March 12, 2019

PRESENTATION  (9:00 A.M.)
Chairwoman Bartlett will be presenting a resolution recognizing Orange County Visitors Association for their outstanding achievements in tourism for Orange County

Chairwoman Bartlett will be presenting a resolution recognizing Jack Golden on his retirement

DISCUSSION

20. **Deleted** Recommended Action Item 2 from 2/26/19, Item 43
    Revised Title to read:
    **County Executive Office** - Approve grant applications/awards submitted by Health Care Agency and Sheriff-Coroner and ratify grant applications/awards submitted by OC Community Resources in 3/12/19 grant report and other actions as recommended - All Districts (Continued Recommended Action Item 2 from 2/26/19, Item 43)

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

Item: 20

**Supplemental Item(s)**

S22A. **Chairwoman Bartlett** - Direct Health Care Agency to allocate $600,000 of Mental Health Services Act funding to MindOC, the fiscal entity of Be Well Orange County to create countywide suicide prevention initiative

S22B. **Supervisor Do** - Adopt resolution to support Medicaid Institutions for Mental Disease (IMD) exclusion waiver; and directing County Executive Officer to send a four signature letter to Governor Gavin Newsom, California Department of Health Care Services and Orange County State Delegation urging the State of California to apply for 1115 Medicaid waiver to allow for expansion of Medicaid coverage to excluded population who are in need of inpatient mental health treatment

S22C. **OC Community Resources** - Approve Orange County Housing Finance Trust Joint Powers Authority Agreement; and receive and file draft bylaws to facilitate the establishment of the Orange County Housing Finance Trust to provide and receive funds for housing the homeless population and persons and families of low income under certain conditions - All Districts

S22D. **OC Public Works** - Approve amendment 1 to agreement 18-0037-1 with California Department of Food and Agriculture for reimbursement authority of costs related to inspection of high-risk plant shipments, 7/1/18 - 6/30/19 ($327,542; new total $453,345); authorize Director or designee to execute amendment; and make California Environmental Quality Act and other findings - All Districts
S22E. County Counsel - Acting as the Board of Supervisors and Orange County Flood Control District - Approve agreements with Buchalter, A Professional Corporation law firm for advisory and litigation services for land use, environmental law and planning related legal services; and authorize County Counsel or designee to execute agreements; Acting as the Board of Supervisors - approve amendment 1 to agreement with Dentons US LLP for professional legal services; and authorize County Counsel or designee to execute amendment; Acting as the Orange County Flood Control District - Authorize County Counsel or designee to terminate agreement with Dentons US LLP for professional legal services - All Districts

SCS2. County Counsel - CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION - Pursuant to Government Code Section 54956.9(d)(1):

SCS3. County Counsel - CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION - Pursuant to Government Code Section 54956.9(d)(1):
Name of Case: Glenn Johnson v. County of Orange, WCAB Case No. ADJ Unassigned

SCS4. County Counsel - CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION - INITIATION OF LITIGATION - Pursuant to Government Code Section 54956.9(d)(4):
Number of Cases: One Case
Continuation or Deletion Request

Date: March 7, 2019
To: Clerk of the Board of Supervisors
From: Frank Kim, County Executive Officer
Re: ASR Control #: 18-001182, Meeting Date 3/12/19 Agenda Item No. #20
Subject: Grant Applications/Awards Report

☐ Request to continue Agenda Item No. # _____ to the _____ Board Meeting.

Comments:

☐ Request deletion of Agenda Item No. # 20, Sheriff Coroner's grant application for Prop 47 portion only.

Comments: The Sheriff-Coroner's department requested that the Prop 47 be deleted from the 3/12 Board agenda. This item was not included in the 3/12 grants report.
MEETING DATE: 03/12/19
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

CEO CONCUR Concur
COUNTY COUNSEL REVIEW No Legal Objection
CLERK OF THE BOARD Discussion
3 Votes Board Majority

Budgeted: N/A Current Year Cost: N/A Annual Cost: N/A
Staffing Impact: No # of Positions: Sole Source: N/A
Current Fiscal Year Revenue: N/A County Audit in last 3 years: No
Funding Source: N/A

Prior Board Action: N/A

RECOMMENDED ACTION(S):

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

1. Approve Grant Application – Health Care Agency – Prop 47 Grant – $6,000,000.
2. Approve Grant Award – Health Care Agency – State Physical Activity and Nutrition – $450,000.
3. Ratify Grant Award – OC Community Resources – Coordinated Entry System SSO Grant – $907,239.
5. Approve Grant Application – Sheriff-Coroner – Naloxone Distribution Project – $90,000.
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
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, March 12, 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 Grant Application – Health Care Agency – Prop 47 Grant – $6,000,000.

2. Approve Grant Award – Health Care Agency – State Physical Activity and Nutrition – $450,000.

3. Ratify Grant Award – OC Community Resources – Coordinated Entry System SSO Grant – $907,239.


5. Approve Grant Application – Sheriff-Coroner – Naloxone Distribution Project – $90,000.


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.
**CEO-Legislative Affairs Office**  
**Grant Authorization eForm**

<table>
<thead>
<tr>
<th>Today’s Date:</th>
<th>March 5, 2019</th>
</tr>
</thead>
<tbody>
<tr>
<td>Requesting Agency/Department:</td>
<td>Health Care Agency/Behavioral Health Services</td>
</tr>
<tr>
<td>Grant Name and Project Title:</td>
<td>Proposition 47 Grant – Cohort 2</td>
</tr>
<tr>
<td>Sponsoring Organization/Grant Source:</td>
<td>Board of State and Community Corrections (BSCC)</td>
</tr>
<tr>
<td>Application Amount Requested:</td>
<td>$6,000,000 (maximum allowed)</td>
</tr>
<tr>
<td>Application Due Date:</td>
<td>March 18, 2019</td>
</tr>
<tr>
<td>Board Date when Board Approved this Application:</td>
<td>N/A</td>
</tr>
<tr>
<td>Awarded Funding Amount:</td>
<td>N/A</td>
</tr>
<tr>
<td>Notification Date of Funding Award:</td>
<td>N/A</td>
</tr>
<tr>
<td>Is this an Authorized Retroactive Grant Application/Award?</td>
<td>N/A</td>
</tr>
</tbody>
</table>

**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:**

**Does this grant require CEQA findings?**  
- Yes □  
- No □

**What Type of Grant is this?**  
- Competitive □  
- Other Type □ Explain:  

**County Match?**  
- Yes □  
- Amount_____ or _____%  
- No □  

**How will the County Match be Fulfilled?**  
- N/A  

**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 Board of State and Community Corrections (BSCC) issued a Request for Proposals on January 18, 2019, for its Proposition 47 Cohort 2 Grant program. Funds must be used for mental health services, substance use disorder treatment, diversion programs, or some combination thereof. Funds may also be used for supplemental housing-related services and other community-based supportive services, such as job skills training, case management, and civil legal services. Funds may not be used for programs or services provided in a custodial setting with an exception provided for in-reach into the jails and reentry planning.

Orange County established a Proposition 47 Local Advisory Committee as part of its planning and implementation of Cohort 1 funding. The Committee includes representatives from HCA, OC Sheriff’s Department, OC Probation, OC Public Defender, OC District Attorney’s Office, OC Superior Courts, and County CEO, as well as several community based organizations that serve justice-involved populations and people with lived experience of incarceration. This Committee was actively involved in facilitating the gathering of community input from community providers, County partners, and justice-involved individuals to guide the direction and development of the Proposition 47 Cohort 2 grant application.
Community input identified several high priority needs in the community, the most notable being the need for immediate linkage to substance use treatment upon release from jail, and the need for housing after release. Housing and substance use are two of the primary risk factors predicting criminal recidivism. Grant services will prioritize high-risk-to-reoffend men, women, and transition-aged youth (TAY) who have histories of substance use disorders and/or mental illness.

Health Care Agency (HCA) will be the Lead Agency, due to the nature of the services to be provided. At least 70% of the total grant award will be contracted out to community providers. Moreover, Substance Abuse Prevention and Treatment Block Grant (SABG) and Public Safety Realignment funding will be leveraged to expand existing contracts with Recovery Residences and Bridge Housing providers, to add beds dedicated to the target population, in an effort to get people housed quickly after release from custody. Supportive services will be provided by the current contractor, Project Kinship.

The grant application, which will be submitted in collaboration with Proposition 47 Local Advisory Committee, proposes to fund several priorities:

1) Extend existing grant-funded reentry services provided by Project Kinship through December 2022, including daytime and nighttime services;

2) Expand Project Kinship’s reentry services to add:
   a) Staff to ensure 24/7 functionality of the Reentry Center;
   b) Additional peer navigators and van to expand nighttime engagement outside of the jails;
   c) Clinicians to conduct ASAM screenings to assist the target population in identifying and accessing appropriate levels of substance use disorder (SUD) treatment through Drug Medi-Cal Organized Delivery System (DMC-ODS) certified providers;
   d) A housing coordinator position and peer navigators/case managers to assist the target population in accessing and retaining appropriate housing, and linking to treatment in the community;
   e) Expand current DMC-ODS County contracted or County operated SUD Outpatient and/or Intensive Outpatient Services, by adding 2-4 full time clinicians dedicated to providing field based SUD services at locations convenient to the target population.

Finally, the grant requires a minimum of 5% of funds be utilized to conduct an independent evaluation of grant services. HCA anticipates extending the current contract with Urban Institute to conduct the Cohort 2 evaluation.

<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></td>
</tr>
<tr>
<td>Recommended Action/Special Instructions (Please specify below)</td>
<td></td>
</tr>
</tbody>
</table>

The BSCC requires a resolution prior to grant funds being disbursed, which delegates authority to execute the grant agreement. A Resolution will be submitted to your Honorable Board, upon notification that the application has been selected for funding.

<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>Jeff Nagel, 714-834-7024; <a href="mailto:jnagel@ochca.com">jnagel@ochca.com</a></td>
<td></td>
</tr>
<tr>
<td>Annette Mugrditchian, 714-834-5026, <a href="mailto:amugrditchian@ochca.com">amugrditchian@ochca.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>Jeff Nagel, Behavioral Health Director</td>
<td></td>
</tr>
<tr>
<td>Annette Mugrditchian, Director of Operations, Behavioral Health Services</td>
<td></td>
</tr>
<tr>
<td><strong>GRANT APPLICATION</strong> / <strong>GRANT AWARD</strong></td>
<td></td>
</tr>
<tr>
<td>----------------------------------------</td>
<td></td>
</tr>
<tr>
<td><strong>Today’s Date:</strong></td>
<td>2/27/19</td>
</tr>
<tr>
<td><strong>Requesting Agency/Department:</strong></td>
<td>HCA/ Family Health Nutrition Services</td>
</tr>
<tr>
<td><strong>Grant Name and Project Title:</strong></td>
<td>State Physical Activity and Nutrition 18-10561</td>
</tr>
<tr>
<td><strong>Sponsoring Organization/Grant Source:</strong></td>
<td>California Department of Public Health (CDPH)</td>
</tr>
<tr>
<td><strong>Application Amount Requested:</strong></td>
<td>$0</td>
</tr>
<tr>
<td><strong>Application Due Date:</strong></td>
<td>N/A</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>$450,000 ($90,000 annually for five years)</td>
</tr>
<tr>
<td><strong>Notification Date of Funding Award:</strong></td>
<td>February 15, 2019</td>
</tr>
<tr>
<td><strong>Is this an Authorized Retroactive Grant Application/Award?</strong></td>
<td>No</td>
</tr>
<tr>
<td><strong>Recurrence of Grant</strong></td>
<td>New ☑ Recurrent ☐ Other ☐ Explain: N/A</td>
</tr>
<tr>
<td><strong>Does this grant require CEQA findings?</strong></td>
<td>Yes ☑ No ☒ Other Type ☐ Explain: The funding is being used to leverage CDPH funding for Nutrition Education Obesity Prevention Branch funding to Local Health Jurisdictions existing SNAP-Ed interventions.</td>
</tr>
<tr>
<td><strong>What Type of Grant is this?</strong></td>
<td>Competitive ☐ Other ☐ Explain: N/A</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</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 Health Care Agency requests Board approval of Centers for Disease Control Prevention (CDC) funded State Physical Activity and Nutrition (SPAN) grant to implement the following overarching strategies: (1) develop healthy meetings policies and adopt healthy food service guidelines, (2) promote compliance with federal lactation laws, (3) work with Early Childhood sites to adopt nutrition and physical activity standards, (4) increase community physical activity supporting Safe Routes to School Activities and (5) collaborate with state-level partners in transportation and planning to include obesity, chronic disease prevention, and healthy equity in transportation policy.

The initial notice of this additional funding was considered as an amendment of the original agreement for Supplemental Nutrition Assistance Program - Education, which the application was covered under the Annual Grants Application approved by the Board on July 17, 2018. However, it was determined by CDPH that the State Physical Activity and Nutrition 18-10561 grant would be a separate standalone agreement; further, the grantor does not require an additional application to accept these funds. The term of the grant is September 30, 2018 through September 29, 2023 and will be distributed over a five-year period.
period at $90,000 per year, for a total of $450,000.

<table>
<thead>
<tr>
<th>Board Resolution Required?</th>
<th>Yes ☐ No ☑</th>
</tr>
</thead>
<tbody>
<tr>
<td>Deputy County Counsel Name:</td>
<td>Massoud Shamel</td>
</tr>
<tr>
<td>Recommended Action/Special Instructions</td>
<td>The Health Care Agency (HCA) requests that the Board of Supervisors approve the Recommended Action authorizing to accept this grant, and delegate authority to the HCA Director, or their designee, to execute the Agreement 18-10561 for the term September 30, 2018 through September 29, 2023 and allow for the signing of the Certification Regarding Lobbying form. The Agreement contains indemnification clause that requires the County to defend, hold harmless, and indemnify the State against all general claims. This provision differs from the County’s practice of requiring contractors to indemnify the County. CEO/Risk Management has reviewed and approved the provision.</td>
</tr>
<tr>
<td>Department Contact:</td>
<td>Marc Meulman, (714) 834-2980, <a href="mailto:MMeulman@ochca.com">MMeulman@ochca.com</a></td>
</tr>
<tr>
<td>Name of the individual attending the Board Meeting:</td>
<td>David Souleles</td>
</tr>
</tbody>
</table>
DATE: February 25, 2019

TO: Frank Kim, County Executive Officer

FROM: Dylan Wright, Director, OC Community Resources

SUBJECT: RATIFICATION OF GRANT AWARD – OC COMMUNITY RESOURCES - CONTINUUM OF CARE PROGRAM/COORDINATED ENTRY SYSTEM SUPPORTIVE SERVICES ONLY GRANT

On February 20, 2019, OC Community Resources received notification from the U.S. Department of Housing and Urban Development (HUD) of the award for the Continuum of Care Program Coordinated Entry System Supportive Services Only grant in the amount of $907,239 for a one-year grant term from July 1, 2019 to June 30, 2020. The grant application was approved by the Board of Supervisors (Board) on May 8, 2018.

One of the requirements set by HUD was that the Grant Agreement had to be executed no later than February 28, 2019. The delay in getting the eForm approved by the Board is due to the short notification period provided by HUD. OC Community Resources is requesting that this item be placed on the March 12, 2019, Grants Report for ratification of the funding award by the Board.

Dylan Wright, Director
OC Community Resources

Approved:

Frank Kim, County Executive Officer
County Executive Office

Date

3/1/19

Date
**CEO-Legislative Affairs Office**  
**Grant Authorization eForm**  

**GRANT APPLICATION / GRANT AWARD**

<table>
<thead>
<tr>
<th>Today's Date:</th>
<th>February 22, 2019</th>
</tr>
</thead>
<tbody>
<tr>
<td>Requesting Agency/Department:</td>
<td>OC Community Resources/Homeless Services</td>
</tr>
<tr>
<td>Grant Name and Project Title:</td>
<td>Coordinated Entry System SSO Grant NOFA 2018</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>$907,239</td>
</tr>
<tr>
<td>Application Due Date:</td>
<td>September 2018</td>
</tr>
<tr>
<td>Board Date when Board Approved this Application:</td>
<td>April 24, 2018</td>
</tr>
<tr>
<td>Awarded Funding Amount:</td>
<td>$907,239</td>
</tr>
<tr>
<td>Notification Date of Funding Award:</td>
<td>February 20, 2019</td>
</tr>
<tr>
<td>Is this an Authorized Retroactive Grant Application/Award?</td>
<td>No</td>
</tr>
<tr>
<td>Recurrence of Grant:</td>
<td>Recurrent</td>
</tr>
</tbody>
</table>
| If this is a recurring grant, please list the funding amount applied for and awarded in the past: | This grant transitioned from 211OC during the 2017 grant year.  
2017 $907,239, Awarded $907,239  
2018 $907,239, Awarded $907,239 |
| 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? | Match will be provided by partner agencies and in-kind staff time. |
| 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. |

Orange County’s Coordinated Entry System standardizes the homeless services assessment process and coordinates referrals to homeless services. These funds will be used to support a fully functional Coordinated Entry System in compliance with the HUD CoC Homeless Assistance Grant Program and implementation of Federal HEARTH Act requirements. All Continuum of Care funded programs are required to participate in the Coordinated Entry System. The intent of the Coordinated Entry System is to reduce the number of days that people experience homelessness by prioritizing access to resources by length of homelessness and assessed need. Funds will be used for County staff time and CoC subrecipients associated with the development and implementation of CSE that will align with the integration of data systems and the three Service Planning Areas.

| Board Resolution Required? | Yes |
| 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 and administer Continuum of Care Homeless Assistance Coordinated Entry System SSO Grant funds and execute grant agreement and any other applicable documents for the Continuum of Care.
Homeless Assistance Coordinated Entry System SSO Grant.

<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>Cymantha Atkinson, Deputy Director, OC Community Resources</td>
<td></td>
</tr>
</tbody>
</table>
Cymantha.Atkinson@occr.ocgov.com  
(949) 337-5014 |

<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>Cymantha Atkinson, Deputy Director, OC Community Resources</td>
<td></td>
</tr>
</tbody>
</table>
Cymantha.Atkinson@occr.ocgov.com  
(949) 337-5014 |
DATE: February 26, 2019

TO: Frank Kim, County Executive Officer

FROM: Dylan Wright, Director, OC Community Resources

SUBJECT: Ratification of Grant Award – OC Community Resources/Orange County Housing Authority Family Self-Sufficiency Program

On February 14, 2019, OC Community Resources/Orange County Housing Authority (OCCR/OCHA) received notification from the United States Department of Housing and Urban Development (HUD) that OCHA was awarded 2018 Family-Self Sufficiency (FSS) Coordinators funding in the amount of $263,507. This funding is restricted for paying the salary and benefits for FSS Program Coordinators for the term of February 19, 2019, to February 18, 2020. The Board of Supervisors (Board) approved the application for this renewal funding on May 8, 2018.

HUD instructions for receipt of this award required OCHA electronically execute the Grant Agreement and acknowledge acceptance of funding by Wednesday, February 20, 2019. Because OCHA was required to act within one week of receipt, OCHA was unable to bring this matter to the Board in advance of taking action. As such, the attached Grant Authorization eForm requests retroactive approval to accept funds and execute grant agreements, as well as, all documents necessary to administer the Family Self-Sufficiency Program.

Should you have questions or require further information, please do not hesitate to contact Julia Bidwell, Executive Director, Orange County Housing Authority at (714) 480-2991.

Dylan Wright, Director

2/26/19

Date

Approved:

Frank Kim, County Executive Officer
County Executive Office

3/4/19

Date
**CEO-Legislative Affairs Office**  
**Grant Authorization eForm**

#### GRANT APPLICATION / GRANT AWARD

<table>
<thead>
<tr>
<th>Field</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>Today's Date:</td>
<td>February 26, 2019</td>
</tr>
<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>Family Self-Sufficiency (FSS) Coordinators</td>
</tr>
<tr>
<td>Sponsoring Organization/Grant Source:</td>
<td>U.S. Department of Housing and Urban Development (HUD)</td>
</tr>
<tr>
<td>Application Amount Requested:</td>
<td>$263,507</td>
</tr>
<tr>
<td>Application Due Date:</td>
<td>November 30, 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>$263,507</td>
</tr>
<tr>
<td>Notification Date of Funding Award:</td>
<td>February 14, 2019</td>
</tr>
<tr>
<td>Is this an Authorized Retroactive Grant Application/Award?</td>
<td>No</td>
</tr>
<tr>
<td>Recurrence of Grant:</td>
<td>Recurrent</td>
</tr>
<tr>
<td>If this is a recurring grant, please list the funding amount applied for and awarded in the past:</td>
<td>Since 1993, Orange County Housing Authority has competed for and been awarded funding to administer the FSS Program. 2017 $288,000, Awarded $263,507 2016 $259,960, Awarded $259,960 2015 $454,930, Awarded $259,960 2014 $263,970, Awarded $193,344 2013 $194,970, Awarded $191,689</td>
</tr>
<tr>
<td>Does this grant require CEQA findings?</td>
<td>Yes</td>
</tr>
<tr>
<td>What Type of Grant is this?</td>
<td>Competitive</td>
</tr>
<tr>
<td>County Match?</td>
<td>Yes</td>
</tr>
<tr>
<td>How will the County Match be Fulfilled?</td>
<td>Amount 25%</td>
</tr>
<tr>
<td>Will the grant/program create new part or full-time positions?</td>
<td>No</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>

On February 14, 2019, Orange County Housing Authority (OCHA) received notification of funding from U.S. Department of Housing and Urban Development (HUD) in the amount of $263,507 for the Family Self-Sufficiency (FSS) Program. The funds provided by HUD under the FSS Program are restricted to paying the salary and benefits for FSS Coordinators.

OCHA’s FSS Coordinators provide critical tools that are utilized by Housing Choice Voucher FSS participants to access services and training needed to help increase their income, build assets through an escrow savings account and prepare for home ownership. Their achievements are intended to lead to self-sufficiency and eliminate dependency on public assistance.

In calendar year 2018, 142 of 217 FSS participant households had escrow savings accounts (65%). Twelve households graduated from the FSS Program working full-time and received escrow from their escrow savings accounts totaling $91,622.

HUD instructions for receipt of this award required OCHA to execute the Grant Agreement and
electronically acknowledge acceptance of funding by Wednesday, February 20, 2019. As such, OCHA is requesting retroactive authorization to accept funds and execute grant agreements, as well as, all documents necessary to administer the Family Self-Sufficiency Program.

<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>Eric Devine</td>
</tr>
</tbody>
</table>

**Recommended Action/Special Instructions**
(Please specify below)
Retroactively Authorize the OC Community Resources Director or designee to accept funds in the amount of $263,507 and execute grant agreements, as well as, all documents necessary to administer the Family Self-Sufficiency Program.

<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> (714) 480-2991</td>
</tr>
</tbody>
</table>

**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:

| Julia Bidwell       | Julia.Bidwell@occr.ocgov.com (714) 480-2991 |
GRANT APPLICATION / ☑ GRANT AWARD

Today's Date: March 4, 2019

Requesting Agency/Department: Sheriff-Coroner Department

Grant Name and Project Title: Naloxone Distribution Project

Sponsoring Organization/Grant Source: California Department of Health Care Services (DHCS)

Application Amount Requested: estimated $90,000

Application Due Date: Continuous

Boad Date when Board Approved this Application: N/A

Awarded Funding Amount: TBD

Notification Date of Funding Award: TBD

Is this an Authorized Retroactive Grant Application/Award? No

Recurrence of Grant: New ☑ Recurrent ☐ Other ☐

If this is a recurring grant, please list the funding amount applied for and awarded in the past: N/A

Does this grant require CEQA findings? No ☑

What Type of Grant is this? Competitive ☑ Other Type ☐

County Match? Yes ☑ Amount _____ or _____ % No ☐

How will the County Match be Fulfilled? (Please include the specific budget) N/A

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

Purpose of Grant Funds:

The Sheriff-Coroner Department (Sheriff) is eligible for consideration of zero-cost Naloxone directly through the Naloxone Distribution Project (NDP) Substance Abuse and Mental Health Services Administration. This resource is available through the Department of Health Care Services to combat opioid overdose-related deaths throughout California. This program is a great opportunity to maintain ample stock on a zero-cost temporary basis. There is no guarantee Sheriff will receive this benefit in the future, as this program is first come, first served basis.

Naloxone is a life-saving medication that works to reverse an opioid overdose while having little to no effects on an individual if opioids are not present in their system. Naloxone works by blocking opioid receptor sites, reversing the toxic effects of the opioid overdose. Naloxone requires a prescription but is not a controlled substance. It has few known adverse effects, and no potential for abuse.

Board Resolution Required? Yes ☑ No ☐

Deputy County Counsel Name: Nicole Sims, Supervising Deputy County Counsel, reviewed the application packet.

Recommended Action/Special Instructions (Please specify below)
1. Authorize the Sheriff-Coroner to submit, on behalf of the County of Orange, the Naloxone Distribution Project application to the California Department of Health Care Services.

2. Authorize the Sheriff-Coroner, or his designee, to sign all necessary application documents required for the submission of the application; and to accept delivery of additional Naloxone stock at zero cost per-unit.

<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</td>
<td>714.935.6869</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
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<th>List the name of the individual who will be attending the Board Meeting for this Grant Item.</th>
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</thead>
<tbody>
<tr>
<td>Nancy M. Nguyen, Grants Manager</td>
<td>714.935.6869</td>
</tr>
</tbody>
</table>
Memorandum

To: Robin Stieler, Clerk of the Board

From: Chairwoman Lisa Bartlett

Re: Supplemental Agenda Item - Orange County Suicide Prevention Initiative

Date: 3/8/2019

Chairwoman Lisa Bartlett

Please add a supplemental item of business to the March 12, 2019 Board of Supervisors agenda. Unless otherwise directed by County Counsel, the title of the supplemental item should read:

Orange County Suicide Prevention Initiative

cc: Frank Kim, County Executive Officer
Leon Page, County Counsel
Richard Sanchez, OC Health Care Agency
Victor Cao, Chief of Staff, Fifth District Office
Sara May, Senior Policy Advisor, Fifth District Office
SUPPLEMENTAL
AGENDA STAFF REPORT

MEETING DATE: 3-12-19
LEGAL ENTITY TAKING ACTION: Board of Supervisors
BOARD OF SUPERVISORS DISTRICT(S): All
SUBMITTING AGENCY/DEPARTMENT: Chairwoman Lisa Bartlett, Fifth District

DEPARTMENT CONTACT PERSON(S): Sara May (714) 834-3550
Victor Cao (714) 834-3550

SUBJECT: Orange County Suicide Prevention Initiative

<table>
<thead>
<tr>
<th>CEO CONCUR</th>
<th>COUNTY COUNSEL REVIEW</th>
<th>CLERK OF THE BOARD</th>
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<tr>
<td></td>
<td>Discussion</td>
<td>3 Votes Board Majority</td>
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RECOMMENDED ACTION(S):

Direct the Health Care Agency to allocate $600,000 of Mental Health Services Act (MHSA) funding to MindOC, the fiscal entity of Be Well Orange County, to create a countywide suicide prevention initiative.

SUMMARY:

Approval directs the Health Care Agency to allocate $600,000 to MindOC, the fiscal entity of Be Well Orange County, to create a countywide suicide prevention initiative with the goal of increasing awareness and access to available resources, hosting community educational events, and reducing suicide.

BACKGROUND INFORMATION:

Suicide is a leading cause of death in the United States, with more than 33,000 people taking their own lives each year according to the Centers for Disease Control and Prevention. An estimated 25 attempted suicides occur per every suicide death.

LOCAL IMPACT:

In recent years, suicide rates and mental health related hospitalizations have increased throughout Orange County. The County’s per-capita rate of suicide jumped 45 percent between the three-year periods of 1999 to 2001 and 2011 to 2013. This compares to an average increase
of 22 percent nationwide during the same time frame, and was the largest jump in any metropolitan county in the US. The most recent data from 2017 indicates that the rate of suicide in Orange County was 9.9 per 100,000, the highest rate of the previous 3 years (2015-2017) and a 14% increase since 2000, when the rate of suicide death was 8.7 per 100,000. The average number of suicide deaths from 2000 to 2017 for all county residents was 310 deaths per year.

Suicide is the second leading cause of death for children and youth between the ages of 10 and 24. In Orange County, teen suicides averaged 13.3 deaths per year over the past 10-year period. Suicide is a leading cause of non-natural death for youth and teenagers between the ages of 10-19 years old. In Orange County, suicides accounted for 29% of non-natural deaths, making it the second leading cause of non-natural death behind motor vehicle collisions. This is higher than the statewide average in California, in which 22% of deaths among teens were due to suicides.

MENTAL HEALTH SERVICES ACT:

The Mental Health Services Act, which was passed by California voters in 2004, provides funding to Counties in order to address a continuum of prevention, early intervention, service needs and the necessary infrastructure, technology and training elements that will effectively support mental health systems. The Mental Health Services Act states that Prevention and Early Intervention (PEI) programs should emphasize strategies that reduce suicide that may result from untreated mental illness.

ORANGE COUNTY MHSA STEERING COMMITTEE:

The Mental Health Services Act requires a community stakeholder engagement process to inform priorities for the expenditure of local MHSA funds. The allocation of MHSA PEI dollars is consistent with the recommendations of the Orange County MHSA Steering Committee. During FY 2018/19, the MHSA Steering Committee supported the recommendation to expand school-based suicide prevention campaigns and activities for students in grades, K-12, as well as for transitional-age youth in higher educational and other settings. The MHSA Steering Committee also supported several other recommendations, targeting underserved individuals throughout the life span including strategies to increase timely access to services and to promote recovery/resilience, thereby preventing suicide.

CONCLUSION:

On February 15th, Chairwoman Lisa Bartlett hosted a forum on Children’s Mental Health with the Orange County Children’s partnership. Stakeholders which included both parents and students expressed a lack of knowledge about existing resources and how to access them. Parents indicated that they may not be equipped to recognize warning signs or know how to respond when family members display signs of mental illness. Similar concerns have been expressed by participants of the Be Well Orange County Zero Suicide Task Force. Currently, the County of Orange, the Orange County Department of Education and school districts have several resources and programs in place to prevent suicide and provide care to those in need. Be Well Orange County will serve as a much-needed resource that will effectively target parents and students with suicide prevention education to ensure that more young lives aren’t needlessly lost. Efforts will include culturally sensitive materials targeting various ethnic communities.
Be Well Orange County is a transformative initiative bringing together public, private, academic and faith-based organizations, as well as others, to create a coordinated system of mental health care and support for all Orange County residents. Because Be Well Orange County is comprised of key stakeholders, this Suicide Prevention Initiative will enhance and maximize current efforts, resulting in a greater countywide impact.
MEMORANDUM

To: Robin Stieler, Clerk of the Board

From: Supervisor Andrew Do, 1st District

Subject: Supplemental Agenda Item- Adopt Resolution to Support Medicaid Institutions for Mental Disease (IMD) Exclusion Waiver

Please add a supplemental item of business to the March 12, 2019 Board Agenda. The title of the supplemental item should read:

Adopt Resolution to Support Medicaid Institutions for Mental Disease (IMD) Exclusion Waiver
RESOLUTION OF THE BOARD OF SUPERVISOR OF ORANGE COUNTY, CALIFORNIA

March 12, 2019

WHEREAS, within the U.S. health care system, there have been significant gaps in coverage for the treatment of mental illnesses; and

WHEREAS, over the last few decades, there have been numerous legislative efforts to address these disparities through the parity of health and mental health benefits; and

WHEREAS, these efforts have largely focused on private sector health plans, which are regulated by federal and state government; and

WHEREAS, many of the efforts have been successful in bringing about meaningful reform, however there is still a significant gap in coverage for low income people that are in desperate need of mental health treatment; and

WHEREAS, this gap in coverage is known as the Institution for Mental Disease (IMD) exclusion and has existed in the Medicaid program since its inception; and

WHEREAS, in 1965 the Social Security Act was amended to establish the federal Medicaid and Medicare programs; and

WHEREAS, the IMD exclusion was built in to the foundation of the Medicaid program via these and subsequent amendment to the Social Security Act; and

WHEREAS, the IMD exclusion as amended prohibits states from receiving Medicaid payments for individuals in an IMD who are ages 21-64; and

WHEREAS, the law defines an IMD as a “hospital, nursing facility, or other institution of more than 16 beds, that is primarily engaged in providing diagnosis, treatment, or care of persons with mental diseases, including medical attention, nursing care, and related services;” and

WHEREAS, over the years the states have demonstrated that they are unable to provide adequate coverage and access for a significant number of low-income individuals with chronic and severe mental illness that are in need of psychiatric hospitalization; and

WHEREAS, as outlined in Section 1115 in the Social Security Act, the United States Secretary of Health and Human Services has the authority to waive specific provisions of health and welfare programs such as Medicaid; and

WHEREAS, this includes eligibility and funding provisions which may be waived in the case of any experimental, pilot, or demonstration project which is likely to assist in promoting objectives of the program; and

WHEREAS, the 1115 Medicaid waiver is not a permanent program, as they are typically approved in five-year intervals with the ability to be extended for an additional three years; and

WHEREAS, while the 1115 Medicaid waiver is extraordinarily valuable in federal, state, and local governments’ efforts to expand eligibility and leverage Medicaid funds, it has not been available to address the gap in inpatient mental health coverage created by the IMD exclusion until recently; and

WHEREAS, in November of 2018, the Centers for Medicaid and Medicare Services (CMS) announced that the federal government would begin to consider state applications for an IMD exclusion waiver for services in psychiatric hospitals and residential treatment settings for those with primary mental health diagnoses; and
WHEREAS, this would provide Medicaid coverage for IMD treatment to those who suffer from a severe mental illness in Orange County; and

WHEREAS, the Board of Supervisors has supported projects and funding to bring mental health solutions to Orange County; and

WHEREAS, the Board of Supervisors will continue to support exploring all funding options to increase access and services to mental health treatment for those who are in need.

