Lessor shall regularly inspect and maintain the HVAC system as required by Regulation 5142 and provide repair and maintenance accordingly. Inspections and maintenance of the HVAC system shall be documented in writing and Lessor shall retain such records for at least five (5) years. Lessor shall make all HVAC records required by this section available to County for examination and copying, within forty-eight (48) hours of a written request. Lessor acknowledges that County may be subject to fines and/or penalties for failure to provide said records to regulatory agencies within the given timeframes. Should County incur fines and/or penalties as a direct result of Lessor’s failure to provide said records to County in a timely manner and as set forth herein, Lessor shall reimburse County for said fines and/or penalties within thirty (30) days upon written notice. Should Lessor fail to reimburse County within thirty (30) days, County may deduct the amount of the fine and/or penalty from any Rent payable without further notice.

D. **HVAC System:** Lessor shall make reasonable efforts to provide and supply air conditioning to cause the temperature in the Premises and Building at a temperature consistent with other office buildings in Orange County, California, which are typically not less than 70°F nor greater than 75°F, during all Normal Business Hours as defined below in Clause 19(E). County shall be responsible for and shall pay to Lessor any additional costs incurred by Lessor because of the failure of the HVAC system to perform its function due to: (a) any use by County in any portion of the Premises of heat-generating machinery or equipment other than normal office equipment, or (b) any occupancy of any portion of the Premises at densities above customary.
general office levels.

E. **Normal Business Hours:** County acknowledges that the HVAC services to the Building shall operate only from 7:00 a.m. to 6:00 p.m. Monday through Friday and Saturday from 10:00 a.m. to 2:00 p.m., excluding governmental holidays ("Normal Business Hours"). A list of government holidays shall be provided to Lessor on a yearly basis upon request to County.

Notwithstanding the utilities provided during Normal Business Hours, Lessor shall provide HVAC services to the Premises prior to the beginning of Normal Business Hours in order for the temperature parameters required by this Lease, above, to be met and maintained at the beginning and throughout Normal Business Hours. There shall be no extra utility charges for HVAC services provided prior to the beginning of Normal Business Hours in order to cause the temperature parameter (described above) to be maintained during Normal Business Hours.

F. **Emergency Services:** If County requires same day emergency repairs that are required to be performed by Lessor under this Lease and are necessary to prevent imminent danger to persons or property ("Emergency Services") and Lessor cannot be contacted for such Emergency Services (as reasonably determined by the County), or if Lessor following such contact by County is unable or refuses to provide the necessary Emergency Services, then at any time prior to the date on which Lessor commences any such Emergency Services, County may have the necessary Emergency Services performed to the extent required to remedy the emergency condition, and may deduct the out of pocket cost thereof, including labor, materials, and overhead from the Rent first coming due after the date that is thirty (30) days after County provides Lessor with a reasonably detailed statement (the "County Emergency Self Help Statement") describing the Services performed by County in reasonable detail, providing a reasonably detailed breakdown of the costs incurred together with reasonable supporting documentation. If County takes such action, and such work will affect the Building systems or any of the Structural components of the Building, County shall use only those contractors used by Lessor in the Building for work on such systems; provided, however, that if such contractors are unwilling or unable to perform such work or, if required by applicable law, do not comply with Clause 31 (LABOR CODE COMPLIANCE) and Clause 32 (RIGHT TO WORK AND MINIMUM WAGE LAWS), County may utilize the services of any other qualified and licensed contractor that normally and regularly performs similar work and is approved by Lessor in its reasonable discretion.

G. **Operations Shutdown:** Should County be forced to completely shut down its operations within the Premises and/or Building due to Lessor’s failure to provide any Services that Lessor is required to provide by this Clause 19 (other than as a result of any event of Force Majeure) for a period of twenty four (24) consecutive hours, excluding weekends and holidays, County’s obligations to pay Rent shall be equitably abated, commencing upon expiration of such twenty-four (24) hour period and continuing through the date such Services are provided.

20. **UTILITIES (2.9 SA)**

Lessor shall be responsible for and pay, prior to the delinquency date, all charges for utilities supplied to the Premises except telephone and other telecommunications, which shall be the obligation of
County. Should Lessor fail to pay any utility for (prior to delinquency date), utility service to the Premises, and such failure shall continue for twenty (20) days following Lessor's receipt of notice thereof from County, County may pay the applicable utility for such utility service and deduct the cost thereof, including overhead, from any Rent payable thereafter.

Should County require HVAC services at times other than during Normal Business Hours as defined in Clause 19(E) above, County shall pay Lessor a reimbursement equal to Landlord's prevailing rate therefore (currently Sixty-Five dollars ($65)) per hour (or partial hour) per floor (or partial floor) for each hour HVAC services are used on any floor during times other than Normal Business Hours. Lessor shall provide County with a written statement of its monthly usage in the form of an invoice, which shall include a statement showing the date, time, location and duration of such usage, along with a summary of the County's monthly charges. County shall pay Lessor for excess usage with the following month's Rent.

21. BUILDING AND SAFETY REQUIREMENTS (3.0 NA)

Lessor shall cause the Work done on the first (1st), sixth (6th) and ninth (9th) floors in accordance with Clause 13 (CONSTRUCTION) above to comply with all laws (including the requirements of the ADA) in effect (and as enforced) as of the date of Substantial Completion. During the Term and Extension Term(s) of this Lease, Lessor, at Lessor's sole cost, agrees to maintain the Base Building and the Building common areas in compliance with all applicable laws, rules, regulations, building codes, statutes, and orders as they are applicable on the date of this Lease, and as they may be subsequently amended, including but not limited to the California Building Code, Title 24, Seismic Code, Fire and Life Safety requirements and, if applicable, California Green Building Standard Code. The "Base Building" means the structural components of the Building together with all of the Building utility systems (excluding any portions of any such systems that exclusively serve any rentable space in the Building).

Included in this provision is compliance with the Americans with Disabilities Act ("ADA") and all other federal, state, and local codes, statutes, and orders relating to disabled access as they are applicable on the dates of this Lease, and as they may be subsequently amended and all regulations issued by the U.S. Attorney General or other agencies under the authorization of the ADA. However, Lessor shall not be responsible for (and County shall be responsible for) any ADA violations resulting from, or to the extent compliance is required as a result of any alterations made by or for County or the placement of County's furniture, fixtures or equipment in County.

Lessor shall use commercially reasonable efforts to repair and maintain the Premises as a "safe place of employment," as defined in the California Occupational Safety and Health Act (California Labor Code, Division 5, Part 1, Chapter 3, beginning with Section 6400) and the Federal Occupational Safety and Health Act, where the provisions of such Act exceed, or supersede, the California Act, as the provisions of such Act are applicable on the date of this Lease, and as they may be subsequently amended. County agrees to notify Lessor of any repair or maintenance necessary within the Premises or Building to comply with such Act and Lessor agrees to diligently act to repair or maintain appropriately so long as such repair or maintenance of the Premises is a Lessor expense as defined in Clause 19(A) (REPAIR MAINTENANCE, AND JANITORIAL SERVICES) above. In the event that such repair or maintenance is necessary and is the result of County negligence, provided that County approves a work order with associated expense estimate, Lessor agrees to perform such repair or maintenance and County agrees to reimburse Lessor within thirty (30) days.

In the event Lessor neglects, fails, or refuses to either: (a) cause the Work done on the ninth floor in
accordance with Clause 13 (CONSTRUCTION) above to comply with all laws (including the requirements of the ADA) in effect (and as enforced) as of the date of Substantial Completion or (b) maintain said Base Building, the Building common areas as aforesaid, following thirty (30) days after written notice from County to Lessor providing notice of such neglect or failure or refusal County may exercise its self-help rights under Clause 19(B) above.

Lessor agrees to reimburse and indemnify, and defend County for any expenses incurred because of Lessor’s failure to perform its obligations under this Clause 21, including the costs of any governmental enforcement agency, or any court, any and all fines, civil penalties, and damages awarded against County resulting from a violation or violations of the above-cited laws, rules, regulations, building codes, statutes, and orders and regulations, and all reasonable legal expenses incurred in defending claims made under the above-referenced laws, rules, regulations, building codes, statutes, and orders, including reasonable attorneys’ fees. Should Lessor fail to comply with the provisions of this Clause 21, the County may also exercise those remedies set forth in Clause 19(B) (REPAIR MAINTENANCE, AND JANITORIAL SERVICES).

22. ASSIGNMENT AND SUBLETTING (3.1 NA)

A. General. County shall not assign this Lease or sublet the Premises in whole or in part without Lessor’s prior written consent, which consent shall not be unreasonably withheld. Lessor shall respond in writing to County’s request to assign this Lease or sublet all or any portion of the Premises within fifteen (15) days of County’s request. In the event Lessor withholds consent to any such request by County, Lessor shall provide reasonable details of its reason for such withholding of consent. In any event, County may sublease up to twenty percent (20%) of the Premises without obtaining Lessor’s prior written consent. In the event Lessor fails to timely respond to County’s request, Lessor shall be deemed to have disapproved such request. County hereby waives the provisions of Section 1995.310 of the California Civil Code, or any similar or successor Laws, now or hereinafter in effect, and all other remedies, including, without limitation, any right at law or equity to terminate this Lease, on its own behalf and, to the extent permitted under all applicable Laws, on behalf of the proposed transferee.

B. Justifications for Withholding Consent. By way of example and not limitation, Lessor shall be deemed to have reasonably withheld consent to a proposed assignment or sublease if in Lessor’s reasonable opinion (i) the Premises are or may be in any way materially adversely affected thereby; (ii) the business reputation of the proposed assignee or subtenant is unacceptable; (iii) the financial worth of the proposed assignee or subtenant is insufficient to meet the obligations of the subject sublease or assignment; or (iv) the proposed assignee or sublessee (or one of its affiliates) currently leases space in the Building or has been or is currently in of has in the preceding 120 days been in negotiations with Lessor to lease space at the Building. Notwithstanding anything to the contrary contained herein, in no event shall it be reasonable for Lessor to withhold its consent on the basis that there is vacancy in the Building.

C. Excess Profit. If County shall make any assignment or sublease, with Lessor’s consent, for a rental in excess of the rent payable under this Lease, Lessor shall not be entitled to receive any of such excess which shall be held by County.

D. Notwithstanding the consummation or attempted consummation of any sublease, assignment
or other transfer under this Clause 22, County shall remain as fully and primarily liable for the payment of Rent and for the performance of all other obligations of the County contained in this Lease to the same extent as if the sublease, assignment or other transfer had not occurred.

23. INSURANCE (3.2 SA)

**Commercial Property Insurance:** Lessor shall obtain and keep in force during the Term of this Lease a policy or policies of commercial property insurance written on ISO form CP 00 10 10 12, or a substitute form providing coverage at least as broad, with all risk or special form coverage, covering the loss or damage to the Premises to the full insurable value of the improvements located on the Premises (including the full value of all improvements and fixtures owned by Lessor) at least in the amount of the full replacement cost thereof, and in no event less than the total amount required by any lender holding a security interest.

Lessor agrees to and shall include in the policy or policies of commercial property insurance a standard waiver of the right of subrogation against the County of Orange, its elected and appointed officials, officers, agents and employees by the insurance company issuing said policy or policies. Lessor shall provide the County of Orange with a Certificate of Insurance as evidence of compliance with these requirements prior to the Commencement Date of this Lease.

**Commercial General Liability Insurance:** Lessor shall obtain and keep in force during the Term of this Lease a policy or policies of commercial general liability insurance covering all injuries occurring within the building and the Premises. The policy or policies evidencing such insurance shall provide the following:

A. An Additional Insured endorsement using ISO form CG 20 26 04 13 or a from at least as broad naming the County of Orange, its elected and appointed officials, officers, agents and employees as an additional insured, or provide blanket coverage which will state, AS REQUIRED BY WRITTEN AGREEMENT;

B. A primary and non-contributory endorsement using ISO form CG 20 01 04 13, or a form at least as broad evidencing that the Lessor’s insurance is primary and any insurance or self-insurance maintained by the County of Orange shall be excess and non-contributing;

C. Lessor shall notify County in writing within thirty (30) days of any policy cancellation and ten (10) days for non-payment of premium and provide a copy of the cancellation notice to County. Lessor shall furnish County with a current and valid certificate and required endorsements with respect to any insurance or a binder within one day prior to the date of cancellation or expiration of the current policy. If Lessor shall fail to provide such evidence of coverage, this may constitute a material breach of this lease;

D. Shall provide a limit of One Million Dollars ($1,000,000) per occurrence with a Two Million Dollars ($2,000,000) aggregate; and

E. The policy or policies of insurance must be issued by an insurer with a minimum rating of A- (Secure A.M. Best's Rating) and VIII (Financial Size Category as determined by the most current edition of the Best's Key Rating Guide/Property-Casualty/United States or ambest.com). It is preferred, but not mandatory, that the insurer be licensed to do business
in the state of California (California Admitted Carrier).

If the insurance carrier does not have an A.M. Best Rating of A-/VIII, the CEO/Office of Risk Management retains the right to approve or reject a carrier after a review of the company's performance and financial ratings. Prior to the Commencement Date of this Lease and upon renewal of such policies, Lessor shall submit to County a Certificate of Insurance and required endorsements as evidence that the foregoing policy or policies are in effect.

If Lessor fails to procure and maintain the insurance required to be procured by Lessor under this Lease, County may, but shall not be required to, order such insurance and deduct the cost thereof plus any County administrative charges from the rent thereafter payable.

24. INDEMNIFICATION (3.3 SA)

Lessor hereby agrees to indemnify, hold harmless, and defend County, its officers, agents, and employees, with counsel approved by County, against any and all claims, loss, demands, damages, cost, expenses or liability arising out of the ownership, maintenance, or use of the Premises, except for liability arising out of the negligence of County, its officers, agents, and/or employees, including the cost of defense of any lawsuit arising therefrom.

County hereby agrees to indemnify, hold harmless, and defend Lessor, its officers, agents, and employees, against any and all claims, loss, demands, damages, cost, expenses or liability arising out of the use of the Premises, except for liability arising out of the negligence of Lessor, its officers, agents, or employees, including the cost of defense of any lawsuit arising therefrom.

In the event County is named as co-defendant, Lessor shall notify County of such fact and shall represent County, with counsel approved by County, in such legal action unless County undertakes to represent itself as co-defendant in such legal action, in which event Lessor shall pay to County its litigation costs, expenses and attorney’s fees. In the event judgment is entered against County and Lessor because of the concurrent negligence of County and Lessor, their officers, agents, or employees, an apportionment of liability to pay such judgment shall be made by a court of competent jurisdiction. Neither Party shall request a jury apportionment.

25. TAXES AND ASSESSMENTS (3.4 SA)

All taxes and assessments which become due and payable upon the Premises shall be the full responsibility of Lessor, and Lessor shall cause said taxes and assessments to be paid prior to the due date. Should Lessor fail to pay taxes and assessments due upon the Premises prior to the due date, County may pay such amount due and deduct the cost thereof, including overhead, from the rent thereafter payable.

26. TOXIC MATERIALS (3.5 SA)

County hereby warrants and represents that County will comply with all laws and regulations relating to the storage, use and disposal of hydrocarbon substances and hazardous, toxic or radioactive matter, including, but not limited to, those materials identified in Title 26 of the California Code of Regulations (collectively "Toxic Materials"). County shall be responsible for and shall indemnify and hold Lessor, its officers, directors, employees, agents, and representatives, harmless from and against all claims, costs and liabilities, including attorneys’ fees and costs arising out of or in connection with the storage, use, and disposal of Toxic Materials on the Premises by County. If the
storage, use, and disposal of Toxic Materials on the Premises by County results in contamination or deterioration of water or soil resulting in a level of contamination greater than maximum allowable levels established by any governmental agency having jurisdiction over such contamination, County shall promptly take any and all action necessary to clean up such contamination.

Likewise, Lessor hereby warrants and represents that Lessor has in the past and will hereafter comply with all laws and regulations relating to the storage, use and disposal of Toxic Materials. If the previous, current and future storage, use, and disposal of Toxic Materials on the Premises by Lessor results in contamination or deterioration of water or soil resulting in a level of contamination greater than maximum allowable levels established by any governmental agency having jurisdiction over such contamination (and such violation does not arise out of any acts or omissions of County, its agents, employees or contractors), Lessor shall promptly take any and all action necessary to clean up such contamination.

27. SUBORDINATION, ATTORNMENT AND NON-DISTURBANCE (3.6 NA)

This Lease and all rights of the County hereunder are subject and subordinate to any ground or master lease, mortgage or deed of trust which does now or may hereafter cover the Premises or any interest of Lessor therein, and to any and all advances made on the security thereof, and to any and all increases, renewals, modifications, consolidations, replacements and extensions of any such mortgage or deed of trust (collectively, "Security Instruments") except, insofar as County is meeting its obligations under this Lease, any termination of any ground or master lease or foreclosure of any mortgage or deed of trust shall not result in the termination of this Lease or the displacement of County.

In the event of transfer of title of the Premises in connection with any termination or foreclosure of any Security Instrument, including any proceedings brought for foreclosure or in the event of the exercise of the power of sale under any mortgage or deed of trust, or by any other transfer of title covering the Premises, County shall attorn to and recognize any subsequent title holder as the Lessor under all terms, covenants and conditions of this Lease. County’s possession of the Premises shall not be disturbed by the Lessor, or its successors in interest, and this Lease shall remain in full force and effect. Said attornment shall be effective and self-operative immediately upon succession of the current title holder, or its successors in interest, to the interest of Lessor under this Lease.

Notwithstanding the above, Lessor shall obtain and deliver to County a Subordination, Attornment and Non-Disturbance Agreement from Lessor’s Lender, within sixty (60) days of the date of full execution of this Lease. The inability or failure of Lessor to obtain such Subordination, Attornment and Non-Disturbance Agreement shall not constitute a default by Lessor hereunder. Lessor shall require all future lenders on the Premises, upon initiation of their interest in the Premises or within a reasonable time thereafter, to enter into a Subordination, Attornment and Non-Disturbance Agreement with County, thereby insuring County of its leasehold interest in the Premises. Said Subordination, Attornment and Non-Disturbance Agreement shall be in the form of County’s standard form Subordination, Attornment and Non-Disturbance Agreement attached hereto as Exhibit E or in another form reasonably approved by the Public Defender/ Facilities Services Manager, the Chief Real Estate Officer and County Counsel. Accordingly, notwithstanding anything to the contrary herein, County’s obligation to enter into an agreement to subordinate its interest under this Lease to a lien or ground lease not in existence as of the date of this Lease shall be conditioned upon the holder of such lien, or a ground lessor, as applicable, confirming in writing and substantially in the form of County’s standard form Subordination, Attornment and Non-Disturbance Agreement attached hereto as Exhibit E (or another form reasonably approved by the Public Defender/Facilities Services Manager, the Chief Real Estate Officer and County Counsel) that County’s leasehold interest hereunder shall not be disturbed.
so long as no County Default exists under this Lease.

Foreclosure shall not extinguish this Lease, and any lender or any third party purchasing the Premises at foreclosure sale shall do so subject to this Lease and shall thereafter perform all obligations and be responsible for all liabilities of the Lessor accruing thereafter under the terms of this Lease.

Upon default by Lessor of any note or deed of trust, County may, if requested by the Lender holding first priority security interest with respect to the Building, make all lease payments directly to such Lender, and same shall be applied to the payment of any and all delinquent or future installments due under such note or deed of trust.

28. ESTOPPEL CERTIFICATE (3.7 SA)

County agrees that the Public Defender/Facilities Services Manager shall furnish upon receipt of a written request from Lessor or the holder of any deed of trust or mortgage covering the Premises or any interest of Lessor therein ("Lessor Representative"), County’s standard form Estoppel Certificate (consistent with the form attached hereto in Exhibit E) containing information as to the current status of the Lease. Said standard form Estoppel Certificate shall be completed by County in a timely manner, if applicable, upon receipt of the Lessor Representative-signed County standard form Subordination, Attornment and Non-Disturbance Agreement, agreed pursuant to Clause 27 (SUBORDINATION, ATTORNMENT AND NON-DISTURBANCE). The Estoppel Certificate shall be approved by Chief Real Estate Officer and County Counsel, and if applicable, shall be processed and approved concurrently with the Subordination, Attornment and Non-Disturbance Agreement, by Chief Real Estate Officer and County Counsel.

29. DEFAULTS AND REMEDIES (3.8 NA)

County Default:

County shall be deemed in default of this Lease if: a) in the event of any monetary breach of this Lease by County, Lessor shall notify County in writing of such breach, and County shall have ten (10) days from such notice in which to cure said breach or b) in the event of any non-monetary breach of this Lease, County fails within fifteen (15) days after receipt by County of written notice specifying wherein such obligation of County has not been performed; provided however, that if the nature of County’s obligation is such that more than fifteen (15) days after such notice are reasonably required for its performance, then County shall not be in breach of this Lease if performance is commenced as soon as reasonably possible within such fifteen (15) day period and thereafter diligently pursued to completion (each, a “County Default”).

Lessor Default:

Lessor shall be deemed in breach of this Lease if: a) in the event of any monetary breach of this Lease by Lessor, County shall notify Lessor in writing of such breach, and Lessor shall have ten (10) days from such notice in which to cure said breach or b) in the event of any non-monetary breach of this Lease, Lessor fails within fifteen (15) days after receipt by Lessor of written notice specifying wherein such obligation of Lessor has not been performed; provided however, that if the nature of Lessor's obligation is such that more than fifteen (15) days after such notice are reasonably required for its performance, then Lessor shall not be in breach of this Lease if performance is commenced as soon as reasonably possible within such fifteen (15) day period and thereafter diligently pursued to completion (each, a “Lessor Default”).
County Remedies:

If the Lessor Default is a result of a monetary breach by Lessor in the payment of any amounts due hereunder, County may withhold such amount from the next scheduled Rent payment. County’s remedies as the result of Lessor Default for monetary or non-monetary breach shall be the right to damages, injunctive relief, termination of Lease and/or any other rights at law or in equity.

Lessor Remedies:

If the County Default is a result of a monetary breach by County in the payment of the Rent, pursuant to Clause 9 (RENT), Lessor may declare all rent payments to the end of County’s current fiscal year to be due, including any delinquent rent from prior budget years. However, in no event shall Lessor be entitled to a remedy of acceleration of the total rent payments due over the Term of this Lease. Lessor’s remedies as the result of County Default for monetary or non-monetary breach shall be the right to damages, injunctive relief, and/or any other rights at law or in equity.

