



ORANGE COUNTY FIRE AUTHORITY

AGENDA

Pursuant to the Brown Act, this meeting also constitutes a meeting of the Board of Directors.

EXECUTIVE COMMITTEE REGULAR MEETING

Thursday, May 24, 2018

5:30 P.M.

Regional Fire Operations and Training Center

Board Room

1 Fire Authority Road

Irvine, CA 92602

This Agenda contains a brief general description of each item to be considered. Except as otherwise provided by law, no action or discussion shall be taken on any item not appearing on the following Agenda. Unless legally privileged, all supporting documents, including staff reports, and any writings or documents provided to a majority of the Executive Committee after the posting of this agenda are available for review at the Orange County Fire Authority Regional Fire Operations & Training Center, 1 Fire Authority Road, Irvine, CA 92602 or you may contact Sherry A.F. Wentz, Clerk of the Authority, at (714) 573-6040 Monday through Thursday, and every other Friday from 8 a.m. to 5 p.m. and available online at <http://www.ocfa.org>

If you wish to speak before the Fire Authority Executive Committee, please complete a Speaker Form identifying which item(s) you wish to address. Please return the completed form to the Clerk of the Authority prior to being heard before the Committee. Speaker Forms are available at the counters of both entryways of the Board Room.



In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, you should contact the Clerk of the Authority at (714) 573-6040.

CALL TO ORDER

INVOCATION by Chaplain Jeff Hetschel

PLEDGE OF ALLEGIANCE by Director Hasselbrink

ROLL CALL

1. PRESENTATIONS

No items.

REPORTS

REPORT FROM THE HUMAN RESOURCES COMMITTEE CHAIR

REPORT FROM THE BUDGET AND FINANCE COMMITTEE CHAIR

REPORT FROM THE FIRE CHIEF

PUBLIC COMMENTS

Resolution No. 97-024 established rules of decorum for public meetings held by the Orange County Fire Authority. Resolution No. 97-024 is available from the Clerk of the Authority.

Any member of the public may address the Board on items within the Board's subject matter jurisdiction but which are not listed on this agenda during PUBLIC COMMENTS. However, no action may be taken on matters that are not part of the posted agenda. We request comments made on the agenda be made at the time the item is considered and that comments be limited to three minutes per person. Please address your comments to the Board as a whole, and do not engage in dialogue with individual Board Members, Authority staff, or members of the audience.

The Agenda and Minutes are now available through the Internet at www.ocfa.org. You can access upcoming agendas on the Monday before the meeting. The minutes are the official record of the meeting and are scheduled for approval at the next regular Board of Directors meeting.

2. MINUTES

A. Minutes from the April 26, 2018, Regular Executive Committee Meeting

Submitted by: Sherry Wentz, Clerk of the Authority

Recommended Action:

Approve as submitted.

3. CONSENT CALENDAR

All matters on the consent calendar are considered routine and are to be approved with one motion unless a Committee Member or a member of the public requests separate action on a specific item.

A. Monthly Investment Reports

Submitted by: Tricia Jakubiak, Treasurer

Budget and Finance Committee Recommendation: *APPROVE*

Recommended Action:

Receive and file the reports.

B. Third Quarter Financial Newsletter

Submitted by: Lori Zeller, Assistant Chief/Business Services Department

Budget and Finance Committee Recommendation: *APPROVE*

Recommended Action:

Receive and file the report.

C. Cooperative Contract for Diesel Fuel Supply Services

Submitted by: Dave Anderson, Assistant Chief/Support Services Department

Recommended Action:

Approve and authorize the Purchasing Manager to execute the proposed subordinate agreement with Merrimac Petroleum Inc., for diesel fuel supply services in an amount not to exceed \$900,000 annually, utilizing the recently awarded County of Orange Regional Cooperative Agreement (RCA) for a one-year period through May 23, 2019, with up to four optional one-year renewals not to exceed the RCA termination date of January 8, 2023.

D. Purchase Order Increase for 24 Fire Apparatus

Submitted by: Dave Anderson, Assistant Chief/Support Services Department

Recommended Actions:

1. Approve and authorize the Purchasing Manager to amend and increase the purchase orders for 17 Type I Engines as follows: Increase Purchase Order P0009897 by \$79,260 and Purchase Order P0010938 by \$37,576 for a total increase of \$116,836.
2. Approve and authorize the Purchasing Manager to amend and increase the purchase orders for seven TDAs as follows: Increase Purchase Order P0009907 by \$81,948 and Purchase Order P0010223 by \$13,658 for a total increase of \$95,606.

E. Award of Contract for Real Estate Advisory Services

Submitted by: Dave Anderson, Assistant Chief/Support Services Department

Recommended Action:

Approve and authorize the Purchasing Manager to sign the proposed Professional Services Agreement for Real Estate Advisory Services with Brookhurst Development Corporation in an annual amount not to exceed \$148,500, with two additional one-year renewal options (\$445,500 during the three-year term).

F. Special Procurement for Communications Equipment Installation Professional Services

Submitted by: Dave Anderson, Assistant Chief/Support Services Department

Recommended Action:

Approve and authorize the Purchasing Manager to execute the proposed six-month Professional Services Agreement with Bear Communications, Inc. for a not to exceed amount of \$157,500 to install new Motorola APX6500 mobile radios in up to 225 emergency apparatus and vehicles.

G. Support and Maintenance Services for Staffing and Timekeeping Business Systems

Submitted by: Lori Zeller, Assistant Chief/Business Services Department

Recommended Action:

Approve and authorize the Purchasing Manager to execute a renewed Professional Services Agreement with Information Management Technologies for up to five years, with a first year not-to-exceed cost of \$465,456, and annual percentage increases based on the U.S. Department of Labor Consumer Price Index for All Urban Consumers, Services in the Los Angeles-Riverside, Orange County, CA Area not to exceed 3%.

END OF CONSENT CALENDAR

4. DISCUSSION CALENDAR

A. May 2018 Legislative Report

Submitted by: Brian Young, Assistant Chief/Operations Department

Recommended Action:

Review the proposed agenda item and direct staff to place the item on the agenda for the Board of Directors meeting of May 24, 2018, with the Executive Committee's recommendation that the Board of Directors direct staff to forward to the Board a recommendation on AB 1912 (Rodriguez) to "seek amendments" to exclude liabilities of Structural Fire Fund cities and to avoid reporting of OCFA's retirement liabilities by member agencies.

CLOSED SESSION

No items.

COMMITTEE MEMBER COMMENTS

ADJOURNMENT – The next regular meeting of the Executive Committee is scheduled for Thursday, June 28, 2018, at 5:30 p.m.

AFFIDAVIT OF POSTING

I hereby certify under penalty of perjury under the laws of the State of California, that the foregoing Agenda was posted in the lobby, front gate public display case, and website of the Orange County Fire Authority, Regional Fire Training and Operations Center, 1 Fire Authority Road, Irvine, CA, not less than 72 hours prior to the meeting. Dated this 17th day of May 2018.

Sherry A.F. Wentz, CMC
Clerk of the Authority

UPCOMING MEETINGS:

Budget and Finance Committee Meeting	Wednesday, June 13, 2018, 12 noon
Claims Settlement Committee Meeting	Thursday, June 28, 2018, 5:00 p.m.
Executive Committee Meeting	Thursday, June 28, 2018, 5:30 p.m.
Board of Directors Meeting	Thursday, June 28, 2018, 6:00 p.m.

MINUTES ORANGE COUNTY FIRE AUTHORITY

**Executive Committee Regular Meeting
Thursday, April 26, 2018
5:30 P.M.**

**Regional Fire Operations and Training Center
Board Room
1 Fire Authority Road
Irvine, CA 92602**

CALL TO ORDER

Chair Sachs called the regular meeting of the Orange County Fire Authority Executive Committee to order at 5:30 p.m. on April 26, 2018.

INVOCATION

Assistant Chief Michael Schroeder offered the invocation.

PLEDGE OF ALLEGIANCE

Director Hatch led the assembly in the Pledge of Allegiance to our Flag.

ROLL CALL

Present: Shelley Hasselbrink, Los Alamitos
Noel Hatch, Laguna Woods
Gene Hernandez, Yorba Linda
Joe Muller, Dana Point
Ed Sachs, Mission Viejo
Dave Shawver, Stanton
Todd Spitzer, County of Orange
Tri Ta, Westminster

Absent: Elizabeth Swift, Buena Park

Also present were:

Fire Chief Brian Fennessy	Assistant Chief Dave Anderson
Assistant Chief Mike Schroeder	Assistant Chief Lori Smith
Assistant Chief Brian Young	Human Resources Director Brigitte Gibb
General Counsel David Kendig	Assistant Chief Lori Zeller
Clerk of the Authority Sherry Wentz	

1. PRESENTATIONS

No items.

REPORTS

REPORT FROM THE BUDGET AND FINANCE COMMITTEE CHAIR (F: 12.02A6)

Budget and Finance Committee Chair Joe Muller reported at its April 11, 2018, meeting, the Committee voted unanimously to receive and file both the Orange County Employees' Retirement System Quarterly Status Update and the Communication with Auditors for Fiscal Year 2017/18 Financial Audit. The Committee voted unanimously to send the Monthly Investment Reports to the Executive Committee with the recommendation to receive and file the reports.

REPORT FROM THE FIRE CHIEF (F: 12.02A7)

Fire Chief Fennessy introduced Assistant Chief Dave Anderson who presented the Quarterly Status Report on Capital Improvement Projects.

PUBLIC COMMENTS (F: 12.02A3)

Chair Sachs opened the Public Comments portion of the meeting. Chair Sachs closed the Public Comments portion of the meeting without any comments from the general public.

2. MINUTES

A. Minutes from the March 22, 2018, Regular Executive Committee Meeting (F: 12.02A2)

On motion of Director Hernandez and second by Director Ta, the Executive Committee voted unanimously by those present to approve the March 22, 2018, Minutes as submitted. Director Hernandez was recorded as an abstention, due to his absence from the meeting.

3. CONSENT CALENDAR

A. Monthly Investment Reports (F: 11.10D2)

On motion of Director Ta and second by Director Hernandez, the Executive Committee voted unanimously by those present to receive and file the reports.

B. Contract Extension for Structural Firefighting Gloves (F: 19.12)

On motion of Director Ta and second by Director Hernandez, the Executive Committee voted unanimously by those present to approve and authorize the Purchasing Manager to execute two one-year renewal options for the blanket order with AllStar Fire Equipment, Inc. for structural firefighting gloves for a two-year aggregate amount not to exceed \$120,000 (\$60,000 annually).

C. Blanket Orders Extensions for Programming and Professional Services for Information Technology (F: 19.07I) (F: 19.08A3a) (F: 19.08A5)

On motion of Director Ta and second by Director Hernandez, the Executive Committee voted unanimously by those present to:

1. Approve and authorize the Purchasing Manager to extend the current contracts for as-needed services to FATPOT Technologies, TriTech Software Systems, and Westnet, Inc., for up to three years.
2. Approve and authorize the Purchasing Manager to redistribute or adjust funding between the three contracts as requested by the department so long as the aggregate amount of the contracts collectively does not exceed \$85,000 annually (\$255,000 during the additional three-year term).

D. Blanket Order Contract Renewals – Information Technology (F: 19.08A3b) (F: 19.08A5)

On motion by Director Ta and second by Director Hernandez, the Executive Committee voted unanimously by those present to:

1. Approve and authorize the Purchasing Manager to extend the current blanket order with FATPOT Technologies, LLC for two additional one-year periods at an amount not to exceed \$102,820 annually. (\$205,640 during the two-year period).
2. Approve and authorize the Purchasing Manager to extend the current sole source blanket order with Deccan International for three additional one-year periods at an initial amount not to exceed \$35,575, and to approve price increases of up to 3% per year; total is not to exceed \$109,969 during the three-year period.

E. Award of RFP #JA2267 Purchase of Two Dozer Transport Tractors (F: 19.09A)

On motion of Director Ta and second by Director Hernandez, the Executive Committee voted unanimously by those present to approve and authorize the Purchasing Manager to issue a purchase order to Los Angeles Truck Centers for the purchase of two dozer transport tractors in an amount of \$344,619.50 (Cost per unit \$172,309.75 without optional five-year extended warranty).

F. Approval for Donation of Surplus Self-Contained Breathing Apparatus (X: 19.09D2) (F: 19.01)

On motion of Director Ta and second by Director Hernandez, the Executive Committee voted unanimously by those present to:

1. Find that the proposed donation of 375 surplus Scott Safety Air-Pak 50 Self-Contained Breathing Apparatus to Santa Ana College, El Camino College, and Rio Hondo College fire academies advances the purposes of the Orange County Fire Department by providing growth, training, and development opportunities to students at local colleges that serve as potential sources from which OCFA may recruit trained firefighters.
2. Approve and authorize the Purchasing Manager to donate 375 surplus Scott Safety Air-Pak 50 Self-Contained Breathing Apparatus to the Santa Ana College, El Camino College, and Rio Hondo College fire academies.

G. Special Procurement Contract Extension for Online Training Software (F: 19.08A2a3)

On motion of Director Ta and second by Director Hernandez, the Executive Committee voted unanimously by those present to approve and authorize the Purchasing Manager to execute the new client agreement with TargetSolutions for a three-year aggregate amount not to exceed \$300,000 (up to \$100,000 annually).

END OF CONSENT CALENDAR

4. DISCUSSION CALENDAR

A. April 2018 Legislative Report (F: 11.10F1)

Assistant Chief Lori Zeller presented the April 2018 Legislative Report.

Stephen Wontrobski, Mission Viejo resident, addressed his concerns with State Assembly Bill 1912.

By consensus, the Executive Committee requested that a copy of AB 1912 be sent to the Board of Directors, and that staff agendize discussion of the bill at its next regular Executive Committee and Board of Directors meeting in May.

On motion of Director Spitzer and second by Vice Chair Muller, the Executive Committee voted unanimously by those present to:

1. Adopt a position on AB 2144 (Chen) of “Support,” with staff providing an update on this bill to the Executive Committee in May.
2. Adopt a position on AB 2414 (Choi) of “Support.”

COMMITTEE MEMBER COMMENTS (F: 12.02A4)

The Committee Members offered no comments.

CLOSED SESSION (F: 12.02A5)

No items.

ADJOURNMENT – Chair Sachs adjourned the meeting at 5:55 p.m. The next regular meeting of the Orange County Fire Authority Executive Committee is scheduled for May 24, 2018, at 5:30 p.m.

Sherry A.F. Wentz, CMC
Clerk of the Authority



Orange County Fire Authority
AGENDA STAFF REPORT

Executive Committee Meeting
May 24, 2018

Agenda Item No. 3A
Consent Calendar

Monthly Investment Reports

Contact(s) for Further Information

Tricia Jakubiak, Treasurer Treasury & Financial Planning	triciajakubiak@ocfa.org	714.573.6301
Jane Wong, Assistant Treasurer	jane Wong@ocfa.org	714.573.6305

Summary

This agenda item is a routine transmittal of the monthly investment reports submitted to the Committee in compliance with the investment policy of the Orange County Fire Authority and with Government Code Section 53646.

Prior Board/Committee Action

Budget and Finance Committee Recommendation: *APPROVE*

At its regular May 9, 2018, meeting, the Budget and Finance Committee reviewed and unanimously recommended approval of this item.

RECOMMENDED ACTION(S)

Receive and file the reports.

Impact to Cities/County

Not Applicable.

Fiscal Impact

Not Applicable.

Background

Attached is the final monthly investment report for the month ended March 31, 2018. A preliminary investment report as of April 20, 2018, is also provided as the most complete report that was available at the time this agenda item was prepared.

Attachment(s)

Final Investment Report – March 2018/Preliminary Report – April 2018

Orange County Fire Authority Monthly Investment Report



Final Report – March 2018

Preliminary Report – April 2018



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Orange County Fire Authority

Final Investment Report

March 31, 2018



EXECUTIVE SUMMARY

Portfolio Activity & Earnings

During the month of March 2018, the size of the portfolio increased by \$8.2 million to \$153.7 million. Significant receipts for the month included the fifth and eighth apportionments of secured and supplemental property taxes, respectively, for a total of \$16.5 million. Significant receipts also included the third quarterly cash contract payments, intergovernmental contract and grant payments, and other charges for current services totaling \$17.1 million. Significant disbursements for the month included primarily two biweekly payrolls which were approximately \$10.1 million each with related benefits. Total March cash outflows amounted to approximately \$23.1 million. The portfolio's balance is expected to increase significantly in April as the next major property tax apportionment is scheduled for the month.

In March, the portfolio's yield to maturity (365-day equivalent) increased by 12 basis points to 1.47%. The effective rate of return, rose by 6 basis points to 1.42% for the month and increased by 4 basis points to 1.19% for the fiscal year to date. The average maturity of the portfolio shortened by 8 days to 88 days to maturity.

Economic News

The U.S. economy continued its steady growth pattern in March 2018. Overall employment conditions stayed strong, despite a weaker than expected March employment report. There were a total of 103,000 new jobs created for the month. However, a significant upward adjustment was made for the month of February. In addition, the unemployment rate continued to stay low and unchanged at 4.1% for the sixth straight month. Consumer confidence remained high, and retail sales reversed and rose more than expected. Both manufacturing and non-manufacturing sectors pulled back slightly but continued expanding. The CPI (Consumer Price Index) edged down slightly keeping the inflation measure tamed. Durable goods orders continued to surge and industrial production increased for the month. Moreover, both new home sales and existing home sales also exceeded expectations in March.

**BENCHMARK COMPARISON AS OF MARCH 31, 2018**

3 Month T-Bill: 1.73%

1 Year T-Bill: 2.06%

6 Month T-Bill: 1.92%

LAIF: 1.52%

OCFA Portfolio: 1.42%

PORTFOLIO SIZE, YIELD, & DURATION

	<u>Current Month</u>	<u>Prior Month</u>	<u>Prior Year</u>
Book Value-	\$153,662,453	\$145,509,799	\$153,422,308
Yield to Maturity (365 day)	1.47%	1.35%	0.78%
Effective Rate of Return	1.42%	1.36%	0.78%
Days to Maturity	88	96	135



ORANGE COUNTY FIRE AUTHORITY
Portfolio Management
Portfolio Summary
March 31, 2018

Orange County Fire Authority
 1 Fire Authority Road
 Irvine, Irvine, CA 92602
 (714)573-6301

(See Note 1 on page 9)

(See Note 2 on page 9)

Investments	Par Value	Market Value	Book Value	% of Portfolio	Term	Days to Maturity	YTM/C 360 Equiv.	YTM/C 365 Equiv.
Money Mkt Mutual Funds/Cash	7,818,416.51	7,818,416.51	7,818,416.51	5.09	1	1	1.164	1.180
Federal Agency Coupon Securities	26,000,000.00	25,766,360.00	26,000,000.00	16.92	962	405	1.283	1.301
Federal Agency Disc. -Amortizing	27,000,000.00	26,953,020.00	26,959,845.00	17.54	125	38	1.420	1.439
Treasury Coupon Securities	8,000,000.00	7,989,440.00	7,990,909.09	5.20	99	75	1.652	1.675
Treasury Discounts -Amortizing	20,000,000.00	19,936,750.00	19,937,192.60	12.97	110	69	1.596	1.618
Local Agency Investment Funds	65,000,000.00	64,839,970.07	65,000,000.00	42.29	1	1	1.503	1.524
Investments	153,818,416.51	153,303,956.58	153,706,363.20	100.00%	204	88	1.454	1.474

Cash and Accrued Interest

Passbook/Checking (not included in yield calculations)	141,571.81	141,571.81	141,571.81	1	1	0.000	0.000
Accrued Interest at Purchase		20,521.98	20,521.98				
Subtotal		162,093.79	162,093.79				
Total Cash and Investments	153,959,988.32	153,466,050.37	153,868,456.99	204	88	1.454	1.474

Total Earnings	March 31 Month Ending	Fiscal Year To Date
Current Year	185,253.03	1,363,880.09
Average Daily Balance	153,338,717.53	152,401,435.21
Effective Rate of Return	1.42%	1.19%

"I certify that this investment report accurately reflects all pooled investments and is in compliance with the investment policy adopted by the Board of Directors to be effective on January 1, 2018. A copy of this policy is available from the Clerk of the Authority. Sufficient investment liquidity and anticipated revenues are available to meet budgeted expenditure requirements for the next thirty days and the next six months."

Patricia Jakubian, Treasurer

Cash and Investments with GASB 31 Adjustment:

Book Value of Cash & Investments before GASB 31 (Above)	\$ 153,868,456.99
GASB 31 Adjustment to Books (See Note 3 on page 9)	\$ (206,003.82)
Total	\$ 153,662,453.17

ORANGE COUNTY FIRE AUTHORITY

Portfolio Management

Portfolio Details - Investments

March 31, 2018

(See Note 1 on page 9)

(See Note 2 on page 9)

CUSIP	Investment #	Issuer	Average Balance	Purchase Date	Par Value	Market Value	Book Value	Stated Rate	YTM/C 365	Days to Maturity	Maturity Date
Money Mkt Mutual Funds/Cash											
SYS528	528	Federated Treasury Obligations			7,818,416.51	7,818,416.51	7,818,416.51	1.180	1.180	1	
Subtotal and Average			8,972,136.69		7,818,416.51	7,818,416.51	7,818,416.51		1.180	1	
Federal Agency Coupon Securities											
3133EFJP3	869	Federal Farm Credit Bank (Callable Anytime)		10/15/2015	10,000,000.00	9,954,700.00	10,000,000.00	1.100	1.054	197	10/15/2018
3133EGPD1	921	Federal Farm Credit Bank (Callable Anytime)		04/20/2017	7,000,000.00	6,904,450.00	7,000,000.00	1.180	1.375	487	08/01/2019
3134GBHT2	922	Fed Home Loan Mtg Corp		04/25/2017	8,000,000.00	8,907,210.00	9,000,000.00	1.625	1.518	572	10/25/2019
Subtotal and Average			32,387,096.77		26,000,000.00	25,766,360.00	26,000,000.00		1.301	405	
Federal Agency Disc. -Amortizing											
313385VE3	931	Fed Home Loan Bank		12/20/2017	9,000,000.00	8,998,380.00	8,998,337.50	1.330	1.373	5	04/06/2018
313385WY8	933	Fed Home Loan Bank		01/11/2018	9,000,000.00	8,980,470.00	8,983,315.00	1.420	1.467	47	05/18/2018
313385XN1	934	Fed Home Loan Bank		01/11/2018	9,000,000.00	8,974,170.00	8,978,192.50	1.430	1.478	61	06/01/2018
Subtotal and Average			26,944,170.00		27,000,000.00	26,953,020.00	26,959,845.00		1.439	38	
Treasury Coupon Securities											
912828XF2	935	Treasury Note		03/08/2018	8,000,000.00	7,989,440.00	7,990,909.09	1.125	1.675	75	06/15/2018
Subtotal and Average			6,185,431.08		8,000,000.00	7,989,440.00	7,990,909.09		1.675	75	
Treasury Discounts -Amortizing											
912796PC7	932	US Treasury Bill		01/04/2018	6,000,000.00	5,991,600.00	5,992,640.00	1.380	1.406	32	05/03/2018
912796PM5	936	US Treasury Bill		03/08/2018	8,000,000.00	7,967,440.00	7,967,361.77	1.669	1.701	88	06/28/2018
912796PL7	937	US Treasury Bill		03/15/2018	3,000,000.00	2,989,920.00	2,989,547.50	1.695	1.726	74	06/14/2018
912796PM5	938	US Treasury Bill		03/15/2018	3,000,000.00	2,987,790.00	2,987,643.33	1.685	1.717	88	06/28/2018
Subtotal and Average			17,462,786.20		20,000,000.00	19,936,750.00	19,937,192.60		1.618	69	
Local Agency Investment Funds											
SYS336	336	Local Agency Invstmt Fund			65,000,000.00	64,839,970.07	65,000,000.00	1.524	1.524	1	
Subtotal and Average			61,387,096.77		65,000,000.00	64,839,970.07	65,000,000.00		1.524	1	
Total and Average			153,338,717.53		153,818,416.51	153,303,956.58	153,706,383.20		1.474	88	

ORANGE COUNTY FIRE AUTHORITY
Portfolio Management
Portfolio Details - Cash
March 31, 2018

CUSIP	Investment #	Issuer	Average Balance	Purchase Date	Par Value	Market Value	Book Value	Stated Rate	YTM/C 365	Days to Maturity
Money Mkt Mutual Funds/Cash										
SYS10033	10033	Revolving Fund		07/01/2017	20,000.00	20,000.00	20,000.00		0.000	1
SYS4	4	Union Bank		07/01/2017	121,571.81	121,571.81	121,571.81		0.000	1
Average Balance			0.00	Accrued Interest at Purchase		20,521.98	20,521.98			1
				Subtotal		162,093.79	162,093.79			
Total Cash and Investments			153,338,717.53		153,959,988.32	153,466,050.37	153,868,456.99		1.474	88

“We visualize problems and solutions
through the eyes of those we serve.”



ORANGE COUNTY FIRE AUTHORITY
Aging Report
By Maturity Date
As of April 1, 2018

Orange County Fire Authority
 1 Fire Authority Road
 Irvine, Irvine, CA 92602
 (714)573-6301

				Maturity Par Value	Percent of Portfolio	Current Book Value	Current Market Value
Aging Interval: 0 days	(04/01/2018 - 04/01/2018)	4 Maturities	0 Payments	72,959,988.32	47.42%	72,959,988.32	72,799,958.39
Aging Interval: 1 - 30 days	(04/02/2018 - 05/01/2018)	1 Maturities	0 Payments	9,000,000.00	5.85%	8,998,337.50	8,998,380.00
Aging Interval: 31 - 60 days	(05/02/2018 - 05/31/2018)	2 Maturities	0 Payments	15,000,000.00	9.73%	14,975,955.00	14,972,070.00
Aging Interval: 61 - 91 days	(06/01/2018 - 07/01/2018)	5 Maturities	0 Payments	31,000,000.00	20.09%	30,913,654.19	30,908,760.00
Aging Interval: 92 - 121 days	(07/02/2018 - 07/31/2018)	0 Maturities	0 Payments	0.00	0.00%	0.00	0.00
Aging Interval: 122 - 152 days	(08/01/2018 - 08/31/2018)	0 Maturities	0 Payments	0.00	0.00%	0.00	0.00
Aging Interval: 153 - 183 days	(09/01/2018 - 10/01/2018)	0 Maturities	0 Payments	0.00	0.00%	0.00	0.00
Aging Interval: 184 - 274 days	(10/02/2018 - 12/31/2018)	1 Maturities	0 Payments	10,000,000.00	6.50%	10,000,000.00	9,954,700.00
Aging Interval: 275 - 365 days	(01/01/2019 - 04/01/2019)	0 Maturities	0 Payments	0.00	0.00%	0.00	0.00
Aging Interval: 366 - 1095 days	(04/02/2019 - 03/31/2021)	2 Maturities	0 Payments	16,000,000.00	10.40%	16,000,000.00	15,811,660.00
Aging Interval: 1096 days and after	(04/01/2021 -)	0 Maturities	0 Payments	0.00	0.00%	0.00	0.00
Total for		15 Investments	0 Payments		100.00	153,847,935.01	153,445,528.39



NOTES TO PORTFOLIO MANAGEMENT REPORT

- Note 1: Market value of the LAIF investment is calculated using a fair value factor provided by LAIF. The MUFG Union Bank (formerly Union Bank) Trust Department provides market values of the remaining investments.
- Note 2: Book value reflects the cost or amortized cost before the GASB 31 accounting adjustment.
- Note 3: GASB 31 requires governmental entities to report investments at fair value in the financial statements and to reflect the corresponding unrealized gains/ (losses) as a component of investment income. The GASB 31 adjustment is recorded only at fiscal year end. The adjustment for June 30, 2017 includes a decrease of (\$68,353) to the LAIF investment and a decrease of (\$137,651) to the remaining investments.
- Note 4: The Federated Treasury Obligations money market mutual fund functions as the Authority's sweep account. Funds are transferred to and from the sweep account to/from OCFA's checking account in order to maintain a target balance of \$1,000,000 in checking. Since this transfer occurs at the beginning of each banking day, the checking account sometimes reflects a negative balance at the close of the banking day. The negative closing balance is not considered an overdraft since funds are available in the money market mutual fund. The purpose of the sweep arrangement is to provide sufficient liquidity to cover outstanding checks, yet allow that liquidity to be invested while payment of the outstanding checks is pending.



Local Agency Investment Fund (LAIF)

As of March 31, 2018, OCFA has \$65,000,000 invested in LAIF. The fair value of OCFA's LAIF investment is calculated using a participant fair value factor provided by LAIF on a quarterly basis. The fair value factor as of March 31, 2018 is 0.997538001. When applied to OCFA's LAIF investment, the fair value is \$64,839,970 or (\$160,030) below cost. Although the fair value of the LAIF investment is lower than cost, OCFA can withdraw the actual amount invested at any time.

LAIF is included in the State Treasurer's Pooled Money Investment Account (PMIA) for investment purposes. The PMIA market valuation at March 31, 2018 is included on the following page.



State of California Pooled Money Investment Account Market Valuation 3/31/2018

Description		Carrying Cost Plus Accrued Interest Purch.	Amortized Cost	Fair Value	Accrued Interest
1*	United States Treasury:				
	Bills	\$ 13,168,305,302.64	\$ 13,234,864,134.73	\$ 13,222,380,000.00	NA
	Notes	\$ 20,061,143,353.89	\$ 20,057,667,338.99	\$ 19,930,705,000.00	\$ 47,380,533.00
1*	Federal Agency:				
	SBA	\$ 867,145,314.00	\$ 867,088,008.74	\$ 856,981,629.70	\$ 1,270,724.33
	MBS-REMICs	\$ 31,003,570.83	\$ 31,003,570.83	\$ 31,753,574.99	\$ 145,081.69
	Debentures	\$ 1,363,946,135.19	\$ 1,363,919,399.07	\$ 1,353,611,900.00	\$ 2,644,921.75
	Debentures FR	\$ -	\$ -	\$ -	\$ -
	Debentures CL	\$ 350,000,000.00	\$ 350,000,000.00	\$ 345,893,500.00	\$ 689,278.50
	Discount Notes	\$ 10,376,049,638.66	\$ 10,419,274,485.93	\$ 10,413,696,000.00	NA
1*	Supranational Debentures	\$ 449,199,891.07	\$ 449,199,891.07	\$ 446,463,500.00	\$ 687,154.00
1*	Supranational Debentures FR	\$ 50,000,000.00	\$ 50,000,000.00	\$ 50,061,500.00	\$ 189,741.67
2*	CDs and YCDs FR	\$ 425,000,000.00	\$ 425,000,000.00	\$ 425,000,000.00	\$ 1,320,201.70
2*	Bank Notes	\$ 900,000,000.00	\$ 900,000,000.00	\$ 898,914,388.05	\$ 3,624,888.87
2*	CDs and YCDs	\$ 13,925,000,000.00	\$ 13,925,000,000.00	\$ 13,916,261,691.08	\$ 47,875,722.25
2*	Commercial Paper	\$ 7,257,225,888.87	\$ 7,279,648,291.66	\$ 7,276,043,749.97	NA
1*	Corporate:				
	Bonds FR	\$ -	\$ -	\$ -	\$ -
	Bonds	\$ -	\$ -	\$ -	\$ -
1*	Repurchase Agreements	\$ -	\$ -	\$ -	\$ -
1*	Reverse Repurchase	\$ -	\$ -	\$ -	\$ -
	Time Deposits	\$ 5,031,740,000.00	\$ 5,031,740,000.00	\$ 5,031,740,000.00	NA
	AB 55 & GF Loans	\$ 716,647,000.00	\$ 716,647,000.00	\$ 716,647,000.00	NA
	TOTAL	\$ 74,972,406,095.15	\$ 75,101,052,121.02	\$ 74,916,153,433.79	\$ 105,828,247.76

Fair Value Including Accrued Interest

\$ 75,021,981,681.55

* Governmental Accounting Standards Board (GASB) Statement #72

Repurchase Agreements, Time Deposits, AB 55 & General Fund loans, and Reverse Repurchase agreements are carried at portfolio book value (carrying cost).

The value of each participating dollar equals the fair value divided by the amortized cost (**0.997538001**).
As an example: if an agency has an account balance of \$20,000,000.00, then the agency would report its participation in the LAIF valued at \$19,950,760.03 or \$20,000,000.00 x **0.997538001**.



Orange County Fire Authority

Preliminary Investment Report

April 20, 2018



ORANGE COUNTY FIRE AUTHORITY
Portfolio Management
Portfolio Summary
April 20, 2018

Orange County Fire Authority
1 Fire Authority Road
Irvine, CA 92602
(714)573-6301

(See Note 1 on page 18)

(See Note 2 on page 18)

Investments	Par Value	Market Value	Book Value	% of Portfolio	Term	Days to Maturity	YTM/C 360 Equiv.	YTM/C 365 Equiv.
Money Mkt Mutual Funds/Cash	10,391,367.50	10,391,367.50	10,391,367.50	5.17	1	1	1.164	1.180
Federal Agency Coupon Securities	26,000,000.00	25,706,800.00	26,000,000.00	12.94	962	385	1.283	1.301
Federal Agency Disc. -Amortizing	27,000,000.00	26,929,620.00	26,931,865.00	13.40	122	55	1.583	1.605
Treasury Coupon Securities	26,000,000.00	25,892,830.00	25,898,869.80	12.89	171	156	1.863	1.889
Treasury Discounts -Amortizing	47,000,000.00	46,748,000.00	46,748,038.72	23.26	132	105	1.757	1.781
Local Agency Investment Funds	65,000,000.00	64,839,970.07	65,000,000.00	32.34	1	1	1.503	1.524
Investments	201,391,367.50	200,508,587.57	200,970,141.02	100.00%	194	102	1.573	1.595
Cash and Accrued Interest								
Passbook/Checking (not included in yield calculations)	419,967.80	419,967.80	419,967.80		1	1	0.000	0.000
Accrued Interest at Purchase		100,390.77	100,390.77					
Subtotal		520,358.57	520,358.57					
Total Cash and Investments	201,811,335.30	201,028,946.14	201,490,499.59		194	102	1.573	1.595

Total Earnings	April 20 Month Ending	Fiscal Year To Date
Current Year	124,712.76	1,488,592.85
Average Daily Balance	153,425,689.96	152,471,112.41
Effective Rate of Return	1.48%	1.21%

"I certify that this investment report accurately reflects all pooled investments and is in compliance with the investment policy adopted by the Board of Directors to be effective on January 1, 2018. A copy of this policy is available from the Clerk of the Authority. Sufficient investment liquidity and anticipated revenues are available to meet budgeted expenditure requirements for the next thirty days and the next six months."