NOW THEREFORE, BE IT RESOLVED BY the Board of Supervisors of the County of Orange, California that:

The Orange County Board of Supervisors direct the County Executive Officer to send a four signature letter to Governor Gavin Newsom, the California Department of Health Care Services, and Orange County State Delegation urging the State of California to apply for the 1115 Medicaid waiver to allow for the expansion of Medicaid coverage to the excluded population who are in need of inpatient mental health treatment.
March 7, 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 March 12, 2019, Board Hearing.

Agency: OC Community Resources
Subject: Orange County Housing Finance Trust Joint Powers Authority Agreement
Districts: All Districts

Reason for supplemental: This item needs to go to the Board as a supplemental item to advance the progress made from the collaborative efforts of Orange County cities and the County of Orange towards the financing and continued development of supportive and affordable housing. 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:** 3/12/19  
**LEGAL ENTITY TAKING ACTION:** Board of Supervisors  
**BOARD OF SUPERVISORS DISTRICT(S):** All Districts  
**SUBMITTING AGENCY/DEPARTMENT:** OC Community Resources  
**DEPARTMENT HEAD REVIEW:**  
**DEPARTMENT CONTACT PERSON(S):**  
Dylan Wright (714) 480-2788  
Julia Bidwell (714) 480-2991

**SUBJECT:** Orange County Housing Finance Trust Joint Powers Authority Agreement

<table>
<thead>
<tr>
<th>CEO CONCUR</th>
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<td>Discussion</td>
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- **Budgeted:** N/A  
- **Current Year Cost:** N/A  
- **Annual Cost:** N/A

- **Staffing Impact:** N/A  
- **# of Positions:** N/A  
- **Sole Source:** N/A

- **Current Fiscal Year Revenue:** N/A  
- **Funding Source:** N/A  
- **County Audit in last 3 years:** No

**Prior Board Action:** 6/12/2018 #S2A, 6/12/2018 #1

**RECOMMENDED ACTION(S)**

1. Approve the Orange County Housing Finance Trust Joint Powers Authority Agreement and delegate authority to the Chairwoman or her designee to sign and execute the Agreement upon the approval and signature of three cities within the Orange County within 12 months of this Agreement’s approval by the Board of Supervisors.

2. Receive and file the draft bylaws, which are subject to formal adoption by the Orange County Housing Finance Trust’s Board of Directors following its creation through the execution of the Orange County Housing Finance Trust Joint Powers Agreement by the County and three cities.

**SUMMARY:**

Approving the Orange County Housing Finance Trust Joint Powers Authority Agreement and receiving the draft bylaws will facilitate the establishment of the Orange County Housing Finance Trust to provide and receive funds for housing for the homeless population and persons and families of extremely low, very low and low income within the County of Orange.
BACKGROUND INFORMATION:

On June 12, 2018, the Board of Supervisors (Board) approved the Housing Funding Strategy presented by OC Community Resources in response to the crisis of homelessness and a shortage of supportive and affordable housing in Orange County. The Housing Funding Strategy set a target for the development of 2,700 new supportive housing units within six years and identified the need for 2,700 additional affordable units during the same period. It also concluded that capital funding requirements for the 2,700 supportive housing units was an estimated $930 million.

Given potential funding sources known at the time, a capital gap of $353 million was identified, along with an estimated $350 million funding gap in operating and rental subsidies. Since that time, the County of Orange (County) has identified additional funding sources, such as Proposition 1, Housing for a Healthy California, and Multi-Family Housing Program Supportive Housing, which reduce the estimated capital gap to $252 million. Efforts are ongoing to identify additional funding sources and other options to close the capital, operating and rental subsidy gaps to meet the goals of the Housing Funding Strategy.

In addition to the Housing Funding Strategy, the Board also approved a Mental Health Services Act (MHSA) Supportive Housing Spending Plan on June 12, 2018, which allocated $70.5 million in MHSA dollars to supportive housing projects. This amount was in addition to $25 million already allocated by the Board for such purposes. These MHSA dollars are included in the Housing Funding Strategy.

To date, the Board’s leadership and support for housing have resulted in funding applications and/or developer interest in either current housing unit development or potential housing unit development projects; totaling over 1,000 units of supportive and affordable housing.

To further advance progress and collaboration on this front, the Board co-sponsored Assembly Bill 448 (AB 448), which was spearheaded by the Association of California Cities-Orange County and signed into law by the Governor on September 11, 2018. AB 448 added California Government Code section 6539.5 authorizing the County of Orange, and any of the cities within Orange County, to create a joint powers authority, to be known as the Orange County Housing Finance Trust (OCHFT). Per AB 448, the OCHFT “would not only be responsible for responding to the homelessness crisis with the development of capital projects and the acquisition of necessary funds for those projects, but also for helping the county respond to the low-income and affordable housing crisis that the region is experiencing in tandem with the homelessness crisis.”

Following the passage of AB 448, Supervisor Do, then Chairman of the Board, First District, worked with representatives from the Association of California Cities – Orange County to form a collaborative working group, comprised of elected officials and staff from both the County and cities to establish the initial framework for the OCHFT. The OCHFT working group created a statement of shared values and principles; established a guiding vision and mission; and developed a proposed governance structure and draft bylaws to be used as the foundation for the development of a Joint Powers Authority Agreement (Agreement) for the OCHFT.

The Agreement creates the OCHFT pursuant to AB 448 as a separate public entity that would, for participating parties: (1) exercise any power common to the participating parties with respect to providing funding for the planning and construction of housing of all types and tenures for the homeless population and persons and families of extremely low, very low, and low income, as defined in Section 50093 of the Health and Safety Code, including, but not limited to, permanent supportive housing; and (2) receive
public and private financing and funds. This Agreement allows OCHFT to consider the issuance of debt in the future through amendments to the Agreement.

The Agreement also preserves certain powers for the participating parties. The Agreement does not authorize OCHFT to do any of the following: (1) regulate land use in cities or in the unincorporated area of the County; (2) serve as an owner or operator of housing units, (3) levy, or advocate or incentivize the levying of, an exaction, including an impact fee, charge, dedication, reservation or tax assessment, as a condition for approval of a development project; (4) require or incentivize inclusionary zoning requirements; (5) require the Parties to this Agreement to dedicate or assign funding for any OCHFT obligations or programs; (6) approve a housing project or program that is not supported by the governing body of the jurisdiction (a City or the County) in which the project is proposed to be sited; or (7) require the Parties to this Agreement to accept or provide any number of housing units as a prerequisite to joining or remaining a member of the OCHFT.

The Agreement establishes a governing board comprised of two members of the Board of Supervisors, two county-wide elected officials and five city council members.

**FINANCIAL IMPACT:**

N/A

**STAFFING IMPACT:**

N/A

**ATTACHMENT(S):**

Attachment A - Orange County Housing Finance Trust Joint Powers Authority Agreement
Attachment B – Orange County Housing Finance Trust Joint Powers Authority Bylaws
Attachment C – Assembly Bill 448
Attachment D - Section 50093 of the Health and Safety Code
JOINT EXERCISE OF POWERS AGREEMENT

THIS JOINT EXERCISE OF POWERS AGREEMENT (the "Agreement") is made this _ day of __________, 2019 (the "Effective Date"), by and between the following public entities (collectively, the "Parties"): __________, and __________ (collectively, the "Cities") and the COUNTY OF ORANGE (the "County").

RECITALS

A. The Parties are responsible for the health and safety of the residents within their geographic boundaries.

B. Each Party has the individual power to implement affordable housing projects and programs generated within its jurisdictional boundaries, as well as to create and issue development agreements for such activities.

C. The parties find it in their mutual economic interest to address work force housing, affordable housing, and supportive housing issues on a regional level.

D. A countywide adequate supply of housing will provide social and economic benefits to residents and taxpayers of the parties.

E. The Parties desire to act in the public interest to lessen the burden of government by reducing the need for each party to act individually, and to provide charitable support for affordable housing in Orange County.

F. California Government Code section 6500 et seq. ("Joint Exercise of Powers Act" or "Act") permits two or more public agencies to create joint powers authorities for the purposes cited herein, and permits the agencies to exercise jointly any power that the public agencies could exercise separately, and further grants certain additional powers to such joint powers authorities.

G. California Government Code section 6539.5 authorizes the County of Orange and any of the cities within the County of Orange to create a joint powers agency known as the Orange County Housing Finance Trust ("OCHFT"), which may do any of the following: (1) fund the planning and construction of housing of all types and tenures for the homeless population and persons and families of extremely low, very low, and low income, as defined in Section 50093 of the Health and Safety Code, including, but not limited to, permanent supportive housing; and (2) receive public and private financing and funds.

H. California Government Code section 6539.5 also authorizes the parties to a joint powers agreement, which is executed pursuant to its provisions, to grant OCHFT the power to authorize and issue bonds, certificates of participation, or any other debt instrument repayable from funds and financing received and pledged by OCHFT. However, at this point in time, it is the consensus of the Parties to the Agreement not to grant OCHFT the power to authorize and issue bonds or other debt instruments. This Agreement may be amended in the future to grant OCHFT the power to issue bonds or other debt instruments.
I. Local land-use decisions remain solely with each party. Nothing in this Agreement deprives any party of its sovereign powers with respect to land-use or transfers such powers to the joint powers authority.

NOW, THEREFORE, in consideration of the mutual promises set forth below, the parties agree as follows:

Section 1. Creation and Purpose.

(a) Creation of OCHFT. Pursuant to the Joint Exercise of Powers Act, including Section 6539.5 of the Government Code, there is hereby created a public entity to be known as the “Orange County Housing Finance Trust.” OCHFT shall be a public entity separate and apart from the Parties, and shall administer this Agreement.

(b) Purpose. This Agreement is made pursuant to the Joint Powers Act for the purpose of creating OCHFT as a public entity separate from the Parties to: (i) exercise Common Powers with respect to providing funding for the planning and construction of housing of all types and tenures for the homeless population and persons and families of extremely low, very low, and low income, as defined in Section 50093 of the Health and Safety Code, including, but not limited to, permanent supportive housing; and (ii) receive public and private financing and funds. The purpose of this Agreement shall be accomplished and common powers exercised in the manner set forth in the Agreement. Nothing contained in this Agreement shall preclude the Parties from establishing, maintaining or providing social programs or services to its residents as it deems proper and necessary.

Section 2. Term and Termination.

(a) Term. This Agreement shall become effective, and OCHFT shall come into existence, on the Effective Date, and this Agreement shall thereafter continue in full force and effect until terminated pursuant to subdivision (b) of this section.

(b) Termination. This Agreement may be terminated by agreement of the Parties. Upon termination of this Agreement, OCHFT shall be dissolved and, after payment or provision for payment of all liabilities, the assets of OCHFT shall be distributed to the Parties in proportion to the contributions of each Party to OCHFT and the amounts paid by each Party in connection with OCHFT’s activities.

Section 3. Powers and Duties of OCHFT.

(a) General Powers. OCHFT shall have all the powers common to the Parties to this Agreement necessary or convenient, specified or implied, to accomplish the purpose of this Agreement as set forth in Section 1, subject to the restrictions set forth in Section 3, subdivision (c) below. Said powers shall be exercised in the manner provided in the Joint Exercise of Powers Act and, except as expressly set forth herein, subject only to such restrictions upon the manner of exercising such powers as are imposed upon the Parties in the exercise of similar powers.

(b) Specific Powers. Without limiting the generality of the powers conferred in subdivision (a) of this Section 3, OCHFT is hereby authorized, in its own name, to do all of the acts necessary or convenient to the accomplishment of the
purposes of this Agreement and the full exercise of the powers conferred in subdivision (a) of this Section 3, including but not limited to the following:

(1) to make and enter into contracts;
(2) to contract for staff assistance;
(3) to sue and be sued in its own name;
(4) to apply for, accept, receive and disburse grants, loans and other aids from any agency of the United States of America or of the State of California;
(5) to invest any money in the treasury pursuant to Section 6505.5 of the Joint Powers Act that is not required for the immediate necessities of OCHFT, as OCHFT determines is advisable, in the same manner and upon the same conditions as local agencies, pursuant to Section 53601 of the California Government Code;
(6) to apply for letters of credit or other forms of financial guarantees in order to enter into agreements in connection therewith;
(7) to carry out all the provisions of this Agreement;
(8) to purchase obligations of any Party;
(9) to engage the services of private consultants to render professional and technical assistance and advice in carrying out the purposes of this Agreement;
(10) to employ and compensate counsel including bond counsel, financial consultants, and other advisers determined appropriate by OCHFT in the accomplishment of the purposes of this Agreement;
(11) to contract for engineering, construction, architectural, accounting, environmental, land use, or other services determined necessary or convenient by OCHFT in connection with the accomplishment of the purposes of this Agreement;
(12) for the purposes of enforcing affordable housing covenants or holding security interests for loans, to take title to, and transfer, sell by installment sale or otherwise, lands, structures, real or personal property, rights, rights-of-way, franchises, easements, and other interests in real or personal property which OCHFT determines are necessary or convenient in connection with the accomplishment of the purposes of this Agreement;
(13) for the purposes of renting space for OCHFT to operate, to lease to, and to lease from, a Party or any other person or entity lands, structures, real or personal property, rights, rights-of-way, franchises, easements, and other interests in real or personal property which OCHFT determines are necessary or convenient in connection with the accomplishment of the purposes of this Agreement;
(14) to solicit charitable contributions from private sources;
(15) to propose amendments to this Agreement, including amendments that would allow OCHFT to authorize and issue bonds, certificates of participation, or any other debt instrument repayable from funds and financing received and pledged by OCHFT; and

(16) to exercise any and all other powers as may be provided for OCHFT in the Joint Powers Act or any other applicable law.

(c) Limitation on Powers. Neither this Agreement nor section 6539.5 of the Government Code authorize OCHFT do any of the following:

1. regulate land use in Cities or in the unincorporated area of the County;

2. serve as an owner or operator of housing units;

3. levy, or advocate or incentivize the levying of, an exaction, including an impact fee, charge, dedication, reservation or tax assessment, as a condition for approval of a development project;

4. require or incentivize inclusionary zoning requirements;

5. require the Parties to this Agreement to dedicate or assign funding for any OCHFT obligations or programs;

6. approve a housing project or program that is not supported by the governing body of the jurisdiction (a City or the County) in which the project is proposed to be sited; or

7. require the Parties to this Agreement to accept or provide any number of housing units as a prerequisite to joining or remaining a member of OCHFT.

Section 4. Members

The members of OCHFT shall be the parties to this Agreement who have not withdrawn from OCHFT, and such other parties as may join OCHFT after execution of this Agreement. New members may join on the terms and conditions set forth in Section 10 hereof. Only the County of Orange and cities within the County of Orange may be a party to this Agreement and a member of OCHFT.

Section 5. Board of Directors

(a) Selection of Directors. OCHFT shall be governed by a Board of Directors consisting of nine Directors selected as follows:

1. Two members of the Board of Supervisors of the County of Orange selected by the Board of Supervisors.

2. Two countywide elected officials selected from the following six Orange County elected officials: Assessor, Auditor-Controller, Clerk-Recorder, District Attorney-Public Administrator, Sheriff-Coroner, and the Treasurer Tax-Collector by the Board of Supervisors of the County of Orange.
(3) One city council member for the city member with the greatest population in the North Region Service Planning Area as depicted in Exhibit A.

(4) One city council member for the city member with the greatest population in the Central Region Service Planning Area as depicted in Exhibit A.

(5) One city council member for the city member with the greatest population in the South Region Service Planning Area as depicted in Exhibit A.

(6) Two city council members who are each selected from member cities, which are not already represented on the Board of Directors. The selection of these Directors shall be made by a City Selection Committee from votes cast on a one-city-one-vote basis by representatives of the city members that are not already represented pursuant to Section 5, subdivisions (a)(3), (a)(4) and (a)(5).

(b) **Board Powers.** Subject to the limitations of this Agreement and the laws of the State of California, the powers of OCHFT shall be vested in and exercised by and its property controlled and its affairs conducted by the Board of Directors.

(c) **Advisory Board.** In accordance with OCHFT’s bylaws, the Board of Directors may convene an *ex officio* advisory board that may include a public member, city managers or assistant city managers, the County Executive Officer, a representative from law enforcement, and a representative from a housing authority.

(d) **Compensation.** Members of the Board shall serve without compensation but shall be entitled to reimbursement for any expenses actually incurred in connection with serving as a Director. Any obligation to pay expenses pursuant to this paragraph shall be a charge against any unencumbered funds of OCHFT available for the purpose.

(e) **Meetings of the Board of Directors.**

(1) **Call, Notice and Conduct of Meetings.** All meetings of the Board of Directors, including without limitation, regular, adjourned regular, special meetings and adjourned special meetings, shall be called, noticed, held and conducted in accordance with the provisions of the Ralph M. Brown Act.

(2) **Regular Meetings.** Regular meetings of the Board of Directors shall be held at such dates and times as the Board may fix by resolution from time to time. If any day so fixed for a regular meeting shall fall upon a legal holiday, then such regular meeting shall be held on the next succeeding business day at the same hour. No notice of any regular meeting of the Board of Directors need be given to the individual Directors.

(3) **Special Meetings.** Special meetings of the Board of Directors shall be held whenever called by the Chairperson of the Board or by a majority of the Directors.

(4) **Quorum.** A majority of the seated members of the Board of Directors shall constitute a quorum at any meeting of the Board except that less than a quorum may adjourn a meeting to another time and place. Every act or
decision done or made by a majority of the Directors present at any meeting at which a quorum is present shall be the act of the Board of Directors.

(5) Minutes. The Board of Directors shall keep minutes of all regular, adjourned regular, and special meetings, and shall, as soon as possible after each meeting, cause a copy of the minutes to be forwarded to each Director and to the Parties.

(6) Officers. The Board of Directors shall elect a chairperson and a vice chairperson from among its members at the first meeting held in each fiscal year. In the event that the chairperson or vice chairperson so elected ceases to be a Director, the resulting vacancy shall be filled at the next regular meeting of the Board of Directors held after such vacancy occurs or at a special meeting called for that purpose. In the absence or inability of the chairperson to act, the vice chairperson shall act as chairperson. The chairperson, or in the chairperson’s absence, the vice chairperson, shall preside at and conduct all Board of Director’s meetings.

(7) Rules and Regulations. The Board of Directors may adopt, from time to time, by resolution, such rules, regulations and bylaws for the conduct of its meetings and affairs as the Board determines is necessary or convenient.

Section 6. Additional Officers and Employees

(a) Officers and Contract Staff.

(1) OCHFT may contract with a Party to this Agreement for officers and staff pursuant to Section 6, subdivision (d), or retain independent contractors, agents, or volunteers as the Board of Directors may deem necessary to carry out any of OCHFT's powers, upon such terms and conditions as the Board may require, including the retaining of professional and technical assistance, provided that adequate funds are available in OCHFT’s budget and are appropriated by OCHFT therefore.

(2) None of the officers, agents or staff, if any, directly contracted by OCHFT shall be deemed, by reason of their roles or duties or contracted status, to be employed by the Parties.

(b) Treasurer and Auditor/Controller. Pursuant to Government Code Sections 6505.5 and 6505.8, the Board of Directors shall appoint an officer or employee of OCHFT, an officer or employee of a public agency that is a Party to this Agreement or a certified public accountant to hold the offices of treasurer and auditor for OCHFT. Such person or persons shall possess the powers of and shall perform the treasurer and auditor functions for OCHFT required by Sections 6505, 6505.5 and 6505.6 of the Government Code, including any subsequent amendments thereto. Pursuant to Government Code Section 6505.1, the auditor and treasurer shall have charge of certain property of OCHFT. The treasurer and auditor shall assure that there shall be strict accountability of all funds and reporting of all receipts and disbursements of OCHFT. The treasurer and auditor of OCHFT shall be required to file an official bond with the Board of Directors in an amount, which shall be established by the Board. Should the existing bond or bonds of any such officer be extended to cover the obligations provided herein, said bond shall be the
official bond required herein. The premiums on any such bonds attributable to the
coverage required herein shall be an appropriate expense of OCHFT.

(c) **Attorney.** The Board of Directors shall have the power to appoint one
or more legal advisors to OCHFT who shall perform such duties as may be
prescribed by the Board. The County Counsel of the County shall be OCHFT's
counsel unless and until the Board of Directors appoints other counsel to serve such
function.

(d) **Administrative Services and Reimbursement of Costs.**

(1) The Board of Directors may contract with a Party to this
Agreement to provide necessary administrative services to OCHFT, including the
services described in Section 6, subdivisions (a), (b) and (c). The amount charged
by the Party to provide such services to OCHFT shall be fixed by agreement between
the Board of Directors and the governing board of the Party providing such services.
In the absence of an agreement on costs, the Party providing services to OCHFT
under this Section 6 may charge OCHFT the amounts necessary to recover the
direct and indirect costs of such services.

(2) If OCHFT contracts with a Party to this Agreement to provide
OCHFT with administrative services through persons who are employees and
officers of the Party, any retirement liabilities associated with that Party's
employees and officers shall not constitute a liability of OCHFT or any other Party
to this Agreement. This Section 6, subdivision (d)(2), shall not preclude a Party
providing administrative services to OCHFT pursuant to a contract with OCHFT
from accounting for such salary and benefit costs when negotiating the rates that
the Party will charge OCHFT for providing such services.

**Section 7. Financial Provisions**

(a) **Fiscal Year.** The Fiscal Year of OCHFT shall, unless and until
changed by the Board of Directors, commence on the 1st day of July of each year
and shall end on the 30th day of June of the next succeeding year except that the
initial Fiscal Year of OCHFT shall commence on the effective date of this
Agreement and end on the immediately following 30th day of June.

(b) **Budget.**

(1) **General Budget.** Within one hundred and twenty days (120)
after the first meeting of the Board of Directors, a general budget for the first fiscal
year shall be adopted by the vote of a majority of all of the Directors. The budget
shall distinguish between administrative costs (i.e., the cost of operating OCHFT)
and Program costs (i.e., the financing of the programs funded or sponsored by
OCHFT). Thereafter, at or prior to the last meeting of the Board of Directors for
each fiscal year, a general budget shall be adopted for the ensuing fiscal year or
years by a vote of at least a majority of all of the Directors of the Board.

(2) **Expenditures for the Approved Budget.** The payment of all
OCHFT obligations is limited to the amount of appropriations allowed in OCHFT's
approved budget, except as it may be revised with the approval of a majority of all
of the Directors of the Board of Directors.
(c) **Contributions by the Parties.**

1. **Administrative Cost Contributions.** The County shall be responsible for OCHFT's administrative costs for one year following the creation of OCHFT. After this initial year, and in consideration of the mutual promises contained herein, the Parties agree that they shall make annual contributions towards the budgeted administrative costs of OCHFT in accordance with a cost allocation formula to be approved by the Board of Directors. By unanimous vote, the Board of Directors may waive a parties' contribution toward OCHFT's administrative costs. A Party's contribution to OCHFT's administrative costs shall be in the form of money, unless the Board approves another form of contribution such as services, personal property or use of real or personal property, or other in-kind contributions. The acceptance and valuation of any such non-monetary contributions shall be as determined by the Board.

2. **Program Cost Contributions.** The particular programs and program budget, funded, sponsored or operated by OCHFT, as well as the level of, and mechanisms for, the involvement of OCHFT and each Party, in such programs and program budget, shall be determined and approved by the Board of Directors. A Party's individual contribution, involvement and role in any particular program or the budgeted program costs shall be as may be mutually agreed between the Party and OCHFT.

(d) **Accounts and Reports.**

1. **Books and Records.** There shall be strict accountability of all OCHFT funds and accounts and report of all OCHFT receipts and disbursements. Without limiting the generality of the foregoing, OCHFT shall establish and maintain such funds and accounts as may be required by good accounting practice. The books and records of OCHFT shall be open to inspection at all reasonable times by each Party and its duly authorized representatives.

2. **Annual Audit.** The person appointed by the Board of Directors to perform the auditor function for OCHFT shall cause an annual independent audit of the accounts and records of OCHFT and records to be made by a certified public accountant or firm of certified public accountants in accordance with Government Code section 6505. Such audits shall be delivered to each Party and shall be made available to the public.

3. **Annual Financial Report.** Pursuant to section 6539.5 of the Government Code, OCHFT shall publish an Annual Financial Report that shall describe the funds received by OCHFT and the use of such funds by OCHFT. The Annual Financial Report shall describe how the funds received by OCHFT have furthered the purpose of OCHFT.

(e) **Funds.** Subject to the applicable provisions of any instrument or agreement which OCHFT may enter into, which may provide for a trustee or other fiscal agent to receive, have custody of and disburse OCHFT funds, the person appointed by the Board of Directors to perform the treasurer function for OCHFT shall receive, have the custody of and disburse OCHFT funds as nearly as possible in accordance with generally accepted accounting practices, shall make the disbursements required by this Agreement or to carry out any of the provisions or purposes of this Agreement.
Section 8. Amendments and Additional Parties.

(a) This Agreement may not be amended or modified except by a vote of two-thirds of all of the Parties through formal action approving such an amendment by the Parties' respective governing bodies.

(b) No addition to, or alteration of, the terms of this Agreement, whether by written or oral understanding of the parties, their officers, employees or agents, shall be valid or effective unless made in the form of a written amendment which is formally adopted and executed by the Parties in the same manner as this Agreement.

Section 9. Non-Liability for Obligations of OCHFT.

The debts, liabilities and obligations of OCHFT shall not be the debts, liabilities and obligations of any of the Parties or personal debts, liabilities and obligations of the Directors, officers or employees of OCHFT; provided that a Party may, by an agreement separate from this Agreement, contract for, or assume responsibility for, specific debts, liabilities, or obligations of OCHFT.

Section 10. Admission and Withdrawal of Parties.

(a) Admission of New Parties. It is recognized that additional parties other than the original parties, may wish to join OCHFT. The County of Orange and any Orange County city may become a party to OCHFT upon such terms and conditions as established by the Board of Directors. An Orange County city shall become a party to OCHFT by the adoption by the city council of this Agreement and the execution of a written addendum thereto agreeing to the terms of this Agreement and agreeing to any additional terms and conditions that may be established by the Board of Directors.

(b) Withdrawal from OCHFT. Parties may withdraw from OCHFT at any time upon their governing board's adoption of a resolution that so states the party's intent to leave OCHFT. The withdrawal of any party, either voluntary or involuntary, unless otherwise provided by the Board of Directors, shall be conditioned as follows:

(1) In the case of a voluntary withdrawal, written notice shall be given to OCHFT six months prior to the effective date of withdrawal; and

(2) Unless otherwise provided by a unanimous vote of the Board of Directors, withdrawal shall result in the forfeiture of that party's rights and claims relating to distribution of property and funds upon termination of OCHFT as set forth in Section 2 above.

Section 11. Notices.

Notices required or permitted hereunder shall be sufficiently given if made in writing and delivered either personally or by registered or certified mail, postage prepaid, to the persons and entities listed herein at the following addresses, or to such other address as may be designated to OCHFT for formal notice:
(a) County of Orange:

Santa Ana, California

(b) City of

Section 12. Miscellaneous.

(a) **Section Headings.** The section headings herein are for convenience only and are not to be construed as modifying or governing or in any manner affecting the scope, meaning or intent of the provisions or language of this Agreement.

(b) **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all together shall constitute but one and the same Agreement.

(c) **Laws Governing.** This Agreement is made in the State of California under the Constitution and laws of such State and shall be construed and enforced in accordance with the laws of California.

(d) **Severability.** Should any part, term, portion or provision of this Agreement, or the application thereof to any person or circumstance, be held to be illegal or in conflict with any law of the State of California, or otherwise be rendered unenforceable or ineffectual, it shall be deemed severable, and the remainder of this Agreement or the application thereof to other persons or circumstances shall continue to constitute the agreement the Parties intended to enter into in the first instance.

(e) **Successors.** This Agreement shall be binding upon and shall inure to the benefit of the successors of the respective Parties hereto. No party may assign any right or obligation hereunder without the written consent of a majority of the other Parties.

IN WITNESS THEREOF, the parties hereto have caused this Agreement to be executed and attested by their duly authorized officers as of the date first above written.

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

Dated: ___________________________ By: ___________________________
Chairman of the Board of Supervisors
SIGNED AND CERTIFIED THAT A COPY OF THIS DOCUMENT HAS BEEN DELIVERED TO THE CHAIRMAN OF THE BOARD

Clerk of the Board of Supervisors
County of Orange, California

NOTICE TO COUNTY OF ORANGE TO BE GIVEN TO:

FRANK KIM
COUNTY EXECUTIVE OFFICER
10 Civic Center Plaza
SANTA ANA, CA 92702-4062

APPROVED AS TO FORM:
LEON PAGE
COUNTY COUNSEL

By: [Signature]
Dated: March 7, 2019
ORANGE COUNTY

HOUSING FINANCE TRUST

Bylaws

APPROVED BY THE
ORANGE COUNTY HOUSING FINANCE TRUST
BOARD OF DIRECTORS
ON MONTH XX, 2019
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Part 1 – Introduction to the Orange County Housing Finance Trust (OCHFT)

1.01 Establishment

Chapter 336 of the California Statutes of 2018 (AB 448, 2018, Quirk-Silva, Daly, and Moorlach) was entered into law on September 11, 2018. Chapter 336 authorized the County of Orange and any of the cities within the County of Orange to create a joint powers agency known as the Orange County Housing Family Trust, which may do any of the following: (1) fund the planning and construction of housing of all types and tenures for the homeless population and persons and families of extremely low, very low, and low income, as defined in Section 50093 of the Health and Safety Code, including, but not limited to, permanent supportive housing; (2) receive public and private financing and funds; and (3) authorize and issue bonds, certificates of participation, or any other debt instrument repayable from funds and financing received and pledged by the Orange County Housing Finance Trust.

The OCHFT was established on _______ by the execution of the Joint Exercise of Powers Agreement (the “Agreement”) by and between the Cities of _______, _______, and _______ (collectively, the “Cities”) and the County of Orange the “County”). These Bylaws were adopted by OCHFT’s Board of Directors and provide for the organization and administration of OCHFT. These By-Laws supplement the Agreement.

1.02 OCHFT Guiding Vision and Mission

Following the passage of AB 448, the County of Orange and ACC-OC formed a collaborative working group to establish the OCHFT. As such, the working group, comprised of elected officials and staff from both the County and Cities worked to create the guiding vision and mission as follows:

The vision of OCHFT is to provide innovative financial solutions for the humanitarian crisis of homelessness in our local communities.

The mission of OCHFT is to strengthen the communities in Orange County by financing the development of housing for homeless and low-income individuals and families.

1.03 - OCHFT Guiding Principles

The guiding principles of the OCHFT:

1. Implement the findings and declarations of AB 448.

2. Provide funding based on principles of fiscal responsibility and demonstrated value to the taxpayer and funder.
3. Retain local control and the ability for local governments to use OCHFT funding for housing solutions when needed, or to participate within the region as a whole.

4. Demonstrate accountability and transparency for members of the JPA and the public.

5. Promote public-private partnerships, nonprofit collaborations, and community building to maximize sources of funds public and private, when available, and to efficiently accelerate housing for low, very low and extremely low income individuals and families.

6. Provide opportunities to strengthen local partnerships and increase capacity of local cities and agencies engaged in fulfilling housing goals.

7. Commit to innovation and best practices in financing, production, and service delivery in supportive housing.

8. Serve the region's needs geographically by (1) extremely low, very low, low income, and supportive housing types and (2) by population.

9. Foster collaborative planning to allow for project prioritization and establish a pipeline of projects.

10. Provide access to funding to ensure that Orange County receives the maximum benefit for the resources provided.

11. Incorporate County's Coordinated Entry System in conjunction with the cities' locally-driven protocols to ensure that the developed housing resources has appropriately targeted and prioritized eligible homeless populations for each project.