30. DEBT LIMIT (3.9 SA)

Lessor acknowledges and agrees that the obligation of the County to pay rent under this Lease is contingent upon the availability of County funds which are appropriated or allocated by the County’s Board of Supervisors for the payment of rent hereunder. In this regard, in the event that this Lease is terminated due to an uncured default of the County hereunder, Lessor may declare all rent payments to the end of County’s current fiscal year to be due, including any delinquent rent from prior budget years. In no event shall Lessor be entitled to a remedy of acceleration of the total rent payments due over the Term of the Lease. The Parties acknowledge and agree that the limitations set forth above are required by Article 16, section 18, of the California Constitution. Lessor acknowledges and agrees that said Article 16, section 18, of the California Constitution supersedes any law, rule, regulation or statute, which conflicts with the provisions of this paragraph. Notwithstanding the foregoing, Lessor may have other rights or civil remedies to seek relief due to the County’s Default under the Lease.

31. LABOR CODE COMPLIANCE (4.0 SA)

Lessor acknowledges and agrees that all improvements or modifications required to be performed pursuant to this Lease or any such future improvements or modifications performed by Lessor at the request of County shall be governed by, and performed in accordance with, the provisions of Article 2 of Chapter 1, Part 7, Division 2 of the Labor Code of the State of California (Sections 1770, et seq.), as applicable. These provisions may be applicable to improvements or modifications costing more than $1,000, unless an exception applies, including but not limited to the exception to the definition of public works under § 1720.2.

Pursuant to the provisions of Section 1773 of the Labor Code of the State of California, Lessor shall comply with the general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime work in the locality applicable to this Lease for each craft, classification, or type of workman needed to execute the aforesaid improvements or modifications. The rates are available at the following website: http://www.dir.ca.gov/dlsr/DPreWageDetermination.htm from the Director of the State Department of Industrial Relations. Lessor shall post a copy of such wage rates at the job site and shall pay the adopted prevailing wage rates at all times for all improvements or modifications to be completed for County within the Premises. Lessor shall comply with the provisions of Sections 1775 and 1813 of the Labor Code.
As required by applicable law, Lessor shall maintain payroll records for all workers that will be assigned to the improvements or modifications. Said payroll records shall contain, but not be limited to, the complete name, address, telephone number, social security number, job classification, and prevailing wage rate for each worker. Upon request Lessor shall provide the Public Defender/Facilities Services Manager updated, certified payroll records for all workers that shall include, but not be limited to, the weekly hours worked, prevailing hourly wage rates, and total wages paid.

Except as expressly set forth in this Lease, nothing herein is intended to grant authority for Lessor to perform improvements or modifications on space currently leased by County or for which County has entered into a lease or lease amendment.

32. **RIGHT TO WORK AND MINIMUM WAGE LAWS (4.1 SA)**

In accordance with the United States Immigration Reform and Control Act of 1986, Lessor shall require its employees that directly or indirectly service the Premises or terms and conditions of this Lease, in any manner whatsoever, to verify their identity and eligibility for employment in the United States. Lessor shall also require that its contractors or any other persons servicing the Premises or terms and conditions of this Lease, in any manner whatsoever, verify the identity of their employees and their eligibility for employment in the United States.

Pursuant to the United States of America Fair Labor Standard Act of 1938, as amended, and State of California Labor Code, Section 1178.5, Lessor shall pay no less than the greater of the Federal or California Minimum Wage to all its employees that directly or indirectly service the Premises, in any manner whatsoever. Lessor shall require that all its contractors or other persons servicing the Premises on behalf of the Lessor also pay their employees no less than the greater of the Federal or California Minimum Wage.

Lessor shall comply and require that its contractors comply with all other Federal and State of California laws for minimum wage, overtime pay, record keeping, and child labor standards pursuant to the servicing of the Premises or terms and conditions of this Lease.

Notwithstanding the minimum wage requirements provided for in this clause, Lessor, where applicable, shall comply with the prevailing wage and related requirements, as provided for in Clause 31 **(LABOR CODE COMPLIANCE)** of this Lease.

33. **COMMISSION (4.2 NA)**

County’s obligations and responsibilities under this Lease are contingent upon the Lessor paying to County’s broker, Jones Lang LaSalle, One-Hundred Fifty-Eight Thousand Nine-Hundred Fifty-Four dollars and Forty-Three cents ($158,954.43) commission as a result of this lease transaction. Said commission shall be paid to Jones Lang LaSalle within thirty (30) working days after execution of this Lease by County.

Should Jones Lang La Salle not receive the above amount within the specified time period, and such failure continues for thirty (30) days following County’s delivery of written notice thereof, County may deduct any unpaid amount from future Rent.

34. **COUNTY PROPERTY (4.3 SA)**

All trade fixtures, merchandise, inventory, telecommunications equipment, supplemental air
conditioning equipment and all personal property placed in or about the Premises by, at the direction of or with the consent (express or implied) of the County, its employees, agents, licensees or invitees, shall be at the sole risk of the County, and Lessor shall not be liable for any loss of or damage to said property resulting from any cause whatsoever unless such loss or damage is the result of Lessor's gross negligence or willful misconduct and not otherwise waived pursuant to Clause 35 (LESSOR'S RIGHT OF ENTRY) below. Lessor hereby waives any and all lien rights, whether statutory or common law or established pursuant to this Lease, that Lessor may have as "landlord" with respect to any and all goods, wares, equipment, fixtures, furniture, improvements and other personal property of County presently or which may hereafter be situated within the Premises.

35. LESSOR'S RIGHT OF ENTRY (4.4 SA)

Upon reasonable verbal notice (which shall not be less than forty-eight (48) hours) to County (except (a) in an emergency [which shall mean immediate risk of injury to person or property] in which case no notice shall be required, provided that Lessor shall use reasonable efforts to first call County or (b) for purposes of providing routine services (such as janitorial services) to the Premises in which case no notice shall be required) and in the presence of County (except in the case of an emergency or in connection with provision of routine services to the Premises), Lessor, its agents, employees and contractors and any mortgagee of the Premises shall have the right to enter the Premises during regular business hours (a) to inspect the Premises; (b) to exhibit the Premises to prospective tenants during the last nine (9) months of Term or any Extension Term, as applicable, or any time County is in material default hereunder, or to prospective lenders or purchasers of the Building (or of Lessor); (c) for any purpose which Lessor shall deem necessary for the operation and maintenance of the Premises; (d) to abate any condition which constitutes a violation of any covenant or condition of this Lease; or (e) to perform any of Lessor's obligations or exercise any of Lessor's rights under this Lease.

36. SIGNAGE (4.5 NA)

Lessor agrees to allow County to install and maintain any sign or display within the Premises and/or Building.

37. ACCESS CONTROL SERVICES (4.6 NA)

Lessor shall provide access control services for the Building, which security services shall be substantially similar to the access control services provided in similar office buildings in the surrounding area where the Building is located. In addition, during the Term (as the same may be extended), County may, at its sole cost and expense, engage its own security personnel to provide security in the Premises and to County's employees, personnel, agents, licensees and/or invitees going to and from the Premises. Such security personnel engaged by County shall be solely for the benefit of County and shall not be relied on by Lessor.

38. AUTHORITY (4.7 SA)

County and Lessor each warrant that the persons executing the Lease below on behalf of County or Lessor have the power and authority to bind County or Lessor to this Lease.

39. LEASE ORGANIZATION (4.8 SA)

The various headings in this Lease, the numbers thereof, and the organization of the Lease into separate sections and paragraphs are for purposes of convenience only and shall not be considered otherwise.
40. SUCCESSORS IN INTEREST (4.9 SA)

Unless otherwise provided in this Lease, the terms, covenants, and conditions contained herein shall apply to and bind the heirs, successors, executors, administrators, and assigns of all the Parties hereto, all of whom shall be jointly and severally liable hereunder.

41. DESTRUCTION OF OR DAMAGE TO PREMISES (5.0 NA)

"Partial Destruction" of the Premises shall mean damage or destruction to the Premises, for which the repair cost is less than 25 percent (25%) of the then replacement cost of the Premises (including tenant improvements), excluding the value of the land.

"Total Destruction" of the Premises shall mean damage or destruction to the Premises, for which the repair cost is 25 percent (25%) or more of the then replacement cost of the Premises (including tenant improvements), excluding the value of the land.

In the event of a Partial Destruction of the Premises, Lessor shall promptly pursue completion of all repairs necessary to restore the Premises to the condition which existed immediately prior to said Partial Destruction. Said restoration work (including any demolition required) shall be completed by Lessor, at Lessor's sole cost, within sixty (60) days of the occurrence of said Partial Destruction or within an extended time frame as may be authorized, in writing, by County. The Partial Destruction of the Premises shall in no way render this Lease and/or any option to purchase, granted herein, null and void; however, rent payable by County under the Lease shall be abated in proportion to the extent County's use and occupancy of the Premises is adversely affected by said Partial Destruction, demolition, or repair work required thereby. Should Lessor fail to complete necessary repairs, for any reason, within sixty (60) days, or other time frame as may be authorized by County, County may, at County's sole option, terminate the Lease or complete necessary repair work and deduct the cost thereof, including labor, materials, and overhead from any rent thereafter payable, but only if Lessor has not previously commenced such repair work.

In the event of Total Destruction of the Premises or the Premises being legally declared unsafe or unfit for occupancy, this Lease and/or any option granted herein shall in no way be rendered null and void and Lessor shall immediately instigate action to rebuild or make repairs, as necessary, to restore the Premises (including replacement of all tenant improvements) to the condition which existed immediately prior to the destruction. All rent payable by County shall be abated until complete restoration of the Premises is accepted by County. In the event Lessor refuses to diligently pursue or is unable to restore the Premises to an occupiable condition (including replacement of all tenant improvements) within one hundred and eighty (180) days of the occurrence of said destruction or within an extended time frame as may be authorized, in writing, by County, County may, at County's sole option, terminate this Lease or complete the restoration and deduct the entire cost thereof, including labor, materials, and overhead from any rent payable thereafter, but only if Lessor has not previously commenced such repair work.

Notwithstanding the foregoing, Lessor shall have no obligation to repair the Premises and shall have the right to terminate this Lease in any case where: (a) any material portion of the Building is damaged AND (b) any of the following conditions exist: (i) Lessor estimates in good faith that the restoration of the Premises (including replacement of all tenant improvements) cannot reasonably be completed (without the payment of overtime) within 180 days of (or if the damage occurs during the last eighteen (18) months of the Term, within ninety (90) days of the occurrence of said destruction), (ii) Lessor's lender requires any insurance proceeds with respect to such destruction to be applied to the outstanding
balance of the applicable loan, or (iii) the casualty damage is caused by a risk not covered under a typical “all risk” policy of property insurance and the cost of the restoration of the Premises (including replacement of all tenant improvements) is not fully covered by insurance proceeds available to Landlord and/or payments received by Landlord from tenants. Such right of termination shall be exercisable by Lessor by delivery of written notice to County at any time following the destruction until sixty (60) days following the Lessor’s discovery or determination of any of the events described in clauses (i) through (iii) of the preceding sentence, and shall be effective upon delivery of such notice of termination (or if County has not vacated the Premises, thirty (30) days thereafter).

Further, unless this Lease is terminated as a result of any casualty, Lessor, at County’s request and subject to availability, shall use commercially reasonable efforts to provide a suitable, County-approved temporary facility (“Facility”) for County’s use during the restoration period for the Premises. The Facility may be leased, at market rate, under a short-term lease, for which the County will reimburse Lessor the cost thereof, on a monthly basis.

42. AMENDMENT (5.1 SA)

This Lease sets forth the entire agreement between Lessor and County and any modification must be in the form of a written amendment executed by Lessor and County.

43. PARTIAL INVALIDITY (5.2 SA)

If any term, covenant, condition, or provision of this Lease is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired, or invalidated thereby.

44. CIRCUMSTANCES WHICH EXCUSE PERFORMANCE (5.3 SA)

If either Party hereto shall be delayed or prevented from the performance of any act required hereunder by reason of Force Majeure as defined below in Clause 55 (FORCE MAJEURE), performance of such act shall be excused for the period of the delay; and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay. Financial inability shall not be considered a circumstance excusing performance under this Lease.

45. STATE AUDIT (5.4 SA)

Pursuant to and in accordance with Section 8546.7 of the California Government Code, in the event that this Lease involves expenditures and/or potential expenditures of State funds aggregating in excess of ten thousand dollars ($10,000), Lessor shall be subject to the examination and audit of the Auditor General of the State of California for a period of three years after final payment by County to Lessor under this Lease. The examination and audit shall be confined to those matters connected with the performance of the contract, including, but not limited to, the costs of administering the contract.

46. WAIVER OF RIGHTS (5.5 SA)

The failure of Lessor or County to insist upon strict performance of any of the terms, conditions, and covenants in this Lease shall not be deemed a waiver of any right or remedy that Lessor or County may have, and shall not be deemed a waiver of any right or remedy for a subsequent breach or default of the terms, conditions, and covenants herein contained.
47. **HOLDING OVER (5.6 NA)**

In the event County shall continue in possession of the Premises after the Term of this Lease, such possession shall not be considered a renewal of this Lease but a tenancy from month to month and shall be governed by the conditions and covenants contained in this Lease, except that the base monthly Rent in effect at the expiration of the Term shall be increased to one hundred twenty five percent (125%) of the base monthly Rent in effect at the expiration during the first three (3) months of the holdover period; and shall be increased to one hundred fifty percent (150%) of the base monthly Rent in effect at the expiration of the Term after the third month of the holdover period.

48. **HAZARDOUS MATERIALS (5.7 SA)**

Lessor warrants that, to Lessor’s actual knowledge, the Premises is free and clear of all hazardous materials or substances.

49. **EARTHQUAKE SAFETY (5.8 NA)**

Lessor hereby confirms that to Lessor’s actual knowledge, the Premises was in compliance with all applicable seismic safety regulations and building codes at the time of construction.

50. **QUIET ENJOYMENT (5.9 SA)**

Lessor agrees that, subject to the terms, covenants and conditions of this Lease, County may, upon observing and complying with all terms, covenants and conditions of this Lease, peaceably and quietly occupy the Premises.

51. **ADMINISTRATIVE COSTS (6.0 SA) - intentionally omitted**

52. **GOVERNING LAW AND VENUE. (6.1 SA)**

This agreement has been negotiated and executed in the State of California and shall be governed by and construed under the laws of the State of California. In the event of any legal action to enforce or interpret this agreement, the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California, and the Parties hereto agree to and do hereby submit to the jurisdiction of such court, notwithstanding Code of Civil Procedure section 394.

53. **TIME (6.2 SA)**

Time is of the essence of this Lease.

54. **INSPECTION OF PREMISES BY A CERTIFIED ACCESS SPECIALIST (6.3 NA)**

In accordance with California Civil Code 1938(e), “A Certified Access Specialist (CASp) can inspect the subject premises and determine whether the subject premises comply with all of the applicable construction-related accessibility standards under state law. Although state law does not require a CASp inspection of the subject premises, the commercial property owner or lessor may not prohibit the lessee or tenant from obtaining a CASp inspection of the subject premises for the occupancy or potential occupancy of the lessee or tenant, if requested by the lessee or tenant. The Parties shall mutually agree on the arrangements for the time and manner of the CASp inspection, the payment of the fee for the CASp inspection, and the cost of making any repairs necessary to correct violations of
construction-related accessibility standards within the premises."

Pursuant to California Civil Code 1938, Lessor hereby represents that the Premises has not undergone an inspection by a certified access specialist and no representations are made with respect to compliance with accessibility standards. However, if it is determined that a violation of handicapped access laws (including the Americans with Disabilities Act) existed in the Premises as of the Commencement Date, Lessor shall correct such non-compliance at Lessor’s cost.

55. FORCE MAJEURE (6.4 SA)

For purposes of this Lease, the term “Force Majeure” means any of the following events which are beyond the control of either Party: act of God, unavailability of equipment or materials (but only if such equipment and materials were ordered in a timely fashion), enemy or terrorist act, act of war, riot or civil commotion, strike, lockout or other labor disturbance, fire, earthquake, explosion, governmental delays (including nonstandard delays in issuance of any permit or other necessary governmental approval or the scheduling of any inspections or tests), nonstandard delays by third party utility providers, or any other matter of any kind or character beyond the reasonable control of the Party delayed or failing to perform under this Lease despite such Party’s Best Efforts (as defined below) to fulfill the obligation. “Best Efforts” includes anticipating any potential force majeure event and addressing the effects of any such event (a) as it is occurring and (b) after it has occurred, to prevent or minimize any resulting delay to the greatest extent possible. Force Majeure shall not include inability to obtain financing or other lack of funds. Lessor and County shall be excused for the period of any delay in the performance of any obligation hereunder when such delay is occasioned by causes beyond its control.

56. CONDEMNATION (6.5 SA)

If the Premises or any portion thereof are taken under the power of eminent domain or sold under the threat of the exercise of said power (collectively, “Condemnation”), this Lease shall terminate as to the part taken as of the date the condemning authority takes title or possession, whichever first occurs. If all or a material portion of the rentable area of the Premises are taken by Condemnation, County may, at County’s option, to be exercised in writing within ten (10) days after Lessor shall have given County written notice of such taking (or in the absence of such notice, within ten (10) days after the condemning authority shall have taken possession) terminate this Lease as of the date the condemning authority takes such possession. Lessor shall also have the right to terminate this Lease if there is a taking by Condemnation of any portion of the Building or property which would have a material adverse effect on Lessor’s ability to operate the remainder of the Building. If neither Party terminates this Lease in accordance with the foregoing, this Lease shall remain in full force and effect as to the portion of the Premises remaining, except that the rent shall be reduced in proportion to the portion of the Premises taken by such Condemnation. Condemnation awards and/or payments shall be the property of Lessor, whether such award shall be made as compensation for diminution in value of the leasehold, the value of the part taken or for severance damages. County hereby waives any and all rights it might otherwise have pursuant to Section 1265.130 of the California Code of Civil Procedure, or any similar or successor Laws.

57. CONSENT OR APPROVAL (6.6 SA)

Unless expressly stated otherwise, where the consent or approval of a Party is required, such consent or approval will not be unreasonably withheld, conditioned or delayed.
58. UNENFORCEABLE PROVISIONS (6.7 SA)

If any paragraph or clause hereof shall be determined illegal, invalid or unenforceable, it is the express intention of the Parties hereto that the remainder of the Lease shall not be affected thereby, and it is also the express intentions of the Parties hereto that in lieu of each paragraph or clause of this Lease which may be determined to be illegal, invalid or unenforceable, there may be added as a part of this Lease a paragraph or clause as similar in terms to such illegal or invalid or unenforceable paragraph or clause as may be possible and may be legal, valid and enforceable.

59. NOTICES (6.8 SA)

All written notices pursuant to this Lease shall be addressed as set forth below or as either Party may hereafter designate by written notice and shall be deemed delivered upon personal delivery, delivery by facsimile machine, or seventy-two (72) hours after deposit in the United States Mail. Notwithstanding the above, notices may also be provided by electronic mail and any such notice so given shall be deemed to have been given upon receipt.

TO: Lessor

CF Santana Inc.
c/o Ocean West Management
Attn: Ted Bischak
2101 Rosecrans Ave., Suite 3270
El Segundo, California 90245

With a copy to:

Ocean West Management
200 W. Santa Ana Boulevard, suite 200
Santa Ana, CA 92701

With a copy to:

Banc of California, National Association
3 MacArthur Place,
Santa Ana, California 92707
Attn: Commercial Loan Service Center

TO: County

County of Orange
Public Defender’s Office
405 N. Fifth Street
Santa Ana, CA 92701
Attn: Director, Administrative Services

With a copy to:

County Executive Office
333 W. Santa Ana Boulevard, 3rd Floor
Santa Ana, CA 92701
Attention: Chief Real Estate Officer
60. ATTACHMENTS (7.0 S)

This Lease includes the following, which are attached hereto and made a part hereof:

I. EXHIBITS

Exhibit A – Description of Premises
Exhibit B – Depiction of Premises
Exhibit C – Tenant Improvements and Performance Specifications
Exhibit D - Janitorial Specifications
Exhibit E - Form of Subordination, Attornment and Non-Disturbance Agreement and Estoppel Certificate

61. COUNTY ALLOWANCE (N)

A. Lessor shall provide County with an allowance ("County Allowance") of Eight Hundred Seventy-Six Thousand dollars and zero cents ($876,000.00), which shall be for hard and soft construction costs, fees, licenses and permits in connection with the Work (collectively, "County Improvement Costs"). Any County Improvement Costs incurred by Lessor in excess of the County Allowance shall be paid by County to Lessor upon demand.

B. To the extent not used by Lessor for County Improvement Costs, the County Allowance may be, at County’s sole and absolute discretion, used within sixty (60) months of the Commencement Date and used interchangeably at County’s option for construction of the Premises, including, but not limited to purchase and installation of telephone and data cabling and equipment and supplemental HVAC system, FF&E, space planning and design costs and County project management, rent offset, County of Orange General Fund offset, and/or converted to cash. Notwithstanding the foregoing, County may not convert the County Allowance to cash or to a Rent credit during the initial twelve (12) months of the Lease Term. Subject to the immediately preceding sentence, at any time during the initial sixty (60) months, County may request County Allowance with written notice to Lessor and Lessor shall disburse said requested County Allowance within thirty (30) days of receipt of County’s written request. At the end of the sixtieth (60th) month after the Lease Commencement Date, any unused portion of the County Allowance shall be paid to County in a lump sum cash payment, within thirty (30) days.
IN WITNESS WHEREOF, the Parties have executed this Agreement the day and year first above written.

APPROVED AS TO FORM:

OFFICE OF COUNTY COUNSEL
ORANGE COUNTY, CALIFORNIA

By: [Signature]
Deputy

Date: 2/15/19

RECOMMENDED FOR APPROVAL:

Public Defender

[Signature]
Director of Administration

County Executive Office

By: [Signature]
Real Estate Manager

LESSOR

By: [Signature]
CF SANTANA LLC, a Delaware limited liability company

Name: William Covino
Chief Financial Officer

SIGNED AND CERTIFIED THAT A COPY OF THIS DOCUMENT HAS BEEN DELIVERED TO THE CHAIR OF THE BOARD PER GC § 25103, RESO. 79-1535

Attest:

ROBIN STIELER
Clerk of the Board of Supervisors
County of Orange, California

COUNTY

COUNTY OF ORANGE

Chairman of the Board of Supervisors
County of Orange, California
EXHIBIT A
LEASE DESCRIPTION (10.1 S)

PROJECT NO: CEO/ALS/PD-019-007 DATE: 2/5/2019
PROJECT: Public Defender – 200 Santa Ana VERIFIED BY: Laurel Tippet

All the Premises shown crosshatched on a plot plan marked Exhibit B, attached hereto and made a part hereof, being a portion of the first (1st), sixth (6th), and ninth (9th) floor of that certain ten-story building located at 200 Santa Ana Blvd in the City of Santa Ana, County of Orange, State of California, comprising approximately 14,157 rentable square feet, together with the free use of fifty-four (54) unreserved parking spaces in the parking lot shown on Exhibit B.