Patricia Jakubik, Treasurer

Cash and Investments with GASB 31 Adjustment:

Book Value of Cash & Investments before GASB 31 (Above)

\$ 201,490,499.59

GASB 31 Adjustment to Books (See Note 3 on page 18)

\$ (206,003.82)

Total

\$ 201,284,495.77

ORANGE COUNTY FIRE AUTHORITY
Portfolio Management
Portfolio Details - Investments
April 20, 2018

(See Note 1 on page 18) (See Note 2 on page 18)

CUSIP	Investment #	Issuer	Average Balance	Purchase Date	Par Value	Market Value	Book Value	Stated Rate	YTM/C 365	Days to Maturity	Maturity Date
Money Mkt Mutual Funds/Cash											
SYSS28	528	Federated Treasury Obligations			10,391,367.50	10,391,367.50	10,391,367.50	1.180	1.180	1	
Subtotal and Average			8,867,958.46		10,391,367.50	10,391,367.50	10,391,367.50		1.180	1	
Federal Agency Coupon Securities											
3133EFJP3	869	Federal Farm Credit Bank (Callable Anytime)		10/15/2015	10,000,000.00	9,955,000.00	10,000,000.00	1.100	1.054	177	10/15/2018
3133EGPD1	921	Federal Farm Credit Bank (Callable Anytime)		04/20/2017	7,000,000.00	6,867,630.00	7,000,000.00	1.180	1.375	467	08/01/2019
3134GBHT2	922	Fed Home Loan Mtg Corp		04/25/2017	9,000,000.00	8,884,170.00	9,000,000.00	1.625	1.518	552	10/25/2019
Subtotal and Average			26,000,000.00		26,000,000.00	25,706,800.00	26,000,000.00		1.301	385	
Federal Agency Disc. -Amortizing											
313385WY8	933	Fed Home Loan Bank		01/11/2018	9,000,000.00	8,989,470.00	8,990,415.00	1.420	1.467	27	05/18/2018
313385XN1	934	Fed Home Loan Bank		01/11/2018	9,000,000.00	8,983,350.00	8,985,342.50	1.430	1.478	41	06/01/2018
313385ZW9	939	Fed Home Loan Bank		04/19/2018	9,000,000.00	8,956,800.00	8,956,107.50	1.810	1.870	97	07/27/2018
Subtotal and Average			21,114,410.63		27,000,000.00	26,929,620.00	26,931,865.00		1.605	55	
Treasury Coupon Securities											
912828XF2	935	Treasury Note		03/08/2018	8,000,000.00	7,992,640.00	7,993,333.33	1.125	1.675	55	06/15/2018
912828T83	943	Treasury Note		04/19/2018	9,000,000.00	8,940,960.00	8,943,395.53	0.750	1.960	193	10/31/2018
912828M64	944	Treasury Note		04/19/2018	9,000,000.00	8,959,230.00	8,962,140.94	1.250	2.010	208	11/15/2018
Subtotal and Average			9,782,711.70		26,000,000.00	25,892,830.00	25,898,869.80		1.889	156	
Treasury Discounts -Amortizing											
912796PC7	932	US Treasury Bill		01/04/2018	6,000,000.00	5,997,300.00	5,997,240.00	1.380	1.406	12	05/03/2018
912796PM5	936	US Treasury Bill		03/08/2018	8,000,000.00	7,975,280.00	7,974,779.55	1.669	1.701	68	06/28/2018
912796PL7	937	US Treasury Bill		03/15/2018	3,000,000.00	2,992,860.00	2,992,372.50	1.695	1.726	54	06/14/2018
912796PM5	938	US Treasury Bill		03/15/2018	3,000,000.00	2,990,730.00	2,990,451.67	1.685	1.717	68	06/28/2018
912796PU7	940	US Treasury Bill		04/19/2018	9,000,000.00	8,950,590.00	8,950,500.00	1.800	1.835	110	08/09/2018
912796PZ6	941	US Treasury Bill		04/19/2018	9,000,000.00	8,928,540.00	8,929,320.00	1.860	1.901	152	09/20/2018
912796QD4	942	US Treasury Bill		04/19/2018	9,000,000.00	8,912,700.00	8,913,375.00	1.925	1.971	180	10/18/2018
Subtotal and Average			22,625,709.13		47,000,000.00	46,748,000.00	46,748,038.72		1.781	105	
Local Agency Investment Funds											
SYS336	336	Local Agency Invstmt Fund			65,000,000.00	64,839,970.07	65,000,000.00	1.524	1.524	1	
Subtotal and Average			65,034,900.05		65,000,000.00	64,839,970.07	65,000,000.00		1.524	1	

ORANGE COUNTY FIRE AUTHORITY
Portfolio Management
Portfolio Details - Investments
April 20, 2018

CUSIP	Investment #	Issuer	Average Balance	Purchase Date	Par Value	Market Value	Book Value	Stated Rate	YTM/C 365	Days to Maturity
Total and Average			153,425,689.96		201,391,367.50	200,508,587.57	200,970,141.02		1.595	102

ORANGE COUNTY FIRE AUTHORITY
Portfolio Management
Portfolio Details - Cash
April 20, 2018

CUSIP	Investment #	Issuer	Average Balance	Purchase Date	Par Value	Market Value	Book Value	Stated Rate	YTM/C 365	Days to Maturity
Money Mkt Mutual Funds/Cash										
SYS10033	10033	Revolving Fund		07/01/2017	20,000.00	20,000.00	20,000.00		0.000	1
SYS4	4	Union Bank		07/01/2017	399,967.80	399,967.80	399,967.80		0.000	1
Average Balance			0.00	Accrued Interest at Purchase		100,390.77	100,390.77			1
				Subtotal		520,358.57	520,358.57			
Total Cash and Investments			153,425,689.96		201,811,335.30	201,028,946.14	201,490,499.59		1.595	102



ORANGE COUNTY FIRE AUTHORITY
Aging Report
By Maturity Date
As of April 21, 2018

Orange County Fire Authority
 1 Fire Authority Road
 Irvine, CA 92602
 (714)573-6301

				Maturity Par Value	Percent of Portfolio	Current Book Value	Current Market Value
Aging Interval: 0 days	(04/21/2018 - 04/21/2018)	4 Maturities	0 Payments	75,811,335.30	37.64%	75,811,335.30	75,651,305.37
Aging Interval: 1 - 30 days	(04/22/2018 - 05/21/2018)	2 Maturities	0 Payments	15,000,000.00	7.44%	14,987,655.00	14,986,770.00
Aging Interval: 31 - 60 days	(05/22/2018 - 06/20/2018)	3 Maturities	0 Payments	20,000,000.00	9.92%	19,971,048.33	19,968,850.00
Aging Interval: 61 - 91 days	(06/21/2018 - 07/21/2018)	2 Maturities	0 Payments	11,000,000.00	5.44%	10,965,231.22	10,966,010.00
Aging Interval: 92 - 121 days	(07/22/2018 - 08/20/2018)	2 Maturities	0 Payments	18,000,000.00	8.89%	17,906,607.50	17,907,390.00
Aging Interval: 122 - 152 days	(08/21/2018 - 09/20/2018)	1 Maturities	0 Payments	9,000,000.00	4.43%	8,929,320.00	8,928,540.00
Aging Interval: 153 - 183 days	(09/21/2018 - 10/21/2018)	2 Maturities	0 Payments	19,000,000.00	9.39%	18,913,375.00	18,867,700.00
Aging Interval: 184 - 274 days	(10/22/2018 - 01/20/2019)	2 Maturities	0 Payments	18,000,000.00	8.89%	17,905,536.47	17,900,190.00
Aging Interval: 275 - 365 days	(01/21/2019 - 04/21/2019)	0 Maturities	0 Payments	0.00	0.00%	0.00	0.00
Aging Interval: 366 - 1095 days	(04/22/2019 - 04/20/2021)	2 Maturities	0 Payments	16,000,000.00	7.94%	16,000,000.00	15,751,800.00
Aging Interval: 1096 days and after	(04/21/2021 -)	0 Maturities	0 Payments	0.00	0.00%	0.00	0.00
Total for		20 Investments	0 Payments		100.00	201,390,108.82	200,928,555.37



NOTES TO PORTFOLIO MANAGEMENT REPORT

- Note 1: Market value of the LAIF investment is calculated using a fair value factor provided by LAIF. The MUFG Union Bank Trust Department provides market values of the remaining investments.
- Note 2: Book value reflects the cost or amortized cost before the GASB 31 accounting adjustment.
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- Note 4: The Federated Treasury Obligations money market mutual fund functions as the Authority's sweep account. Funds are transferred to and from the sweep account to/from OCFA's checking account in order to maintain a target balance of \$1,000,000 in checking. Since this transfer occurs at the beginning of each banking day, the checking account sometimes reflects a negative balance at the close of the banking day. The negative closing balance is not considered an overdraft since funds are available in the money market mutual fund. The purpose of the sweep arrangement is to provide sufficient liquidity to cover outstanding checks, yet allow that liquidity to be invested while payment of the outstanding checks is pending.

GLOSSARY

INVESTMENT TERMS

Basis Point. Measure used in quoting yields on bonds and notes. One basis point is .01% of yield.

Book Value. This value may be the original cost of acquisition of the security, or original cost adjusted by the amortization of a premium or accretion of a discount. The book value may differ significantly from the security's current value in the market.

Commercial Paper. Unsecured short-term promissory notes issued by corporations, with maturities ranging from 2 to 270 days; may be sold on a discount basis or may bear interest.

Coupon Rate. Interest rate, expressed as a percentage of par or face value, that issuer promises to pay over lifetime of debt security.

Discount. The amount by which a bond sells under its par (face) value.

Discount Securities. Securities that do not pay periodic interest. Investors earn the difference between the discount issue price and the full face value paid at maturity. Treasury bills, bankers' acceptances and most commercial paper are issued at a discount.

Effective Rate of Return. Rate of return on a security, based on its purchase price, coupon rate, maturity date, and the period between interest payments.

Federal Agency Securities. Securities issued by agencies such as the Federal National Mortgage Association and the Federal Farm Credit Bank. Though not general obligations of the US Treasury, such securities are sponsored by the government and therefore have high credit ratings. Some are issued on a discount basis and some are issued with coupons.

Federal Funds. Funds placed in Federal Reserve banks by depository institutions in excess of current reserve requirements. These depository institutions may lend fed funds to each other overnight or on a longer basis. They may also transfer funds among each other on a same-day basis through the Federal Reserve banking system. Fed Funds are considered to be immediately available funds.

Fed Funds Rate. The interest rate charged by one institution lending federal funds to another.

Federal Open Market Committee. The branch of the Federal Reserve Board that determines the direction of monetary policy.

Local Agency Investment Fund (LAIF). A California State Treasury fund which local agencies may use to deposit funds for investment and for reinvestment with a maximum of \$50 million for any agency (*excluding bond funds, which have no maximum*). It offers high liquidity because

deposits can be converted to cash in 24 hours and no interest is lost. Interest is paid quarterly and the State's administrative fee cannot exceed 1/4 of a percent of the earnings.

Market value. The price at which the security is trading and could presumably be purchased or sold.

Maturity Date. The specified day on which the issuer of a debt security is obligated to repay the principal amount or face value of security.

Money Market Mutual Fund. Mutual funds that invest solely in money market instruments (short-term debt instruments, such as Treasury bills, commercial paper, bankers' acceptances, repurchase agreements and federal funds).

Par. Face value or principal value of a bond typically \$1,000 per bond.

Rate of Return. The amount of income received from an investment, expressed as a percentage. A *market rate of return* is the yield that an investor can expect to receive in the current interest-rate environment utilizing a buy-and-hold to maturity investment strategy.

Treasury Bills. Short-term U.S. government non-interest bearing debt securities with maturities of no longer than one year. The yields on these bills are monitored closely in the money markets for signs of interest rate trends.

Treasury Notes. Intermediate U.S. government debt securities with maturities of one to 10 years.

Treasury bonds. Long-term U.S. government debt securities with maturities of 10 years or longer.

Yield. Rate of return on a bond.

Yield-to-maturity. Rate of return on a bond taking into account the total annual interest payments, the purchase price, the redemption value and the amount of time remaining until maturity.

ECONOMIC TERMS

Conference Board Consumer Confidence Index A survey that measures how optimistic or pessimistic consumers are with respect to the economy in the near future.

Consumer Price Index (CPI). A measure that examines the weighted average of prices of a basket of consumer goods and services, such as transportation, food and medical care. Changes in CPI are used to assess price changes associated with the cost of living.

Durable Goods Orders. An economic indicator released monthly that reflects new orders placed with domestic manufacturers for delivery of factory durable goods such as autos and appliances in the near term or future.

Gross Domestic Product. The monetary value of all the finished goods and services produced within a country's borders in a specific time period. It includes all of private and public consumption, government outlays, investments and exports less imports that occur within a defined territory.

Industrial Production. An economic indicator that is released monthly by the Federal Reserve Board. The indicator measures the amount of output from the manufacturing, mining, electric and gas industries.

ISM Institute for Supply Management (ISM) Manufacturing Index. A monthly index that monitors employment, production inventories, new orders and supplier deliveries.

ISM Non-manufacturing Index. An index based on surveys of non-manufacturing firms' purchasing and supply executives. It tracks economic data for the service sector.

Leading Economic Index. A monthly index used to predict the direction of the economy's movements in the months to come. The index is made up of 10 economic components, whose changes tend to precede changes in the overall economy.

National Federation of Independent Business Small Business Optimism Index. An index based on surveys of small business owners' plans and expectations regarding employment, capital, inventories, economic improvement, credit conditions, expansion, and earnings trends in the near term or future.

Producer Price Index. An index that measures the average change over time in the selling prices received by domestic producers for their output.

University of Michigan Consumer Sentiment Index. An index that measures the overall health of the economy as determined by consumer opinion. It takes into account an individual's feelings toward his or her own current financial health, the health of the economy in the short term and the prospects for longer term economic growth.



Orange County Fire Authority
AGENDA STAFF REPORT

Executive Committee Meeting
May 24, 2018

Agenda Item No. 3B
Consent Calendar

Third Quarter Financial Newsletter

Contact(s) for Further Information

Lori Zeller, Assistant Chief Business Services Department	lorizeller@ocfa.org	714.573.6020
Tricia Jakubiak, Treasurer	triciajakubiak@ocfa.org	714.573.6301
Deborah Gunderson, Budget Manager	deborahgunderson@ocfa.org	714.573.6302

Summary

This routine agenda item is submitted to provide information regarding revenues and expenditures in the General Fund and the Capital Improvement Program Funds through the third quarter of FY 2017/18.

Prior Board/Committee Action

Budget and Finance Committee Recommendation: *APPROVE*

At its regular May 9, 2018, meeting, the Budget and Finance Committee reviewed and unanimously recommended approval of this item.

RECOMMENDED ACTION(S)

Receive and file the report.

Impact to Cities/County

Not Applicable.

Fiscal Impact

Not Applicable.

Background

The Quarterly Financial Newsletter provides information about the General Fund's top five revenue sources as well as expenditures by department and by type. Revenues and expenditures for the Capital Improvement Program (CIP) funds are also included. Revenues and expenditures for the General and CIP Funds are within budgetary expectations for this reporting period. Any notable items are detailed in the attached newsletter.

Attachment(s)

Third Quarter Financial Newsletter – July 2017 to March 2018



Orange County Fire Authority

Third Quarter Financial Newsletter – July 2017 to March 2018

OVERVIEW

This report covers fiscal activities in the General Fund and CIP Funds through the third quarter of Fiscal Year 2017/18. Budget figures include all budget adjustments authorized by the Board through the end of the third quarter.

GENERAL FUND

With 75% of the year completed, General Fund revenues are 73.5% of budget and expenditures are 71.4% as shown below:

General Fund	YTD Actual	Budget	Percent
Revenues	284,320,697	387,073,742	73.5%
Expenditures	278,533,595	390,336,715	71.4%

Top Five Revenues. The analysis presented below compares the five largest revenue categories received through the third quarter, as compared to the budgetary estimate for this point in the fiscal year. Categories in which the variance is exceeded by 10% or \$1 million, are discussed below the table.

Top Five Revenues	YTD Actual Receipts	Trended YTD Budget Estimate	Variance: Actual to Estimate in Dollars	% Variance
Property Taxes	169,219,173	168,373,467	845,706	0%
Cash Contracts	78,010,217	78,217,948	(207,731)	0%
State Reimbursements	16,521,589	16,500,000	21,589	0%
CRA Pass-through	6,433,698	6,433,698	(0)	0%
Community Risk Reduction Fees	4,183,572	4,409,354	(225,782)	-5%
Total	274,368,249	273,934,467	433,782	0%

- There are no reportable variances through the third quarter.

Expenditures. The analysis presented on the following page compares the actual expenditures through the third quarter, as compared to the budgetary estimate for this point in the fiscal year. Categories in which the variance is exceeded by 10% or \$1 million, are discussed below the table.

Expenditures by Department	YTD Actual Expenditures	Trended Budget Estimate	Variance: Actual to Estimate in Dollars	% Variance
Business Services	27,962,329	28,784,573	(822,244)	-3%
Community Risk Reduction	7,642,408	7,915,781	(273,373)	-4%
Executive Management	8,830,539	8,486,452	344,087	4%
Operations	208,611,637	212,744,712	(4,133,075)	-2%
Organizational Planning	4,667,097	4,708,114	(41,017)	-1%
Support Services	24,185,311	25,260,429	(1,075,118)	-4%
Total	281,899,321	287,900,061	(6,000,740)	-2%

Totals may not equal the sum of components, or Authority-wide totals, due to rounding

- **Operations**– This department is trending under budget estimates primarily due to vacancies in the firefighter ranks. Although progress has been made in hiring, this progress has been offset by routine retirements and promotions which have created new vacancies to fill. As of April 18, there were over 50 between firefighter, fire apparatus engineer and fire captain positions. The next firefighter academy will graduate approximately 43 firefighters on May 23rd, 2018, to help reduce the open positions.
- **Support Services** – This department is trending under budget estimates primarily in the Services and Supplies category. Larger expenditure projects within Property Management have not made the amount of progress in this fiscal year as was expected; the projects are expected to be included in the FY 2018/19 carryover adjustment.

Expenditures by type are outlined below, with exception details below:

Expenditures by Type	YTD Actual Expenditures	Trended Budget Estimate	Variance: Actual to Estimate in Dollars	% Variance
Salary and Employee Benefits	258,324,563	262,761,123	(4,436,560)	-2%
Services and Supplies	23,168,275	24,872,571	(1,704,296)	-7%
Equipment	406,484	266,367	140,117	34%
Total	281,899,322	287,900,061	(6,000,740)	-2%

Totals may not equal the sum of components, or Authority-wide totals, due to rounding

- **Salary & Employee Benefits** –This category is trending under budget estimates by approximately \$4.4 million or 2%. This is primarily due to vacancies in the firefighter ranks as described above.
- **Services and Supplies/Equipment** – Actual expenditures through the third quarter finished approximately \$1.6M or 27% under estimates. As described above, this is primarily as a result of larger expenditure projects within Support Services that have not made the amount of progress in this fiscal year as was expected; the projects are expected to be included in the FY 2018/19 carryover adjustment.

CIP FUNDS

Revenues and expenditures for the Capital Improvement Program funds are summarized below. Any variances are noted following the fund table:

General Fund CIP

Fund 12110	YTD Actual	Budget	Percent
Expenditures	1,931,224	3,111,074	62%

- This Fund receives transfers from the General Fund as its revenue source.
- Appropriations of \$3.1M included funding for routine maintenance and replacement of equipment such as pagers, PCs, laptops, printers, 800 MHz radios, VHF radios, MDC system, fire station telephone/alarm system upgrade, network servers, data storage, EOC upgrade and remote cameras on the County Tower and extrication rescue tools.
- YTD Expenditures of approximately \$1.9M include extrication tools, fire station telephone/alarm sound system upgrades, remote cameras on the County Tower, PCs, laptops, tablets and printers, network servers, and VHF radios.

Fire Stations and Facilities

Fund 123	YTD Actual	Budget	Percent
Revenue	1,369,454	1,553,099	88.2%
Expenditures	473,806	10,098,490	4.7%

- Appropriations of \$10M include funding for replacement of Fire Station 9, US&R warehouse improvements, infrastructure enhancements, site stabilization at Fire Station 42, replacement of Fire Station 10, vehicle sheds at Fire Station 18 and the completion of the RFOTC emergency power circuit project.
- Minimal expenditures occurred through the third quarter as contracts for Fire Station 9 replacement and Fire Station 42 site stabilization had not yet been awarded. YTD expenditure of about \$474K were for improvements to the US&R Warehouse. The project to replace Fire Station 10 is being moved to the next two fiscal years.

Communications & Info. Systems

Fund 124	YTD Actual	Budget	Percent
Revenue	332,155	440,528	75.4%
Expenditures	944,462	4,250,516	22.2%

- Appropriations of \$4.3M include funding for RFOTC Data Center Fire Suppression system upgrade, the OCFA Disaster Recovery Co-Location Facility, Incident Reporting Application Replacement, the Next Generation CAD2CAD projects, 800 MHz Replacement, and Audio Video Equipment Upgrades
- YTD expenditures remain low at approximately 22% as most projects were still in planning stages through the third quarter.

Fire Apparatus

Fund 133	YTD Actual	Budget	Percent
Revenue	1,249,377	1,826,547	68.4%
Expenditures	6,044,225	11,435,499	52.9%

- Major expenditures are three quarterly lease payments on the helicopters; a purchase order for seven Type-1 Engines was also issued.

SUMMARY

For more information. This summary is based on detailed information from our financial system. If you would like more information or have any questions about the report, please contact Deborah Gunderson, Budget Manager at 714-573-6302, or Tricia Jakubiak, Treasurer at 714-573-6301.



Orange County Fire Authority
AGENDA STAFF REPORT

Executive Committee Meeting
May 24, 2018

Agenda Item No. 3C
Consent Calendar

Cooperative Contract for Diesel Fuel Supply Services

Contact(s) for Further Information

Dave Anderson, Assistant Chief Support Services Department	daveanderson@ocfa.org	714.573.6006
Rick Oborny, Fleet Services Manager	rickoborny@ocfa.org	714.573.6651

Summary

This agenda item is submitted for the approval to award a contract to Merrimac Petroleum Inc., for diesel fuel supply services utilizing the County of Orange regional cooperative agreement.

Prior Board/Committee Action(s)

Not Applicable.

RECOMMENDED ACTION(S)

Approve and authorize the Purchasing Manager to execute the proposed subordinate agreement with Merrimac Petroleum Inc., for diesel fuel supply services in an amount not to exceed \$900,000 annually, utilizing the recently awarded County of Orange Regional Cooperative Agreement (RCA) for a one-year period through May 23, 2019, with up to four optional one-year renewals not to exceed the RCA termination date of January 8, 2023.

Impact to Cities/County

Not Applicable.

Fiscal Impact

Funding for this contract has been approved in the Adopted FY 2017/18 General Fund budget, specifically in the Fleet Services Division's budget for services and supplies.

Background

Fleet Services Section utilizes Blanket Order contracts (BOs) for the purchase of fuel through cooperative contracts established by the County of Orange. These contracts are utilized to replenish the fuel tanks located at RFOTC and at twenty (20) strategically located OCFA fire stations throughout the county. OCFA's fleet of vehicles includes 260 gasoline vehicles and 283 diesel vehicles. The BO contract amounts are based on Fleet Services evaluation of the prior year fuel consumption along with trending costs of fuel and the anticipated fuel purchases during the year.

County of Orange Regional Cooperative Agreement Number RCA-017-18010009

The County of Orange recently awarded a five year, competitively bid, regional cooperative agreement (RCA) to Merrimac Petroleum Inc., dba Merrimac Energy Group for diesel fuel supply services, Master Agreement number RCA-017-18010009. This master agreement replaces the previous master agreement number MA-017-13010843 with Dion and Sons for diesel fuel supply services. Regional Cooperative Agreements awarded by the County of Orange are intended to be used

as cooperative agreements against which individual subordinate contracts may be executed by participating County departments and non-County public entities, such as OCFA, during the effective dates of the agreement. The RCA terms, conditions, and pricing is extended to all subordinate contracts issued in accordance with the RCA. Pricing for diesel fuel established by the County of Orange and extended to participating agencies is in accordance with the daily average price published in the OPIS (Oil Price Information Services) for unbranded fuel under PADD 5 (Petroleum Administration for Defense District) Los Angeles Regional Rack Report for the type/grade of fuel requested, + Contractor's "cents per gallon" market adjustment differential of \$0.05 - \$0.10 for diesel fuel, which is inclusive of all delivery/unloading/handling charges to all OCFA fuel fill locations. OPIS complies with all international standards for price reporting agencies set forth by the International Organization of Securities Commission for spot market pricing. OCFA has been receiving price reduction benefits through use of the County of Orange contracts for fuel purchases since OCFA's inception in 1995. The current County of Orange master agreement with Merrimac Petroleum Inc., for diesel fuel supply services, is available through January 8, 2023. Merrimac Petroleum Inc., is OCFA's current provider for unleaded fuel supply services through the County of Orange's regional cooperative agreement number MA-017-16011533.

Staff is requesting approval and authorization for the Purchasing Manager to execute the proposed subordinate agreement with Merrimac Petroleum Inc., for diesel fuel supply services, piggybacking off the County Master Agreement RCA-017-18010009, for a one-year period through May 23, 2019, with up to four optional one-year renewals, not to exceed the RCA termination date of January 8, 2023, at an amount not to exceed \$900,000 annually.

Attachment(s)

Subordinate Agreement with Merrimac Petroleum (on file in the Office of the Clerk and available upon request)

**ORANGE COUNTY FIRE AUTHORITY
SUBORDINATE AGREEMENT
FOR DIESEL FUEL SERVICES**

THIS SUBORDINATE AGREEMENT FOR DIESEL FUEL SERVICES ("Subordinate Agreement") is made and entered into this 24th day of May, 2018 ("Effective Date"), by and between the Orange County Fire Authority, a California Joint Powers Authority ("OCFA"), and Merrimac Petroleum Inc., DBA Merrimac Energy Group ("Contractor"). OCFA and Contractor are sometimes hereinafter individually referred to as "Party" and collectively as the "Parties".

Recitals

WHEREAS, Contractor and the County of Orange ("County") entered that certain Regional Cooperative Agreement – Contract #MA-017-18010009 ("RCA"), which is attached hereto as Exhibit "1" and incorporated herein.

WHEREAS, the RCA's 5-year contract term commenced on January 9, 2018 and continues through January 8, 2023, unless otherwise terminated by County.

WHEREAS, the RCA provides for the execution of subordinate contracts by non-County public agencies whereby the terms, conditions, and pricing of the RCA shall be extended to such non-County public agencies.

WHEREAS, OCFA and Contractor desire to enter into this Subordinate Agreement in order to receive and provide, respectively, diesel fuel services on the same terms, conditions, and pricing as stated in the RCA, and as further specified herein.

Agreement

NOW THEREFORE, OCFA and Contractor mutually agree as follows:

- 1. Scope of Work.** This Subordinate Agreement specifies the terms and conditions by which OCFA shall procure diesel fuel services from Contractor, hereinafter referred to as "Services" as more fully detailed in the Scope of Work, attached hereto as Attachment "A".
- 2. Term.** This Subordinate Agreement shall commence on the Effective Date, and continue for a term of one year through and including May 23, 2019, with up to four optional one-year renewals not to exceed the RCA termination date of January 8, 2023, unless earlier terminated in accordance with Section 3 of this Subordinate Agreement.
- 3. Termination Prior to Expiration of Term.** OCFA reserves the right to terminate this Subordinate Agreement at any time, with or without cause, upon thirty (30) calendar days written notice to Contractor, except where continuation of the Services would constitute a danger to health, safety or general welfare, the period of notice shall be such shorter time as may be appropriate.
- 4. Compensation and Payment.** Contractor agrees to provide Services on an as-needed basis to OCFA at the fixed rates specified in the Pricing Schedule attached hereto as Attachment "C". In no event shall the total amount expended by OCFA annually under this Subordinate Agreement exceed

\$900,000. Contractor shall provide invoices for Services provided and receive payment for the same in accordance with the Payment Process and Terms attached hereto as Attachment "B."

5. Indemnification.

5.1 Contractor's Indemnification of OCFA. To the fullest extent permitted by law, Contractor shall defend (at Contractor's sole cost and expense with legal counsel reasonably acceptable to OCFA), indemnify and hold the OCFA, its board members, officials, officers, employees, agents and volunteers, free and harmless from any and all claims, demands, orders, causes of action, costs, expenses, liabilities, losses, penalties, judgments, arbitration awards, settlements, damages or injuries of any kind, in law or in equity, including but not limited to property or persons, including wrongful death, (collectively "Claims") in any manner arising out of, pertaining to, related to, or incident to any alleged acts, errors or omissions, or willful misconduct of Contractor, its officers, directors, employees, subconsultants, subcontractors, agents or invitees in connection with performance under this Subordinate Agreement, or in any manner arising out of, pertaining to, related to, or incident to an alleged breach of this Subordinate Agreement, including without limitation the payment of all consequential damages, expert witness fees and attorneys' fees and other related costs and expenses.

Under no circumstances shall the insurance requirements and limits set forth in this Subordinate Agreement be construed to limit Contractor's indemnification obligation or other liability hereunder. Notwithstanding the foregoing, such obligation to defend, hold harmless and indemnify the OCFA, its board members officials, officers, employees, agents and volunteers, shall not apply to the extent that such Claims are caused by the sole negligence or willful misconduct of that indemnified party.

5.2 Contractor's Indemnification of County of Orange. Pursuant to Section 3 of the RCA, Contractor shall indemnify and hold harmless the County of Orange from all claims, demand actions, or causes of actions of every kind arising out of, or in way connected with the use of the RCA.

6. Insurance.

6.1 Compliance with Insurance Requirements. Contractor shall obtain, maintain, and keep in full force and effect during the term of this Subordinate Agreement, at its sole cost and expense, and in a form and content satisfactory to OCFA, all insurance required under this section. Contractor shall not commence any Services under this Subordinate Agreement unless and until it has provided evidence satisfactory to OCFA that it has secured all insurance required under this section. If Contractor's existing insurance policies do not meet the insurance requirements set forth herein, Contractor agrees to amend, supplement or endorse the policies to meet all requirements herein.

6.2 Types of Insurance Required. Without limiting the indemnity provisions set forth in this Subordinate Agreement, Contractor shall obtain and maintain in full force and effect during the term of this Subordinate Agreement, including any extension thereof, the following policies of insurance:

6.2.1 Commercial General Liability Insurance. Contractor shall obtain and maintain, in full force and effect throughout the term of this Subordinate Agreement, a policy of CGL Insurance written on an occurrence basis with limits of at least one million dollars (\$1,000,000.00) per occurrence, and two million dollars (\$2,000,000.00) aggregate. CGL insurance shall be provided on an occurrence-based coverage form; a "claims made" CGL policy is not acceptable. Defense costs shall be

paid in addition to the policy limits. The policy shall contain no endorsements or provisions limiting coverage for any of the following: (1) contractual liability; (2) cross liability exclusion for claims or suits by one insured against another; or (3) any other exclusion contrary to this Agreement.

6.2.2 Automobile Liability Insurance. Contractor shall obtain and maintain, in full force and effect throughout the term of this Subordinate Agreement, a policy of Automobile liability insurance written on a per occurrence basis with limits of at least one million dollars (\$1,000,000.00). Auto liability insurance shall be provided on an occurrence-based coverage form; a "claims made" auto liability policy is not acceptable. Defense costs shall be paid in addition to the policy limits. The policy shall specifically include coverage for owned, non-owned, leased, and hired automobiles, and be endorsed to eliminate any exclusion applicable to any of them.

6.2.3 Workers' Compensation Insurance. Contractor shall obtain and maintain, in full force and effect throughout the term of this Subordinate Agreement, a policy of Workers' Compensation Insurance in at least the minimum statutory amounts, and in compliance with all other statutory requirements applicable in the State of California. Contractor hereby waives on its own behalf, and shall obtain an endorsement from its workers' compensation insurer waiving on the insurance company's behalf, all rights of subrogation against the OCFA, its board members, officials, officers, employees, agents and volunteers.

6.2.3.1 If subconsultants or subcontractors are used, Contractor shall require each of its subconsultants and subcontractors, if any, to waive all rights of subrogation, and to obtain endorsements from the subconsultants'/subcontractors' workers' compensation insurers waiving all rights of subrogation, against the OCFA, its board members, officials, officers, employees, agents and volunteers.

6.2.3.2 Contractor and each of its subconsultants and subcontractors shall also maintain, in full force and effect throughout the term of this Subordinate Agreement, Employer's Liability Insurance with limits of at least one million dollars (\$1,000,000.00) per injury or illness.

6.3 Acceptability of Insurers. Each insurance policy required by this section shall be issued by a licensed company authorized to transact business by the Department of Insurance for the State of California with a current rating of A:-VII or better (if an admitted carrier), or a current rating of A:X or better (if offered by a non-admitted insurer listed on the State of California List of Approved Surplus Line Insurers (LASLI)), by the latest edition of A.M. Best's Key Rating Guide, except that the OCFA will accept workers' compensation insurance from the State Compensation Fund. In the event the OCFA determines that the Services to be performed under this Subordinate Agreement creates an increased or decreased risk of loss to the OCFA, the Contractor agrees that the minimum limits of the insurance policies may be changed accordingly upon receipt of written notice from the OCFA.

6.3.1 Contractor shall immediately replace any insurer whose A.M. Best rating drops below the levels specified herein with an insurer that meets the minimum requirements herein.

6.4 Specific Insurance Provisions and Endorsements. Required insurance policies shall not be in compliance if they include any limiting provision or endorsement that has not been submitted to the OCFA for written approval. Required insurance policies shall contain the following provisions, or Contractor shall provide endorsements on forms approved by the OCFA to add the following provisions to the insurance policies:

6.4.1 CGL and Automobile Liability Endorsements. The policy or policies of insurance required by this Subordinate Agreement for CGL and Automobile Liability Insurance shall be endorsed as follows:

6.4.1.1 Additional Insured. The OCFA, its board members, officials, officers, employees, agents and volunteers, shall be additional insureds; and

6.4.1.1.1 Additional Insured Endorsements. Additional insured endorsements shall not (1) be restricted to "ongoing operations", (2) exclude "contractual liability", (3) restrict coverage to "sole" liability of Contractor, (4) contain any other exclusions contrary to this Subordinate Agreement; or (5) contain special limitations on the scope of protection afforded to additional insureds.

6.4.1.2 Primary, Non-Contributing. Each CGL and Automobile Liability insurance policy shall be endorsed to be primary and any other insurance, deductible, or self-insurance maintained by the OCFA, its board members, officials, officers, employees, agents or volunteers, shall not contribute with the primary insurance.

6.4.2 Notice of Cancellation. Each policy of any type shall be endorsed to provide that coverage shall not be suspended, voided, cancelled, or modified, or reduced in coverage or in limits, except after thirty (30) days prior written notice has been provided to the OCFA. Notwithstanding the foregoing, if coverage is to be suspended, voided, or cancelled because of Contractor's failure to pay the insurance premium, the notice provided by the insurer to OCFA shall be by not less than ten (10) days prior written notice. (A statement that notice will be provided "in accordance with the policy terms" or words to that effect is inadequate to meet the requirements of this section.)

6.4.2.1 Pre-Payment of Policy Premium. If for any reason an insurer declines to issue an endorsement certifying that it will notify OCFA in accordance with Section 6.4.2, Contractor shall either obtain insurance from another insurer who will provide the required notice endorsement or shall provide evidence satisfactory to OCFA that the entire policy premium for the full term of that policy has been pre-paid such that the risk of non-payment of premiums during the term of the policy has been eliminated.

6.4.3 ACORD Forms Will Not Be Accepted in Lieu of Endorsements. By executing this Subordinate Agreement, Contractor certifies that it has – prior to execution of this Subordinate Agreement – confirmed that its insurance company will issue each of the endorsements required by this Subordinate Agreement. Contractor also certifies that it understands that "ACORD" Certificate of Liability Insurance forms will not be accepted in lieu of required endorsements.

6.5 Deductibles and Self-Insured Retentions. Any deductible or self-insured retention must be approved in writing by the OCFA in advance. The decision whether to approve or withhold approval of a deductible or self-insured retention shall be made by the OCFA in the OCFA's sole and absolute discretion.

6.6 Waiver of Subrogation. All policies of Commercial General Liability and Automobile Liability Insurance shall contain or be endorsed to waive subrogation against the OCFA, its officials, officers, employees, agents and volunteers, or shall specifically allow Contractor or others providing

insurance evidence in compliance with the requirements set forth in this section to waive their right to recovery prior to a loss. Contractor hereby agrees to waive its own right of subrogation against the OCFA, its officials, officers, employees, agents and volunteers.

6.6.1 Waivers of Subrogation: Subconsultants and Subcontractors. If OCFA approves the use of subconsultants or subcontractors for the performance of any portion of the Services, then Contractor shall obtain from each subconsultant and subcontractor, and make available to OCFA upon request, written express waivers by each subconsultant and subcontractor of the right of subrogation against the OCFA, its officials, officers, employees, agents and volunteers, and policy endorsements of each of its subconsultants' and subcontractors' insurance policies waiving any rights of subrogation against the OCFA, its officials, officers, employees, agents and volunteers insurer. All such waivers and endorsements shall be obtained prior to commencement of any Services by each subconsultant or subcontractor.

6.7 Evidence of Coverage. Concurrently with the execution of the Subordinate Agreement, Contractor shall deliver certificates of insurance together with original endorsements affecting each of the insurance policies required to be maintained by Contractor by this Section 6. Contractor shall promptly furnish, at OCFA's request, copies of actual policies including all declaration pages, endorsements, exclusions and any other policy documents OCFA requires to verify coverage.

6.7.1 Required insurance policies shall not be in compliance if they include any limiting provision or endorsement that has not been submitted to the OCFA for written approval.

6.7.2 Authorized Signatures. The certificates of insurance and original endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf.

6.7.3 Renewal/Replacement Policies. At least fifteen (15) days prior to the expiration of any policy required by this Subordinate Agreement, evidence of insurance showing that such insurance coverage has been renewed or extended shall be filed with the OCFA. If such coverage is cancelled or reduced and not replaced immediately so as to avoid a lapse in the required coverage, Contractor shall, within ten (10) days after receipt of written notice of such cancellation or reduction of coverage, file with the OCFA evidence of insurance showing that the required insurance has been reinstated or has been provided through another insurance company or companies meeting all requirements of this Subordinate Agreement.