Part 2 – Bylaws of the OC Housing Finance Trust

ARTICLE I - Name

The name of this entity shall be the "Orange County Housing Finance Trust" or "OCHFT" in these Bylaws.

ARTICLE II – Membership and Purpose

Section A: OCHFT Membership
OCHFT is comprised of the County of Orange and the cities have executed OCHFT's Joint Powers Agreement (see Exhibit __). The Agreement may be amended from time to time, as needed, and is incorporated herein subject to those amendments.

Section B: Purposes, Functions and Preclusions

The vision of OCHFT shall be to provide innovative financial solutions for the humanitarian crisis of homelessness in our local communities, in furtherance of OCHFT's mission as stated in Part I, Introduction. More specifically, the purpose and functions of OCHFT shall be:

1. To fund the planning and construction of housing for the homeless population and persons and families of extremely low, very low, and low income, as defined in Section 50093 of the Health and Safety Code, including, but not limited to, housing that includes supportive services;

2. To receive public and private financing and funds;

3. To authorize and issue bonds, certificates of participation, or any other debt instrument repayable from funds and financing received pursuant to paragraph (2) and pledged by the Orange County Housing Finance Trust;

4. To follow annual financial reporting and auditing requirements that maximize transparency and maximize public information as to the receipt and use of funds by the agency. The annual financial report shall show how the funds have furthered the purposes of the Orange County Housing Finance Trust; and

5. To comply with the regulatory guidelines of each specific state and federal funding source received.

OCHFT is specifically precluded from:

1. Regulating land use in cities or in the unincorporated area of the County of Orange.

2. Serving as an owner or operator of housing units.

3. Exercising any authority to levy, or advocate or incentivize the levying of, any fee, charge, dedication, reservation, tax assessment, or other exaction related to development projects.
4. Requiring or incentivizing inclusionary zoning requirements. The power to adopt inclusionary zoning ordinances remain with the entities that possess land use and planning authority.

5. Providing OCHFT funding for a project that is opposed by the elected body (if within an incorporated area, the City Council, or if in an unincorporated area, the Orange County Board of Supervisors) in which the project is proposed to be located.

ARTICLE III – Board of Directors

Section A: OCHFT Board of Directors

1. All members of the Board of Directors must be from a member of the governing board of a party to the Agreement.

2. Board of Directors. The nine (9) voting members of the Board of Directors of OCHFT shall be as described below. Each member shall be entitled to one (1) vote on the Board:

   a) County Representatives (4):
      i. Two members of the Board of Supervisors of the County of Orange, selected by the Board of Supervisors; and
      ii. Two countywide elected officials selected from the following six Orange County elected officials: Assessor, Auditor-Controller, Clerk-Recorder, District Attorney-Public Administrator, Sheriff-Coroner, and the Treasurer Tax-Collector by the Board of Supervisors of the County of Orange.

   b) City Representatives (5):
      i. One City Council member for the city member with the greatest population in the North Region Service Planning Area as measured in the most recent decennial census.
      ii. One City Council member for the city member with the greatest population in the Central Region Service Planning Area as measured in the most recent decennial census.
      iii. One City Council member for the city member with the greatest population in the South Region Service Planning Area as measured in the most recent
decanennial census.

iv. One City Council member from a city member with a population of between 60,000 persons and 95,000 persons as measured in the most recent decennial census; and

v. One City Council member from a city member with a population of under 60,000 persons as measured in the most recent decennial census.

The selection of Directors described in “iv” and “v” above shall be made by a City Selection Committee from votes cast on a one-city-one-vote basis by representatives of the city members fall within the respective population thresholds described in iv and v.

3. Advisory Board (7). An advisory board consisting of the following members shall advise the Board of Directors with respect to all matters that OCHFT board of Directors has taken in furtherance of OCHFT’s purpose as expressed in the Agreement:

a) One Public Member who also serves on the Orange County Commission to End Homelessness (or its successor body);

b) Three (3) members who are city managers or assistant city managers, whose cities are not represented on the Board of Directors, with these three members representing cities in each of the three Service Planning Areas or their successor delineation;

c) The Chief Executive Officer of the County of Orange, or his or her designee;

d) A police chief (or his or her designee); and

e) A city from a Housing Authority in Orange County, which receives Housing Choice Voucher funding and which is not otherwise represented as a city on the Board of Directors.

4. All Advisory Board members are entitled to attend all OCHFT regular and special meetings and to fully participate in such meetings, but cannot vote on project applications or amendments to OCHFT bylaws, rules, or procedures.

5. Advisory Board members need not be elected officials.

Section B: Selection of Advisory Board Members

Appointments to the Advisory Board shall be as follows:
1. The Chair of the Orange County Board of Supervisors, with ratification by a majority of the Board of Supervisors, shall appoint the representative from the Orange County Commission to End Homelessness;

2. The Orange County City Managers Association shall select the three City Manager or Assistant City Manager representatives; and

3. The Orange County Police Chiefs Association shall select the Police Chief representative.

4. The City members of OCHFT shall select a representative from a City member, whose Housing Authority receives Housing Choice Voucher funding and which is not otherwise represented on the Board of Directors from votes cast on a one-city-one-vote basis.

Section C: Terms and Vacancies

1. Board of Directors: Terms of office for members of the Board of Directors shall be for two (2) years. A Board of Director’s seat shall be deemed vacant if he or she leaves elected office, or if his or her appointing body removes him or her. Upon a vacancy, the appointing body shall be notified and shall attempt to fill the vacancy within sixty (60) days of the vacancy occurring.

2. Advisory Board: Terms of office for members of the Advisory Board shall be for two (2) years. An Advisory Board member’s seat shall be deemed vacant if he or she fails to attend three consecutive regular or special meetings, or if his or her appointing body removes him or her. Upon a vacancy, the appointing body shall be notified and shall attempt to fill the vacancy within sixty (60) days of the vacancy occurring.

Section D. Board of Director Officers

The Board of Directors shall select a Chair and a Vice-Chair on an annual basis. Only members of the Board of Directors may serve as Chair or Vice-Chair. If a County representative is the Chair for any one period, a City representative shall serve as Vice-Chair. If a City representative is Chair for any one period, a County representative shall serve as Vice-Chair.

ARTICLE IV – Duties of Officers and Board Members

Section A: Duties of the Chair and Vice-Chair

It shall be the duty of the Chair to preside at the meetings of the OCHFT. In the Chair’s absence, the Vice-Chair shall preside at the meetings of the OCHFT.

Section B: Duties of the Board of Director Members:
1. Meet when called by the Chair to plan and coordinate the business and proposed activities of OCHFT;
2. Review and consider applications for project funding;
3. Review and consider OCHFT’s financial information, including the Annual Financial Report, any related independent audit, and the OCHFT’s annual budget; and
4. Serve on subcommittees or task forces when appropriate.

Section C: Formation of Subcommittees

The Board may create subcommittees or task forces to accomplish the goals and purposes of OCHFT.

ARTICLE V – Meetings

Section A: Regular Meetings

Regular meetings of OCHFT’s Board shall be held once every two (2) months, unless otherwise called by the Chair. Meeting notice, agenda, and public comment procedures shall comply with the provisions of the Ralph M Brown Act. The County’s Clerk of the Board shall prepare meeting agendas and handle noticing requirements.

Section B: Special Meetings

Special meetings of OCHFT may be held at any time upon call of the Chair, provided that the special meetings’ noticing and agenda complies with the Ralph M. Brown Act.

Section C: Quorum

A quorum shall exist when a simple majority of seated members of the Board of Directors are present.

Section D: Voting on Project Funding

1. The Board shall strive to attain a unanimous decision on all projects which receive funding from OCHFT; however
2. Funding for a project is deemed approved following a majority (five [5] “yes” votes or more) vote of the Board of Directors, provided that a quorum was present.

Section E: Voting on Amending OCHFT’s Bylaws, Principles, or Procedures

1. Amendments to OCHFT’s Bylaws, Principles or Procedures shall be considered at a regular meeting, and shall comply with the Ralph M. Brown Act.
2. An amendment to these Bylaws is deemed approved following a majority vote of the Board of Directors.

Section F: Minutes

The Clerk of the Board shall take minutes for OCHFT. A previous meeting’s minutes shall be considered and approved at a subsequent meeting by a majority vote of the Board of Directors.

Section G: Meeting Procedure

The conduct of meetings shall be governed by Robert’s Rules of Order (most recent published edition) where the question at issue is not determined by these Bylaws.

Section H: Location of Meetings

The Board must meet in publicly-accessible places typical for hosting public meetings, such as Council Chambers, city community rooms, or County board or conference rooms.

ARTICLE VI – Financial Review and Oversight

Section A: Annual Financial Report

1. The Board shall ensure that an Annual Financial Report is prepared, reviewed, adopted and made public annually, to ensure transparency and demonstrate actions that have furthered the purposes of OCHFT.

2. As a part of the development of the Annual Financial Report, the Board shall engage an independent auditor to complete an independent financial audit of OCHFT’s operations. The audit must be provided to the public, and the auditor must report all findings to the Board in a public meeting.

Section B: Budget

The Annual Budget of OCHFT shall be reviewed and approved by the Board of Directors in May or June of each year, in advance of the start of OCHFT’s next Fiscal Year.

Section C: OCHFT Fiscal Year

The fiscal year of OCHFT shall be from July 1 to June 30 of each year.

ARTICLE VII – OCHFT Board Code of Conduct
This OCHFT Board Code of Conduct represents OCHFT's commitment to high standards of ethics, public service, collegiality, and transparency. The following standards should be regarded as minimum expectations for conduct. OCHFT Board Members will act in accordance with and maintain the highest standards of professional integrity, impartiality, diligence, creativity and productivity. OCHFT will act in accordance with federal, state, and local laws and regulations.

Section A: Compliance with Policies

1. Members of the Board of Directors and Advisory Board will conduct the OCHFT business in accordance with the Agreement and the bylaws of OCHFT, including conflict of interest policies.

Section B: Conflicts of Interest

1. The Board of Directors may not have a conflict of interest as determined by the California Political Reform Act (the “Act”), inclusive of the Levine Act, California Government Code section 81000, et. seq., and the regulations promulgated to effectuate the Act. Nor shall the Board of Directors have a conflict of interest under California Government Code section 1090. A conflict of interest is defined as a contract or transaction between the OCHFT and an entity in which a Member of the Board of Directors or Advisory Board, or family members of such member has a financial or other interest or of which the Member is a director, officer, agent, partner, owner, associate, trustee, personal representative, receiver, guardian, custodian, conservator, or other legal representative.

3. In the event that a member of the Board of Directors or Advisory Board could benefit financially from a project or program that is before the Board of Directors for funding consideration, the member shall recuse himself or herself from participating in any way, including from engaging in any discussion or action relating to the project or program in question.

4. Members of the Board of Directors and Advisory Board are required to follow OCHFT Bylaws regarding conflict of interest and code of conduct.

Section C: Confidentiality

Members of the Board of Directors and Advisory Board must maintain the highest standards of confidentiality regarding information obtained directly or indirectly through their involvement with the OCHFT. This includes but is not limited to information about applications for funding, OCHFT members and their organizations and funded agencies. Members must also avoid inadvertent disclosure of confidential information through casual public discussion, which may be overheard or misinterpreted.
Section D: Gifts or Honoraria

It is not permissible for members of the Board of Directors and Advisory Board to offer or accept gifts, gratuities, excessive favors or personal rewards intended to influence OCHFT decisions or activities.

Section G: Harassment

Harassment, interpreted as unwelcome conduct, comment, gesture, contact, or intimidating and offensive behavior likely to cause offense or humiliation, will not be tolerated and may result in disciplinary measures up to and including removal from OCHFT Board.

Section H: Laws and Regulations

OCHFT business will be conducted in a manner that reflects the highest standards and in accordance with all federal, state, and local laws and regulations.
Assembly Bill No. 448

CHAPTER 336

An act to add Section 6539.5 to the Government Code, relating to joint powers.

[Approved by Governor September 11, 2018. Filed with Secretary of State September 11, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

AB 448, Daly. Joint powers authorities: Orange County Housing Finance Trust.

Existing law authorizes 2 or more public agencies, by agreement, to form a joint powers authority to exercise any power common to the contracting parties, as specified. Existing law authorizes the agreement to set forth the manner by which the joint powers authority will be governed.

This bill would authorize the creation of the Orange County Housing Finance Trust, a joint powers authority, for the purposes of funding housing specifically assisting the homeless population and persons and families of extremely low, very low, and low income within the County of Orange, as specified.

This bill would make legislative findings and declarations as to the necessity of a special statute for the County of Orange.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) The County of Orange is in the midst of a fluid and worsening homelessness crisis. Since 2013, the county has experienced a 53-percent increase in the unsheltered homeless population, many of whom have sought shelter over the last five years on the Santa Ana riverbed and at the Orange County Civic Center in Santa Ana.

(b) There has been a lack of regional focus that continues to stymie the implementation of a long-term solution to homelessness in the County of Orange.

(c) The County of Orange and the cities within the county have worked together to develop an approach under the Joint Exercise of Powers Act (Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code) to establish and authorize the use of an Orange County Housing Finance Trust that would not only be responsible for responding to the homelessness crisis with the development of capital projects and the acquisition of necessary funds for those projects, but also
for helping the county respond to the low-income and affordable housing crisis that the region is experiencing in tandem with the homelessness crisis. 

(d) Permanent supportive housing and other services provided to those within that form of housing is a nationally recognized model for ending chronic homelessness, and can assist the County of Orange in its response to the homelessness crisis.

(e) Neither the Orange County Housing Finance Trust nor the act authorizing the creation of the Orange County Housing Finance Trust do any of the following:

1) Regulate land use in cities or in the unincorporated area of the County of Orange.

2) Authorize the Orange County Housing Finance Trust to serve as an owner or operator of housing units.

3) Authorize the Orange County Housing Finance Trust to, in any manner, exercise any authority to levy, or advocate or incentivize the levying of, any fee, charge, dedication, reservation, tax assessment, or other exaction related to development projects.

4) Authorize the Orange County Housing Finance Trust to require or incentivize inclusionary zoning requirements. It is the intent of the Legislature that the power to adopt inclusionary zoning ordinances remain with the entities that possess land use and planning authority.

SEC. 2. Section 6539.5 is added to the Government Code, to read:

6539.5. (a) (1) Notwithstanding any other law, the County of Orange and any of the cities within the County of Orange may enter into a joint powers agreement pursuant to this chapter to create and operate a joint powers agency to fund housing to assist the homeless population and persons and families of extremely low, very low, and low income, as defined in Section 50093 of the Health and Safety Code, within the County of Orange.

(2) The joint powers agency created pursuant to this section shall be known as the Orange County Housing Finance Trust, and shall be created and operate in accordance with this section.

(b) The Orange County Housing Finance Trust shall be governed by a board of directors consisting of elected officials representing the County of Orange and representative cities that are party to the joint powers agreement.

(c) Notwithstanding any other law, the Orange County Housing Finance Trust may do any of the following:

1) Fund the planning and construction of housing of all types and tenures for the homeless population and persons and families of extremely low, very low, and low income, as defined in Section 50093 of the Health and Safety Code, including, but not limited to, permanent supportive housing.

2) Receive public and private financing and funds.

3) Authorize and issue bonds, certificates of participation, or any other debt instrument repayable from funds and financing received pursuant to paragraph (2) and pledged by the Orange County Housing Finance Trust.

4) The Orange County Housing Finance Trust shall incorporate into its joint powers agreement annual financial reporting and auditing requirements that shall maximize transparency and public information as to the receipt
and use of funds by the agency. The annual financial report shall show how
the funds have furthered the purposes of the Orange County Housing Finance
Trust.

(e) The Orange County Housing Finance Trust shall comply with the
regulatory guidelines of each specific state funding source received.

SEC. 3. The Legislature finds and declares that a special statute is
necessary and that a general statute cannot be made applicable within the
meaning of Section 16 of Article IV of the California Constitution because
of the unique challenges faced by the County of Orange and the cities located
within the county in addressing the housing needs of extremely low, very
low, and low-income households and the homeless within the county.
State of California

HEALTH AND SAFETY CODE

Section 50093

50093. "Persons and families of low or moderate income" means persons and families whose income does not exceed 120 percent of area median income, adjusted for family size by the department in accordance with adjustment factors adopted and amended from time to time by the United States Department of Housing and Urban Development pursuant to Section 8 of the United States Housing Act of 1937. However, the agency and the department jointly, or either acting with the concurrence of the Secretary of Business, Consumer Services and Housing, may permit the agency to use higher income limitations in designated geographic areas of the state, upon a determination that 120 percent of the median income in the particular geographic area is too low to qualify a substantial number of persons and families of low or moderate income who can afford rental or home purchase of housing financed pursuant to Part 3 (commencing with Section 50900) without subsidy.

"Persons and families of low or moderate income" includes very low income households, as defined in Section 50105, extremely low income households, as defined in Section 50106, and lower income households as defined in Section 50079.5, and includes persons and families of extremely low income, persons and families of very low income, persons and families of low income, persons and families of moderate income, and middle-income families. As used in this division:

(a) "Persons and families of low income" or "persons of low income" means persons or families who are eligible for financial assistance specifically provided by a governmental agency for the benefit of occupants of housing financed pursuant to this division.

(b) "Persons and families of moderate income" or "middle-income families" means persons and families of low or moderate income whose income exceeds the income limit for lower income households.

(c) "Persons and families of median income" means persons and families whose income does not exceed the area median income, as adjusted by the department for family size in accordance with adjustment factors adopted and amended from time to time by the United States Department of Housing and Urban Development pursuant to Section 8 of the United States Housing Act of 1937.

As used in this section, "area median income" means the median family income of a geographic area of the state, as annually estimated by the United States Department of Housing and Urban Development pursuant to Section 8 of the United States Housing Act of 1937. In the event these federal determinations of area median income are discontinued, the department shall establish and publish as regulations income limits for persons and families of median income for all geographic areas of the state at 100
percent of area median income, and for persons and families of low or moderate
income for all geographic areas of the state at 120 percent of area median income.
These income limits shall be adjusted for family size and shall be revised annually.

For purposes of this section, the department shall file, with the Office of
Administrative Law, any changes in area median income and income limits determined
by the United States Department of Housing and Urban Development, together with
any consequent changes in other derivative income limits determined by the department
pursuant to this section. These filings shall not be subject to Article 5 (commencing
with Section 11346) or Article 6 (commencing with Section 11349) of Chapter 3.5
of Part 1 of Division 3 of Title 2 of the Government Code, but shall be effective upon
filing with the Office of Administrative Law and shall be published as soon as possible
in the California Regulatory Code Supplement and the California Code of Regulations.

The department shall establish and publish a general definition of income, including
inclusions, exclusions, and allowances, for qualifying persons under the income limits
of this section and Sections 50079.5, 50105, and 50106 to be used where no other
federal or state definitions of income apply. This definition need not be established
by regulation.

Nothing in this division shall prevent the agency or the department from adopting
separate family size adjustment factors or programmatic definitions of income to
qualify households, persons, and families for programs of the agency or department,
as the case may be.

(Amended by Stats. 2013, Ch. 352, Sec. 371. (AB 1317) Effective September 26, 2013. Operative
July 1, 2013, by Sec. 543 of Ch. 352.)
March 8, 2019

Lisa Barlett, Chairwoman
Supervisor, 5th District
Orange County Board of Supervisors
Hall of Administration
333 W. Santa Ana Boulevard
Santa Ana, CA 92701

Dear Chairwoman Bartlett,

Thank you for inviting representatives from the Orange County City Manager’s Association (OCCMA) to participate in the working group charged with creating the framework (i.e. Vision, Mission, Guiding Principles) for the Orange County Housing Finance Trust (Trust).

On March 6, 2019, OCCMA met and had an opportunity to review the latest By-laws and Joint Powers Agreement. We believe the documents are well drafted and request only that language be added to allow either a City or its Housing Authority to join the Trust. This additional flexibility could help encourage those cities that have Housing Authorities to join the Trust.

The County’s willingness to cover the initial cost of staffing the Trust is also appreciated. Once the Trust is up and running, OCCMA encourages the Trust to secure funding from grants and other non-municipal sources to cover future staffing costs.

OCCMA believes that the Trust, if successful at securing additional funding for our region to address homelessness, will be a worthwhile endeavor. Given that OCCMA represents a diverse group of municipalities, each with unique circumstances and concerns, the decision to participate in the Trust will need to be made individually by each municipality.

As always, OCCMA appreciates the opportunity to work with the County of Orange to creatively address regional issues.

Sincerely,

John Pietig
OCCMA President

cc: Andrew Do, Supervisor, 1st District
Michelle Steel, Supervisor, 2nd District
Doug Chaffee, Supervisor, 4th District
Frank Kim, County Executive Officer
March 6, 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 March 12, 2019, Board Hearing.

Agency: OC Public Works
Subject: Amend State Reimbursement Agreement for the High Risk Pest Exclusion Program
Districts: All Districts

Reason for supplemental: The High Risk Pest Exclusion Program is considered by the State of California to be a health, safety and welfare issue. To receive the funds for reimbursement from the California Department of Food and Agriculture (CDFA), OC Public Works is required to obtain approval, and respond within 15 business days from notification of award to the CDFA. 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: 3/12/19
LEGAL ENTITY TAKING ACTION: Board of Supervisors
BOARD OF SUPERVISORS DISTRICT(S): All Districts
SUBMITTING AGENCY/DEPARTMENT: OC Public Works
DEPARTMENT HEAD REVIEW: [Signature]
DEPARTMENT CONTACT PERSON(S): Khalid Bazmi (714) 667-8213
Amanda Carr (714) 955-0601

SUBJECT: Amend State Reimbursement Agreement for the High Risk Pest Exclusion Program

CEO CONCUR
[Signature]

COUNTY COUNSEL REVIEW
[Signature]

CLERK OF THE BOARD
Discussion
3 Votes Board Majority

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

Staffing Impact: N/A
# of Positions: 
Current Fiscal Year Revenue: $327,542
Funding Source: See Financial Impact Section
3 years No

Sole Source: N/A

County Audit in last

Prior Board Action: 6/6/2017 #17, 7/12/2016 #10, 10/6/2015 #14, 8/5/2014 #19

RECOMMENDED ACTION(S)

1. Find that the subject action is Categorically Exempt from CEQA per Section 15321 (Class 21) of the CEQA Guidelines, which provides exemption for enforcement actions by regulatory agencies, in this case the County Agricultural Commissioner acting on behalf of the California Department of Food and Agriculture.

2. Authorize the Director of OC Public Works, or designee, to execute Amendment No. 1 to Agreement with the California Department of Food and Agriculture for reimbursement authority of costs related to inspection of high-risk plant shipments in the amount of $327,542 for a revised amount not to exceed $453,345 for the period of July 1, 2018, through June 30, 2019.

SUMMARY:
Approval of the amendment to increase the allocation for the State Reimbursement Agreement for the High Risk Pest Exclusion Program with the California Department of Food and Agriculture will provide
reimbursement authority reimbursement authority of FY 2018-19 costs related to the continued mandated inspection of high-risk plant shipments and early detection of exotic plant pests.

BACKGROUND INFORMATION:
The County of Orange (County) is required to inspect plant shipments arriving in the County for high-risk plant pests. High-risk plant pests include the Asian Citrus Psyllid, a vector of a citrus disease that is fatal and untreatable and Bark Beetles and Wood Borers, which have caused millions of acres of tree mortality across the State of California (State) and County. The State is not obligated to reimburse the County for these costs; however, the California Department of Food and Agriculture (CDFA) considers the County among several to be at the highest risk of damage from imported plant pests. Hence, the CDFA is currently providing reimbursement for the County FY 2018-19 costs related to the inspection of nursery stock, trucks and air freight as a part of the High Risk Pest Exclusion Program (Program). The County Agricultural Commissioner (Commissioner) intercepts insect and plant disease pests on incoming plant shipments on a regular basis, thus effectively preventing potential pest infestations from becoming established in the County.

CDFA reimbursement requires an annual agreement between the State and the County as recommended in Agreement No. 18-0037 (Agreement). The annual reimbursement Agreement is typically entered into each year after final approval of the State budget. The State issues such Agreements only after the Governor's approval of the next fiscal year's budget. As a result, these agreements are brought to the Board of Supervisors (Board) retroactively due to timing of the budget passage and the effective date.

The Program is considered by the State to be a health, safety and welfare issue. The inspection of high risk plant shipments into the County provides an effective prevention system against the introduction of serious plant pests. Licensed County Agricultural Inspectors perform approximately 13,000 inspections annually at shipping terminals and from truck or air freight referrals. The Program has been continuously funded by the State since July 1, 1999, and the County has continued to receive an annual reimbursement. The previous agreements were approved by the Board on June 6, 2017, July 12, 2016, October 6, 2015, and August 5, 2014. The current Agreement provides for reimbursement in an annual amount of $125,803. The proposed amendment will increase the reimbursement amount by $327,542 for a revised amount not to exceed $453,345 and is anticipated to support continuation of the Program through June 30, 2019.

The Agricultural Commissioner and CDFA continue to monitor and evaluate the Program’s effectiveness. The State oversees the work plan and reviews monthly reports submitted by the County.

The Agreement contains an indemnification provision requiring the County to indemnify, defend and hold harmless the State from all claims and losses accruing or resulting to any contractors, suppliers, laborers and any other person, firm, or corporation furnishing, or supplying services, materials, supplies, etc. and all other claims or losses resulting from County performance of this Agreement.

**Compliance with CEQA:** The proposed action is Categorically Exempt (Class 21) from the provisions of CEQA pursuant to Section 15321, because it involves action by a regulatory agency to enforce the general rule, standard, or objective adopted by the agency, in this case the Commissioner acting on behalf of the CDFA to enforce the general rules, standards or objectives administered or adopted by the agency.

**FINANCIAL IMPACT:**
Revenue for this reimbursement Agreement is included in the FY 2018-19 Budget for Budget Control 080 OC Public Works. The Agreement contains language that permits reduction or termination in the event of state budget reductions.

**STAFFING IMPACT:**

N/A

**ATTACHMENT(S):**

Attachment A – Letter from CDFA Regarding Agreement Number 18-0037-1

Attachment B – State Standard Agreement Amendment, Agreement Number18-0037
February 28, 2019

Richard Tiffer
County of Orange
222 E. Bristol Lane
Orange, CA 92865

Program: Pest Exclusion
Agreement Number: 18-0037-1

In regard to the enclosed Standard Agreement, please complete the following item(s) and return to the California Department of Food and Agriculture, Acquisitions Office, 1220 N Street, Room 115, Sacramento, CA 95814 within 15 business days of the date of this letter. Failure to comply may result in delayed payment. If you cannot return the documents within the 15 business days, please contact the analyst named below to inform her of when you will return the contract.

This Agreement cannot be considered binding on either party until fully executed and approved by the Department of General Services, when required. No services should be provided prior to approval, as the State is not obligated to make any payments on any services received prior to contract execution.

☐ Standard Agreement (STD 213) with attached exhibits. Please have the person within your organization, who has full authority to commit to all of the contents of this agreement, review and sign the two signature pages of the Standard Agreement package. Return ALL originals to this office. Once the contract is finalized (see above paragraph), the agreement is considered fully executed and an original will be mailed to you.

☐ Amendment to the above referenced Standard Agreement. Sign both copies and return both originals for further processing. A fully executed original will be returned to you when completed.

☐ Contractor Certification Clauses (CCC 04/2017). The CCC package contains clauses and conditions that may apply to your agreement and to persons doing business with the State of California. The CCC will be kept on file in this office and must be renewed with every contract and as changes occur. Please sign and return the current CCC. Failure to do so will prohibit the State of California from doing business with your company.

☐ A copy of the resolution, order or motion authorizing execution of this Agreement must be included.

☐ A copy of your insurance certification which states coverage will not be canceled without 30 days written notice to the State of California and which also includes the State of California, its officers, agents, employees, and servants as additional insureds, but only with respect to work performed under the contract. Any required endorsements requested by the State must be physically attached to all requested certificates of insurance and not substituted by referring to such coverage on the certificate of insurance.

If you have any questions regarding this Agreement, please contact the analyst identified below.

Sincerely,

Betsey Siscka

Leticia Regalado, (916) 403-6514
Acquisitions Office
Administrative Services
1. This Agreement is entered into between the State Agency and Contractor named below:

STATE AGENCY'S NAME
CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE
CONTRACTOR'S NAME
COUNTY OF ORANGE

2. The term of this Agreement is July 1, 2018 through June 30, 2019

3. The maximum amount of this Agreement after this amendment is: Four Hundred Fifty-Three Thousand Three Hundred Forty-Five Dollars and No Cents

4. The parties mutually agree to this amendment as follows. All actions noted below are by this reference made a part of the Agreement and incorporated here:

Section 3 is hereby increased by $327,542.00 for a new contract amount of $453,345.00. See Revised Budget, Exhibit B-1, Attachment 1 (2 pages).

This amendment is necessary to add funds for additional expenses and enforcement activities.

All other terms and conditions shall remain the same.

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

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<td>CONTRACTOR'S NAME (If other than an individual, state whether a corporation, partnership, etc.)</td>
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<td>COUNTY OF ORANGE</td>
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<tr>
<td>BY (Authorized Signature)</td>
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<td>DATE SIGNED (Do not type)</td>
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<tr>
<td>PRINTED NAME AND TITLE OF PERSON SIGNING</td>
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<td>JENNIFER CROW, ACQUISITIONS MANAGER</td>
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<td>1220 N STREET, ROOM 115, SACRAMENTO, CA 95814</td>
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Exempt per: DGS Ltr. 28.8
STATE OF CALIFORNIA
STANDARD AGREEMENT AMENDMENT
STD. 213 A (Rev 01/03)

Attachment B

CHECK HERE IF ADDITIONAL PAGES ARE ATTACHED 2 Pages

1. This Agreement is entered into between the State Agency and Contractor named below:

STATE AGENCY'S NAME
CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE
CONTRACTOR'S NAME
COUNTY OF ORANGE

2. The term of this Agreement is July 1, 2018 through June 30, 2019

3. The maximum amount of this Agreement is $453,345.00

Agreement after this amendment is: Four Hundred Fifty-Three Thousand Three Hundred Forty-Five Dollars and No Cents

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See Revised Budget, Exhibit B-1, Attachment 1 (2 pages).
This amendment is necessary to add funds for additional expenses and enforcement activities.

All other terms and conditions shall remain the same.

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

CONTRACTOR

STATE AGENCY
CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE

BY (Authorized Signature) DATE SIGNED (Do not type)

PRINTED NAME AND TITLE OF PERSON SIGNING

ADDRESS
222 EAST BRISTOL LANE, ORANGE, CA 92865

AGENCY NAME

EXEMPT

Exempt per: DGS Ltr. 28.8

Page 2 of 4
## Workplan for County High Risk Pest Exclusion

**FY 2018/2019**

**July 1, 2018 through June 30, 2019**

**Revised**

**Orange County**

**Contract Manager: Richard Tiffer**

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**Estimated Annual Cost**

**Total Cost:** $1,259,590 $453,345
### Personnel Cost Worksheet
#### County High Risk Pest Exclusion
#### FY 2018/2019
#### July 1, 2018 through June 30, 2019
#### Revised
#### Orange County

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**Total Hours/Cost:** 4458.84 5300 $400642 $362,676

Overhead Percentage (do not exceed 25%) 25%

Estimated Overhead Cost $25464 $90,669

Estimated Annual Cost $425803 $453,345
March 7, 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 March 12, 2019, Board Hearing.

Agency: County Counsel
Subject: Outside Land Use and Environmental Counsel Change in Firms
Districts: All Districts

Reason for supplemental This Agenda Staff Report needs to be heard as soon as possible to execute agreements that will ensure continuity in legal representation for litigation, land use and environmental law and planning related to ongoing projects and pending matters. 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: 3/12/19
LEGAL ENTITY TAKING ACTION: Board of Supervisors and Orange County Flood Control District
BOARD OF SUPERVISORS DISTRICT(S): All Districts
SUBMITTING AGENCY/DEPARTMENT: County Counsel
DEPARTMENT HEAD REVIEW: [Signature]
DEPARTMENT CONTACT PERSON(S): Leon J. Page (714) 834-3303
Thomas A. Miller (714) 834-6019

SUBJECT: Outside Land Use and Environmental Counsel Change in Firms

<table>
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<th>COUNTY COUNSEL REVIEW</th>
<th>CLERK OF THE BOARD</th>
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<td>County Counsel Signature</td>
<td>3 Votes Board Majority</td>
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Staffing Impact: No  # of Positions:  
Current Fiscal Year Revenue: N/A
Funding Source: See Financial Impact Section  County Audit in last 3 years: No

Prior Board Action: 9/22/2015 #31, 1/15/2013 #18, 4/03/2012 #9, 6/02/2009 #37

RECOMMENDED ACTION(S)

1. Acting as the Board of Supervisors of the County of Orange and governing body of the Orange County Flood Control District, authorize County Counsel or designee to execute legal services agreements, as attached, for advisory and litigation services for land use, environmental law and planning related legal services, with the law firm of Buchalter, A Professional Corporation.