NOT TO BE RECORDED
EXHIBIT C

COUNTY IMPROVEMENT
PERFORMANCE SPECIFICATIONS (10.3 S)

Lessor shall construct the initial leasehold improvements in the Premises per a mutually agreed upon plan and finish schedule between the Parties. The County Improvement Costs incurred by Lessor in so constructing such leasehold improvements shall be deducted from the County Allowance.
EXHIBIT D

JANITORIAL SPECIFICATIONS

It is the intent of this Exhibit to provide general guidelines for minimum janitorial service. Any absence of a specific janitorial service from this Exhibit does not relieve Lessor of the obligation to provide such service should it become necessary.

"Five-day-per-week" janitorial service as required in Clause 19 (REPAIR, MAINTENANCE AND JANITORIAL SERVICES), of this Lease, shall be inclusive of, but not limited to, the services as detailed below:

OFFICE AREAS

NIGHTLY: Monday through Friday, inclusive. (Holidays of the County of Orange excepted).
1. Empty and clean all waste receptacles, supply liners for waste receptacles, replace light bulbs and fluorescent tubes, remove waste materials from the Premises and wash receptacles as necessary;
2. Mop all uncarpeted areas;
3. Vacuum all carpeted areas in offices, lobby and corridors;
4. Hand-dust all office furniture, fixtures and all other horizontal surfaces;
5. Remove all finger marks and smudges from doors, door frames, around light switches, private entry glass and partitions;
6. Wash, clean and polish water fountain;
7. Spot clean carpet as necessary;
8. Clean sink and wipe down tables and counter areas in all break areas and coffee bars.

WEEKLY:

1. Wipe clean and polish all metal and bright work;
2. Mop and polish all resilient flooring;
3. Dust in place all picture frames, charts, graphs, and similar wall hangings;
4. Spot-clean all wall marks;
5. Sweep all sidewalks and ramps.

MONTHLY:

1. Dust all mini-blinds within the Premises;
2. Vacuum all HVAC vents, high moldings and other areas not reached by nightly or weekly cleaning;
3. Scrub and wax uncarpeted floors.

SEMI-ANNUALLY:

1. Clean ceiling light diffusers;
2. Clean carpet in high traffic areas (corridors, near lunchroom, etc.) and other areas as needed;
3. Clean interior walls, as needed;
4. Strip and wax uncarpeted floors.

ANNUALLY:

1. Clean carpet throughout Premises.
RESTROOMS

NIGHTLY:

1. Clean and damp-mop floors;
2. Wash all mirrors, bright work and enameled surfaces;
3. Wash and sanitize all basins, bowls, urinals, and toilet seats;
4. Dust, clean, and wash where necessary, all partitions, tile walls, dispensers, and receptacles;
5. Empty and sanitize all receptacles and sanitary napkin disposals;
6. Provide materials and fill all toilet tissue, towel, seat cover, sanitary napkin, and soap dispensers.

MONTHLY:

1. Machine strip restroom floors and apply finish/sealer where applicable;
2. Wash all partitions, tile walls, and enamel surfaces;
3. Vacuum all louvers, vents, and dust light fixtures.

MISCELLANEOUS SERVICES

1. Maintain building lobby, corridors, and other public areas in a clean condition;
2. Parking lot is to be cleaned on a monthly basis;
3. All interior and exterior windows of the building are to be cleaned quarterly.
EXHIBIT E

SUBORDINATION, ATTORNMENT AND NON-DISTURBANCE AGREEMENT

THIS IS A SUBORDINATION, ATTORNMENT AND NON-DISTURBANCE AGREEMENT, made ________________, 2019, by and between the County of Orange ("County") and ____________________ ("Lender").

A. By lease dated __________, ("Lease"), _______________________________ ("Lessor") leased to County and County leased from Lessor those certain Premises described as ____________________, Santa Ana, California.

B. Lender is the holder or about to become the holder of a mortgage or Deed of Trust ("Note") which constitutes or will constitute a lien against the Premises leased by County pursuant to the aforesaid Lease.

C. Lender has requested that County execute a Subordination, Attornment and Non-Disturbance Agreement in accordance with the terms of the Lease.

NOW, THEREFORE, the parties hereto do hereby agree as follows:

1. Subject to the terms and conditions of the Lease, all rights of County thereunder are or shall become subordinate to the Note and to any and all advances made on the security thereof, and to any and all increases, renewals, modifications, consolidations, replacements and extensions thereof.

2. In the event that Lender succeeds to the interest of lessor under the Lease, by reason of foreclosure of the Note, by other proceedings brought to enforce any rights of Lender under the Note, by deed in lieu of foreclosure, or by any other method, County shall promptly attorn to Lender under all of the terms, covenants, and conditions of the Lease for the balance of the then-current term (and any extension or renewals thereof which may be effective in accordance with any option therefor contained in the Lease), with the same force and effect as if Lender were the Lessor under the Lease. Lender or its successors in interest shall not disturb the interests of County under said Lease, but shall allow said interests to continue in full force and effect for the balance of the then-current term and any extension available to County which may be provided in accordance with the Lease. Said attornment shall be effective and self-operative immediately upon Lender’s succession to the interest of Lessor under the Lease.

3. This agreement may not be modified orally or in any manner other than by written agreement signed by the parties hereto or their respective successors or assigns. All of the terms, covenants, and conditions herein shall run with the land and shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.
COUNTY:

By: __________________ Date: ______
Thomas A. Miller, Chief Real Estate Officer
County Executive Office
Per Resolution No. 99-75 and Minute Order 3/10/1998 of the Board of Supervisors

APPROVAL AS TO FORM

COUNTY COUNSEL

By: __________________ Date: ______
Deputy
Project/Parcel No.:
Project Name:

ESTOPPEL CERTIFICATE

TO:

As of the date of this Estoppel Certificate the undersigned, as a "tenant" under that lease dated ____________, between ___________________ ("Lessor") and the County of Orange, a political subdivision of the State of California ("County"), does hereby acknowledge the following:

1. The aforesaid lease, subject to article 2 below, constitutes the entire agreement between Lessor and County and is in full force and effect.

2. (Check One)
   - [ ] The aforesaid lease has not been modified, altered, or amended.
   - [ ] The aforesaid lease has been modified pursuant to that document(s) attached hereto.

3. The term of the lease is ___________ years. The lease commenced on ___________ and will expire on ____________.

4. The term of the lease is subject to County's option to terminate/extend as follows:

5. The lease rental rate is $_________ per month, no rent has been paid in advance except as set forth in the lease, and County (in its capacity as "tenant," and not as a governmental agency) has received no notice of a prior assignment, hypothecation, or pledge of the lease from Lessor.

6. County has accepted and is now in possession of the leased premises.

7. The addresses for notices to be sent to County are set forth in Clause 59 (NOTICES) of the lease.

8. County has no charge, lien, or claim of offset under this lease against rents or other charges due or to become due and, to the actual knowledge of County, Lessor is not now in default under the lease.

APPROVED AS TO FORM
OFFICE OF COUNTY COUNSEL
County of Orange

By: ____________________________
   Deputy

By: Thomas A. Miller, Chief Real Estate Officer
   County Executive Office/Real Estate

Certificate Date: __________________________

CEO/ALS/PD-019-007
Standard Acquisition Lease Form
Real Property Acquisition Questionnaire* for ASR
(*Applies to property purchase, or acquisition lease, license or easement)

Instructions:
- This questionnaire was developed with input from Auditor Controller, Internal Auditor and CEO Real Estate to assure that County leadership is fully informed.
- Insert the complete answer after each question below.
- When completed, save and include as an Attachment to your ASR.
- In the body of the ASR focus on the considerations relevant to the decision.
- If you need assistance, please contact CEO Real Estate.

1. What property interest is being considered for acquisition (fee, lease, license, easement)?

   **801 West Civic Center Drive, Santa Ana, CA**

   Why is this property being considered for acquisition? Building 14 currently the offices of the Public Defender (PD) is scheduled for demolition mid-year under the Civic Center Master Plan construction schedule. As such, CEO-Real Estate and the Public Defender located comparable office space in the subject building. The availability of additional office space in the building created the opportunity to relocate the District Attorney’s Office (DA). The building offers the necessary rentable square feet at market rate.

   a) How and who identified this property for a potential acquisition? CEO/Real Estate and the Public Defender, with assistance from the County’s real estate advisor Jones Lang LaSalle (JLL), agreed this is the best site option at this time.

   b) What factors are key in recommending this property for acquisition? Price, location and program service requirements are the key factors for recommending this site.

   c) How does the proposed acquisition fit into the County’s/District’s strategic or general plan? The building is located within the “judicial neighborhood” of the Civic Center complex as detailed in the Civic Center Master Plan. The office remains centrally located for clients and walking access to court buildings.

   d) What are the short and long term anticipated uses of the property? The PD will use the site to continue providing legal services to clients and support administrative functions.

   e) Are there any limitations on the use of the property for its intended purposes? No surgical services may be performed at this site.

2. What analysis has been performed as to whether to acquire the proposed real property interest?

   CEO/Real Estate Services and PD collaborated to determine that this location was the best option to meet PD program and client needs.

   a) Have there been any internally or externally prepared reports regarding this property acquisition? A market rate analysis and lease cost comparison was completed.

   b) Who performed the analysis? Jones Lang La Salle (JLL)

   c) Provide details about the analysis and cost/benefit comparison: This site was determined to be the best relocation option for PD and DA. This determination is based upon the price, location and program service requirements. The landlord will provide the County with a significant County Improvement Allowance of $4,490,000 to complete improvements on the various floors of the building.

3. How was the acquisition price, or lease/license rent, determined? CEO/Real Estate and JLL
Attachment B

negotiated with the landlord for the optimal full service gross lease rate.

   a) Who performed the appraisal or market study and what certifications do they possess? CEO/Real
   Estate and JLL, utilizing market data obtained through CoStar.

   b) How does the price/rent compare with comparable properties? The rental rate is at current
   market for the central Orange County area.

   c) Does the setting of the price/rent follow industry standards and best practices? Yes

   d) What are the specific maintenance requirements and other costs within the agreement and who is
   responsible? The Lessor is responsible for all interior and exterior maintenance.

   e) Provide an estimate of the costs to the County/District if applicable. The County is not responsible for
   maintenance costs.

4. What additional post-acquisition remodeling or upgrade costs will be needed for the
property to meet its intended use? None

   a) Will any of the upgrades be required to meet County, ADA, or other standards and
   requirements? N/A

   b) Include estimates of the costs. N/A

   c) What department will be responsible for the costs? N/A

5. Can the County terminate the purchase/easement, lease/license? No.

6. What would be necessary to terminate the agreement, and when can it be terminated? N/A

   a) Are there penalties to terminate the purchase/easement, or lease/license? N/A

7. What department will be responsible for the acquisition payments? Public Defender

   a) Are the acquisition costs budgeted in the department’s budget? Yes

   b) What fund number will the funds for the acquisition ultimately be drawn from? XXX-XXXX Public
   Defender.

   c) Will any restricted be used for the acquisition? (Check with the Auditor Controller’s General
   Accounting Unit and Counsel if you have questions about whether restricted funds are involved.) No

   d) If restricted funds will be used, has County Counsel advised that this is an allowable use of the
   proposed restricted funds? N/A

8. Does the proposed purchase/lease/license/easement agreement comply with the CEO Real Estate
standard language? Yes

   e) List any modified clauses and reasons for modification. N/A

9. If this is a lease, is it a straight lease, an operating lease, a lease with an option to purchase, or a capital
lease (see details below)? Straight lease

   Capital Lease Determination: At the inception of any potential capital lease, it is important to contact
the Auditor-Controller’s Capital Asset Unit for further guidance to ensure that proper classification and
accounting for the lease occurs. There are specialized accounting rules and required forms for capital
leases. See further details in the County’s Accounting Manual, Policy No. FA-1: Accounting for Lease
Purchases (Capital Leases), located on the intranet. For accounting purposes only, a capital lease
exists if ANY one (1) of the following four (4) criteria is met:
Attachment B

i) Lease transfers ownership to the County by the end of the term.
ii) Lease contains an option to purchase the property by the end of the term for a price lower than the expected fair market value of the property? (For example $1 or $1,000, and based on this option price, for accounting purposes only, the ultimate purchase of the property is deemed reasonably assured at the inception of the lease.)

iii) Lease term is equal to 75% or more of the remaining estimated useful life of the leased property.*

iv) Present value of the minimum lease payments is equal to 90% or more of the fair value of the property at the inception of the lease.*

*Criteria iii) and iv) don’t apply if the lease term begins in the last 25% of a property’s estimated useful life.

To validate whether a lease is a capital lease for accounting purposes, please contact the Auditor-Controller’s Capital Asset Unit at capitalassets@ac.ocgov.com.
Real Property Acquisition Questionnaire* for ASR
(*Applies to property purchase, or acquisition lease, license or easement)

Instructions:
- This questionnaire was developed with input from Auditor Controller, Internal Auditor and CEO Real Estate to assure that County leadership is fully informed.
- Insert the complete answer after each question below.
- When completed, save and include as an Attachment to your ASR.
- In the body of the ASR focus on the considerations relevant to the decision.
- If you need assistance, please contact CEO Real Estate.

1. What property interest is being considered for acquisition (fee, lease, license, easement)?

   **200 West Santa Ana Blvd., Santa Ana, CA**

   Why is this property being considered for acquisition? Building 14 currently the offices of the Public Defender (PD) is scheduled for demolition mid-year under the Civic Center Master Plan construction schedule. As such, CEO-Real Estate and the Public Defender located comparable office space in the subject building. The offices of Alternate Defender and XXXX. The availability of additional office space in the building created the opportunity to relocate the District Attorney’s Office (DA). The building offers the necessary rentable square feet at market rate.

   a) How and who identified this property for a potential acquisition? CEO/Real Estate and the Public Defender, with assistance from the County’s real estate advisor Jones Lang LaSalle (JLL), agreed this is the best site option at this time.

   b) What factors are key in recommending this property for acquisition? Price, location and program service requirements are the key factors for recommending this site.

   c) How does the proposed acquisition fit into the County’s/District’s strategic or general plan? The building is located within the “judicial neighborhood” of the Civic Center complex as detailed in the Civic Center Master Plan. The office remains centrally located for clients and walking access to the court buildings.

   d) What are the short and long term anticipated uses of the property? The PD will use the site to continue providing legal services to clients and support administrative functions.

   e) Are there any limitations on the use of the property for its intended purposes? No surgical services may be performed at this site.

2. What analysis has been performed as to whether to acquire the proposed real property interest?

   CEO/Real Estate Services and PD collaborated to determine that this location was the best option to meet PD program and client needs.

   a) Have there been any internally or externally prepared reports regarding this property acquisition? A market rate analysis and lease cost comparison was completed.

   b) Who performed the analysis? Jones Lang La Salle (JLL)

   c) Provide details about the analysis and cost/benefit comparison: This site was determined to be the best relocation option for PD and DA. This determination is based upon the price, location and program service requirements. The landlord will provide the County with a significant County Improvement Allowance of nearly $900,000 to complete improvements on the various floors of the building.
3. How was the acquisition price, or lease/license rent, determined? CEO/Real Estate and JLL negotiated with the landlord for the optimal full service gross lease rate.

   a) Who performed the appraisal or market study and what certifications do they possess? CEO/Real Estate and JLL, utilizing market data obtained through CoStar.

   b) How does the price/rent compare with comparable properties? The rental rate is at current market for the central Orange County area.

   c) Does the setting of the price/rent follow industry standards and best practices? Yes

   d) What are the specific maintenance requirements and other costs within the agreement and who is responsible? The Lessor is responsible for all interior and exterior maintenance.

   e) Provide an estimate of the costs to the County/District if applicable. The County is not responsible for maintenance costs.

4. What additional post-acquisition remodeling or upgrade costs will be needed for the property to meet its intended use? None

   a) Will any of the upgrades be required to meet County, ADA, or other standards and requirements? N/A

   b) Include estimates of the costs. N/A

   c) What department will be responsible for the costs? N/A

5. Can the County terminate the purchase/easement, lease/license? No.

6. What would be necessary to terminate the agreement, and when can it be terminated? N/A

   a) Are there penalties to terminate the purchase/easement, or lease/license? N/A

7. What department will be responsible for the acquisition payments? Public Defender

   a) Are the acquisition costs budgeted in the department’s budget? Yes

   b) What fund number will the funds for the acquisition ultimately be drawn from? XXX-XXXX Public Defender.

   c) Will any restricted be used for the acquisition? (Check with the Auditor Controller’s General Accounting Unit and Counsel if you have questions about whether restricted funds are involved.) No

   d) If restricted funds will be used, has County Counsel advised that this is an allowable use of the proposed restricted funds? N/A

8. Does the proposed purchase/lease/license/easement agreement comply with the CEO Real Estate standard language? Yes

   e) List any modified clauses and reasons for modification. N/A

9. If this is a lease, is it a straight lease, an operating lease, a lease with an option to purchase, or a capital lease (see details below)? Straight lease

   Capital Lease Determination: At the inception of any potential capital lease, it is important to contact the Auditor-Controller’s Capital Asset Unit for further guidance to ensure that proper classification and accounting for the lease occurs. There are specialized accounting rules and required forms for capital leases. See further details in the County’s Accounting Manual, Policy No. FA-1: Accounting for Lease Purchases (Capital Leases), located on the intranet. For accounting purposes only, a capital lease
Attachment C

exists if ANY one (1) of the following four (4) criteria is met:

i) Lease transfers ownership to the County by the end of the term.

ii) Lease contains an option to purchase the property by the end of the term for a price lower than the expected fair market value of the property? (For example $1 or $1,000, and based on this option price, for accounting purposes only, the ultimate purchase of the property is deemed reasonably assured at the inception of the lease.)

iii) Lease term is equal to 75% or more of the remaining estimated useful life of the leased property.*

iv) Present value of the minimum lease payments is equal to 90% or more of the fair value of the property at the inception of the lease.*

*Criteria iii) and iv) don’t apply if the lease term begins in the last 25% of a property’s estimated useful life.

To validate whether a lease is a capital lease for accounting purposes, please contact the Auditor-Controller’s Capital Asset Unit at capitalassets@ac.ocgov.com.
LEASE

THIS IS A LEASE AGREEMENT (hereinafter referred to as "Lease") made , 2019 ("Effective Date"), by and between CF SANTANA LLC (hereinafter referred to as "Lessor") and the County OF ORANGE, a political subdivision of the State of California (hereinafter referred to as "County") without regard to number and gender. The Lessor and County may individually be referred to herein as a "Party," or collectively as the "Parties."

RECITALS

I. Pursuant to a lease dated May 22, 2011 ("Existing Lease"), County leases from Lessor approximately 10,864 rentable square feet ("RSF") on the fourth (4th) (floor of the building located at 801 W. Civic Center Drive in Santa Ana, California ("Building"). The Lease term commenced on October 1, 2012 with a termination date of September 30, 2022.

II. The Parties amended the lease on August 19, 2014 ("Existing First Amendment"), which expanded the premises by 31,973 RSF located on the third (3rd) floor of the Building, so the total Premises consisted of 42,837 RSF located on the third and fourth floors of the Building, and extended the term of the Lease through January 31, 2025.

III. The Parties wish to enter into this Lease, which will expand the Premises by adding approximately 28,360 RSF, including approximately 9,222 RSF located on the second (2nd) floor of the Building (the "Second Floor Expansion Premises") and approximately 19,138 RSF located on the fourth (4th) floor of the Building (the "Fourth Floor Expansion Premises"), making the totally leased Premises approximating 71,197 RSF.

1. DEFINITIONS (1.0 SA)

"Board of Supervisors" means the Board of Supervisors of the County of Orange, a political subdivision of the State of California.

"Chief Real Estate Officer" means the Chief Real Estate Officer, County Executive Office, County of Orange, or upon written notice to Lessor, such other entity as shall be designated by the County Executive Officer.

"County Counsel" means the County Counsel, County of Orange, or designee, or upon written notice to Lessor, such other person or entity as shall be designated by the County Executive Officer or the Board of Supervisors.

"County Executive Officer" means the County Executive Officer, County Executive Office, County of Orange, or designee, or upon written notice to Lessor, such other person or entity as shall be designated by the Board of Supervisors.

"CEO/Office of Risk Management" means the Risk Manager, County Executive Office, Risk
Management, County of Orange, or designee, or upon written notice to Lessor, such other person or entity as shall be designated by the County Executive Officer or the Board of Supervisors.

“Public Defender” means the Public Defender, County of Orange, or designee, or upon written notice to LESSOR, such other person or entity as shall be designated by the County Executive Officer or the Board of Supervisors.

“Public Defender/Facilities Services Manager” means the Manager, Public Defender/Facilities Services, County of Orange, or designee, or upon written notice to LESSOR, such other person or entity as shall be designated by the Public Defender.

2. PREMISES (1.1 NA)

Lessor leases to County that certain property described in Exhibit A and shown on Exhibit B, which exhibits are attached hereto and by reference made a part hereof, of approximately 71,197 RSF in the Building (the “Premises”), together with non-exclusive, in common use of elevators, stairways, washrooms, hallways, driveways for vehicle ingress and egress, pedestrian walkways, other facilities and common areas appurtenant to the Premises. The Second Floor Expansion Premises and the Fourth Floor Expansion Premises are referred to herein collectively as the “Expansion Premises.”

County acknowledges and agrees that County is currently in possession of the Existing Premises (defined below), and shall remain in possession of the Existing Premises in its current, “as is” condition; provided that the foregoing shall not release Lessor from any of its maintenance and repair obligations under this Lease (or under the Existing Leases). The “Existing Premises” means all portions of the Premises that are not part of the Expansion Premises (i.e., all of the space leased by County under the Existing Lease).

3. USE (1.2 NA)

County shall use the Premises for administrative and office purposes and any other lawful purpose that is incidental to administrative and office use. County shall not use the Premises or any portion thereof for any other purpose, or for any illegal or unlawful purpose and will not cause or permit a nuisance to be created or maintained therein.

4. PARKING (1.3 NA)

Throughout the Term of the Lease, County shall have (a) the exclusive right, without additional charge, to use twenty-two (22) parking spaces and (b) the non-exclusive right, without additional charge, to use two hundred and seventy-five (275) parking passes for parking in unreserved parking spaces in the “Parking Facilities” serving the Building as shown on Exhibit B. County’s use of said parking spaces shall be subject to all reasonable rules and regulations which are prescribed by Lessor from time to time for the efficient operation of the Parking Facilities for the Building and provided to County in writing.

County’s visitors may park in the Parking Facilities on a space-available basis, upon payment of the prevailing fee for visitor parking in the Parking Facilities. County shall have the right to purchase from Lessor, at Lessor’s then prevailing rate, Parking Validations (defined below), to be used only by County’s visitors for parking in the Parking Facilities without charge. “Parking Validations” means validations, in such form as Lessor, in its sole but good faith discretion, shall offer from time to time,
permitting persons using such validations to park in the Parking Facilities for specified periods of time without charge (i.e., a 20-minute validation would permit parking without charge in the applicable Parking Facility for a period up to 20 minutes).