6.8 Requirements Not Limiting. Requirement of specific coverage or minimum limits contained in this section are not intended as a limitation on coverage, limits, or other requirements, or a waiver of any coverage normally provided by any insurance. Nothing in this section shall be construed as limiting in any way the indemnification provisions contained in this Subordinate Agreement, or the extent to which Contractor may be held responsible for losses of any type or amount.

6.9 Enforcement of Agreement (Non-Estoppel). Contractor acknowledges and agrees that actual or alleged failure on the part of the OCFA to inform Contractor of any non-compliance with any of the insurance requirements set forth in this Subordinate Agreement imposes no additional obligation on the OCFA nor does it waive any rights hereunder.

6.10 Insurance for Subconsultants. If OCFA approves the use of subconsultants or subcontractors for the performance of any portion of the Services, then Contractor shall be responsible for causing each approved subconsultant and subcontractor to procure and maintain insurance in the same types and amounts required for Contractor, and in full compliance with the insurance requirements set forth in this Subordinate Agreement, except as otherwise authorized in writing by the Contract Manager.

6.10.1 Delivery of Evidence of Subcontractor Insurance. Upon request of OCFA, Contractor shall deliver to OCFA all certificates of insurance and endorsements required from subcontractors and subconsultants. (Note: Contractor's duty to obtain all required insurance for subcontractors and subconsultants required under this Subordinate Agreement applies whether or not OCFA requests delivery of evidence of such coverage.)

6.11 Other Insurance Requirements. The following terms and conditions shall apply to the insurance policies required of Contractor and its subconsultants and subcontractors, if any, pursuant to this Agreement:

6.11.1 Contractor shall provide immediate written notice to OCFA if (1) any of the insurance policies required herein are terminated, cancelled, suspended, or non-renewed, (2) the limits of any of the insurance coverages required herein are reduced, (3) any required insurance coverage is reduced below the required minimum limits through claims or otherwise, or (4) the deductible or self-insured retention is increased.

6.11.2 All insurance coverage and limits required under this Subordinate Agreement are intended to apply to each insured, including additional insureds, against whom a claim is made or suit is brought to the full extent of the policies. Nothing contained in this Subordinate Agreement or any other agreement relating to the OCFA or its operations shall limit the application of such insurance coverage.

6.11.3 None of the insurance coverages required herein will be in compliance with the requirements of this section if they include any limiting endorsement which substantially impairs the coverages set forth herein (e.g., elimination of contractual liability or reduction of discovery period), unless the endorsement has first been submitted to the OCFA and approved in writing.

6.11.4 Certificates of insurance will not be accepted in lieu of required endorsements, and submittal of certificates without required endorsements may delay the commencement of Services. It is Contractor's obligation to ensure timely compliance with all insurance submittal requirements as provided herein and Contractor agrees to reimburse OCFA for any losses resulting from its failure, or its subconsultants' or subcontractors' failure, to timely comply with the requirements of this Subordinate Agreement.

6.11.5 Contractor agrees to ensure that subconsultants and subcontractors, if any, and any other parties involved with the who are brought onto or involved in the Services by Contractor, provide the same minimum insurance coverage required of Contractor. Contractor agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this section. Contractor agrees that upon request, all agreements with, and evidence of insurance from, subconsultants and subcontractors and others engaged in performing any Services will be submitted to the OCFA for review.

6.11.6 Contractor agrees to provide immediate written notice to OCFA of any claim, demand or loss arising out of the Services performed under this Subordinate Agreement and for any other claim, demand or loss which may reduce the insurance available to an amount less than required by this Subordinate Agreement.

7. Contract Manager. The Contract Manager shall be Rick Oborny, Fleet Services Manager. It shall be the Contractor's responsibility to keep the Contract Manager fully informed of the progress of the performance of the Services and Firm shall refer any decisions that must be made by OCFA to the Contract Manager. Unless otherwise specified herein, any approval of OCFA required hereunder shall mean the approval of the Contract Manager. The Contract Manager shall have authority to sign all documents on behalf of the OCFA required hereunder to carry out the terms of this Subordinate Agreement.

8. Continuing Force and Effect of RCA. Except as modified by this Subordinate Agreement, all terms and conditions of the RCA shall remain unchanged and in full force and effect. Contractor agrees to provide the Services to OCFA on the same terms and conditions as stated in the RCA and acknowledges that all obligations and duties owing to County by Contractor under the RCA and all representations and warranties afforded to County by Contractor under the RCA shall be binding on Contractor and inure to the benefit of OCFA. In the event of any conflict between the provisions of this Subordinate Agreement and the RCA, this Subordinate Agreement shall control.

[Signature Page follows]

IN WITNESS WHEREOF, the parties hereto have executed and entered into this Subordinate Agreement as of the date first written above.

"OCFA"

ORANGE COUNTY FIRE AUTHORITY

By: _____
Debbie Casper
Purchasing and Materials Manager

APPROVED AS TO FORM:

Woodruff, Spradlin & Smart, APC

By: 
David E. Kendig
General Counsel

ATTEST:

Sherry A.F. Wentz
Clerk of the Board

"CONTRACTOR"

**MERRIMAC PETROLEUM INC., DBA
MERRIMAC ENERGY GROUP**

By: 
Name: Mary Hazelrigg
Title: President

By: 
Name: Mary Hazelrigg
Title: Secretary and Treasurer

ATTACHMENT A

SCOPE OF WORK

1. GENERAL INFORMATION

The Orange County Fire Authority (OCFA) was formed on March 1, 1995, transitioning from the Orange County Fire Department to a Joint Powers Authority (JPA) as allowed by California State Government Code 6500 et seq. The OCFA is an independent organizational entity similar to a special district. The service area includes twenty-three member cities, the unincorporated areas of Orange County, California, including State and Federal Responsibility areas.

The OCFA is the largest regional fire service organization in Orange County and one of the largest in California. Emergency response services are provided to a community of over 1.75 million residents in a 575 square mile area. The OCFA's authorized staffing level is 1,372 full-time positions. These personnel provide front-line services, including prevention, education, dispatch, emergency response and technical and administrative support.

Contractor is to provide Diesel Fuel Services to OCFA tanks located throughout the County of Orange at various facilities on an as needed basis and usage is not guaranteed. Service locations may be added or deleted and service hours modified at any given time. Contractor is required to provide this service upon request.

2. FUEL SPECIFICATIONS

- 2.1 CARB #2 Diesel -Clear: All diesel fuel sold for vehicular use in California must meet a 15 ppm maximum sulfur limit (Ultra Low), in addition to meeting all of the current low aromatics CARB diesel specifications. The definition of "vehicular use" in California includes on-highway vehicles and non-road vehicles such as agriculture and construction equipment.

CARB #2 Diesel -Clear may contain up to 5% bio.

- 2.2 CARB #2 Diesel -Red: The same specifications as CARB #2 Diesel – Clear (2.1) except for the red dye & dying process to denote usage for tax-exempt purposes.

3. CONTRACTOR RESPONSIBILITIES

- 3.1 Contractor shall possess all Federal, State and Local permits, licenses and approvals necessary to provide goods/services required in the Scope of Work. Any associated fees shall be the responsibility of the Contractor.
- 3.2 Contractor shall provide all transitional interfacing and continual uninterrupted services at Contract date.
- 3.3 Contractor shall provide current, applicable, and required Material Safety Data Sheet (MSDS) prior to Contract award, or at any time during the contract as requested by OCFA.
- 3.4 If service on any OCFA owned tank is required, Contractor shall service the tank only at the OCFA's request at the hourly rate proposed in this Contract.
- 3.5 Contractor shall be held liable for any damage or criminal /civil citations which may occur as a result of any spills and/or accidents.
- 3.6 Contractor shall perform all deliveries and to act in a safe and professional manner, adhering to all required Federal, State, & Local regulations for the handling and supply of Diesel Fuel.
- 3.7 Diesel Fuel must meet current fuel industry laws of Federal, State & local codes, requirements, standards and guidelines, including South Coast Air Quality Management District (SCAQMD); American Society of Testing and Materials (ASTM) laws; Department of Transportation

(DOT); Air Resources Board (ARB) regulations, Reid Vapor Pressure (RVP) requirements & regulations for the handling and supply of Diesel Fuel.

- 3.8 Contractor must commit to delivery as requested, at time stated on accepted orders.
- 3.9 Contractor's delivery trucks must comply with the California Air Resources Board approved/certified Phase II Vapor Recovery Equipment Requirements. Proof of compliance shall be provided to the OCFA upon request.
- 3.10 All drivers/delivery personnel shall be HAZMAT trained and certified in safety measures to prevent accidents endangering OCFA personnel and property. Hazardous Materials shall be clearly marked with the proper shipping name and identification number as required by the Department of Transportation.
- 3.11 Contractor shall be responsible for obtaining fuel reading and managing load inventory as requested by OCFA.
- 3.12 Contractor shall provide, at Contractor's cost, a 24-hour, toll free customer support telephone number and services for responding to all requests/orders for fuel, including telephone coverage on weekdays during normal business hours as well as 24-hour access phone number for emergency situations.
- 3.13 Contractor shall be responsible for all freight/delivery charges.
- 3.14 Contractor shall perform full delivery of fuel within 48 hours after receipt of OCFA order. Contractor shall provide a delivery metered ticket for each delivery of fuel; and the metered ticket must be signed and dated, and provided to OCFA at delivery.
- 3.15 Delivery truck driver shall stick each tank with a fuel tank gauge stick prior to offloading to insure that adequate fuel storage is available to accept the entire shipment without spillage. Readings shall be taken by the driver prior to unloading fuel and after unloading fuel and shall be recorded on the delivery receipts. Each Delivery truck must be equipped with a stick. Driver shall sign the delivery ticket at the time and place of delivery. One copy of each delivery ticket is to be mailed to the appropriate location.
- 3.16 Contractor shall itemize applicable Federal and California fuel surcharges, Federal and State Excise Tax, and California State Sales Tax as separate line items when invoicing.
- 3.17 Contractor shall adhere to OCFA delivery hours.
- 3.18 A summary of accounts and usage report shall be provided to the OCFA Procurement Office as requested within 30 days of request for such report.

4. ADDITIONAL FEES/CHARGES

- 4.1 Emergency Delivery: Deliveries requested on OCFA observed holidays, and request for same day delivery shall be considered as emergency delivery. Contractor shall be entitled to an emergency delivery fee and an emergency delivery invoice must accompany the fuel invoice for payment of the fee. The emergency delivery fee shall be billed at the rate designated in this solicitation. **Contractor has agreed to waive this fee for the OCFA.**
- 4.2 Standing Time: The OCFA will not be charged any additional fees for the amount of time it takes the Contractor in offloading/ transferring fuel to OCFA tanks in various locations.

Up to one-hour of "standing time" shall be allowable at no charge for the purpose of unloading. If the Contractor is unable to unload fuel within one hour after the scheduled arrival at an OCFA site due to delays caused by OCFA operations, demurrage charges may be assessed by Contractor.

- 4.3 Spillage: The OCFA requires "zero leakage" standard for fuel transfer operations.

The Contractor shall provide necessary equipment and proper training of delivery personnel to prevent spillage or minimize the chance of spillage during connection and disconnection of hoses and during the transfer of fuel. The Contractor will likewise ensure that all equipment, tools and procedures used are in compliance with all applicable specification and regulations governing such operations.

In the event of leakage or spillage, it shall be the responsibility of the Contractor to perform immediate containment, clean up, disposal and restoration activities as necessary in accordance with applicable State of California laws and regulations and subject to the OCFA's satisfaction. All material associated with such clean up shall be removed by the Contractor.

- 4.4 Service Rate: In the event that spillage or standing time was a delay caused by OCFA, an hourly service rate quoted herein shall include all costs for labor, tools, equipment, transportation, overhead, profit, travel time, and all other costs related to providing the services described in the scope of work; hourly service rates shall be prorated and billed to the nearest 1/4 hour.
- 4.5 OCFA may request service on OCFA owned tanks.

5. OCFA RESPONSIBILITIES

- 5.1 OCFA shall provide Contractor with a log that will include, but not be limited to, the following information:
- Name
 - Location
 - OCFA Contact's Name & Number
 - Number of fuel tanks; capacity/sizes; unit of measure & fuel site / delivery location, delivery date, amount delivered and amount left in tank.
- 5.2 OCFA shall coordinate delivery schedules with Contractor and specify details of each delivery location's physical surroundings and/or limitations (i.e. Secured & remote locations; no loading dock; narrow, winding or unpaved roads).
- 5.3 OCFA will work with Contractor on security clearance procedures that may be required for delivery drivers on high security facilities/locations.
- 5.4 If service for any OCFA owned tank is required, the Contractor shall service the tank only at the OCFA's request at the hourly rate submitted in this Contract.

ATTACHMENT B

PAYMENT/COMPENSATION

1. PAYMENT – INVOICING INSTRUCTIONS

The Contractor will provide an invoice on the Contractor's letterhead for goods delivered and/or services rendered. Invoices must be submitted to address indicated on the procurement documents provided by OCFA. The invoice must have a unique number and must include the following information:

- 1.1 Contractor's name and address;
- 1.2 Contractor's remittance address if different from above;
- 1.3 Contractor's Federal Tax I.D. Number;
- 1.4 Service/delivery address;
- 1.5 MA/DO/PO/CT Number;
- 1.6 Date of services rendered;
- 1.7 Fuel charges
- 1.8 Additional Fees/Charges
- 1.9 Service description, including number of hours or fraction thereof
- 1.10 Surcharges and Taxes.
- 1.11 Total

2. PAYMENT TERMS

- 2.1 The Invoice is to be submitted in arrears to the OCFA bill-to address, unless otherwise directed in this Contract. Contractor shall reference the Blanket Order number on invoice. Payment will be net 30 days after receipt of the invoice in a format acceptable to the OCFA and verified and approved by the OCFA and subject to routine processing requirements. The responsibility for providing an acceptable invoice rests with the Contractor.
- 2.2 Billing shall cover goods/services not previously invoiced. The Contractor shall reimburse the OCFA for any monies paid to the Contractor for goods/services not provided or when goods/services do not meet the Contract requirements.
- 2.3 Payments made by the OCFA shall not preclude the right of the OCFA from thereafter disputing any goods/services involved or billed under this Contract and shall not be construed as acceptance of any part of the goods/services.

3. COMPENSATION

The Contractor agrees to accept the specified compensation as set forth in this Contract as full remuneration for performing all services and furnishing all staffing and materials required, for any reasonably unforeseen difficulties which may arise or be encountered in the execution of the services until acceptance, for risks connected with the services, and for performance by the Contractor of all its duties and obligations hereunder.

ATTACHMENT C

PRICING

1. CARB #2 DIESEL-RED AND CARB #2 DIESEL-CLEAR

- 1.1 The prices shall be based on the margin below subject to the “Los Angeles”, PAD District 5 Report, Ultra Low Sulfur Diesel, Unbranded Rack Average, without CAR Cost of the Oil Price Information Service on a daily basis.
- 1.2 The daily unbranded “rack average” report will serve as a base price, and Contractor is required to attach a copy of the report with each fuel invoice submitted to the OCFA for payment. The OPIS report must correspond with the date fuel was provided to the OCFA.
- 1.3 The proposed +/- differential shall be inclusive of all delivery/unloading/handling charges to all OCFA fuel fill locations.
- 1.4 The proposed +/- differential on the daily Los Angeles Average Rack Price reported by OPIS for Unbranded Fuel shall remain firm for the entire term of the contract.
- 1.5 Fuel prices per gallon shall be calculated using the following formula:

OPIS PAD District 5 Los Angeles Regional Rack Price + adjustment differential = Price per gallon.

Gallons	Proposed +/- Differential RED	Proposed +/- Differential CLEAR
0 – 1000	+0.1000	+0.1000
1,001 – 5,000	+0.0490	+0.0500
5,001 – 7,000	+0.0000	+0.0000
7,000+	+0.0280	+0.0000

2. ADDITIONAL FIXED FEE CHARGES

- | | | |
|-----|---|--|
| 2.1 | Emergency Delivery Fixed Fee Charge | \$ <u>125.00</u> / delivery WAIVED FOR THE OCFA |
| 2.2 | Standing Time / Demurrage Charge | \$ <u>25.00</u> / delivery – quarter of an hour in excess of first initial hour |
| 2.3 | Service Rate | \$ <u>125.00</u> / hour (tank cleaning, fuel polishing, sampling and analysis as needed, for normal business hours M-F 8:00am to 5:00pm)
\$ <u>150.00</u> / hour (tank cleaning, fuel polishing, sampling and analysis as needed, weekends and holidays outside of normal business hours) |
| 2.4 | Special Equipment | \$ <u>225.00</u> / special fitting not common to industry (one time charge) |
| 2.5 | Retain Fee** | \$ <u>250.00</u> / occasion |
| 2.6 | Stop in Transit*** | \$ <u>60.00</u> / each additional stop |
| 2.7 | Discount of \$0.005/gallon for receipt of payment 20 days from date of delivery | |

****Retain Fee** is charged when fuel that has been ordered by the customer for delivery cannot be delivered in its entirety due to an incorrect order by the customer. When this occurs the driver cannot complete his delivery and Merrimac must find another home for the fuel that cannot be held. This can be an entire compartment or even a few gallons.

*****Stop in Transit** is a charge when customer requires multiple deliveries, possible due to a retain of fuel ordered for one location that cannot be held (note: if the driver is at risk of a spill due to trying to deliver all fuel ordered –each tank has a max. capacity of 90% or possibly less- this is information your facilities management would know). Also, if the driver has to pick up his hoses (moving the truck) and move to another site on the property to make an additional delivery.

EXHIBIT "1"
REGIONAL COOPERATIVE AGREEMENT
#RCA-017-18010009



COUNTY OF ORANGE
MASTER AGREEMENT
COUNTY PROCUREMENT OFFICE

**FOR INTERNAL COUNTY USE
ONLY. THIS IS NOT A LEGAL
DOCUMENT. DO NOT
DISTRIBUTE TO VENDOR.**

CONTRACT INFORMATION

MA NUMBER: RCA-017-18010009 v1 - WF Unit: 5200

NOT TO EXCEED AMOUNT: \$0.00

Begin Date:01/09/2018
Expiration Date:01/08/2023
Board-Award Date:
Board Award Number:
Modification Date:11/03/2017
Contract Type:Service
Cited Authority:DPA: Contract Policy Manual Thresholds Allow

Record Date:11/03/2017
Procurement Folder:C009297
Procurement Type:Request for Bids - RFB
Replaces Award Document:-
Replaced by Award Document:-
RCA Code:18010009
RCA Description:DIESEL FUEL

COUNTY CONTACTS

REQUESTOR:

YNN COLLINS
XX-XXX-XXXX
YNN.COLLINS@OCGOV.COM

ISSUER:

GRACE SCOTT
GRACE.SCOTT@OCGOV.COM

BUYER:

GRACE SCOTT
GRACE.SCOTT@OCGOV.COM

CONTRACT DESCRIPTION

CA - DIESEL FUEL

THIS IS A COMPETITIVELY BID REGIONAL COOPERATIVE AGREEMENT (RCA) FOR DIESEL FUEL. THIS CONTRACT IS AVAILABLE FOR USE IN ACCORDANCE WITH THE ATTACHED PRICING, SCOPE OF WORK, TERMS AND CONDITIONS. OTHER PUBLIC ENTITIES, UTILIZING THIS AGREEMENT, SHOULD MAKE THEIR OWN DETERMINATION WHETHER THIS RCA CONTRACT IS CONSISTENT WITH THEIR PROCUREMENT POLICIES AND REGULATIONS.

CA CONTRACT USAGE INSTRUCTIONS:

INSTRUCTIONS TO COUNTY DEPUTY PURCHASING AGENTS (DPA'S): 1) DEPARTMENTS MAY ISSUE MA-DO, CT, OR PO (FOR ONE-TIME PURCHASE ONLY) REFERRING THE RCA NUMBER IN THE "EXTENDED DESCRIPTION" TEXT FIELD OF THE CAPS+ DOCUMENT; 2) IN THE HEADER OF THE CAPS+ PAGE, IN THE REPORTING SECTION, REPORTING 2 FIELD, SELECT 18010009 TO INDICATE DIESEL FUEL; 3) PROVIDE SERVICE LOCATION(S); AND 4) INVOICING INSTRUCTIONS TO THE VENDOR.

VENDOR INFORMATION

Name/Address:

/C0000016731:MERRIMAC PETROLEUM INC
MBA MERRIMAC ENERGY GROUP
240 E WARDLOW RD

Contact:

MARY C HAZELRIGG
562-427-6565
MHAZELRIGG@MERRIMACENERGY.NET

LONG BEACH, CA 90807-4833

COMMODITY / SERVICE INFORMATION

Line	Quantity	UOM	Unit Price	Service Amount	Service From	Service To	Line Sub Total	Tax Amount	Line Total
1	0.00000		\$0.00	\$0.00			\$0.00	\$0.00	\$0.00

Commodity Code: 40509 - Fuel Oil, Diesel (Use 405-02 for Biodiesel)

ARB #2 DIESEL - RED OR CLEAR

AUTHORIZED FUNDING SOURCES

Department	No Limit	Spending Limit
17 - COUNTY EXECUTIVE OFFICE	YES	\$0.00

APPROVALS

Date	Approver	Approval Level	Status Before	Status After
11/03/2017 04:01:15 PM	miller.jeff1	1	Pending	Approved

**CONTRACT HISTORY
MA-017-18010009
DIESEL FUEL SERVICES**

VENDOR CONTACT INFORMATION:

WHEN PLACING ORDERS AND FOR EMERGENCY, PLEASE E-MAIL ALL THREE (3) CONTACTS LISTED BELOW.

ACCOUNT REP: BRUCE MAINOR (ORDERS, DISPATCH, AND DELIVERY QUESTIONS)
PHONE: 562-427-6565
CELL: 310-940-7543
FAX: 562-427-6556
EMAIL: BMAINOR@MERRIMACENERGY.NET

GEN ACCOUNTS: EVAN PETERS (SALES, SCHEDULING, FOLLOW-UPS)
PHONE: 562-427-6565
CELL: 530-230-7337
FAX: 562-427-6556
EMAIL: EPETERS@MERRIMACENERGY.NET

PRESIDENT: MARY HAZELRIGG (PRESIDENT, OVERSEES CONTRACTS)
PHONE: 562-427-6565
CELL: 310-714-3636
FAX: 562-427-6556
EMAIL: MHAZELRIGG@MERRIMACENERGY.NET

ACCOUNTING: WENDY REYNOLDS (INVOICES)
PHONE: 562-427-6565
FAX: 562-427-6556
EMAIL: WREYNOLDS@MERRIMACENERGY.NET

COUNTY PROCUREMENT OFFICE CONTACT:

DPA: GRAE SCOTT
PHONE: 714-567-5025
EMAIL: GRACE.SCOTT@OCGOV.COM

CONTRACT TERM SUMMARY:

RCA-017-18010009 01/09/2018 THROUGH 01/08/2023

VERSION 1

ORIGINAL CONTRACT
IFB 017-C009297-GS
EXPEDITER #1226228
GRACE SCOTT, 11/3/2017



MODEL CONTRACT
REGIONAL COOPERATIVE AGREEMENT RCA-017-18010009
BETWEEN
THE COUNTY OF ORANGE
AND
MERRIMAC PETROLEUM INC DBA MERRIMAC ENERGY GROUP
FOR DIESEL FUEL

This Regional Cooperative Agreement ("RCA") to provide Diesel Fuel, hereinafter referred to as "Contract" is made and entered into as of the date fully executed by and between the County of Orange, a political subdivision of the State of California, acting through the County Executive Office/County Procurement Office, hereinafter referred to as "County", and **Merrimac Petroleum, Inc., DBA Merrimac Energy Group**, with a place of business at 1240 E. Wardlow Road, Long Beach, CA 90807-4833, hereinafter referred to as "Contractor". County and Contractor may be referred to individually as "Party", or collectively as "Parties".

ATTACHMENTS

This Contract is comprised of this document and the following Attachments, which are attached hereto and incorporated by reference in this Contract:

Attachment A – Scope of Services
Attachment B – Payment/Compensation
Attachment C – PRICING

RECITALS

WHEREAS, the Contractor responded to an Invitation for Bids (IFB)," for Diesel Fuel; and

WHEREAS, the Contractor responded and represented that its proposed services shall meet or exceed the requirements and specifications of the IFB; and

WHEREAS, the County Board of Supervisors has authorized the Purchasing Agent or his designee to enter into a Contract for Diesel Fuel with the Contractor; and

NOW, THEREFORE, the Parties mutually agree as follows:

ARTICLES

General Terms and Conditions

- A. **Governing Law and Venue:** This Contract has been negotiated and executed in the state of California and shall be governed by and construed under the laws of the state of California. In the event of any legal action to enforce or interpret this Contract, 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 adjudication to another county.
- B. **Entire Contract:** This Contract contains the entire Contract between the parties with respect to the matters herein, and there are no restrictions, promises, warranties or undertakings other than those set forth herein or referred to herein. No exceptions, alternatives, substitutes or revisions are valid or binding on County unless authorized by County in writing. Electronic acceptance of any additional terms, conditions or supplemental Contracts by any County employee or agent, including but not limited to installers of software, shall not be valid or binding on County unless accepted in writing by County's Purchasing Agent or designee.
- C. **Amendments:** No alteration or variation of the terms of this Contract shall be valid unless made in writing and signed by the parties; no oral understanding or agreement not incorporated herein shall be binding on either of the parties;

and no exceptions, alternatives, substitutes or revisions are valid or binding on County unless authorized by County in writing.

- D. **Taxes:** Unless otherwise provided herein or by law, price quoted does not include California state sales or use tax. Out-of-state Contractors shall indicate California Board of Equalization permit number and sales permit number on invoices, if California sales tax is added and collectable. If no permit numbers are shown, sales tax will be deducted from payment. The Auditor-Controller will then pay use tax directly to the State of California in lieu of payment of sales tax to the Contractor.
- E. **Delivery:** Time of delivery of goods or services is of the essence in this Contract. County reserves the right to refuse any goods or services and to cancel all or any part of the goods not conforming to applicable specifications, drawings, samples or descriptions or services that do not conform to the prescribed statement of work. Acceptance of any part of the order for goods shall not bind County to accept future shipments nor deprive it of the right to return goods already accepted at Contractor's expense. Over shipments and under shipments of goods shall be only as agreed to in writing by County. Delivery shall not be deemed to be complete until all goods or services have actually been received and accepted in writing by County.
- F. **Acceptance/Payment:** Unless otherwise agreed to in writing by County, 1) acceptance shall not be deemed complete unless in writing and until all the goods/services have actually been received, inspected, and tested to the satisfaction of County, and 2) payment shall be made in arrears after satisfactory acceptance.
- G. **Warranty:** Contractor expressly warrants that the goods covered by this Contract are 1) free of liens or encumbrances, 2) merchantable and good for the ordinary purposes for which they are used, and 3) fit for the particular purpose for which they are intended. Acceptance of this order shall constitute an agreement upon Contractor's part to indemnify, defend and hold County and its indemnitees as identified in paragraph "Z" below, and as more fully described in paragraph "Z," harmless from liability, loss, damage and expense, including reasonable counsel fees, incurred or sustained by County by reason of the failure of the goods/services to conform to such warranties, faulty work performance, negligent or unlawful acts, and non-compliance with any applicable state or federal codes, ordinances, orders, or statutes, including the Occupational Safety and Health Act (OSHA) and the California Industrial Safety Act. Such remedies shall be in addition to any other remedies provided by law.
- H. **Patent/Copyright Materials/Proprietary Infringement:** Unless otherwise expressly provided in this Contract, Contractor shall be solely responsible for clearing the right to use any patented or copyrighted materials in the performance of this Contract. Contractor warrants that any 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. Contractor agrees that, in accordance with the more specific requirement contained in paragraph "Z" below, it shall indemnify, defend and hold County and County indemnitees 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, costs and expenses but not including attorney's fees.
- I. **Assignment:** 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 Contract nor any portion thereof may be assigned by Contractor without the express written consent of County. Any attempt by Contractor to assign the performance or any portion thereof of this Contract without the express written consent of County shall be invalid and shall constitute a breach of this Contract.
- J. **Non-Discrimination:** In the performance of this Contract, Contractor agrees that it will comply with the requirements of Section 1735 of the California Labor Code and not engage nor permit any subcontractors to engage in discrimination in employment of persons because of the race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, or sex of such persons. Contractor acknowledges that a violation of this provision shall subject Contractor to penalties pursuant to Section 1741 of the California Labor Code.
- K. **Termination:** In addition to any other remedies or rights it may have by law, County has the right to immediately terminate this Contract without penalty for cause or after 30 days' written notice without cause, unless otherwise specified. Cause shall be defined as any material breach of contract, any misrepresentation or fraud on the part of the Contractor. Exercise by County of its right to terminate the Contract shall relieve County of all further obligation.

- L. **Consent To Breach Not Waiver:** No term or provision of this Contract shall be deemed waived and no breach excused, unless such waiver or consent shall be in writing and signed by the party claimed to have waived or consented. Any consent by any party to, or waiver of, a breach by the other, whether express or implied, shall not constitute consent to, waiver of, or excuse for any other different or subsequent breach.
- M. **Independent Contractor:** Contractor shall be considered an independent contractor and neither Contractor, its employees, nor anyone working under Contractor shall be considered an agent or an employee of County. Neither Contractor, its employees nor anyone working under Contractor shall qualify for workers' compensation or other fringe benefits of any kind through County.
- N. **Performance Warranty:** Contractor shall warrant all work under this Contract, taking necessary steps and precautions to perform the work to County's satisfaction. Contractor shall be responsible for the professional quality, technical assurance, timely completion and coordination of all documentation and other goods/services furnished by the Contractor under this Contract. Contractor shall perform all work diligently, carefully, and in a good and workmanlike manner; shall furnish all necessary labor, supervision, machinery, equipment, materials, and supplies, shall at its 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 work. If permitted to subcontract, Contractor shall be fully responsible for all work performed by subcontractors.
- O. **Insurance Provision:** Prior to the provision of services under this contract, the contractor agrees to purchase all required insurance at contractor's expense, including all endorsements required herein, necessary to satisfy the County that the insurance provisions of this Contract have been complied with. Contractor agrees to keep such insurance coverage, Certificates of Insurance, and endorsements on deposit with the County. In addition, all subContractors performing work on behalf of contractor pursuant to this Contract shall obtain insurance subject to the same terms and conditions as set forth herein for Contractor.

Contractor shall ensure that all subContractors performing work on behalf of Contractor pursuant to this Contract shall be covered under Contractor's insurance as an Additional Insurance or maintain insurance subject to the same terms and conditions as set forth herein for Contractor. Contractor shall not allow subContractors to work if subContractors have less than the level of coverage required by County from Contractor under this Contract. It is the obligation of Contractor 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 Contractor through the entirety of this Contract for inspection by County representative(s) at any reasonable time.

All self-insured retentions (SIRs) shall be clearly stated on the Certificate of Insurance. Any self-insured retention (SIR) in an amount in excess of Fifty Thousand Dollars (\$50,000) shall specifically be approved by the County's Risk Manager, or designee, upon review of Contractor's current audited financial report. If Contractor's SIR is approved, Contractor, in addition to, and without limitation of, any other indemnity provision(s) in this Contract, agrees to all of the following:

1. In addition to the duty to indemnify and hold the County harmless against any and all liability, claim, demand or suit resulting from Contractor's, its agents, employee's or subContractor's performance of this Contract, Contractor shall defend the County at its sole cost and expense with counsel approved by Board of Supervisors against the same; and
2. Contractor's duty to defend, as stated above, shall be absolute and irrespective of any duty to indemnify or hold harmless; and
3. The provisions of California Civil Code Section 2860 shall apply to any and all actions to which the duty to defend stated above applies, and the Contractor's SIR provision shall be interpreted as though the Contractor was an insurer and the County was the insured.

If the contractor fails to maintain insurance acceptable to the County for the full term of this contract, the County may terminate this contract.

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 Contractor shall provide the minimum limits and coverage as set forth below:

<u>Coverage</u>	<u>Minimum Limits</u>
Commercial General Liability	\$1,000,000 per occurrence \$2,000,000 aggregate
Automobile Liability including coverage for owned, non-owned and hired vehicles	\$1,000,000 per occurrence
Workers' Compensation	Statutory
Employers' Liability Insurance	\$1,000,000 per occurrence

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 liability coverage at least as broad.

The Business Auto Liability coverage shall be written on ISO form CA 00 01, CA 00 05, CA 00 12, CA 00 20, or a substitute form providing liability coverage as broad.

Required Endorsements

The Commercial General Liability policy shall contain the following endorsements, which shall accompany the Certificate of insurance:

- 1) An Additional Insured endorsement using ISO form CG 20 26 04 13 or a form at least as broad naming the ***County of Orange, its elected and appointed officials, officers, employees, agents*** as Additional Insureds, or provide blanket coverage, which will state ***As Required By Written Contract***.
- 2) A primary non-contributing endorsement using ISO Form CG 20 01 04 13, or a form at least as broad evidencing that the contractor's insurance is primary and any insurance or self-insurance maintained by the County of Orange shall be excess and non-contributing.

The Workers' Compensation policy shall contain a waiver of subrogation endorsement waiving all rights of subrogation against the ***County of Orange, its elected and appointed officials, officers, employees and agents***, or provide blanket coverage, which will state ***As Required By Written Contract***.

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

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

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 001 policy).

Insurance certificates should be forwarded to the department address listed on the solicitation.

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

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

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

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

- P. **Changes:** Contractor shall make no changes in the work or perform any additional work without the County's specific written approval.
- Q. **Change of Ownership:** Contractor agrees that if there is a change or transfer in ownership of Contractor's business prior to completion of this Contract, and the County agrees to an assignment of the Contract, the new owners shall be required under terms of sale or other transfer to assume Contractor's duties and obligations contained in this Contract and complete them to the satisfaction of the County.
- County reserves the right to immediately terminate the Contract in the event the County determines that the assignee is not qualified or is otherwise unacceptable to the County for the provision of services under the Contract.
- R. **Force Majeure:** Contractor shall not be assessed with liquidated damages or unsatisfactory performance penalties during any delay beyond the time named for the performance of this Contract caused by any act of God, war, civil disorder, employment strike or other cause beyond its reasonable control, provided Contractor gives written notice of the cause of the delay to County within 36 hours of the start of the delay and Contractor avails himself of any available remedies.
- S. **Confidentiality:** Contractor agrees to maintain the confidentiality of all County and County-related records and information pursuant to all statutory laws relating to privacy and confidentiality that currently exist or exist at any time during the term of this Contract. All such records and information shall be considered confidential and kept confidential by Contractor and Contractor's staff, agents and employees.
- T. **Compliance with Laws:** Contractor represents and warrants that services to be provided under this Contract shall fully comply, at Contractor's 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. Contractor acknowledges that County is relying on Contractor to ensure such compliance, and pursuant to the requirements of paragraph "Z" below, Contractor agrees that it shall defend, indemnify and hold County and County INDEMNITEES harmless from all liability, damages, costs and expenses arising from or related to a violation of such laws.
- U. **Freight:** Prior to the County's express acceptance of delivery of products. Contractor assumes full responsibility for all transportation, transportation scheduling, packing, handling, insurance, and other services associated with delivery of all products deemed necessary under this Contract.
- V. **Severability:** If any term, covenant, condition or provision of this Contract 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.
- W. **Attorney Fees:** In any action or proceeding to enforce or interpret any provision of this Contract, each party shall bear their own attorney's fees, costs and expenses.
- X. **Interpretation:** This Contract has been negotiated at arm's length and between persons sophisticated and knowledgeable in the matters dealt with in this Contract. In addition, each party had been represented by experienced and knowledgeable independent legal counsel of their own choosing or has knowingly declined to seek such counsel despite being encouraged and given the opportunity to do so. Each party further acknowledges that they have not been influenced to any extent whatsoever in executing this Contract by any other party hereto or by any person representing them, or both. Accordingly, any rule or law (including California Civil Code Section 1654) or legal decision that would require interpretation of any ambiguities in this Contract against the party that has drafted it is

not applicable and is waived. The provisions of this Contract shall be interpreted in a reasonable manner to effect the purpose of the parties and this Contract.