2. Acting as the Board of Supervisors of the County of Orange, authorize County Counsel or designee to execute the First Amendment to the Agreement for Professional Legal Services between the County of Orange and Dentons US LLP.

3. Acting as the governing body of the Orange County Flood Control District, authorize County Counsel or designee to terminate the Agreement for Professional Legal Services between the Orange County Flood Control District and Dentons US LLP.
SUMMARY:

Authorizing County Counsel or designee to execute agreements for legal services on behalf of the County of Orange and the Orange County Flood Control District, for litigation, land use, environmental law and planning related legal services with the law firm of Buchalter, A Professional Corporation, and related amendments to an existing agreement with Dentons US LLP, will address the lead attorney’s recent move in law firms and ensure continuity in legal representation in several pending matters.

BACKGROUND INFORMATION:

On June 2, 2009, the Board selected the law firm of Luce, Forward, Hamilton & Scripps, LLP (Luce) to provide specialized legal services in the areas of land use, environmental, and planning law for the Orange County Flood Control District (OCFCD) for the proposed Harmony Master Planned Community project in the City of Highland in San Bernardino County (the Harmony Project), on property owned by the OCFCD. Luce later merged with McKenna, Long & Aldridge LLP (“McKenna”) and the Board approved a new legal service agreement with McKenna on April 3, 2012.

On January 15, 2013, the Board selected McKenna to provide land use, environmental law, and planning related legal services related to (1) the 100-Acre Parcel Development Plan project in the City of Irvine; and (2) the West Alton parcel Development Plan project in the City of Irvine (the El Toro Projects).

On August 19, 2015, County Counsel received notice that McKenna merged with Dentons US LLP (Dentons) and was informed that the attorneys working on the Harmony Project and El Toro Projects would be associated with Dentons as of July 1, 2015. Consequently, on September 22, 2015, the Board approved entering into agreements with Dentons, on behalf of the County and OCFCD, for the three projects. (See Attachments A and B). Brian Fish has been assigned as the lead advisory and litigation attorney since 2009 for the Harmony Project and since 2013 for the two El Toro Projects.

On February 6, 2019, County Counsel received written notice that Mr. Fish would be leaving Dentons and associating with the law firm of Buchalter, A Professional Corporation (Buchalter), effective February 11 (Attachment C). Given Mr. Fish’s departure from Dentons and the ongoing status of the three projects, including active, on-going litigation, OCFCD and CEO/Real Estate now desire to have County Counsel execute agreements for legal services with Buchalter, in order to retain the same attorney selected as part of the prior procurements. The proposed agreements with Buchalter are included as Attachments D and E. An amendment to the existing legal services agreement pertaining to the El Toro Projects (with Dentons) is simultaneously being proposed to reflect Mr. Fish’s association with Buchalter and the continued use of attorneys at Dentons. (See attachment F). County Counsel requests authorization to terminate the Dentons agreement for the Harmony Project, because CEO/Real Estate will not be utilizing any Dentons land use attorneys for the Harmony Project.

The proposed agreements with Buchalter, in combination with an amended Dentons agreement for the El Toro Projects, and termination of the Harmony Project Dentons agreement, will provide the County and OCFCD with the ability to ensure continuity in legal representation and preserve valuable institutional knowledge, by retaining the same attorneys who have been advising on the three projects and handling several related, active litigation matters, for the last several years. The agreements with Buchalter do not propose to add attorneys who are not already approved to work on County or OCFCD matters at this time. However, the agreements do include additional categories of attorney and staff support (of counsel/senior counsel and paralegals), who may, with County Counsel approval, provide additional support in the future.
should the need arise. The rates for these additional categories do not exceed the rates the Board previously approved in the Dentons agreements. There are no changes proposed as to the rates for legal services approved by the Board in 2015. Because the Projects are active and ongoing, involve litigation, and utilized project-based legal services agreements to engage outside counsel, the matters are not suitable for rebidding at this time.

Buchalter has conducted a conflict check concerning OCFCD and the County and determined there are no existing conflicts of interest. However, Buchalter has reported that it has and continues to represent Chick-fil-A, the Airport Working Group of Orange County, Inc. (AWG), and Toll Brothers, in matters unrelated to the three projects, where the County or OCFCD may be potentially adverse (see Attachment G). To address the prospect of these potential conflicts, Buchalter has requested that language be included in the Legal Services Agreements whereby the County and OCFCD would consent to the concurrent representation of these entities, except where such representation is in a litigation matter in which the County or OCFCD is a party or participant and the interests of the entities are adverse to those of the County (vis-a-vis Chick-fil-A and AWG) or OCFCD (vis-a-vis Toll Brothers). In the event of such an actual conflict, the agreements provide that the County or OCFCD would be informed of the matter, and may either agree to continued representation under a written waiver, have Buchalter withdraw from its representation of the County or OCFCD, or agree to other mutually acceptable solutions. The agreements further provide that Buchalter would implement appropriate ethical safeguards sufficient to protect the County and OCFCD during the concurrent representation.

Based on the foregoing, County Counsel, CEO/Real Estate and OCFCD staff recommend and request that the Board direct and authorize County Counsel to enter into the attached Legal Services Agreements with Buchalter. It is further recommended that the Board direct and authorize County Counsel to agree to amend, as attached, the existing Legal Services Agreement with Dentons for the El Toro Projects, and to terminate the current Legal Services Agreement for the Harmony Project.

FINANCIAL IMPACT:
Legal services will be provided on an “as needed” basis for each project/matter. The legal services contract with OCFCD is paid from Flood Control Funds (404). The legal services contract with the County for El Toro is paid mostly from Fund 15T, which is earmarked for the former MCAS El Toro. General real estate matters are funded out of County Executive Office Budget Control 017 as well Real Estate Fund 135, and have historically not been used to fund more than 5 percent of the contract costs.

STAFFING IMPACT:
N/A

ATTACHMENT(S):
Attachment A – County Legal Services Agreement with Dentons US LLP, September 22, 2015
Attachment B – OCFCD Legal Services Agreement with Dentons US LLP, September 22, 2015
Attachment C – Letters dated February 6, 2019 from Dentons US LLP
Attachment D – Proposed Agreement by and Between the County of Orange and Buchalter, A Professional Corporation, for Professional Legal Services
Attachment E – Proposed Agreement by and Between the Orange County Flood Control District and Buchalter, A Professional Corporation, for Professional Legal Services
Attachment F – Proposed First Amendment to Agreement by and Between the County of Orange and Dentons US LLP for Professional Legal Services
Attachment G – Buchalter Conflicts Letter
Attachment H – Risk Assessment Insurance Form
AGREEMENT

BY AND BETWEEN

THE COUNTY OF ORANGE

AND

DENTONS US, LLP

FOR

PROFESSIONAL LEGAL SERVICES

September 22, 2015
AGREEMENT
FOR PROFESSIONAL LEGAL SERVICES

THIS AGREEMENT FOR PROFESSIONAL LEGAL SERVICES ("AGREEMENT"), dated September 22, 2015, is made by and between the COUNTY OF ORANGE, a political subdivision of the State of California ("COUNTY" or "CLIENT") on the one hand and DENTONS US LLP ("ATTORNEYS" or the "FIRM").

RECITALS

WHEREAS, COUNTY desire to contract for professional legal services; and

WHEREAS, ATTORNEYS provide professional legal services, and are particularly qualified to perform the required services due to their legal competence and expertise; and

WHEREAS, CLIENT desires to retain ATTORNEYS’ services in connection with advisory and litigation services to provide environmental law, land use and planning related legal services to assist in the proposed entitlement and development of approximately 180 acres of property the COUNTY owns or will own located on the former El Toro Marine Corps Air Station ("MCAS EL Toro") within the City of Irvine, California ("County Property"), which may include, but not be limited to, review of environmental documentation, review of entitlement and planning documentation such as proposed tract maps and/or development agreements and other land use, planning and environmental legal services related to the potential development, leasing, sale or other disposition of portions of the County Property, as more fully set forth in the Scope of Services that is attached hereto and incorporated herein by this reference as Exhibit A.

NOW, THEREFORE, CLIENT and ATTORNEYS agree as follows:

I. TERM AND TERMINATION

A. TERM

The term of this AGREEMENT shall begin on the date of execution by the Office of the Orange County Counsel ("County Counsel") and shall continue until completion of the matters for which ATTORNEYS have been retained, unless sooner terminated pursuant to Paragraph I(B)(1).

B. TERMINATION

1. TERMINATION FOR CLIENT'S CONVENIENCE

a. Services performed under this AGREEMENT may be terminated in whole or in part at any time CLIENT deems to be in its/their
best interests. CLIENT shall terminate services by delivering to ATTORNEYS a written Termination Notice specifying the extent to which services are terminated and the effective termination date.

b. After receiving a Termination Notice and unless otherwise directed by CLIENT, ATTORNEYS shall:

(1) Take all necessary steps to stop services on the date and to the extent specified in the Termination Notice.

(2) Complete services not terminated by the Termination Notice.

c. After receiving a Termination Notice, ATTORNEYS shall give CLIENT a Closing Report as described in Section I(B)(2) below and:

(1) ATTORNEYS shall submit final billing for terminated services promptly, but no later than thirty (30) calendar days from the effective termination date.

(2) If ATTORNEYS fail to submit a final billing within the time allowed, CLIENT may determine, on the basis of information available to it/them, the amount, if any, due to ATTORNEYS. After CLIENT makes a determination, it/they shall pay ATTORNEYS that amount. CLIENT'S determination shall be final.

2. CLOSING REPORT AND TURNING OVER OF FILES UPON TERMINATION

a. ATTORNEYS shall deliver an oral Closing Report to CLIENT immediately after terminating services under Section I(B)(1) If requested by County Counsel, ATTORNEYS shall provide a written Closing Report within 30 days of termination of services.

b. The Closing Report shall include, but not be limited to:

(1) A brief description of any outstanding legal issues or matters which are pending with ATTORNEYS, which includes a discussion of applicable law.

(2) A list and description of all scheduled meetings, court appearances or matters which ATTORNEYS were to attend.
(3) An assessment of the accomplishments of ATTORNEYS’ engagement, including recommendations, if any, for changes to current or future CLIENT policies or procedures.

c. ATTORNEYS shall give CLIENT copies of all files and attorney work product for any matters in which ATTORNEYS were retained by CLIENT. This includes any computerized index, computer programs and document retrieval systems created or used for the matters. When instructed by County Counsel, ATTORNEYS shall file with the court the appropriate substitution of counsel.

3. **Termination by ATTORNEYS**

Nothing in this AGREEMENT shall prevent ATTORNEYS from terminating this representation in accordance with the Rules of Professional Conduct; however, any conflict of interests shall be addressed as set forth in Section II herein.

II. **Professional Conflict of Interest**

Without limitation as to, or alteration of, obligations otherwise imposed on ATTORNEYS with respect to CLIENT under the Rules of Professional Conduct or under law, and in addition to such obligations, ATTORNEYS agree to comply with the following portion of the Conflicts of Interest Policy adopted by the Orange County Board of Supervisors on September 24, 1985, which in its provisions relating to the County of Orange is hereby agreed to apply equally to the ATTORNEYS’ representation of COUNTY:

"It is the policy of the Orange County Board of Supervisors, on behalf of COUNTY and all other governmental entities of which it is the governing board, to prohibit the employment by any law firm adverse to COUNTY while simultaneously being employed by COUNTY, unless the Board is advised of, and gives specific consent to, such adverse employment.

"Any law firm which has been retained by COUNTY which desires employment which is or may be adverse to COUNTY shall transmit a statement of such desire to the County Counsel prior to undertaking such employment. The statement shall include a description of the employment and the reasons, if any, why COUNTY should consent. The County Counsel will forward the request to the Board of Supervisors with recommendation for action."
If the Board of Supervisors declines to consent to the employment, the law firm shall decline any such employment. The Board’s authority to give consent of CLIENT is not delegated to any officer or employee of CLIENT.

The COUNTY recognize that this policy may exceed the Rules of Professional Conduct 4-101 and 5-102 of the State Bar of California. Where applicable, law firms employed by the CLIENT shall comply with such rules in securing necessary consent from their other clients.

In accordance with COUNTY’s aforesaid Conflict of Interest Policy, COUNTY acknowledges that ATTORNEYS have represented and are continuing to represent Newport Dunes RV Park and Marina and Paradies-OC, LLC in unrelated matters where the COUNTY is adverse or potentially adverse. COUNTY hereby provides written consent to ATTORNEYS’ continuing representation of the foregoing entities except where such representation is in a litigation matter in which COUNTY is a party or participant and the interests of ATTORNEYS’ clients in that litigation are adverse to those of the COUNTY. In the event of such a matter, ATTORNEYS shall either withdraw from its representation of the COUNTY in this matter or the COUNTY may allow the continuation of the concurrent representation of the COUNTY and the other client on the unrelated matters pursuant to a subsequent, written waiver or the parties may agree to other mutually acceptable solutions, based on discussions with County Counsel at that time.

III. ATTORNEYS’ SERVICES AND RESPONSIBILITIES

A. Key Attorneys Personnel

1. ATTORNEYS’ Supervising Attorney for this AGREEMENT shall be Brian Fish. Any change in ATTORNEYS’ Supervising Attorney shall be first authorized in writing by County Counsel.

2. ATTORNEYS’ Supervising Attorney shall have full authority to act for ATTORNEYS on all daily operational matters under this AGREEMENT and shall serve as or designate lead counsel (“Lead Counsel”) for all activities performed under the scope of services described below. Designation of Lead Counsel shall be subject to County Counsel’s written approval.

B. Services

1. ATTORNEYS shall provide CLIENT with the necessary representation by staff qualified to perform the legal tasks at the least costly billing category as is acceptable to County Counsel.

2. ATTORNEYS shall provide all legal services requested by County Counsel within or reasonably related to the description of the Scope of Services, attached hereto as Exhibit A.
3. ATTORNEYS shall meet with CLIENT representatives as requested by County Counsel.

4. ATTORNEYS shall obtain County Counsel’s written approval before retaining any consultant or expert witness to assist with any individual matter assigned to ATTORNEYS.

5. ATTORNEYS shall obtain the approval of County Counsel prior to undertaking legal research of more than twelve (12) hours on any particular issue.

6. ATTORNEYS shall obtain County Counsel’s prior approval for travel outside the Counties of: Orange, Los Angeles, Riverside, Imperial, Kern, San Bernardino, Ventura, Santa Barbara or San Diego.

7. ATTORNEYS shall consult with County Counsel on tactical decisions.

8. ATTORNEYS shall, if applicable, assist CLIENT in settlement evaluations and negotiations, and shall obtain CLIENT’S authority before making any settlement proposal on CLIENT’S behalf or to the Court or to any other party to a case or matter.

9. ATTORNEYS shall keep and preserve all backup documentation to support all entries included in its billings as referenced in Section VI(A)(5) for a period of four (4) years after termination or completion of the matters for which ATTORNEYS have been retained.

IV. CLIENT’S DUTIES AND RESPONSIBILITIES

A. Key CLIENT Personnel

1. County Counsel’s designated Supervising Deputy County Counsel Thomas A. Miller shall be CLIENT’S Supervising Attorneys under this Agreement. Whenever County Counsel designates a Supervising Attorney or change in Supervising Attorney, he shall notify ATTORNEYS in writing.

2. CLIENT’s Supervising Attorney shall have authority to act for COUNTY, within the scope of his authority, on all daily operational matters under this AGREEMENT and shall review and approve all ATTORNEYS’ reports, whether written or verbal, and any change in ATTORNEYS’ Supervising Attorney or Lead Counsel.

3. Approval of proposed settlement recommendations is subject to approval by CLIENT’S Board of Supervisors.
B. **DUTIES AND RESPONSIBILITIES**

1. County Counsel shall review and approve:
   a. All reports, requests, and other services and responsibilities under this AGREEMENT.
   
   b. Any proposed tactical maneuver.
   
   c. All recommended settlement proposals prior to giving ATTORNEYS settlement authority.
   
   d. All billing statements in accordance with the review procedures referenced in Exhibit B.

2. County Counsel shall have access to review all correspondence and legal documents prepared by or in the possession of ATTORNEYS.

3. County Counsel shall monitor ATTORNEYS' overall performance under this AGREEMENT. County Counsel reserves the right to conduct audits by its own staff, a COUNTY auditor, or a contract auditor.

4. County Counsel shall evaluate and report to CLIENT'S Board of Supervisors on ATTORNEYS' performance, as required.

V. **COMPENSATION**

A. **FEES**

1. ATTORNEYS shall provide legal services at the billing rates listed in Exhibit C.

2. Billing rates may be subject to review and adjustment, as agreed between CLIENT and ATTORNEYS, only after two years from the date of execution of this Agreement by CLIENT. Any rate increase shall require an amendment to this AGREEMENT approved by CLIENT'S Board of Supervisors.

B. **EXPENSES**

CLIENT shall reimburse ATTORNEYS for their actual out-of-pocket expenses but without any additional costs for having advanced the funds or for expenses generally considered as overhead already reflected in the ATTORNEYS' hourly rates. ATTORNEYS shall note that CLIENT is exempt from all filing fee charges.
1. Reimbursable ordinary expenses shall include, but not be limited to:
   a. Transcript fees.
   b. Postage.
   c. Messenger service.
   d. Process service.
   e. Document reproduction by outside vendor.
   f. In-house document reproduction. If amount charged in any one month exceeds $200.00, prior County Counsel approval shall be obtained.

2. Reimbursable extraordinary expenses shall include charges of which ATTORNEYS have obtained County Counsel’s prior approval. Such expenses shall include, but not be limited to:
   a. Consultants, up to $150,000 per contract, unless otherwise authorized by CLIENT’S Board of Supervisors.
   b. Expert witnesses up to $150,000 per contract, unless otherwise authorized by CLIENT’S Board of Supervisors.
   c. Travel outside the Counties of Orange, Los Angeles, San Bernardino, Riverside, Imperial, Kern, Ventura, Santa Barbara and San Diego.
   d. Investigative services.
   e. Any expense item exceeding Five Hundred Dollars ($500.00).

3. Non-reimbursable expenses shall include, but not be limited to:
   a. Staff time or overtime for performing secretarial, clerical, or word processing functions.
   b. Charges for time spent to provide necessary information for COUNTY audits or billing inquiries.
   c. Charges for work performed which had not been authorized by County Counsel. Such work shall be a gratuitous effort by ATTORNEYS.
   d. Mileage, travel expenses or telephone expenses from the regular office of ATTORNEYS to the County of Orange.
VI. BILLINGS AND PAYMENTS

A. BILLINGS

1. ATTORNEYS shall submit its billing statement monthly in arrears, no later than the tenth (10th) of the month following the month service was rendered.

2. The original billing statement(s) and one copy shall be submitted to:

   County of Orange
   Office of the County Counsel
   333. W. Santa Ana Blvd, 4th Floor
   Post Office Box 1379
   Santa Ana, California 92702-1379

   ATTN: Thomas Miller, Supervising Deputy County Counsel

3. The original of each billing statement shall include a declaration of ATTORNEYS’ Supervising Attorney or Lead Counsel as provided in Exhibit D.

4. Each billing statement shall be identified by a unique number and shall be itemized to include:

   a. Matter or Case name and court number.

   b. Staffing level(s), hourly rates and specific activities for each attorney and/or paralegal.

   (1) Each activity shall be billed separately as a line item in a time reporting format acceptable to County Counsel.

   (2) A detailed description of specific activities for each attorney and/or paralegal which shall include, but not be limited to:

   a. In-person conferences.
   b. Telephone call(s).
   c. Correspondence.
   d. Depositions.
   e. Case reports.
   f. Document drafting.
   g. Hearings.
h. Research, including computerized legal research databases.

i. Matter reviews.

j. Travel. The street, city and county address shall be individually identified for all destinations.

c. Total current monthly fees billed for each staffing level.

d. Total cumulative fees billed for each staffing level.

e. Total current monthly expenses billed in the following categories:

   (1) Consultant and expert witness expenses;

   (2) Deposition and transcript expenses; and

   (3) Other miscellaneous expenses.

f. Total cumulative expenses to date billed in (e) directly above.

5. ATTORNEYS shall have and maintain all backup documentation to support all entries included in the monthly billing statement. Such documentation shall be in a form subject to audit and in accordance with generally accepted accounting principles. ATTORNEYS shall make such documentation available to auditors upon request and in accordance with Exhibit E.

B. PAYMENTS

1. CLIENT shall make payment(s) for services rendered under this AGREEMENT monthly in arrears based on the monthly itemized billing statement(s) ATTORNEYS submit to CLIENT.

2. CLIENT’S legal and accounting staff shall review all billing statements in accordance with the review procedures in Exhibit B.

3. CLIENT shall make its best effort to process payments promptly after receiving ATTORNEYS’ monthly billing statement. CLIENT shall not pay interest or finance charges on any outstanding balance(s).
VII. NOTICES

All notices and required reports shall be written and hand-delivered or mailed by first class, postage prepaid, addressed to County Counsel or ATTORNEYS at the addresses below, or at any other address County Counsel or ATTORNEYS shall provide in writing to each other:

A. IF TO CLIENT:

Office of the Orange County Counsel  
333 West Santa Ana Blvd., 4th Floor  
Santa Ana, California 92701  
ATTN: Thomas (Mat) Miller, Supervising Deputy County Counsel

Email: thomas.miller@coco.ocgov.com

B. IF TO ATTORNEYS:

Dentons US L.L.P.  
600 West Broadway  
Suite 2600  
San Diego, CA 92101  
ATTN: Brian Fish

Email: brian.fish@dentons.com

VIII. ASSIGNMENT

A. No part of this AGREEMENT or any right or obligation arising from it is assignable without CLIENT’S written consent.

B. Any attempt by ATTORNEYS to assign or subcontract services relating to this AGREEMENT without CLIENT’S consent shall constitute a material breach of this AGREEMENT. However, ATTORNEYS may retain consultants or experts as ATTORNEYS deem appropriate after receiving County Counsel’s written approval in an amount not to exceed $150,000 per contract, or in amounts in excess of $150,000 if approved by CLIENT’S Board of Supervisors.

IX. STANDARD TERMS AND CONDITIONS

Standard required terms and conditions for CLIENT’s outside legal services contracts are attached as Exhibit E and Exhibit F.
X. **MERGER**

A. Exhibits A through E are attached and incorporated as part of this AGREEMENT. The Exhibits are titled as follows:

1. **Exhibit A** Scope of Services
2. **Exhibit B** CLIENT’s Legal Billing Review Procedures
3. **Exhibit C** ATTORNEYS’ Hourly Billing Rates
4. **Exhibit D** ATTORNEYS’ Declaration on Billing Statement
5. **Exhibit E** Standard Terms and Conditions for CLIENT Outside Legal Contracts
6. **Exhibit F** Orange County Child Support Enforcement Certification Requirements

B. This AGREEMENT shall constitute the complete and exclusive statement of understanding between CLIENT and ATTORNEYS which supersedes all previous written or oral agreements, and all prior communications between the CLIENT and ATTORNEYS relating to the subject matter of this AGREEMENT.

XI. **CHILD SUPPORT ENFORCEMENT REQUIREMENTS**

In order to comply with child support enforcement requirements of CLIENT, within 30 days of award of contract, ATTORNEYS agree to furnish to the contract administrator:

A. In the case of an individual ATTORNEY, his/her name, date of birth, Social Security number, and residence address.

B. In the case of ATTORNEYS doing business in form other than as an individual, the name, date of birth, Social Security number, and residence address of each individual who owns an interest in 10 percent or more in the contracting entity.

C. A certification that the ATTORNEYS have fully complied with all applicable federal and state reporting requirements regarding its employees; and

D. A certification that the ATTORNEYS have fully complied with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment, and will continue to so comply.
The certification will be stated as follows:

"I certify that __________________ (Company Name) is in full compliance with all applicable federal and state reporting requirements regarding its employees, and with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment, and will continue to be in compliance throughout the term of Contract (______ Contract #) with the County of Orange. I understand that failure to comply shall constitute a material breach of the contract and that failure to cure such breach within 60 calendar days of notice from the County shall constitute grounds for termination of the contract without cost to the County."

It is expressly understood that this data will be transmitted to government agencies charged with the establishment and enforcement of child support orders, and for no other purposes.

Failure of the ATTORNEYS to timely submit the data and/or certification required above or to comply with all federal and state reporting requirements for child support enforcement or to comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment shall constitute a material breach of the contract. Failure to cure such breach within 60 calendar days of notice from the CLIENT shall constitute grounds for termination of the contract. (See Attached Certification Form, Exhibit F.)

IN WITNESS WHEREOF, the parties hereto have executed this AGREEMENT as of the date first written above.

COUNTY:

LEON J. PAGE
COUNTY COUNSEL

By: Thomas A. Miller,
Supervising Deputy County Counsel

DENTONS US LLP:

By: Brian Fish, Partner

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EXHIBITS

A–F
SCOPE OF SERVICES

1. Perform all normal and customary duties required of environmental law, land use and planning counsel in connection with the proposed entitlement and development of approximately the County Property, which may include, but not be limited to, review of environmental documentation, review of entitlement and planning documentation such as proposed tract maps and/or development agreements and other land use, planning and environmental legal services related to the potential development, leasing, sale or other disposition of portions of the County Property as well as other property owned by the County ("County Property Legal Services").

2. Advise COUNTY staff as to procedures, legality of documents, policy concerns, and legal implications concerning the County Property Legal Services.

3. Advise COUNTY regarding the requirements of environmental, land use and other state and federal laws relevant to the County Property Legal Services.

4. Assist COUNTY in negotiation, drafting and implementation of environmental and land use documentation, correspondence, and related documents arising out of or related to the County Property Legal Services and/or to the applicable area of COUNTY operations.

5. Attend meetings of the Board of Supervisors and relevant Staff meetings, as well as relevant city council meetings, as necessary.

6. Prepare resolutions, notices, pleadings, and other legal documents necessary for the County Property Legal Services or the applicable area of COUNTY operations.

7. Provide representation in hearings, arbitration, mediation, and any related litigation arising out of the County Property Legal Services.
CLIENT'S LEGAL BILLING REVIEW PROCEDURES

CLIENT'S legal and accounting staff shall review all billing statements prior to payment to ATTORNEYS. This review may include, but not be limited to:

1. The determination that the signed and dated declaration of ATTORNEYS' Supervising Attorney or Lead Counsel is on the original of each submitted billing statement.

2. The determination that the fee charged is consistent with ATTORNEYS' approved hourly rate schedule.

3. The determination that the multiplication of the hours billed times the approved rate schedule dollars is correct.

4. The determination that the bill is clearly divided into billing rate categories based on hours worked on each activity for each day and costs which ATTORNEYS have advanced to consultants and experts, depositions, and transcript expenses, and other miscellaneous expenses.

5. Unless specifically identified as "Original Research" on the billing statement, time charged for activities such as research, document and motion preparation, etc., shall be considered to be activity previously encountered by ATTORNEYS.

6. The determination that each item charged is usual, customary, and reasonable for the particular item. If CLIENT determines an item charged is greater than usual, customary, or reasonable, or is duplicative, ambiguous, excessive, or inappropriate, CLIENT shall either return the bill to ATTORNEYS with a request for explanation or adjust the payment accordingly, and give notice to ATTORNEYS of the adjustment.
## ATTORNEYS' HOURLY BILLING RATES

Attorneys' hourly billing rates and approved personnel are:

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<td>Names: Jessica Duggan</td>
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</tr>
<tr>
<td>Supervising Attorney:</td>
<td>$350.00</td>
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</table>
ATTORNEYS' DECLARATION ON BILLING STATEMENT

The following declaration shall be made on the original of each billing statement and personally signed and dated by ATTORNEYS' Supervising Attorney or Lead Counsel.

"I have personally examined this billing statement. All entries are in accordance with the Agreement For Professional Legal Services, are correct and reasonable for the services performed and costs incurred, and no item on this statement has been previously billed to COUNTY."

________________________________________  __________________________
DATE                                          SIGNATURE

________________________________________
NAME

________________________________________
TITLE
(Supervising Attorney or Lead Counsel)
STANDARD TERMS AND CONDITIONS
FOR OUTSIDE LEGAL CONTRACTS

1. Indemnification

ATTORNEYS shall indemnify, defend and save harmless CLIENT, its agents, officers and employees from and against any and all liability expense, including defense costs and legal fees, and claims for damages of any nature whatsoever, in connection with ATTORNEYS’ legal operations, including any workers’ compensation suits, liability or expense, arising from or connected with services performed under this AGREEMENT. Notwithstanding the foregoing sentence, CLIENT agrees that it will look first to ATTORNEYS’ professional liability insurance in the event of any loss in connection with the ATTORNEYS’ legal operations arising from or connected with services performed under this AGREEMENT, and thereafter shall rely on the indemnity provision set forth herein.

2. Insurance

Without limiting ATTORNEYS’ indemnification of CLIENT, ATTORNEYS shall provide and maintain at their own expense during the term of this AGREEMENT the following Program of Insurance covering their operations. ATTORNEYS shall deliver evidence of a satisfactory insurance program to County Counsel on or before the effective date of this AGREEMENT. Evidence shall specifically identify this AGREEMENT and shall contain express request that CLIENT is to be given written notice by registered mail of at least thirty (30) days in advance of any modification or termination of any program of insurance. In addition, ATTORNEYS shall provide CLIENT notice of any modification or termination of any program of issuance.

A. Professional Liability

ATTORNEYS shall maintain professional liability insurance of at least $1,000,000 per claim.

B. Workers’ Compensation

1. ATTORNEYS shall maintain a program of Workers’ Compensation insurance in an amount and form to meet all applicable requirements of the Labor Code of the State of California, including Employers Liability with a $150,000 limit, covering all persons providing services on behalf of ATTORNEYS and all risks to such persons under this AGREEMENT.

2. ATTORNEYS understand and agree that all ATTORNEYS’ personnel furnishing service to CLIENT under this AGREEMENT are employees solely of ATTORNEYS and not of CLIENT for purposes of workers’ compensation liability.
3. **ATTORNEYS** shall bear the sole responsibility and liability for furnishing workers’ compensation benefits to any **ATTORNEYS’** personnel for damages arising from service performed under this AGREEMENT.

3. **Independent Contractor Status**

   This AGREEMENT is between the CLIENT and **ATTORNEYS** and is not intended, and shall not be construed to create the relationship of agent, servant, employee, partnership, joint venture, or association, as between the CLIENT and **ATTORNEYS**.

4. **Covenant Against Contingent Fees**

   A. **ATTORNEYS** warrant that no person or selling agency has been employed or retained to solicit or secure this AGREEMENT upon an agreement or understanding for a commission, percentage, brokerage or contingent fee.

   B. For breach or violation of this warranty, CLIENT shall have the right to terminate this AGREEMENT, and in its sole discretion, to deduct from the AGREEMENT price or consideration, or otherwise recover, the full amount of any such commission, percentage, brokerage or contingent fee.

5. **Governing Laws**

   This AGREEMENT shall be construed in accordance with the laws of the State of California.

6. **Compliance with Laws**

   A. **ATTORNEYS** shall comply with all applicable Federal, State and local laws, rules, regulations, ordinances, and directives, and all provisions required to be included are incorporated by reference.

   B. **ATTORNEYS** shall indemnify and hold CLIENT harmless from any loss, damage or liability resulting from a violation on **ATTORNEYS’** part of such laws, rules, regulations or ordinances.

7. **Employment Eligibility Verification**

   **ATTORNEYS** warrant that they fully comply with all statutes and regulations regarding employment of aliens and others, and that all their employees performing services hereunder meet the citizenship or alien status requirements contained in all statutes and regulations. **ATTORNEYS** shall obtain, from all covered employees performing services hereunder, all verification and other documentation of employment eligibility status required by all statutes and regulations as they currently exist and as they
may be hereafter amended. ATTORNEYS shall retain such documentation for all covered employees for the period prescribed by law. ATTORNEYS shall indemnify, defend and hold harmless the CLIENT, its officers and employees from employer sanctions and any other liability which may be assessed against ATTORNEYS or CLIENT in connection with any alleged violation of any statute or regulation pertaining to the eligibility for employment of persons performing services under this AGREEMENT.

8. Record Retention and Inspection

Within ten (10) days of CLIENT’S written request, ATTORNEYS shall allow CLIENT or authorized State or Federal agencies or any duly authorized representative to have the right to access, examine, audit, excerpt, copy or transcribe any pertinent transaction, activity, time cards or their records relating to the AGREEMENT. ATTORNEYS shall keep such material, including all pertinent cost accounting, financial records and proprietary data for a period of four (4) years after termination or completion of this AGREEMENT unless CLIENT’S written permission is given to dispose of material prior to the end of such period or until such time as all audits are complete, whichever is later. In the event that records are located outside the County of Orange, ATTORNEYS shall pay CLIENT for travel and per diem costs when an inspection or audit is required.