In addition to said parking that is provided to County, Lessor shall also provide parking for disabled persons ("ADA Spaces") in accordance with the Americans with Disabilities Act, Section 7102 of the California Uniform Building Code and the applicable codes and/or ordinances relating to parking for disabled persons as established by the local jurisdiction in which the Premises is located where the provisions of such local codes and/or ordinances exceed or supersede the State requirements.

5. **TERMINATION OF PRIOR AGREEMENTS (1.4 SA)**

It is mutually agreed that, upon the Commencement Date (defined below in Clause 6 (TERM)), this Lease shall terminate and supersede any prior agreement between the Parties hereto covering all or any portion of the Premises including that certain lease dated May 22, 2011 and subsequently amended on August 19, 2014, EXCEPT for those terms of any such prior agreement relating to continuing obligations for events during the terms of any such prior agreement between the Parties hereto, including but not limited to indemnification, and that all personal property and/or equipment (e.g., fixtures, partitions, counters, shelving) attached to and/or placed upon any portion of the Premises by County pursuant to the terms of any prior agreement between the Parties hereto shall remain the personal property of County, who shall have the right to remove same.

6. **TERM (1.5 SA)**

The Term of this Lease ("Term") shall be for one hundred eighty (180) months (fifteen (15) years), commencing on the first day of the first full calendar month after the Substantial Completion Date, as defined in Clause 13 (CONSTRUCTION) (the "Commencement Date"), and ending on the last day of the one hundred eightieth month after the Commencement Date. The Commencement Date is projected to occur on July 1, 2019.

The Parties agree that the Commencement Date of this Lease will be confirmed in writing by either Party upon demand by the other.

7. **OPTIONS TO EXTEND TERM (1.6 NA)**

Provided there is no current County Default under this Lease (as further defined in Clause 29 (DEFAULTS AND REMEDIES)), either at the time of the exercise of the Option or upon commencement of the Extension Term, County shall have the option to extend the term (the "Option(s)") of this Lease for two (2) five (5) year periods (each an "Extension Term") beyond the Term, to be exercised by the Chief Real Estate Officer and memorialized in an amendment on the same terms and conditions of this Lease except this Clause 7, Clause 10 (RENT ADJUSTMENT), the Fair Market Rental Value which shall be negotiated at the time of the Option(s) as set forth below and shall not exceed fair market value at the time of the renewal notice, and such other terms and conditions clearly not applicable during the Extension Term. County shall give Lessor written notice of its intent to exercise its Option(s) to extend the Term no sooner than twelve (12) months and no later than nine (9) months prior to the Lease termination date. Time is of the essence in the exercise of the Option(s). The Option(s) shall be personal to County and shall not be exercised by any assignee or sublessee of County. “Term” as used in this Lease shall mean the initial Term and the Extension Term(s) if the Option(s) are duly exercised.
Mutual Agreement. Lessor and County shall have thirty (30) days after County exercises any Option to extend in which to agree on the Fair Market Rental Value, as defined below, for the Extension Term. If Lessor and County are unable to agree on the Fair Market Rental Value for the option period within such thirty (30) days, the provisions of the Arbitration section below shall apply.

Factors for Determining Fair Market Rental Value. The “Fair Market Rental Value” of the Premises (or applicable portion thereof) shall be the amount that a willing, comparable, new (i.e., non-renewal), non-equity tenant would pay, and that a willing landlord of a comparable space in comparable buildings in the Civic Center and Central Orange County submarkets in Orange County would accept at arms’ length. Appropriate consideration shall be given to (A) the annual rental rate per rentable square foot; (B) the definition of rentable square feet (and the applicable measurement standard) for purposes of comparing the rate; (C) location, quality and age of the Premises and the improvements therein; (D) the financial condition (e.g., creditworthiness) of Tenant; (E) escalation (including type, base year and stop) and abatement provisions reflecting free rent and/or no rent during the period of construction; (F) brokerage commissions, if any; (G) length of the lease Term; (H) size and location (including floor level) of the Premises; (I) building standard work letter and/or tenant improvement allowance, if any (taking into consideration the cost of anticipated tenant improvements as compared to market tenant improvement allowances), provided, however, the Fair Market Rental Value shall not include the unique value to County of any tenant improvements or any alterations made by County; (J) condition of space; (K) lease takeover/assumptions; (L) moving expenses and other concessions; (M) extent of services to be provided; (N) distinctions between “gross”, “modified gross” and “net” leases; (O) base year figures or expense stops for escalation purposes for both operating costs and ad valorem/real estate taxes; (P) the time the particular rental rate under consideration becomes or is to become effective; (Q) applicable caps on the amount of real estate taxes and assessments passed through to tenants; and (R) the Rent shall increase during the Extension Term every twelve (12) months by three percent (3%), calculated by multiplying the Rent then in effect by 1.03; and (S) other generally applicable conditions of tenancy for the space in question. During the Extension Term, County shall obtain the same rent and other benefits that Lessor would otherwise give to any comparable prospective tenant.

Arbitration. If after the expiration of the thirty (30) day period described in the Mutual Agreement section above, the Parties have not mutually agreed on the Fair Market Rental Value for the Extension Term in question, then the Parties shall use the following method to determine the Fair Market Rental Value (the “Three Broker Method”): within ten (10) business days after the expiration of such thirty-day period, each Party shall give written notice to the other setting forth the name and address of a “Broker” (as hereinafter defined) selected by such Party who has agreed to act in such capacity, to determine the Fair Market Rental Value. If either Party has failed to select a Broker as aforesaid within the above described ten (10) business day period, the Fair Market Rental Value shall be determined by the Broker selected by the other Party. Each Broker shall thereupon independently make his or her determinations of the Fair Market Rental Value within twenty (20) days after the appointment of the second Broker. If the two Brokers’ determinations are not the same, but the higher of such two values is not more than one hundred five percent (105%) of the lower of them, then the Fair Market Rental Value shall be deemed to be the average of the two values. If the higher of such two values is more than one hundred five percent (105%) of the lower of them, then the two Brokers shall jointly appoint a third Broker within ten (10) days after the second of the two determinations described above has been rendered. The third Broker shall independently make his determination of the Fair Market Rental Value within twenty (20) days after his appointment. The highest and the lowest determinations of value among the three Brokers shall be disregarded and the remaining determination shall be deemed
to be the Fair Market Rental Value.

**Broker.** For the purpose of this Clause 7, **"Broker"** shall mean a real estate broker or salesperson licensed in California, who has been regularly engaged in such capacity in the business of commercial office leasing in the Orange County market for at least ten (10) years immediately preceding such person’s appointment hereunder. Each Party shall pay for the cost of its Broker and one half of the cost of the third Broker.

8. **OPTION TO TERMINATE LEASE (1.7 SA)**

County shall have the option to terminate this Lease at any time after the one hundred forty-fourth (144th) full calendar month of the Term upon giving Lessor written notice at least one hundred eighty (180) days prior to such termination date.

Should County exercise such termination option, County shall pay to Lessor within sixty (60) days following Lessor’s delivery of an invoice therefor, an amount equal to the unamortized portion of the County Allowance (defined below in Clause 61 (COUNTY ALLOWANCE)), calculated by amortizing the County Allowance over the one hundred eighty (180) full calendar months of the Term, utilizing an annual interest rate of eight percent (8%).

9. **RENT (1.8 NA)**

County agrees to pay to Lessor as rent for the Premises the sum of One-Hundred Fifty-Seven Thousand Eight Hundred Eighty-Three Dollars and Seventy-Nine Cents ($157,883.79) per month (prorated for any partial month) commencing on the Commencement Date and adjusted annually pursuant to the Rent Adjustment schedule in Clause 10 (RENT ADJUSTMENT) below.

To obtain rent payments and payment of any amounts hereunder Lessor (or Lessor’s designee) shall submit to County’s Public Defender/Facilities Services Manager, in a form acceptable to said Public Defender/Facilities Services Manager, a written claim for said rent payments.

Payment shall be due and payable within twenty (20) days after the later of the following:

A. The first day of the month following the month earned; or

B. Receipt of Lessor’s written claim by the Public Defender/Facilities Services Manager.

Should County occupy the Premises before the Commencement Date, Lessor shall be entitled to prorate Rent for the period of occupancy and the amount of space occupied prior to the beginning of the Lease Term based upon the monthly Rent installment above. Said Rent shall be included in the Rent claim submitted by Lessor for the first full month of the Lease Term and shall be paid by County at the time of payment for said month.

County shall also pay Additional Rent in accordance with this Clause. **"Additional Rent"** consists of additional utility charges under Clause 20 (UTILITIES), additional parking charges under Clause 4 (PARKING), and additional repair and maintenance charges under Clause 19 (REPAIR, MAINTENANCE, AND JANITORIAL SERVICES), and as applicable, under Clause 61 (COUNTY ALLOWANCE) of this Lease.
10. **RENT ADJUSTMENT (1.9 SA)**

The monthly rent payable by County for the Premises ("Rent") shall be automatically adjusted as follows:

<table>
<thead>
<tr>
<th>Period/Months</th>
<th>Monthly Rent ($/mo)</th>
<th>Per Square Foot Rate ($/RSF/mo)</th>
</tr>
</thead>
<tbody>
<tr>
<td>13 - 24</td>
<td>$161,066.13</td>
<td>$2.2623</td>
</tr>
<tr>
<td>25 - 36</td>
<td>$164,200.51</td>
<td>$2.3063</td>
</tr>
<tr>
<td>37 - 48</td>
<td>$167,082.77</td>
<td>$2.3468</td>
</tr>
<tr>
<td>49 - 60</td>
<td>$169,491.48</td>
<td>$2.3806</td>
</tr>
<tr>
<td>61 - 72</td>
<td>$187,799.25</td>
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</tr>
<tr>
<td>73 - 84</td>
<td>$214,642.81</td>
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</tr>
<tr>
<td>85 - 96</td>
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<td>$3.0972</td>
</tr>
<tr>
<td>97 - 108</td>
<td>$226,550.57</td>
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</tr>
<tr>
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<td>$232,773.70</td>
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</tr>
<tr>
<td>121 - 132</td>
<td>$239,183.51</td>
<td>$3.3595</td>
</tr>
<tr>
<td>133 - 144</td>
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<td>145 - 156</td>
<td>$252,585.81</td>
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<td>157 - 168</td>
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<tr>
<td>169 - 180</td>
<td>$266,804.30</td>
<td>$3.7474</td>
</tr>
</tbody>
</table>

The monthly Rent, above, is the amount to be paid by County. The "Per Square Foot" rate, above, is an estimate for statistical purposes only and for no other purpose.

11. **ADJUSTMENT FOR COST OF LESSOR SERVICES (2.0 SA) - intentionally omitted**

12. **RIGHT OF FIRST OFFER (2.1 NA)**

During the first five (5) years of the Term, County will have a continuing right of first offer (the "ROFO") to lease any space in the Building that is not then included in the Premises (the "ROFO Space") that is Available for Lease (defined below). County may request, by written notice to Lessor an "Availability Request" that Lessor notify County of whether any ROFO Space is then Available for Lease; provided that County may not deliver more than one Availability Request in any nine (9) month period. Lessor shall, within five (5) business days following Lessor's receipt of an Availability Request, deliver written notice (the "Advice") identifying any portion(s) of the ROFO Space that is (are) then Available for Lease (any such space an "Offered ROFO Space") and specifying the Lessor's initial determination of the Fair Market Rental Value of the Offered ROFO Space and the date that Lessor anticipates it will be able to deliver such space to County.

A portion of the ROFO Space shall be “Available for Lease” if as of the date of Lessor’s Advice, such space, is: (a) either vacant or is scheduled to become vacant; (i) not more than nine (9) months after the date Lessor received County’s Availability Request and (ii) prior to the last day of the sixthtieth (60th) full calendar month after the Commencement Date; (b) is not subject to any Superior Rights (defined below); (c) is not the subject of Other Tenant Discussions (defined below) and (d) is of a size and configuration that Lessor is then marketing for lease or is otherwise willing to lease in Lessor’s good faith discretion. "Superior Rights" means, at any particular time, each expansion or renewal right of any type which is set forth in any lease affecting space in the Building. "Other Tenant Discussions"
means, with respect to any space, written negotiations as evidenced by an exchange of written communications (for example, but not limited to, request for proposal, submitted proposal, a letter of intent, and/or delivery of a draft of a lease document) between Lessor and another party with respect to a lease transaction involving such space, within the immediately preceding one hundred and twenty (120) days.

County will have ten (10) business days after receipt of Lessor’s Advice to exercise its ROFO with respect to one or more Offered Space(s) identified in the applicable Advice, by delivering written notice (a “ROFO Acceptance Notice”) stating that County is exercising its ROFO with respect to one or more particular Offered ROFO Spaces identified in the applicable advice, and stating whether County objects to the Lessor’s initial determination of the Fair Market Rental Value for such Offered ROFO Space. If County does not deliver a ROFO Acceptance Notice within such ten (10) business day period, time being of the essence, County shall have no further right to exercise its ROFO with respect to the Offered ROFO Spaces identified in the applicable Advice, subject to Tenant’s right to deliver another Availability Request after the date that is nine (9) months following the date on which Tenant delivered the applicable Availability Request.

If County duly exercises its ROFO with respect to any Offered ROFO Space that is identified in any Advice (any such space “Leased ROFO Space”), then: (a) the term of the lease of such Leased ROFO Space shall commence upon the date that Landlord tenders to Tenant delivery of finished ROFO Space, with completion of tenant improvements (the “ROFO Commencement Date”), (b) the expiration of Tenant’s lease of the Leased ROFO Space shall be coterminal with the termination of the Lease for the then existing Premises, (c) except as expressly provided to the contrary in this Clause 12, the remaining terms of County’s lease of such Leased ROFO Space shall be the terms and conditions of this Lease (provided that all provisions of the Lease which vary based upon the rentable area of the Premises shall be adjusted to reflect the addition of the Leased ROFO Space to the Premises) and (d) Lessor and County shall promptly thereafter execute an amendment to this Lease for such Leased ROFO Space upon the terms and conditions as set forth in the Advice, subject to the provisions of this Clause 12.

The monthly base rent payable by Tenant with respect to any Leased ROFO Space (the “ROFO Rent”) shall commence on the applicable ROFO Commencement Date and shall be equal to the product of: (a) the number of rentable square feet contained in such Leased ROFO Space and (b) the Fair Market Rental Value for such Leased ROFO Space. If in the applicable ROFO Acceptance Notice, Tenant expressly rejects Landlord’s determination of the Fair Market Rental Value for the applicable Leased ROFO Space, then the Fair Market Rental Value (and ROFO Rent) for such Leased ROFO Space shall be determined in accordance with Clause 7 above (Arbitration). If County fails, in the applicable ROFO Acceptance Notice, to expressly accept Lessor’s determination of the Fair Market Rental Value set forth in the applicable Advice, then County shall conclusively be deemed to have rejected Lessor’s determination of the Fair Market Rental Value (and ROFO Rent) for the applicable Leased ROFO Space as set forth in the applicable Advice.

Lessor shall endeavor to deliver the Leased ROFO Space to County on or before the date specified in the Advice; provided, however, that if for any reason, Lessor is not in a position to so deliver such Leased ROFO Space on such date, Lessor shall not be in breach under this Lease and otherwise shall have no liability to County so long as Lessor uses commercially reasonable efforts to deliver such Leased ROFO Space to County as soon as reasonably possible thereafter.

County shall accept any Leased ROFO Space in its then existing “AS IS” condition and state of repair, and Lessor shall not be required to perform any work, supply any materials or incur any expense
(including the granting of any allowance to Tenant with respect thereto) to prepare any Leased ROFO Space for County’s occupancy; provided, however, that: (a) Lessor shall cause any demising walls required to separate the Leased ROFO Space from other rentable space on the same floor of the Building (and occupied by other tenants) to be in place prior to the date on which it is delivered to County, and (b) to the extent (and only to the extent) determined in connection with determination of the Fair Market Rental Value for any Leased ROFO Space: (i) Lessor shall grant to County, a rent free construction period (with respect to the ROFO Rent payable for such Leased ROFO Space only) for the construction of the initial leasehold improvements (if any) in such Leased ROFO Space, and (ii) Lessor shall turnkey the Leased ROFO space pursuant to a mutually agreed upon plan.

13. CONSTRUCTION (2.2 NA)

A. **Completion Schedule:** Lessor hereby agrees to complete, at Lessor’s expense, on or before the Target Substantial Completion Date, the alterations, repairs, and other work with respect to the Expansion Premises (the “Work”) as defined and in accordance with the plans and specifications attached hereto and made a part hereof as Exhibit C, in order for County to have sufficient time to commence moving furniture, fixtures and equipment into the Expansion Premises in preparation of occupancy. Lessor agrees to use commercially reasonable efforts to cause the Expansion Premises to be Substantially Complete (as defined below) on or before the Target Substantial Completion Date (defined below). Without limiting any available remedies to County, if Substantial Completion fails to occur on or prior to the Late Substantial Completion Date (defined below), County shall have the option, after notice to Lessor as set forth in Clause 16 (ALTERATIONS), below, to complete the Work and deduct the cost thereof, including labor, materials, contractor’s overhead and an administrative charge equal to ten percent (10%) of the cost of the Work completed by County) from any Rent payable hereunder. The “Target Substantial Completion Date” is July 1, 2019, provided that such date shall be extended on a day for day basis by each day of delay caused by or resulting from Force Majeure Delays and/or County Delays (as such terms are defined below). The “Late Substantial Completion Date” is September 1, 2019, provided that such date shall be extended on a day for day basis by each day of delay caused by or resulting from Force Majeure Delays and/or County Delays (as such terms are defined below).

B. **County Remedies:** If the Substantial Completion fails to occur on or prior to the Late Substantial Completion Date, Lessor shall be obligated to pay a penalty to County of Five-Hundred dollars ($500) per day for the period from the Late Substantial Completion Date through the day prior to the date on which Substantial Completion occurs. The Parties agree that this amount is a reasonable and fair assessment of the County’s damages in such a situation. Notwithstanding the foregoing, in the event that Lessor’s performance of the Work causes a material disruption in the ability of County to use the Premises for its intended purposes including failing to maintain a safe place of employment or any circumstances which require the County to vacate any substantial portion of the Premises, County shall be entitled to pursue all available remedies at law or equity and pursuant to this Lease (as further defined in Clause 29 (DEFAULTS AND REMEDIES).

C. **Approvals:** All planning and architectural/design costs required to accomplish the Work shall be Lessor’s responsibility and shall be approved by Public Defender/Services Manager. Such approvals will not be unreasonably withheld, conditioned or delayed and if a written disapproval of any request by Lessor is not received within five (5) working days
after submission, such request shall be deemed approved. Lessor shall have the right, without liability, to stop construction pending receipt of any approval (which shall be deemed a County Delay), provided that Lessor has given County prior written notice that it intends to stop construction pending receipt of any such approval. Such approvals by the Public Defender/Facilities Services Manager shall not relieve Lessor of the responsibility for complying with all applicable codes and construction requirements, nor of obtaining necessary permits or approvals from the authorities of proper jurisdiction.

D. **Punch List:** Upon Substantial Completion (as defined below) of the Work, Lessor shall request the Public Defender/Facilities Services Manager approval and acceptance of such Work, which approval will not be unreasonably withheld, conditioned or delayed. Said approval shall be manifested by letter from the Public Defender/Facilities Services Manager (the “Work Acceptance Letter”), and may be subject to completion of items on a “punch list,” which shall be generated by County and included in the Work Acceptance Letter. County shall not be required to send the Work Acceptance Letter until County is satisfied that the Work has reached Substantial Completion (other than punch list items, if any) pursuant to this Lease, in County’s reasonable discretion. As used in this Clause 13(D), “Substantial Completion” means that the Work shall have been completed in accordance with the provisions of this Lease and any mutually approved plans and specifications, such that the Premises may be fully occupied and ready for operation by County for the intended purposes, evidenced by signed off permits for such Work which have been issued in connection with such Work, subject to any “punch list” items, if any.

In the event County’s approval and acceptance of the Work is given along with a punch list, Lessor shall use commercially reasonable efforts to complete all punch list items within twenty-one (21) days following receipt of the Work Acceptance Letter. Should the items on the punch list not be completed within twenty-one (21) days other than as a result of actions (or inactions) of County or events of Force Majeure, Lessor shall be obligated to pay a penalty to County of Two-Hundred fifty dollars ($250) per day for the period from the Substantial Completion Date through the date that all punch list items have been completed or County shall have the option to complete the punch list items and deduct the cost thereof, including labor, materials, and overhead from any rent payable.

E. **Final Improvement Date:** The “Final Improvement Date” means Lessor’s completion of the Work as determined by County and as evidenced by the Work Acceptance Letter, and completion of the items set forth in the punch list set forth in the Work Acceptance Letter (if any). The determination of whether the Final Improvement Date has occurred will be made in County’s reasonable discretion.

F. **Project Management Oversight:** County may, at County’s option, select a project manager or construction manager, at County’s sole discretion, cost and expense, to assist in County’s oversight of the Work (the “Project Manager”). The Project Manager will represent the County’s best interest during the construction of the Work to confirm that the Work is being performed pursuant to the terms of this Lease and will act as the liaison between Lessor and County in all items that are subject to approval by County as provided in Clause 13(C) above.

G. **County Alterations to Work:** The Parties agree that should County make alterations or revisions to the Work, (“County Alterations”) and such County Alterations cause the
County Improvement Costs to exceed the COUNTY Allowance, County will reimburse Lessor for the cost of any County Alterations to the extent such County Alterations cause the County Improvement Costs to exceed the County Allowance in accordance with Clause 61 (A) (COUNTY ALLOWANCE).

H. **Performance of Work:** Lessor agrees that any improvement being constructed by, or under the direction of, Lessor shall be constructed in substantial compliance with County approved plans and if and to the extent applicable, in compliance with the requirements of California Public Contract Code Section 22000 *et seq.*, which requires those improvements to be constructed as if such improvements had been constructed under the direction and supervision, or under the authority, of County. In partial satisfaction of the requirements of Section 22000 *et seq.*, if applicable: (a) Lessor shall be required to secure the faithful performance of construction and completion of construction of the improvement by appropriate contractor’s bonds as required by the California Public Contracts Code and shall require its contractor or contractors to pay the prevailing rate of per diem wages for work of a similar character in the locality of the County and not less than the general prevailing rate of per diem wages for holiday and overtime work, as provided in Clause 31 (LABOR CODE COMPLIANCE) of this Lease; (b) Lessor shall publicly advertise for bids for such improvements, as provided in Orange County Codified Ordinances 1-8-1 *et seq.*, and shall provide County a list of all bids received for the contract; and (c) thereafter, with the prior written approval of County as to the winning bid, Lessor shall award the contract or contracts for such improvements.