- Y. **Employee Eligibility Verification:** The Contractor warrants that it fully complies with all Federal and State statutes and regulations regarding the employment of aliens and others and that all its employees performing work under this Contract meet the citizenship or alien status requirement set forth in Federal statutes and regulations. The Contractor 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 not 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 Contractor shall retain all such documentation for all covered employees for the period prescribed by the law. The Contractor shall indemnify, defend with counsel approved in writing by County, and hold harmless, the County, its agents, officers, and employees from employer sanctions and any other liability which may be assessed against the Contractor or the County 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 Contract.
- Z. **Indemnification Provisions:** Contractor agrees to indemnify, defend with counsel approved in writing by County, and hold County, its elected and appointed officials, officers, employees, agents and those special districts and agencies which County's Board of Supervisors acts as the governing Board ("County Indemnitees") harmless from any claims, demands or liability of any kind or nature, including but not limited to personal injury or property damage, arising from or related to the services, products or other performance provided by Contractor pursuant to this Contract. If judgment is entered against Contractor and County by a court of competent jurisdiction because of the concurrent active negligence of County or County Indemnitees, Contractor and County agree that liability will be apportioned as determined by the court. Neither party shall request a jury apportionment.
- AA. **Audits/Inspections:** Contractor agrees 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 Contractor for the purpose of auditing or inspecting any aspect of performance under this Contract. The inspection and/or audit will be confined to those matters connected with the performance of the Contract including, but not limited to, the costs of administering the Contract. The County will provide reasonable notice of such an audit or inspection.
- The County reserves the right to audit and verify the Contractor's records before final payment is made.
- Contractor agrees to maintain such records for possible audit for a minimum of three years after final payment, unless a longer period of records retention is stipulated under this Contract or by law. Contractor agrees to allow interviews of any employees or others who might reasonably have information related to such records. Further, Contractor agrees to include a similar right to the County to audit records and interview staff of any subcontractor related to performance of this Contract.
- Should the Contractor cease to exist as a legal entity, the Contractor's records pertaining to this agreement shall be forwarded to the County's project manager.
- BB. **Contingency of Funds:** Contractor acknowledges that funding or portions of funding for this Contract may be contingent upon state budget approval; receipt of funds from, and/or obligation of funds by, the state of California to County; and inclusion of sufficient funding for the services hereunder in the budget approved by County's Board of Supervisors for each fiscal year covered by this Contract. If such approval, funding or appropriations are not forthcoming, or are otherwise limited, County may immediately terminate or modify this Contract without penalty.
- CC. **Expenditure Limit:** The Contractor shall notify the County of Orange assigned Deputy Purchasing Agent in writing when the expenditures against the Contract reach 75 percent of the dollar limit on the Contract. The County will not be responsible for any expenditure overruns and will not pay for work exceeding the dollar limit on the Contract unless a change order to cover those costs has been issued.

ADDITIONAL TERMS AND CONDITIONS

1. **Scope of Contract:** This Contract specifies the contractual terms and conditions by which the County will procure **Diesel Fuel** from Contractor as further detailed in the Scope of Work, identified and incorporated herein by this reference as "Attachment A".
2. **Term of Contract:** This Contract shall be effective for the period January 9, 2018 through January 8, 2023 unless otherwise terminated by County.

The term of any subordinate agreement executed against this Contract by County departments shall not go beyond the life of this Contract. Subordinate agreements executed against this Contract may be subject to approval by the Orange County Board of Supervisors.

3. **Regional Cooperative Agreements (RCA):** The provisions and pricing of this Contract will be extended to other California local or state governmental entities. Governmental entities wishing to use this Contract will be responsible for issuing their own purchase documents/price agreements, providing for their own acceptance, and making any subsequent payments. Contractor shall be required to include in any Contract entered into with another agency or entity that is entered into as an extension of this Contract a Contract clause that will hold harmless the County of Orange from all claims, demands, actions or causes of actions of every kind resulting directly or indirectly, arising out of, or in any way connected with the use of this contract. Failure to do so will be considered a material breach of this Contract and grounds for immediate Contract termination. The cooperative entities are responsible for obtaining all certificates of insurance and bonds required. The Contractor is responsible for providing each cooperative entity a copy of the Contract upon request by the cooperative entity. The County of Orange makes no guarantee of usage by other users of this Contract.

The Contractor shall be required to maintain a list of the cooperative entities using this Contract. The list shall report dollar volumes spent annually and shall be provided on an annual basis to the County, at the County's request.

4. **Adjustments – Scope of Work:** No adjustments made to the Scope of Work will be authorized without the prior written approval of the County assigned Deputy Purchasing Agent.
5. **Americans With Disabilities Act (ADA):** Section 504 of the Rehabilitation Act of 1973 as amended; Title VI and VII of the Civil Rights Act of 1964 as amended; Americans with Disabilities Act, 42 USC 12101; California Code of Regulations, Title 2, Title 22: California Government Code, Sections 11135, et seq; and other federal and state laws and executive orders prohibit discrimination. All programs, activities, employment opportunities, and services must be made available to all persons, including persons with disabilities.
6. **Bills and Liens:** Contractor shall pay promptly all indebtedness for labor, materials and equipment used in performance of the work. Contractor shall not permit any lien or charge to attach to the work or the premises, but if any does so attach, Contractor shall promptly procure its release and, in accordance with the requirements of paragraph "Z" above, indemnify, defend, and hold County harmless and be responsible for payment of all costs, damages, penalties and expenses related to or arising from or related thereto.
7. **Breach of Contract:** The failure of the Contractor to comply with any of the provisions, covenants or conditions of this Contract shall be a material breach of this Contract. In such event the County may, and in addition to any other remedies available at law, in equity, or otherwise specified in this Contract:
 - a) Terminate the Contract immediately, pursuant to Section K herein;
 - b) Afford the Contractor written notice of the breach and ten (10) calendar days or such shorter time that may be specified in this Contract within which to cure the breach;
 - c) Discontinue payment to the Contractor for and during the period in which the Contractor is in breach; and
 - d) Offset against any monies billed by the Contractor but yet unpaid by the County those monies disallowed pursuant to the above.
8. **Civil Rights:** Contractor attests that services provided shall be in accordance with the provisions of Title VI and Title VII of the Civil Rights Act of 1964, as amended, Section 504 of the Rehabilitation Act of 1973, as amended; the Age Discrimination Act of 1975 as amended; Title II of the Americans with Disabilities Act of 1990, and other applicable State and federal laws and regulations prohibiting discrimination on the basis of race, color, national origin, ethnic group identification, age, religion, marital status, sex or disability.

9. **County of Orange Child Support Enforcement:** Contractor certifies it 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 Contract with the County of Orange. Failure to comply shall constitute a material breach of the Contract and failure to cure such breach within 60 calendar days of notice from the County shall constitute grounds for termination of the Contract.”
10. **Contractor Personnel – Drug-Free Workplace:** The Contractor hereby certifies compliance with Government Code Section 8355 in matters relating to providing a drug-free workplace. The Contractor will:
 1. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations, as required by Government Code Section 8355(a)(1).
 2. Establish a drug-free awareness program as required by Government Code Section 8355(a)(2) to inform employees about all of the following:
 - a. The dangers of drug abuse in the workplace;
 - b. The organization’s policy of maintaining a drug-free workplace;
 - c. Any available counseling, rehabilitation and employee assistance programs; and
 - d. Penalties that may be imposed upon employees for drug abuse violations.
 3. Provide as required by Government Code Section 8355(a)(3) that every employee who works under this Contract:
 - a. Will receive a copy of the company’s drug-free policy statement; and
 - b. Will agree to abide by the terms of the company’s statement as a condition of employment under this Contract.

Failure to comply with these requirements may result in suspension of payments under the Contract or termination of the Contract or both, and the Contractor may be ineligible for award of any future County contracts if the County determines that any of the following has occurred:

1. The Contractor has made false certification, or
 2. The Contractor violates the certification by failing to carry out the requirements as noted above.
11. **Contractor Personnel-Reference Check:** The Contractor warrants that all persons employed to provide service under this Contract have satisfactory past work records indicating their ability to adequately perform the work under this Contract. Contractor’s employees assigned to this project must meet character standards as demonstrated by background investigation and reference checks, coordinated by the department issuing this Contract.
12. **Contractor’s Project Manager and Key Personnel:** Contractor shall appoint a Project Manager to direct the Contractor’s efforts in fulfilling Contractor’s obligations under this Contract. This Project Manager shall be subject to approval by the County and shall not be changed without the written consent of the County’s Project Manager, which consent shall not be unreasonably withheld.

The Contractor’s Project Manager shall be assigned to this project for the duration of the Contract and shall diligently pursue all work and services to meet the project time lines. The County’s Project Manager shall have the right to require the removal and replacement of the Contractor’s Project Manager from providing services to the County under this Contract. The County’s Project manager shall notify the Contractor in writing of such action. The Contractor shall accomplish the removal within three (3) business days after written notice by the County’s Project Manager. The County’s Project Manager shall review and approve the appointment of the replacement for the Contractor’s Project Manager. The County is not required to provide any additional information, reason or rationale in the event it The County is not required to provide any additional information, reason or rationale in the event it requires the removal of Contractor’s Project Manager from providing further services under the Contract
13. **Contractor’s Records:** The Contractor shall keep true and accurate accounts, records, books and data which shall correctly reflect the business transacted by the Contractor in accordance with generally accepted accounting principles. These records shall be stored in Orange County for a period of three (3) years after final payment is

received from the County. Storage of records in another county will require written approval from the County of Orange assigned Deputy Purchasing Agent.

14. **Data-Title To:** All materials, documents, data or information obtained from the County data files or any County medium furnished to the Contractor in the performance of this Contract 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 Contractor after completion or termination of this Contract 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 Contract.
15. **Debarment:** Contractor shall certify that neither Contractor nor its principles are presently debarred, proposed for debarment, declared ineligible or voluntarily excluded from participation in the transaction by any Federal department. Where Contractor as the recipient of federal funds, is unable to certify to any of the statements in the certification, Contractor must include an explanation with their bid/proposal. Debarment, pending debarment, declared ineligibility or voluntary exclusion from participation by any Federal department may result in the bid/proposal being deemed non-responsible.
16. **Discount Verification:** For Contracts that are based on standard rates or list prices, the Contractor is required to state on the invoice the source and date of the rate/price and, when discounts are quoted, show the list rate/price and the discount.

The department shall certify on the invoice that the prices are per the current price list for all items that have a per unit cost exceeding \$250.00 and that the appropriate discounts were applied.

17. **Discounts – Prompt Payment:** The County of Orange shall process payments with discounts offered for prompt payment and the checks for those payments. If disputes arise over the timeliness of the payment, the date of the postmark shall be the determining factor. The County shall not be held responsible for delays by the US Postal Service, and no additional payment shall be due the Contractor in the event of such delay.

18. **Disputes – Contract:**

A. The parties shall deal in good faith and attempt to resolve potential disputes informally. If the dispute concerning a question of fact arising under the terms of this Contract is not disposed of in a reasonable period of time by the Contractor's Project Manager and the County's Project Manager, such matter shall be brought to the attention of the County Deputy Purchasing Agent by way of the following process:

1. The Contractor shall submit to the department assigned Deputy Purchasing Agent a written demand for a final decision regarding the disposition of any dispute between the parties arising under, related to, or involving this Contract, unless the County, on its own initiative, has already rendered such a final decision.
2. The Contractor's written demand shall be fully supported by factual information, and, if such demand involves a cost adjustment to the Contract, the Contractor shall include with the demand a written statement signed by a senior official indicating that the demand is made in good faith, that the supporting data are accurate and complete, and that the amount requested accurately reflects the Contract adjustment for which the Contractor believes the County is liable.

B. Pending the final resolution of any dispute arising under, related to, or involving this Contract, the Contractor agrees to diligently proceed with the performance of this Contract, including the delivery of goods and/or provision of services. The Contractor's failure to diligently proceed shall be considered a material breach of this Contract.

Any final decision of the County shall be expressly identified as such, shall be in writing, and shall be signed by the County Deputy Purchasing Agent or his designee. If the County fails to render a decision within 90 days after receipt of the Contractor's demand, it shall be deemed a final decision adverse to the Contractor's contentions. Nothing in this section shall be construed as affecting the County's right to terminate the Contract for cause or termination for convenience as stated in section K herein.

19. **Equal Employment Opportunity:** The Contractor shall comply with U.S. Executive Order 11246 entitled, "Equal Employment Opportunity" as amended by Executive Order 11375 and as supplemented in Department of Labor regulations (41 CFR, Part 60) and applicable state of California regulations as may now exist or be amended in the future. The Contractor shall not discriminate against any employee or applicant for employment on the

basis of race, color, national origin, ancestry, religion, sex, marital status, political affiliation or physical or mental condition.

Regarding handicapped persons, the Contractor will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. The Contractor agrees to provide equal opportunity to handicapped persons in employment or in advancement in employment or otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicaps in all employment practices such as the following: employment, upgrading, promotions, transfers, recruitments, advertising, layoffs, terminations, rate of pay or other forms of compensation, and selection for training, including apprenticeship. The Contractor agrees to comply with the provisions of Sections 503 and 504 of the Rehabilitation Act of 1973, as amended, pertaining to prohibition of discrimination against qualified handicapped persons in all programs and/or activities as detailed in regulations signed by the Secretary of the Department of Health and Human Services effective June 3, 1977, and found in the Federal Register, Volume 42, No. 68 dated May 4, 1977, as may now exist or be amended in the future.

Regarding Americans with disabilities, Contractor agrees to comply with applicable provisions of Title 1 of the Americans with Disabilities Act enacted in 1990 as may now exist or be amended in the future.

20. **Gratuities:** The Contractor warrants that no gratuities, in the form of entertainment, gifts or otherwise, were offered or given by the Contractor or any agent or representative of the Contractor to any officer or employee of the County with a view toward securing the Contract or securing favorable treatment with respect to any determinations concerning the performance of the Contract. For breach or violation of this warranty, the County shall have the right to terminate the Contract, either in whole or in part, and any loss or damage sustained by the County in procuring on the open market any services which the Contractor agreed to supply shall be borne and paid for by the Contractor. The rights and remedies of the County provided in the clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under the Contract.
21. **Headings:** The various headings and numbers herein, the grouping of provisions of this Contract 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.
22. **Civil Rights:** Contractor attests that services provided shall be in accordance with the provisions of Title VI and Title VII of the Civil Rights Act of 1964, as amended, Section 504 of the Rehabilitation Act of 1973, as amended; the Age Discrimination Act of 1975 as amended; Title II of the Americans with Disabilities Act of 1990, and other applicable State and federal laws and regulations prohibiting discrimination on the basis of race, color, national origin, ethnic group identification, age, religion, marital status, sex or disability.
23. **Nondiscrimination – Statement of Compliance:** The Contractor's signature affixed hereon and dated shall constitute a certification under penalty of perjury under the laws of the state of California that the Contractor has, unless exempted, complied with the nondiscrimination program requirements of Government Code Section 12900 (a-f) and Title 2, California Code of Regulations, Sections 11102 and 11103.
24. **Ownership of Documents:** The County has permanent ownership of all directly connected and derivative materials produced under this Contract by the Contractor. 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 Contractor without the express written consent of the County.
25. **Precedence:** The Contract documents consist of this Contract and its exhibits and attachments. In the event of a conflict between or among the Contract documents, the order of precedence shall be the provisions of the main body of this Contract, i.e., those provisions set forth in the recitals and articles of this Contract, and then the exhibits and attachments.
26. **Remedies Not Exclusive:** The remedies for breach set forth in this Contract 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 Contract does not preclude resort by either party to any other remedies provided by law.

27. **Reprocurement Costs:** In case of Contract breach by Contractor, resulting in termination by the County, the County may procure the goods and/or services from other sources. If the cost for those goods and/or services is higher than under the terms of the existing Contract, Contractor will be responsible for paying the County the difference between the Contract cost and the price paid, and the County may deduct this cost from any unpaid balance due the Contractor. The price paid by the County shall be the prevailing market price at the time such purchase is made. This is in addition to any other remedies available under this Contract and under law.
28. **State Funds – Audits:** When and if state funds are used in whole or part to pay for the goods and/or services under this Contract, the Contractor agrees to allow the Contractor's financial records to be audited by auditors from the State of California, the County of Orange, or a private auditing firm hired by the State or the County. The State or County shall provide reasonable notice of such audit.
29. **Stop Work:** The County may, at any time, by written stop work order to the Contractor, require the Contractor to stop all or any part of the work called for by this Contract for a period of 90 days after the stop work order is delivered to the Contractor and for any further period to which the parties may agree. The stop work order shall be specifically identified as such and shall indicate it is issued under this clause. Upon receipt of the stop work order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the stop work order during the period of work stoppage. Within a period of 90 days after a stop work order is delivered to the Contractor or within any extension of that period to which the parties shall have agreed, the County shall either:
1. Cancel the stop work order; or
 2. Terminate work covered by the stop work order as provided for in the "Default" or "Termination" clause of this Contract.

If a stop work order issued under this clause is canceled or the period of the stop work order or any extension thereof expires, the Contractor shall resume work. The County shall make an equitable adjustment in the delivery schedule, the Contract price, or both, and the Contract shall be modified in writing accordingly if:

1. The stop work order results in an increase in the time required or in the Contractor's cost properly allocable to the performance of any part of this Contract; and
2. The Contractor asserts its right to an equitable adjustment within 30 days after the end of the period of work stoppage, provided that if the County decides the facts justify the action, the County may receive and act upon a proposal submitted at any time before final payment under this Contract.

If a stop work order is not canceled and the work covered by the stop work order is terminated in accordance with the provision entitled, "Termination" the County shall allow reasonable costs resulting from the stop work order in arriving at the termination settlement.

If a stop work order is not canceled and the work covered by the stop work order is terminated for default, the County shall allow, by equitable adjustment or otherwise, reasonable costs resulting from the stop work order. An appropriate equitable adjustment may be made in any related Contract of the Contractor that provides for adjustment and is affected by any stop work order under this clause. The County shall not be liable to the Contractor for loss of profits because of a stop work order issued under this clause.

30. **Subcontracting:** No performance of this Contract or any portion thereof may be subcontracted by the Contractor without the express written consent of the County. Any attempt by the Contractor to subcontract any performance of this Contract without the express written consent of the County shall be invalid and shall constitute a breach of this Contract.

In the event that the Contractor is authorized by the County to subcontract, this Contract shall take precedence over the terms of the Contract between Contractor and subcontractor, and shall incorporate by reference the terms of this Contract. The County shall look to the Contractor for performance and indemnification and not deal directly with any subcontractor. All work performed by a subcontractor must meet the approval of the County of Orange.

31. **Termination – Orderly:** After receipt of a termination notice from the County of Orange, the Contractor may submit to the County a termination claim, if applicable. Such claim shall be submitted promptly, but in no event later than 60 days from the effective date of the termination, unless one or more extensions in writing are granted by the County upon written request of the Contractor. Upon termination County agrees to pay the Contractor for all services performed prior to termination which meet the requirements of the Contract, provided, however, that

such compensation combined with previously paid compensation shall not exceed the total compensation set forth in the Contract. Upon termination or other expiration of this Contract, each party shall promptly return to the other party all papers, materials, and other properties of the other held by each for purposes of performance of the Contract.

32. **Usage:** No guarantee is given by the County to the Contractor regarding usage of this Contract. Usage figures, if provided, are approximations. The Contractor agrees to supply services and/or commodities requested, as needed by the County of Orange, at rates/prices listed in the Contract, regardless of quantity requested.
33. **Waivers – Contract:** The failure of the County in any one or more instances to insist upon strict performance of any of the terms of this Contract or to exercise any option contained herein shall not be construed as a waiver or relinquishment to any extent of the right to assert or rely upon any such terms or option on any future occasion.
34. **Notices:** Any and all notices, requests demands and other communications contemplated, called for, permitted, or required to be given hereunder shall be in writing with a copy provided to the assigned Deputy Purchasing Agent (DPA), except through the course of the parties' project managers' routine exchange of information and cooperation during the terms of the work and services. Any written communications shall be deemed to have been duly given 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 (4) 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.

CONTRACTOR CONTACT INFORMATION	
Company Name	Merrimac Petroleum Inc DbA Merrimac Energy Group
Address	1240 E Wardlow Rd
	Long Beach, CA 90807-4833
Attention	Mary Hazelrigg
Email	mhazelrigg@merrimacenergy.net
Phone No	(562) 427-6565 or (310) 714-3636 (Emergency)

COUNTY CONTACT INFORMATION	
Gov't Entity Name	County of Orange County Executive Office, County Procurement Office
Address	1300 S Grand Ave Bldg A, 2 nd Floor
	Santa Ana CA 92705-4434
Deputy Purchasing Agent	Grace Scott
Email	Grace.Scott@ocgov.com
Phone No	714-567-5025


SIGNATURE PAGE

In WITNESS WHEREOF, the Parties hereto have executed this Contract on the dates shown opposite their respective signatures below:


MERRIMAC PETROLEUM, INC., DBA MERRIMAC ENERGY GROUP *

**If the Contractor is a corporation, signatures of two specific corporate officers are required as further set forth. The first corporate officer signature must be one of the following: 1) the Chairman of the Board; 2) the President; 3) any Vice President.*

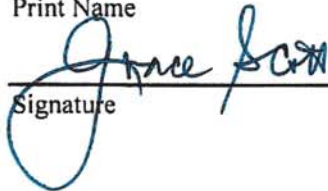
In the alternative, a single corporate signature is acceptable when accompanied by a corporate resolution demonstrating the legal authority of the signature to bind the company.

Mary Hazelrigg	President/Founder/CEO
Print Name	Title
	11/3/2017
Signature	Date

**The second corporate officer signature must be one of the following: 1) Secretary; 2) Assistant Secretary; 3) Chief Financial Officer; 4) Assistant Treasurer.*

Mary Hazelrigg	CFO
Print Name	Title
	11/3/2017
Signature	Date

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

Grace Scott	Deputy Purchasing Agent
Print Name	Title
	Nov 3, 2017
Signature	Date

ATTACHMENT A SCOPE OF SERVICES

1. Introduction

- 1.1 Contractor is to provide Diesel Fuel to various County facilities and participating government entities located throughout the County of Orange.
- 1.2 Service locations may be added or deleted and service hours modified at any given time, and usage is not guaranteed. Contractor is required to provide Diesel Fuel upon request by any County department and participating government entity.

2. Fuel Specifications

- 2.1 CARB #2 Diesel – Red: The same specifications as CARB #2 Diesel – Clear (2.2) except for the red dye & dying process to denote usage for tax-exempt purposes.
- 2.2 CARB #2 Diesel – Clear: All diesel fuel sold for vehicular use in California must meet a 15 ppm maximum sulfur limit (Ultra Low), in addition to meeting all of the current low aromatics CARB diesel specifications. The definition of "vehicular use" in California includes on-highway vehicles and non-road vehicles such as agriculture and construction equipment.

CARB #2 Diesel – Clear may contain up to 5% bio.

3. Contractor Responsibilities

- 3.1 Contractor shall possess all Federal, State and Local permits, licenses and approvals necessary to provide goods/services required in the Scope of Work. Any associated fees shall be the responsibility of the Contractor.
- 3.2 Contractor shall provide all transitional interfacing and continual uninterrupted services at Contract date.
- 3.3 Contractor shall provide current, applicable, and required Material Safety Data Sheet (MSDS) prior to Contract award, or at any time during the contract as requested by County.
- 3.4 If service on any County owned tank is required, Contractor shall service the tank only at the County's request at the hourly rate proposed in this IFB.
- 3.5 Contractor shall be held liable for any damage or criminal /civil citations which may occur as a result of any spills and/or accidents.
- 3.6 Contractor shall perform all deliveries and to act in a safe and professional manner, adhering to all required Federal, State, & Local regulations for the handling and supply of Diesel Fuel.
- 3.7 Diesel Fuel must meet current fuel industry laws of Federal, State & local codes, requirements, standards and guidelines, including South Coast Air Quality Management District (SCAQMD); American Society of Testing and Materials (ASTM) laws; Department of Transportation (DOT); Air Resources Board (ARB) regulations, Reid Vapor Pressure (RVP) requirements & regulations for the handling and supply of Diesel Fuel.
- 3.8 Contractor must commit to delivery as requested, at time stated on accepted orders.

- 3.9 Contractor's delivery trucks must comply with the California Air Resources Board approved/certified Phase II Vapor Recovery Equipment Requirements. Proof of compliance shall be provided to the County upon request.
- 3.10 All drivers / delivery personnel shall be HAZMAT trained and certified in safety measures to prevent accidents endangering County personnel and property. Hazardous Materials shall be clearly marked with the proper shipping name and identification number as required by the Department of Transportation.
- 3.11 Contractor shall be responsible for obtaining fuel reading and managing load inventory as requested by County.
- 3.12 Contractor shall provide, at Contractor's cost, a 24-hour, toll free customer support telephone number and services for responding to all requests / orders for fuel, including telephone coverage on weekdays during normal business hours as well as 24-hour access phone number for emergency situations.
- 3.13 Contractor shall be responsible for all freight/delivery charges.
- 3.14 All deliveries of 4000+ gallons shall have temperature correction adjustments to sixty (60) degrees Fahrenheit based on refinery bill of lading.
- 3.15 Contractor shall perform full delivery of fuel within 48 hours after receipt of department's order. Contractor shall provide a delivery metered ticket for each delivery of fuel; and the metered ticket must be signed and dated, and provided to the ordering department at delivery.
- 3.16 Delivery truck driver shall stick each tank with a fuel tank gauge stick prior to offloading to insure that adequate fuel storage is available to accept the entire shipment without spillage. Readings shall be taken by the driver prior to unloading fuel and after unloading fuel and shall be recorded on the delivery receipts. Each Delivery truck must be equipped with a stick. Driver shall sign the delivery ticket at the time and place of delivery. One copy of each delivery ticket is to be mailed to the appropriate location.
- 3.17 Contractor shall itemize applicable Federal and California fuel surcharges, Federal and State Excise Tax, and California State Sales Tax as separate line items when invoicing.
- 3.18 Contractor shall adhere to each County facility/location set delivery hours.
- 3.19 **Usage Report:** The Contractor shall submit usage reports as requested by County within fourteen days of such request. The usage report shall include all information requested by County, in a format specified by County.

4. Additional Fees/Charges

- 4.1 **Emergency Delivery:** Deliveries requested on County observed holidays, and request for same day delivery shall be considered as emergency delivery. Contractor shall be entitled to an emergency delivery fee and an emergency delivery invoice must accompany the fuel invoice for payment of the fee. The emergency delivery fee shall be billed at the rate designated in this solicitation.
- 4.2 **Standing Time:** The County will not be charge any additional fees for the amount of time it takes the Contractor in offloading / transferring fuel to County tanks in various locations.

Up to one-hour of "standing time" shall be allowable at no charge for the purpose of unloading. If the Contractor is unable to unload fuel within one hour after the scheduled arrival at a County site due to delays caused by County operations, demurrage charges may be assessed by Contractor.
- 4.3 **Spillage:** The County requires "zero leakage" standard for fuel transfer operations.

The Contractor shall provide necessary equipment and proper training of delivery personnel to prevent spillage or minimize the chance of spillage during connection and disconnection of hoses and during the

transfer of fuel. The Contractor will likewise ensure that all equipment, tools and procedures used are in compliance with all applicable specification and regulations governing such operations.

In the event of leakage or spillage, it shall be the responsibility of the Contractor to perform immediate containment, clean up, disposal and restoration activities as necessary in accordance with applicable State of California laws and regulations and subject to the County's satisfaction. All material associated with such clean up shall be removed by the Contractor.

4.4 Service Rate: In the event that spillage or standing time was a delay caused by County an hourly service rate quoted herein shall include all costs for labor, tools, equipment, transportation, overhead, profit, travel time, and all other costs related to providing the services described in the scope of work; hourly service rates shall be prorated and billed to the nearest ¼ hour.

4.5 County may request service on County owned tank.

5. County Responsibilities

5.1 County agencies/departments shall provide Contractor with a log that will include the following information:

Department Name

Department Contact's Name & Number

Department Location

Number of fuel tanks; capacity/sizes; unit of measure & fuel site / delivery location

5.2 Ordering agencies/departments or participating government entities shall coordinate delivery schedules with Contractor and specify details of each delivery location's physical surroundings and/or limitations (i.e. Secured & remote locations; no loading dock; narrow, winding or unpaved roads). Depending on the agreed schedule with the department or participating government entity, the Contractor is requested to deliver during off peak hours between 10 am to 4 pm.

5.3 County will work with Contractor on security clearance procedures that may be required for delivery drivers on high security facilities / locations.

5.4 If service for any County owned tank is required, the Contractor shall service the tank only at the County's request at the hourly rate submitted in this Contract.

6. Security Requirements

- 6.1 The County operates several secured facilities: most notable are several Probation, Sheriff and Airport operated sites. Contractors and their employees who perform services in these facilities will be required to strict operation policies and may be required to pass a background check prior to their employment due to security requirements for certain facilities covered under this Contract. During performance of the work, especially at detention facilities, workers shall closely monitor all tools, equipment and other materials at all times. Workers shall have no contact verbal or physical, with any inmate of these facilities. These policies have been designed with the primary purpose of ensuring a safe and secure environment for all involved.
- 6.2 The Contractor will provide a list of all personnel/employees who will be directly performing tasks associated with the Contract. Contractor's personnel/employees providing service in a secured detention facility, a Probation facility or a Sheriff's facility, will be expected to pass two (2) separate background checks performed by the Orange County Sheriff's Department and the Orange County Probation Department. No changes shall be authorized to the approved list without a request in writing submitted by the Contractor and approved by the County Site Coordinator. At no time will unauthorized Contractor employees perform any task associated with this Contract. If this occurs, the Contractor will be notified that they have not complied with the terms of this Contract and are subject to Contract termination. The list of all Personnel/Employees working on County projects shall be submitted prior to award of this Contract.
- 6.3 Contractor shall prepare and submit a Security Clearance form to the County Site Coordinator for all persons who will be working on or who will need access to secured facilities.
- 6.4 Security Clearance forms shall be submitted at least five (5) working days prior to the start of work or prior to the use of any person subsequent to the start of work.
- 6.5 Said Security Clearance forms shall be thoroughly and accurately complete. Omissions or false statements, regardless of the nature or magnitude, may be grounds for denying clearance.
- 6.6 No person shall be employed on this work who has not received prior clearance from the Probation Department, Sheriff's Department or John Wayne Airport.
- 6.7 The County, John Wayne Airport, the Probation Department and the Sheriff's Department are not under any obligation to give a reason clearance is denied.
- 6.8 The Contractor shall be responsible to sign in with the County Site Coordinator or designee, as required. Upon arrival at any secure facility (e.g., JWA, Probation) the Contractor shall report to the Central Control Center (Control). Contractor personnel shall have no contact, either verbal or physical, with internees in secured detention facilities.
Specifically:
 - 6.8.1 Do not give names or addresses to internees.
 - 6.8.2 Do not receive any names or addresses from internees.
 - 6.8.3 Do not disclose the identity of any internee to anyone outside the facility.
 - 6.8.4 Do not give any materials to internees.
 - 6.8.5 Do not receive any materials from internees (including materials to be passed to another individual or internee).

**Failure to comply with these requirements is a criminal act and can result in prosecution.*

- 6.9 Any Contractor personnel/employee(s) engaged in the performance of work under this Contract shall be expected to pass the screening requirements and abide by all of the security requirements set forth by the Federal Aviation Administration (FAA) and the County of Orange.

"The Federal Aviation Administration (FAA) approved security program for John Wayne Airport requires that each person issued a John Wayne Airport security badge is made aware of his/her responsibilities regarding the privilege of access to restricted areas of the airport".

All persons within the restricted air operation areas of the airport are required to display, on their person, a John Wayne Airport security badge, unless they are specifically exempted for reasons or they are under escort by a properly badge individual. Each airport employee or airport tenant employee who has been issued a John Wayne Airport security badge is responsible for challenging any individual who is not properly displaying an airport issued or approved and valid identification badge. Any person who is not properly displaying or who cannot produce a valid John Wayne Airport security badge must immediately be referred to the Sheriff's Department Airport Detail Office for proper handling.

The John Wayne Airport security badge is the property of the County of Orange and must be returned upon termination of employment at John Wayne Airport. The loss of a badge shall be reported within twenty-four (24) hours to the Sheriff's Department Airport Dispatch Center (949) 252-5000. A report shall be made before a replacement badge will be issued.

- 6.10 All vehicles parked on-site shall be locked and thoroughly secured at all times.
- 6.11 All equipment and materials shall remain in the Contractor possession at all times and shall never be left unattended. All lost or misplaced equipment or materials shall be reported immediately to the (a) security staff or Control in secured detention facilities or (b) the escort or Control in Sheriff's facilities.
- 6.12 Personnel shall not smoke or use profanity or other inappropriate language while on-site.
- 6.13 Personnel shall not enter the facility while under the influence of alcohol, drugs or other intoxicants and shall not have such materials in their possession.
- 6.14 Personnel shall plan their activities to minimize the number of times they must enter and exit a facility, i.e., transport all equipment and materials needed for the day at the start of work and restrict all breaks to the absolute minimum.
- 6.15 Contractor employee(s) shall be well-disposed to the public and County staff utilizing the facilities but shall be responsive only to the requests of the County Site Coordinator unless otherwise directed and shall direct all inquiries or requests to the County Site Coordinator.

ATTACHMENT B
PAYMENT/COMPENSATION

1. **PAYMENT – INVOICING INSTRUCTIONS:** The Contractor will provide an invoice on the Contractor's letterhead for goods delivered and/or services rendered. In the case of goods, the Contractor will leave an invoice with each delivery. Invoices must be submitted to address indicated by the ordering department. Each invoice must have a unique number and must include the following information:

- a) Contractor's name and address;
- b) Contractor's remittance address;
- c) Contractor's Federal Tax I.D. Number;
- d) Name of County Department;
- e) Delivery/Service address;
- f) MA-DO Number / PO / OR CT Number
- g) Date of order/services rendered: Bill of Lading, daily OPIS delivery date attached to invoice and other supporting document as needed;
- h) Product/Service description, quantity, and prices
- i) Sales tax, if applicable
- j) Total

2. **PAYMENT TERMS:** The Invoice is to be submitted in arrears to the user department to the bill-to address, unless otherwise directed in this Contract. Contractor shall reference the subordinate Contract number on invoice. Payment will be net 30 days after receipt of the invoice in a format acceptable to the County and verified and approved by the department and subject to routine processing requirements. The responsibility for providing an acceptable invoice rests with the Contractor.

Billing shall cover services not previously invoiced. The Contractor shall reimburse the County for any monies paid to the Contractor for services not provided or when services do not meet the Contract requirements.

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

3. **COMPENSATION:** The Contractor agrees to accept the specified compensation as set forth in this Contract as full remuneration for performing all services and furnishing all staffing and materials required, for any reasonably unforeseen difficulties which may arise or be encountered in the execution of the services until acceptance, for risks connected with the services, and for performance by the Contractor of all its duties and obligations hereunder.

4. **PAYMENT - ELECTRONIC FUNDS TRANSFER (EFT):**

The County of Orange offers contractors the option of receiving payment directly to their bank account via an Electronic Fund Transfer (EFT) process in lieu of a check payment. Payment made via EFT will also receive an Electronic Remittance Advice with the payment details via e-mail. An e-mail address will need to be provided to the County of Orange via an EFT Authorization Form. To request a form, please contact the department representative listed in the contract.

ATTACHMENT C PRICING

1. CARB #2 Diesel – red and CARB #2 Diesel – clear:

- 1.1 The prices shall be based on the margin below subject to the “Los Angeles”, PAD District 5 Report, Ultra Low Sulfur Diesel, Unbranded Rack Average, without CAR Cost of the Oil Price Information Service on a daily basis.
- 1.2 The daily unbranded “rack average” report will serve as a base price, and copy shall be attached for all purchases made each delivery or fueling date.
- 1.3 The proposed +/- differential” shall be inclusive of all delivery/unloading/handling charges to all County fuel fill locations or participating government entity location.
- 1.4 The proposed +/- differential on the daily Los Angeles Average Rack Price reported by OPIS for Unbranded Fuel shall remain firm for the entire term of the contract.

Gallons	Proposed +/- Differential RED	Proposed +/- Differential CLEAR
0 – 1000	+ 0.1000	+ 0.1000
1,001 - 5,000	+ 0.0490	+ 0.0500
5,001 - 7,000	+ 0.0000	+ 0.0000
*7,001	+ 0.0280	+ 0.0000
* The County may place an order larger than 7,000 gallons, this order may require more than one (1) truckload delivery; proposed pricing shall remain unchanged.		