9. Limitation of CLIENT’S Obligation Due to Non-Appropriation of Fund

A. CLIENT’S obligation is payable only from funds appropriated for the purpose of this AGREEMENT. All funds for payments after June 30 of the current fiscal year are subject to CLIENT’S legislative appropriation for this purpose. Payments during subsequent fiscal periods are dependent upon the same action.

B. In the event this AGREEMENT extends into succeeding fiscal year periods and the Board of Supervisors does not allocate sufficient funds for the next succeeding fiscal year’s payments, the affected services shall be terminated as of June 30, of the current fiscal year. CLIENT shall notify ATTORNEYS in writing of such non-allocation at the earliest possible date.

10. Default for Insolvency

CLIENT may cancel this AGREEMENT for default in the event any of the following may occur:

A. ATTORNEYS’ Insolvency – ATTORNEYS shall be deemed to be insolvent if they have ceased to pay their debts in the ordinary course of business or cannot pay their debts as they become due, whether they have committed an act of bankruptcy or not, and whether insolvent within the meaning of the Federal Bankruptcy Law or not;
B. The filing of a voluntary petition for reorganization or bankruptcy;
C. The appointment of a Receiver or Trustee for ATTORNEYS;
D. ATTORNEYS’ execution of an assignment for the benefit of creditors.

11. Nondiscrimination in Employment

A. ATTORNEYS certify that all persons employed by ATTORNEYS, their affiliates, subsidiaries or holding companies are and will be treated equally by them without regard to or because of race, religion, ancestry, national origin, sex, age, condition of physical handicap, marital status or political affiliation, and in compliance with all applicable Federal and State antidiscrimination laws and regulations.

B. ATTORNEYS shall take affirmative action to ensure that qualified applicants are employed and that employees are treated during employment without regard to race, religion, ancestry, national origin, sex, age, condition of physical handicap, marital status or political affiliation. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation and selection for training, including apprenticeship.

C. ATTORNEYS shall deal with their subcontractors, bidders or vendors without regard to or because of race, religion, ancestry, national origin, sex, age, condition of physical handicap, marital status or political affiliation.

D. If CLIENT finds that any of the above provisions has been violated, such shall constitute a material breach of contract upon which CLIENT may determine to cancel, terminate or suspend this AGREEMENT. While CLIENT reserves the right to determine independently that the antidiscrimination provisions of this AGREEMENT have been violated, in addition, any determination by the California Fair Employment Practices Commission or the Federal Equal Employment Opportunity Commission that ATTORNEYS have violated State or Federal antidiscrimination laws or regulations shall also constitute a finding by CLIENT that ATTORNEYS have violated the antidiscrimination provisions of this AGREEMENT.

12. Assurance of Compliance with Civil Rights Laws

ATTORNEYS assure that they shall comply with Subchapter VI of the Civil Rights Act of 1964, Title 42 of the United States Code Sections 2000e through 2000e(17), to the end that no person shall, on the grounds of race, religion, ancestry, national origin, sex, age, condition of physical handicap, marital status or political affiliation, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under this AGREEMENT or under any project, program or activity supported by this AGREEMENT.
13. **Conflict of Interest/Contracts Prohibited**

A. ATTORNEYS represent and warrant that no CLIENT employee whose position for COUNTY enables him/her to influence the award of this AGREEMENT or any competing agreement, and no spouse or economic dependent of such employee, is or shall be employed in any capacity by ATTORNEYS, or shall have any direct or indirect financial interest in this AGREEMENT.

B. ATTORNEYS represent and warrant that they are aware of, have read and will comply with COUNTY’S Conflict of Interest Policy adopted by COUNTY’S Board of Supervisors on September 24, 1985, which policy is incorporated herein by reference.

C. Anyone who is a former employee of COUNTY at the time of execution of this AGREEMENT or who subsequently becomes affiliated with ATTORNEYS in any capacity (employee, associate or partner) shall not 1) participate in the services provided by ATTORNEYS to CLIENT, or 2) become a partner, shareholder or otherwise share in the profits of ATTORNEYS for a period of one year from the date the former COUNTY employee left such employment.

14. **Confidentiality**

A. ATTORNEYS shall maintain the confidentiality of all information which it may acquire arising out of or connected with activities under this AGREEMENT in accordance with all applicable Federal, State and County laws, regulations, ordinances and directives relating to confidentiality, including the Code of Professional Responsibility. ATTORNEYS shall inform all of its principals, employees and agents providing services hereunder of the confidentiality provisions of this AGREEMENT.

B. These confidentiality obligations shall survive this AGREEMENT’S termination or expiration.

15. **Communications with CLIENT**

ATTORNEYS recognize that their relationship with CLIENT and its agents and employees, officers and/or representatives is subject to the attorney-client privilege and that any information acquired during the term of this AGREEMENT from or through CLIENT is confidential and privileged. ATTORNEYS warrant that they shall not disclose or use in any manner whatsoever any of the information from CLIENT officers, employees, and agents in connection with said relationships or proceedings. ATTORNEYS understand that the County Counsel is the legally empowered legal representative of CLIENT and its officers and employees and ATTORNEYS shall not without specific direction from the County Counsel communicate with, advise or represent CLIENT officers or employees. This provision shall not apply to communications between ATTORNEYS and Board of Supervisors members.
16. **Authorization Warranty**

ATTORNEYS represent and warrant that the signatory(s) to this AGREEMENT are fully authorized to obligate ATTORNEYS and that all corporate acts necessary to the execution of this AGREEMENT have been accomplished.

17. **Changes and Amendments of Terms**

CLIENT reserves the right to change any portion of the work required under this AGREEMENT, or amend its terms and conditions as may become necessary. Any such revisions shall be accomplished in the following manner:

A. For any revision that affects the services and responsibilities, payments, terms, or any condition included in this AGREEMENT, CLIENT and ATTORNEYS shall negotiate a modification (amendment) to this AGREEMENT.

B. For any change which does not affect the services and responsibilities, payments, terms, or any conditions included in this AGREEMENT, the party requesting the change shall send a letter stating any proposed change.

18. **Validity**

The invalidity in whole or in part of any provision of this AGREEMENT shall not void or affect the validity of any other provision.

19. **Waiver**

No waiver of a breach of any provision of this AGREEMENT by either party shall constitute a waiver of any other breach of the provision or any other provision of this AGREEMENT. Failure of either party to enforce any provision of this AGREEMENT at any time shall not be construed as a waiver of that provision. CLIENT’S remedies as described in this AGREEMENT shall be cumulative and additional to any other remedies in law or equity.

20. **Remedies Reserved to CLIENT**

The remedies reserved to CLIENT shall be cumulative and additional to any other remedies provided in law or equity.
ORANGE COUNTY CHILD SUPPORT ENFORCEMENT

CERTIFICATION REQUIREMENTS

A. In the case of an individual contractor, his/her name, date of birth, Social Security number, and residence address.

   Name:
   DOB:
   Social Security Number:
   Residence Address:

B. In the case of a contractor doing business in a form other than as an individual, the name, date of birth, Social Security number, and residence address of each individual who owns an interest of 10 percent or more in the contracting entity.

   Name:
   D.O.B.:
   Social Security Number:
   Residence Address:

   Name:
   D.O.B.:
   Social Security Number:
   Residence Address:

(Additional sheets may be used if necessary)

CERTIFICATION

"I certify that ____________________ is in full compliance with all applicable federal and state reporting requirements regarding its employees, and with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignments, and will continue to be in compliance throughout the term of (1) Contract (Contract #) or the contract for (Contract Description) with the County of Orange. I understand that failure to comply shall constitute a material breach of the contract and that failure to cure such breach within 60 calendar days of notice from the County shall constitute grounds for termination of the contract without cost to the County."

__________________________________________
Authorized Signature

__________________________________________
Typed or Printed Name

Title
AGREEMENT

BY AND BETWEEN

THE ORANGE COUNTY FLOOD CONTROL DISTRICT

AND

DENTONS US LLP

FOR

PROFESSIONAL LEGAL SERVICES

September 22, 2015
AGREEMENT

FOR PROFESSIONAL LEGAL SERVICES

THIS AGREEMENT FOR PROFESSIONAL LEGAL SERVICES ("AGREEMENT"), dated September 22, 2015, is made by and between the ORANGE COUNTY FLOOD CONTROL DISTRICT ("DISTRICT" or "CLIENT") on the one hand and DENTONS US LLP ("ATTORNEYS" or the "FIRM").

RECITALS

WHEREAS, DISTRICT desire to contract for professional legal services; and

WHEREAS, ATTORNEYS provide professional legal services, and are particularly qualified to perform the required services due to their legal competence and expertise; and

WHEREAS, CLIENT desires to retain ATTORNEYS’ services in connection with advisory and litigation services to provide environmental law, land use and planning related legal services to assist in the possible entitlement of certain District owned property as identified by District ("District Property"), which may include, but not be limited to, review of environmental documentation, review of entitlement and planning documentation such as proposed tract maps and/or development agreements and other land use, planning and environmental legal services related to the potential development, leasing, sale or other disposition of portions of the District Property, as more fully set forth in the Scope of Services that is attached hereto and incorporated herein by this reference as Exhibit A.

NOW, THEREFORE, CLIENT and ATTORNEYS agree as follows:

I. TERM AND TERMINATION

A. TERM

The term of this AGREEMENT shall begin on the date of execution by the Office of the Orange County Counsel ("County Counsel") and shall continue until completion of the matters for which ATTORNEYS have been retained, unless sooner terminated pursuant to Paragraph I(B)(1).

B. TERMINATION

1. TERMINATION FOR CLIENT’S CONVENIENCE

   a. Services performed under this AGREEMENT may be terminated in whole or in part at any time CLIENT deems to be in its/their best interests. CLIENT shall terminate services by delivering to
ATTORNEYS a written Termination Notice specifying the extent to which services are terminated and the effective termination date.

b. After receiving a Termination Notice and unless otherwise directed by CLIENT, ATTORNEYS shall:

   (1) Take all necessary steps to stop services on the date and to the extent specified in the Termination Notice.

   (2) Complete services not terminated by the Termination Notice.

c. After receiving a Termination Notice, ATTORNEYS shall give CLIENT a Closing Report as described in Section I(B)(2) below and:

   (1) ATTORNEYS shall submit final billing for terminated services promptly, but no later than thirty (30) calendar days from the effective termination date.

   (2) If ATTORNEYS fail to submit a final billing within the time allowed, CLIENT may determine, on the basis of information available to it/them, the amount, if any, due to ATTORNEYS. After CLIENT makes a determination, it/they shall pay ATTORNEYS that amount. CLIENT’S determination shall be final.

2. **Closing Report and Turning Over of Files Upon Termination**

a. ATTORNEYS shall deliver an oral Closing Report to CLIENT immediately after terminating services under Section I(B)(1) If requested by County Counsel, ATTORNEYS shall provide a written Closing Report within 30 days of termination of services.

b. The Closing Report shall include, but not be limited to:

   (1) A brief description of any outstanding legal issues or matters which are pending with ATTORNEYS, which includes a discussion of applicable law.

   (2) A list and description of all scheduled meetings, court appearances or matters which ATTORNEYS were to attend.

   (3) An assessment of the accomplishments of ATTORNEYS’ engagement, including recommendations, if any, for
changes to current or future CLIENT policies or procedures.

c. ATTORNEYS shall give CLIENT copies of all files and attorney work product for any matters in which ATTORNEYS were retained by CLIENT. This includes any computerized index, computer programs and document retrieval systems created or used for the matters. When instructed by County Counsel, ATTORNEYS shall file with the court the appropriate substitution of counsel.

3. TERMINATION BY ATTORNEYS

Nothing in this AGREEMENT shall prevent ATTORNEYS from terminating this representation in accordance with the Rules of Professional Conduct; however, any conflict of interests shall be addressed as set forth in Section II herein.

II. PROFESSIONAL CONFLICT OF INTEREST

Without limitation as to, or alteration of, obligations otherwise imposed on ATTORNEYS with respect to CLIENT under the Rules of Professional Conduct or under law, and in addition to such obligations, ATTORNEYS agree to comply with the following portion of the Conflicts of Interest Policy adopted by the Orange County Board of Supervisors on September 24, 1985, which in its provisions relating to the County of Orange is hereby agreed to apply equally to the ATTORNEYS' representation of DISTRICT:

"It is the policy of the Orange County Board of Supervisors, on behalf of COUNTY and all other governmental entities of which it is the governing board, to prohibit the employment by any law firm adverse to COUNTY while simultaneously being employed by COUNTY, unless the Board is advised of, and gives specific consent to, such adverse employment.

"Any law firm which has been retained by COUNTY which desires employment which is or may be adverse to COUNTY shall transmit a statement of such desire to the County Counsel prior to undertaking such employment. The statement shall include a description of the employment and the reasons, if any, why COUNTY should consent. The County Counsel will forward the request to the Board of Supervisors with recommendation for action."

If the Board of Supervisors declines to consent to the employment, the law firm shall decline any such employment. The Board's authority to give consent of CLIENT is not delegated to any officer or employee of CLIENT.
The DISTRICT recognizes that this policy may exceed the Rules of Professional Conduct 4-101 and 5-102 of the State Bar of California. Where applicable, law firms employed by the CLIENT shall comply with such rules in securing necessary consent from their other clients.

III. ATTORNEYS’ SERVICES AND RESPONSIBILITIES

A. Key Attorneys Personnel

1. ATTORNEYS’ Supervising Attorney for this AGREEMENT shall be Brian Fish. Any change in ATTORNEYS’ Supervising Attorney shall be first authorized in writing by County Counsel.

2. ATTORNEYS’ Supervising Attorney shall have full authority to act for ATTORNEYS on all daily operational matters under this AGREEMENT and shall serve as or designate lead counsel (“Lead Counsel”) for all activities performed under the scope of services described below. Designation of Lead Counsel shall be subject to County Counsel’s written approval.

B. Services

1. ATTORNEYS shall provide CLIENT with the necessary representation by staff qualified to perform the legal tasks at the least costly billing category as is acceptable to County Counsel.

2. ATTORNEYS shall provide all legal services requested by County Counsel within or reasonably related to the description of the Scope of Services, attached hereto as Exhibit A.

3. ATTORNEYS shall meet with CLIENT representatives as requested by County Counsel.

4. ATTORNEYS shall obtain County Counsel’s written approval before retaining any consultant or expert witness to assist with any individual matter assigned to ATTORNEYS.

5. ATTORNEYS shall obtain the approval of County Counsel prior to undertaking legal research of more than twelve (12) hours on any particular issue.

6. ATTORNEYS shall obtain County Counsel’s prior approval for travel outside the Counties of: Orange, Los Angeles, Riverside, Imperial, Kern, San Bernardino, Ventura, Santa Barbara or San Diego.

7. ATTORNEYS shall consult with County Counsel on tactical decisions.
8. ATTORNEYS shall, if applicable, assist CLIENT in settlement evaluations and negotiations, and shall obtain CLIENT'S authority before making any settlement proposal on CLIENT'S behalf or to the Court or to any other party to a case or matter.

9. ATTORNEYS shall keep and preserve all backup documentation to support all entries included in its billings as referenced in Section VI(A)(5) for a period of four (4) years after termination or completion of the matters for which ATTORNEYS have been retained.

IV. CLIENT'S DUTIES AND RESPONSIBILITIES

A. Key CLIENT Personnel

1. County Counsel's designated Supervising Deputy County Counsel Thomas A. Miller shall be CLIENT'S Supervising Attorneys under this Agreement. Whenever County Counsel designates a Supervising Attorney or change in Supervising Attorney, he shall notify ATTORNEYS in writing.

2. CLIENT'S Supervising Attorney shall have authority to act for DISTRICT, within the scope of his authority, on all daily operational matters under this AGREEMENT and shall review and approve all ATTORNEYS’ reports, whether written or verbal, and any change in ATTORNEYS’ Supervising Attorney or Lead Counsel.

3. Approval of proposed settlement recommendations is subject to approval by CLIENT'S Board of Supervisors.

B. Duties and Responsibilities

1. County Counsel shall review and approve:
   a. All reports, requests, and other services and responsibilities under this AGREEMENT.
   b. Any proposed tactical maneuver.
   c. All recommended settlement proposals prior to giving ATTORNEYS settlement authority.
   d. All billing statements in accordance with the review procedures referenced in Exhibit B.
2. County Counsel shall have access to review all correspondence and legal documents prepared by or in the possession of ATTORNEYS.

3. County Counsel shall monitor ATTORNEYS’ overall performance under this AGREEMENT. County Counsel reserves the right to conduct audits by its own staff, a DISTRICT auditor, or a contract auditor.

4. County Counsel shall evaluate and report to CLIENT’S Board of Supervisors on ATTORNEYS’ performance, as required.

V. COMPENSATION

A. FEES

1. ATTORNEYS shall provide legal services at the billing rates listed in Exhibit C.

2. Billing rates may be subject to review and adjustment, as agreed between CLIENT and ATTORNEYS, only after two years from the date of execution of this Agreement by CLIENT. Any rate increase shall require an amendment to this AGREEMENT approved by CLIENT’S Board of Supervisors.

B. EXPENSES

CLIENT shall reimburse ATTORNEYS for their actual out-of-pocket expenses but without any additional costs for having advanced the funds or for expenses generally considered as overhead already reflected in the ATTORNEYS’ hourly rates. ATTORNEYS shall note that CLIENT is exempt from all filing fee charges.

1. Reimbursable ordinary expenses shall include, but not be limited to:

   a. Transcript fees.
   b. Postage.
   c. Messenger service.
   d. Process service.
   e. Document reproduction by outside vendor.
   f. In-house document reproduction. If amount charged in any one month exceeds $200.00, prior County Counsel approval shall be obtained.

2. Reimbursable extraordinary expenses shall include charges of which ATTORNEYS have obtained County Counsel’s prior approval. Such expenses shall include, but not be limited to:
a. Consultants, up to $150,000 per contract, unless otherwise authorized by CLIENT'S Board of Supervisors.

b. Expert witnesses up to $150,000 per contract, unless otherwise authorized by CLIENT'S Board of Supervisors.

c. Travel outside the Counties of Orange, Los Angeles, San Bernardino, Riverside, Imperial, Kern, Ventura, Santa Barbara and San Diego.

d. Investigative services.

e. Any expense item exceeding Five Hundred Dollars ($500.00).

3. Non-reimbursable expenses shall include, but not be limited to:

a. Staff time or overtime for performing secretarial, clerical, or word processing functions.

b. Charges for time spent to provide necessary information for DISTRICT audits or billing inquiries.

c. Charges for work performed which had not been authorized by County Counsel. Such work shall be a gratuitous effort by ATTORNEYS.

d. Mileage, travel expenses or telephone expenses from the regular office of ATTORNEYS to the County of Orange.

VI. BILLINGS AND PAYMENTS

A. BILLINGS

1. ATTORNEYS shall submit its billing statement monthly in arrears, no later than the tenth (10th) of the month following the month service was rendered.

2. The original billing statement(s) and one copy shall be submitted to:

Orange County Flood Control District
Office of the County Counsel
333. W. Santa Ana Blvd, 4th Floor
Post Office Box 1379
Santa Ana, California 92702-1379

ATTN: Thomas Miller, Supervising Deputy County Counsel
3. The original of each billing statement shall include a declaration of
ATTORNEYS’ Supervising Attorney or Lead Counsel as provided in
Exhibit D.

4. Each billing statement shall be identified by a unique number and shall be
itemized to include:

a. Matter or Case name and court number.

b. Staffing level(s), hourly rates and specific activities for
each attorney and/or paralegal.

(1) Each activity shall be billed separately as a line item
in a time reporting format acceptable to County
Counsel.

(2) A detailed description of specific activities for each
attorney and/or paralegal which shall include, but
not be limited to:

a. In-person conferences.
b. Telephone call(s).
c. Correspondence.
d. Depositions.
e. Case reports.
f. Document drafting.
g. Hearings.
h. Research, including computerized legal
research databases.
i. Matter reviews.
j. Travel. The street, city and county address
shall be individually identified for all
destinations.

c. Total current monthly fees billed for each staffing level.

d. Total cumulative fees billed for each staffing level.

e. Total current monthly expenses billed in the following
categories:

(1) Consultant and expert witness expenses;

(2) Deposition and transcript expenses; and
(3) Other miscellaneous expenses.

f. Total cumulative expenses to date billed in (e) directly above.

5. ATTORNEYS shall have and maintain all backup documentation to support all entries included in the monthly billing statement. Such documentation shall be in a form subject to audit and in accordance with generally accepted accounting principles. ATTORNEYS shall make such documentation available to auditors upon request and in accordance with Exhibit E.

B. PAYMENTS

1. CLIENT shall make payment(s) for services rendered under this AGREEMENT monthly in arrears based on the monthly itemized billing statement(s) ATTORNEYS submit to CLIENT.

2. CLIENT'S legal and accounting staff shall review all billing statements in accordance with the review procedures in Exhibit B.

3. CLIENT shall make its best effort to process payments promptly after receiving ATTORNEYS' monthly billing statement. CLIENT shall not pay interest or finance charges on any outstanding balance(s).

VII. NOTICES

All notices and required reports shall be written and hand-delivered or mailed by first class, postage prepaid, addressed to County Counsel or ATTORNEYS at the addresses below, or at any other address County Counsel or ATTORNEYS shall provide in writing to each other:

A. IF TO CLIENT:

Office of the Orange County Counsel
333 West Santa Ana Blvd., 4th Floor
Santa Ana, California 92701
ATTN: Thomas Miller, Supervising Deputy County Counsel

Email: thomas.miller@coco.ocgov.com
B. **IF TO ATTORNEYS:**

Dentons US LLP  
600 West Broadway  
Suite 2600  
San Diego, CA 92101  
ATTN: Brian Fish

Email: brian.fish@dentons.com

VIII. **ASSIGNMENT**

A. No part of this AGREEMENT or any right or obligation arising from it is assignable without CLIENT’S written consent.

B. Any attempt by ATTORNEYS to assign or subcontract services relating to this AGREEMENT without CLIENT’S consent shall constitute a material breach of this AGREEMENT. However, ATTORNEYS may retain consultants or experts as ATTORNEYS deem appropriate after receiving County Counsel’s written approval in an amount not to exceed $150,000 per contract, or in amounts in excess of $150,000 if approved by CLIENT’S Board of Supervisors.

IX. **STANDARD TERMS AND CONDITIONS**

Standard required terms and conditions for CLIENT’s outside legal services contracts are attached as Exhibit E and Exhibit F.

X. **MERGER**

A. Exhibits A through E are attached and incorporated as part of this AGREEMENT. The Exhibits are titled as follows:

1. **Exhibit A** Scope of Services
2. **Exhibit B** CLIENT’s Legal Billing Review Procedures
3. **Exhibit C** ATTORNEYS’ Hourly Billing Rates
4. **Exhibit D** ATTORNEYS’ Declaration on Billing Statement
5. **Exhibit E** Standard Terms and Conditions for CLIENT Outside Legal Contracts
6. **Exhibit F** Orange County Child Support Enforcement Certification Requirements
B. This AGREEMENT shall constitute the complete and exclusive statement of understanding between CLIENT and ATTORNEYS which supersedes all previous written or oral agreements, and all prior communications between the CLIENT and ATTORNEYS relating to the subject matter of this AGREEMENT.

XI. CHILD SUPPORT ENFORCEMENT REQUIREMENTS

In order to comply with child support enforcement requirements of CLIENT, within 30 days of award of contract, ATTORNEYS agree to furnish to the contract administrator:

A. In the case of an individual ATTORNEY, his/her name, date of birth, Social Security number, and residence address.

B. In the case of ATTORNEYS doing business in form other than as an individual, the name, date of birth, Social Security number, and residence address of each individual who owns an interest in 10 percent or more in the contracting entity.

C. A certification that the ATTORNEYS have fully complied with all applicable federal and state reporting requirements regarding its employees; and

D. A certification that the ATTORNEYS have fully complied with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment, and will continue to so comply.

The certification will be stated as follows:

“I certify that ______________________________ (Company Name) is in full compliance with all applicable federal and state reporting requirements regarding its employees, and with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment, and will continue to be in compliance throughout the term of Contract (_______Contract #) with the County of Orange. I understand that failure to comply shall constitute a material breach of the contract and that failure to cure such breach within 60 calendar days of notice from the County shall constitute grounds for termination of the contract without cost to the County.”

It is expressly understood that this data will be transmitted to government agencies charged with the establishment and enforcement of child support orders, and for no other purposes.

Failure of the ATTORNEYS to timely submit the data and/or certification required above or to comply with all federal and state reporting requirements for child support enforcement or to comply with all lawfully served Wage and Earnings Assignment Orders and Notices of
Assignment shall constitute a material breach of the contract. Failure to cure such breach within 60 calendar days of notice from the CLIENT shall constitute grounds for termination of the contract. (See Attached Certification Form, Exhibit F.)

IN WITNESS WHEREOF, the parties hereto have executed this AGREEMENT as of the date first written above.

DISTRICT

LEON J. PAGE
COUNTY COUNSEL

By: __________________________
Thomas A. Miller,
Supervising Deputy County Counsel

DENTONS US LLP

By: __________________________
Brian Pish, Partner
SCOPE OF SERVICES

1. Perform all normal and customary duties required of environmental, land use and planning counsel in connection with the possible entitlement of the District Property, which may include, but not be limited to, review of environmental documentation, review of entitlement and planning documentation such as proposed tract maps and/or development agreements and other land use, planning and environmental legal services related to the potential development, leasing, sale or other disposition of portions of the District Property ("District Property Activities").

2. Advise District staff as to procedures, legality of documents, policy concerns, and legal implications concerning the District Property Activities.

3. Advise District regarding the requirements of environmental, land use and other state and federal laws relevant to the District Property Activities.

4. Assist District in negotiation, drafting and implementation of environmental and land use documentation, correspondence, and related documents.

5. Attend meetings of the Board of Supervisors and relevant Staff meetings, as well as relevant city council meetings, as necessary.

6. Prepare resolutions, notices, pleadings, and other legal documents necessary for the District Property Activities.

7. Provide representation in hearings, arbitration, mediation, and any related litigation arising out of the District Property Activities.
CLIENT'S LEGAL BILLING REVIEW PROCEDURES

CLIENT'S legal and accounting staff shall review all billing statements prior to payment to ATTORNEYS. This review may include, but not be limited to:

1. The determination that the signed and dated declaration of ATTORNEYS' Supervising Attorney or Lead Counsel is on the original of each submitted billing statement.

2. The determination that the fee charged is consistent with ATTORNEYS' approved hourly rate schedule.

3. The determination that the multiplication of the hours billed times the approved rate schedule dollars is correct.

4. The determination that the bill is clearly divided into billing rate categories based on hours worked on each activity for each day and costs which ATTORNEYS have advanced to consultants and experts, depositions, and transcript expenses, and other miscellaneous expenses.

5. Unless specifically identified as "Original Research" on the billing statement, time charged for activities such as research, document and motion preparation, etc., shall be considered to be activity previously encountered by ATTORNEYS.

6. The determination that each item charged is usual, customary, and reasonable for the particular item. If CLIENT determines an item charged is greater than usual, customary, or reasonable, or is duplicative, ambiguous, excessive, or inappropriate, CLIENT shall either return the bill to ATTORNEYS with a request for explanation or adjust the payment accordingly, and give notice to ATTORNEYS of the adjustment.
## ATTORNEYS' HOURLY BILLING RATES

Attorneys' hourly billing rates and approved personnel are:

<table>
<thead>
<tr>
<th>STAFFING LEVEL</th>
<th>HOURLY RATE</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>SUPERVISING ATTORNEY</strong></td>
<td></td>
</tr>
<tr>
<td>Name: Brian Fish</td>
<td>$445.00</td>
</tr>
<tr>
<td><strong>PARTNERS</strong></td>
<td></td>
</tr>
<tr>
<td>Name: Matthew Adams</td>
<td>$445.00</td>
</tr>
<tr>
<td>Name: Marjorie Burchett</td>
<td>$445.00</td>
</tr>
<tr>
<td>Partners as approved by CLIENT's Supervising Attorney:</td>
<td>$445.00</td>
</tr>
<tr>
<td><strong>ASSOCIATES</strong></td>
<td></td>
</tr>
<tr>
<td>Names: Mero Marmé</td>
<td>$350.00</td>
</tr>
<tr>
<td>Names: Stefanie Warren</td>
<td>$350.00</td>
</tr>
<tr>
<td>Names: Jessica Duggan</td>
<td>$350.00</td>
</tr>
<tr>
<td>Associates as approved by CLIENT's Supervising Attorney:</td>
<td>$350.00</td>
</tr>
</tbody>
</table>
ATTORNEYS' DECLARATION ON BILLING STATEMENT

The following declaration shall be made on the original of each billing statement and personally signed and dated by ATTORNEYS' Supervising Attorney or Lead Counsel.

"I have personally examined this billing statement. All entries are in accordance with the Agreement For Professional Legal Services, are correct and reasonable for the services performed and costs incurred, and no item on this statement has been previously billed to DISTRICT."

DATE ___________________________ SIGNATURE ___________________________

______________________________
NAME

______________________________
TITLE
(Supervising Attorney or Lead Counsel)
STANDARD TERMS AND CONDITIONS
FOR OUTSIDE LEGAL CONTRACTS

1. Indemnification

ATTORNEYS shall indemnify, defend and save harmless CLIENT, its agents, officers and employees from and against any and all liability expense, including defense costs and legal fees, and claims for damages of any nature whatsoever, in connection with ATTORNEYS’ legal operations, including any workers’ compensation suits, liability or expense, arising from or connected with services performed under this AGREEMENT. Notwithstanding the foregoing sentence, CLIENT agrees that it will look first to ATTORNEYS’ professional liability insurance in the event of any loss in connection with the ATTORNEYS’ legal operations arising from or connected with services performed under this AGREEMENT, and thereafter shall rely on the indemnity provision set forth herein.

2. Insurance

Without limiting ATTORNEYS’ indemnification of CLIENT, ATTORNEYS shall provide and maintain at their own expense during the term of this AGREEMENT the following Program of Insurance covering their operations. ATTORNEYS shall deliver evidence of a satisfactory insurance program to County Counsel on or before the effective date of this AGREEMENT. Evidence shall specifically identify this AGREEMENT and shall contain express request that CLIENT is to be given written notice by registered mail of at least thirty (30) days in advance of any modification or termination of any program of insurance. In addition, ATTORNEYS shall provide CLIENT notice of any modification or termination of any program of issuance.

A. Professional Liability

ATTORNEYS shall maintain professional liability insurance of at least $1,000,000 per claim.

B. Workers' Compensation

1. ATTORNEYS shall maintain a program of Workers' Compensation insurance in an amount and form to meet all applicable requirements of the Labor Code of the State of California, including Employers Liability with a $150,000 limit, covering all persons providing services on behalf of ATTORNEYS and all risks to such persons under this AGREEMENT.

2. ATTORNEYS understand and agree that all ATTORNEYS' personnel furnishing service to CLIENT under this AGREEMENT are employees solely of ATTORNEYS and not of CLIENT for purposes of workers’ compensation liability.
3. **ATTORNEYS** shall bear the sole responsibility and liability for furnishing workers’ compensation benefits to any **ATTORNEYS’** personnel for damages arising from service performed under this AGREEMENT.

3. **Independent Contractor Status**

   This AGREEMENT is between the CLIENT and ATTORNEYS and is not intended, and shall not be construed to create the relationship of agent, servant, employee, partnership, joint venture, or association, as between the CLIENT and ATTORNEYS.

4. **Covenant Against Contingent Fees**

   A. ATTORNEYS warrant that no person or selling agency has been employed or retained to solicit or secure this AGREEMENT upon an agreement or understanding for a commission, percentage, brokerage or contingent fee.

   B. For breach or violation of this warranty, CLIENT shall have the right to terminate this AGREEMENT, and in its sole discretion, to deduct from the AGREEMENT price or consideration, or otherwise recover, the full amount of any such commission, percentage, brokerage or contingent fee.

5. **Governing Laws**

   This AGREEMENT shall be construed in accordance with the laws of the State of California.

6. **Compliance with Laws**

   A. ATTORNEYS shall comply with all applicable Federal, State and local laws, rules, regulations, ordinances, and directives, and all provisions required to be included are incorporated by reference.

   B. ATTORNEYS shall indemnify and hold CLIENT harmless from any loss, damage or liability resulting from a violation on ATTORNEYS’ part of such laws, rules, regulations or ordinances.