I. **Force Majeure Delay:** The occurrence of an event of Force Majeure (as defined in Clause 55 (FORCE MAJEURE) shall excuse the performance by that Party for a period equal to the prevention, delay or stoppage (except the obligations imposed with regard to the payment of Rent and other sums to be paid by County pursuant to this Lease), provided the affected Party gives the other Party notice within thirty (30) days of the event causing the prevention, delay or stoppage. In addition, any failure of the City of Santa Ana to issue (in “ready to issue” form) all permits and approvals required for commencement of the Work on or before April 15, 2019 shall be deemed a Force Majeure Delay.

J. **County Delays:** shall mean any delays caused in whole or in part by or through County and/or County’s representatives or contractors, including, without limitation, County’s failure to reasonably cooperate with Lessor in the procurement of required licenses and permits, and/or failure to approve any plans and specifications in a timely fashion to the extent County’s approval is required under the Lease or by any governmental or quasi-governmental authority (in which event, County’s failure to respond within five (5) business days following request by Lessor (together with reasonably complete substantiating documentation, if applicable) shall be deemed a “County Delay”), any material interference by any of County’s contractor, subcontractors, employees, representatives and/or agents with any obligations to be performed on the part of Lessor, requests for changes or postponements in construction (including postponements required by requested changes), submission of materially inaccurate or incomplete information to Lessor, failure to pay any fees or charges when due, and/or failure to provide any required authorizations in a timely fashion where such authorization is required under the Lease or by any governmental or quasi-governmental authority. In addition, each of the following shall be deemed to be a County Delay: (a) County’s failure to provide completed construction drawings (in a form that is
sufficient for Landlord to obtain all required permits and approvals required for commencement and construction of the Work on or before February 19, 2019 or (b) County’s failure to approve and execute this Lease on or before February 26, 2019.

14. **PAINTING BY LESSOR (2.3 SA) - intentionally omitted**

15. **CARPETING BY LESSOR (2.4 SA) - intentionally omitted**

16. **ALTERATIONS (2.5 NA)**

County may make improvements and changes in the Premises, including, but not limited to, the installation of fixtures, partitions, counters, shelving, and equipment as deemed necessary or appropriate by the County in its discretion. It is agreed that any such fixtures, partitions, counters, shelving, or equipment attached to or placed upon the Premises by County shall be considered as personal property of County, as defined below in Clause 34 (COUNTY PROPERTY), who shall have the right, but not the obligation, to remove same. County agrees that the Premises shall be left in as good condition as when received, reasonable wear and tear exempted.

Notwithstanding the foregoing, except for Permitted Alterations (defined below), County shall not have the right to make any Alterations (defined below), without Lessor’s prior written consent which shall not be unreasonably withheld. Any requests for consent shall be presented to Lessor in written form with proposed detailed plans. Any Alterations by County during the term of this Lease shall be done at County’s sole cost and liability and in a good and workmanlike manner, with good and sufficient materials consistent with the quality of the Building, and in compliance with all applicable law. County shall give Lessor not less than ten (10) business days’ notice prior to the commencement of any work in, on or about the Premises, and Lessor shall have the right to post notices of non-responsibility in or on the Premises as provided by law. County shall within a reasonable time after completion thereof furnish Lessor with as-built plans and specifications therefor. “Alterations” means any modification of the improvements on the Premises, which are provided by Lessor or made by County under the terms of this Lease, other than trade fixtures, whether by addition or deletion. “Permitted Alterations” means cosmetic Alterations (such as carpet and paint) that do not affect the structural portions of the Building or any of the Building Systems and are not visible from outside of the Building and that cost less than fifty thousand dollars ($50,000) in any year.

County shall pay, when due, all claims for labor or materials furnished or alleged to have been furnished to or for County at or for use on the Premises, which claims are or may be secured by any mechanics’ materialmen’s or design professionals’ lien against the Premises or any interest therein. If County shall, in good faith, contest the validity of any such lien, claim or demand, then County shall, at its sole expense defend and protect itself, Lessor and the Premises against the same and shall pay and satisfy any such adverse judgment that may be rendered thereon before the enforcement thereof against the Lessor or the Premises. If County or any person with whom County is engaged in business causes any damage to the Premises during Alterations, County shall upon demand promptly repair all such damage to the reasonable satisfaction of Lessor.

17. **COUNTY-REQUESTED ALTERATIONS (2.6 NA)**

County through Public Defender/Facilities Services Manager, may, during the Term of the Lease, request Lessor to make improvements and changes to the Premises. Any such request must describe
the County's requested improvements and changes in reasonable detail. The granting or conditioning of any such request shall be at Lessor's sole and absolute discretion and in no event shall Lessor have any obligation whatsoever to grant such request or perform such improvements or changes in the Premises. All plans and working drawings for the improvements and changes, as well as the final work, shall have the written approval of Public Defender/Facilities Services Manager. All such improvements and changes shall be made by Lessor, at Lessor's sole cost, and reimbursed in a lump sum as additional Rent by County upon receipt by County from Lessor of a written claim for such reimbursement. County agrees that said reimbursement may include a five percent (5%) management/construction fee which shall be considered as part of the costs and expenses of the alterations.

County shall have the right to audit said claim and require additional support documentation from Lessor prior to making reimbursement payment. County shall evidence acceptance of such claim by written letter to Lessor. Once Lessor's claim has been accepted by County as complete and adequate, the claim amount shall be reimbursed by County to Lessor at the same time as the next scheduled monthly Rent payment following the date of written acceptance of said claim.

Lessor agrees that any improvement so being designed and constructed by, or under the direction of Lessor, shall be constructed in substantial compliance with city approved plans and to the extent applicable, in compliance with Federal, California and local laws, including by not limited to, the requirement of California Public Contract Code Section 22000 et seq., and shall require, to the extent applicable, its contractor or subcontractors to pay the prevailing rate of per diem wages for work of a similar character in the locality of the County and not less than the general prevailing rate of per diem wages for work of a similar character in the locality of the County and not less than the general prevailing rate of per diem wages for holiday and overtime work, as provided in Clause 31 (LABOR CODE COMPLIANCE) of this Lease.

Following the written approval to let a contract for improvements, Lessor shall, to the extent applicable, publicly advertise for bids for such improvements, as provided in Orange County Codified Ordinances 181 et seq., and shall provide County a list of all bids received for the contract. Thereafter, with the prior written approval of County as to the winning bid, Lessor shall award the contract or contracts for such improvements. County’s approval of the bid shall be limited to the dollar value only, to ensure it is within County’s budget.

County acknowledges that County will be occupying the Premises during the period that work is performed by Lessor pursuant to this Clause 17, that such work may be performed and the applicable improvements may be constructed during County’s Normal Business Hours (as defined below) and that County may encounter disturbances and interferences in connection with Lessor’s performance of such work and construction of such improvements. Lessor will use reasonable efforts to minimize such disturbances and interferences to County and may perform work and/or construct improvements outside of Normal Business Hours. If Lessor fails to use reasonable efforts to minimize such disturbances and interferences, County agrees that Lessor may be liable for any such disturbances and/or interferences, and County may be entitled to any rent abatement or other offsets in the event that Lessor’s performance of work or construction of improvements pursuant to this Clause 17 disturbs or interferes with County’s use of any portion of the Premises. County agrees to reasonably cooperate with Lessor in connection with Lessor’s performance of work or construction of improvements pursuant to this Clause 17, and shall provide access to the Premises in connection therewith.
18. ORANGE COUNTY TELECOMMUNICATIONS NETWORK (2.7 NA)

Lessor agrees that County may install, at County’s sole cost and expense, telecommunication devices in, on, or around the Premises and Building in accordance with the relevant and applicable County telecommunications network plans and specifications, provided that the provisions of Clause 16 (ALTERATIONS), shall be applicable to such work. It shall be County’s responsibility to obtain all governmental permits and/or approvals required for such installation; however, Lessor shall reasonably cooperate with County as necessary or appropriate, to obtain said permits and/or approvals. Additionally, subject to all of the terms and conditions of this Lease and to Lessor’s reasonable access control programs, County or County subcontractor has the right to enter the Premises and/or common areas of the Building to maintain, repair or replace the County telecommunications network consistent with said contract between County and service provider. Subject to all of the applicable terms and conditions of this Lease, County may, in its discretion, remove any cabling, conveyance systems or cabling conduit installed by County. When the Lease is terminated, subject to all of the applicable terms and conditions of this Lease, County reserves all rights to remove, in its discretion, any such telecommunication improvements from the Premises and/or Building.

19. REPAIR, MAINTENANCE, AND JANITORIAL SERVICES (2.8 NA)

A. **Lessor Services:** Lessor shall provide, at its sole cost and expense (except as otherwise provided in this Lease) any and all necessary repair, maintenance and replacement for the Premises as it is affected by the Work done to the ninth floor, and Building (and systems therein) in good order, condition and repair, including, but not limited to, the replacement, repair and maintenance of the structural portions of the Building, the roof of the Building, the parking facilities and all Building systems including the Heating, Ventilation, Air Conditioning (“HVAC”) system, the plumbing, electrical and mechanical systems, fire/life safety system, elevators, roof, paving, fire extinguishers, pest control, and whether capital or non-capital (the “Services”), consistent with Exhibit D, which is attached hereto and by reference made a part hereof. Upon request, Lessor shall provide County with a complete copy of the janitorial and any other contracts for Services of an ongoing nature. Any repairs or replacements performed by Lessor must be at least equal in quality and workmanship to the original work and be in accordance with all applicable laws and local permit regulations. The Services shall be made promptly to keep the Premises and the Building in the condition described in this Clause 19. Should Lessor default in its obligations under this clause, the County may exercise those remedies set forth in Clause 19(B) below.

To the extent any required repair or replacement is due to the negligence or intentional misconduct of County’s agent, employees, contractors, licenses or business invitees (including, without limitation, by any persons entering upon the Premises to use the services of the County, but specifically excluding repairs or replacements necessitated solely as the result of reasonable wear and tear), such repairs or replacements shall be undertaken by Lessor at County’s sole cost and expense. All costs and expenses incurred by Lessor in undertaking such repairs and replacements shall be reimbursed by County as Additional Rent within thirty (30) days after Lessor’s delivery to County of written demand therefor.

B. **County Self-Help:** County may provide written notice to Lessor of any Lessor failure to provide Services under Section 19(A) above or written notice of Lessor’s failure to provide or commence to provide any of its obligations under Clause 21 (BUILDING AND SAFETY REQUIREMENTS) below (“Lessor Failure”). Such County notice shall specify such Lessor
Failure and afford Lessor fifteen (15) days to complete the cure of such Lessor Failure, provided, however, that if the cure cannot reasonably be completed within such time period, Lessor shall be afforded an additional reasonable amount of time to complete the cure, as long as Lessor commences the cure within such time period, notifies County of such commencement with written notice, and diligently pursues same to completion, without limiting any available remedy to County (including, but not limited to, County Remedies as defined in Clause 29 (DEFaultS AND REMEdIES). After such fifteen (15) day period, if Lessor has not commenced the action required to cure the applicable Lessor Failure, County may, after a second written notice to Lessor and Lessor’s Lender and an additional fifteen (15) day cure period during which Lessor may send County a written objection (describing in reasonable detail its reasons for objecting), at its sole discretion, perform or arrange for the performance of such Services or such obligations. If such Services or obligations were required to be provided by Lessor under Clause 19(A) above or Clause 21 (BUILDING AND SAFETY REQUIREMENTS) below and Lessor fails to reimburse County for the costs incurred by County in connection with such performance within thirty (30) days after County’s delivery of Lessor of a reasonably detailed statement (“County Self Help Statement”) describing the Services performed by County in reasonable detail, including a detailed breakdown of the costs incurred together with supporting documentation, County shall be entitled to deduct an amount equal to the out of pocket cost incurred by County in taking such action plus an administrative charge of ten percent (10%) of the cost from the Rent first coming due thereafter (“County Self Help Costs”). Notwithstanding the foregoing, if Lessor fails to object (including a reasonable description for said objection) to County’s allegation that a Lessor Failure has occurred within fifteen (15) days after Lessor’s receipt of the second notice referenced above, County shall have no obligation to deliver a County Self Help Statement prior to deducting the County Self Help Costs from Rent next coming due under the Lease (and Lessor shall have no right to object to such deduction).

On the condition that Lessor reasonably objects to County’s allegation that a Lessor Failure has occurred within fifteen (15) days after Lessor’s receipt of the second notice referenced above, and if the County Self Help Costs exceed one hundred thousand dollars ($100,000.00), Lessor may deliver a reasonably detailed written objection to such County Self Help Statement within thirty (30) days after Lessor’s receipt of such County Self Help Statement, setting forth with reasonable particularity, Lessor’s reasons that no Lessor Failure occurred. County shall not be entitled to deduct the amount described in the County Self Help Statement (from the County’s obligations to pay RENT as provided above), and the matter shall proceed to resolution by the selection of an arbitrator to resolve the dispute, which arbitrator shall be selected and qualified pursuant to the then current arbitration rules of the American Arbitration Association.

C. **Warranties:** Lessor shall initiate at purchase, and keep in force, all manufacturers’ warranties including extended warranties for all building equipment. When manufacturers’ warranties for the HVAC, roof and elevator expire, Lessor will contract with an industry standard maintenance company (“Vendor”) that specializes in the maintenance of such equipment (and for the roof) for regular and scheduled inspections as recommended by the manufacturer, and immediately authorize said Vendor to perform any and all recommended maintenance to the equipment and roof upon receipt of any inspection report. Lessor shall authorize Vendor(s) to provide County with copies of said report(s) upon County request.
Should Lessor fail to comply with the provisions of this clause, County may exercise those remedies set forth in Clause 19(B) above.

In order for the County to comply with the California Code of Regulations, Title 8, Section 5142 ("Regulation 5142"), and as it may be subsequently amended, Lessor shall regularly inspect and maintain the HVAC system as required by Regulation 5142 and provide repair and maintenance accordingly. Inspections and maintenance of the HVAC system shall be documented in writing and Lessor shall retain such records for at least five (5) years. Lessor shall make all HVAC records required by this section available to County for examination and copying, within forty-eight (48) hours of a written request. Lessor acknowledges that County may be subject to fines and/or penalties for failure to provide said records to regulatory agencies within the given timeframes. Should County incur fines and/or penalties as a direct result of Lessor’s failure to provide said records to County in a timely manner and as set forth herein, Lessor shall reimburse County for said fines and/or penalties within thirty (30) days upon written notice. Should Lessor fail to reimburse County within thirty (30) days, County may deduct the amount of the fine and/or penalty from any Rent payable without further notice.

D. **HVAC System:** Lessor shall make reasonable efforts to provide and supply air conditioning to cause the temperature in the Premises and Building at a temperature consistent with other office buildings in Orange County, California, which are typically not less than 70°F nor greater than 75°F, during all Normal Business Hours as defined below in Clause 19(E). County shall be responsible for and shall pay to Lessor any additional costs incurred by Lessor because of the failure of the HVAC system to perform its function due to: (a) any use by County in any portion of the Premises of heat-generating machinery or equipment other than normal office equipment, or (b) any occupancy of any portion of the Premises at densities above customary general office levels.

E. **Normal Business Hours:** County acknowledges that the HVAC services to the Building shall operate only from 7:00 a.m. to 6:00 p.m. Monday through Friday and Saturday from 10:00 a.m. to 2:00 p.m., excluding governmental holidays ("Normal Business Hours"). A list of government holidays shall be provided to Lessor on a yearly basis upon request to County.

Notwithstanding the utilities provided during Normal Business Hours, Lessor shall provide HVAC services to the Premises prior to the beginning of Normal Business Hours in order for the temperature parameters required by this Lease, above, to be met and maintained at the beginning and throughout Normal Business Hours. There shall be no extra utility charges for HVAC services provided prior to the beginning of Normal Business Hours in order to cause the temperature parameter (described above) to be maintained during Normal Business Hours.

F. **Emergency Services:** If County requires same day emergency repairs that are required to be performed by Lessor under this Lease and are necessary to prevent imminent danger to persons or property ("Emergency Services") and Lessor cannot be contacted for such Emergency Services (as reasonably determined by the County), or if Lessor following such contact by County is unable or refuses to provide the necessary Emergency Services, then at any time prior to the date on which Lessor commences any such Emergency Services, County may have the necessary Emergency Services performed to the extent required to
remedy the emergency condition, and may deduct the out of pocket cost thereof, including labor, materials, and overhead from the Rent first coming due after the date that is thirty (30) days after County provides Lessor with a reasonably detailed statement (the “County Emergency Self Help Statement”) describing the Services performed by County in reasonable detail, providing a reasonably detailed breakdown of the costs incurred together with reasonable supporting documentation. If County takes such action, and such work will affect the Building systems or any of the Structural components of the Building, County shall use only those contractors used by Lessor in the Building for work on such systems; provided, however, that if such contractors are unwilling or unable to perform such work or, if required by applicable law, do not comply with Clause 31 (LABOR CODE COMPLIANCE) and Clause 32 (RIGHT TO WORK AND MINIMUM WAGE LAWS), County may utilize the services of any other qualified and licensed contractor that normally and regularly performs similar work and is approved by Lessor in its reasonable discretion.

G. Operations Shutdown: Should County be forced to completely shut down its operations within the Premises and/or Building due to Lessor’s failure to provide any Services that Lessor is required to provide by this Clause 19 (other than as a result of any event of Force Majeure) for a period of twenty four (24) consecutive hours, excluding weekends and holidays, County’s obligations to pay Rent shall be equitably abated, commencing upon expiration of such twenty-four (24) hour period and continuing through the date such Services are provided.

20. UTILITIES (2.9 SA)

Lessor shall be responsible for and pay, prior to the delinquency date, all charges for utilities supplied to the Premises except telephone and other telecommunications, which shall be the obligation of County. Should Lessor fail to pay any utility for (prior to delinquency date), utility service to the Premises, and such failure shall continue for twenty (20) days following Lessor’s receipt of notice thereof from County, County may pay the applicable utility for such utility service and deduct the cost thereof, including overhead, from any Rent payable thereafter.

Should County require HVAC services at times other than during Normal Business Hours as defined in Clause 19(E) above, County shall pay Lessor a reimbursement equal to Landlord’s prevailing rate therefore (currently Sixty-Five dollars ($65)) per hour (or partial hour) per floor (or partial floor) for each hour HVAC services are used on any floor during times other than Normal Business Hours. Lessor shall provide County with a written statement of its monthly usage in the form of an invoice, which shall include a statement showing the date, time, location and duration of such usage, along with a summary of the County’s monthly charges. County shall pay Lessor for excess usage with the following month’s Rent.

21. BUILDING AND SAFETY REQUIREMENTS (3.0 NA)

Lessor shall cause the Work done within the Expansion Premises to be in accordance with Clause 13 (CONSTRUCTION) above to comply with all laws (including the requirements of the ADA) in effect (and as enforced) as of the date of Substantial Completion. During the Term and Extension Term(s) of this Lease, Lessor, at Lessor’s sole cost, agrees to maintain the Base Building and the Building common areas in compliance with all applicable laws, rules, regulations, building codes, statutes, and orders as they are applicable on the date of this Lease, and as they may be subsequently amended, including but not limited to the California Building Code, Title 24, Seismic Code, Fire and Life Safety
requirements and, if applicable, California Green Building Standard Code. The “Base Building” means the structural components of the Building together with all of the Building utility systems (excluding any portions of any such systems that exclusively serve any rentable space in the Building).

Included in this provision is compliance with the Americans with Disabilities Act (“ADA”) and all other federal, state, and local codes, statutes, and orders relating to disabled access as they are applicable on the dates of this Lease, and as they may be subsequently amended and all regulations issued by the U.S. Attorney General or other agencies under the authorization of the ADA. However, Lessor shall not be responsible for (and County shall be responsible for) any ADA violations resulting from, or to the extent compliance is required as a result of any alterations made by or for County or the placement of County’s furniture, fixtures or equipment by County.

Lessor shall use commercially reasonable efforts to repair and maintain the Premises as a “safe place of employment,” as defined in the California Occupational Safety and Health Act (California Labor Code, Division 5, Part 1, Chapter 3, beginning with Section 6400) and the Federal Occupational Safety and Health Act, where the provisions of such Act exceed, or supersede, the California Act, as the provisions of such Act are applicable on the date of this Lease, and as they may be subsequently amended. County agrees to notify Lessor of any repair or maintenance necessary within the Premises or Building to comply with such Act and Lessor agrees to diligently act to repair or maintain appropriately so long as such repair or maintenance of the Premises is a Lessor expense as defined in Clause 19(A) (REPAIR MAINTENANCE, AND JANITORIAL SERVICES) above. In the event that such repair or maintenance is necessary and is the result of County negligence, provided that County approves a work order with associated expense estimate, Lessor agrees to perform such repair or maintenance and County agrees to reimburse Lessor within thirty (30) days.

In the event Lessor neglects, fails, or refuses to either: (a) cause the Work done on the ninth floor in accordance with Clause 13 (CONSTRUCTION) above to comply with all laws (including the requirements of the ADA) in effect (and as enforced) as of the date of Substantial Completion or (b) maintain said Base Building, the Building common areas as aforesaid, following thirty (30) days after written notice from County to Lessor providing notice of such neglect or failure or refusal County may exercise its self-help rights under Clause 19(B) above.

Lessor agrees to reimburse and indemnify, and defend County for any expenses incurred because of Lessor’s failure to perform its obligations under this Clause 21, including the costs of any governmental enforcement agency, or any court, any and all fines, civil penalties, and damages awarded against County resulting from a violation or violations of the above-cited laws, rules, regulations, building codes, statutes, and orders and regulations, and all reasonable legal expenses incurred in defending claims made under the above-referenced laws, rules, regulations, building codes, statutes, and orders, including reasonable attorneys’ fees. Should Lessor fail to comply with the provisions of this Clause 21, the County may also exercise those remedies set forth in Clause 19(B) (REPAIR MAINTENANCE, AND JANITORIAL SERVICES).

22. ASSIGNMENT AND SUBLETTING (3.1 NA)

A. General. County shall not assign this Lease or sublet the Premises in whole or in part without Lessor’s prior written consent, which consent shall not be unreasonably withheld. Lessor shall respond in writing to County’s request to assign this Lease or sublet all or any portion of the Premises within fifteen (15) days of County’s request. In the event Lessor withholds consent to any such request by County, Lessor shall provide reasonable details of its reason
for such withholding of consent. In any event, County may sublease up to twenty percent (20%) of the Premises without obtaining Lessor’s prior written consent. In the event Lessor fails to timely respond to County’s request, Lessor shall be deemed to have disapproved such request. County hereby waives the provisions of Section 1995.310 of the California Civil Code, or any similar or successor Laws, now or hereinafter in effect, and all other remedies, including, without limitation, any right at law or equity to terminate this Lease, on its own behalf and, to the extent permitted under all applicable Laws, on behalf of the proposed transferee.