2. Additional Fixed Fee Charges

- | | |
|---|--|
| 2.1 Emergency Delivery Fixed Fee Charge | \$ <u>125.00</u> /delivery |
| 2.2 Standing Time / Demurrage Charge | \$ <u>25.00</u> /delivery - quarter of an hour in excess of first initial hour |
| 2.3 Service Rate | \$ <u>125.00</u> / hour (tank cleaning, fuel polishing, sampling and analysis as needed, for normal business hours M-F 8:00am to 5:00pm)
\$ <u>150.00</u> / hour (tank cleaning, fuel polishing, sampling and analysis as needed, weekends and holidays outside of normal business hours) |
| 2.4 Special Equipment | \$ <u>225.00</u> / special fitting not common to industry (one time charge) |
| 2.5 **Retain Fee | \$ <u>250.00</u> / occasion |
| 2.6 ***Stop in Transit | \$ <u>60.00</u> / each additional stop |
| 2.7 Discount of \$.005/gallon for receipt of payment 20 days from date of delivery. | |

**Retain Fee is charged when fuel that has been ordered by the customer for delivery cannot be delivered in its entirety due to an incorrect order by the customer. When this occurs the driver cannot complete his delivery and Merrimac must find another home for the fuel that cannot be held. This can be an entire compartment or even a few gallons.

***Stop in Transit is a charge when customer requires multiple deliveries, possible due to a retain of fuel ordered for one location that cannot be held (note: if the driver is at risk of a spill due to trying to deliver all fuel ordered -each tank has a max. capacity of 90% or possibly less- this is information your facilities management would know) Also, if the driver has to pick up his hoses (moving the truck) and move to another site on the property to make an additional delivery.



AMENDMENT ONE
REGIONAL COOPERATIVE AGREEMENT RCA-017-18010009
BETWEEN
COUNTY OF ORANGE, COUNTY PROCUREMENT OFFICE
AND
MERRIMAC PETROLEUM INC DBA MERRIMAC ENERGY GROUP
FOR DIESEL FUEL

This Amendment, hereinafter referred to as "Amendment Number One" is made and entered into upon execution of all necessary signatures between the County of Orange, a political subdivision of the State of California, hereinafter referred to as "County" and **Merrimac Petroleum, Inc., DBA Merrimac Energy Group**, with a place of business at 1240 E. Wardlow Road, Long Beach, CA 90807-4833; hereinafter referred to as "Contractor", which are sometimes individually referred to as "Party," or collectively referred to as "Parties."

RECITALS

WHEREAS, the County and the Contractor entered into a Regional Cooperative Agreement RCA-017-18010009 (hereinafter "Original Contract") for Diesel Fuel, effective January 9, 2018 through and including January 8, 2023; and

NOW, THEREFORE, in consideration of the mutual obligations set forth herein, both County and Contractor agree to amend the Contract as follows:

1. Amend Attachment A, Scope of Services, and Attachment C, Pricing, accordingly, to incorporate delivery of Diesel Exhaust Fluid (DEF) as per In-Use Off-Road Diesel-Fueled Fleets Regulation mandates by the California Air Resources Board (CARB).
2. All terms and conditions contained in this AMENDMENT are incorporated by this reference into the Contract. This AMENDMENT modifies the Contract only as expressly set forth above. This AMENDMENT does not modify, alter or amend the CONTRACT in any other way whatsoever.

ATTACHMENT A SCOPE OF SERVICES

1. Introduction

- 1.1 Contractor is to provide Diesel Fuel and/or Diesel Exhaust Fluid (DEF) to various County facilities and participating government entities located throughout the County of Orange.
- 1.2 Service locations may be added or deleted and service hours modified at any given time, and usage is not guaranteed. Contractor is required to provide Diesel Fuel upon request by any County department and participating government entity.

2. Fuel Specifications

- 2.1 CARB #2 Diesel – Red: The same specifications as CARB #2 Diesel – Clear (2.2) except for the red dye & dying process to denote usage for tax-exempt purposes.
- 2.2 CARB #2 Diesel – Clear: All diesel fuel sold for vehicular use in California must meet a 15 ppm maximum sulfur limit (Ultra Low), in addition to meeting all of the current low aromatics CARB diesel specifications. The definition of "vehicular use" in California includes on-highway vehicles and non-road vehicles such as agriculture and construction equipment.

CARB #2 Diesel – Clear may contain up to 5% bio.

3. Diesel Exhaust Fluid (DEF) Specifications

- 3.1 A non-hazardous solution of 32.5% Urea in 67.5% de-ionized water. It is clear and colorless, and looks exactly like water. It has a slight smell of ammonia similar to some home cleaning agents. It is used in by Selective Catalytic Reduction (SCR) technology to remove harmful NOx emissions from diesel engines.

4. Contractor Responsibilities

- 4.1 Contractor shall possess all Federal, State and Local permits, licenses and approvals necessary to provide goods/services required in the Scope of Work. Any associated fees shall be the responsibility of the Contractor.
- 4.2 Contractor shall provide all transitional interfacing and continual uninterrupted services at Contract date.
- 4.3 Contractor shall provide current, applicable, and required Material Safety Data Sheet (MSDS) prior to Contract award, or at any time during the contract as requested by County.
- 4.4 If service on any County owned tank is required, Contractor shall service the tank only at the County's request at the hourly rate proposed in this IFB.
- 4.5 Contractor shall be held liable for any damage or criminal /civil citations which may occur as a result of any spills and/or accidents.

- 4.6 Contractor shall perform all deliveries and to act in a safe and professional manner, adhering to all required Federal, State, & Local regulations for the handling and supply of Diesel Fuel.
- 4.7 Diesel Fuel must meet current fuel industry laws of Federal, State & local codes, requirements, standards and guidelines, including South Coast Air Quality Management District (SCAQMD); American Society of Testing and Materials (ASTM) laws; Department of Transportation (DOT); Air Resources Board (ARB) regulations, Reid Vapor Pressure (RVP) requirements & regulations for the handling and supply of Diesel Fuel.
- 4.8 Diesel Exhaust Fluid (DEF) must meet current industry laws of Federal, State & Local codes, requirement, standards and guidelines, including International Organization for Standardization 22241(ISO 22241), and regulations for handling and supply of DEF.
- 4.9 Contractor must commit to delivery as requested, at time stated on accepted orders.
- 4.10 Contractor's delivery trucks must comply with the California Air Resources Board approved/certified Phase II Vapor Recovery Equipment Requirements. Proof of compliance shall be provided to the County upon request.
- 4.11 All drivers / delivery personnel shall be HAZMAT trained and certified in safety measures to prevent accidents endangering County personnel and property. Hazardous Materials shall be clearly marked with the proper shipping name and identification number as required by the Department of Transportation.
- 4.12 Contractor shall be responsible for obtaining fuel and/or DEF reading and managing load inventory as requested by County.
- 4.13 Contractor shall provide, at Contractor's cost, a 24-hour, toll free customer support telephone number and services for responding to all requests / orders for fuel and/or DEF, including telephone coverage on weekdays during normal business hours as well as 24-hour access phone number for emergency situations.
- 4.14 Contractor shall be responsible for all freight/delivery charges.
- 4.15 All deliveries of 4000+ gallons shall have temperature correction adjustments to sixty (60) degrees Fahrenheit based on refinery bill of lading.
- 4.16 Contractor shall perform full delivery of fuel and/or DEF within 48 hours after receipt of department's order. Contractor shall provide a delivery metered ticket for each delivery of fuel; and the metered ticket must be signed and dated, and provided to the ordering department at delivery.
- 4.17 Delivery truck driver shall stick each tank with a fuel tank gauge stick prior to offloading to insure that adequate fuel storage is available to accept the entire shipment without spillage. Readings shall be taken by the driver prior to unloading fuel and after unloading fuel and shall be recorded on the delivery receipts. Each Delivery truck must be equipped with a stick. Driver shall sign the delivery ticket at the time and place of delivery. One copy of each delivery ticket is to be mailed to the appropriate location.

- 4.18 Delivery truck driver shall stick each tank with a DEF tank gauge stick prior to offloading to insure that adequate DEF storage is available to accept the entire shipment without spillage. Readings shall be taken by the driver prior to unloading fuel and after unloading fuel and shall be recorded on the delivery receipts. Each delivery truck must be equipped with a stick. Driver shall sign the delivery ticket at the time and place of delivery. One copy of each delivery ticket is to be mailed to the appropriate location.
- 4.19 Contractor shall itemize applicable Federal and California fuel surcharges, Federal and State Excise Tax, and California State Sales Tax as separate line items when invoicing for diesel fuel and/or DEF.
- 4.20 Contractor shall adhere to each County facility/location set delivery hours.
- 4.21 **Usage Report:** The Contractor shall submit usage reports as requested by County within fourteen days of such request. The usage report shall include all information requested by County, in a format specified by County.

5. Additional Fees/Charges

- 5.1 **Emergency Delivery:** Deliveries requested on County observed holidays, and request for same day delivery shall be considered as emergency delivery. Contractor shall be entitled to an emergency delivery fee and an emergency delivery invoice must accompany the fuel invoice for payment of the fee. The emergency delivery fee shall be billed at the rate designated in this solicitation.

- 5.2 **Standing Time:** The County will not be charged any additional fees for the amount of time it takes the Contractor in offloading / transferring fuel to County tanks in various locations.

Up to one-hour of "standing time" shall be allowable at no charge for the purpose of unloading. If the Contractor is unable to unload fuel within one hour after the scheduled arrival at a County site due to delays caused by County operations, demurrage charges may be assessed by Contractor.

- 5.3 **Spillage:** The County requires "zero leakage" standard for fuel transfer operations. The Contractor shall provide necessary equipment and proper training of delivery personnel to prevent spillage or minimize the chance of spillage during connection and disconnection of hoses and during the transfer of fuel. The Contractor will likewise ensure that all equipment, tools and procedures used are in compliance with all applicable specification and regulations governing such operations.

In the event of leakage or spillage, it shall be the responsibility of the Contractor to perform immediate containment, clean up, disposal and restoration activities as necessary in accordance with applicable State of California laws and regulations and subject to the County's satisfaction. All material associated with such clean up shall be removed by the Contractor.

- 5.4 **Service Rate:** In the event that spillage or standing time was a delay caused by County an hourly service rate quoted herein shall include all costs for labor, tools, equipment, transportation, overhead, profit, travel time, and all other costs related to providing the services described in the scope of work; hourly service rates shall be prorated and billed to the nearest ¼ hour.

- 5.5 County may request service on County owned tank/s.

6. County Responsibilities

- 6.1 County agencies/departments shall provide Contractor with a log that will include the following information:
- Department Name
 - Department Contact's Name & Number
 - Department Location
 - Number of fuel tanks; capacity/sizes; unit of measure & fuel site / delivery location
- 6.2 Ordering agencies/departments or participating government entities shall coordinate delivery schedules with Contractor and specify details of each delivery location's physical surroundings and/or limitations (i.e. Secured & remote locations; no loading dock; narrow, winding or unpaved roads). Depending on the agreed schedule with the department or participating government entity, the Contractor is requested to deliver during off peak hours between 10 am to 4 pm.
- 6.3 County will work with Contractor on security clearance procedures that may be required for delivery drivers on high security facilities / locations.
- 6.4 If service for any County owned tank is required, the Contractor shall service the tank only at the County's request at the hourly rate submitted in this Contract.

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- 7.1 The County operates several secured facilities: most notable are several Probation, Sheriff and Airport operated sites. Contractors and their employees who perform services in these facilities will be required to strict operation policies and may be required to pass a background check prior to their employment due to security requirements for certain facilities covered under this Contract. During performance of the work, especially at detention facilities, workers shall closely monitor all tools, equipment and other materials at all times. Workers shall have no contact verbal or physical, with any inmate of these facilities. These policies have been designed with the primary purpose of ensuring a safe and secure environment for all involved.
- 7.2 The Contractor will provide a list of all personnel/employees who will be directly performing tasks associated with the Contract. Contractor's personnel/employees providing service in a secured detention facility, a Probation facility or a Sheriff's facility, will be expected to pass two (2) separate background checks performed by the Orange County Sheriff's Department and the Orange County Probation Department. No changes shall be authorized to the approved list without a request in writing submitted by the Contractor and approved by the County Site Coordinator. At no time will unauthorized Contractor employees perform any task associated with this Contract. If this occurs, the Contractor will be notified that they have not complied with the terms of this Contract and are subject to Contract termination. The list of all Personnel/Employees working on County projects shall be submitted prior to award of this Contract.
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- 7.7 The County, John Wayne Airport, the Probation Department and the Sheriff's Department are not under any obligation to give a reason clearance is denied.
- 7.8 The Contractor shall be responsible to sign in with the County Site Coordinator or designee, as required. Upon arrival at any secure facility (e.g., JWA, Probation) the Contractor shall report to the Central Control Center (Control). Contractor personnel shall have no contact, either verbal or physical, with internees in secured detention facilities.

Specifically:

- 7.8.1 Do not give names or addresses to internees.
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- 7.8.3 Do not disclose the identity of any internee to anyone outside the facility.
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**Failure to comply with these requirements is a criminal act and can result in prosecution.*

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Sheriff's Department Airport Dispatch Center (949) 252-5000. A report shall be made before a replacement badge will be issued.

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- 7.15 Contractor employee(s) shall be well-disposed to the public and County staff utilizing the facilities but shall be responsive only to the requests of the County Site Coordinator unless otherwise directed and shall direct all inquiries or requests to the County Site Coordinator.

ATTACHMENT C

PRICING

1. CARB #2 Diesel – red and CARB #2 Diesel – clear:

- 1.1 The prices shall be based on the margin below subject to the “Los Angeles”, PAD District 5 Report, Ultra Low Sulfur Diesel, Unbranded Rack Average, without CAR Cost of the Oil Price Information Service on a daily basis.
- 1.2 The daily unbranded “rack average” report will serve as a base price, and copy shall be attached for all purchases made each delivery or fueling date.
- 1.3 The proposed +/- differential” shall be inclusive of all delivery/unloading/handling charges to all County fuel fill locations or participating government entity location.
- 1.4 The proposed +/- differential on the daily Los Angeles Average Rack Price reported by OPIS for Unbranded Fuel shall remain firm for the entire term of the contract.

Gallons	Proposed +/- Differential RED	Proposed +/- Differential CLEAR
0 – 1000	+ 0.1000	+ 0.1000
1,001 - 5,000	+ 0.0490	+ 0.0500
5,001 - 7,000	+ 0.0000	+ 0.0000
*7,001	+ 0.0280	+ 0.0000
* The County may place an order larger than 7,000 gallons, this order may require more than one (1) truckload delivery; proposed pricing shall remain unchanged.		

2. Diesel Exhaust Fluid (DEF)

- 2.1 Price per gallon, delivered exclusive of any taxes or applicable fees: \$1.78 / gallon through and including June 30, 2018.
- 2.2 Upon mutual agreement, contractor may be permitted a price increase of upto 10% without a formal amendment.

3. Additional Fixed Fee Charges

- | | | |
|-----|-------------------------------------|---|
| 2.1 | Emergency Delivery Fixed Fee Charge | \$ <u>125.00</u> /delivery |
| 2.2 | Standing Time / Demurrage Charge | \$ <u>25.00</u> /delivery - quarter of an hour in excess of first initial hour |
| 2.3 | Service Rate | \$ <u>125.00</u> /hour (tank cleaning, fuel polishing, sampling and analysis as needed, for normal business hours M-F 8:00am to 5:00pm)
\$ <u>150.00</u> / hour (tank cleaning, fuel polishing, sampling and analysis as needed, weekends and holidays outside of normal business hours) |
| 2.4 | Special Equipment | \$ <u>225.00</u> / special fitting not common to industry (one time charge) |
| 2.5 | **Retain Fee | \$ 250.00 / occasion |

2.6 ***Stop in Transit

\$ 60.00 / each additional stop

2.7 Discount of \$.005/gallon for receipt of payment 20 days from date of delivery.

**Retain Fee is charged when fuel that has been ordered by the customer for delivery cannot be delivered in its entirety due to an incorrect order by the customer. When this occurs the driver cannot complete his delivery and Merrimac must find another home for the fuel that cannot be held. This can be an entire compartment or even a few gallons.

***Stop in Transit is a charge when customer requires multiple deliveries, possible due to a retain of fuel ordered for one location that cannot be held (note: if the driver is at risk of a spill due to trying to deliver all fuel ordered -each tank has a max. capacity of 90% or possibly less- this is information your facilities management would know) Also, if the driver has to pick up his hoses (moving the truck) and move to another site on the property to make an additional delivery.


SIGNATURE PAGE

Parties hereto have executed this Contract on the dates shown opposite their respective signatures below.


MERRIMAC PETROLEUM, INC., DBA MERRIMAC ENERGY GROUP *

**If the Contractor is a corporation, signatures of two specific corporate officers are required as further set forth. The first corporate officer signature must be one of the following: 1) the Chairman of the Board; 2) the President; 3) any Vice President.*


In the alternative, a single corporate signature is acceptable when accompanied by a corporate resolution demonstrating the legal authority of the signature to bind the company.

<u>Mary Hazelrigg</u>	<u>President</u>
Print Name	Title
<u></u>	<u>December 29, 2017</u>
Signature	Date

**The second corporate officer signature must be one of the following: 1) Secretary; 2) Assistant Secretary; 3) Chief Financial Officer; 4) Assistant Treasurer.*

<u>Mary Hazelrigg</u>	<u>Secretary</u>
Print Name	Title
<u></u>	<u>December 29, 2017</u>
Signature	Date

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

<u>Rita Gore</u>	<u>Deputy Purchasing Agent</u>
Print Name	Title
<u></u>	<u>January 3, 2018</u>
Signature	Date



Orange County Fire Authority
AGENDA STAFF REPORT

Executive Committee Meeting
May 24, 2018

Agenda Item No. 3D
Consent Calendar

Purchase Order Increase for 24 Fire Apparatus

Contact(s) for Further Information

Dave Anderson, Assistant Chief Support Services Department	daveanderson@ocfa.org	714.573.6006
Rick Oborny, Fleet Services Manager	rickoborny@ocfa.org	714.573.6651

Summary

This agenda item is submitted for the approval to amend and increase the purchase orders for Kovach Mobile Equipment Corp. (KME) for change to the construction design of 17 Type I Engines and seven Tractor Drawn Aerials (TDA).

Prior Board/Committee Action(s)

At its September 22, 2016, meeting, the Executive Committee approved the purchase of Type I Engines for years four (2016) and five (2017) of the Type I Engine contract with KME. The committee also approved the purchase of TDAs for years two (2016) and three (2017) of the TDA contract with KME.

At its January 26, 2017, meeting, the Executive Committee approved the funding for and purchase of one additional 100' TDA to replace the truck that was lost in the fire at Station 61 on January 12, 2017.

RECOMMENDED ACTION(S)

1. Approve and authorize the Purchasing Manager to amend and increase the purchase orders for 17 Type I Engines as follows: Increase Purchase Order P0009897 by \$79,260 and Purchase Order P0010938 by \$37,576 for a total increase of \$116,836.
2. Approve and authorize the Purchasing Manager to amend and increase the purchase orders for seven TDAs as follows: Increase Purchase Order P0009907 by \$81,948 and Purchase Order P0010223 by \$13,658 for a total increase of \$95,606.

Impact to Cities/County

Not Applicable.

Fiscal Impact

Funding is available in the existing FY 2017/18 CIP Fund 133 Vehicle Replacement Fund.

Background

As a result of two competitive solicitation processes (RFPs DC1820 and DC1957), multiple year contracts were established with KME for the purchase of Type I Engines and 100' TDAs in 2013 and 2015, respectively. Although standard specifications were utilized, the construction time for the apparatus is quite lengthy (typically 365 days) and there are often product changes or modifications to safety and service delivery considerations which necessitate changing the construction design.

Purchase Order Increases – Type I Engines

Purchase Order P0009897 was issued to KME during contract year four (2016), for the purchase of ten (10) Type I Engines. During the build process, Fleet Services staff authorized changes to the construction design with the goal of increasing safety by removing loose items from the cab, as well as upgrading battery chargers, communications componentry and the addition of cooling fans in the cab for better ventilation. The price of these modifications amounted to \$7,926 per engine for a total of \$79,260.

Purchase Order P0010938 was issued to KME during contract year five (2017), for the purchase of seven (7) additional Type I Engines. These are currently in the construction phase and Fleet Services staff has identified modifications in keeping with the “Clutter-Free Cab” initiative. These include moving all personal protective clothing, hand tools and self-contained breathing apparatus from the interior of the cab into storage compartments that will be added to the exterior. The price to modify the design in this way is \$5,368 per engine for a total increase of \$37,576.

Purchase Order Increases – 100’ TDAs

Purchase Order P0009907 was issued to KME during contract year two (2016), for the purchase of six (6) TDAs. During the build process, and in keeping with the changes made to the Type I Engine design, Fleet Services staff authorized similar modifications to the TDA configuration. Additionally, to better meet OCFA’s operational need and to comply with California vehicle weight restrictions, fleet staff authorized the removal of several compartments and adjusted the placement of lights, steps and handrails to maximize crew safety. These changes amounted to \$13,658 per TDA for a total increase of \$81,948.

Purchase Order P0010223 was issued to KME during contract year three (2017), for the purchase of one TDA to replace the truck lost in the fire at Station 61. Fleet Services staff authorized the same changes listed above for this replacement TDA.


Conclusion


The Roles/Responsibilities/Authorities Matrix requires approval from the Executive Committee for any change order greater than 15% or exceeding \$50,000 *prior* to staff authorizing the supplier to proceed. Although the individual increases identified above amount to less than 2% of the respective Purchase Orders, due to the large number of apparatus ordered these changes resulted in an amount that exceeded \$50,000. The Fleet Services Manager thought that with Executive Committee approval of the initial purchase and sufficient funding in the budget, it was within staff authority to approve change orders below 15% of the original purchase price.


All enhancements detailed above were vetted through the OCFA Apparatus Committee with the mission of keeping the OCFA apparatus current in performance, technology, and complement. As such, staff is requesting approval and authorization to increase the purchase orders with KME for changes approved by Fleet Services Staff.

Attachment(s)

KME Vehicle Specification Change Orders


	Department: Sales P72-3-F1 Vehicle Specification Change Order			Original Issue Date: 12/20/2011 Revision: 4 Revision Date: 2/8/2017
Change Order Summary				
Customer:		Orange County, CA		
Dealer:		KME-CA		
Contract Administrator:		Shawn Gogola		
GSO #:		10557-66		
Change Order Number	Date			Contract \$
CO #1	7/21/2017			\$6,941.00
CO #3	12/4/2017			\$985.00
Total Changes				\$7,926.00


	Department: Sales P72-3-F1 Vehicle Specification Change Order		Original Issue Date: 12/20/2011 Revision: 4 Revision Date: 2/8/2017	
	Customer:	Orange County, CA	GSO #:	10557-66
	Dealer:	KME-CA	Change #:	1
	Contract Administrator:	Shawn Gogola	Release Date:	7/21/2017


Unit Status/Location:	Not In Production	Will change affect delivery date?
Authorized By:		No

Reason Code	Distribution List
10-Sales 20-Dealer 30-Customer 40-Spec Clarification 50-Engineering 60-Purchasing/Vendor 70-Production	Change Order Group

ITEM #	REASON CODE	ITEM DESCRIPTION	REWORK EMP. #	VERIFY EMP. #
2		Pre-Construction Items Addressed in Spec-R.		
3	10	The controls for the power windows for the driver will be located on the cab dash as per the dash layout.		
4	10	The controls for the mirrors will be located on the cab dash as per the dash layout		
5	40	The pump shift control in the cab will be the NON "Mil Spec" pump shift		
6	40	All Blue Sea power ports will be fused at 15amps to coincide with their 15 amp rating.		
7	10	The additional warning lights in the upper headlight bezel will be Code 3 4612 PriZm light modules to match the other Code 3 light modules on the apparatus.		
8	40	The arrowstick controller will be powered with the primary warning circuit. The "Rear Warn" switch will enable the arrow stick to the default flash pattern. This will be overridden with the controller power button.		

		Department: Sales P72-3-F1 Vehicle Specification Change Order		Original Issue Date: 12/20/2011 Revision: 4 Revision Date: 2/8/2017	
Customer:		Orange County, CA		GSO #:	10557-66
Dealer:		KME-CA		Change #:	1
Contract Administrator:		Shawn Gogola		Release Date:	7/21/2017
9	40	It is the intent of the OCFA to have the auxiliary intakes at the pump panel to have 3" valves, with 2.5" swivels attached to the valves. # plumbing through the panel with a 2.5" adaptor will not be acceptable.			
10	40	The cross-lay widths will be 7 1/2" wide.			
11	40	The tank drain handle will not be provided on the pump panel. It will be mounted below the step, and will not protrude past the outside edge of the step.			
12	40	It is the intent of the OCFA that the drain hoses are long enough to collect together and force the water to drain down and away from the main panel, directed towards the rear of the apparatus.			
13	40	The horizontal grab handle on the rear of the apparatus will not be full width. It will be two handles outboard of the rear view camera.			
14	50	Bezels will not be used on the discharge gauges this will match previous GSO.			
15	50	Small Handwheel will be used on LDH, this will match previous GSO.			
16	50	There is no issue providing the shut-off valves at the tank for the lines and sensors as listed in the spec. The low level and high level shut-off switches will not be provided with shut-offs as the valve would prevent the switches from functioning.			
17	40	The Federal ES100C siren speaker will not be provided.			

	Department: Sales P72-3-F1 Vehicle Specification Change Order		Original Issue Date: 12/20/2011 Revision: 4 Revision Date: 2/8/2017	
	Customer:	Orange County, CA	GSO #:	10557-66
	Dealer:	KME-CA	Change #:	3
	Contract Administrator:	Shawn Gogola	Release Date:	12/4/2017

Unit Status/Location:	Not in Production	Will change affect delivery date?
Authorized By:		No


Reason Code	Distribution List
10-Sales 20-Dealer 30-Customer 40-Spec Clarification 50-Engineering 60-Purchasing/Vendor 70-Production	Accounting - Change Order Group

ITEM #	REASON CODE	ITEM DESCRIPTION	REWORK EMP. #	VERIFY EMP. #
1	60	The specified siren, mic and mic clip are no longer available. A Federal PA 4000 will be provided in its place.		
2	40	The cab EMS compartment on the officer side will have its interior painted with Line-X to match the cab interior. The exterior access door will be painted on both sides to match the cab exterior color. This layout will match the previous OCFA cab EMS compartments on GSOs 10549-54.		
3	30	An upgrade kit for the ZICO ladder rack will be provided from the ladder rack manufacturer. The upgraded part number is 3092-090-000, and will decrease the time of ladder rack deployment. This note is for the cost of the upgraded part only. Once KME receives the part and completes an installation the labor can be determined and added in a future change order.		



		Department: Sales P72-3-F1 Vehicle Specification Change Order		Original Issue Date: 12/20/2011 Revision: 4 Revision Date: 2/8/2017	
Customer:		Orange County Fire Authority, CA		GSO #:	10549-54 and 10630
Dealer:		KME-CA		Change #:	1
Contract Administrator:		James Mechling		Release Date:	3/13/2017
Unit Status/Location:		Not In Production		Will change affect delivery date?	
Authorized By:				NO	
Reason Code 10-Sales 20-Dealer 30-Customer 40-Spec Clarification 50-Engineering 60-Purchasing/Vendor 70-Production		Distribution List Change Order Group			
ITEM #	REASON CODE	ITEM DESCRIPTION	REWORK EMP. #	VERIFY EMP. #	
1		Pre-Construction Items Addressed in Spec-R.			
2	40	The body electrical junction box shall be located in the body in the same location that it was installed on GSOs 10059-63.			
3	30	The welded in EMS compartment in the cab shall be a similar design to GSO 10206. Only the lower portion of the cabinet with the external access shall be provided from what was installed in 10206. The compartment shall have a height of 28-1/4 inches, a width of 23 inches and the depth shall be to the engine enclosure. The door opening shall be 22.31 inches wide and 25-1/2 inches high. A two (2) inch flange shall be provided around the entire perimeter of the cabinet. The same overlapping style door with stainless trim shall be provided but size adjusted accordingly.			

		Department: Sales P72-3-F1 Vehicle Specification Change Order		Original Issue Date: 12/20/2011 Revision: 4 Revision Date: 2/8/2017	
Customer:		Orange County Fire Authority, CA		GSO #:	10549-54 and 10630
Dealer:		KME-CA		Change #:	6
Contract Administrator:		James Mechling		Release Date:	8/8/2017
Unit Status/Location:		Plumbing		Will change affect delivery date?	
Authorized By:				No	
Reason Code 10-Sales 20-Dealer 30-Customer 40-Spec Clarification 50-Engineering 60-Purchasing/Vendor 70-Production		Distribution List Change Order Group			
ITEM #	REASON CODE	ITEM DESCRIPTION	REWORK EMP. #	VERIFY EMP. #	
1	60	The Blue Sea chargers utilized for these builds shall be model 7532 chargers in place of what is specified.			
2	40	The center dash assembly shall be welded in and painted to match the interior finish of the cab. The bolt on panels shall be constructed out of vinyl overlaid aluminum material.			
3	30	The two (2) bolt on compartments on the sides of the trailer to the rear of the tiller cab access ladder will not be installed and will be shipped loose with each truck.			
4	30	The two (2) bolt on compartments constructed out of aluminum tread plate that were to be mounted above the trailer fender will not be installed and will be shipped loose with each truck.			
5	30	The six (6) roof compartments that were to be provided will not be installed.			

		Department: Sales P72-3-F1 Vehicle Specification Change Order		Original Issue Date: 12/20/2011 Revision: 4 Revision Date: 2/8/2017	
Customer:		Orange County Fire Authority, CA		GSO #:	10549-54 and 10630
Dealer:		KME-CA		Change #:	6
Contract Administrator:		James Mechling		Release Date:	8/8/2017
6	30	The area on the sides of the trailer to the rear of the tiller cab access ladder will be overlaid with aluminum tread plate.			
7	30	The top step of the tiller cab access ladder will be extended an additional 42 inches to provide better access to the tiller cab.			
8	30	The tail lights and warning light mounted in the lower portion of the bolt on side compartments will be relocated to the rear sheet of the body below the ladder storage area as space permits.			
9	30	The amber warning lights that were mounted on the bolt on compartments will be relocated to underneath the mini light bars at the rear of the trailer with a mounting bracket provided to hang them underneath the mini light bar stanchions.			
10	30	The auxiliary turn signals mounted high on the tread plate bolt on compartments will be relocated to the rear of the L6/R6 compartment as space allows.			
11	30	Polished aluminum tread plate will be provided across the top of the body to cover the areas where the upper body compartments were removed.			
12	30	Cost for changes listed above.customer requested changes made post preconstruction meeting. (Per unit)			
13					
14					
15					



May 8, 2018

Rick Oborny
Orange County Fire Authority
Fleet Service Manager
One Fire Authority Road
Irvine, CA 92602
RickOborny@ocfa.org

REF: Pre-Construction Letter GSO # 10771-10777 REV A

Dear Mr. Oborny ,

The following is a list of changes, additions, and clarifications discussed during the pre-construction (GoTo) web meeting on December 11, 2017, Brandon Gomez's notes and items on change orders that were generated during your current ten truck order including your in-process inspections of GSO 10557-66. The additional items sent previously in Spec Modification Letter #1 are have been added to the end of this letter.

In some cases the items contained within alter your original purchase specification and/or price. Please carefully review this list and return a signed copy of this letter by May 11. 2018. Delays beyond this timeframe may alter KME's ability to deliver your apparatus to contract requirements, may necessitate price increases to the options, or limit our ability to provide some or all of the changes.

KME Fire Apparatus will accept the OCFA's penalty clause in the amount of \$100.00 per day per the delivery schedule on OCFA Purchase Order #P0010938. However, any changes after the signed pre con letter has been returned will be cause for the penalty clause to be null and void.