7. **Employment Eligibility Verification**

   ATTORNEYS warrant that they fully comply with all statutes and regulations regarding employment of aliens and others, and that all their employees performing services hereunder meet the citizenship or alien status requirements contained in all statutes and regulations. ATTORNEYS shall obtain, from all covered employees performing services hereunder, all verification and other documentation of employment eligibility status required by all statutes and regulations as they currently exist and as they
may be hereafter amended. ATTORNEYS shall retain such documentation for all covered employees for the period prescribed by law. ATTORNEYS shall indemnify, defend and hold harmless the CLIENT, its officers and employees from employer sanctions and any other liability which may be assessed against ATTORNEYS or CLIENT in connection with any alleged violation of any statute or regulation pertaining to the eligibility for employment of persons performing services under this AGREEMENT.

8. **Record Retention and Inspection**

Within ten (10) days of CLIENT’S written request, ATTORNEYS shall allow CLIENT or authorized State or Federal agencies or any duly authorized representative to have the right to access, examine, audit, excerpt, copy or transcribe any pertinent transaction, activity, time cards or their records relating to the AGREEMENT. ATTORNEYS shall keep such material, including all pertinent cost accounting, financial records and proprietary data for a period of four (4) years after termination or completion of this AGREEMENT unless CLIENT’S written permission is given to dispose of material prior to the end of such period or until such time as all audits are complete, whichever is later. In the event that records are located outside the County of Orange, ATTORNEYS shall pay CLIENT for travel and per diem costs when an inspection or audit is required.

9. **Limitation of CLIENT’S Obligation Due to Non-Appropriation of Fund**

   A. CLIENT’S obligation is payable only from funds appropriated for the purpose of this AGREEMENT. All funds for payments after June 30 of the current fiscal year are subject to CLIENT’S legislative appropriation for this purpose. Payments during subsequent fiscal periods are dependent upon the same action.

   B. In the event this AGREEMENT extends into succeeding fiscal year periods and the Board of Supervisors does not allocate sufficient funds for the next succeeding fiscal year’s payments, the affected services shall be terminated as of June 30, of the current fiscal year. CLIENT shall notify ATTORNEYS in writing of such non-allocation at the earliest possible date.

10. **Default for Insolvency**

CLIENT may cancel this AGREEMENT for default in the event any of the following may occur:

   A. ATTORNEYS’ Insolvency – ATTORNEYS shall be deemed to be insolvent if they have ceased to pay their debts in the ordinary course of business or cannot pay their debts as they become due, whether they have committed an act of bankruptcy or not, and whether insolvent within the meaning of the Federal Bankruptcy Law or not;
B. The filing of a voluntary petition for reorganization or bankruptcy;
C. The appointment of a Receiver or Trustee for ATTORNEYS;
D. ATTORNEYS’ execution of an assignment for the benefit of creditors.

11. **Nondiscrimination in Employment**

   A. ATTORNEYS certify that all persons employed by ATTORNEYS, their affiliates, subsidiaries or holding companies are and will be treated equally by them without regard to or because of race, religion, ancestry, national origin, sex, age, condition of physical handicap, marital status or political affiliation, and in compliance with all applicable Federal and State antidiscrimination laws and regulations.

   B. ATTORNEYS shall take affirmative action to ensure that qualified applicants are employed and that employees are treated during employment without regard to race, religion, ancestry, national origin, sex, age, condition of physical handicap, marital status or political affiliation. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation and selection for training, including apprenticeship.

   C. ATTORNEYS shall deal with their subcontractors, bidders or vendors without regard to or because of race, religion, ancestry, national origin, sex, age, condition of physical handicap, marital status or political affiliation.

   D. If CLIENT finds that any of the above provisions has been violated, such shall constitute a material breach of contract upon which CLIENT may determine to cancel, terminate or suspend this AGREEMENT. While CLIENT reserves the right to determine independently that the antidiscrimination provisions of this AGREEMENT have been violated, in addition, any determination by the California Fair Employment Practices Commission or the Federal Equal Employment Opportunity Commission that ATTORNEYS have violated State or Federal antidiscrimination laws or regulations shall also constitute a finding by CLIENT that ATTORNEYS have violated the antidiscrimination provisions of this AGREEMENT.

12. **Assurance of Compliance with Civil Rights Laws**

   ATTORNEYS assure that they shall comply with Subchapter VI of the Civil Rights Act of 1964, Title 42 of the United States Code Sections 2000e through 2000e(17), to the end that no person shall, on the grounds of race, religion, ancestry, national origin, sex, age, condition of physical handicap, marital status or political affiliation, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under this AGREEMENT or under any project, program or activity supported by this AGREEMENT.
13. **Conflict of Interest/Contracts Prohibited**

   A. ATTORNEYS represent and warrant that no CLIENT employee whose position for DISTRICT enables him/her to influence the award of this AGREEMENT or any competing agreement, and no spouse or economic dependent of such employee, is or shall be employed in any capacity by ATTORNEYS, or shall have any direct or indirect financial interest in this AGREEMENT.

   B. ATTORNEYS represent and warrant that they are aware of, have read and will comply with COUNTY’S Conflict of Interest Policy adopted by COUNTY’S Board of Supervisors on September 24, 1985, which policy is incorporated herein by reference.

   C. Anyone who is a former employee of DISTRICT at the time of execution of this AGREEMENT or who subsequently becomes affiliated with ATTORNEYS in any capacity (employee, associate or partner) shall not 1) participate in the services provided by ATTORNEYS to CLIENT, or 2) become a partner, shareholder or otherwise share in the profits of ATTORNEYS for a period of one year from the date the former DISTRICT employee left such employment.

14. **Confidentiality**

   A. ATTORNEYS shall maintain the confidentiality of all information which it may acquire arising out of or connected with activities under this AGREEMENT in accordance with all applicable Federal, State and County laws, regulations, ordinances and directives relating to confidentiality, including the Code of Professional Responsibility. ATTORNEYS shall inform all of its principals, employees and agents providing services hereunder of the confidentiality provisions of this AGREEMENT.

   B. These confidentiality obligations shall survive this AGREEMENT’S termination or expiration.

15. **Communications with CLIENT**

   ATTORNEYS recognize that their relationship with CLIENT and its agents and employees, officers and/or representatives is subject to the attorney-client privilege and that any information acquired during the term of this AGREEMENT from or through CLIENT is confidential and privileged. ATTORNEYS warrant that they shall not disclose or use in any manner whatsoever any of the information from CLIENT officers, employees, and agents in connection with said relationships or proceedings. ATTORNEYS understand that the County Counsel is the legally empowered legal representative of CLIENT and its officers and employees and ATTORNEYS shall not without specific direction from the County Counsel communicate with, advise or represent CLIENT officers or employees. This provision shall not apply to communications between ATTORNEYS and Board of Supervisors members.
16. **Authorization Warranty**

ATTORNEYS represent and warrant that the signatory(s) to this AGREEMENT are fully authorized to obligate ATTORNEYS and that all corporate acts necessary to the execution of this AGREEMENT have been accomplished.

17. **Changes and Amendments of Terms**

CLIENT reserves the right to change any portion of the work required under this AGREEMENT, or amend its terms and conditions as may become necessary. Any such revisions shall be accomplished in the following manner:

A. For any revision that affects the services and responsibilities, payments, terms, or any condition included in this AGREEMENT, CLIENT and ATTORNEYS shall negotiate a modification (amendment) to this AGREEMENT.

B. For any change which does not affect the services and responsibilities, payments, terms, or any conditions included in this AGREEMENT, the party requesting the change shall send a letter stating any proposed change.

18. **Validity**

The invalidity in whole or in part of any provision of this AGREEMENT shall not void or affect the validity of any other provision.

19. **Waiver**

No waiver of a breach of any provision of this AGREEMENT by either party shall constitute a waiver of any other breach of the provision or any other provision of this AGREEMENT. Failure of either party to enforce any provision of this AGREEMENT at any time shall not be construed as a waiver of that provision. CLIENT'S remedies as described in this AGREEMENT shall be cumulative and additional to any other remedies in law or equity.

20. **Remedies Reserved to CLIENT**

The remedies reserved to CLIENT shall be cumulative and additional to any other remedies provided in law or equity.
ORANGE COUNTY CHILD SUPPORT ENFORCEMENT

CERTIFICATION REQUIREMENTS

A. In the case of an individual contractor, his/her name, date of birth, Social Security number, and residence address.

Name:
DOB:
Social Security Number:
Residence Address:

B. In the case of a contractor doing business in a form other than as an individual, the name, date of birth, Social Security number, and residence address of each individual who owns an interest of 10 percent or more in the contracting entity.

Name:
D.O.B.:
Social Security Number:
Residence Address:

Name:
DOB.:
Social Security Number:
Residence Address:

(Additional sheets may be used if necessary)

CERTIFICATION

"I certify that ________________ is in full compliance with all applicable federal and state reporting requirements regarding its employees, and with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignments, and will continue to be in compliance throughout the term of (1) Contract (Contract #) or the contract for (Contract Description) with the County of Orange. I understand that failure to comply shall constitute a material breach of the contract and that failure to cure such breach within 60 calendar days of notice from the County shall constitute grounds for termination of the contract without cost to the County."

__________________________________________
Authorized Signature

__________________________________________
Typed or Printed Name

Title
February 6, 2019

BY EMAIL
julia.woo@cocoocgov.com

Ms. Julia Woo  
County of Orange  
P.O. Box 1379  
Santa Ana, CA 92702-1379

Re: Departure of Brian Fish  
County of Orange/El Toro (15129679-000012); 100 Acre - Declaratory Relief/CEQA Litigation (.000014); and WAP Litigation (.000015)

Dear Ms. Woo:

As you know, Dentons US LLP ("Dentons") has represented the County of Orange in various real estate transactional and litigation matters. It has been our privilege to be your lawyers. As you also know, Brian Fish has been part of our legal team on certain of your matters.

This is to advise you that Mr. Fish has notified us of his withdrawal from Dentons. Brian’s anticipated date of withdrawal is February 11, 2019. Upon withdrawal, he will continue his practice with the Buchalter law firm, 655 West Broadway, Suite 1625, San Diego, CA 92101-8590, (619) 219-5335.

You are, of course, free to select any attorney or firm you desire to represent you as to any legal services you may require going forward, including services in the matters in which this firm currently represents you. Dentons, which continues to maintain active real estate and litigation practices, would be pleased to continue representing you in your ongoing matters and in any new matters for which you might need our services.

In speaking with Brian, I understand that he would like Dentons to act as co-counsel with the Buchalter firm on the litigation matters that Dentons is currently handling for the County of Orange, specifically the 100 Acre and WAP litigations. Assuming this is correct, we will need your authorization for Dentons to retain a copy of the paper files and electronic data relating to the two referenced litigation matters. We will also need your authorization to transfer, to the Buchalter firm, the paper files and electronic data in the El Toro matter. If you agree, please execute a copy of the attached authorization letter and return it to me by fax or email.
We appreciate the opportunity to represent the County of Orange and will work with Brian to ensure that any necessary transitions occur in a manner that continues to afford you quality legal services without interruption.

Sincerely,

[Signature]

John W. Leslie
Office Managing Partner

JWL/gdv

Enclosure

cc: Robert A. Cocchia, Esq.
VIA Email to: john.leslie@dentons.com

John Leslie, Esq.
Office Managing Partner
Dentons US LLP
4655 Executive Drive, Suite 700
San Diego, CA 92121

Re: Transfer of Files

Dear Mr. Leslie:

The County of Orange authorizes and directs Dentons US LLP ("Dentons") (formerly known as McKenna Long & Aldridge LLP and Luce, Forward, Hamilton & Scripps LLP) to transfer a copy of the paper files and electronic data in the 100 Acre and WAP litigations to the Buchalter law firm, 655 West Broadway, Suite 1625, San Diego, CA 92101-8590, (619) 219-5335. The County of Orange also authorizes the transfer of the paper files and electronic data in the El Toro matter to the Buchalter law firm, 655 West Broadway, Suite 1625, San Diego, CA 92101-8590, (619) 219-5335.

<table>
<thead>
<tr>
<th>Client/Matter No.</th>
<th>Client Name</th>
<th>Matter Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>15129679.000012</td>
<td>County of Orange</td>
<td>El Toro</td>
</tr>
<tr>
<td>15129679.000014</td>
<td>County of Orange</td>
<td>100 Acre - Declaratory Relief/CEQA Litigation</td>
</tr>
<tr>
<td>15129679.000015</td>
<td>County of Orange</td>
<td>WAP Litigation</td>
</tr>
</tbody>
</table>

We acknowledge that Bob Cocchia and other Dentons attorneys may continue to be involved in the 100 Acre and WAP Litigation matters.

We understand that Dentons professional obligation to protect client confidences and secrets under Rule 1.6 of the Rules of Professional Conduct continues after termination of Dentons' engagement on these matters.

Sincerely,

COUNTY OF ORANGE

By: ________________________________
Authorized Signatory
February 6, 2019

BY E-MAIL

nicole.walsh@coco.ocgov.com

Ms. Nicole M. Walsh
County of Orange
Office of the County Counsel
Post Office Box 1379
Santa Ana, CA 92702-1379

Re: Departure of Brian Fish
Orange County Flood Control District/Greenspot Property (City of Highlands)
[15136971-000002]

Dear Ms. Walsh:

As you know, Dentons US LLP ("Dentons") has represented Orange County Flood Control District ("OCFCD") in various real estate transactional and litigation matters. It has been our privilege to be your lawyers. As you also know, Brian Fish has been part of our legal team on certain of your matters.

This is to advise you that Mr. Fish has notified us of his withdrawal from Dentons. Brian’s anticipated date of withdrawal is February 11, 2019. Upon withdrawal, he will continue his practice with the Buchalter law firm, 655 West Broadway, Suite 1625, San Diego, CA 92101-8590, (619) 219-5335.

Dentons continues to maintain active real estate and litigation practices and would be pleased to continue representing you in your ongoing matters and in any new matters for which you might need our services. Consistent with your discussions with Mr. Fish, Dentons will continue to represent OCFCD until we receive notice from you otherwise.

We need to know whether or not you would like us to retain a copy of the paper files and transfer the original paper files and electronic data for the above-referenced matter to the Buchalter law firm. If so, please execute a copy of the attached authorization letter and return it to me by fax or email.

If you decide to transfer your matter, we will bill you for legal services in accordance with our current fee arrangement through the last date on which work was performed on your behalf by personnel in the firm.
Whatever your decision, we are working with Brian to ensure that any necessary transitions occur in a manner that continues to afford you quality legal services without interruption.

Sincerely,

John W. Leslie
Office Managing Partner

JWL/gdv

Enclosure

cc: Troy Housman, Esq.
VIA Email to: john.leslie@dentons.com

John Leslie, Esq.
Office Managing Partner
Dentons US LLP
4655 Executive Drive, Suite 700
San Diego, CA 92121

Re: Transfer of Files

Dear Mr. Leslie:

Orange County Flood Control District ("OCFCD") authorizes and directs Dentons US LLP ("Dentons") (formerly known as McKenna Long & Aldridge LLP and Luce, Forward, Hamilton & Scripps LLP) to transfer all paper files, documents and electronic data relating to the below-identified matters to the Buchalter law firm, 655 West Broadway, Suite 1625, San Diego, CA 92101-8590, (619) 219-5335. OCFCD further authorizes that Dentons retain a copy of the paper files and documents relating to the matter below.

<table>
<thead>
<tr>
<th>Client/Matter No.</th>
<th>Client Name</th>
<th>Matter Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>15136971-000002</td>
<td>Orange County Flood Control District</td>
<td>Greenspot Property (City of Highland)</td>
</tr>
</tbody>
</table>

We understand that and any funds remaining in Dentons' client trust account after conclusion of Dentons representation will be applied as payment of any outstanding fees and costs pursuant to the engagement letter.

We acknowledge that Troy Housman and other Dentons attorneys may continue to be involved in the above-referenced matter. We further acknowledge that, upon completion of Dentons representation, Dentons will have no further responsibility for the matter, including, but not limited to, the preparation and filing of any papers or the meeting of any deadlines.

We understand that Dentons professional obligation to protect client confidences and secrets under Rule 1.6 of the Rules of Professional Conduct continues after termination of Dentons' engagement on this matter.

Sincerely,

ORANGE COUNTY FLOOD CONTROL DISTRICT

By: ______________________________
   Authorized Signatory
AGREEMENT

BY AND BETWEEN

THE COUNTY OF ORANGE

AND BUCHALTER, A PROFESSIONAL CORPORATION

FOR PROFESSIONAL LEGAL SERVICES

MARCH 12, 2019
AGREEMENT WITH BUCHALTER, A PROFESSIONAL CORPORATION

FOR PROFESSIONAL LEGAL SERVICES

This Agreement for Professional Legal Services (this “Agreement”) is effective March 12, 2019, by and between the County of Orange, a political subdivision of the State of California (the “County”), on the one hand, and Buchalter, A Professional Corporation (“Attorneys”), on the other hand. County and Attorneys are sometimes individually referred to as “Party”, or collectively referred to as “Parties.”

RECITALS

WHEREAS, the County desires to contract for professional legal services;

WHEREAS, Attorneys provide professional legal services, and are particularly qualified to perform required services due to their legal competence and expertise; and

WHEREAS, County desires to retain Attorneys’ services in connection with the Scope of Services provided herein.

NOW, THEREFORE, the Parties mutually agree as follows:

ARTICLES

1. **Scope of Work:** The Scope of Work for this Agreement is attached hereto and incorporated herein by this references as Attachment A.

2. **Compensation:** The compensation to be paid to Attorneys for performing services in accordance with this Agreement is specified in Attachment B, which is attached hereto and incorporated herein by this reference, and includes full compensation for providing all services performed under this Agreement. The approved personnel whose services will be provided by Attorneys under this Agreement and their respective hourly rates are set forth on Attachment B, which list of personnel may be amended from time to time as necessary by the Attorneys and the Office of the Orange County Counsel (“County Counsel”) through letter agreements. The approved hourly rates set forth in this Agreement, however, may not be amended or increased without approval of the County Board of Supervisors (“Board of Supervisors”).

3. **Invoicing/Payment:** All invoicing and payment for services performed under this Agreement shall be as specified in Attachment B hereto.

4. **Agreement Term:** The Term of this Agreement shall commence on the date of execution by the County Counsel and shall continue until completion of the matters for which Attorneys have been retained, unless sooner terminated as provided herein.
5. **Professional Conflict of Interest**: Without limitation as to, or alteration of, obligations otherwise imposed on Attorneys with respect to County under the Rules of Professional Conduct or under law, and in addition to such obligations, Attorneys agree to comply with the following portion of the Conflicts of Interest Policy adopted by the County’s Board of Supervisors on September 24, 1985:

“It is the policy of the Orange County Board of Supervisors, on behalf of County and all other government entities of which it is the governing board, to prohibit the employment by any law firm adverse to County while simultaneously being employed by County, unless the Board is advised of, and given specific consent to, such adverse employment.

Any law firm which has been retained by County which desires employment which is or may be adverse to County shall transmit a statement of such desire to the County Counsel prior to undertaking such employment. The statement shall include a description of the employment and the reasons, if any, why County should consent. The County Counsel will forward the request to the Board of Supervisors with recommendation for action.”

If the Board of Supervisors declines to consent to the employment, the Attorneys shall decline any such employment. The Board’s authority to give the County’s consent is not delegated to any officer or employee of the County.

The County recognizes that this policy may exceed the limitations set forth in the California Rules of Professional Conduct of the State Bar of California. Where applicable, Attorneys shall comply with such rules in securing necessary consent from their other clients.

In accordance with County's aforesaid Conflict of Interest Policy, County acknowledges that Attorneys have represented and are continuing to represent Chick-fil-A and the Airport Working Group of Orange County, Inc., in unrelated matters where the County may be potentially adverse. County hereby provides written consent to Attorneys' representation of the foregoing entities except where such representation is in a litigation matter in which County is a party or participant and the interests of Attorneys' clients in that litigation are adverse to those of the County. In the event of such a matter, Attorneys shall notify the County as soon as practicable by transmitting a statement containing the information as described above in the Conflicts of Interest Policy, and either withdraw from its representation of the County in this matter, or the County may allow the continuation of the concurrent representation of the County and the other client on the unrelated matters pursuant to a subsequent, written waiver, or the parties may agree to other mutually acceptable solutions, based on discussions with County Counsel at that time. Attorneys warrant that at all times Attorneys are representing the foregoing entities and the County. Attorneys will implement appropriate ethical safeguards sufficient to protect the County from any conflicts of interest which may arise from the representation.
6. **General Conflicts of Interest**: The Attorneys shall exercise reasonable care and diligence to prevent any actions or conditions that could result in a conflict with the best interests of the County. This obligation shall apply to the Attorneys; the Attorneys’ employees, agents, and relatives; sub-tier attorneys and third parties associated with accomplishing services hereunder. The Attorneys’ efforts shall include, but not be limited to establishing precautions to prevent their employees or agents from making, receiving, providing or offering gifts, entertainment, payments, loans or other considerations which could be deemed to appear to influence individuals to act contrary to the best interests of the County. The Board of Supervisors policy prohibits its employees from engaging in activities involving a conflict of interest. The Attorneys shall not, during the period of this Agreement, employee or offer employment to any County employee for any purpose.

7. **Confidentiality and Communication with County**: Attorneys shall maintain the confidentiality of all information which they may acquire arising out of or connected with activities under this Agreement in accordance with all applicable Federal, State and County laws, regulations, ordinances and directives relating to confidentiality, including the Code of Professional Responsibility. Attorneys shall inform all of their principals, employees, and agents providing services hereunder of the confidentiality provisions of this Agreement.

Attorneys recognize that their relationship with County and its agents and employees, officers and/or representatives is subject to the attorney-client privilege and that any information acquired during the term of this Agreement from or through County is confidential and privileged. Attorneys warrant that they shall not disclose or use any manner whatsoever any of the information from County’s officers, employees, and agents in connection with said relationships or proceedings. Attorneys understand that the County Counsel is the legally empowered legal representative of County and its officers and employees and Attorneys shall not without specific direction from the County Counsel communicate with, advise, or represent County officers or employees. This provision shall not apply to communications between Attorneys and Board of Supervisors members. These confidentiality obligations shall survive this Agreement’s termination or expiration.

8. **Independent Contractors**: Attorneys shall be considered as independent contractors and neither Attorneys, its employees nor anyone working under Attorneys shall be considered an agent or employee of County. Neither Attorneys, their employees nor anyone working under Attorneys shall qualify for workers’ compensation or other fringe benefits of any kind through County.

9. **Assignment of Sub-Contracting**: The terms, covenants, and conditions contained herein shall apply to and bind the heirs, successors, executors, administrators and assigns of the Parties. Furthermore, neither the performance of this Agreement nor any portion thereof may be assigned or sub-contracted by Attorneys without the express written consent of County. Any attempt by Attorneys to assign or sub-contract the performance or any portion thereof of this Agreement without the express written consent of County shall be invalid and shall constitute a material breach of this Agreement. Attorneys may retain consultants or experts as provided in Attachment B.

10. **Performance**: Attorneys shall perform all work under this Agreement, taking necessary steps and precautions to perform the work to County’s satisfaction. Attorneys shall be
responsible for the professional quality, technical assurance, timely completion and coordination of all documents and other services performed by the Attorneys under this Agreement. Attorneys shall perform all work diligently, carefully, and in a good and workmanlike manner; shall furnish all labor, supervision, materials, and supplies necessary therefore; shall at their sole expense obtain and maintain all permits and licenses required by public authorities, including those of County required in its governmental capacity, in connection with performance of the services; and, if permitted to subcontractors, shall be fully responsible for all work performed by subcontractors.

11. **Compliance with Laws**: Attorneys represent and warrant that services to be provided under this Agreement shall fully comply, at Attorneys’ 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 County. Attorneys acknowledge that County is relying on Attorneys to ensure such compliance, and pursuant to the requirements of section 15 below, Attorneys agree that they shall defend, indemnify and hold County and County Indemnites harmless from all liability, damages, costs and expenses arising from or related to a violation of such laws.

12. **Attorneys Personnel**: Attorneys warrant that all Attorneys’ personnel engaged in the performance of work under this Agreement shall possess sufficient experience and/or education and the required licenses set forth herein in good standing to perform the services requested by the County. County expressly retains the right to have any of the Attorneys’ personnel removed from performing services under this Agreement to the County. Attorneys shall effectuate the removal of the specified Attorneys personnel from providing any services to the County under this Agreement within one business day of notification by County Counsel. County Counsel’s Supervising Attorney shall submit the request in writing to the Attorneys. The County is not required to provide any reason, rationale or additional factual information if it elects to request any specific Attorneys personnel be removed from performing services under this Agreement.

Attorneys’ Supervising Attorney for this Agreement shall be Brian Fish. Attorneys’ Supervising Attorney shall have full authority to act for Attorneys on all daily operational matters under this Agreement and shall serve as or designate lead counsel (“Lead Counsel”) for all activities performed under the scope of services described below. Designation of Lead Counsel shall be subject to County Counsel’s written approval. Any change in Attorneys’ Supervising Attorney shall be first authorized in writing by County Counsel’s Supervising Attorney.

Attorneys acknowledge that the County has an existing agreement for legal services with the law firm of Dentons, LLP (Dentons), and that Dentons may serve as co-counsel to the County in providing the services described in the Scope of Work (Attachment A to this Agreement). To the extent permitted by law and the rules of professional responsibility, services from Dentons shall be under the supervision and direction of Attorneys’ Supervising Attorney. Attorneys’ Supervising Attorney shall review, approve and submit to County all Dentons billings for services performed at the Attorneys’ Supervising Attorney’s direction, in accordance with Attachment B hereto.
County Counsel’s designated Supervising Attorney under this Agreement shall be Julia C. Woo, Deputy County Counsel. County Counsel’s Supervising Attorney shall have authority to act for County, within the scope of his or her authority, on all daily operational matters under this Agreement and shall review and approve all Attorneys’ reports, whether written or verbal, and any change in Attorneys’ Supervising Attorney or Lead Counsel. Whenever County Counsel designates a Supervising Attorney or change in Supervising Attorney, he, she or his or her designee shall notify Attorneys in writing.

13. **Reports/Meetings:** The Attorneys shall develop reports and any other relevant documents necessary to complete the services and requirements as set forth in this Agreement. The County and the Attorneys will meet on reasonable notice, to discuss the Attorneys’ performance and progress under this Agreement. If requested, the Attorneys’ personnel shall attend all meetings. The Attorneys shall provide such information that is requested by the County for the purpose of monitoring progress under this Agreement.

14. **Patent/Copyright Materials/Proprietary Infringement:** Attorneys shall be solely responsible for clearing the right to use any patented or copyrighted materials in the performance of this Agreement. Attorneys warrant that any materials and software as modified through services provided hereunder will not infringe upon or violate any patent, proprietary right, or trade secret right of any third party. Attorneys agree that, in accordance with the more specific requirement contained in the Indemnification section below, they shall indemnify, defend and hold County and County Indemnitees (as defined below) 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.

15. **Indemnification:** Attorneys agree to indemnify, defend with counsel approved in writing by County, and hold harmless County, its elected and appointed officials, officers, employees, agents and those special districts and agencies of which County’s Board of Supervisors acts as the governing Board (“County Indemnitees”), from any and all 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 performance of services pursuant to this Agreement. If judgment is entered against Attorneys and County (or any County Indemnitee), by a court of competent jurisdiction because of the concurrent active negligence of Attorneys and County or County Indemnitees, Attorneys and County agree that liability will be apportioned as determined by the court. Neither party shall request a jury apportionment. Notwithstanding the foregoing, County agrees that it will first look to Attorneys’ professional liability insurance, in lieu of the indemnity provisions herein, but only up to and to the extent of any insurance coverage provided under said insurance, in the event of any loss arising from or related to the performance of services pursuant to this Agreement. Should County’s loss exceed coverage provided under Attorneys’ professional liability insurance, or should Attorney’s insurer deny coverage of all or a portion of County’s loss, County shall be entitled to look to the contractual indemnity provisions provided for under this Agreement for any uncovered loss. Nothing contained in this Section 15, or in Sections 11, 14, and 16 of this Agreement, shall be deemed to extend the statute of limitations established by law for professional negligence or willful misconduct.
16. **Insurance Provisions:** Prior to the provision of services under this Agreement, Attorneys agree to purchase all required insurance at Attorneys’ expense and to deposit with the County Counsel, Certificates of Insurance, including all endorsements required herein, necessary to satisfy County Counsel’s Supervising Attorney that the insurance provisions of this Agreement have been complied with and to keep such insurance coverage and the certificates therefore on deposit with County Counsel during the entire term of this Agreement. In addition, all subcontractors performing work on behalf of Attorneys pursuant to this Agreement shall obtain insurance subject to the same terms and conditions as set forth herein for Attorney.

Attorneys shall ensure that all subcontractors performing work on behalf of Attorneys pursuant to this Agreement shall be covered under Attorneys’ insurance as an Additional Insured or maintain insurance subject to the same terms and conditions as set forth herein for Attorneys. Attorneys shall not allow subcontractors to work if subcontractors have less that the level of coverage required the County from Attorneys under this Agreement. It is the obligation of Attorneys to provide notice of the insurance requirements to every subcontractor and to receive proof of insurance prior to allowing any subcontractor to begin work. Such proof of insurance must be maintained by Attorneys throughout the term of this Agreement for inspection by County representative(s) at any reasonable time.

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

a) In addition to the duty to indemnify and hold the County harmless against any and all liability, claim, demand or suit resulting from Attorneys’, its agents, employee’s or subcontractor’s performance of this Agreement, Attorneys shall defend the County at its sole cost and expense with counsel approved by Board of Supervisors against same; and

b) Attorneys’ duty to defend, as stated above, shall be absolute and irrespective of any duty to indemnify or hold harmless; and

c) 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 the Attorneys’ SIR provision shall be interpreted as though the Agreement was an insurer and the County was the insured.

If the Attorneys’ fail to maintain insurance acceptable to the County for the full term of this Agreement, the County may terminate this Agreement.

**Qualified Insurer**

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.

The policy or policies of insurance maintained by the Attorneys 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>Automobile Liability including</td>
<td>$1,000,000 per occurrence</td>
</tr>
<tr>
<td>for owned, non-owned and hired</td>
<td></td>
</tr>
<tr>
<td>vehicles</td>
<td></td>
</tr>
<tr>
<td>Workers Compensation</td>
<td>Statutory</td>
</tr>
<tr>
<td>Employers Liability Insurance</td>
<td>$1,000,000 per occurrence</td>
</tr>
<tr>
<td>Professional Liability</td>
<td>$1,000,000 per claims-made</td>
</tr>
<tr>
<td></td>
<td>$1,000,000 aggregate</td>
</tr>
</tbody>
</table>

**Required Coverage Forms**

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

The Business Auto Liability coverage shall be written on ISO form CA 00 01, CA 00 05, CA 0012, CA 00 20, or a substitute form providing coverage at least as broad.

**Required Endorsements**

All insurance policies required by this Agreement 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.

Attorneys 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 the County. Failure to provide written notice of cancellation may constitute a material breach of the Agreement, upon which the County may suspend or terminate this Agreement.

If Attorneys’ Professional Liability is a “Claims-Made” policy, Attorneys shall agree to maintain coverage for two (2) years following the completion of the Agreement.

The Commercial General Liability policy shall contain a severability of interests clause also known as a “separation of insureds” clause (standard in the ISO CG 0001 policy).
Insurance certificates should be forwarded to the agency/department address listed in the Agreement.

If the Attorneys fail to provide the insurance certificates and endorsements within seven (7) days of notification by CEO/Purchasing or the agency/department purchasing division, award may be made to the next qualified firm.

The County expressly retains the right to require Attorneys to increase or decrease insurance of any of the above insurance types throughout the term of this Agreement if this Agreement is amended. Any increase or decrease in insurance will be as deemed by County of Orange Risk Manager as appropriate to adequately protect the County.

The County shall notify Attorneys in writing of changes in the insurance requirements. If Attorneys do not deposit copies of acceptable Certificates of Insurance and endorsements with the County incorporating such changes within thirty (30) days of receipt of such notice, this Agreement may be in breach without further notice to Attorneys, and the County shall be entitled to all legal remedies.

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

17. **Ownership of Documents:** The County has permanent ownership of all directly connected and derivative materials produced under this Agreement by the Attorneys. All documents, reports and other incidental or derivative work or materials furnished hereunder shall become and remain the sole property of the County and may be used by the County as it may require without additional cost to the County. None of the documents, reports and other incidental or derivative work or furnished materials shall be used by the Attorneys without the express written consent of the County.

18. **Title to Date:** All materials, documents, data or information obtained from the County data files or any County medium furnished to the Attorneys in the performance of this Agreement will at all times remain the property of the County. Such data or information may not be used or copied for direct or indirect use by the Attorneys after completion or termination of this Agreement without the express written consent of the County. All materials, documents, data or information, including copies, must be returned to the County at the end of this Agreement.