B. **Justifications for Withholding Consent.** By way of example and not limitation, Lessor shall be deemed to have reasonably withheld consent to a proposed assignment or sublease if in Lessor’s reasonable opinion (i) the Premises are or may be in any way materially adversely affected thereby; (ii) the business reputation of the proposed assignee or subtenant is unacceptable; (iii) the financial worth of the proposed assignee or subtenant is insufficient to meet the obligations of the subject sublease or assignment; or (iv) the proposed assignee or sublessee (or one of its affiliates) currently leases space in the Building or has been or is currently in of has in the preceding 120 days been in negotiations with Lessor to lease space at the Building. Notwithstanding anything to the contrary contained herein, in no event shall it be reasonable for Lessor to withhold its consent on the basis that there is vacancy in the Building.

C. **Excess Profit.** If County shall make any assignment or sublease, with Lessor’s consent, for a rental in excess of the rent payable under this Lease, Lessor shall not be entitled to receive any of such excess which shall be held by County.

D. Notwithstanding the consummation or attempted consummation of any sublease, assignment or other transfer under this Clause 22, County shall remain as fully and primarily liable for the payment of Rent and for the performance of all other obligations of the County contained in this Lease to the same extent as if the sublease, assignment or other transfer had not occurred.

23. **INSURANCE (3.2 SA)**

**Commercial Property Insurance:** Lessor shall obtain and keep in force during the Term of this Lease a policy or policies of commercial property insurance written on ISO form CP 00 10 10 12, or a substitute form providing coverage at least as broad, with all risk or special form coverage, covering the loss or damage to the Premises to the full insurable value of the improvements located on the Premises (including the full value of all improvements and fixtures owned by Lessor) at least in the amount of the full replacement cost thereof; and in no event less than the total amount required by any lender holding a security interest.

Lessor agrees to and shall include in the policy or policies of commercial property insurance a standard waiver of the right of subrogation against the County of Orange, its elected and appointed officials, officers, agents and employees by the insurance company issuing said policy or policies. Lessor shall provide the County of Orange with a Certificate of Insurance as evidence of compliance with these requirements prior to the Commencement Date of this Lease.

**Commercial General Liability Insurance:** Lessor shall obtain and keep in force during the Term of this Lease a policy or policies of commercial general liability insurance covering all injuries
occurring within the building and the Premises. The policy or policies evidencing such insurance shall provide the following:

A. An Additional Insured endorsement using ISO form CG 20 26 04 13 or a form at least as broad naming the County of Orange, its elected and appointed officials, officers, agents and employees as an additional insured, or provide blanket coverage which will state, AS REQUIRED BY WRITTEN AGREEMENT;

B. A primary and non-contributory endorsement using ISO form CG 20 01 04 13, or a form at least as broad evidencing that the Lessor's insurance is primary and any insurance or self-insurance maintained by the County of Orange shall be excess and non-contributing;

C. Lessor shall notify County in writing within thirty (30) days of any policy cancellation and ten (10) days for non-payment of premium and provide a copy of the cancellation notice to County. Lessor shall furnish County with a current and valid certificate and required endorsements with respect to any insurance or a binder within one day prior to the date of cancellation or expiration of the current policy. If Lessor shall fail to provide such evidence of coverage, this may constitute a material breach of this lease;

D. Shall provide a limit of One Million Dollars ($1,000,000) per occurrence with a Two Million Dollars ($2,000,000) aggregate; and

E. The policy or policies of insurance must be issued by an insurer with a minimum rating of A- (Secure A.M. Best's Rating) and VIII (Financial Size Category as determined by the most current edition of the Best's Key Rating Guide/Property-Casualty/United States or ambest.com). It is preferred, but not mandatory, that the insurer be licensed to do business in the state of California (California Admitted Carrier).

If the insurance carrier does not have an A.M. Best Rating of A-/VIII, the CEO/Office of Risk Management retains the right to approve or reject a carrier after a review of the company's performance and financial ratings. Prior to the Commencement Date of this Lease and upon renewal of such policies, Lessor shall submit to County a Certificate of Insurance and required endorsements as evidence that the foregoing policy or policies are in effect.

If Lessor fails to procure and maintain the insurance required to be procured by Lessor under this Lease, County may, but shall not be required to, order such insurance and deduct the cost thereof plus any County administrative charges from the rent thereafter payable.

24. INDEMNIFICATION (3.3 SA)

Lessor hereby agrees to indemnify, hold harmless, and defend County, its officers, agents, and employees, with counsel approved by County, against any and all claims, loss, demands, damages, cost, expenses or liability arising out of the ownership, maintenance, or use of the Premises, except for liability arising out of the negligence of County, its officers, agents, and/or employees, including the cost of defense of any lawsuit arising therefrom.

County hereby agrees to indemnify, hold harmless, and defend Lessor, its officers, agents, and employees, against any and all claims, loss, demands, damages, cost, expenses or liability arising out of the use of the Premises, except for liability arising out of the negligence of Lessor, its officers, agents, or employees, including the cost of defense of any lawsuit arising therefrom.
In the event County is named as co-defendant, Lessor shall notify County of such fact and shall represent County, with counsel approved by County, in such legal action unless County undertakes to represent itself as co-defendant in such legal action, in which event Lessor shall pay to County its litigation costs, expenses and attorney’s fees. In the event judgment is entered against County and Lessor because of the concurrent negligence of County and Lessor, their officers, agents, or employees, an apportionment of liability to pay such judgment shall be made by a court of competent jurisdiction. Neither Party shall request a jury apportionment.

25. TAXES AND ASSESSMENTS (3.4 SA)

All taxes and assessments which become due and payable upon the Premises shall be the full responsibility of Lessor, and Lessor shall cause said taxes and assessments to be paid prior to the due date. Should Lessor fail to pay taxes and assessments due upon the Premises prior to the due date, County may pay such amount due and deduct the cost thereof, including overhead, from the rent thereafter payable.

26. TOXIC MATERIALS (3.5 SA)

County hereby warrants and represents that County will comply with all laws and regulations relating to the storage, use and disposal of hydrocarbon substances and hazardous, toxic or radioactive matter, including, but not limited to, those materials identified in Title 26 of the California Code of Regulations (collectively “Toxic Materials”). County shall be responsible for and shall indemnify and hold Lessor, its officers, directors, employees, agents, and representatives, harmless from and against all claims, costs and liabilities, including attorneys’ fees and costs arising out of or in connection with the storage, use, and disposal of Toxic Materials on the Premises by County. If the storage, use, and disposal of Toxic Materials on the Premises by County results in contamination or deterioration of water or soil resulting in a level of contamination greater than maximum allowable levels established by any governmental agency having jurisdiction over such contamination, County shall promptly take any and all action necessary to clean up such contamination.

Likewise, Lessor hereby warrants and represents that Lessor has in the past and will hereafter comply with all laws and regulations relating to the storage, use and disposal of Toxic Materials. If the previous, current and future storage, use, and disposal of Toxic Materials on the Premises by Lessor results in contamination or deterioration of water or soil resulting in a level of contamination greater than maximum allowable levels established by any governmental agency having jurisdiction over such contamination (and such violation does not arise out of any acts or omissions of County, its agents, employees or contractors), Lessor shall promptly take any and all action necessary to clean up such contamination.

27. SUBORDINATION, ATTORTMENT AND NON-DISTURBANCE (3.6 NA)

This Lease and all rights of the County hereunder are subject and subordinate to any ground or master lease, mortgage or deed of trust which does now or may hereafter cover the Premises or any interest of Lessor therein, and to any and all advances made on the security thereof, and to any and all increases, renewals, modifications, consolidations, replacements and extensions of any such mortgage or deed of trust (collectively, “Security Instruments”) except, insofar as County is meeting its obligations under this Lease, any termination of any ground or master lease or foreclosure of any mortgage or deed of trust shall not result in the termination of this Lease or the displacement of County.

In the event of transfer of title of the Premises in connection with any termination or foreclosure of any
Security Instrument, including any proceedings brought for foreclosure or in the event of the exercise of the power of sale under any mortgage or deed of trust, or by any other transfer of title covering the Premises, County shall attorn to and recognize any subsequent title holder as the Lessor under all terms, covenants and conditions of this Lease. County’s possession of the Premises shall not be disturbed by the Lessor, or its successors in interest, and this Lease shall remain in full force and effect. Said attornment shall be effective and self-operative immediately upon succession of the current title holder, or its successors in interest, to the interest of Lessor under this Lease.

Notwithstanding the above, Lessor shall obtain and deliver to County a Subordination, Attornment and Non-Disturbance Agreement from Lessor’s Lender, within sixty (60) days of the date of full execution of this Lease. The inability or failure of Lessor to obtain such Subordination, Attornment and Non-Disturbance Agreement shall not constitute a default by Lessor hereunder. Lessor shall require all future lenders on the Premises, upon initiation of their interest in the Premises or within a reasonable time thereafter, to enter into a Subordination, Attornment and Non-Disturbance Agreement with County, thereby insuring County of its leasehold interest in the Premises. Said Subordination, Attornment and Non-Disturbance Agreement shall be in the form of County’s standard form Subordination, Attornment and Non-Disturbance Agreement attached hereto as Exhibit E or in another form reasonably approved by the Public Defender/Facilities Services Manager, the Chief Real Estate Officer and County Counsel. Accordingly, notwithstanding anything to the contrary herein, County’s obligation to enter into an agreement to subordinate its interest under this Lease to a lien or ground lease not in existence as of the date of this Lease shall be conditioned upon the holder of such lien, or a ground lessor, as applicable, confirming in writing and substantially in the form of County’s standard form Subordination, Attornment and Non-Disturbance Agreement attached hereto as Exhibit E (or another form reasonably approved by the Public Defender/Facilities Services Manager, the Chief Real Estate Officer and County Counsel) that County’s leasehold interest hereunder shall not be disturbed so long as no County Default exists under this Lease.

Foreclosure shall not extinguish this Lease, and any lender or any third party purchasing the Premises at foreclosure sale shall do so subject to this Lease and shall thereafter perform all obligations and be responsible for all liabilities of the Lessor accruing thereafter under the terms of this Lease.

Upon default by Lessor of any note or deed of trust, County may, if requested by the Lender holding first priority security interest with respect to the Building, make all lease payments directly to such Lender, and same shall be applied to the payment of any and all delinquent or future installments due under such note or deed of trust.

28. ESTOPPEL CERTIFICATE (3.7 SA)

County agrees that the Public Defender/Facilities Services Manager shall furnish upon receipt of a written request from Lessor or the holder of any deed of trust or mortgage covering the Premises or any interest of Lessor therein ("Lessor Representative"), County’s standard form Estoppel Certificate (consistent with the form attached hereto in Exhibit E) containing information as to the current status of the Lease. Said standard form Estoppel Certificate shall be completed by County in a timely manner, if applicable, upon receipt of the Lessor Representative-signed County standard form Subordination, Attornment and Non-Disturbance Agreement, agreed pursuant to Clause 27 (SUBORDINATION, ATTORNMENT AND NON-DISTURBANCE). The Estoppel Certificate shall be approved by Chief Real Estate Officer and County Counsel, and if applicable, shall be processed and approved concurrently with the Subordination, Attornment and Non-Disturbance Agreement, by Chief Real Estate Officer and County Counsel.
29. DEFAULTS AND REMEDIES (3.8 NA)

**County Default:**

County shall be deemed in default of this Lease if: a) in the event of any monetary breach of this Lease by County, Lessor shall notify County in writing of such breach, and County shall have ten (10) days from such notice in which to cure said breach or b) in the event of any non-monetary breach of this Lease, County fails within fifteen (15) days after receipt by County of written notice specifying wherein such obligation of County has not been performed; provided however, that if the nature of County's obligation is such that more than fifteen (15) days after such notice are reasonably required for its performance, then County shall not be in breach of this Lease if performance is commenced as soon as reasonably possible within such fifteen (15) day period and thereafter diligently pursued to completion (each, a “County Default”).

**Lessor Default:**

Lessor shall be deemed in breach of this Lease if: a) in the event of any monetary breach of this Lease by Lessor, County shall notify Lessor in writing of such breach, and Lessor shall have ten (10) days from such notice in which to cure said breach or b) in the event of any non-monetary breach of this Lease, Lessor fails within fifteen (15) days after receipt by Lessor of written notice specifying wherein such obligation of Lessor has not been performed; provided however, that if the nature of Lessor's obligation is such that more than fifteen (15) days after such notice are reasonably required for its performance, then Lessor shall not be in breach of this Lease if performance is commenced as soon as reasonably possible within such fifteen (15) day period and thereafter diligently pursued to completion (each, a “Lessor Default”).

**County Remedies:**

If the Lessor Default is a result of a monetary breach by Lessor in the payment of any amounts due hereunder, County may withhold such amount from the next scheduled Rent payment. County’s remedies as the result of Lessor Default for monetary or non-monetary breach shall be the right to damages, injunctive relief, termination of Lease and/or any other rights at law or in equity.

**Lessor Remedies:**

If the County Default is a result of a monetary breach by County in the payment of the Rent, pursuant to Clause 9 (RENT), Lessor may declare all rent payments to the end of County’s current fiscal year to be due, including any delinquent rent from prior budget years. However, in no event shall Lessor be entitled to a remedy of acceleration of the total rent payments due over the Term of this Lease. Lessor’s remedies as the result of County Default for monetary or non-monetary breach shall be the right to damages, injunctive relief, and/or any other rights at law or in equity.

30. DEBT LIMIT (3.9 SA)

Lessor acknowledges and agrees that the obligation of the County to pay rent under this Lease is contingent upon the availability of County funds which are appropriated or allocated by the County’s Board of Supervisors for the payment of rent hereunder. In this regard, in the event that this Lease is terminated due to an uncured default of the County hereunder, Lessor may declare all rent payments to the end of County’s current fiscal year to be due, including any delinquent rent from prior budget years. In no event shall Lessor be entitled to a remedy of acceleration of the total rent payments due
over the Term of the Lease. The Parties acknowledge and agree that the limitations set forth above are required by Article 16, section 18, of the California Constitution. Lessor acknowledges and agrees that said Article 16, section 18, of the California Constitution supersedes any law, rule, regulation or statute, which conflicts with the provisions of this paragraph. Notwithstanding the foregoing, Lessor may have other rights or civil remedies to seek relief due to the County’s Default under the Lease.

31. LABOR CODE COMPLIANCE (4.0 SA)

Lessor acknowledges and agrees that all improvements or modifications required to be performed pursuant to this Lease or any such future improvements or modifications performed by Lessor at the request of County shall be governed by, and performed in accordance with, the provisions of Article 2 of Chapter I, Part 7, Division 2 of the Labor Code of the State of California (Sections 1770, et seq.), as applicable. These provisions may be applicable to improvements or modifications costing more than $1,000, unless an exception applies, including but not limited to the exception to the definition of public works under § 1720.2.

Pursuant to the provisions of Section 1773 of the Labor Code of the State of California, Lessor shall comply with the general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime work in the locality applicable to this Lease, for each craft, classification, or type of workman needed to execute the aforesaid improvements or modifications. The rates are available at the following website: [http://www.dir.ca.gov/dlsr/DPreWageDetermination.htm](http://www.dir.ca.gov/dlsr/DPreWageDetermination.htm) from the Director of the State Department of Industrial Relations. Lessor shall post a copy of such wage rates at the job site and shall pay the adopted prevailing wage rates at all times for all improvements or modifications to be completed for County within the Premises. Lessor shall comply with the provisions of Sections 1775 and 1813 of the Labor Code.

As required by applicable law, Lessor shall maintain payroll records for all workers that will be assigned to the improvements or modifications. Said payroll records shall contain, but not be limited to, the complete name, address, telephone number, social security number, job classification, and prevailing wage rate for each worker. Upon request Lessor shall provide the Public Defender/Facilities Services Manager updated, certified payroll records for all workers that shall include, but not be limited to, the weekly hours worked, prevailing hourly wage rates, and total wages paid.

Except as expressly set forth in this Lease, nothing herein is intended to grant authority for Lessor to perform improvements or modifications on space currently leased by County or for which County has entered into a lease or lease amendment.

32. RIGHT TO WORK AND MINIMUM WAGE LAWS (4.1 SA)

In accordance with the United States Immigration Reform and Control Act of 1986, Lessor shall require its employees that directly or indirectly service the Premises or terms and conditions of this Lease, in any manner whatsoever, to verify their identity and eligibility for employment in the United States. Lessor shall also require that its contractors or any other persons servicing the Premises or terms and conditions of this Lease, in any manner whatsoever, verify the identity of their employees and their eligibility for employment in the United States.

Pursuant to the United States of America Fair Labor Standard Act of 1938, as amended, and State of California Labor Code, Section 1178.5, Lessor shall pay no less than the greater of the Federal or California Minimum Wage to all its employees that directly or indirectly service the Premises, in any manner whatsoever. Lessor shall require that all its contractors or other persons servicing the Premises
on behalf of the Lessor also pay their employees no less than the greater of the Federal or California Minimum Wage.

Lessor shall comply and require that its contractors comply with all other Federal and State of California laws for minimum wage, overtime pay, record keeping, and child labor standards pursuant to the servicing of the Premises or terms and conditions of this Lease.

Notwithstanding the minimum wage requirements provided for in this clause, Lessor, where applicable, shall comply with the prevailing wage and related requirements, as provided for in Clause 31 (LABOR CODE COMPLIANCE) of this Lease.

33. COMMISSION (4.2 NA)

County’s obligations and responsibilities under this Lease are contingent upon the Lessor paying to County’s broker, Jones Lang LaSalle, Eight-Hundred Four Thousand Eight-Hundred Eighty-Seven dollars and Seventy-Six cents ($804,887.76) commission as a result of this lease transaction. Said commission shall be paid to Jones Lang LaSalle within thirty (30) working days after execution of this Lease by County.

Should Jones Lang LaSalle not receive the above amount within the specified time period, and such failure continues for thirty (30) days following County’s delivery of written notice thereof, County may deduct any unpaid amount from future Rent.

34. COUNTY PROPERTY (4.3 SA)

All trade fixtures, merchandise, inventory, telecommunications equipment, supplemental air conditioning equipment and all personal property placed in or about the Premises by, at the direction of or with the consent (express or implied) of the County, its employees, agents, licensees or invitees, shall be at the sole risk of the County, and Lessor shall not be liable for any loss of or damage to said property resulting from any cause whatsoever unless such loss or damage is the result of Lessor’s gross negligence or willful misconduct and not otherwise waived pursuant to Clause 35 (LESSOR’S RIGHT OF ENTRY) below. Lessor hereby waives any and all lien rights, whether statutory or common law or established pursuant to this Lease, that Lessor may have as “landlord” with respect to any and all goods, wares, equipment, fixtures, furniture, improvements and other personal property of County presently or which may hereafter be situated within the Premises.

35. LESSOR’S RIGHT OF ENTRY (4.4 SA)

Upon reasonable verbal notice (which shall not be less than forty-eight (48) hours) to County (except (a) in an emergency [which shall mean immediate risk of injury to person or property] in which case no notice shall be required, provided that Lessor shall use reasonable efforts to first call County or (b) for purposes of providing routine services (such as janitorial services) to the Premises in which case no notice shall be required) and in the presence of County (except in the case of an emergency or in connection with provision of routine services to the Premises), Lessor, its agents, employees and contractors and any mortgagee of the Premises shall have the right to enter the Premises during regular business hours (a) to inspect the Premises; (b) to exhibit the Premises to prospective tenants during the last nine (9) months of Term or any Extension Term, as applicable, or any time County is in material default hereunder, or to prospective lenders or purchasers of the Building (or of Lessor); (c) for any purpose which Lessor shall deem necessary for the operation and maintenance of the Premises; (d) to abate any condition which constitutes a violation of any covenant or condition of this Lease; or
(e) to perform any of Lessor’s obligations or exercise any of Lessor’s rights under this Lease.

36. SIGNAGE (4.5 NA)

Lessor agrees to allow County to install and maintain any sign or display within the Premises and/or Building.

37. ACCESS CONTROL SERVICES (4.6 NA)

Lessor shall provide access control services for the Building, which security services shall be substantially similar to the access control services provided in similar office buildings in the surrounding area where the Building is located. In addition, during the Term (as the same may be extended), County may, at its sole cost and expense, engage its own security personnel to provide security in the Premises and to County’s employees, personnel, agents, licensees and/or invitees going to and from the Premises. Such security personnel engaged by County shall be solely for the benefit of County and shall not be relied on by Lessor.

38. AUTHORITY (4.7 SA)

County and Lessor each warrant that the persons executing the Lease below on behalf of County or Lessor have the power and authority to bind County or Lessor to this Lease.

39. LEASE ORGANIZATION (4.8 SA)

The various headings in this Lease, the numbers thereof, and the organization of the Lease into separate sections and paragraphs are for purposes of convenience only and shall not be considered otherwise.

40. SUCCESSORS IN INTEREST (4.9 SA)

Unless otherwise provided in this Lease, the terms, covenants, and conditions contained herein shall apply to and bind the heirs, successors, executors, administrators, and assigns of all the Parties hereto, all of whom shall be jointly and severally liable hereunder.

41. DESTRUCTION OF OR DAMAGE TO PREMISES (5.0 NA)

“Partial Destruction” of the Premises shall mean damage or destruction to the Premises, for which the repair cost is less than 25 percent (25%) of the then replacement cost of the Premises (including tenant improvements), excluding the value of the land.

“Total Destruction” of the Premises shall mean damage or destruction to the Premises, for which the repair cost is 25 percent (25%) or more of the then replacement cost of the Premises (including tenant improvements), excluding the value of the land.

In the event of a Partial Destruction of the Premises, Lessor shall promptly pursue completion of all repairs necessary to restore the Premises to the condition which existed immediately prior to said Partial Destruction. Said restoration work (including any demolition required) shall be completed by Lessor, at Lessor’s sole cost, within sixty (60) days of the occurrence of said Partial Destruction or within an extended time frame as may be authorized, in writing, by County. The Partial Destruction of the Premises shall in no way render this Lease and/or any option to purchase, granted herein, null and void; however, rent payable by County under the Lease shall be abated in proportion to the extent
County’s use and occupancy of the Premises is adversely affected by said Partial Destruction, demolition, or repair work required thereby. Should Lessor fail to complete necessary repairs, for any reason, within sixty (60) days, or other time frame as may be authorized by County, County may, at County’s sole option, terminate the Lease or complete necessary repair work and deduct the cost thereof, including labor, materials, and overhead from any rent thereafter payable, but only if Lessor has not previously commenced such repair work.