Upon receipt of a signed copy of these documents, the below changes and clarifications will be amended to the build specification for your apparatus and a copy will be provided for your review and use for future inspections of the apparatus. The list is as follows:

ITEM	DESCRIPTION	CUSTOMER ACCEPTANCE	
		ACCEPT	DECLINE
1	The HVAC system will remain as originally specified that is the same as the most recent trucks. A roof notch is not required.	✓	
2	Removed	✓	
3	Black Cordura seats with black stitching will be provided. SCBA brackets will not be provided in any of the rear crew seats.	✓	
4	The Zico ladder rack will be equipped with the faster deploy speed as provided on GSO 10557-66.	✓	

ITEM	DESCRIPTION	CUSTOMER ACCEPTANCE	
		ACCEPT	DECLINE
5	Removed	✓	
6	The interior rear wall will be a brushed stainless steel panel. Charge \$988.00 Per Truck	✓	
7	Removed	✓	
8	Two additional turn out hooks will be provided 4" in front of the crew doors hinges as high as possible, one on each side.	✓	
9	The access panels on the rear seat riser will be made as large as possible.	✓	
10	The power for the flashlight chargers will be located in the R2 and L3 compartments in place of the cab. A 3' wire loop will be provided in each compartment. The divider and shelves in the fro the R2 compartment will be determined at the midpoint inspection and will be process by a future change order.	✓	
11	The Lock and Load hose bed cover will be provided with a plastic thumb latch to eliminate the button corrosion problem and the new style gas shocks and mounting as provided on GSO 10557-66. The locking strut will be provided on the officer's side.	✓	
12	KME logos will not be provided anywhere on the truck.	✓	
13	The map storage box on the rear of the engine enclosure will be made 12" high in place of 10" high. A front hinged top cover will be provided with a Southco chrome push to latch D latch. The cover will have a 1" down-turned lip around the perimeter similar to a shoe box lid. The finish will match the cab. An approval drawing of the revised box will be provided. Charge \$275.00 Per Truck (for the modifications)	✓	
14	"As Built" wiring schematics will be provided as discussed with Ed Hydro. Payment for the final truck will not be made until the "As Built" schematics are received by OCFA.	✓	
15	The heater control valve will be mechanically fastened.	✓	
16	A cover for the FRC pressure governor is not available from FRC.	✓	
17	A Class 1 full Multiplex system will be provided in place of the Weldon V Mux system. All controls would be included in the Class 1 display except for the air horn, siren foot switches, engine start and pump shift. A dash layout drawing will be provided for approval. Credit \$2500.00 Per Truck	✓	
18	The Opticom bracket will be made the same way as on GSO 10557-66.	✓	
19	Clamps will be used to fasten the interior cab duct work. Wire tie are not acceptable.	✓	
20	The pump shift control in the cab will be the same as on GSO 11557-66.	✓	
21	Removed	✓	

ITEM	DESCRIPTION	CUSTOMER ACCEPTANCE	
		ACCEPT	DECLINE
22	The Arrowstick controller will be powered with the primary warning circuit. The "Rear Warn" switch will enable the arrow stick to the default flash pattern. This will be overridden with the controller power button.	✓	
23	The auxiliary intakes at the pump panel will have 3" valves with 2.5" swivels attached to the valves. 3" plumbing through the panel with a 2.5" adaptor will not be acceptable.	✓	
24	The crosslay widths will be 7 1/2" wide.	✓	
25	The tank drain handle will not be provided on the pump panel. It will be mounted below the step, and will not protrude past the outside edge of the step.	✓	
26	The pump drain hoses will be long enough to collect together and force the water to drain down and away from the main pump panel, directed towards the rear of the apparatus.	✓	
27	The rear horizontal grab handle below the hose bed will be two pieces with the rear view camera and third brake light between recessed mounted between them.	✓	
28	Bezels will not be used on the discharge gauges to match GSO 10557-66. KME logos will not be accepted.	✓	
29	A small hand wheel will be used on LDH, to match previous trucks.	✓	
30	Shut-off valves at the tank for the lines and sensors will be provided as listed in the spec. The low level and high level shut-off switches will not be provided with shut-offs, as the valve would prevent the switches from functioning.	✓	
31	The Blue Sea battery model 7532 will be provided in conjunction with a Blue Sea 7520 display.	✓	
32	A Federal PA 4000 siren, mic and clip will be provided.	✓	
33	The cab EMS compartment on the officer side will have its interior painted with Line-X to match the cab interior. The exterior access door will be painted on both sides to match the cab exterior color. This layout will match the previous OCFA cab EMS compartments on GSO 10557-66	✓	
34	The cab headliners will be made the same as in GSO 10557-66.	✓	
35	The rear 6" fans will be mounted solid as to not vibrate as on GSO 10557-66.	✓	
36	The 12 volt circuits inside the communication cabinet and EMS cabinets are to be 15 amp circuits with 15 amp fuses.	✓	SEE NOTE
37	The rear vision monitor is to be installed 3" from the drop down console and 7" in from the driver's side plenum as on GSO 10557-66	✓	
38	The vehicle charger and displays will be labeled VEHICLE CHARGER 40 AMP and the communication charger will be labels COMM CHARGER 40 AMP. Wire guards will be provided to protect the displays. The displays will be mounted to the rear of the driver seat riser, and a kick guard will be provided.	✓	

ITEM	DESCRIPTION	CUSTOMER ACCEPTANCE	
		ACCEPT	DECLINE
39	The vehicle weight placard and fluid placard will be affixed to the Line-X area and NOT on the vinyl between the seat and accelerator pedal.	✓	
40	The 120 volt shoreline receptacle inside the cab will be mounted to the front of the wire chase and inboard towardsthe engine cowl wire chase.	✓	
41	An AMDOR Lumibar LED light will be provided in the EMS compartment in place of Weldon halogen lights.	✓	
42	The fuel fills will be provided with brass caps without retaining chains.	✓	
43	The standard petcock drain valve on the bottom of the radiator will be removed and replaced with a FluidXChange quick disconnect fitting. The model number for the fitting is FXCCDA204.	✓	
44	All of the pump panel lights do NOT have to turn on when the pump is engaged. One light on each side panel will light when the pump is engaged. A pump panel light switch will be provided to turn the remaining lights on and off.	✓	
45	Thumb latches will be provided on the officer's side tread plate kick panel below the cab dash for quick access to the SKF Lube controller and other items.	✓	
46	A dash layout drawing will be provided for approval.	✓	
47	Red, edge tapered Dri-Dek edging will be provided on the compartment floors.	✓	
48	One Truck Lite Model #19 Amber marker steady-burn light will be provided on the front of the ladder rack to be used as a DOT light to be activated with the truck DOT lights. A flashing red light will be provided on the front and rear of the ladder rack that is activated with the ladder rack operation. Same as on GSO 10557-66	✓	
49	Two (2) TFT intake valves model AXD8NP-NX-T will be shipped loose with each truck. Same as GSO 10557-66	✓	
50	The rear discharges, tank fill and tank to pump line will not be painted. There is one small stainless bolt on a valve support that will need to be painted off the truck.	✓	
51	A Transynd Synthetic Fluid Only hard plastic notice will be attached to the transmission dip stick.	✓	
52	The reflective striping on the shelves and trays will match the Oralite rear chevron striping.	✓	
53	Oraite chevron striping will be provided on the EMS compartment door to match the stripes on the shelves and rear chevrons.	✓	
54	Metal clamps will be utilized on the wire harness under the cab inside the frame rails.	✓	
55	The Narrow Stick will be programmed to flash the same as on GSO 10557-66 and the TDA's.	✓	

ITEM	DESCRIPTION	CUSTOMER ACCEPTANCE	
		ACCEPT	DECLINE
56	A 90 degree elbow will be provided on the air chuck next to the battery box to allow access to the chuck when the cab is in the lowered position. Chuck facing down to ground.	✓	
57	The OS access door open sensor in the front of the hose bed will be tied into the door open warning and ladder rack to prevent damage if the door is opened and the ladder rack is being stored.	✓	
58	Mechanically fastened proximity switches will be provided on the Lock-N-Load hose bed cover, the rear step compartment door, the left and right dunnage doors,, the coffin compartment door, and the EMS compartment external door.	✓	
59	One additional half depth shelf will be provided in the upper areas of the L3 and R3 compartments, one additional shelf in each compartment.	✓	
60	The 12 volt power port and USB port specified for the side of the communication cabinet will be shipped loose with the trucks. The holes on the sides of the cabinets will not be covered.	✓	SEE NOTE
61	A pump shift over ride instruction placard will be provided in the cab below the pump shift controls.	✓	
62	1" blocks will be <u>not be provided</u> on the front suspension to raise the cab height.	✓	
63	A meeting with Craig, Bob and Ed Hydro will be arranged on May 23, to discuss changes with the communication cabinet. The changes will be documented in a future change order.	✓	
64	An aluminum bolt-on coffin storage compartment will be provided on the driver side compartment cap. The compartment will be 124" in length, 10" wide, and 14" high. The sides of the compartment will be painted to match the body, and a single aluminum tread plate door will be provided for the top. The door will be outboard hinged, with a single "D" style handle in the center. The cover will be held closed with two (2) butterfly latches. The door will be designed to be opened by one person. Gas struts will be provided. Weather stripping will be provided to make the compartment watertight. A single AMDOR Lumibar LED light strip will be mounted on the underside of the door, facing down at an approximate 45 degree angle to illuminate the contents of the box. The compartment door will be provided with a proxy switch wired to the multiplex screen displayed as "Coffin Box" when the door is open and the mxi-brakes released. Charge \$1,500.00 Per Truck	✓	SEE NOTE

ITEM	DESCRIPTION	CUSTOMER ACCEPTANCE	
		ACCEPT	DECLINE
65	<p>The driver and officer side rear body fender fuel fill pocket will be moved below the current rear fender SCBA storage slot. The Code 3 65 series warning lights on the rear of the body fender will be changed to Code 3 45 series warning lights, and will be re-located to the area above the fenderette. The single SCBA storage slots at the rear of the body fenders will be increased to a double SCBA storage configuration. The newly created storage will be completely open with no SCBA trays of any kind.</p> <p>Charge \$1,328.00 Per Truck</p>	✓	
66	<p>An aluminum storage module will be provided per the OCFA approved design and mounted in the driver side of the hose bed. Please see the attached tool storage box drawing REV A for your approval. The hinged door will be mounted similar to the Corona engine. The hinge will be mounted to the inboard side (right side) of the module to have the door open towards the officer's side. The door will be secured with a 1/4 turn "D" handle latch.</p> <p>Charge \$2,600.00 Per Truck</p>	✓	
67	<p>The Respond Ready storage in the driver side rear body compartment will be combined into a single four (4) drawer unit with 24" wide drawers and will be installed towards the front of the apparatus as provided in the most recent trucks. The compartment shelving above the storage unit will be reduced in width accordingly, and the peg board divider will be moved with the reduced storage unit. The pegboard on the rear wall of the compartment will be provided on the entire 14" deep rear wall in both the upper and lower areas. The gap created in the lower half of the rear wall in the deep area of the compartment will NOT be covered with pegboard.</p> <p>Charge \$800.00 Per Truck</p>	✓	
68	<p>An extinguisher storage module will be provided in the officer side forward compartment to store three (3) extinguishers. The module will be fabricated from unpainted 3/16" aluminum. The module will store the following: Dry Chemical extinguisher 22.5" long x 12.5" overall width. CO2 extinguisher 20" long x 11" overall width with horn. Pressurized Water extinguisher 25" long x 7.5" overall width. The storage module will be designed with slanted storage slots angled down towards the interior wall to retain the extinguishers in the module and prevent the extinguishers from contacting the roll up doors and damaging the doors.</p> <p>Charge \$377.00 Per Truck</p>	✓	
69	<p>The Severe Service cab will be the new style Vista design providing more space and increased driver visibility.</p>	SEE NOTE	

Thank you again and if there are any questions please do not hesitate to contact me at 570-669-5109 or sgogola@kme-fire.com.

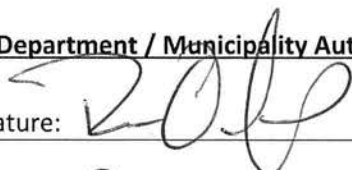
Respectfully,

Shawn Gogola

Shawn Gogola
Contract Administrator

Cc: Ken Creese
Brandon Gomez
KME CA

Fire Department / Municipality Authorization

Signature: 

Print Name: RICK O'BORNY

Title: FUEL SERVICES MANAGER

Date: MAY 09, 2018



Orange County Fire Authority
AGENDA STAFF REPORT

Executive Committee Meeting
May 24, 2018

Agenda Item No. 3E
Consent Calendar

Award of Contract for Real Estate Advisory Services

Contact(s) for Further Information

Dave Anderson, Assistant Chief
Support Services Department

daveanderson@ocfa.org

714.573.6006

Patrick Bauer, Property Manager

patrickbauer@ocfa.org

714.573.6471

Summary

This agenda item is submitted for approval to award a contract for Real Estate Advisory Services to Brookhurst Development Corporation (Brookhurst).

Prior Board/Committee Action

Following the purchase of OCFA's Urban Search & Rescue (US&R) Warehouse, and during construction of facility improvements at the site, OCFA incurred unexpected costs for the mitigation of contaminated soil beneath the building. When staff and the Board discussed actions to prevent the recurrence of issues like this in the future, it was identified that the future engagement of a real estate consultant to assist OCFA staff on an hourly rate basis, without a financial stake in the successful closing of a purchase/sale transaction, would be beneficial any time OCFA considered the purchase and/or sale of real property.

RECOMMENDED ACTION(S)

Approve and authorize the Purchasing Manager to sign the proposed Professional Services Agreement for Real Estate Advisory Services with Brookhurst Development Corporation in an annual amount not to exceed \$148,500, with two additional one-year renewal options (\$445,500 during the three-year term).

Impact to Cities/County

Not Applicable.

Fiscal Impact

Funding has been approved in the adopted FY 2017/18 Capital Improvement Program Budget, specifically in Fund 123 for Fire Stations & Facilities.

Background

In response to recent needs for professional guidance in regard to the purchase and sale of real property, staff initiated the process of engaging a firm for ongoing Real Estate Advisory Services.

Hourly-Rate Consulting Services vs. Commission-Based Brokerage Services

Real estate services can be provided under a variety of payment structures, including:

- Commission-based brokerage fee contingent on a successful close of transaction
- Hourly-rate consulting services, as needed
- Lump-sum fee to complete a predefined study and/or report

A primary purpose for hiring a commission-based broker is either to locate a buyer for property that the seller might wish to sell, or to locate a property which the buyer wishes to purchase and is otherwise unable to find. In situations where a buyer is already identified, and/or a site has already been located for purchase, a commission-based broker is not necessarily needed. This is currently the case for OCFA pending projects in Yorba Linda (Fire Station 10), and Mission Viejo (Fire Station 9).

These facts, combined with OCFA's previous experience with the USAR Warehouse acquisition and subsequent discovery of contaminated soil, were driving factors for why staff pursued hourly-rate consulting in lieu of commission-based brokerage services in our recent request for qualifications process (RFQ).

Request for Qualifications (RFQ) Process

On November 14, 2017, a request for qualifications (RFQ RO2253) was issued to solicit qualifications from firms that could provide Real Estate Advisory Services. Electronic notification was sent to 57 vendors. The intent of the solicitation was to identify a firm that could provide professional services to assist OCFA staff in making well-informed decisions regarding real property transactions being considered. At the time, pricing was requested for a specific known transaction for Fire Station 10 in Yorba Linda. Six firms attended the non-mandatory meeting held on November 21, 2017.

On December 14, 2017, the solicitation due date, qualifications were received from Brookhurst and Rosenow Spevacek Group Inc (RSG). Upon evaluation, staff concluded that RSG was non-responsive and unqualified due to their lack of Securities and Exchange Commission (SEC) registration to serve as a financial advisor to government agencies, (a requirement included in the solicitation). Staff confirmed that Brookhurst met all the requirements and an evaluation team consisting of staff from Support Services and Operations Departments evaluated the written statements of qualifications, which included method of approach, qualifications and experience.

The evaluation team determined that Brookhurst was qualified to provide real estate advisory services and a purchase order in the amount of \$22,500 was issued specific to limited services related to Fire Station 10 in Yorba Linda. The initial contract was within authority management to execute and did not require Executive Committee approval. The RFQ provided for a one-year contract with up to four additional one-year options.

Additional Needs

During the initial engagement for Fire Station 10, OCFA staff identified additional projects in Irvine and Mission Viejo involving the purchase and/or sale of real property and the experience with Brookhurst on the initial project was promising. Brookhurst was contacted to provide estimated hours for services on these types of additional projects moving forward, potentially with a multi-year contract, utilizing the hourly rates provided in their response to the RFQ. The estimated hours and proposed not to exceed contract amount is as follows:

Professional	Hourly Rate	Monthly Average (Hours)	Total Annual (Hours)	Total Annual Cost
Principal/Senior Director	\$285	30	360	\$102,600
Associate	\$195	15	180	\$35,100
Administrative	\$90	10	120	\$10,800
Total estimated, not to exceed cost				\$148,500

Conclusion

In conclusion, based on evaluation results, initial engagement relating to Fire Station 10, and additional projects as identified, staff is requesting approval from the Executive Committee to award a contract to Brookhurst Development Corporation in an annual amount not to exceed \$148,500 (\$445,500 during the three-year term). This proposed not to exceed value is merely a cap on potential services for purposes of establishing a Board-approved contract. If staff finds that less services are needed, lesser amounts will be expended against the contract. Further, the contract is cancelable at any time, and monthly invoices will be used for constant monitoring of work, progress, and costs.

Staff believes it will be beneficial for OCFA to have the ability to seek important real estate advisory input as needed, if property acquisitions or dispositions become overly complex. Upon approval of this contract, staff will return to the Board of Directors with project overviews for each current project, starting with Fire Station 10 (Yorba Linda) and Fire Station 9 (Mission Viejo). The project overviews will summarize the need, history, budget, and next steps. Details that could influence price negotiations will be reserved for closed session discussions relating to real property negotiations, which will be scheduled following the initial project overviews.

Attachment(s)

1. Proposed Contract with Brookhurst Development Corporation
2. Request for Qualifications RO2253 – Real Estate Advisory Services (Attachment on file in the Clerk's Office)
3. Brookhurst Response to RO2253 (Attachment on file in the Clerk's Office)

**ORANGE COUNTY FIRE AUTHORITY
PROFESSIONAL SERVICES AGREEMENT**

THIS AGREEMENT FOR PROFESSIONAL SERVICES ("Agreement") is made and entered into this ____ day of May, 2018, by and between the Orange County Fire Authority, a public agency, hereinafter referred to as "OCFA", and Brookhurst Development & Advisory Corporation, a Corporation, hereinafter referred to as "Firm". OCFA and Firm are sometimes individually referred to herein as a "Party" and collectively as the "Parties".

RECITALS

WHEREAS, OCFA requires the services of a qualified firm to provide Real Estate Advisory Services on an as-needed basis, hereinafter referred to as "Project"; and

WHEREAS, Firm has submitted to OCFA a proposal dated May 1, 2018, a copy of which is attached hereto as Exhibit "A" and is incorporated herein by this reference ("Proposal"); and

WHEREAS, based on its experience and reputation, Firm is qualified to provide the necessary services for the Project and desires to provide such services; and

WHEREAS, OCFA desires to retain the services of Firm for the Project.

NOW, THEREFORE, in consideration of the promises and mutual agreements contained herein, OCFA agrees to employ and does hereby employ Firm and Firm agrees to provide professional services as follows:

AGREEMENT

1. PROFESSIONAL SERVICES

1.1 Scope of Services

In compliance with all terms and conditions of this Agreement, Firm shall provide those services specified in Firm's Proposal attached hereto as Exhibit "A." The Scope of Services includes by reference and by addendum: (1) Firm's Proposal, dated May 1, 2018, and (2) any amendments, addendums, change orders, or modifications mutually agreed upon by the Parties ("Services" or "Work"). Firm warrants that all Services shall be performed in a competent, professional and satisfactory manner in accordance with all standards prevalent in the same profession in the State of California. Firm represents and warrants that it and all employees, subconsultants and subcontractors providing any Services pursuant to this Agreement shall have a sufficient skill and experience to perform the Services. All Services shall be completed to the reasonable satisfaction of the OCFA. In the event of any inconsistency between the terms

contained in the Firm's Proposal and the terms set forth in the main body of this Agreement, the terms set forth in the main body of this Agreement and then the Proposal shall govern, in that order.

1.2 Compliance with Law

All Services rendered hereunder shall be provided in accordance with all laws, ordinances, resolutions, statutes, rules, and regulations of OCFA and any federal, state or local governmental agency of competent jurisdiction.

1.3 Licenses and Permits

Firm shall obtain at its sole cost and expense such licenses, permits and approvals as may be required by law for the performance of the Services required by this Agreement.

1.4 Familiarity with Work

By executing this Agreement, Firm warrants that Firm (a) has thoroughly investigated and considered the Work to be performed, (b) has investigated the site of the Work and become fully acquainted with the conditions there existing, (c) has carefully considered how the Work should be performed, and (d) fully understands the facilities, difficulties and restrictions attending performance of the Work under this Agreement. Should the Firm discover any latent or unknown conditions materially differing from those inherent in the Work or as represented by OCFA, Firm shall immediately inform OCFA of such fact and shall not proceed with any Work except at Firm's risk until written instructions are received from the Contract Officer.

1.5 Care of Work

Firm shall adopt and follow reasonable procedures and methods during the term of the Agreement to prevent loss or damage to materials, papers or other components of the work, and shall be responsible for all such damage until acceptance of the work by OCFA, except such loss or damages as may be caused by OCFA's own negligence.

1.6 Additional Services

Firm shall perform services in addition to those specified in the Proposal when directed to do so in writing by the Contract Officer, provided that Firm shall not be required to perform any additional services without compensation. Any additional compensation not exceeding ten percent (10%) of the original Agreement sum must be approved in writing by the Contract Officer. Any greater increase must be approved in writing by the Purchasing Manager.

2. TIME FOR COMPLETION

The time for completion of the Services to be performed by Firm is an essential condition of this Agreement. Firm shall prosecute regularly and diligently the work of this Agreement according to the schedules set forth in Firm's proposal. Firm shall not be accountable for delays in the progress of its work caused by any condition beyond its control and without the fault or negligence of Firm. Delays shall not entitle Firm to any additional compensation regardless of the Party responsible for the delay.

3. COMPENSATION OF FIRM

3.1 Compensation of Firm

For the Services rendered pursuant to this Agreement, Firm shall be compensated and reimbursed, in accordance with the Firm's Billing Rate Proposal set forth in Exhibit "A," in an annual amount not to exceed \$148,500 (One Hundred Forty-Eight Thousand Five Hundred) Dollars.

3.2 Method of Payment

In any month in which Firm wishes to receive payment, Firm shall no later than the first working day of such month, submit to OCFA in the form approved by OCFA's Director of Finance, an invoice for Services rendered prior to the date of the invoice. OCFA shall pay Firm for all expenses stated thereon which are approved by OCFA consistent with this Agreement, within thirty (30) days of receipt of Firm's invoice.

3.3 Changes

In the event any change or changes in the work is requested by OCFA, the Parties hereto shall execute an addendum to this Agreement, setting forth with particularity all terms of such addendum, including, but not limited to, any additional fees. Addenda may be entered into:

A. To provide for revisions or modifications to documents or other work product or work when documents or other work product or work is required by the enactment or revision of law subsequent to the preparation of any documents, other work product or work;

B. To provide for additional services not included in this Agreement or not customarily furnished in accordance with generally accepted practice in Firm's profession.

3.4 Appropriations

This Agreement is subject to and contingent upon funds being appropriated therefore by the OCFA Board of Directors for each fiscal year covered by the Agreement. If such appropriations are not made, this Agreement shall automatically terminate without penalty to OCFA.

4. PERFORMANCE SCHEDULE

4.1 Time of Essence

Time is of the essence in the performance of this Agreement.

4.2 Schedule of Performance

All Services rendered pursuant to this Agreement shall be performed within the time periods prescribed in Firm's Proposal, attached hereto as Exhibit "A". The extension of any time period specified in Exhibit "A" must be approved in writing by the Contract Officer.

4.3 Force Majeure

The time for performance of Services to be rendered pursuant to this Agreement may be extended because of any delays due to unforeseeable causes beyond the control and without the fault or negligence of the Firm, including, but not restricted to, acts of God or of a public enemy, acts of the government, fires, earthquakes, floods, epidemic, quarantine restrictions, riots, strikes, freight embargoes, and unusually severe weather if the Firm shall within ten (10) days of the commencement of such condition notify the Contract Officer who shall thereupon ascertain the facts and the extent of any necessary delay, and extend the time for performing the Services for the period of the enforced delay when and if in the Contract Officer's judgment such delay is justified, and the Contract Officer's determination shall be final and conclusive upon the Parties to this Agreement.

4.4 Term

This agreement shall continue in full force and effect until satisfactory completion of the Services, unless earlier terminated in accordance with Sections 8.5 or 8.6 of this Agreement but not exceeding one year from the date hereof, unless extended by mutual written agreement of the Parties.

5. COORDINATION OF WORK

5.1 Representative of Firm

The following principal of the Firm is hereby designated as being the principal and representative of Firm authorized to act in its behalf with respect to the work specified herein and make all decisions in connection therewith: Jeff Baize, CEO

It is expressly understood that the experience, knowledge, capability and reputation of the foregoing principal is a substantial inducement for OCFA to enter into this Agreement. Therefore, the foregoing principal shall be responsible during the term of this Agreement for directing all activities of Firm and devoting sufficient time to personally supervise the Services hereunder. The foregoing principal may not be changed by Firm without the express written approval of OCFA.

5.2 Contract Officer

The Contract Officer shall be designated in writing by OCFA. It shall be the Firm's responsibility to keep the Contract Officer fully informed of the progress of the performance of the Services and Firm shall refer any decisions that must be made by OCFA to the Contract Officer. Unless otherwise specified herein, any approval of OCFA required hereunder shall mean the approval of the Contract Officer.

5.3 Prohibition Against Subcontracting or Assignment

5.3.1 No Subcontracting Without Prior Approval. The experience, knowledge, capability and reputation of Firm, its principals and employees, and the Firm Representative were a substantial inducement for OCFA to enter into this Agreement. Therefore, Firm shall not contract with any other entity to perform in whole or in part the Services required hereunder without the express written approval of OCFA.

5.3.2 Provisions in the Event Subcontractor(s) Are Authorized. If Firm is authorized to subcontract any part of the Services as provided in Section 5.3.1, Firm shall be responsible to OCFA for the acts and omissions of its subcontractor(s) and subconsultant(s) in the same manner as it is for persons directly employed. For purposes of this Agreement, all persons engaged in the performance of Services will be considered employees of Firm. OCFA will deal directly with and will make all payments to Firm. Nothing contained in this Agreement shall create any contractual relationships between any subcontractor and OCFA. Firm shall ensure that all subcontractor insurance requirements set forth in Section 6 below (including its subsections) are complied with prior to commencement of Services by each subcontractor.

5.3.2.1 Withholding Payment for Non-Authorized Subcontractors. OCFA shall have the right to withhold payment from Firm for Services performed by any subcontractor or subconsultant performing

Services but not authorized in writing by OCFA, or regarding which the insurance or other requirements under this Agreement have not been satisfied.

5.3.3 Assignments. Neither this Agreement nor any interest herein may be assigned, transferred, conveyed, hypothecated, or encumbered voluntarily or by operation of law, whether for the benefit of creditors or otherwise, without the prior written approval of OCFA. Transfers restricted hereunder shall include the transfer to any person or group of persons acting in concert of more than twenty five percent (25%) of the present ownership and/or control of Firm, taking all transfers into account on a cumulative basis. In the event of any such unapproved transfer, including any bankruptcy proceeding, this Agreement shall be void. No approved transfer shall release Firm or any surety of Firm from any liability hereunder without the express written consent of OCFA.

5.4 Independent Contractor

5.4.1 The legal relationship between the Parties is that of an independent contractor, and nothing herein shall be deemed to make Contractor, or any of its personnel, an OCFA employee. During the performance of this Agreement, Firm and its officers, employees, and agents shall act in an independent capacity and shall not act as OCFA officers or employees. Firm will determine the means, methods and details of performing the Services subject to the requirements of this Agreement. The personnel performing the Services under this Agreement on behalf of Firm shall at all times be under Firm's exclusive direction and control. Neither OCFA nor any of its officials, officers, employees, agents or volunteers shall have control over the conduct of Firm or any of its officers, employees, or agents, except as set forth in this Agreement. Firm, its officers, employees or agents, shall not maintain a permanent office or fixed business location at OCFA's offices. OCFA shall have no voice in the selection, discharge, supervision, or control of Firm's officers, employees, representatives or agents or in fixing their number, compensation, or hours of service. Firm shall pay all wages, salaries, and other amounts due its employees in connection with the performance of Services under this Agreement and shall be responsible for all reports and obligations respecting them, including but not limited to social security income tax withholding, unemployment compensation, workers' compensation, and other similar matters. OCFA shall not in any way or for any purpose be deemed to be a partner of Firm in its business or otherwise a joint venturer or a member of any joint enterprise with Firm.

5.4.2 Firm shall not incur or have the power to incur any debt, obligation, or liability against OCFA, or bind OCFA in any manner.

5.4.3 No OCFA benefits shall be available to Firm, its officers, employees, or agents, in connection with the performance of any Work or Services under this Agreement. Except for professional fees paid to Firm as provided for in this Agreement, OCFA shall not pay salaries, wages, or other compensation to Firm for the performance of any Work or Services under this Agreement. OCFA shall not be liable for compensation or indemnification to Firm, its officers, employees, or agents, for injury or

sickness arising out of performing any Work or Services hereunder. If for any reason any court or governmental agency determines that the OCFA has financial obligations, other than pursuant to Section 2 herein, of any nature relating to salary, taxes, or benefits of Firm's officers, employees, representatives, agents, or subconsultants or subcontractors, Firm shall defend, indemnify, and hold harmless OCFA from and against all such financial obligations.

5.6 Employee Retirement System Eligibility Indemnification

5.6.1 In the event that Firm or any employee, agent, or subcontractor of Firm providing any Work or Services under this Agreement claims or is determined by a court of competent jurisdiction to be eligible for enrollment in an employee retirement system as an employee of the OCFA, Firm shall indemnify, defend, and hold harmless OCFA against: (1) all such claim(s) and determination(s); (2) for the payment of any employee and/or employer contributions for employee retirement system benefits on behalf of Firm or its employees, agents or subcontractors; and (3) the payment of any penalties and interest on such contributions which would otherwise be the responsibility of the OCFA.

5.6.2 Notwithstanding any other agency, state or federal policy, rule, regulation, law or ordinance to the contrary, Contractor and any of its employees, agents, and subcontractors providing any Work or Services under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any claims to, any compensation, benefit, or any incident of employment by OCFA, including but not limited to eligibility to enroll in PERS as an employee of OCFA and entitlement to any contribution to be paid by OCFA for employer contribution and/or employee contributions for PERS benefits.

6. INSURANCE AND INDEMNIFICATION

6.1 Compliance with Insurance Requirements. Firm shall obtain, maintain, and keep in full force and effect during the term of this Agreement, at its sole cost and expense, and in a form and content satisfactory to OCFA, all insurance required under this section. Firm shall not commence any Services under this Agreement unless and until it has provided evidence satisfactory to OCFA that it has secured all insurance required under this section. If Firm's existing insurance policies do not meet the insurance requirements set forth herein, Firm agrees to amend, supplement or endorse the policies to meet all requirements herein.

6.2 Types of Insurance Required. Without limiting the indemnity provisions set forth in this Agreement, Firm shall obtain and maintain in full force and effect during the term of this Agreement, including any extension thereof, the following policies of insurance:

6.2.1 Professional Liability/Errors and Omissions Insurance ("PLI"). Firm shall obtain and maintain PLI insurance applicable to each licensed

profession practiced by Firm. Firm shall maintain PLI insurance with per-claim and aggregate limits no lower than one million dollars (\$1,000,000.00) each occurrence and two million dollars (\$2,000,000.00) aggregate. Covered professional services shall specifically include all Services to be performed under the Agreement and the policy shall be endorsed to delete any exclusions that may exclude coverage for claims within the minimum PLI Limits for the Services to be performed under this Agreement.

6.2.1.1 The PLI policy shall be endorsed to delete any Contractual Liability Exclusion. The PLI shall include contractual liability coverage applicable to this Agreement. The policy must "pay on behalf of" the insured, and include a provision establishing the insurer's duty to defend the insured.

6.2.1.2 If the PLI policy of insurance is written on a "claims-made" basis, the policy shall be continued in full force and effect at all times during the term of this Agreement, and for a period of three (3) years from the date of the completion of all Services provided hereunder (the "PLI Coverage Period"). If any PLI policy is replaced, cancelled, non-renewed, discontinued, or otherwise terminated, or if the limits of a PLI policy are reduced or the available coverage depleted below the required minimum coverage amounts for any reason during the PLI Coverage Period, Firm shall immediately obtain replacement PLI coverage meeting the requirements of this Section 6.2.1. Such replacement coverage shall satisfy all requirements herein, and shall include coverage for the prior acts or omissions of Firm during the time period during which any Services were performed. The coverage shall be evidenced by either a new policy evidencing no gap in coverage, or by obtaining separate extended "tail" coverage with the present or new carrier or other insurance arrangements providing for complete coverage, either of which shall be subject to the written approval by the OCFA.

6.2.1.3 If the PLI policy is written on an "occurrence" basis, the policy shall be continued in full force and effect during the term of this Agreement, or until completion of the Services provided for in this Agreement, whichever is later. In the event of termination of the PLI policy during this period, new coverage shall immediately be obtained, and written evidence of the policy shall be immediately provided to OCFA, to ensure PLI coverage during the entire course of performing the Services.

6.2.1.4 Firm shall not perform any Services at any time during which required types or amounts of PLI insurance are not in effect, and OCFA shall have no obligation to pay Firm for Services performed while required PLI insurance is not in effect.

6.2.2 Commercial General Liability Insurance. Firm shall obtain and maintain, in full force and effect throughout the term of this Agreement, Insurance Services Office (ISO) Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than one million dollars (\$1,000,000.00) per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate

limit shall be twice the required occurrence limit. CGL insurance shall be provided on an occurrence-based coverage form; a "claims made" CGL policy is not acceptable. Firm shall maintain CGL insurance with per-claim, aggregate and products and operations completed limits no lower than the minimum CGL coverage limits set forth above. Defense costs shall be paid in addition to the limits. The policy shall contain no endorsements or provisions limiting coverage for any of the following: (1) contractual liability; (2) cross liability exclusion for claims or suits by one insured against another; or (3) any other exclusion contrary to this Agreement.

6.2.3 Automobile Liability Insurance. Firm shall obtain and maintain, in full force and effect throughout the term of this Agreement, a policy of Automobile liability insurance written on a per occurrence basis with limits of at least one million dollars (\$1,000,000.00) combined limit for each occurrence covering bodily injury, disease and property damage. Defense costs shall be paid in addition to the policy limits. The policy shall specifically include coverage for owned, non-owned, leased, and hired automobiles, and be endorsed to eliminate any exclusion applicable to any of them.

6.2.4 Workers' Compensation Insurance. Firm shall obtain and maintain, in full force and effect throughout the term of this Agreement, a policy of Workers' Compensation Insurance in at least the minimum statutory amounts, and in compliance with all other statutory requirements applicable in the State of California. Firm hereby waives on its own behalf, and shall obtain an endorsement from its workers' compensation insurer waiving on the insurance company's behalf, all rights of subrogation against the OCFA, its board members, officials, officers, employees, agents and volunteers.

6.2.4.1 If subconsultants or subcontractors are used, Firm shall require each of its subconsultants and subcontractors, if any, to waive all rights of subrogation, and to obtain endorsements from the subconsultants'/subcontractors' workers' compensation insurers waiving all rights of subrogation, against the OCFA, its board members, officials, officers, employees, agents and volunteers.

6.2.4.2 Firm and each of its subconsultants and subcontractors shall also maintain, in full force and effect throughout the term of this Agreement, Employer's Liability Insurance with limits of at least one million dollars (\$1,000,000.00) per injury or illness.

6.3 Acceptability of Insurers. Each insurance policy required by this section shall be issued by a licensed company authorized to transact business by the Department of Insurance for the State of California with a current rating of A:VII or better (if an admitted carrier), or a current rating of A:X or better (if offered by a non-admitted insurer listed on the State of California List of Approved Surplus Line Insurers (LASLI)), by the latest edition of A.M. Best's Key Rating Guide, except that the OCFA will accept workers' compensation insurance from the State Compensation Fund. In the event the OCFA determines that the Services to be performed under this Agreement creates an increased or decreased risk of loss to the OCFA, the Firm agrees that the minimum limits

of the insurance policies may be changed accordingly upon receipt of written notice from the OCFA.

6.3.1 Firm shall immediately replace any insurer whose A.M. Best rating drops below the levels specified herein with an insurer that meets the minimum requirements herein.

6.4 Specific Insurance Provisions and Endorsements. Required insurance policies shall not be in compliance if they include any limiting provision or endorsement that has not been submitted to the OCFA for written approval. Required insurance policies shall contain the following provisions, or Firm shall provide endorsements on forms approved by the OCFA to add the following provisions to the insurance policies:

6.4.1 CGL and Auto Liability Endorsements. The policy or policies of insurance required by this Agreement for CGL and Automobile Liability Insurance shall be endorsed as follows:

6.4.1.1 Additional Insured: The OCFA, its board members, officials, officers, employees, agents and volunteers, shall be additional insureds; and

6.4.1.1.1 Additional Insured Endorsements: Additional insured endorsements shall not (1) be restricted to "ongoing operations", (2) exclude "contractual liability", (3) restrict coverage to "sole" liability of Firm, (4) contain any other exclusions contrary to the Agreement; or (5) contain special limitations on the scope of protection afforded to additional insureds.

6.4.1.2 Primary, Non-Contributing. Each CGL and Auto Liability insurance policy shall be endorsed to be primary and any other insurance, deductible, or self-insurance maintained by the OCFA, its board members, officials, officers, employees, agents or volunteers, shall not contribute with the primary insurance.

6.4.2 Notice of Cancellation: Each policy of any type shall be endorsed to provide that coverage shall not be suspended, voided, cancelled, or modified, or reduced in coverage or in limits, except after thirty (30) days prior written notice has been provided to the OCFA. Notwithstanding the foregoing, if coverage is to be suspended, voided, or cancelled because of Firm's failure to pay the insurance premium, the notice provided by the insurer to OCFA shall be by not less than ten (10) days prior written notice. (A statement that notice will be provided "in accordance with the policy terms" or words to that effect is inadequate to meet the requirements of this Section).

6.4.2.1 Pre-Payment of Policy Premium. If for any reason an insurer declines to issue an endorsement certifying that it will notify OCFA in accordance with section 6.4.2, Firm shall either obtain insurance from another insurer

who will provide the required notice endorsement or shall provide evidence satisfactory to OCFA that the entire policy premium for the full term of that policy has been pre-paid such that the risk of non-payment of premiums during the term of the policy has been eliminated.

6.4.3 ACORD Forms Will Not Be Accepted in Lieu of Endorsements. By executing this Agreement, Firm certifies that it has – prior to execution of this Agreement - confirmed that its insurance company will issue each of the endorsements required by this Agreement. Firm also certifies that it understands that "ACORD" Certificate of Liability Insurance forms will not be accepted in lieu of required endorsements.

6.5 Deductibles and Self-Insured Retentions. Any deductible or self-insured retention must be approved in writing by the OCFA in advance. The decision whether to approve or withhold approval of a deductible or self-insured retention shall be made by the OCFA in the OCFA's sole and absolute discretion. (Firm may request pre-approval from OCFA of a deductible or self-insured retention prior to submitting Firm's Proposal).

6.6 Waiver of Subrogation. All policies of Commercial General Liability and Automobile Liability Insurance shall contain or be endorsed to waive subrogation against the OCFA, its officials, officers, employees, agents and volunteers, or shall specifically allow Firm or others providing insurance evidence in compliance with the requirements set forth in this section to waive their right to recovery prior to a loss. Firm hereby agrees to waive its own right of subrogation against the OCFA, its officials, officers, employees, agents and volunteers.

6.6.1 Waivers of Subrogation: Subconsultants and Subcontractors. If OCFA approves the use of subconsultants or subcontractors for the performance of any portion of the Services, then Firm shall obtain from each subconsultant and subcontractor, and make available to OCFA upon request, written express waivers by each subconsultant and subcontractor of the right of subrogation against the OCFA, its officials, officers, employees, agents and volunteers, and policy endorsements of each of its subconsultants' and subcontractors' insurance policies waiving any rights of subrogation against the OCFA, its officials, officers, employees, agents and volunteers insurer. All such waivers and endorsements shall be obtained prior to commencement of any Services by each subconsultant or subcontractor.

6.7 Evidence of Coverage. Concurrently with the execution of the Agreement, Firm shall deliver certificates of insurance together with original endorsements affecting each of the insurance policies required to be maintained by Firm by this Section 5. Firm shall promptly furnish, at OCFA's request, copies of actual policies including all declaration pages, endorsements, exclusions and any other policy documents OCFA requires to verify coverage.

6.7.1 Required insurance policies shall not be in compliance if they include any limiting provision or endorsement that has not been submitted to the OCFA for written approval.

6.7.2 Authorized Signatures. The certificates of insurance and original endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf.