19. **Records:** The Attorneys shall keep an accurate record of time expended by Attorneys and the subcontractors working for Attorneys in the performance of this Agreement. Such record shall be available for periodic inspection by the County at reasonable times.

20. **Audits/Inspections:** Attorneys agree to permit the County’s Auditor-Controller or the Auditor-Controller’s authorized representative (including auditors from a private auditing firm hired by the County) access during normal working hours to all books, accounts, records, reports, files, financial records, supporting documentation, including payroll and accounts
payable/receivable records, and other papers or property of Attorneys for the purpose of auditing or inspecting any aspect of performance under this Agreement. The inspection and/or audit will be confined to those matters connected with the performance of the Agreement including, but not limited to, the costs of administering the Agreement. Attorneys will be provided reasonable notice of such an audit or inspection.

The County reserves the right to audit and verify the Attorneys’ records before final payment is made.

Attorneys agree to maintain such records for possible audit for a minimum of five (5) years after final payment, unless a longer period of records retention is stipulated under this Agreement or by law. Attorneys agree to allow interviews of any employees or others who might reasonably have information related to such records. Further, Attorneys agree to include a similar right to the County to Audit records and interview staff of any subcontractors related to performance of this Agreement.

Should the Attorneys cease to exist as a legal entity, the Attorneys’ records pertaining to this Agreement shall be forwarded to the surviving entity in a merger or acquisition or, in the event of liquidation, to the County Counsel’s Supervising Attorney.

21. **Termination for County’s Convenience**: Serves performed under this Agreement may be terminated in whole or in part at any time County deems termination of this Agreement to be in its best interests. County Counsel’s Supervising Attorney shall terminate services by delivering to Attorneys a written Termination Notice specifying the extent to which services are terminated and the effective termination date. After receiving a Termination Notice and unless otherwise directed by County Counsel’s Supervising Attorney, Attorneys shall:

   a) Take all necessary steps to stop services on the date and to the extent specified in the Termination Notice.

   b) Complete services not terminated by the Termination notice.

   c) Complete and submit a written Closing Report within 30 days after the termination date, including a brief description of any outstanding legal issues or matters which are pending with the Attorneys (including a discussion of applicable law) a list and description of all scheduled meetings, court appearances or matters which Attorneys were to attend and an assessment of the accomplishments of Attorneys’ engagement.

   d) Submit final billing for terminated services no later than sixty (60) calendar days from the effective termination date. If Attorneys fail to submit a final billing within the time allowed, County may determine, on the basis of information available to it, the amount, if any, due to Attorneys. After County makes a determination, it shall pay Attorneys that amount. County’s determination shall be final.

   e) Provide County Counsel’s Supervising Attorney with copies (electronic and hard copies) of all files and attorneys work product for any matters in which Attorneys were retained by County. This includes any computerized index, computer
programs and document retrieval systems created or used for the matters. When
instructed by County Counsel’s Supervising Attorney, Attorneys shall file with the court
the appropriate substitution of counsel.

22. **Breach of Agreement:** The failure of the Attorneys to comply with any of the
terms, provisions, covenants or conditions of this Agreement shall constitute a material breach of
this Agreement. In such event, the County may, and in addition to any other remedies available
at law, in equity, or otherwise specified in this Agreement:

a) Afford the Attorneys written notice of the breach and ten (10) calendar
days or such shorter time that may be specified in this Agreement within which to cure
the breach; and/or

b) Discontinue payment to the Attorneys for and during the period in which
the Attorneys are in breach; and offset against any monies billed by the Attorneys but yet
unpaid by the County those monies disallowed pursuant to the above; and/or

c) Terminate the Agreement immediately, without penalty to the County.

23. **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 of any other different or subsequent breach.

24. **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.

25. **Notices:** Any and all notices, requests, demands and other communications
contemplated, called for, permitted, or required to be given hereunder shall be in writing, except
through the course of the Parties’ routine exchange of information and cooperation during the
terms of the work and services. Any written communications shall be deemed to have been duly
give upon actual in-person delivery, if delivery is by direct hand or upon delivery on the actual
day of receipt or no greater than four calendar days after being mailed by US certified or
registered mail, return receipt requested, postage prepaid, whichever occurs first. The date of
mailing shall count as the first day.

All communications shall be addressed to the appropriate Party at the address stated
herein or such other address as the Parties hereto may designate by written notice from time to
time in the manner aforesaid.

For Attorneys: Name: Buchalter
Address: 655 West Broadway
          Suite 1625
          San Diego, CA  92101
26. **County Child Support Enforcement**: In order to comply with child support enforcement requirements of County, within 30 days of the effective date of this Agreement, Attorneys agree to furnish to the County Counsel’s Supervising Attorney a full completed and executed certification in the form of Attachment D. It is expressly understood that this data will be transmitted to government agencies charged with the establishment and enforcement of child support orders, and for no other purposes.

Failure of the Attorneys to timely submit the data and/or certification required above or to comply with all federal and state reporting requirements for child support enforcement or to comply with all lawfully served Wage and Earning Assignment Orders and Notices of Assignment shall constitute a material breach of the Agreement. Failure to cure such breach within 60 calendar days of notice from the County shall constitute grounds for termination of this Agreement.

27. **Employee Eligibility Verification**: The Attorneys warrant that they fully comply with all Federal and State Statutes and regulations regarding the employment of aliens and others and that all Attorneys’ employees performing work under this Agreement meet the citizenship or alien status requirement set forth in Federal statutes and regulations. The Attorneys shall obtain, from all employees performing work hereunder, all verification and other documentation of employment eligibility status required by Federal or State statutes and regulations including, but no limited to, the Immigration Reform and Control Act of 1986, 8 U.S.C. § 1324 et seq., as they currently exist and as they may be hereafter amended. The Attorneys shall retain all such documentation for all covered employees for the period prescribed by law. The Attorneys shall indemnify, defend with counsel approved in writing by County, and hold harmless, the County and County Indemnitees from employer sanctions and any other liability which may be assessed against the Attorneys or the County/County Indemnitees or both in connection with any alleged violation of any Federal or State statutes or regulations pertaining to the eligibility for employment of any persons performing work under this Agreement.

28. **Entire Agreement**: This Agreement including Attachments A, B, C and D, which are attached hereto and incorporated herein by this reference, contains the entire
Agreement between the Parties with respect to the matters herein and there are no exceptions, alternatives, substitutions, revisions, understandings, agreements, restrictions, promises, warranties or undertakings, whether oral or written, other than those set forth herein or referred to herein.

29. **Amendments**: No alteration or variation of the terms of this Agreement shall be valid unless made in writing by the Parties.

30. **Governing Law and Venue**: 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, without reference to conflict of laws provisions. 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. Furthermore, the Parties specifically agree to waive any and all rights to request that an action be transferred for trial to another venue.

31. **Appropriation/Contingency of Funds**: This Agreement is subject to and contingent upon applicable budgetary appropriations being approved by the Board of Supervisors for each fiscal year during the Term of this Agreement. If such appropriations are not approved, the Agreement will be immediately terminated without penalty to the County.

32. **Taxes**: Unless otherwise provided herein or by law, the compensation provided for herein includes California state sales or use tax applicable law now or in the future.

33. **Change of Ownership**: Attorneys agree that if there is a change or transfer in ownership of Attorneys’ business prior to completion of this Agreement, the new owner(s) or successor(s) to Attorneys shall be required to provide documentation satisfactory to the County that the new owner(s) or successor(s) have assumed and will assume Attorneys’ duties and obligations contained in this Agreement and that this Agreement constitutes a valid and fully binding agreement of such new owner(s) or successor(s).

34. **Publication**: No copies of schedules, written documents, and computer based data, photographs, maps or graphs, resulting from performance or prepared in connection with this Agreement, are to be released by Attorneys and/or anyone acting under the supervision of Attorneys to any person, partnership, company, corporation, or agency, without prior written approval by the County, except as necessary for the performance of the services of this Agreement. All press releases, including graphic display information to be published in newspapers, magazines, etc., are to be administered only by the County unless otherwise agreed to by both Parties.

35. **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.

36. **Severability**: If any term, covenant, condition or provision of this Agreement 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.

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

38. **Attorney’s Fees:** In any action or proceeding to enforce or interpret any provision of this Agreement, or where any provision hereof is validly asserted as a defense, each Party shall bear its own attorney’s fees, costs and expenses.

39. **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 it has 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 of 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 effect the purpose of the Parties and this Agreement.

40. **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.

41. **Counterparts and .pdf/Facsimile Signature:** This Agreement may be signed in counterparts, which together shall constitute one original, and such counterpart signature pages may be exchanged and compiled using facsimile and/or .pdf file versions, which shall be deemed to be original signatures.

*SIGNATURES ON FOLLOWING PAGE*
The parties hereto have executed this Agreement on the dates shown opposite their respective signatures below.

Dated: March 12, 2019  

County:  

Julia C. Woo  
Deputy County Counsel  

By:  

Julia C. Woo  
Deputy County Counsel  

Dated: March 12, 2019  

Attorneys:  

Buchalter, A Professional Corporation  

By:  

Its:  

3/7/19
ATTACHMENT A

SCOPE OF SERVICES

Attorneys will be required to provide the personnel and all necessary support, including computer hardware and software that is sufficient and adequate to perform the services. Attorneys will need to prepare interim and final reports, updates, and summaries for each phase of work if requested by County Counsel.

The required services include, but are not limited to, the following services as directed by the County Counsel’s office:

1. Attorneys shall provide advisory, strategy, pre-litigation, litigation, and all necessary related legal services (“services”), including in the areas of environmental law, land use and planning, to assist the proposed entitlement and development of approximately 180 acres of property the County owns or will own, located on the former El Toro Marine Corps Air Station, within the City of Irvine, California (“County Property”). Services may include, but not be limited to, review of environmental documentation, review of entitlement and planning documentation, and other land use, planning and environmental legal services related to the potential development, leasing, sale or other disposition of portions of the County Property. Additionally, services shall include, but not be limited to, representation of the County in litigation matters arising out of the proposed entitlement and development of the County Property, including in the following matters:

<table>
<thead>
<tr>
<th></th>
<th>Case Descriptions</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td><em>Laguna Greenbelt, Inc., et al v. County of Orange, et al., and Related Cases, SCSC Case No. 34-2018-80002878</em></td>
</tr>
<tr>
<td>2</td>
<td><em>Heritage Fields El Toro, LLC v. County of Orange, SCSC Case No. 34-2018-80002879</em></td>
</tr>
<tr>
<td>3</td>
<td><em>City of Irvine v. County of Orange, et al., SCSC Case No. 34-2018-80002883</em></td>
</tr>
<tr>
<td>4</td>
<td><em>County of Orange v. City of Irvine, SCSC Case No. 34-2018-00232248</em></td>
</tr>
<tr>
<td>5</td>
<td><em>City of Laguna Beach v. County of Orange, OCSC Case No. 30-2018-01010282</em></td>
</tr>
<tr>
<td>6</td>
<td><em>City of Laguna Beach v County of Orange, OCSC Case No. 30-2018-01003550</em></td>
</tr>
<tr>
<td>7</td>
<td><em>Heritage Fields El Toro, LLC v. County of Orange, OCSC Case No. 30-2018-01003519</em></td>
</tr>
<tr>
<td>8</td>
<td><em>City of Irvine v. County of Orange, OCSC Case No. 30-2018-01003486</em></td>
</tr>
</tbody>
</table>

2. Attorneys shall, if and when requested by County Counsel:
a) Consult with and advise County Counsel, the County Board of Supervisors and designated County staff on negotiation, pre-litigation and litigation strategy;

b) Hire litigation consultants and/or expert witnesses, subject to approval by County Counsel and/or the Board of Supervisors; and

c) Negotiate and/or engage in informal dispute resolution and/or mediation in an effort to achieve authorized settlements (note that as a general matter, all settlements must be approved by the County Board of Supervisors).

3. Attorneys shall, if and when requested by County Counsel, attend meetings of the Board of Supervisors and meet with County Representatives as requested by County Counsel.

4. Attorneys shall obtain the approval of County Counsel prior to undertaking legal research of more than twelve (12) hours on any particular issue.

5. Attorneys shall obtain County Counsel’s prior approval for travel outside the Counties of: Orange, Los Angeles, Riverside, Imperial, Kern, San Bernardino, Ventura, Santa Barbara or San Diego.
ATTACHMENT B

COMPENSATION, INVOICING AND PAYMENT

A. Hourly Rate Schedule

<table>
<thead>
<tr>
<th>STAFFING LEVEL</th>
<th>NAME</th>
<th>HOURLY RATE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Supervising Attorney</td>
<td>Brian Fish</td>
<td>$445.00</td>
</tr>
<tr>
<td>Partners, as approved by County Counsel’s</td>
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<td>$445.00</td>
</tr>
<tr>
<td>designated Supervising Attorney</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Of Counsel/Senior Counsel, as approved by County</td>
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<td>$440</td>
</tr>
<tr>
<td>Counsel’s designated Supervising Attorney</td>
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</tr>
<tr>
<td>Associates, as approved by County Counsel’s</td>
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<td>$350.00</td>
</tr>
<tr>
<td>Supervising Attorney</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Paralegals, as approved by County Counsel’s</td>
<td></td>
<td>$290</td>
</tr>
<tr>
<td>Supervising Attorney</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

The Attorneys shall not be compensated for “travel time.” Itemized receipts/backup documentation for reimbursable expenses must be submitted with the invoice.

NOTWITHSTANDING ANY PROVISION OF THIS AGREEMENT TO THE CONTRARY, UNLESS ATTORNEYS RECEIVE PRIOR WRITTEN APPROVAL OF THE COUNTY, THE COUNTY WILL NOT COMPENSATE ATTORNEYS FOR THE ATTENDANCE OR PARTICIPATION OF MORE THAN ONE ATTORNEY (INCLUDING ATTORNEYS STAFF) IN ANY MEETING, CONFERENCE CALL, DEPOSITION, COURT APPEARANCE OR SIMILAR MATTER. IN THE EVENT MORE THAN ONE ATTORNEY ATTENDS ANY MATTER, THE COUNTY WILL COMPENSATE ATTORNEYS AT THE HOURLY RATE FOR THE MOST SENIOR ATTORNEY PRESENT.

THE COUNTY WILL NOT PAY ANY ATTORNEY HOURLY RATE FOR TIME SPENT TRAVELING, REGARDLESS OF THE FORM OF TRANSPORTATION (AUTOMOBILE, AIR, ETC.). FOR POLICIES RELATED TO TRAVEL EXPENSE REIMBURSEMENT SEE SECTION B.2, BELOW.
ATTACHMENT B

COMPENSATION, INVOICING AND PAYMENT

B. Expenses

County shall reimburse Attorneys for their actual out-of-pocket expenses without mark-up, excluding expenses generally considered as overhead already reflected in the Attorneys’ hourly rates.

1. Reimbursable ordinary expenses shall include, but not be limited to:
   a) Transcript fees.
   b) Postage.
   c) Messenger service.
   d) Process service.
   e) Document reproduction by outside vendor.
   f) In-house document production. If amount charged in any one month exceeds $500.00, prior County Counsel approval shall be obtained.

2. Reimbursable extraordinary expenses include charges of which Attorneys have obtained County Counsel’ prior approval. Such expenses include, but shall not be limited to:
   a) Consultants, up to $150,000 per contract, unless otherwise authorized by the County Board of Supervisors.
   b) Expert witnesses up to $150,000 per contract, unless otherwise authorized by the County Board of Supervisors.
   c) Travel outside the Counties of Orange, Los Angeles, San Bernardino, Riverside, Imperial, Kern, Ventura, Santa Barbara and San Diego. Such extraordinary expenses shall be reimbursed at the IRS prevailing rate for mileage only.
   d) Investigative services.
   e) Any expense item exceeding Five Hundred Dollars ($500.00).

3. Non-Reimbursable expenses include, but shall not be limited to:
   a) Staff time or overtime for performing secretarial, clerical, or word processing functions.
b) Charges for time spent to provide necessary information for County audits or billing inquiries.

c) Charges for work performed which had not been authorized by County Counsel. Such work shall be gratuitous effort by Attorneys.

d) Mileage, travel expenses or telephone expenses within the counties of Orange, Los Angeles, San Bernardino, Riverside, Imperial, Kern, Ventura, Santa Barbara and San Diego.

**BILINGS AND PAYMENTS**

**C. Billings**

1. Attorneys shall submit monthly billing statements in arrears, no later than the tenth (10th) of the month following the month service was rendered.

2. Attorneys’ Supervising Attorney shall review and approve, prior to submittal to the County, all billings of Dentons for services performed at the direction of Attorneys’ Supervising Attorney.

2. The original billing statement(s) and one copy shall be submitted to:

   County of Orange  
   Office of the County Counsel  
   333 W. Santa Ana Blvd., 4th Floor  
   Post Office Box 1379  
   Santa Ana, CA 92702-1379  
   Attn: Julia Woo, Deputy County Counsel

3. The original of each billing statement shall include a declaration of Attorneys’ Supervising Attorney or Lead Counsel as provided in Attachment C.

4. Each billing statement shall be identified by a unique number and shall be itemized to include:

   a) Matter or Case names and court number.

   b) Staffing level(s), hourly rates and specific activities for each attorney and/or paralegal.

      1) Each activity shall be billed separately as a line item in a time reporting format acceptable to County Counsel.

      2) A detailed description of specific activities for each attorney and/or paralegal.
c) Total current cumulative monthly fees billed for each staffing level.

d) Total current monthly expenses billed in the following categories:

1) Consultant and expert witness expenses;

2) Deposition and transcript expenses; and

3) Other miscellaneous expenses.

e) The total cumulative expenses to date billed in (d) directly above.

D. Payments

County shall make payment(s) for services rendered under this Agreement monthly in arrears based on the monthly itemized billing statement(s) Attorneys submit to County. County shall make its best effort to process payments promptly after receiving Attorneys’ monthly billing statement. County shall not pay interest or finance charges on any outstanding balance(s).
ATTACHMENT C

ATTORNEYS’ DECLARATION ON BILLING STATEMENT

The following declaration shall be made on the original of each billing statement and personally signed and dated by Attorneys’ Supervising Attorney or Lead Counsel.

“I have personally examined this billing statement. All entries are in accordance with the Agreement for Professional Legal Services, are correct and reasonable for the services performed and costs incurred, and no item on this statement has been previously billed to County.”

__________________________  ______________________________
Date  Signature

__________________________
Name

__________________________
Title
(Supervising Attorney or Lead Counsel)
ATTACHMENT D

COUNTY OF ORANGE CHILD SUPPORT ENFORCEMENT
CERTIFICATION REQUIREMENTS

This data shall be transmitted to governmental agencies charged with the establishment and enforcement of child support order and for no other purposes and shall be held confidential by those agencies.

A. In the case of an individual Vendor, his/her name, date of birth, Social Security number, and residence address:

Name: ______________________________
D.O.B: ______________________________
Social Security No: ____________________
Residence Address: ____________________

B. In the case of a Vendor doing business in a form other than as an individual, the name, date of birth, Social Security number, and residence address of each individual who owns an interest of 10 percent or more in the contracting entity:

Name: ______________________________
D.O.B: ______________________________
Social Security No: ____________________
Residence Address: ____________________

Name: ______________________________
D.O.B: ______________________________
Social Security No: ____________________
Residence Address: ____________________

(Additional sheets may be used if necessary)

I certify that __________________________ is in full compliance with all applicable federal and state reporting requirements regarding its employees and with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignments and will continue to be in compliance throughout the term of the Agreement with the County of Orange. I understand that failure to comply shall constitute a material breach of the Agreement and failure to cure such breach within sixty (60) calendar days of notice from the County shall constitute grounds for termination of the Agreement.

__________________________________  __________________________________
Name (Please Print)                Authorized Signature

Title

BN 35815254v3
AGREEMENT

BY AND BETWEEN

THE ORANGE COUNTY FLOOD CONTROL DISTRICT

AND BUCHALTER, A PROFESSIONAL CORPORATION

FOR PROFESSIONAL LEGAL SERVICES

MARCH 12, 2019
This Agreement for Professional Legal Services (this “Agreement”) is effective March 12, 2019, by and between the Orange County Flood Control District (District), on the one hand, and Buchalter, A Professional Corporation (“Attorneys”), on the other hand. District and Attorneys are sometimes individually referred to as “Party,” or collectively referred to as “Parties.”

RECITALS

WHEREAS, the District desires to contract for professional legal services;

WHEREAS, Attorneys provide professional legal services, and are particularly qualified to perform required services due to their legal competence and expertise; and

WHEREAS, District desires to retain Attorneys’ services in connection with the Scope of Services provided herein.

NOW, THEREFORE, the Parties mutually agree as follows:

ARTICLES

1. **Scope of Work:** The Scope of Work for this Agreement is attached hereto and incorporated herein by this references as Attachment A.

2. **Compensation:** The compensation to be paid to Attorneys for performing services in accordance with this Agreement is specified in Attachment B, which is attached hereto and incorporated herein by this reference, and includes full compensation for providing all services performed under this Agreement. The approved personnel whose services will be provided by Attorneys under this Agreement and their respective hourly rates are set forth on Attachment B, which list of personnel may be amended from time to time as necessary by the Attorneys and the Office of the Orange County Counsel (“County Counsel”) through letter agreements. The approved hourly rates set forth in this Agreement, however, may not be amended or increased without approval of District’s governing body, the Orange County Board of Supervisors (“Board of Supervisors”).

3. **Invoicing/Payment:** All invoicing and payment for services performed under this Agreement shall be as specified in Attachment B hereto.

4. **Agreement Term:** The Term of this Agreement shall commence on the date of execution by the County Counsel and shall continue until completion of the matters for which Attorneys have been retained, unless sooner terminated as provided herein.
5. **Professional Conflict of Interest:** Without limitation as to, or alteration of, obligations otherwise imposed on Attorneys with respect to District under the Rules of Professional Conduct or under law, and in addition to such obligations, Attorneys agree to comply with the following portion of the Conflicts of Interest Policy adopted by the Board of Supervisors on September 24, 1985 (reference to “County” shall also include District):

“It is the policy of the Orange County Board of Supervisors, on behalf of County and all other government entities of which it is the governing board, to prohibit the employment by any law firm adverse to County while simultaneously being employed by County, unless the Board is advised of, and given specific consent to, such adverse employment.

Any law firm which has been retained by County which desires employment which is or may be adverse to County shall transmit a statement of such desire to the County Counsel prior to undertaking such employment. The statement shall include a description of the employment and the reasons, if any, why County should consent. The County Counsel will forward the request to the Board of Supervisors with recommendation for action.”

If the Board of Supervisors declines to consent to the employment, the Attorneys shall decline any such employment. The Board’s authority to give the District’s consent is not delegated to any officer or employee of the County or District.

The District recognizes that this policy may exceed the limitations set forth in the California Rules of Professional Conduct of the State Bar of California. Where applicable, Attorneys shall comply with such rules in securing necessary consent from their other clients.

In accordance with County’s aforesaid Conflict of Interest Policy, the District acknowledges that Attorneys have represented and are continuing to represent Toll Brothers, in an unrelated matter where the District may be potentially adverse. District hereby provides written consent to Attorneys’ representation of the foregoing entity, except where such representation is in a litigation matter in which District is a party or participant and the interests of Attorneys' clients in that litigation are adverse to those of the District. In the event of such a matter, Attorneys shall notify the District as soon as practicable by transmitting a statement containing the information as described above in the Conflicts of Interest Policy, and either withdraw from its representation of the District in this matter, or the District may allow the continuation of the concurrent representation of the District and the other client on the unrelated matters pursuant to a subsequent, written waiver, or the Parties may agree to other mutually acceptable solutions, based on discussions with County Counsel at that time. Attorneys warrant that at all times Attorneys are representing the foregoing entities and the District, Attorneys will implement appropriate ethical safeguards sufficient to protect the District from any conflicts of interest which may arise from the representation.

6. **General Conflicts of Interest:** The Attorneys shall exercise reasonable care and diligence to prevent any actions or conditions that could result in a conflict with the best interests
of the District. This obligation shall apply to the Attorneys; the Attorneys’ employees, agents, and relatives; sub-tier attorneys and third parties associated with accomplishing services hereunder. The Attorneys’ efforts shall include, but not be limited to establishing precautions to prevent their employees or agents from making, receiving, providing or offering gifts, entertainment, payments, loans or other considerations which could be deemed to appear to influence individuals to act contrary to the best interests of the District. The Board of Supervisors policy prohibits its employees from engaging in activities involving a conflict of interest. The Attorneys shall not, during the period of this Agreement, employee or offer employment to any District employee for any purpose.

7. Confidentiality and Communication with District: Attorneys shall maintain the confidentiality of all information which they may acquire arising out of or connected with activities under this Agreement in accordance with all applicable Federal, State, County and District laws, regulations, ordinances and directives relating to confidentiality, including the Code of Professional Responsibility. Attorneys shall inform all of their principals, employees, and agents providing services hereunder of the confidentiality provisions of this Agreement.

Attorneys recognize that their relationship with District and its agents and employees, officers and/or representatives is subject to the attorney-client privilege and that any information acquired during the term of this Agreement from or through District is confidential and privileged. Attorneys warrant that they shall not disclose or use any manner whatsoever any of the information from District’s officers, employees, and agents in connection with said relationships or proceedings. Attorneys understand that the County Counsel is the legally empowered legal representative of District and its officers and employees and Attorneys shall not without specific direction from the County Counsel communicate with, advise, or represent District officers or employees. This provision shall not apply to communications between Attorneys and Board of Supervisors members. These confidentiality obligations shall survive this Agreement’s termination or expiration.

8. Independent Contractors: Attorneys shall be considered as independent contractors and neither Attorneys, its employees nor anyone working under Attorneys shall be considered an agent or employee of District. Neither Attorneys, their employees nor anyone working under Attorneys shall qualify for workers’ compensation or other fringe benefits of any kind through District.

9. Assignment of Sub-Contracting: The terms, covenants, and conditions contained herein shall apply to and bind the heirs, successors, executors, administrators and assigns of the Parties. Furthermore, neither the performance of this Agreement nor any portion thereof may be assigned or sub-contracted by Attorneys without the express written consent of District. Any attempt by Attorneys to assign or sub-contract the performance or any portion thereof of this Agreement without the express written consent of District shall be invalid and shall constitute a material breach of this Agreement. Attorneys may retain consultants or experts as provided in Attachment B.

10. Performance: Attorneys shall perform all work under this Agreement, taking necessary steps and precautions to perform the work to District’s satisfaction. Attorneys shall be responsible for the professional quality, technical assurance, timely completion and coordination
of all documents and other services performed by the Attorneys under this Agreement. Attorneys shall perform all work diligently, carefully, and in a good and workmanlike manner; shall furnish all labor, supervision, materials, and supplies necessary therefore; shall at their sole expense obtain and maintain all permits and licenses required by public authorities, including those of District required in its governmental capacity, in connection with performance of the services; and, if permitted to subcontractors, shall be fully responsible for all work performed by subcontractors.

11. **Compliance with Laws**: Attorneys represent and warrant that services to be provided under this Agreement shall fully comply, at Attorneys’ expense, with all standards, laws, statutes, restrictions, ordinances, requirements, and regulations (collectively “laws”), including, but not limited to those issued by District in its governmental capacity and all other laws applicable to the services at the time services are provided to and accepted by District. Attorneys acknowledge that District is relying on Attorneys to ensure such compliance, and pursuant to the requirements of section 15 below, Attorneys agree that they shall defend, indemnify and hold District and District Indemnitees harmless from all liability, damages, costs and expenses arising from or related to a violation of such laws.

12. **Attorneys Personnel**: Attorneys warrant that all Attorneys’ personnel engaged in the performance of work under this Agreement shall possess sufficient experience and/or education and the required licenses set forth herein in good standing to perform the services requested by the District. District expressly retains the right to have any of the Attorneys’ personnel removed from performing services under this Agreement to the District. Attorneys shall effectuate the removal of the specified Attorneys personnel from providing any services to the District under this Agreement within one business day of notification by County Counsel. County Counsel’s Supervising Attorney shall submit the request in writing to the Attorneys. The District is not required to provide any reason, rationale or additional factual information if it elects to request any specific Attorneys personnel be removed from performing services under this Agreement.

Attorneys’ Supervising Attorney for this Agreement shall be Brian Fish. Attorneys’ Supervising Attorney shall have full authority to act for Attorneys on all daily operational matters under this Agreement and shall serve as or designate lead counsel (“Lead Counsel”) for all activities performed under the scope of services described below. Designation of Lead Counsel shall be subject to County Counsel’s written approval. Any change in Attorneys’ Supervising Attorney shall be first authorized in writing by County Counsel’s Supervising Attorney.

County Counsel’s designated Supervising Attorney under this Agreement shall be Nicole N. Walsh, Senior Assistant County Counsel. County Counsel’s Supervising Attorney shall have authority to act for District, within the scope of his or her authority, on all daily operational matters under this Agreement and shall review and approve all Attorneys’ reports, whether written or verbal, and any change in Attorneys’ Supervising Attorney or Lead Counsel. Whenever County Counsel designates a Supervising Attorney or change in Supervising Attorney, he, she or his or her designee shall notify Attorneys in writing.
13. **Reports/Meetings:** The Attorneys shall develop reports and any other relevant documents necessary to complete the services and requirements as set forth in this Agreement. The District and the Attorneys will meet on reasonable notice, to discuss the Attorneys’ performance and progress under this Agreement. If requested, the Attorneys’ personnel shall attend all meetings. The Attorneys shall provide such information that is requested by the District for the purpose of monitoring progress under this Agreement.

14. **Patent/Copyright Materials/Proprietary Infringement:** Attorneys shall be solely responsible for clearing the right to use any patented or copyrighted materials in the performance of this Agreement. Attorneys warrant that any materials and software as modified through services provided hereunder will not infringe upon or violate any patent, proprietary right, or trade secret right of any third party. Attorneys agree that, in accordance with the more specific requirement contained in the Indemnification section below, they shall indemnify, defend and hold District and District Indemnitees (as defined below) 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.

15. **Indemnification:** Attorneys agree to indemnify, defend with counsel approved in writing by District, and hold harmless District, 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 (“District Indemnitees”) from any and all 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 performance of services pursuant to this Agreement. If judgment is entered against Attorneys and District (or any District Indemnitee), by a court of competent jurisdiction because of the concurrent active negligence of Attorneys and District or District Indemnitees, Attorneys and District agree that liability will be apportioned as determined by the court. Neither party shall request a jury apportionment. Notwithstanding the foregoing, County agrees that it will first look to Attorneys’ professional liability insurance, in lieu of the indemnity provisions herein, but only up to and to the extent of any insurance coverage provided under said insurance, in the event of any loss arising from or related to the performance of services pursuant to this Agreement. Should County’s loss exceed coverage provided under Attorneys’ professional liability insurance, or should Attorney’s insurer deny coverage of all or a portion of County’s loss, County shall be entitled to look to the contractual indemnity provisions provided for under this Agreement for any uncovered loss. Nothing contained in this Section 15, or in Sections 11, 14, and 16 of this Agreement, shall be deemed to extend the statute of limitations established by law for professional negligence or willful misconduct.

16. **Insurance Provisions:** Prior to the provision of services under this Agreement, Attorneys agree to purchase all required insurance at Attorneys’ expense and to deposit with the County Counsel, Certificates of Insurance, including all endorsements required herein, necessary to satisfy County Counsel’s Supervising Attorney that the insurance provisions of this Agreement have been complied with and to keep such insurance coverage and the certificates therefore on deposit with County Counsel during the entire term of this Agreement. In addition, all subcontractors performing work on behalf of Attorneys pursuant to this Agreement shall obtain insurance subject to the same terms and conditions as set forth herein for Attorney.
Attorneys shall ensure that all subcontractors performing work on behalf of Attorneys pursuant to this Agreement shall be covered under Attorneys’ insurance as an Additional Insured or maintain insurance subject to the same terms and conditions as set forth herein for Attorneys. Attorneys shall not allow subcontractors to work if subcontractors have less that the level of coverage required the District from Attorneys under this Agreement. It is the obligation of Attorneys to provide notice of the insurance requirements to every subcontractor and to receive proof of insurance prior to allowing any subcontractor to begin work. Such proof of insurance must be maintained by Attorneys throughout the term of this Agreement for inspection by District representative(s) at any reasonable time.

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

a) In addition to the duty to indemnify and hold the District harmless against any and all liability, claim, demand or suit resulting from Attorneys’, its agents, employee’s or subcontractor’s performance of this Agreement, Attorneys shall defend the District at its sole cost and expense with counsel approved by Board of Supervisors against same; and

b) Attorneys’ duty to defend, as stated above, shall be absolute and irrespective of any duty to indemnify or hold harmless; and

c) 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 the Attorneys’ SIR provision shall be interpreted as though the Agreement was an insurer and the District was the insured.