In the event of Total Destruction of the Premises or the Premises being legally declared unsafe or unfit for occupancy, this Lease and/or any option granted herein shall in no way be rendered null and void and Lessor shall immediately instigate action to rebuild or make repairs, as necessary, to restore the Premises (including replacement of all tenant improvements) to the condition which existed immediately prior to the destruction. All rent payable by County shall be abated until complete restoration of the Premises is accepted by County. In the event Lessor refuses to diligently pursue or is unable to restore the Premises to an occupiable condition (including replacement of all tenant improvements) within one hundred and eighty (180) days of the occurrence of said destruction or within an extended time frame as may be authorized, in writing, by County, County may, at County’s sole option, terminate this Lease or complete the restoration and deduct the entire cost thereof, including labor, materials, and overhead from any rent payable thereafter, but only if Lessor has not previously commenced such repair work.

Notwithstanding the foregoing, Lessor shall have no obligation to repair the Premises and shall have the right to terminate this Lease in any case where: (a) any material portion of the Building is damaged AND (b) any of the following conditions exist: (i) Lessor estimates in good faith that the restoration of the Premises (including replacement of all tenant improvements) cannot reasonably be completed (without the payment of overtime) within 180 days of (or if the damage occurs during the last eighteen (18) months of the Term, within ninety (90) days of the occurrence of said destruction), (ii) Lessor’s lender requires any insurance proceeds with respect to such destruction to be applied to the outstanding balance of the applicable loan, or (iii) the casualty damage is caused by a risk not covered under a typical “all risk” policy of property insurance and the cost of the restoration of the Premises (including replacement of all tenant improvements) is not fully covered by insurance proceeds available to Landlord and/or payments received by Landlord from tenants. Such right of termination shall be exercisable by Lessor by delivery of written notice to County at any time following the destruction until sixty (60) days following the Lessor’s discovery or determination of any of the events described in clauses (i) through (iii) of the preceding sentence, and shall be effective upon delivery of such notice of termination (or if County has not vacated the Premises, thirty (30) days thereafter).

Further, unless this Lease is terminated as a result of any casualty, Lessor, at County’s request and subject to availability, shall use commercially reasonable efforts to provide a suitable, County-approved temporary facility (“Facility”) for County’s use during the restoration period for the Premises. The Facility may be leased, at market rate, under a short-term lease, for which the County will reimburse Lessor the cost thereof, on a monthly basis.

42. AMENDMENT (5.1 SA)

This Lease sets forth the entire agreement between Lessor and County and any modification must be in the form of a written amendment executed by Lessor and County.

43. PARTIAL INVALIDITY (5.2 SA)

If any term, covenant, condition, or provision of this Lease is held by a court of competent jurisdiction
to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired, or invalidated thereby.

44. CIRCUMSTANCES WHICH EXCUSE PERFORMANCE (5.3 SA)

If either Party hereto shall be delayed or prevented from the performance of any act required hereunder by reason of Force Majeure as defined below in Clause 55 (FORCE MAJEURE), performance of such act shall be excused for the period of the delay; and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay. Financial inability shall not be considered a circumstance excusing performance under this Lease.

45. STATE AUDIT (5.4 SA)

Pursuant to and in accordance with Section 8546.7 of the California Government Code, in the event that this Lease involves expenditures and/or potential expenditures of State funds aggregating in excess of ten thousand dollars ($10,000), Lessor shall be subject to the examination and audit of the Auditor General of the State of California for a period of three years after final payment by County to Lessor under this Lease. The examination and audit shall be confined to those matters connected with the performance of the contract, including, but not limited to, the costs of administering the contract.

46. WAIVER OF RIGHTS (5.5 SA)

The failure of Lessor or County to insist upon strict performance of any of the terms, conditions, and covenants in this Lease shall not be deemed a waiver of any right or remedy that Lessor or County may have, and shall not be deemed a waiver of any right or remedy for a subsequent breach or default of the terms, conditions, and covenants herein contained.

47. HOLDING OVER (5.6 NA)

In the event County shall continue in possession of the Premises after the Term of this Lease, such possession shall not be considered a renewal of this Lease but a tenancy from month to month and shall be governed by the conditions and covenants contained in this Lease, except that the base monthly Rent in effect at the expiration of the Term shall be increased to one hundred twenty five percent (125%) of the base monthly Rent in effect at the expiration during the first three (3) months of the holdover period; and shall be increased to one hundred fifty percent (150%) of the base monthly Rent in effect at the expiration of the Term after the third month of the holdover period.

48. HAZARDOUS MATERIALS (5.7 SA)

Lessor warrants that, to Lessor’s actual knowledge, the Premises is free and clear of all hazardous materials or substances.

49. EARTHQUAKE SAFETY (5.8 NA)

Lessor hereby confirms that to Lessor’s actual knowledge, the Premises was in compliance with all applicable seismic safety regulations and building codes at the time of construction.

50. QUIET ENJOYMENT (5.9 SA)

Lessor agrees that, subject to the terms, covenants and conditions of this Lease, County may, upon
observing and complying with all terms, covenants and conditions of this Lease, peaceably and quietly occupy the Premises.

51. ADMINISTRATIVE COSTS (6.0 SA) - intentionally omitted

52. GOVERNING LAW AND VENUE. (6.1 SA)

This agreement has been negotiated and executed in the State of California and shall be governed by and construed under the laws of the State of California. In the event of any legal action to enforce or interpret this agreement, the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California, and the Parties hereto agree to and do hereby submit to the jurisdiction of such court, notwithstanding Code of Civil Procedure section 394.

53. TIME (6.2 SA)

Time is of the essence of this Lease.

54. INSPECTION OF PREMISES BY A CERTIFIED ACCESS SPECIALIST (6.3 NA)

In accordance with California Civil Code 1938(e), “A Certified Access Specialist (CASp) can inspect the subject premises and determine whether the subject premises comply with all of the applicable construction-related accessibility standards under state law. Although state law does not require a CASp inspection of the subject premises, the commercial property owner or lessor may not prohibit the lessee or tenant from obtaining a CASp inspection of the subject premises for the occupancy or potential occupancy of the lessee or tenant, if requested by the lessee or tenant. The Parties shall mutually agree on the arrangements for the time and manner of the CASp inspection, the payment of the fee for the CASp inspection, and the cost of making any repairs necessary to correct violations of construction-related accessibility standards within the premises.”

Pursuant to California Civil Code 1938, Lessor hereby represents that the Premises has not undergone an inspection by a certified access specialist and no representations are made with respect to compliance with accessibility standards. However, if it is determined that a violation of handicapped access laws (including the Americans with Disabilities Act) existed in the Expansion Premises as of the Commencement Date, Lessor shall correct such non-compliance at Lessor’s cost (with it being understood that County is responsible for correcting any such violations that may exist in its Existing Premises as of the Commencement Date).

55. FORCE MAJEURE (6.4 SA)

For purposes of this Lease, the term “Force Majeure” means any of the following events which are beyond the control of either Party: act of God, unavailability of equipment or materials (but only if such equipment and materials were ordered in a timely fashion), enemy or terrorist act, act of war, riot or civil commotion, strike, lockout or other labor disturbance, fire, earthquake, explosion, governmental delays (including nonstandard delays in issuance of any permit or other necessary governmental approval or the scheduling of any inspections or tests), nonstandard delays by third party utility providers, or any other matter of any kind or character beyond the reasonable control of the Party delayed or failing to perform under this Lease despite such Party’s Best Efforts (as defined below) to fulfill the obligation. “Best Efforts” includes anticipating any potential force majeure event and addressing the effects of any such event (a) as it is occurring and (b) after it has occurred, to prevent or minimize any resulting delay to the greatest extent possible. Force Majeure shall not include
inability to obtain financing or other lack of funds. Lessor and County shall be excused for the period of any delay in the performance of any obligation hereunder when such delay is occasioned by causes beyond its control.

56. CONDEMNATION (6.5 SA)

If the Premises or any portion thereof are taken under the power of eminent domain or sold under the threat of the exercise of said power (collectively, “Condemnation”), this Lease shall terminate as to the part taken as of the date the condemning authority takes title or possession, whichever first occurs. If all or a material portion of the rentable area of the Premises are taken by Condemnation, County may, at County’s option, to be exercised in writing within ten (10) days after Lessor shall have given County written notice of such taking (or in the absence of such notice, within ten (10) days after the condemning authority shall have taken possession) terminate this Lease as of the date the condemning authority takes such possession. Lessor shall also have the right to terminate this Lease if there is a taking by Condemnation of any portion of the Building or property which would have a material adverse effect on Lessor’s ability to operate the remainder of the Building. If neither Party terminates this Lease in accordance with the foregoing, this Lease shall remain in full force and effect as to the portion of the Premises remaining, except that the rent shall be reduced in proportion to the portion of the Premises taken by such Condemnation. Condemnation awards and/or payments shall be the property of Lessor, whether such award shall be made as compensation for diminution in value of the leasehold, the value of the part taken or for severance damages. County hereby waives any and all rights it might otherwise have pursuant to Section 1265.130 of the California Code of Civil Procedure, or any similar or successor Laws.

57. CONSENT OR APPROVAL (6.6 SA)

Unless expressly stated otherwise, where the consent or approval of a Party is required, such consent or approval will not be unreasonably withheld, conditioned or delayed.

58. UNENFORCEABLE PROVISIONS (6.7 SA)

If any paragraph or clause hereof shall be determined illegal, invalid or unenforceable, it is the express intention of the Parties hereto that the remainder of the Lease shall not be affected thereby, and it is also the express intentions of the Parties hereto that in lieu of each paragraph or clause of this Lease which may be determined to be illegal, invalid or unenforceable, there may be added as a part of this Lease a paragraph or clause as similar in terms to such illegal or invalid or unenforceable paragraph or clause as may be possible and may be legal, valid and enforceable.

59. NOTICES (6.8 SA)

All written notices pursuant to this Lease shall be addressed as set forth below or as either Party may hereafter designate by written notice and shall be deemed delivered upon personal delivery, delivery by facsimile machine, or seventy-two (72) hours after deposit in the United States Mail. Notwithstanding the above, notices may also be provided by electronic mail and any such notice so given shall be deemed to have been given upon receipt.
TO:  Lessor

CF Santana Inc.
c/o Ocean West Management
Attn: Ted Bischak
2101 Rosecrans Ave., Suite 3270
El Segundo, California 90245

TO:  County

County of Orange Public Defender’s Office 405 N.
Fifth Street Santa Ana, CA 92701
Attn: Director, Administrative Services

With a copy to:

County Executive Office
333 W. Santa Ana Boulevard, 3rd Floor
Santa Ana, CA 92701
Attention: Chief Real Estate Officer

With a copy to:

Ocean West Management
200 W. Santa Ana Boulevard, suite 200
Santa Ana, CA 92701

Banc of California, National Association
3 MacArthur Place,
Santa Ana, California 92707
Attn: Commercial Loan Service Center

60. ATTACHMENTS (7.0 S)

This Lease includes the following, which are attached hereto and made a part hereof:

I. EXHIBITS

Exhibit A - Description of Premises
Exhibit B - Depiction of Premises
Exhibit C - Tenant Improvements and Performance Specifications
Exhibit D - Janitorial Specifications
Exhibit E - Form of Subordination, Atornment and Non-Disturbance Agreement and Estoppel Certificate

61. COUNTY ALLOWANCE (N)

A. Lessor shall provide County with an allowance (“County Allowance”) of Four-Million Four Hundred Ninety Thousand dollars and zero cents ($4,490,000.00), which shall be for hard and soft construction costs, fees, licenses and permits in connection with the Work (collectively, “County Improvement Costs”). Any County Improvement Costs incurred by Lessor in excess of the County Allowance shall be paid by County to Lessor upon demand.

B. To the extent not used by Lessor for County Improvement Costs, the County Allowance may be, at County’s sole and absolute discretion, used within sixty (60) months of the Commencement Date and used interchangeably at County’s option for construction of the Premises, including, but not limited to purchase and installation of telephone and data cabling and equipment and supplemental HVAC system, FF&E, space planning and design costs and County project management, rent offset, County of Orange General Fund offset, and/or
converted to cash. Notwithstanding the foregoing, County may not convert the County Allowance to cash or to a Rent credit during the initial twelve (12) months of the Lease Term. Subject to the immediately preceding sentence, at any time during the initial sixty (60) months, County may request County Allowance with written notice to Lessor and Lessor shall disburse said requested County Allowance within thirty (30) days of receipt of County's written request. At the end of the sixtieth (60th) month after the Lease Commencement Date, any unused portion of the County Allowance shall be paid to County in a lump sum cash payment, within thirty (30) days.
IN WITNESS WHEREOF, the Parties have executed this Agreement the day and year first above written.

APPROVED AS TO FORM:

OFFICE OF COUNTY COUNSEL
ORANGE COUNTY, CALIFORNIA

By: [Signature] Deputy

Date 2/15/19

RECOMMENDED FOR APPROVAL:

Public Defender

BY: [Signature] Director of Administration

County Executive Office

BY: [Signature] Real Estate Manager

SIGNED AND CERTIFIED THAT A COPY OF THIS DOCUMENT HAS BEEN DELIVERED TO THE CHAIR OF THE BOARD PER GC § 25103, RESO. 79-1535

Attest:

ROBIN STIELER
Clerk of the Board of Supervisors
County of Orange, California

Lessor

By: CF SANTANA LLC, a Delaware limited liability company

By: [Signature]

Name: William Covino

Chief Financial Officer

Its:

County

COUNTY OF ORANGE

Chairman of the Board of Supervisors County of Orange, California
EXHIBIT A
LEASE DESCRIPTION (10.1 S)

PROJECT NO: CEO/ALS/PD-019-005
PROJECT: Public Defender – 801 W Civic Center
DATE: 2/5/2019
VERIFIED BY: Laurel Tippett

All the Premises shown crosshatched on a plot plan marked Exhibit B, attached hereto and made a part hereof, being a portion of the second (2nd), and the entire third (3rd) and fourth (4th) floors of that certain four-story building located at 801 W Civic Center Way in the City of Santa Ana, County of Orange, State of California, comprising approximately 71,197 rentable square feet, together with the free use of two hundred and ninety-seven (297) parking spaces in the parking lot shown on Exhibit B consisting of twenty-two (22) reserved parking spaces and two hundred and seventy-five (275) unreserved parking spaces.

NOT TO BE RECORDED
EXHIBIT B

CEO/ALS/PD-019-005
Public Defender
801 W Civic Center Way
Santa Ana, CA 92703

Prepared By: Susan Evans
Checked By: Laurel Tippel
Date: 2/5/2019

LOCATION MAP
EXHIBIT C

COUNTY IMPROVEMENT
PERFORMANCE SPECIFICATIONS (10.3 S)

Lessor shall construct the initial leasehold improvements in the Expansion Premises per a mutually agreed upon plan and finish schedule between the Parties. The County Improvement Costs incurred by Lessor in so constructing such leasehold improvements shall be deducted from the County Allowance.
EXHIBIT D

JANITORIAL SPECIFICATIONS

It is the intent of this Exhibit to provide general guidelines for minimum janitorial service. Any absence of a specific janitorial service from this Exhibit does not relieve Lessor of the obligation to provide such service should it become necessary.

"Five-day-per-week" janitorial service as required in Clause 19 (REPAIR, MAINTENANCE AND JANITORIAL SERVICES), of this Lease, shall be inclusive of, but not limited to, the services as detailed below:

OFFICE AREAS

NIGHTLY: Monday through Friday, inclusive. (Holidays of the County of Orange excepted).

1. Empty and clean all waste receptacles, supply liners for waste receptacles, replace light bulbs and fluorescent tubes, remove waste materials from the Premises and wash receptacles as necessary;
2. Mop all uncarpeted areas;
3. Vacuum all carpeted areas in offices, lobby and corridors;
4. Hand-dust all office furniture, fixtures and all other horizontal surfaces;
5. Remove all finger marks and smudges from doors, door frames, around light switches, private entry glass and partitions;
6. Wash, clean and polish water fountain;
7. Spot clean carpet as necessary;
8. Clean sink and wipe down tables and counter areas in all break areas and coffee bars.

WEEKLY:

1. Wipe clean and polish all metal and bright work;
2. Mop and polish all resilient flooring;
3. Dust in place all picture frames, charts, graphs, and similar wall hangings;
4. Spot-clean all wall marks;
5. Sweep all sidewalks and ramps.

MONTHLY:

1. Dust all mini-blinds within the Premises;
2. Vacuum all HVAC vents, high moldings and other areas not reached by nightly or weekly cleaning;
3. Scrub and wax uncarpeted floors.

SEMI-ANNUALLY:

1. Clean ceiling light diffusers;
2. Clean carpet in high traffic areas (corridors, near lunchroom, etc.) and other areas as needed;
3. Clean interior walls, as needed;
4. Strip and wax uncarpeted floors.

ANNUALLY:

1. Clean carpet throughout Premises.
RESTROOMS

NIGHTLY:

1. Clean and damp-mop floors;
2. Wash all mirrors, bright work and enameled surfaces;
3. Wash and sanitize all basins, bowls, urinals, and toilet seats;
4. Dust, clean, and wash where necessary, all partitions, tile walls, dispensers, and receptacles;
5. Empty and sanitize all receptacles and sanitary napkin disposals;
6. Provide materials and fill all toilet tissue, towel, seat cover, sanitary napkin, and soap dispensers.

MONTHLY:

1. Machine strip restroom floors and apply finish/sealer where applicable;
2. Wash all partitions, tile walls, and enamel surfaces;
3. Vacuum all louvers, vents, and dust light fixtures.

MISCELLANEOUS SERVICES

1. Maintain building lobby, corridors, and other public areas in a clean condition;
2. Parking lot is to be cleaned on a monthly basis;
3. All interior and exterior windows of the building are to be cleaned quarterly.
EXHIBIT E

SUBORDINATION, ATTORNMENT AND NON-DISTURBANCE AGREEMENT

THIS IS A SUBORDINATION, ATTORNMENT AND NON-DISTURBANCE AGREEMENT, made __________, 20__, by and between the County of Orange ("County") and ________________ ("Lender").

A. By lease dated __________, ("Lease"), _____________________________ ("Lessor") leased to County and County leased from Lessor those certain Premises described as ______________________, Santa Ana, California.

B. Lender is the holder or about to become the holder of a mortgage or Deed of Trust ("Note") which constitutes or will constitute a lien against the Premises leased by County pursuant to the aforesaid Lease.

C. Lender has requested that County execute a Subordination, Attornment and Non-Disturbance Agreement in accordance with the terms of the Lease.

NOW, THEREFORE, the parties hereto do hereby agree as follows:

1. Subject to the terms and conditions of the Lease, all rights of County thereunder are or shall become subordinate to the Note and to any and all advances made on the security thereof, and to any and all increases, renewals, modifications, consolidations, replacements and extensions thereof.

2. In the event that Lender succeeds to the interest of lessor under the Lease, by reason of foreclosure of the Note, by other proceedings brought to enforce any rights of Lender under the Note, by deed in lieu of foreclosure, or by any other method, County shall promptly attorn to Lender under all of the terms, covenants, and conditions of the Lease for the balance of the then-current term (and any extension or renewals thereof which may be effective in accordance with any option therefor contained in the Lease), with the same force and effect as if Lender were the Lessor under the Lease. Lender or its successors in interest shall not disturb the interests of County under said Lease, but shall allow said interests to continue in full force and effect for the balance of the then-current term and any extension available to County which may be provided in accordance with the Lease. Said attornment shall be effective and self-operative immediately upon Lender's succession to the interest of Lessor under the Lease.

3. This agreement may not be modified orally or in any manner other than by written agreement signed by the parties hereto or their respective successors or assigns. All of the terms, covenants, and conditions herein shall run with the land and shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.
COUNTY:

By: ______________ Date: __________
Thomas A. Miller, Chief Real Estate
Officer County Executive Office
Per Resolution No. 98-75 and Minute Order 3/10/1998
of the Board of Supervisors

APPROVAL AS TO
FORM

COUNTY COUNSEL

By: ______________ Date: __________
Deputy
Project/Parcel No.:  

LENDER:

(Lender Name, same as above)

By: __________________________

Name: __________________________
(Print)

Title: __________________________
Project Name:

ESTOPPEL CERTIFICATE

TO:

As of the date of this Estoppel Certificate the undersigned, as a "tenant" under that lease dated ____________, between _______________ ("Lessor") and the County of Orange, a political subdivision of the State of California ("County"), does hereby acknowledge the following:

1. The aforesaid lease, subject to article 2 below, constitutes the entire agreement between Lessor and County and is in full force and effect.

2. (Check One)
   □ The aforesaid lease has not been modified, altered, or amended.
   □ The aforesaid lease has been modified pursuant to that document(s) attached hereto.

3. The term of the lease is ____________ years. The lease commenced on ____________ and will expire on ____________.

4. The term of the lease is subject to County's option to terminate/extend as follows:

   ____________________________________________

   ____________________________________________

5. The lease rental rate is $ ____________ per month, no rent has been paid in advance except as set forth in the lease, and County (in its capacity as "tenant," and not as a governmental agency) has received no notice of a prior assignment, hypothecation, or pledge of the lease from Lessor.

6. County has accepted and is now in possession of the leased premises.

7. The addresses for notices to be sent to County are set forth in Clause 59 (NOTICES) of the lease.

8. County has no charge, lien, or claim of offset under this lease against rents or other charges due or to become due and, to the actual knowledge of County, Lessor is not now in default under the lease.

APPROVED AS TO FORM OFFICE
OF COUNTY COUNSEL

County
County of Orange

By: ____________________________
   Deputy

Date: ____________________________

Certificate Date: ____________________________

By: ____________________________
   Thomas A. Miller, Chief Real Estate Officer
   County Executive Office/Real Estate
LEASE SUMMARY

LEASE

LESSOR

CF Santana, LLC

COUNTY

County of Orange

LOCATION

801 West Civic Center Dr., Santa Ana, CA 92703

PREMISES

Approximately 71,197 rentable square feet of the office building.

PARKING

COUNTY has exclusive use of 22 parking spaces, including ADA designated spaces and the non-exclusive right, without additional charge, to use two hundred and seventy-five (275), located on the Premises.

TERM

Fifteen (15) years, commencing on the date that is the later the first day of the first full calendar month following the Substantial Completion Date and/or July 1, 2019.

OPTION TO TERMINATE

N/A

OPTION TO EXTEND TERM
The County shall have the option to extend the term of the Lease for two (2) successive five (5) year periods, on the same terms and conditions, except the base rent shall be the current Fair Market Rent for similar offices in the area of the Premises and as agreed by County and Lessor.

County shall give Lessor written notice of its intent to exercise its Option(s) to extend the Term no sooner than twelve (12) months and no later than six (6) months prior to the Lease termination date.