6.7.3 Renewal/Replacement Policies. At least fifteen (15) days prior to the expiration of any policy required by this Agreement, evidence of insurance showing that such insurance coverage has been renewed or extended shall be filed with the OCFA. If such coverage is cancelled or reduced and not replaced immediately so as to avoid a lapse in the required coverage, Firm shall, within ten (10) days after receipt of written notice of such cancellation or reduction of coverage, file with the OCFA evidence of insurance showing that the required insurance has been reinstated or has been provided through another insurance company or companies meeting all requirements of this Agreement.

6.8 Requirements Not Limiting. Requirement of specific coverage or minimum limits contained in this section are not intended as a limitation on coverage, limits, or other requirements, or a waiver of any coverage normally provided by any insurance. Nothing in this section shall be construed as limiting in any way the indemnification provision contained in this Agreement, or the extent to which Firm may be held responsible for losses of any type or amount.

6.9 Enforcement of Agreement (Non-Estoppel). Firm acknowledges and agrees that actual or alleged failure on the part of the OCFA to inform Firm of any non-compliance with any of the insurance requirements set forth in this Agreement imposes no additional obligation on the OCFA nor does it waive any rights hereunder.

6.10 Insurance for Subconsultants. If OCFA approves the use of subconsultants or subcontractors for the performance of any portion of the Services, then Firm shall be responsible for causing each approved subconsultant and subcontractor to procure and maintain insurance in the same types and amounts required for Firm, and in full compliance with the insurance requirements set forth in this Agreement, except as otherwise authorized in writing by the Contract Manager.

6.10.1 Delivery of Evidence of Subcontractor Insurance. Upon request of OCFA, Firm shall deliver to OCFA all certificates of insurance and endorsements required from subcontractors and subconsultants. (Note: Firm's duty to obtain all required insurance for subcontractors and subconsultants required under this Agreement applies whether or not OCFA requests delivery of evidence of such coverage.)

6.11 Other Insurance Requirements. The following terms and conditions shall apply to the insurance policies required of Firm and its subconsultants and subcontractors, if any, pursuant to this Agreement:

6.11.1 Firm shall provide immediate written notice to OCFA if (1) any of the insurance policies required herein are terminated, cancelled, suspended, or non-renewed (2) the limits of any of the insurance coverages required herein are reduced; (3) any required insurance coverage is reduced below the required minimum limits through claims or otherwise, or (4) the deductible or self-insured retention is increased.

6.11.2 All insurance coverage and limits required under this Agreement are intended to apply to each insured, including additional insureds, against whom a claim is made or suit is brought to the full extent of the policies. Nothing contained in this Agreement or any other agreement relating to the OCFA or its operations shall limit the application of such insurance coverage.

6.11.3 None of the insurance coverages required herein will be in compliance with the requirements of this section if they include any limiting endorsement which substantially impairs the coverages set forth herein (e.g., elimination of contractual liability or reduction of discovery period), unless the endorsement has first been submitted to the OCFA and approved in writing.

6.11.4 Certificates of insurance will not be accepted in lieu of required endorsements, and submittal of certificates without required endorsements may delay the Project. It is Firm's obligation to ensure timely compliance with all insurance submittal requirements as provided herein and Firm agrees to reimburse OCFA for any losses resulting from its failure, or its subconsultants' or subcontractors' failure, to timely comply with the requirements of this Agreement.

6.11.5 Firm agrees to ensure that subconsultants and subcontractors, if any, and any other parties involved with the Project who are brought onto or involved in the Project by Firm, provide the same minimum insurance coverage required of Firm. Firm agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this section. Firm agrees that upon request, all agreements with, and evidence of insurance from, subconsultants and subcontractors and others engaged in performing any Services will be submitted to the OCFA for review.

6.11.6 Firm agrees to provide immediate written notice to OCFA of any claim, demand or loss arising out of the Services performed under this Agreement and for any other claim, demand or loss which may reduce the insurance available to an amount less than required by this Agreement.

6.12 Indemnification.

To the fullest extent permitted by law, Firm shall defend (at Firm's sole cost and expense with legal counsel reasonably acceptable to OCFA), indemnify and hold the OCFA, its board members, officials, officers, employees, agents and volunteers, free and harmless from any and all claims, demands, orders, causes of action, costs, expenses, liabilities, losses, penalties, judgments, arbitration awards, settlements, damages or injuries of any kind, in law or in equity, including but not limited to property or persons, including wrongful death, (collectively "Claims") in any manner arising out of, pertaining to, related to, or incident to any alleged acts, errors or omissions, or willful misconduct of Firm, its officers, directors, employees, subconsultants, subcontractors, agents or invitees in connection with performance under this Agreement, or in any manner arising out of, pertaining to, related to, or incident to an alleged breach of this Agreement, including without limitation the payment of all consequential damages, expert witness fees and attorneys' fees and other related costs and expenses.

Notwithstanding the foregoing, and only to the extent that the Services performed by Firm are subject to California Civil Code Section 2782.8, the above indemnity shall be limited, to the extent required by Civil Code Section 2782.8, to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Firm.

Under no circumstances shall the insurance requirements and limits set forth in this Agreement be construed to limit Firm's indemnification obligation or other liability hereunder. Notwithstanding the foregoing, such obligation to defend, hold harmless and indemnify the OCFA, its board members officials, officers, employees, agents and volunteers, shall not apply to the extent that such Claims are caused by the sole negligence or willful misconduct of that indemnified Party.

7. RECORDS AND REPORTS

7.1 Reports

Firm shall periodically prepare and submit to the Contract Officer such reports concerning the performance of the Services required by this Agreement as the Contract Officer shall require.

7.2 Records

Firm shall keep such books and records as shall be necessary to properly perform the Services required by this Agreement and enable the Contract Officer to evaluate the performance of such Services. Except as provided in Section 7.5, the Contract Officer shall have full and free access to such books and records at all reasonable times, including the right to inspect, copy, audit and make records and transcripts from such records.

7.3 Ownership of Documents

Except as provided in Section 7.5, all drawings, specifications, reports, records, documents and other materials prepared by Firm in the performance of this Agreement shall be the property of OCFA and shall be delivered to OCFA upon request of the Contract Officer or upon the termination of this Agreement, and Firm shall have no claim for further employment or additional compensation as a result of the exercise by OCFA of its full rights or ownership of the documents and materials hereunder. Firm may retain copies of such documents for its own use. Firm shall have an unrestricted right to use the concepts embodied therein.

7.4 Release of Documents

All drawings, specifications, reports, records, documents and other materials prepared by Firm in the performance of Services under this Agreement shall not be released publicly without the prior written approval of the Contract Officer.

7.5 Confidential Materials

Notwithstanding anything to the contrary in this Agreement, the Firm shall be the sole owner of Firm's work papers and of any other documents, data or information which are required to be maintained confidential from OCFA by one or more rules of professional conduct governing the Firm's profession(s) (collectively, the "Confidential Materials"). Neither the OCFA nor the Contract Officer shall have access to the Confidential Materials except as may otherwise be required by order issued by a court of competent jurisdiction.

8. ENFORCEMENT OF AGREEMENT

8.1 California Law

This Agreement shall be construed and interpreted both as to validity and to performance of the Parties in accordance with the laws of the State of California. Legal actions concerning any dispute, claim or matter arising out of or in relation to this Agreement shall be instituted in the Superior Court of the County of Orange, State of California, or any other appropriate court in such county, and Firm covenants and agrees to submit to the personal jurisdiction of such court in the event of such action.

8.2 Waiver

No delay or omission in the exercise of any right or remedy of a non-defaulting Party on any default shall impair such right or remedy or be construed as a waiver. No consent or approval of OCFA shall be deemed to waiver or render unnecessary OCFA's consent to or approval of any subsequent act of Firm. Any waiver by either Party of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this Agreement.

8.3 Rights and Remedies are Cumulative

Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the Parties are cumulative and the exercise by either Party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other Party.

8.4 Legal Action

In addition to any other rights or remedies, either Party may take legal action, in law or in equity, to cure, correct or remedy any default, to recover damages for any default, to compel specific performance of this Agreement, to obtain injunctive relief, a declaratory judgment, or any other remedy consistent with the purposes of this Agreement.

8.5 Termination Prior to Expiration of Term

OCFA reserves the right to terminate this Agreement at any time, with or without cause, upon thirty (30) days written notice to Firm, except that where termination is due to the fault of the Firm and constitutes an immediate danger to health, safety and general welfare, the period of notice shall be such shorter time as may be appropriate. Upon receipt of the notice of termination, Firm shall immediately cease all Services hereunder except such as may be specifically approved by the Contract Officer. Firm shall be entitled to compensation for all Services rendered prior to receipt of the notice of termination and for any Services authorized by the Contract Officer thereafter.

Firm may terminate this Agreement, with or without cause, upon thirty (30) days written notice to OCFA.

8.6 Termination for Default of Firm

If termination is due to the failure of the Firm to fulfill its obligations under this Agreement, OCFA may take over the work and prosecute the same to completion by contract or otherwise, and the Firm shall be liable to the extent that the total cost for completion of the Services required hereunder exceeds the compensation herein stipulated, provided that OCFA shall use reasonable efforts to mitigate damages, and OCFA may withhold any payments to the Firm for the purpose of set-off or partial payment of the amounts owed to OCFA.

8.7 Attorneys' Fees

If either Party commences an action against the other Party arising out of or in connection with this Agreement or its subject matter, the prevailing Party shall be entitled to recover reasonable attorneys' fees and costs of suit from the losing Party.

9. OCFA OFFICERS AND EMPLOYEES; NON-DISCRIMINATION

9.1 Non-Liability of OCFA Officers and Employees

No officer or employee of OCFA shall be personally liable to the Firm, or any successor-in-interest, in the event of any default or breach by OCFA or for any amount which may become due to the Firm or its successor, or for breach of any obligation of the terms of this Agreement.

9.2 Covenant Against Discrimination

Firm covenants that, by and for itself, its heirs, executors, assigns, and all persons claiming under or through them, that there shall be no discrimination or segregation in the performance of or in connection with this Agreement regarding any person or group of persons on account of race, color, creed, religion, sex, marital status, national origin, or ancestry. Firm shall take affirmative action to insure that applicants and employees are treated without regard to their race, color, creed, religion, sex, marital status, national origin, or ancestry.

10. MISCELLANEOUS PROVISIONS

10.1 Confidentiality

Information obtained by Firm in the performance of this Agreement shall be treated as strictly confidential and shall not be used by Firm for any purpose other than the performance of this Agreement without the written consent of OCFA.

10.2 Notice

Any notice, demand, request, consent, approval, or communication either Party desires or is required to give to the other Party or any other person shall be in writing and either served personally or sent by pre-paid, first-class mail to the address set forth below. Either Party may change its address by notifying the other Party of the change of address in writing. Notice shall be deemed communicated forty-eight (48) hours from the time of mailing if mailed as provided in this Section.

Orange County Fire Authority:
Attention: Debbie Casper
1 Fire Authority Road
Irvine, CA 92602

WITH COPY TO:

David E. Kendig, General Counsel
Woodruff, Spradlin & Smart
555 Anton Blvd. Suite 1200
Costa Mesa, CA 92626

To Firm:

Brookhurst Development & Advisory Corp.
Attention: Jeff Baize
4533 MacArthur Blvd. Suite 324
Newport Beach, CA 92660

10.2 Integrated Agreement

This Agreement contains all of the agreements of the Parties and cannot be amended or modified except by written agreement.

10.3 Amendment

This Agreement may be amended at any time by the mutual consent of the Parties by an instrument in writing.

10.4 Severability

In the event that any one or more of the phrases, sentences, clauses, paragraphs, or sections contained in this Agreement shall be declared invalid or unenforceable by valid judgment or decree of a court of competent jurisdiction, such invalidity or unenforceability shall not affect any of the remaining phrases, sentences, clauses, paragraphs, or sections of this Agreement, which shall be interpreted to carry out the intent of the Parties hereunder.

10.5 Corporate Authority

The persons executing this Agreement on behalf of the Parties hereto warrant that they are duly authorized to execute this Agreement on behalf of said Parties and that by so executing this Agreement the Parties hereto are formally bound to the provisions of this Agreement.

[Signatures on Following Page]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the dates stated below.

"OCFA"

ORANGE COUNTY FIRE AUTHORITY

Date: _____

By: _____

Debbie Casper, C.P.M., CPPB
Purchasing & Materials Manager

APPROVED AS TO FORM.

By: _____

DAVID E. KENDIG
GENERAL COUNSEL

Date: 5/9/18

ATTEST:

Sherry A.F. Wentz
Clerk of the Board

"FIRM"

**BROOKHURST DEVELOPMENT &
ADVISORY CORPORATION**

Date: May 7, 2018

By: _____

Jeff Balze
Chief Executive Officer

Date: May 7, 2018

By: _____

Lisa Kalustian
Managing Director

EXHIBIT "A"



Brookhurst Development & Advisory Corporation

Specialists in Public Facility Solutions since 1996

May 1, 2018

Electronically Submitted

Orange County Fire Authority
Attn: Mr. Rothchild Ong, CPPB
Assistant Purchasing Agent
1 Fire Authority Road Bldg. C
Irvine, CA 92602

**RE: Proposal for "As Needed" Multi-disciplinary
Real Estate Advisory Services**

Dear Mr. Ong:

Per your request, the following is a proposal from Brookhurst Development & Advisory Corporation ("Firm") to provide ongoing interdisciplinary real estate advisory services ("Services") to the Orange County Fire Authority ("OCFA") on an as-needed ("On-Call") basis, which will be memorialized by written Agreement. We are confident that our qualifications presented previously to the OCFA, which include a 20-year track record of successful similar engagements, testimonials and references for similar assignments for California public agencies, have established we are highly qualified for these Services.

The following are key terms of our proposal:

Cancellation

OCFA shall have the right to terminate the Agreement at any time without having to establish cause and at its sole discretion, subject to a 30-day written notice.

Scope of Services

The following Scope of Services have been provided to Firm by OCFA as potentially being required to fulfill the Agreement obligations:

- a. Identification of OCFA's financial requirements and timing for capital facilities
- b. Financial feasibility analysis;
- c. Land and project valuation;
- d. Residual land value analysis;
- e. Ground lease structuring;
- f. Initial evaluation of sale, lease and development potential of properties;
- g. Prepare market and financial analyses;

- h. Analyze and recommend potential alternative delivery methodologies, including design-bid-build, construction manager at risk ("CMAR"), design-build and public-private partnerships;
- i. Pro forma analysis and underwriting for real estate development including cash flow projection and analysis, including preparation of discounted cash flow analysis;
- j. Public-private deal structuring, including financial structure, alternative financing options and assessment of equity participation; and analyses and recommendations pertaining to alternative project delivery methodologies;
- k. Evaluation of outside funding sources;
- l. Analysis for public-private partnerships, potentially to include developments on ground leased OCFA property, lease-leaseback transactions, and alternative ownership positions;
- m. Prepare Request for Qualifications and Request for Proposals for sale, lease, development and alternative delivery of projects;
- n. Development of evaluation criteria;
- o. Evaluation of developer, owner's representative or general contractor qualifications;
- p. Evaluation of developer, owner's representative or general contractor's financial strength and ability to fund project;
- q. Review and analyze developers' proposed financials (pro forma), to include cost estimates, revenue estimates, financing costs, and profit participation;
- r. Advise and assist OCFA in evaluating and implementing project delivery proposals, including performing financial analyses of proposed projects and developer proposals;
- s. Evaluate construction budgets, proposed building methodologies, operating budgets, pro forma, and project financing strategies;
- t. Evaluation of developer's projections of market demand;
- u. For lease options, estimate annual cash flows, present values and preliminary bonding capacity;
- v. Prepare comparison matrix of sales, lease or development proposals;
- w. Comparison of lease or sale revenues to capital requirements;
- x. Assist OCFA in ongoing negotiations with the selected developer or owner's representative; assist OCFA in monitoring project construction;
- y. Assist OCFA with due diligence;
- z. Assist OCFA in overseeing and maintaining project delivery construction schedule and adherence to budgets;
- aa. Development of client real estate investment strategy;
- bb. Development of client real estate investment policy;
- cc. Development of client real estate investment implementation plan.

We look forward to working with our neighbor, the OCFA, and this exciting assignment!

Respectfully,



Jeff D. Baize
CEO, Brookhurst Development Corporation

Billing Rate Proposal

Brookhurst Development and Advisory Corporation ("Firm") is proposing a professional services agreement ("PSA") wherein compensation would be based solely upon billable hours for the Services provided as outlined in the attached Scope of Services. Firm shall not receive any percentage of transactional costs or incentives ("commissions") at any time for any real estate Services provided.

Firm's billable rates shall be based upon the level of expertise needed for the various services required by OCFA, and take into consideration the involvement of senior management and the respective requisite skills and experience to provide such services.

Pursuant to OCFA's request, the following schedule of rates sets forth our billable rates:

Direct labor rates for proposed staff:

Professional	Hourly Rate
Principal/Senior Director - on location/travelling	N/A*
Principal/Senior Director - home office/local	\$285
Associate	\$195
Administrative	\$90

* Because FIRM is local, no additional travelling costs will be incurred

Overhead rate and breakdown of overhead elements

The above rates are inclusive of all overhead. OCFA shall not incur any additional costs attributable to overhead, cost of employee benefits or any other operational costs.

Subcontractor billing rates

Based upon the Scope of Services presented, Firm does not presently contemplate the retention of any subcontractors. In the event it is mutually determined subcontractors are required including, but not limited to, environmental specialists, geotechnical or seismic engineers, or land surveyors, Firm will work in collaboration with OCFA to determine retention of the best qualified subcontractor and the most market-competitive rates.

Breakout of other direct costs

Firm will not bill OCFA for any additional direct costs as they pertain to the Scope of Services.

All other reimbursable expenses excluding travel

FIRM will not bill OCFA for any additional reimbursable costs as they pertain to the Scope of Services.



ORANGE COUNTY FIRE AUTHORITY

Request for Qualifications

Real Estate Advisory Services

DATE: November 14, 2017

RFQual Number: RO2253

The Orange County Fire Authority (OCFA) is soliciting qualifications from consulting firms to provide real estate advisory services. Please review the RFQual for additional information.

Qualifications will be received no later than 11:00 A.M., December 6, 2017

Submittal of Qualifications for Real Estate Advisory Services may be hand delivered or mailed to Orange County Fire Authority, Purchasing Department, 1 Fire Authority Road, Building C, Irvine, CA 92602 no later than December 6, 2017. Another option is to submit your proposal electronically online through Planet Bids.

LATE PROPOSALS WILL NOT BE ACCEPTED


A **non-mandatory** pre-proposal conference is scheduled on **November 21, 2017 at 10:00a.m.** at the Orange County Fire Authority Regional Operations and Training Center, 1 Fire Authority Road, Conference Room AW208, Building A, Irvine, CA 92602. Please see page 3 for additional options for attending the pre-proposal meeting remotely.

Any questions concerning this RFQual can be submitted on-line via the Q&A module available through Planet Bids (OCFA's e-procurement system) before **11:00a.m. on November 20, 2017** OCFA will publish a response to all inquiries through the e-procurement system and/or may issue an addendum as a result.

One (1) original hard copy, one (1) duplicate hard copy, and one (1) electronic copy in PDF or Word (on Digital Media), of the proposal shall be sent to the attention of the Assistant Purchasing Agent, within said time limit, in a sealed envelope identified on the outside with the Offeror's Business Name, Proposal Item Number, RFQual RO2253 and the Due Date. Another option is to submit your proposal electronically through the Planet Bids website. **If you elect to submit your proposal electronically through Planet Bids, no additional copies or digital media will be required.** There will be no public opening of proposals.

If you have any questions, please contact Rothchild Ong, CPPB, Assistant Purchasing Agent, at (714) 573-6642 or via e-mail at: rothchildong@ocfa.org.

Regards,



Rothchild Ong
Assistant Purchasing Agent

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SECTION I: REQUEST INFORMATION

INTRODUCTION

The Orange County Fire Authority (OCFA) is a joint powers authority consisting of 23 partner cities and unincorporated areas in Orange County. The Authority was formed in March 1995 and provides fire, emergency medical, search and rescue, fire prevention, and hazardous materials response services from 72 fire stations throughout Orange County. The population served includes over 1.7 million residents in a 550 square mile area of Orange County. OCFA is the second largest regional fire protection agency in California in geographical size, population served, and the number of jurisdictions in partnership.

To assist the OCFA in meeting its mission to enhance public safety and meet the evolving needs of its communities through education, prevention, and emergency response, the acquisition of property or the development of public-private partnership projects may take place which require real estate financial advisory services.

Based upon the review of qualification submittals, the OCFA intends to select a limited number of the most highly qualified firms capable of providing real estate advisory services. OCFA intends to establish Agreements with such firms, and provide OCFA with the ability to negotiate scope and cost for the development of advisories with such firms. Establishment of an Agreement, however, does not guarantee an assignment of work.

The awarded firm responding to this RFQual for real estate advisory services will only be involved in an advisory capacity for any future OCFA real estate transactions. The awarded firm will NOT be allowed to serve as an agent, broker, or any other capacity for either the selling or buying parties.

ESTIMATED RFQual SCHEDULE

Proposal Posting Date	November 14, 2017
Online Q & A	November 20, 2017 at 11:00 a.m.
Non-Mandatory Pre-Proposal Conference	November 21, 2017 at 10:00 a.m.
Due date for Proposals	December 6, 2017 no later than 11:00 a.m.
Tentative Interviews with Finalists	December 2017
Award Contract (Tentative)	January 2018

TERM OF AGREEMENT

The initial term of the agreement should reflect services and fees for a one-year contract commencing upon the date of contract execution, subject to the "Time of Performance" and the "Termination" provisions of the OCFA's "Pro Forma" Professional Services Agreement (Exhibit 1). At the option of the OCFA, the contract may be renewed annually, with the concurrence of the firm, for up to four (4) additional one-year options not to exceed a total contract term of five years. Each contract is subject to the following:

- The satisfactory negotiation of terms, including a price acceptable to both the Authority and the selected firm; and
- Pricing mechanism for future contract years; and
- The annual availability of an appropriation in the Authority's budget; and
- Approval of the contract(s) by the Executive Committee.

PRE-PROPOSAL CONFERENCE

A non-mandatory pre-proposal meeting is scheduled on **Tuesday, November 21, 2017 at 10:00 a.m.** at the Orange County Fire Authority Regional Fire Operations and Training Center: 1 Fire Authority Road,

Conference Room AW208, Bldg. A, Irvine, CA 92602. This informational meeting will be held to allow for questions and clarifications concerning the Authority's RFQual process and subsequent contract award. Offerors should be familiar with the proposal prior to attending the pre-proposal conference. If you will be attending this pre-proposal meeting in person or if you are interested in attending this meeting remotely through GoToMeeting, please contact Marilee Freville via e-mail at: marileefreville@ocfa.org or by telephone at: (714) 573-6640 to reserve your spot. Please note that the call-in space is limited and will be provided on a first come first serve basis.

DUE DATE

Closing time and date: **December 6, 2017 no later than 11:00 a.m.** One (1) original hard copy (marked original), one (1) duplicate hard copy, and one (1) electronic copy in PDF or Word (electronic media) of the proposal must be submitted in sealed envelope marked RFQual – RO2253 and submitted to the following address (*unless submitted electronically through Planet Bids*):

Delivery Address:
Orange County Fire Authority
Attn: Purchasing Section
1 Fire Authority Road Bldg. C
Irvine, CA 92602

MINIMUM QUALIFICATIONS

Offeror must be experienced in all phases of real estate transactions; have extensive knowledge of the regulations governing real estate transactions in the State of California. Minimum qualifications the firm(s) shall demonstrate:

- Five (5) or more years of experience in providing real estate advisory services.
- Experience with the State of California, public sector and/or educational institutional clients for property within the State of California (Note: Identify the types of properties, projects, and outcomes).
- Experience in working effectively with multi-disciplinary teams.
- Experience with public-private partnership projects (i.e., ground leases; ground rental rates; capitalization rates) or special purpose properties.
- Professional license(s) and/or certification(s) as required for the types of services requested.
- Offeror and any subcontractors must be able to meet OCFA insurance requirements as provided.
- Offeror and any subcontractors must not be under suspension or debarment by any state or federal government agency.

The Respondent must state specifically in the descriptive narrative how your firm meets the minimum qualifications specified above. Vendor proposal must be valid for not less than one-hundred eighty (180) days after the due date.

SECTION II: SCOPE OF WORK

The successful offeror will deliver qualifications that demonstrate the most responsiveness to all administrative and technical requirements of the Request for Qualifications and, in the sole judgment of the OCFA, will best meet its real estate advisory needs.

SCOPE OF WORK

The successful vendor is expected to provide advisory services as described, as needed for OCFA.

The awarded firm responding to this RFQual for real estate advisory services will only be involved in an advisory capacity for any future OCFA real estate transactions. The awarded firm will NOT be allowed to serve as an agent, broker, or any other capacity for either the selling or buying parties.

Real Estate Financial Advisory Services

- 1) Services that may be provided include, but are not limited to:
 - a. Identification of OCFA's financial requirements and timing for capital facilities
 - b. Financial feasibility analysis
 - c. Land and project valuation
 - d. Residual land value analysis
 - e. Ground lease structuring
 - f. Initial evaluation of sale, lease and development potential of properties
 - g. Prepare market and financial analyses
 - h. Pro forma analysis and underwriting for real estate development including cash flow projection and analysis, including preparation of discounted cash flow analysis
 - i. Public-private deal structuring, including financial structure, alternative financing options, and assessment of equity participation
 - j. Evaluation of outside funding sources
 - k. Analysis for public-private partnerships, potentially to include developments on ground leased OCFA property, lease-leaseback transactions, and alternative ownership positions
 - l. Prepare Request for Qualifications and Request for Proposals for sale, lease and development projects
 - m. Development of evaluation criteria
 - n. Evaluation of developer or owner's representative qualifications
 - o. Evaluation of developer or owner's representative financial strength and ability to fund project
 - p. Review and analyze developers' proposed financials (pro forma), to include cost estimates, revenue estimates, financing costs, and profit participation
 - q. Advise and assist OCFA in evaluating and implementing development proposals, including performing financial analyses of proposed projects and developer proposals
 - r. Evaluate construction budgets, operating budgets, pro forma, and project financing strategies
 - s. Evaluation of developer's projections of market demand
 - t. For lease options, estimate annual cash flows, present values and preliminary bonding capacity
 - u. Prepare comparison matrix of sales, lease or development proposals
 - v. Comparison of lease or sale revenues to capital requirements
 - w. Assist OCFA in ongoing negotiations with the selected developer or owner's representative
 - x. Assist OCFA with due diligence

2) Other Requirements:

- a. Advisors shall have knowledge of the real estate markets
- b. Regional, area, and neighborhood analyses are to include economic trends regarding employment, income levels, population data, household size, housing statistics, nearby support facilities (e.g. schools, retail), transportation linkages, traffic counts, development density, and condition of surrounding properties. Data sources for these analyses should include local real estate market participants and internal and external reports.
- c. Real estate data collected and analyzed to include occupancy levels, absorption rates, construction supply pipeline, rental rates, operating expenses, tenant improvement allowances, leasing commissions, capitalization rates, and marketing/exposure periods for similar properties

Contract Administration Process

- 1) Service Order Process. When the advisory services are required, price quotes for a service order will be requested from one or more firms with master enabling agreements with OCFA. Each firm will provide a separate written, signed price quote for each new service order. Service Provider's price quotes must include the following:
 - a. Service Provider's suggested approach(es) to be used for the advisory
 - b. A complete list of any assumptions or limiting conditions that will apply to the advisory
 - c. A list of Service Provider's personnel and Subcontractors, if any, identified by name, title and hourly rate, that will be assigned to perform the advisory
 - d. A list of advisories performed in the local market.
 - e. If requested, a detailed Work Plan and a schedule of critical path responsibilities, describing the work to be undertaken and identifying individuals and resources necessary for the performance of the work in accordance with the schedule. (if applicable)
 - f. A not-to-exceed amount for the services necessary to provide the advisory, including the price based upon the hourly rates
 - g. A firm fixed price for any permitted reimbursable expenses necessary to provide the advisory.

The list is provided as reference only and is expected to be refined with additions and revisions as the project progresses.

OWNERSHIP AND INTELLECTUAL PROPERTY

All drawings, specifications, reports, records, documents and other materials prepared by successful Respondent shall be the property of OCFA and shall be delivered to OCFA upon request of the Contract Officer or upon termination of Agreement, and Firm shall have no claim for further employment of additional compensation as a result of the exercise by OCFA of its full rights or ownership of the documents and materials hereunder. Firm may retain copies of such documents for its own use. Firm shall have an unrestricted right to use the concepts embodied therein.

SECTION III: GENERAL INSTRUCTIONS TO OFFERORS

ACCEPTANCE PERIOD

Unless otherwise specified herein, proposals are firm for a period of one hundred eighty (180) days.

AMENDMENT OF REQUEST FOR QUALIFICATIONS

The Offeror shall acknowledge receipt of a Request for Qualifications Amendment by signing and returning the document by the specified due date and time. Amendments (addendums) may be obtained from the OCFA website at: www.ocfa.org. It is the Offeror's responsibility to obtain a copy of any amendment relevant to this solicitation. Any interested Offerors without Internet access may obtain a copy of this solicitation by calling (714) 573-6640, or a copy may be picked up during regular business hours. OCFA takes no responsibility for informing recipients of changes to the original solicitation document. Failure to submit signed amendments with the proposal response may be grounds for deeming submittal non-responsive.

AWARD OF CONTRACT

Notwithstanding any other provision of the Request for Qualifications, OCFA reserves the right to:

1. Conduct pre-award discussion or pre-award negotiations with any or all responsive responsible proposals; or
2. Request that the vendor furnish additional information; or
3. Accept or reject any or all proposals, or portions thereof; or
4. Issue multiple awards, if it is in the best interest of the agency; or
5. Limit and/or determine the actual contract services to be included in the contract; or
6. Reissue the Request for Qualifications.

The OCFA reserves the unilateral right to modify or amend this RFQual in writing at any time for any reason the OCFA determines to be in its best interest. The OCFA also reserves the right to cancel or reissue the RFQual at its sole discretion. OCFA reserves the right to accept or reject any or all proposals and the right to waive minor irregularities in any proposal. Waiver of one irregularity does not constitute waiver of any other irregularities.

A response to this Request for Qualifications is an offer to contract with OCFA based upon the terms, conditions and scope of work contained in OCFA's Request for Qualifications. Proposals do not become contracts unless and until they are executed by the OCFA. A contract has its inception in the award, eliminating a formal signing of a separate contract. All of the terms and conditions of the contract are contained in the Request for Qualifications, unless any of the terms and conditions are modified by a Request for Qualifications amendment, a Contract Amendment, or by mutually agreed upon terms and conditions in the Contract documents. Award will be made to the vendor(s) submitting the most advantageous proposal(s) after consideration of all Evaluation Criteria set forth in this solicitation. An Evaluation Committee will be established by the OCFA. The Committee will evaluate all proposals received in accordance with the Evaluation Criteria. OCFA reserves the right to establish weight factors that will be applied to the criteria depending upon order of importance. The award will be made in the best interests of OCFA after all factors have been evaluated.

CAMPAIGN CONTRIBUTIONS DISCLOSURE

In conformance with the statutory requirements of the State of California Government Code Section 84308, part of the Political Reform Act and Title 2, California Code of Regulations 18438 through 18438.8, regarding campaign contributions to members of appointed Boards of Directors, vendor is required to complete the Party and Participant Disclosure Forms provided in Appendix F of this RFQual and submit

as part of the proposal, if applicable. Vendor is required to submit only one copy of the completed form(s) as part of its proposal. This/these form(s) should be included in the original proposal. The vendor and subcontractors must complete the form entitled "Party Disclosure Form". Lobbyists or agents representing the vendor in this procurement must complete the form entitled "Participant Disclosure Form". Reporting of campaign contributions is a requirement from the proposed submittal date up and until the OCFA Board of Directors takes action.

CANCELLATION OF SOLICITATION

The OCFA may cancel this solicitation at any time.

CERTIFICATION

By signature on the Offer/Price Page, Certification of Submittal page, solicitation Amendment(s), or cover letter accompanying the submittal documents, vendor certifies:

- A. The submission of the offer did not involve collusion or other anti-competitive practices.
- B. The vendor shall not discriminate against any employee or applicant for employment in violation of Federal or State law.
- C. The vendor has not given, offered to give, nor intends to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, meal or service to a public servant in connection with the submitted offer.
- D. The vendor hereby certifies that the individual signing the submittal is an authorized agent for the vendor and has the authority to legally bind the vendor to the Contract.
- E. The vendor hereby certifies, its principal and their named subcontractors are not debarred, suspended or otherwise excluded by the United States Government.

CONFIDENTIAL INFORMATION

All responses to this RFQual become the property of OCFA and will be kept confidential until such time as recommendation for award of a contract has been announced. Thereafter, proposals are subject to public inspection and disclosure under the California Public Records Act. If a respondent believes that any portion of its proposal is exempt from public disclosure, such portion may be marked "confidential." OCFA will use reasonable means to ensure that such confidential information is safeguarded but will not be held liable for inadvertent disclosure of such materials, data and information. Proposals marked "confidential" in their entirety will not be honored and OCFA will not deny public disclosure of all or any portion of proposals so marked. By submitting information with portions marked "confidential", the respondent represents it has a good faith belief that such material is exempt from disclosure under the California Public Records Act and agrees to reimburse OCFA for, and to indemnify, defend and hold harmless OCFA, its officers, fiduciaries, employees and agents from and against: (a) any and all claims, damages, losses, liabilities, suits, judgments, fines, penalties, costs and expenses including, without limitation, attorneys' fees, expenses and court costs of any nature whatsoever (collectively, "Claims") arising from or relating to OCFA's non-disclosure of any such designated portions of a proposal if disclosure is deemed required by law or court order. Additionally, OCFA may request that the bidder/respondent directly defend any action for disclosure of any information marked confidential.

COMPLIANCE WITH LAWS

All proposals shall comply with current federal, state, and other laws relative thereto.

DEBARMENT / SUSPENSION POLICY

In order to prohibit the procurement of any goods or services ultimately funded by Federal awards from debarred, suspended or otherwise excluded parties, each Offeror will be screened at the time of RFQual

response to ensure respondent, its principal and their named subcontractors are not debarred, suspended or otherwise excluded by the United States Government in compliance with the requirements of 7 Code of Federal Regulations (CFR) 3016.35, 28 CFR 66.35, 29 CFR 97.35, 34 CFR 80.35, 45 CFR 92.35 and Executive Order 12549.

OCFA will verify respondent, its principal and their named subcontractors are not on the Federal debarred, suspended or otherwise excluded list of vendors located at www.sam.gov.

DELIVERABLES REQUIRED OF SUCCESSFUL FIRM(S)

The successful firm(s) shall submit the following items to the Purchasing & Materials Manager or designee ***within ten (10) days of initiation of the contract award*** being submitted to the Executive Committee:

- A. Sign and enter into a Professional Services Agreement (PSA) with the Orange County Fire Authority, subject to approval by the Authority's Board of Directors Executive Committee (See *Exhibit 1 – Sample Contract – page 33*).

DISCUSSIONS

The OCFA reserves the right to conduct discussions with Offerors for the purpose of eliminating minor irregularities, informalities, or apparent clerical mistakes in the proposal in order to clarify an offer and assure full understanding of, and responsiveness to, solicitation requirements.

DISQUALIFICATION OF OFFEROR(S)

If there is reason to believe that collusion exists among the Offerors, OCFA may refuse to consider proposals from participants in such collusion. No person, firm, or corporation under the same or different name, shall make, file, or be interested in more than one proposal for the same work unless alternate proposals are called for. A person, firm, or corporation who has submitted a sub-proposal to an Offeror, or who has quoted prices on materials to an Offeror, is not thereby disqualified from submitting a sub-proposal or quoting prices to other Offerors. Reasonable grounds for believing that any Offeror is interested in more than one Proposal for the same work will cause the rejection of all Proposals for the work in which a Firm is interested. If there is reason to believe that collusion exists among the Firms, OCFA may refuse to consider Proposals from participants in such collusion. Firms shall submit as part of their Proposal documents the completed Non-Collusion Affidavit provided herein.

DISPUTES RELATING TO PROPOSAL PROCESS AND AWARD

In the event a dispute regarding this solicitation arises, the party wishing resolution of the dispute must submit a request to the Purchasing Manager in writing. The request must include information regarding the legal and factual grounds of the dispute, the form of relief requested, and be brought forth in accordance with OCFA's [Purchasing Ordinance, Article IX. Legal and Contractual Remedies](#), which can be found on OCFA's website (www.ocfa.org).