If the Attorneys’ fail to maintain insurance acceptable to the District for the full term of this Agreement, the District may terminate this Agreement.

Qualified Insurer

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.

The policy or policies of insurance maintained by the Attorneys shall provide the minimum limits and coverage as set forth below:
Coverage

<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>Automobile Liability including coverage</td>
<td>$1,000,000 per occurrence</td>
</tr>
<tr>
<td>for owned, non-owned and hired vehicles</td>
<td>$1,000,000 aggregate</td>
</tr>
<tr>
<td>Workers Compensation</td>
<td>Statutory</td>
</tr>
<tr>
<td>Employers Liability Insurance</td>
<td>$1,000,000 per occurrence</td>
</tr>
<tr>
<td>Professional Liability</td>
<td>$1,000,000 per claims-made</td>
</tr>
<tr>
<td></td>
<td>$1,000,000 aggregate</td>
</tr>
</tbody>
</table>

**Required Coverage Forms**

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

The Business Auto Liability coverage shall be written on ISO form CA 00 01, CA 00 05, CA 0012, CA 00 20, or a substitute form providing coverage at least as broad.

**Required Endorsements**

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

Attorneys shall notify District 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 the District. Failure to provide written notice of cancellation may constitute a material breach of the Agreement, upon which the District may suspend or terminate this Agreement.

If Attorneys’ Professional Liability is a “Claims-Made” policy, Attorneys shall agree to maintain coverage for two (2) years following the completion of the Agreement.

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

Insurance certificates should be forwarded to the agency/department address listed in the Agreement.

If the Attorneys fail to provide the insurance certificates and endorsements within seven (7) days of notification by CEO/Purchasing or the agency/department purchasing division, award may be made to the next qualified firm.
The District expressly retains the right to require Attorneys to increase or decrease insurance of any of the above insurance types throughout the term of this Agreement if this Agreement is amended. Any increase or decrease in insurance will be as deemed by County of Orange Risk Manager as appropriate to adequately protect the District.

The District shall notify Attorneys in writing of changes in the insurance requirements. If Attorneys do not deposit copies of acceptable Certificates of Insurance and endorsements with the County incorporating such changes within thirty (30) days of receipt of such notice, this Agreement may be in breach without further notice to Attorneys, and the District shall be entitled to all legal remedies.

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

17. **Ownership of Documents:** The District has permanent ownership of all directly connected and derivative materials produced under this Agreement by the Attorneys. All documents, reports and other incidental or derivative work or materials furnished hereunder shall become and remain the sole property of the District and may be used by the District as it may require without additional cost to the District. None of the documents, reports and other incidental or derivative work or furnished materials shall be used by the Attorneys without the express written consent of the District.

18. **Title to Date:** All materials, documents, data or information obtained from the District data files or any District medium furnished to the Attorneys in the performance of this Agreement will at all times remain the property of the District. Such data or information may not be used or copied for direct or indirect use by the Attorneys after completion or termination of this Agreement without the express written consent of the District. All materials, documents, data or information, including copies, must be returned to the District at the end of this Agreement.

19. **Records:** The Attorneys shall keep an accurate record of time expended by Attorneys and the subcontractors working for Attorneys in the performance of this Agreement. Such record shall be available for periodic inspection by the District at reasonable times.

20. **Audits/Inspections:** Attorneys agree to permit the District’s Auditor-Controller or the Auditor-Controller’s authorized representative (including auditors from a private auditing firm hired by the District) access during normal working hours to all books, accounts, records, reports, files, financial records, supporting documentation, including payroll and accounts payable/receivable records, and other papers or property of Attorneys for the purpose of auditing or inspecting any aspect of performance under this Agreement. The inspection and/or audit will be confined to those matters connected with the performance of the Agreement including, but not limited to, the costs of administering the Agreement. Attorneys will be provided reasonable notice of such an audit or inspection.
The District reserves the right to audit and verify the Attorneys’ records before final payment is made.

Attorneys agree to maintain such records for possible audit for a minimum of five (5) years after final payment, unless a longer period of records retention is stipulated under this Agreement or by law. Attorneys agree to allow interviews of any employees or others who might reasonably have information related to such records. Further, Attorneys agree to include a similar right to the District to Audit records and interview staff of any subcontractors related to performance of this Agreement.

Should the Attorneys cease to exist as a legal entity, the Attorneys’ records pertaining to this Agreement shall be forwarded to the surviving entity in a merger or acquisition or, in the event of liquidation, to the County Counsel’s Supervising Attorney.

21. **Termination for District’s Convenience:** Serves performed under this Agreement may be terminated in whole or in part at any time District deems termination of this Agreement to be in its best interests. County Counsel’s Supervising Attorney shall terminate services by delivering to Attorneys a written Termination Notice specifying the extent to which services are terminated and the effective termination date. After receiving a Termination Notice and unless otherwise directed by County Counsel’s Supervising Attorney, Attorneys shall:

a) Take all necessary steps to stop services on the date and to the extent specified in the Termination Notice.

b) Complete services not terminated by the Termination notice.

c) Complete and submit a written Closing Report within 30 days after the termination date, including a brief description of any outstanding legal issues or matters which are pending with the Attorneys (including a discussion of applicable law) a list and description of all scheduled meetings, court appearances or matters which Attorneys were to attend and an assessment of the accomplishments of Attorneys’ engagement.

d) Submit final billing for terminated services no later than sixty (60) calendar days from the effective termination date. If Attorneys fail to submit a final billing within the time allowed, District may determine, on the basis of information available to it, the amount, if any, due to Attorneys. After District makes a determination, it shall pay Attorneys that amount. District’s determination shall be final.

e) Provide County Counsel’s Supervising Attorney with copies (electronic and hard copies) of all files and attorneys work product for any matters in which Attorneys were retained by District. This includes any computerized index, computer programs and document retrieval systems created or used for the matters. When instructed by County Counsel’s Supervising Attorney, Attorneys shall file with the court the appropriate substitution of counsel.

22. **Breach of Agreement:** The failure of the Attorneys to comply with any of the terms, provisions, covenants or conditions of this Agreement shall constitute a material breach of
this Agreement. In such event, the District may, and in addition to any other remedies available at law, in equity, or otherwise specified in this Agreement:

   a) Afford the Attorneys written notice of the breach and ten (10) calendar days or such shorter time that may be specified in this Agreement within which to cure the breach; and/or

   b) Discontinue payment to the Attorneys for and during the period in which the Attorneys are in breach; and offset against any monies billed by the Attorneys but yet unpaid by the District those monies disallowed pursuant to the above; and/or

   c) Terminate the Agreement immediately, without penalty to the District.

23. **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 of any other different or subsequent breach.

24. **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.

25. **Notices**: Any and all notices, requests, demands and other communications contemplated, called for, permitted, or required to be given hereunder shall be in writing, except through the course of the Parties’ routine exchange of information and cooperation during the terms of the work and services. Any written communications shall be deemed to have been duly give upon actual in-person delivery, if delivery is by direct hand or upon delivery on the actual day of receipt or no greater than four calendar days after being mailed by US certified or registered mail, return receipt requested, postage prepaid, whichever occurs first. The date of mailing shall count as the first day.

   All communications shall be addressed to the appropriate Party at the address stated herein or such other address as the Parties hereto may designate by written notice from time to time in the manner aforesaid.

   For Attorneys: Name: Buchalter
   Address: 655 West Broadway
             Suite 1625
             San Diego, CA 92101

   Attn: Brian Fish
   Phone: (619) 219-5427
   Email: bfish@buchalter.com

   With a copy to: Buchalter General Counsel

10.
26. **District Child Support Enforcement**: In order to comply with child support enforcement requirements of District, within 30 days of the effective date of this Agreement, Attorneys agree to furnish to the County Counsel’s Supervising Attorney a full completed and executed certification in the form of Attachment D. It is expressly understood that this data will be transmitted to government agencies charged with the establishment and enforcement of child support orders, and for no other purposes.

Failure of the Attorneys to timely submit the data and/or certification required above or to comply with all federal and state reporting requirements for child support enforcement or to comply with all lawfully served Wage and Earning Assignment Orders and Notices of Assignment shall constitute a material breach of the Agreement. Failure to cure such breach within 60 calendar days of notice from the District shall constitute grounds for termination of this Agreement.

27. **Employee Eligibility Verification**: The Attorneys warrant that they fully comply with all Federal and State Statutes and regulations regarding the employment of aliens and others and that all Attorneys’ employees performing work under this Agreement meet the citizenship or alien status requirement set forth in Federal statutes and regulations. The Attorneys shall obtain, from all employees performing work hereunder, all verification and other documentation of employment eligibility status required by Federal or State statutes and regulations including, but no limited to, the Immigration Reform and Control Act of 1986, 8 U.S.C. § 1324 et seq., as they currently exist and as they may be hereafter amended. The Attorneys shall retain all such documentation for all covered employees for the period prescribed by law. The Attorneys shall indemnify, defend with counsel approved in writing by the District, and hold harmless, the District and District Indemnites from employer sanctions and any other liability which may be assessed against the Attorneys or the District/County Indemnites or both in connection with any alleged violation of any Federal or State statutes or regulations pertaining to the eligibility for employment of any persons performing work under this Agreement.

28. **Entire Agreement**: This Agreement including Attachments A, B, C and D, which are attached hereto and incorporated herein by this reference, contains the entire Agreement between the Parties with respect to the matters herein and there are no exceptions, alternatives, substitutions, revisions, understandings, agreements, restrictions, promises, warranties or undertakings, whether oral or written, other than those set forth herein or referred to herein.
29. **Amendments:** No alteration or variation of the terms of this Agreement shall be valid unless made in writing by the Parties.

30. **Governing Law and Venue:** 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, without reference to conflict of laws provisions. 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. Furthermore, the Parties specifically agree to waive any and all rights to request that an action be transferred for trial to another venue.

31. **Appropriation/Contingency of Funds:** This Agreement is subject to and contingent upon applicable budgetary appropriations being approved by the Board of Supervisors for each fiscal year during the Term of this Agreement. If such appropriations are not approved, the Agreement will be immediately terminated without penalty to the District.

32. **Taxes:** Unless otherwise provided herein or by law, the compensation provided for herein includes California state sales or use tax applicable law now or in the future.

33. **Change of Ownership:** Attorneys agree that if there is a change or transfer in ownership of Attorneys’ business prior to completion of this Agreement, the new owner(s) or successor(s) to Attorneys shall be required to provide documentation satisfactory to the District that the new owner(s) or successor(s) have assumed and will assume Attorneys’ duties and obligations contained in this Agreement and that this Agreement constitutes a valid and fully binding agreement of such new owner(s) or successor(s).

34. **Publication:** No copies of schedules, written documents, and computer based data, photographs, maps or graphs, resulting from performance or prepared in connection with this Agreement, are to be released by Attorneys and/or anyone acting under the supervision of Attorneys to any person, partnership, company, corporation, or agency, without prior written approval by the District, except as necessary for the performance of the services of this Agreement. All press releases, including graphic display information to be published in newspapers, magazines, etc., are to be administered only by the District unless otherwise agreed to by both Parties.

35. **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.

36. **Severability:** If any term, covenant, condition or provision of this Agreement 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.

37. **Calendar Days:** Any reference to the word “day” or “days” herein shall mean calendar day or calendar days, respectively, unless otherwise expressly provided.
38. **Attorney’s Fees:** In any action or proceeding to enforce or interpret any provision of this Agreement, or where any provision hereof is validly asserted as a defense, each Party shall bear its own attorney’s fees, costs and expenses.

39. **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 it has 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 of 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 effect the purpose of the Parties and this Agreement.

40. **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.

41. **Counterparts and .pdf/Facsimile Signature:** This Agreement may be signed in counterparts, which together shall constitute one original, and such counterpart signature pages may be exchanged and compiled using facsimile and/or .pdf file versions, which shall be deemed to be original signatures.

**SIGNATURES ON FOLLOWING PAGE**
The parties hereto have executed this Agreement on the dates shown opposite their respective signatures below.

Dated: March 12, 2019

District:

Nicole M. Walsh
Supervising Deputy County Counsel

By: ____________________________

Nicole M. Walsh
Supervising Deputy County Counsel

Dated: March 12, 2019

Attorneys:

Buchalter, A Professional Corporation

By: ____________________________

Its: ____________________________
ATTACHMENT A

SCOPE OF SERVICES

Attorneys will be required to provide the personnel and all necessary support, including computer hardware and software that is sufficient and adequate to perform the services. Attorneys will need to prepare interim and final reports, updates, and summaries for each phase of work if requested by County Counsel.

The required services include, but are not limited to, the following services as directed by the County Counsel’s office:

1. Attorneys shall represent the Orange County Flood Control District and provide advisory, strategy, pre-litigation, litigation, and all necessary related legal services concerning Sierra Club, et al. v. City of Highland (San Bernardino Superior Court CIVDS 1615347); Greenspot Residents Association, et al. v. City of Highland (San Bernardino Superior Court CIVDS 1615280) and the property at issue in those matters (“District Property”). Services may also include, but not be limited to, review of environmental documentation, review of entitlement and planning documentation, and other land use, planning and environmental legal services related to the potential development, leasing, sale or other disposition of portions of the District Property.

2. Attorneys shall, if and when requested by County Counsel:
   a) Consult with and advise County Counsel, the County Board of Supervisors and designated District staff on negotiation, pre-litigation and litigation strategy;
   b) Hire litigation consultants and/or expert witnesses, subject to approval by County Counsel and/or the Board of Supervisors; and
   c) Negotiate and/or engage in informal dispute resolution and/or mediation in an effort to achieve authorized settlements (note that as a general matter, all settlements must be approved by the County Board of Supervisors).

3. Attorneys shall, if and when requested by County Counsel, attend meetings of the Board of Supervisors and meet with District Representatives as requested by County Counsel.

4. Attorneys shall obtain the approval of County Counsel prior to undertaking legal research of more than twelve (12) hours on any particular issue.

5. Attorneys shall obtain County Counsel’s prior approval for travel outside the Counties of: Orange, Los Angeles, Riverside, Imperial, Kern, San Bernardino, Ventura, Santa Barbara or San Diego.
ATTACHMENT B

COMPENSATION, INVOICING AND PAYMENT

A. Hourly Rate Schedule

<table>
<thead>
<tr>
<th>STAFFING LEVEL</th>
<th>NAME</th>
<th>HOURLY RATE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Supervising Attorney</td>
<td>Brian Fish</td>
<td>$445.00</td>
</tr>
<tr>
<td>Partners, as approved by County Counsel’s designated Supervising Attorney</td>
<td></td>
<td>$445.00</td>
</tr>
<tr>
<td>Of Counsel, as approved by County Counsel’s designated Supervising Attorney</td>
<td></td>
<td>$440</td>
</tr>
<tr>
<td>Associates, as approved by County Counsel’s Supervising Attorney</td>
<td></td>
<td>$350.00</td>
</tr>
<tr>
<td>Paralegals, as approved by County Counsel’s Supervising Attorney</td>
<td></td>
<td>$290.00</td>
</tr>
</tbody>
</table>

The Attorneys shall not be compensated for “travel time.” Itemized receipts/backup documentation for reimbursable expenses must be submitted with the invoice.

NOTWITHSTANDING ANY PROVISION OF THIS AGREEMENT TO THE CONTRARY, UNLESS ATTORNEYS RECEIVE PRIOR WRITTEN APPROVAL OF THE DISTRICT, THE DISTRICT WILL NOT COMPENSATE ATTORNEYS FOR THE ATTENDANCE OR PARTICIPATION OF MORE THAN ONE ATTORNEY (INCLUDING ATTORNEYS STAFF) IN ANY MEETING, CONFERENCE CALL, DEPOSITION, COURT APPEARANCE OR SIMILAR MATTER. IN THE EVENT MORE THAN ONE ATTORNEY ATTENDS ANY MATTER, THE DISTRICT WILL COMPENSATE ATTORNEYS AT THE HOURLY RATE FOR THE MOST SENIOR ATTORNEY PRESENT.

THE DISTRICT WILL NOT PAY ANY ATTORNEY HOURLY RATE FOR TIME SPENT TRAVELING, REGARDLESS OF THE FORM OF TRANSPORTATION (AUTOMOBILE, AIR, ETC.). FOR POLICIES RELATED TO TRAVEL EXPENSE REIMBURSEMENT SEE SECTION B.2, BELOW.
ATTACHMENT B

COMPENSATION, INVOICING AND PAYMENT

B. Expenses

District shall reimburse Attorneys for their actual out-of-pocket expenses without mark-up, excluding expenses generally considered as overhead already reflected in the Attorneys’ hourly rates.

1. Reimbursable ordinary expenses shall include, but not be limited to:

   a) Transcript fees.
   b) Postage.
   c) Messenger service.
   d) Process service.
   e) Document reproduction by outside vendor.
   f) In-house document production. If amount charged in any one month exceeds $500.00, prior County Counsel approval shall be obtained.

2. Reimbursable extraordinary expenses include charges of which Attorneys have obtained County Counsel’ prior approval. Such expenses include, but shall not be limited to:

   a) Consultants, up to $150,000 per contract, unless otherwise authorized by the County Board of Supervisors.
   b) Expert witnesses up to $150,000 per contract, unless otherwise authorized by the County Board of Supervisors.
   c) Travel outside the Counties of Orange, Los Angeles, San Bernardino, Riverside, Imperial, Kern, Ventura, Santa Barbara and San Diego. Such extraordinary expenses shall be reimbursed at the IRS prevailing rate for mileage only.
   d) Investigative services.
   e) Any expense item exceeding Five Hundred Dollars ($500.00).

3. Non-Reimbursable expenses include, but shall not be limited to:

   a) Staff time or overtime for performing secretarial, clerical, or word processing functions.
b) Charges for time spent to provide necessary information for District audits or billing inquiries.

c) Charges for work performed which had not been authorized by County Counsel. Such work shall be gratuitous effort by Attorneys.

d) Mileage, travel expenses or telephone expenses within the counties of Orange, Los Angeles, San Bernardino, Riverside, Imperial, Kern, Ventura, Santa Barbara and San Diego.

BILINGS AND PAYMENTS

C. Billings

1. Attorneys shall submit monthly billing statements in arrears, no later than the tenth (10th) of the month following the month service was rendered.

2. The original billing statement(s) and one copy shall be submitted to:

   Orange County Flood Control District
   Office of the County Counsel
   333 W. Santa Ana Blvd., 4th Floor
   Post Office Box 1379
   Santa Ana, CA 92702-1379
   Attn: Nicole M. Walsh, Senior Assistant County Counsel

3. The original of each billing statement shall include a declaration of Attorneys’ Supervising Attorney or Lead Counsel as provided in Attachment C.

4. Each billing statement shall be identified by a unique number and shall be itemized to include:

   a) Matter or Case names and court number.

   b) Staffing level(s), hourly rates and specific activities for each attorney and/or paralegal.

      1) Each activity shall be billed separately as a line item in a time reporting format acceptable to County Counsel.

      2) A detailed description of specific activities for each attorney and/or paralegal.

   c) Total current cumulative monthly fees billed for each staffing level.

   d) Total current monthly expenses billed in the following categories:
1) Consultant and expert witness expenses;
2) Deposition and transcript expenses; and
3) Other miscellaneous expenses.

e) The total cumulative expenses to date billed in (d) directly above.

D. Payments

District shall make payment(s) for services rendered under this Agreement monthly in arrears based on the monthly itemized billing statement(s) Attorneys submit to District. District shall make its best effort to process payments promptly after receiving Attorneys’ monthly billing statement. District shall not pay interest or finance charges on any outstanding balance(s).
ATTACHMENT C

ATTORNEYS’ DECLARATION ON BILLING STATEMENT

The following declaration shall be made on the original of each billing statement and personally signed and dated by Attorneys’ Supervising Attorney or Lead Counsel.

“I have personally examined this billing statement. All entries are in accordance with the Agreement for Professional Legal Services, are correct and reasonable for the services performed and costs incurred, and no item on this statement has been previously billed to District.”

__________________________________________
Date

__________________________________________
Signature

__________________________________________
Name

__________________________________________
Title
(Supervising Attorney or Lead Counsel)
ATTACHMENT D

COUNTY OF ORANGE CHILD SUPPORT ENFORCEMENT CERTIFICATION REQUIREMENTS

This data shall be transmitted to governmental agencies charged with the establishment and enforcement of child support order and for no other purposes and shall be held confidential by those agencies.

A. In the case of an individual Vendor, his/her name, date of birth, Social Security number, and residence address:

Name: ______________________________
D.O.B: ______________________________
Social Security No: ______________________________
Residence Address: ______________________________

B. In the case of a Vendor doing business in a form other than as an individual, the name, date of birth, Social Security number, and residence address of each individual who owns an interest of 10 percent or more in the contracting entity:

Name: ______________________________
D.O.B: ______________________________
Social Security No: ______________________________
Residence Address: ______________________________

Name: ______________________________
D.O.B: ______________________________
Social Security No: ______________________________
Residence Address: ______________________________

(Additional sheets may be used if necessary)

I certify that ______________________________ is in full compliance with all applicable federal and state reporting requirements regarding its employees and with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignments and will continue to be in compliance throughout the term of the Agreement with the Orange County Flood Control District. I understand that failure to comply shall constitute a material breach of the Agreement and failure to cure such breach within sixty (60) calendar days of notice from the District shall constitute grounds for termination of the Agreement.

Name (Please Print) ___________________________________________

Authorized Signature __________________________________________

Title ________________________________________________________
FIRST AMENDMENT

TO

AGREEMENT

BY AND BETWEEN

THE COUNTY OF ORANGE

AND

DENTONS US LLP

FOR PROFESSIONAL LEGAL SERVICES

March 12, 2019
FIRST AMENDMENT
TO
AGREEMENT
FOR PROFESSIONAL LEGAL SERVICES

This First Amendment to Agreement for Professional Legal Services ("First Amendment"), once fully executed by the parties hereto, shall be effective February 12, 2019, and is by and between the County of Orange, a political subdivision of the State of California (the "County" or "Client"), and Dentons US LLP ("Attorneys"). County and Attorneys are sometimes individually referred to as "Party," or collectively referred to as "Parties."

RECITALS

WHEREAS, the County and Attorneys entered into that certain agreement entitled, Agreement By and Between the County of Orange and Dentons US LLP for Professional Legal Services, dated September 22, 2015 ("Agreement"); and

WHEREAS, Section 17.A. of Exhibit E, Standard Terms and Conditions for Outside Legal Contracts, of the Agreement provides that for any revision to the Agreement that affects the services and responsibilities, payments, terms or any condition included in the Agreement, Client and Attorneys shall negotiate a modification (amendment) to the Agreement; and

WHEREAS, the Agreement provides that Attorneys’ Supervising Attorney for the Agreement shall be Brian Fish, and that any change in Attorneys’ Supervising attorney shall be first authorized in writing by County Counsel; and

WHEREAS, Brian Fish, effective February 11 2019, has left employment with Attorneys and has associated with the law firm of Buchalter, A Professional Corporation;

WHEREAS, the County desires to retain Brian Fish as the attorney supervising Attorneys’ performance of the Agreement and the provision of advisory and litigation services concerning the County Property, as set forth and defined in the Agreement.

NOW, THEREFORE, the Parties mutually agree to amend the Agreement as follows:

AMENDMENTS

1. KEY ATTORNEYS PERSONNEL:

   a. Section III.A.1 of the Agreement shall be amended to read as follows:
      "Attorneys’ Supervising Attorney for this Agreement shall be Robert A. Cocchia. Any change in Attorneys’ Supervising Attorney shall be first authorized by County Counsel. Attorneys’ Supervising Attorney shall have the authority to act for Attorneys on all daily operational matters under this Agreement, subject to section III.A.2, below, and unless otherwise provided under the terms of this Agreement, including any amendments hereto."

   b. Section III.A.2 of the Agreement shall be amended to read as follows: "Attorneys
agree to perform the services set forth in this Agreement, under the supervision and direction of the law firm of Buchalter, A Professional Corporation ("Buchalter"). Buchalter shall serve as lead counsel ("Lead Counsel") for all activities performed under the scope of services described below. Designation of Lead Counsel shall be subject to County Counsel’s written approval.”

2. **BILLINGS AND PAYMENTS:**
   a. Section IV.A.1 of the Agreement shall be amended to read as follows: “Attorneys shall submit, or arrange to have Lead Counsel submit, Attorneys’ billing statement to Client, as provided in Section VI.A.2, monthly, in arrears, no later than the tenth (10th) of the month following the month service was rendered. Prior to submission to Client, all Attorneys’ billing shall be submitted to Lead Counsel for review, and only those billings approved by Lead Counsel, subject to the terms and conditions of this Agreement, shall be included in the billing statement submitted to Client for payment.”

3. **NOTICES:**
   a. The respective addresses for notices under Section VII of the Agreement shall be, for Attorneys, Robert A. Cocchia, robert.cocchia@dentons.com, and for Client, Julia C. Woo, julia.woo@coco.oegov.com.

4. **FULL FORCE/CONFLICTING PROVISIONS:** Except as expressly modified herein, all terms of the Agreement between the parties remain in full force and effect as if fully set forth herein. If there is any inconsistency between the provisions of this First Amendment and the provisions of the original Agreement, the provisions of this First Amendment shall control.

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

6. **COUNTERPARTS:** This First Amendment may be executed in counterparts, which, together, shall constitute one and the same instrument.

*SIGNATURES ON FOLLOWING PAGE*
In WITNESS WHEREOF, the parties hereto have executed this First Amendment on the dates opposite their respective signatures below.

Dated: 

COUNTY:
Leon J. Page
County Counsel

By: 
Julia C. Woo, Deputy

Dated: 

ATTORNEYS:
Dentons US LLP

By: Robert A. Cocchia, Partner

APPROVED AS TO FORM
OFFICE OF THE COUNTY COUNSEL
ORANGE COUNTY, CALIFORNIA

By: 
Deputy
Date: 3/27/19
March 7, 2019

Nicole Walsh, Esq.
Supervising Deputy County Counsel
County Of Orange
333 W. Santa Ana Blvd., Suite 407
Santa Ana, CA 92710

Dear Nicole:

Pursuant to your request, and as we discussed, this letter confirms that we performed a conflict check with respect to the Orange County Flood Control District (“District”) and the known adverse parties in the matters that Buchalter would be engaged in for the District. No conflicts were identified which would necessitate a waiver prior to Buchalter initiating representation of the District with respect to matters relating to the District Property (as that term is defined in the proposed Agreement for Professional Legal Services). One known potential conflict on an unrelated matter was identified, however, and it relates to a Toll Bros. residential development project located in the City of Lake Forest in proximity to a District facility.

Similar to the way that potential conflicts of the above nature were disclosed when I was with Dentons, I included a paragraph regarding the potential conflicts in Section 5 of the proposed Agreement for Professional Legal Services between the District and Buchalter. In summary, this language indicates that the District consents to the representation, except where the representation is in a litigation matter in which the District is a party or participant and the interests of the other client are adverse to those of the District. In the event a conflict should arise, the District would be notified and would have the opportunity to allow the concurrent representation under a written waiver, have Buchalter withdraw from the representation, or agree to other mutually acceptable solutions.

Thank you for the opportunity to continue to work with the District on the Greenspot related matters. If you have any questions, or if you need anything else from us, please do not hesitate to contact me.

Sincerely,

BUCHALTER
A Professional Corporation

By

Brian Fish

BF:lmh

BN 35835798v2
March 7, 2019

Julia Woo, Esq.
Deputy County Counsel
County Of Orange
333 W. Santa Ana Blvd., Suite 407
Santa Ana, CA 92710

Dear Julia:

Pursuant to your request, and as we discussed, this letter confirms that we performed a conflict check with respect to the County of Orange (“County”) and the known adverse parties in the matters that Buchalter would be engaged in for the County. No conflicts were identified which would necessitate a waiver prior to Buchalter initiating representation of the County with respect to matters relating to the County Property (as that term is defined in the proposed Agreement for Professional Legal Services). Two known potential conflicts on unrelated matters were identified, however, and relate to a Chick-fil-A property within a County island that is currently in the process of being annexed to the City of Santa Ana, and a representation of the Airport Working Group of Orange County as it relates to the prior settlement of matters related to John Wayne Airport.

Similar to the way that potential conflicts of the above nature were disclosed when I was with Dentons, I included a paragraph regarding the potential conflicts in Section 5 of the proposed Agreement for Professional Legal Services between the County and Buchalter. In summary, this language indicates that the County consents to the representation, except where the representation is in a litigation matter in which the County is a party or participant and the interests of the other client are adverse to those of the County. In the event a conflict should arise, the County would be notified and would have the opportunity to allow the concurrent representation under a written waiver, have Buchalter withdraw from the representation, or agree to other mutually acceptable solutions.

Thank you for the opportunity to continue to work with the County on the El Toro related matters. If you have any questions, or if you need anything else from us, please do not hesitate to contact me.

Sincerely,

BUCHALTER
A Professional Corporation

By

Brian Fish

BF/lmb
BN 35833177v2
RISK ASSESSMENT OR MODIFICATION OF INSURANCE TERMS

Use this form to request a Risk Assessment and determine Proper Insurance Requirements when
developing an Agreement. **Please attach Agreement and prior Risk Approval(s) if any**

Date: 3.6.19

TO: RiskMgmtInsurance@ocgov.com

FROM: Julia C. Woo

County Employee (Contact for Questions)
Phone# (Including area code): 714-834-6046

County Counsel

County Department

CONTRACT TYPE: □ Commodities □ Public Works □ Service □ Lease/License

□ A & E □ Other Professional Legal Services

Vendor Name: Buchalter, A Professional Corp.

Contract#/RFP#: County and OCFCD Agreements

IFB: Yes □ No □ Contract Amount:

Insurance Type to be Reviewed for Waiver or Modification of Terms

□ Commercial General Liability (CGL) □ Workers’ Compensation (W/C) □ Property Insurance

□ Commercial Auto Liability (AL) □ Employer’s Liability □ Indemnification

□ Professional Liab. (Errors & Omissions) □ Sexual Misconduct □ Limitation of Liab.

□ Network Security & Privacy Liab. □ Technology Error & Omissions

□ Other SIR approval and no endorsements

Request and Justification: Agreements with Buchalter proposed in order to address attorney Brian Fish’s move from Dentons to Buchalter. Law Firm will not be conducting business on County property and requested endorsements be waived for CGL and WC.

Per Risk, risk is minimal as the real exposure with attorneys is professional liability. Firm will disclose SIRs, but will not provide a financial report. Financial risk is low as this is an established regional firm approximately 80 years in existence, with 250 attorneys. Indemnity provision has been "modified" to align with language previously approved by Board in agreement with attorney’s prior firm, Dentons. Under "modification" County and OCFCD agree to first look to professional liability (see attached sheet)

To Be Completed By CEO/Risk Management

□ Approved □ Denied □ Approved as Modified

Comments: Indemnity provision requested in prior Agreement by County Counsel. Insurance requirements are appropriate for law firm.

Manager/CEO/Risk Management: __________ Date: 3/7/19

Note: CEO Risk Mgmt. acts as an advisory to departments regarding Risk Assessment. Any changes to a contract requires formal modification.
insurance for any losses, before contractual indemnity. Scope of indemnifiable loss is same as standard agreement indemnity provision.
MEMORANDUM

March 4, 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 on Tuesday, March 12, 2019, to discuss with the Board the status of existing litigation, pursuant to Government Code section 54956.9(d)(1).

Accordingly, please prepare the Agenda Item to read:

“CONFERENCE WITH LEGAL COUNSEL -- EXISTING LITIGATION Pursuant to Government Code Section 54956.9(d)(1).

RECOMMENDED ACTION: Conduct Closed Session.”

Thank you.

MVR: jr

cc: Members of the Board of Supervisors
Frank Kim, CEO
MEMORANDUM

March 5, 2019

TO: Robin Stiefer, 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 on Tuesday, March 12, 2019, to discuss with the Board the status of existing litigation, pursuant to Government Code section 54956.9(d)(1).

Accordingly, please prepare the Agenda Item to read:

“CONFERENCE WITH LEGAL COUNSEL -- EXISTING LITIGATION Pursuant to Government Code Section 54956.9(d)(1).
Name of Case: Glenn Johnson v. County of Orange, WCAB Case No. ADJ Unassigned

RECOMMENDED ACTION: Conduct Closed Session.”

Thank you.

LJP:jr

cc: Members of the Board of Supervisors
    Frank Kim, CEO
MEMORANDUM

March 5, 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, March 12, 2019, for the Board to consider the initiation of litigation pursuant to Government Code section 54956.9(d)(4).

Accordingly, please prepare the Agenda Item to read:

"CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION – INITIATION OF LITIGATION pursuant to Government Code section 54956.9(d)(4).
Number of Cases: One Case.

RECOMMENDED ACTION: Conduct Closed Session."

Thank you.

LJP:jr

cc: Members of the Board of Supervisors
Frank Kim, CEO