RENT

The monthly full service gross rental rate based on RSF, full service gross as follows:

<table>
<thead>
<tr>
<th>Commencing</th>
<th>Monthly Rental</th>
<th>RSF</th>
</tr>
</thead>
<tbody>
<tr>
<td>Months 01-12</td>
<td>$157,883.79</td>
<td>$2.22</td>
</tr>
<tr>
<td>Months 13-24</td>
<td>$161,200.51</td>
<td>$2.26</td>
</tr>
<tr>
<td>Months 25-36</td>
<td>$164,082.77</td>
<td>$2.35</td>
</tr>
<tr>
<td>Months 37-48</td>
<td>$167,082.77</td>
<td>$2.35</td>
</tr>
<tr>
<td>Months 49-60</td>
<td>$169,491.48</td>
<td>$2.38</td>
</tr>
<tr>
<td>Months 61-72</td>
<td>$187,799.25</td>
<td>$2.64</td>
</tr>
<tr>
<td>Months 73-84</td>
<td>$214,642.81</td>
<td>$3.01</td>
</tr>
<tr>
<td>Months 85-96</td>
<td>$220,508.70</td>
<td>$3.10</td>
</tr>
<tr>
<td>Months 97-108</td>
<td>$226,550.57</td>
<td>$3.18</td>
</tr>
<tr>
<td>Months 109-120</td>
<td>$232,773.70</td>
<td>$3.27</td>
</tr>
<tr>
<td>Months 121-132</td>
<td>$239,183.51</td>
<td>$3.35</td>
</tr>
<tr>
<td>Months 133-144</td>
<td>$245,785.63</td>
<td>$3.45</td>
</tr>
<tr>
<td>Months 145-156</td>
<td>$252,585.81</td>
<td>$3.55</td>
</tr>
<tr>
<td>Months 157-168</td>
<td>$259,589.99</td>
<td>$3.65</td>
</tr>
<tr>
<td>Months 169-180</td>
<td>$266,804.30</td>
<td>$3.75</td>
</tr>
</tbody>
</table>

ADJUSTMENT FOR COST OF LESSOR SERVICES

N/A

TENANT IMPROVEMENTS

Lessor hereby agrees to complete, at Lessor’s expense, on or before the Target Substantial Completion Date, the alterations, repairs, and other work with respect to the Expansion Premises (the “Work”) as defined and in accordance with the plans and specifications attached hereto and made a
part hereof as Exhibit C), in order for County to have sufficient time to commence moving furniture, fixtures and equipment into the Expansion Premises in preparation of occupancy.

PAINTING BY LESSOR

N/A

FLOOR COVERINGS BY LESSOR

N/A

INSURANCE

LESSOR shall provide:

<table>
<thead>
<tr>
<th>Coverage</th>
<th>Limits</th>
</tr>
</thead>
<tbody>
<tr>
<td>Property and Fire</td>
<td>Full Value of Improvements</td>
</tr>
<tr>
<td>General Comprehensive</td>
<td>$1,000,000</td>
</tr>
<tr>
<td>Liability Insurance</td>
<td></td>
</tr>
</tbody>
</table>

COUNTY shall self-insure for general liability

SERVICES PROVIDED BY LESSOR

- Interior and exterior maintenance and repair
- Property/Fire Insurance and Liability Insurance
- Taxes and Assessments
- Janitorial Service – 5 days per week

SERVICES PROVIDED BY COUNTY

- General liability insurance
HOLDOVER

COUNTY has the right to holdover except that the Base Rent during such holdover shall be increased to one hundred and twenty five percent (125%) of the base rent in effect at the expiration of the term or any extension term after the first three (3) months of holdover and shall be increased to one hundred fifty percent (150%) of the base monthly rent in effect at the expiration of the Term after the third month of the holdover period.
Real Property Acquisition Questionnaire* for ASR
(*Applies to property purchase, or acquisition lease, license or easement)

Instructions:
- This questionnaire was developed with input from Auditor Controller, Internal Auditor and CEO Real Estate to assure that County leadership is fully informed.
- Insert the complete answer after each question below.
- When completed, save and include as an Attachment to your ASR.
- In the body of the ASR focus on the considerations relevant to the decision.
- If you need assistance, please contact CEO Real Estate.

1. What property interest is being considered for acquisition (fee, lease, license, easement)?

   801 West Civic Center Drive, Santa Ana, CA

   Why is this property being considered for acquisition? Building 14 currently the offices of the Public Defender (PD) is scheduled for demolition mid-year under the Civic Center Master Plan construction schedule. As such, CEO-Real Estate and the Public Defender located comparable office space in the subject building. The availability of additional office space in the building created the opportunity to relocate the District Attorney’s Office (DA). The building offers the necessary rentable square feet at market rate.

   a) How and who identified this property for a potential acquisition? CEO/Real Estate and the Public Defender, with assistance from the County’s real estate advisor Jones Lang LaSalle (JLL), agreed this is the best site option at this time.

   b) What factors are key in recommending this property for acquisition? Price, location and program service requirements are the key factors for recommending this site.

   c) How does the proposed acquisition fit into the County's/District's strategic or general plan? The building is located within the “judicial neighborhood” of the Civic Center complex as detailed in the Civic Center Master Plan. The office remains centrally located for clients and walking access to court buildings.

   d) What are the short and long term anticipated uses of the property? The PD will use the site to continue providing legal services to clients and support administrative functions.

   e) Are there any limitations on the use of the property for its intended purposes? No surgical services may be performed at this site.

2. What analysis has been performed as to whether to acquire the proposed real property interest? CEO/Real Estate Services and PD collaborated to determine that this location was the best option to meet PD program and client needs.

   a) Have there been any internally or externally prepared reports regarding this property acquisition? A market rate analysis and lease cost comparison was completed.

   b) Who performed the analysis? Jones Lang La Salle (JLL)

   c) Provide details about the analysis and cost/benefit comparison: This site was determined to be the best relocation option for PD and DA. This determination is based upon the price, location and program service requirements. The landlord will provide the County with a significant County Improvement Allowance of $4,490,000 to complete improvements on the various floors of the building.

3. How was the acquisition price, or lease/license rent, determined? CEO/Real Estate and JLL
Attachment F

negotiated with the landlord for the optimal full service gross lease rate.

a) Who performed the appraisal or market study and what certifications do they possess? CEO/Real Estate and JLL, utilizing market data obtained through CoStar.

b) How does the price/rent compare with comparable properties? The rental rate is at current market for the central Orange County area.

c) Does the setting of the price/rent follow industry standards and best practices? Yes

d) What are the specific maintenance requirements and other costs within the agreement and who is responsible? The Lessor is responsible for all interior and exterior maintenance.

e) Provide an estimate of the costs to the County/District if applicable. The County is not responsible for maintenance costs.

4. What additional post-acquisition remodeling or upgrade costs will be needed for the property to meet its intended use? None

a) Will any of the upgrades be required to meet County, ADA, or other standards and requirements? N/A

b) Include estimates of the costs. N/A

c) What department will be responsible for the costs? N/A

5. Can the County terminate the purchase/easement, lease/license? No.

6. What would be necessary to terminate the agreement, and when can it be terminated? N/A

a) Are there penalties to terminate the purchase/easement, or lease/license? N/A

7. What department will be responsible for the acquisition payments? Public Defender

a) Are the acquisition costs budgeted in the department’s budget? Yes

b) What fund number will the funds for the acquisition ultimately be drawn from? XXX-XXXX Public Defender.

c) Will any restricted be used for the acquisition? (Check with the Auditor Controller’s General Accounting Unit and Counsel if you have questions about whether restricted funds are involved.) No

d) If restricted funds will be used, has County Counsel advised that this is an allowable use of the proposed restricted funds? N/A

8. Does the proposed purchase/lease/license/easement agreement comply with the CEO Real Estate standard language? Yes

e) List any modified clauses and reasons for modification. N/A

9. If this is a lease, is it a straight lease, an operating lease, a lease with an option to purchase, or a capital lease (see details below)? Straight lease

Capital Lease Determination: At the inception of any potential capital lease, it is important to contact the Auditor-Controller’s Capital Asset Unit for further guidance to ensure that proper classification and accounting for the lease occurs. There are specialized accounting rules and required forms for capital leases. See further details in the County’s Accounting Manual, Policy No. FA-1: Accounting for Lease Purchases (Capital Leases), located on the intranet. For accounting purposes only, a capital lease exists if ANY one (1) of the following four (4) criteria is met:
Attachment F

i) Lease transfers ownership to the County by the end of the term.

ii) Lease contains an option to purchase the property by the end of the term for a price lower than the expected fair market value of the property? (For example $1 or $1,000, and based on this option price, for accounting purposes only, the ultimate purchase of the property is deemed reasonably assured at the inception of the lease.)

iii) Lease term is equal to 75% or more of the remaining estimated useful life of the leased property. *

iv) Present value of the minimum lease payments is equal to 90% or more of the fair value of the property at the inception of the lease. *

*Criteria iii) and iv) don’t apply if the lease term begins in the last 25% of a property’s estimated useful life.

To validate whether a lease is a capital lease for accounting purposes, please contact the Auditor-Controller’s Capital Asset Unit at capitalassets@ac.ocgov.com.
February 19, 2019

To: Clerk of the Board of Supervisors

From: Frank Kim, County Executive Officer

Subject: Exception to Rule 21

The County Executive Office is requesting a Supplemental Agenda Staff Report for the February 26, 2019, Board Hearing.

Agency: County Executive Office
Subject: Internal Audit Director Appointment
Districts: All Districts

Reason for supplemental: This Agenda Staff Report needs to be heard at the next available Board Hearing in order to make a timely appointment of the new Internal Audit Director. This Agenda Staff Report and attachments were finalized after the filing deadline to the Clerk of the Board.

Concur: Chairwoman Lisa A. Bartlett, Supervisor, Fifth District

cc: Board of Supervisors
County Executive Office
County Counsel
SUPPLEMENTAL AGENDA ITEM
AGENDA STAFF REPORT

MEETING DATE: 02/26/19
LEGAL ENTITY TAKING ACTION: Board of Supervisors
BOARD OF SUPERVISORS DISTRICT(S): All Districts
SUBMITTING AGENCY/DEPARTMENT: County Executive Office
DEPARTMENT HEAD REVIEW: Tom Hatch (714) 834-2836
Pia Rose (714) 834-7361

SUBJECT: Internal Audit Director Appointment

Budgeted: Yes Current Year Cost: See Financial Impact Section Annual Cost: See Financial Impact Section

Staffing Impact: No # of Positions: Sole Source: N/A

Current Fiscal Year Revenue: N/A Funding Source: GF: 100% County Audit in last 3 years N/A

Prior Board Action: N/A

RECOMMENDED ACTION(S)

1. Approve Appointment of Agripino Alonso as the Internal Audit Director, effective date to be April 8, 2019, at an annual salary of $210,246 ($101.86 per hour) and an estimated annual compensation of $324,007 including benefits.

2. Approve and authorize the Chairwoman of the Board to execute the Agreement for Employment for the Internal Audit Director.

SUMMARY:

Appointment of Agripino Alonso as the Internal Audit Director at an annual total estimated compensation of $324,007 and approval of his Employment Agreement will provide objective financial audits of the efficiency of County operations and programs.
BACKGROUND INFORMATION:

The County conducted a recruitment for the position of Internal Audit Director. Following closed session interviews of the finalists, the County of Orange is hiring Agripino Alonso as the Internal Audit Director, on a three-year employment agreement. The Internal Audit Office reports directly to the Board of Supervisors and provides highly reliable, independent, objective evaluations, business, and financial advisory services to protect and safeguard the County’s resources and assets. The position will manage the Internal Audit Department under the oversight of the Audit Oversight Committee.

Mr. Alonso is currently the Division Chief of the Internal Audit and Contract Compliance with Los Angeles County where he streamlined the audit approach to be more customer-centric and cost effective. Throughout his 20-year career with Los Angeles County, Mr. Alonso developed the county’s first risk based audit plan, Countywide Procurement and Contracting Risk Assessments and the Multi-Year Audit Plans. Mr. Alonso was recognized in 2018 for Outstanding Team Work by the Quality and Productivity Commission and received the County’s Productivity and Quality Bronze Eagle Award for the Contractor Alert Reporting Database.

Mr. Alonso has a Bachelor of Arts in Business Administration from California State University, Fullerton. He is also a Certified Public Accountant, a Certified Internal Auditor and holds a Certification in Risk Management Assurance.

FINANCIAL IMPACT:

The negotiated salary for Agripino Alonso is $210,246 ($101.86 hourly). Including the cost of benefits, the total annual cost to the County is anticipated to be $324,007. Salary and benefits appropriations are included in the Internal Audit’s Review FY 2018-19 for Budget Control 079 and will be included in the budgeting process for future years.

STAFFING IMPACT:

N/A

ATTACHMENT(S):

Attachment A – Resume
Attachment B – Employment Agreement
Professional Summary
Over the last 20 years, I have worked in Internal Audit and Contract Compliance improving Los Angeles County operations and serving the public. While conducting and supervising hundreds of fiscal, compliance, control, management and performance audits, investigations, and special projects, I made hundreds of recommendations that improved the effectiveness and efficiency of County controls, procedures, business processes, and accountability. Currently, as the Chief of the Countywide Contract Monitoring Division, I direct and manage the work of approximately 40 professional auditors who conduct over 100 audits a year using a risk based methodology.

Significant Accomplishments

- Worked directly with the Board of Supervisors, Audit Committee, and Department executives and management to streamline our audit approach, report format, and content to be significantly more customer-centric and cost effective, which was recognized by the Quality and Productivity Commission as the County’s best example in 2018 of Outstanding Teamwork.

- Developed the county’s first risk based audit plan to target the most vulnerable contractors and related departmental business processes for the social services and health care departments.

- Developed both the Countywide Procurement and Contracting Risk Assessments and Multi-Year Audit Plans used to audit the County’s procurement and contracting based on audit risk. The methodologies developed pioneered the standardized Risk Assessment process used to audit major fiscal functions.

- Received the County’s Productivity and Quality Bronze Eagle Award for the Contractor Alert Reporting Database (CARD), a centralized database to track and share information regarding poorly performing contractors. As the project manager, I oversaw a workgroup consisting of representatives from nine County Departments that successfully developed standardized criteria for assessing the contractor’s performance and implemented the CARD process.

- Directed, planned, and managed an investigation of payroll improprieties involving a County janitorial services contractor which resulted in terminating 10 County contracts and debarring the contractor from doing business with the County.

Employment History – County of Los Angeles, Department of Auditor-Controller

<table>
<thead>
<tr>
<th>Period</th>
<th>Position</th>
</tr>
</thead>
<tbody>
<tr>
<td>April 2016 – Present:</td>
<td>Division Chief</td>
</tr>
<tr>
<td>February 2008 –March 2015:</td>
<td>Chief Accountant-Auditor</td>
</tr>
<tr>
<td>August 2004 – January 2008:</td>
<td>Principal Accountant-Auditor</td>
</tr>
<tr>
<td>March 2001 – July 2004:</td>
<td>Senior Accountant-Auditor</td>
</tr>
<tr>
<td>February 1998 – September 1999:</td>
<td>Accountant-Auditor</td>
</tr>
</tbody>
</table>

Professional Certifications/Education

- Certified Public Accountant, California Board of Accountancy, License # 87981 (2003)
- Certified Internal Auditor, Institute of Internal Auditors, License # 29436 (2000)
- Certification in Risk Management Assurance, Institute of Internal Auditors, Certificate # 4712 (2012)
- Bachelor of Arts in Business Administration – Presidential Scholarship Winner, Accounting, California State University, Fullerton (1997)
COUNTY OF ORANGE
EMPLOYMENT AGREEMENT
FOR
INTERNAL AUDIT DIRECTOR

This Employment Agreement for Internal Audit Director ("AGREEMENT") is made by and between the County of Orange ("COUNTY") and Agripino Alonso (hereinafter "ALONSO").

IT IS MUTUALLY AGREED:

1. APPOINTMENT

The COUNTY hereby agrees to employ ALONSO as the Internal Audit Director ("DIRECTOR") on the terms and conditions specified herein. ALONSO hereby agrees to accept this appointment to the position of DIRECTOR.

2. TERM

This AGREEMENT is for a three-year term commencing on Monday, April 8, 2019, and ending on Friday, April 8, 2022 (hereinafter “EXPIRATION DATE”).

3. DUTIES, RESPONSIBILITIES, AND AUTHORITY

Under the direction of the Board of Supervisors ("BOARD"), and the oversight of the Audit Oversight Committee, ALONSO will manage the Internal Audit Department. As DIRECTOR, ALONSO will ensure that the department provides (1) unfiltered, independent, and objective financial audits concerning the efficiency of COUNTY operations and programs, and (2) advisory services to the BOARD, as directed, regarding policy and management issues. ALONSO will work directly with the BOARD and the Audit Oversight Committee, and in consultation with the County Executive Officer, to recommend approaches for applying audit results.

ALONSO’s responsibilities shall include, but are not limited to, the following:

- Directing all activities of the Internal Audit Department, including the scope of audits, audit staffing assignments as well as monitoring the ongoing developments of audit reports and analyses;
- Overseeing the management of the countywide Risk Assessment for the purpose of establishing the annual Audit Plan;
- Directing the preparation of audit reports for review by the Audit Oversight Committee and presentation to the BOARD;
- Monitoring the compliance of COUNTY agencies with state statutes and BOARD policy as well as determining the appropriate steps to ensure compliance with audit recommendations; and
• Developing policy recommendations or options for the BOARD in conjunction with elected and appointed officials, members of the community, civic and industry leaders and others.

COMPLIANCE WITH THE LAW

ALONSO shall, during the term of this AGREEMENT, comply with all laws and regulations, and all Codified Ordinances of the COUNTY. By signing this AGREEMENT, ALONSO acknowledges that, as DIRECTOR, he shall be a "designated employee" required to file a Statement of Economic Interests (FPPC Form 700) and agrees that he will comply with the Orange County Gift Ban Ordinance (commencing at Section 1-3-21 of the Codified Ordinances of the COUNTY).

4. PERFORMANCE EVALUATION

The BOARD will evaluate the performance of ALONSO both formally and informally on an ongoing basis. At least annually, however, ALONSO shall receive a formal evaluation based on his performance as DIRECTOR. However, a failure to timely complete this formal evaluation will not affect any other provision of this AGREEMENT.

5. COMPENSATION, BENEFITS, VACATION TIME, AND SICK LEAVE

For services rendered to the COUNTY as DIRECTOR, ALONSO shall be compensated on a salary basis through the EXPIRATION DATE of this AGREEMENT in the annual amount of two hundred and ten thousand, two hundred, and forty six dollars and forty cents ($210,246.40), or $101.08/hour, and shall additionally be entitled to receive the same salary adjustments and benefits generally provided to other Executive Management (Group II) employees. ALONSO shall receive salary payments in the same manner, and at the same times, as other COUNTY Executive Management (Group II) employees generally. As the position of DIRECTOR is an overtime-exempt executive position, ALONSO shall not be entitled to overtime pay under either the Fair Labor Standards Act or California law.

Upon the commencement of employment, the COUNTY will grant ALONSO eighty (80) hours of vacation time balances, and ALONSO will accrue .0962 hours of vacation for each hour worked (approximately five (5) weeks annually). During the first three (3) years of employment as DIRECTOR, ALONSO will accrue .0347 hours of sick leave with pay for each hour worked (approximately nine (9) days annually). In the fourth year of employment, should this AGREEMENT be extended, the sick leave accrual rate will increase to .0462 hours for each hour worked (approximately twelve (12) days annually). ALONSO shall be entitled to a payoff for all accrued, unused Vacation time (but not sick leave with pay), at the time of separation of employment, in accordance with the requirements of California law.
6. **RESIGNATION/TERMINATION**

ALONSO shall serve as DIRECTOR at the sole pleasure of the BOARD. This AGREEMENT may be terminated "at will" by either ALONSO or the BOARD at any time, and without notice. Upon termination of this AGREEMENT, ALONSO’S authority as the DIRECTOR shall immediately terminate and revert to the BOARD.

ALONSO is advised and, with his signature below, hereby acknowledges and agrees that he shall have none of the due process rights of a regular, full-time COUNTY employee. As a condition of his appointment, ALONSO knowingly, willingly, and voluntarily gives up, waives, and disclaims any and all rights he may have, express or implied, to any notice and/or hearing either before or after termination of this AGREEMENT, and to any continued employment with the COUNTY after termination of this AGREEMENT.

In the event the BOARD decides to terminate this AGREEMENT, ALONSO shall receive from the COUNTY a lump sum severance payment, equal to the sum of 90 calendar days of salary, payable as wages, less any applicable taxes and deductions, and the County’s share of the costs of ALONSO’S health insurance premiums.

However, this AGREEMENT shall terminate automatically, without further action of the BOARD, and ALONSO shall not be entitled to this or any other severance package from the COUNTY, if (1) ALONSO voluntarily resigns his employment; or (2) the COUNTY terminates this AGREEMENT for "good cause" under the legal standard set forth in *Cotran v. Rollins Hudig Hall International, Inc.*, 17 Cal. 4th 93 (1998).

7. **MERGER**

This AGREEMENT is intended as the final expression of the agreement between the COUNTY and ALONSO. The COUNTY and ALONSO acknowledge and agree that no representations, inducements, promises and/or agreements, oral or written, have been made by any party or any person acting on behalf of any party, which are not embodied herein. The COUNTY and ALONSO also agree that no other agreement, statement, or promise beyond the terms and conditions expressly stated in this AGREEMENT are binding.

8. **MODIFICATION**

This AGREEMENT may be modified by mutual agreement between the COUNTY and ALONSO. However, no waiver or modification of this AGREEMENT shall be valid unless in writing and duly executed by the parties hereto.
9. **ACKNOWLEDGEMENT AND CONSENT**

By signing below, ALONSO and Supervisor Lisa Bartlett, Chairwoman of the Board of Supervisors, acting on behalf of the COUNTY, acknowledge that they each have read and fully understand the terms and conditions of this AGREEMENT, and that they consent and agree to each and every term and condition contained herein.

![Signature]

2/19/2019

Date

**FOR THE COUNTY OF ORANGE:**

Chairwoman Lisa Bartlett
Supervisor, 5th District
Orange County Board of Supervisors
County of Orange

Signed and certified that a copy of this Document has been delivered to the Chairman of the Board per G.C. Sec. 25103, Reso 79-1535

Attest:

Robin Stieler
Clerk of the Board of Supervisors
Orange County, California

Approved as to form:
Office of the County Counsel
Orange County, California

By:
Leon J. Page
County Counsel
MEMORANDUM

February 20, 2019

TO: Robin Stieler, Clerk of the Board of Supervisors

FROM: Leon J. Page, County Counsel

SUBJECT: Request for Supplemental Closed Session

I am requesting a supplemental closed session to be held on Tuesday, February 26, 2019 for the Board to consider anticipated litigation pursuant to Government Code section 54956.9(d)(2).

Accordingly, please prepare the Agenda Item to read:

"CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION – SIGNIFICANT EXPOSURE TO LITIGATION pursuant to Government Code section 54956.9(d)(2).
Number of Cases: One Case.

RECOMMENDED ACTION: Conduct Closed Session."

Thank you.

[Signature]

LDK:jr

cc: Members of the Board of Supervisors
    Frank Kim, CEO