Requests to resolve a dispute concerning improprieties in the proposal process prior to the solicitation due date, must be submitted not less than five (5) working days before the solicitation due date.

Should a dispute arise regarding this solicitation's Recommendation for Award or Denial of Award, the request for resolution must be submitted in writing within seven (7) days after the party bringing the dispute knows or should have known the facts hereto; however, in no event later than seven (7) days after issuance of the Intent to Award.

EXECUTION OF CONTRACT

The RFQual, the Offeror's proposal, and the resulting purchase order will become incorporated as the complete contract. The Successful Offeror(s) shall execute the contract, including but not limited to signing all necessary documents and submitting all required evidences of insurance, within ten (10) days after personal delivery of the notice or within fifteen (15) days after such notice has been deposited in the United States mail. One copy of the contract will be returned to the Offeror(s) after the OCFA executes the contract(s). In case of failure of the Offeror(s) to execute and return the contract and all required documents within the time allowed, the OCFA may, at its option, consider that the Offeror(s) has/have abandoned the contract.

EXPERIENCE AND COMPETENCY

The successful Offeror(s) shall be skilled and regularly engaged in the general class or type of work called for under the contract. The successful Offeror(s) shall also have **no less than five (5) years' experience in the magnitude and character of the work proposal**. Each Offeror shall provide information about experience with the proposal. To determine the degree of responsibility to be credited to the Offeror, OCFA will weigh any evidence that the Offeror has performed satisfactorily other contracts of like nature, magnitude, and comparable difficulty and comparable rates of progress. In selecting the most responsive and responsible Offeror(s), consideration will be given not only to the financial standing, but also to the general competency of the Offeror for the performance of the work specified in the contract documents.

FAMILIARIZATION OF SCOPE OF WORK

Before submitting a proposal, each Offeror shall familiarize themselves with the scope of work, laws, regulations and other factors affecting contract performance. The Offeror shall be responsible for fully understanding the requirements of the subsequent Contract and otherwise satisfy themselves as to the expense and difficulties accompanying the fulfillment of contract requirements. The submission of a proposal will constitute a representation of compliance by the Offeror. There will be no subsequent financial adjustment, other than that provided by the subsequent Contract, for lack of such familiarization.

INDEPENDENT CONTRACTOR

Contractor covenants that it presently has no interest, and shall not acquire any interest, direct or indirect, financial or otherwise, which would conflict in any manner or degree with the performance of the services hereunder. Contractor further covenants that, in the performance of this contract, no subcontractor or person having such an interest shall be employed. Contractor certifies that to the best of his knowledge, no one who has or will have any financial interest under this contract is an officer or employee of OCFA. It is expressly agreed by Contractor that in the performance of the services required under this contract, Contractor, and any of its subcontractors or employees, shall at times be considered independent Contractors and not agents of OCFA.

INQUIRIES

Any question related to the Request for Qualifications shall be directed to the Assistant Purchasing Agent, Rothchild Ong, CPPB. Questions and comments regarding this solicitation must be submitted in writing, either by mail, facsimile or e-mail to the Assistant Purchasing Agent, Orange County Fire Authority, 1 Fire Authority Road Bldg. C, Irvine, California, 92602, faxed to (714) 368-8845 or e-mailed to: rothchildong@ocfa.org, no later than ten (10) days before the Submittal Deadline. The questioner's company name, address, phone and fax number, and contact person must be included with the questions or comments. Any correspondence related to a solicitation should refer to the appropriate Request for Qualifications number, page and paragraph number. An envelope containing questions should be identified as such; otherwise it may not be opened until after the official proposal due date and time. Oral interpretations or clarifications will be without legal effect. Only questions answered by a formal written

amendment to the Request for Qualifications will be binding. Answers will be sent to all known proposal holders.

INTERPRETATION OF CONTRACT DOCUMENTS

If any person is in doubt as to the true meaning of any part of the specifications or other contract documents, or finds discrepancies or omissions in the specifications, he/she may submit to the Orange County Fire Authority a written request for an interpretation or correction. Requests for interpretations shall be made in writing and delivered to OCFA Purchasing Section Attn: Rothchild Ong, Assistant Purchasing Agent, by mail at: 1 Fire Authority Road Bldg. C, Irvine, California, 92602, by e-mail rothchildong@ocfa.org, or by facsimile to (714) 368-8845 at least ten (10) days before the Submittal Deadline. The requesting party is responsible for prompt delivery of any requests. When OCFA considers interpretations necessary, interpretations will be in the form of an addendum to the contract documents, and when issued, will be sent as promptly as is practical to all parties recorded by OCFA as having received contract documents. All such addenda shall become a part of the contract. Oral and other interpretations or clarifications shall be without legal or contractual effect. It is the responsibility of each Contractor to ensure the OCFA has their correct business name and address on file. Any prospective Contractor who obtained a set of contract documents from anyone other than OCFA is responsible for advising OCFA that they have a set of contract documents and wish to receive subsequent Addenda.

KEY PERSONNEL

It is essential that the Offeror provide adequate experienced personnel, capable of and devoted to the successful accomplishment of work to be performed under this contract. The Offeror must agree to assign specific individuals to the key positions.

- A. The Offeror agrees that, once assigned to work under this contract, key personnel shall not be removed or replaced without written notice to OCFA.
- B. If key personnel are not available for work under this contract for a continuous period exceeding thirty calendar days, or are expected to devote substantially less effort to the work than initially anticipated, the offeror shall immediately notify OCFA, and shall, subject to the concurrence of OCFA, replace such personnel with personnel of substantially equal ability and qualifications.

LATE PROPOSALS

Late proposals will be rejected and not opened.

NEGOTIATIONS

Exclusive or concurrent negotiations may be conducted with responsible Offeror(s) for the purpose of altering or otherwise changing the conditions, terms and price of the proposed contract unless prohibited. Offerors shall be accorded fair and equal treatment in conducting negotiations and there shall be no disclosure of any information derived from proposals submitted by competing Offerors. Exclusive or concurrent negotiations shall not constitute a contract award nor shall it confer any property rights to the successful Offeror. In the event the OCFA deems that negotiations are not progressing, OCFA may formally terminate these negotiations and may enter into subsequent concurrent or exclusive negotiations with the next most qualified firm(s).

NOTICE OF INTENT TO AWARD

A notification of Intent to Award will be sent to the Offeror(s) selected.

OBJECTIONS

Any objections as to the structure, content or distribution of this RFQual must be submitted in writing to Assistant Purchasing Agent less than five (5) working days before the RFQual due date. Objections must be as specific as possible, and identify the RFQual section number and title, as well as a description and rationale for the objection.

OFFER AND ACCEPTANCE PERIOD

In order to allow for an adequate evaluation, OCFA requires an offer in response to this solicitation to be valid and irrevocable for one-hundred eighty (180) days after the proposal due date and time.

PRE-PROPOSAL CONFERENCE

If scheduled, the date and time of a Pre-Proposal conference is indicated on the cover page of this document. Written minutes and/or notes will not be available; therefore, attendance is encouraged. If an Offeror is unable to attend the Pre-Proposal Conference, questions may be submitted in writing. Offerors are encouraged to submit written questions, via electronic mail or facsimile, at least five days prior to the Request for Qualifications due date to the Assistant Purchasing Agent. The purpose of this conference will be to clarify the contents of this Request for Qualifications in order to prevent any misunderstanding. Any doubt as to the requirements of this Request for Qualifications or any apparent omission or discrepancy should be presented to OCFA at this meeting. OCFA will then determine the appropriate action necessary, if any, and may issue a written amendment to the Request for Qualifications. Oral statements or instructions will not constitute an amendment to this Request for Qualifications.

PREPARATION OF PROPOSAL

- A. All proposals shall incorporate the forms provided in this Request for Qualifications package. It is permissible to copy these forms as required. Facsimiles or electronic mail proposals shall not be considered.
- B. The Proposal form and any solicitation amendments must be signed and returned with the proposal. The forms submitted shall be signed by a person authorized to submit an offer. An authorized signature on the Proposal form, Proposal Amendment(s), or cover letter accompanying the proposal documents shall constitute an irrevocable offer to provide services specified herein. Offeror shall submit any additional requested documentation, signifying intent to be bound by the terms of the agreement.
- C. The authorized person signing the proposal shall initial erasure, interlineations or other modifications on the proposal.
- D. Periods of time, stated as a number of days, shall be in calendar days.
- E. It is the responsibility of all Offerors to examine the entire Request for Qualifications package and seek clarification of any requirement that may not be clear and to check all responses for accuracy before submitting a proposal. Negligence in preparing a proposal confers no right of withdrawal after due date and time.
- F. OCFA shall not reimburse the cost of developing, presenting, submitting or providing any response to this solicitation.
- G. Offeror must list any subcontractors to be utilized in the performance of the services specified herein. For each subcontractor, details on respective qualifications must be included.

PROPOSAL OPENING AND RESULTS

Please note that there will be no public opening of proposals. The list of firms participating in the solicitation will be available when the recommendation for award(s) is made to the Executive Committee.

PUBLIC RECORD

All proposals submitted in response to this Request for Qualifications shall become the property of OCFA and shall become a matter of public record available for review subsequent to the award notification.

WITHDRAWAL OF PROPOSAL

At any time prior to the specified solicitation due date and time, an Offeror may formally withdraw the proposal by a written letter, facsimile or electronic mail from the Offeror or a designated representative. Telephonic or oral withdrawals shall not be considered.

SECTION IV: GENERAL TERMS AND CONDITIONS

ASSIGNMENT OF RIGHTS OR OBLIGATIONS

Except as noted hereunder, successful Offeror may not assign, transfer or sell any rights or obligations resulting from this solicitation without first obtaining the specific written consent from the OCFA.

ATTORNEY FEES

In the event a lawsuit or action is instituted in connection with any controversy arising out of this contract, the prevailing party shall be entitled to receive, in addition to its costs, such sum as the court may adjudge reasonable as to attorney's fees and costs.

AUTHORITY OF ORANGE COUNTY FIRE AUTHORITY

Subject to the power and authority of the OCFA as provided by law in this contract, the OCFA shall in all cases determine the quantity, quality, and acceptability of the work, provided under this contract. The OCFA shall decide the questions that may arise relative to the fulfillment of the contract or the obligations of the Firm hereunder.

CANCELLATION OF THE CONTRACT

Without cause, the OCFA may cancel this contract at any time with thirty (30) days written notice to the supplier/contractor. With cause, the OCFA may cancel this contract at any time with ten (10) days written notice to the Firm. Cancellation for cause shall be at the discretion of the OCFA and shall be, but is not limited to, failure to supply the materials, equipment or service specified within the time allowed or within the terms, conditions or provisions of this contract. The successful Offeror may not cancel this contract without prior written consent of the Assistant Purchasing Agent.

CHANGES IN WORK

The OCFA may, at any time work is in progress, by written order and without notice to the sureties, make alterations in the terms of work as shown in the specifications, require the performance of extra work, decrease the quantity of work, or make such other changes as the OCFA may find necessary or desirable. The Offeror shall not claim forfeiture of contract by reasons of such changes by the OCFA. Changes in work and the amount of compensation to be paid to the Offeror for any extra work as so ordered shall be determined in accordance with the unit prices of Offeror's proposal.

COMPLIANCE OR DEVIATION TO SCOPE OF WORK/SERVICES

Offeror hereby agrees that the material, equipment or service offered will meet all the requirements of the specifications in this solicitation unless deviations from them are clearly indicated in the Offeror's response. Offeror may submit an attachment entitled "Exceptions to Specifications", which must be signed by Offeror's authorized representative. An explanation must be made for each item in which an exception is taken, giving in detail the extent of the exception and the reason for which it is taken. Proposals failing to comply with this requirement will be considered non-responsive.

CONTRACT INCORPORATION

This contract embodies the entire contract between the OCFA and the Offeror. The parties shall not be bound by or be liable for any statement, representation, promise, inducement or understanding of any kind or nature not set forth herein. No changes, amendments, or modifications of any of the terms or conditions of the contract shall be valid unless reduced to writing and signed by both parties. The complete contract shall include the entire contents of the RFQual solicitation, all addenda, all of Offeror's successful submittal,

supplemental agreements, change orders, and any and all written agreements which alter, amend or extend the contract. Offeror's signed proposal and the OCFA's written acceptance shall constitute a binding contract.

FORCE MAJEURE

If execution of this contract shall be delayed or suspended and if such failure arises out of causes beyond the control of and without fault or negligence of the Offeror, the Offeror shall notify the OCFA, in writing, within twenty-four (24) hours, after the delay. Such causes may include but are not limited to acts of God, war, acts of a public enemy, and acts of any governmental entity in its sovereign or contractual capacity, fires, floods, epidemics, strikes and unusually severe weather. Neither party to the agreement shall be held responsible for delay or default for causes shown above which is beyond that party's reasonable control. The OCFA may terminate the agreement upon written notice after determining such delay or default will reasonably prevent successful performance of the agreement.

LACK OF FUNDING

The OCFA may cancel any additional terms of this contract without further obligation in the event that budgetary funding has been discontinued. The Offeror(s) shall receive written notification or either condition as soon as practically possible, but no later than thirty (30) days prior to termination.

LAWS - ADHERENCE TO ALL LOCAL, STATE, AND FEDERAL LAWS AND REQUIREMENTS

The Offeror shall adhere to all current applicable federal, state, and local laws, codes and ordinances, including, but not limited to, those promulgated by CAL-OSHA, FED-OSHA, EPA, and the California State Department of Health Services.

LAWS GOVERNING CONTRACT

This contract shall be in accordance with the laws of the State of California. The parties stipulate that this contract was entered into in the County of Orange, in the State of California. The parties further stipulate that the County of Orange, California, is the only appropriate forum for any litigation resulting from a breach hereof or any questions risen here from.

SEVERABILITY

If any provisions or portion of any provision, of this contract are held invalid, illegal or unenforceable, they shall be severed from the contract and the remaining provisions shall be valid and enforceable.

SPECIFICATIONS, CHANGES TO

The parties shall not be bound by or be liable for any statement, representation, promise, inducement or understanding of any kind or nature not set forth herein or by written amendment. No changes, amendments, or modifications of any of the terms or conditions of the specification shall be valid unless reduced to writing and signed by both parties.

SUBCONTRACTING

If any Offeror(s) submits a proposal with subcontracting portions of the engagement, that fact must be clearly identified in the proposal and the name of the proposed subcontracting firm must be provided. Following the award of the contract, no additional subcontracting will be allowed without the express prior written consent of the OCFA.

TERMINATION OF CONTRACT

This Contract may be terminated at any time by mutual written consent, or by the OCFA, with or without cause, upon giving thirty (30) days written notice. The OCFA, at its convenience, by written notice, may terminate this Contract, in whole or in part. If this Contract is terminated, the OCFA shall be liable only for payment under the payment provisions of this Contract for services rendered and accepted material received by the OCFA before the effective date of termination.

The OCFA reserves the right to terminate the whole or any part of this Contract due to the failure of the Firm to carry out any term or condition of the Contract. The OCFA will issue a written ten (10) day notice of default to the Firm for acting or failing to act as specified in any of the following:

In the opinion of the OCFA, the Firm provides personnel that do not meet the requirements of the Contract;

In the opinion of the OCFA, the Firm fails to perform adequately the stipulations, conditions or services/specifications required in this Contract;

In the opinion of the OCFA, the Firm attempts to impose personnel, materials, products or workmanship of an unacceptable quality;

The Firm fails to furnish the required service and/or product within the time stipulated in the Contract;

In the opinion of the OCFA, the Firm fails to make progress in the performance of the requirements of the Contract;

The Firm gives the OCFA a positive indication that the Firm will not or cannot perform to the requirements of the Contract.

Each payment obligation of the OCFA created by this Contract is conditioned upon the availability of funds that are appropriated or allocated for the payment of such an obligation. If funds are not allocated by the OCFA and available for the continued purchase of the services and/or materials provided under this Contract, this Contract may be terminated by the OCFA at the end of the period for which funds are available.

The OCFA will endeavor to notify the Firm in the event that continued service will or may be affected by non-appropriation. No penalty shall accrue to the OCFA in the event this provision is exercised, and the OCFA shall not be obligated or liable for any future payments due or for any damages as a result of termination under this paragraph.

UNFORESEEN DIFFICULTIES

All loss or damage arising out of the nature of the work to be done under the contract, or from any unforeseen obstructions or difficulties which may be encountered during the progress of the work and in the prosecution of the same, or from encumbrances on the line of work, shall be sustained by the Offeror, except as may be otherwise specifically provided by the contract documents.

SECTION V: PROPOSAL REQUIREMENTS

To achieve a uniform review process and obtain the maximum degree of comparability, it is required that the proposals be organized in the manner specified. Proposals will only be accepted from Offerors that meet the minimum qualifications. All Offerors are expected to provide detailed answers to the proposal requirements listed below. The answers provided will be relevant in the evaluation process of the proposal. Additional information, if provided, should be separately identified in the proposal.

Proposals (submittals) shall include, at a minimum, the following:

- 1) ***Transmittal letter:*** Letter should be on the firm's letterhead. The letter should be signed by the Prime Consultant or in the case of a joint venture or other joint-prime relationship; an officer of each venture partner shall sign on behalf of the proposing firm. The letter should explain the Offeror's understanding, approach and strategy for achieving the objectives outlined in the scope of work. The Offeror must state specifically how the firm meets the minimum qualifications stated on page 5. The letter must be signed by an individual authorized to bind the Offeror.
- 2) ***Firm's detailed information:*** Provide a brief profile of the firm including the types of services offered, the year founded, form of organization (corporation, partnership, sole proprietorship), including number of years in business, location of office(s), number of employees, and number of clients you have currently. Please complete the Appendix A - Offeror's Information (page 20).
- 3) ***Relevant Experience:*** Offerors should demonstrate experience in providing professional real estate advisory services. Include at a minimum three (3) sample advisories completed in the State of California. Knowledge of public agency needs is desirable and should be specifically cited for consideration.
- 4) ***Proposal Questionnaire:*** Submit your responses to the questions in Appendix C (page 22).
- 5) ***List of References:*** Provide a minimum of three (3) business references, preferably at the level of local public agency, federal agency or elected offices, for which services similar to those outlined herein have been provided or are currently being provided. The reference information should include: the agencies name, project description, project dates (starting and ending), agency project manager name, telephone number and e-mail. See Appendix B – References (page 21).
- 6) ***Proposed Individual's Resume for Services:*** In addition to a resume, please include the name, current title, qualifications, training and expertise of the proposed contract staff that will be conducting work on this assignment, including their experience with projects in which they had "hands on" responsibility and length of time with the firm.
- 7) ***Offer/Cost Proposal:*** The pricing should include the total price proposed to accomplish all the performance and deliverables requested by the OCFA, and offered by your firm, in this RFQual. See the Appendix D - Price proposal page (page 23) and Appendix E (page 24) included in the RFQual document.

The Offer/Cost Proposal must be submitted in a sealed envelope separate from the main bid packet if submitting a hard copy.
- 8) ***Subcontractors:*** The proposal should list any prospective subcontractors its plans to use in performing the work, including the list of the individuals the subcontractor proposes to assign to the project. Prospective subcontractors must be listed on the Appendix A - Vendor's Information (page 20).

- 9) **W-9:** Provide an IRS W-9 Form with submittal.
- 10) **Party Participant and Agent Disclosure Forms:** In conformance with the statutory requirements of the State of California Government Code Section 84308, part of the Political Reform Act and Title 2, California Code of Regulations 18438 through 18438.8, regarding campaign contributions to members of appointed Boards of Directors, Offeror is required to complete the Party and Participant Disclosure Forms provided in Appendix F (pages 30-37) of this RFQual and submit as part of the proposal, if applicable.

SECTION VI: EVALUATION OF PROPOSALS AND NEGOTIATIONS

Qualifications must fully address the evaluation factors; contain references and data to verify qualifications and experience that address the Firm's ability to provide services and deliverables as outlined in the scope of work. All qualifications will be reviewed by an evaluation committee comprised of OCFA staff for compliance with the scope of work including documented capability to perform the prescribed work in a satisfactory manner. Respondents should respond to all requirements in the order in which they are presented. Qualifications, which appear to be compliant, will be evaluated in accordance with the following:

- A. Method of Approach** - This set of criteria assesses how well the Offeror responds to and demonstrates understanding of the RFQual. It assesses how well the service meets the required specifications and objectives in the solicitation including the quality and completeness of the proposal.
- Overall thoroughness of responses and demonstrated understanding of the requirements in the transmittal letter and narrative description.
 - Professionalism of the vendor's response.
 - Ability to communicate effectively how the firm can meet the requirements of the proposal.
- B. Qualifications & Experience** - The Offeror's history of performance and demonstrated ability in providing the service will be assessed in addition to the qualifications and experience of key personnel assigned to the project team and relevant experience of the firm.
- Individual named to provide professional services including their qualifications and their experience as provided in the submitted resume.
 - Vendors demonstrated success with similar projects.
 - Response to questions relating to experience and qualifications in the Questionnaire.
 - Relative allocation of resources in terms of quality related to key tasks and the time commitment to OCFA's needs.

Because this proposal is negotiable, all pricing data will remain confidential until after award is made, and there will be no public opening and reading of proposals. OCFA may request a Best and Final Offer (BAFO) from the top-ranking firms for further evaluation and consideration. Overall responsiveness to the Request for Qualifications is an important factor in the evaluation process.

ADDITIONAL INFORMATION ABOUT THE EVALUATION PROCESS

A. *Shortlist:*

OCFA reserves the right to shortlist the vendors on all of the stated criteria. OCFA may determine that short listing is not necessary.

B. *Additional Investigations:*

OCFA reserves the right to make such additional investigations as it deems necessary to establish the competence and financial stability of any vendor submitting a proposal.

C. *Prior Experience:*

Previous experiences with the proposer may be taken into consideration when evaluating qualifications and experience.

D. *Overall Evaluation of the Proposal Response:*

The overall completeness, accuracy and quality of the proposal may be taken into consideration when evaluating the qualifications and experience.

E. *Post-Proposal Discussions with Vendors:*

OCFA reserves the right to conduct post-proposal discussions with any vendor(s).

The vendor(s) with the best ranking after negotiations will be recommended for contract award.

When the evaluation team has completed its review of the proposals and the finalized the negotiated the best and final offer, the Purchasing Department will send a Notice of Intent to Award to the successful Firm. The award may be subject to OCFA Executive Committee approval.

APPENDIX A - OFFEROR'S INFORMATION

Please complete and/or provide all requested information. If the proposal is submitted by a corporation, please provide an additional attachment that states the names of the officers who can sign an agreement on behalf of the corporation and whether more than one officer must sign. If the proposal is by a partnership or a joint venture, state the names and addresses of all general partners and joint venture parties. If the respondent is a sole proprietorship or another entity that does business under a fictitious name, the proposal shall be in the real name of the respondent with a designation following showing "DBA (the fictitious name)," provided however, that no fictitious name shall be used unless there is a current registration with the Orange County Recorder.

The undersigned, as respondent, declares that all documents regarding this proposal have been examined and accepted and that, if awarded, will enter into a contract with the Orange County Fire Authority.

Business Legal Name:		
Business Parent or Ownership:		
Address:		
Business Telephone No.	Business Fax No.	
Business Tax I.D. Number:	CSLB License Number:	DIR Registration Number:
Legal form of company: (partnership, corporation, joint venture)		
Length of time your business has been in business:	Length of time at current location:	
Number of employees and Number of Current Clients		

Management person responsible for direct contact with the Orange County Fire Authority and service required for this Request for Qualifications (RFQual).

Name:	Title:
Telephone No.:	E-mail:

Person responsible for the day-to-day servicing of the account:

Name:	Title:
Telephone No.:	E-mail:

Please indicate if you are subject to the Party and Participant disclosure requirements. Yes No
If yes, you are required to submit form/s (see Appendix F).

***For additional information please see page 7 "Campaign Contribution Disclosure".**

APPENDIX B - REFERENCES

Describe fully at least three contracts performed by your firm that demonstrate your ability to provide the services included with the scope of the specifications. Attach additional pages if needed. OCFA reserves the right to contact each of the references listed for additional information regarding their experience with your company.

Customer Agency Name	
Contact Individual & Title	
E-mail/Telephone number	
Date of Project & Description of services provided including contract amount	
Customer Agency Name	
Contact Individual & Title	
E-mail/Telephone number	
Date of Project & Description of services provided including contract amount	
Customer Agency Name	
Contact Individual & Title	
E-mail/Telephone number	
Date of Project & Description of services provided including contract amount	
Customer Agency Name	
Contact Individual & Title	
E-mail/Telephone number	
Date of Project & Description of services provided including contract amount	
Customer Agency Name	
Contact Individual & Title	
E-mail/Telephone number	
Date of Project & Description of services provided including contract amount	

APPENDIX C – PROPOSAL QUESTIONNAIRE

In addition to the written proposal that demonstrates the Respondent's understanding of the RFQual, each Respondent shall also provide the following information. Social media links, brochures, advertisements, or the like will not be accepted as a direct response to the questionnaire. A qualifying proposal must address all items. Incomplete proposals may be rejected.

Method of Approach

1. Provide relevant information demonstrating competence in the services to be provided; including supporting evidence of strength and stability of the firm and current work load.
2. How does your firm integrate internal and external research? Include a description of any database system you use.
3. Outline your process for each of the following:
 - a. Development of client real estate investment strategy.
 - b. Development of client real estate investment policy.
 - c. Development of client real estate investment implementation plan.
4. Describe your process and methodology for making recommendations as warranted by changes in the real estate market or overall strategy. Provide an actual example of a completed written strategy.

Qualifications & Experience

5. Include resumes for each member of the project team including specific knowledge, expertise and experience in providing real estate advisory services.
 - a. Identify the lead personnel the firm proposes to assign to the project.
 - b. For each individual that is assigned, include a summary of work or projects performed and a statement of planned responsibilities for the project under the contract. Individuals assigned must have experience and expertise in providing real estate valuation services. OCFA reserves the right to reject any individual proposed to be assigned to the project.

Additional Information

6. Provide information on any innovative or unique methods used that distinguish your firm from other firms.
7. Include any other information your firm considers to be relevant to the proposal.

APPENDIX D - PRICING PAGE

Proposal Costs: The fee information is relevant to a determination of whether the project fee is fair and reasonable in light of the services to be provided. This section shall include the proposed costs to provide the services as described in your proposal. Provision of this information assists the Agency in determining the Offeror's understanding of the project, and provides staff with tools to negotiate the cost.

Offeror's RFQual response must be inclusive of all costs and expenses associated with providing the services inclusive of travel, lodging, and any other incidental costs. OCFA will not separately reimburse costs not included in the proposal. Travel charges and fees will not be considered.

Offeror must provide the following information at a minimum:

- Direct labor rates for proposed staff;
- Overhead rate and breakdown of overhead elements;
- Subcontractor billing rates (if applicable);
- Breakout of other direct costs;
- All other reimbursable expenses excluding travel;

The proposal costs sheet must include all proposed costs to provide the services as specified.

Include any other cost and price information that would be contained in a potential agreement with the Agency. The hourly rates may be used for pricing the cost of additional services outlined in the Scope of Work.

Please provide your proposal costs sheet and rates in a table format and in a separate sealed envelope or upload as the separate "Cost File" in the online bidding system.

Term of Offer: It is understood and agreed that this offer may not be withdrawn for a period of **one hundred eighty days** (180) from the Proposal Submittal Deadline, and at no time in case of successful Offeror.

1. Any additional information you would like OCFA to consider.

APPENDIX E - CERTIFICATION OF PROPOSAL

In responding to **RFQual RO2253 – Real Estate Advisory Services**, the undersigned offeror(s) agrees to provide services for OCFA per the specifications. Offeror further agrees to the terms and conditions specified herein the following terms and conditions that are a part of this proposal and the resulting Maintenance Services Agreement. **If there are any exceptions to the terms and conditions or contract they must be stated in an attachment included with the offer.** While exceptions will be considered, OCFA reserves the right to determine that an offer is non-responsive based upon any exceptions taken. OCFA's governing body reserves the right to deny any material exceptions to the contract.

- A. The Offeror hereby certifies that the individual signing the submittal is an authorized agent for the Offeror and has the authority to legally bind the Offeror to the Contract. Signature below verifies that the Offeror has read, understands, and agrees to the conditions contained herein and on all of the attachments and agenda.
- B. The submission of the offer did not involve collusion or other anti-competitive practices.
- C. The Offeror has not given, offered to give, nor intends to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, meal or service to a public servant in connection with the submitted offer.
- D. **The Offeror has submitted the Party, Participant (Agent) Disclosure Form if applicable.**
- E. The Offeror shall not discriminate against any employee or applicant for employment in violation of Federal or State law.
- F. The Offeror complies fully with the Federal Debarment Certification regarding debarment suspension, ineligibility and voluntary exclusion.

Independent Price Determination: I certify that this offer is made without prior understanding, arrangement, agreement, or connection with any corporation, firm or person submitting an offer for the same services, and is in all respects fair and without collusion or fraud. I certify that I have not entered into any arrangement or agreement with any Orange County Fire Authority public officer. I understand collusive bidding is a violation of State and Federal law and can result in fines, prison sentences, and civil damage awards. I agree to abide by all conditions of this offer and certify that I am authorized to sign this agreement for the Offeror.

TO THE ORANGE COUNTY FIRE AUTHORITY:

The Undersigned hereby offers and shall furnish the services in compliance with all terms, scope of work, conditions, specifications, and amendments in the Request for Qualifications which is incorporated by reference as fully set forth herein. The representations herein are made under penalty of perjury.

Name of Firm

Address

City

State

Zip

Signature of Person Authorized to Sign

Date

Printed Name

Title

APPENDIX F

PARTY AND PARTICIPANT DISCLOSURE FORMS

(SEE FOLLOWING PAGES)

ORANGE COUNTY FIRE AUTHORITY PARTY DISCLOSURE

The attached Party Disclosure Form must be completed and submitted by the offeror and subcontractors with the proposal by all firms subject to the campaign contribution disclosure requirements stated on page 7 of this solicitation.

The Participant Disclosure Form must be completed by lobbyists or agents representing the offeror in this procurement.

It is anticipated that a recommendation for award of this contract will be presented to the Board of Directors of the OCFA for approval. (Please see next page for definitions of these terms.)

IMPORTANT NOTICE

Basic Provisions of Government Code Section 84308

- A. If you are an applicant for, or the subject of, any contract award, you are prohibited from making a campaign contribution of more than \$250 to any board member or his or her alternate. This prohibition begins on the date the solicitation is initiated, and the prohibition ends three months after a final decision is rendered by the Board of Directors. In addition, no board member or alternate may solicit or accept a campaign contribution of more than \$250 from you during this period.
- B. These prohibitions also apply to your agents, and, if you are a closely held corporation, to your majority shareholder as well. These prohibitions also apply to your subcontractor(s), joint venture(s), and partner(s) in this proceeding. Also included are parent companies and subsidiary companies directed and controlled by you, and political action committees directed and controlled by you.
- C. You must file the attached disclosure form and disclose whether you or your agent(s) have in the aggregate contributed more than \$250 to any board member or his or her alternate during the 12-month period preceding the contract award.
- D. If you or your agent have in the aggregate contributed more than \$250 to any individual board member or his/or her alternate during the 12 months preceding the decision on the contract award or proceeding, that board member or alternate must disqualify himself or herself from the decision. However, disqualification is not required if the board member or alternate returns the campaign contribution within 30 days from the time the director knows, or should have known, about both the contribution and the fact that you are a party in the proceeding. The Party Disclosure Form should be completed and filed with your proposal, or with the first written document you file or submit after the proceeding commences.

A proceeding involving "a license, permit, or other entitlement for use" includes all business, professional, trade and land use licenses and permits, and all other entitlements¹ for use, including all entitlements for land use, all contracts² (other than competitively bid, labor or personal employment contracts), and all franchises.

- E. Your "agent" is someone who represents you in connection with a proceeding involving a license, permit or other entitlement for use. If an individual acting as an agent is also acting in his or her capacity as an employee or member of a law, architectural, engineering, consulting firm, or similar business entity, both the business entity and the individual are "agents."
- F. To determine whether a campaign contribution of more than \$250 has been made by you,

campaign contributions made by you within the preceding 12 months must be aggregated with those made by your agent within the preceding 12 months or the period of the agency, whichever is shorter. Contributions made by your majority shareholder (if a closely held corporation), your subcontractor(s), your joint venture(s), and your partner(s) in this proceeding must also be included as part of the aggregation. Campaign contributions made to different directors or their alternates are not aggregated.

G. A list of the members and alternates of the Board of Directors is attached.

This notice summarizes the major requirements of Government Code Section 84308 of the Political Reform Act and 2 Cal. Adm. Code Sections 18438-18438.8 as it relates to contract awards.

¹ *Entitlement for the purposes of this form refers to contract award.*

² *All Contracts for the purposes of this form refer to the contract award of this specific solicitation.*

ORANGE COUNTY FIRE AUTHORITY
PARTY DISCLOSURE FORM

Party's Name: _____

Party's Address: _____

Party's Telephone: _____

Solicitation Title and Number: _____

Based on the party disclosure information provided, are you or your business subject to party disclosures?

No ☐ If no, check the box and sign below. Yes ☐ If yes, check the box, sign below and complete the form.

Date: _____

Signature of Party and/or Agent

To be completed only if campaign contributions have been made in the preceding twelve (12) months. Attach additional copies if needed.

Board Member(s) or Alternate(s) to whom you and/or your agent made campaign contributions and dates of contribution(s) in the preceding 12 months:

Name of Member: _____

Name of Contributor (if other than Party): _____

Date(s): _____

Amount(s): _____

Name of Member: _____

Name of Contributor (if other than Party): _____

Date(s): _____

Amount(s): _____

Name of Member: _____

Name of Contributor (if other than Party): _____

Date(s): _____

Amount(s): _____

**ORANGE COUNTY FIRE AUTHORITY
PARTICIPANT (AGENT) DISCLOSURE**

The Participant Disclosure Form must be completed by lobbyists or agents representing the offeror in this procurement. (Please see next page for definitions of these terms.)

It is anticipated that a recommendation for award of this contract will be presented to the Board of Directors of the OCFA for approval.

IMPORTANT NOTICE

Basic Provisions of Government Code Section 84308

- A. If you are a participant in a proceeding involving any contract award, you are prohibited from making a campaign contribution of more than \$250 to any board member or his or her alternate. This prohibition begins on the date you begin to actively support or oppose an application for contract award pending before the OCFA or any of its affiliated agencies, and continues until three months after a final decision is rendered on the application or proceeding by the Board of Directors.

No board member or alternate may solicit or accept a campaign contribution of more than \$250 from you and/or your agency during this period if the board member or alternate knows or has reason to know that you are a participant.

- B. The attached disclosure form must be filed if you or your agent has contributed more than \$250 to any board member or alternate for the OCFA or any of its affiliated agencies during the 12-month period preceding the beginning of your active support or opposition (The disclosure form will assist the board members in complying with the law).

If you or your agent have made a contribution of more than \$250 to any board member or alternate during the 12 months preceding the decision in the proceeding, that board member or alternate must disqualify himself or herself from the decision. However, disqualification is not required if the member or alternate returns the campaign contribution within 30 days from the time the director knows, or should have known, about both the contribution and the fact that you are a participant in the proceeding.

The Participant Disclosure Form should be completed and filed with the proposal submitted by a party, or should be completed and filed the first time that you lobby in person, testify in person before, or otherwise directly act to influence the vote of the board members of the OCFA or any of its affiliated agencies.

1. An individual or entity is a "participant" in a proceeding involving an application for a license, permit or other entitlement for use if:
- a. The individual or entity is not an actual party to the proceeding, but does have a significant financial interest in the Authority's or one of its affiliated agencies' decisions in the proceeding.

AND

- b. The individual or entity, directly or through an agent, does any of the following:
- (2) Communicates directly, either in person or in writing, with a board member or alternate of the OCFA or any of its affiliated agencies for the purpose of influencing the member's vote on the proposal;
- (3) Communicates with an employee of the OCFA or any of its affiliated agencies for

the purpose of influencing a member's vote on the proposal; or

- (4) Testifies or makes an oral statement before the Board of Directors of the OCFA or any of its affiliated agencies.
2. A proceeding involving "a license, permit, or other entitlement for use" includes all business, professional, trade and land use licenses and permits, and all other entitlements for use, including all entitlements for land use; all contracts (other than competitively bid, labor, or personal employment contracts) and all franchises.
3. Your "agent" is someone who represents you in connection with a proceeding for this proposed involving a contract award. If an agent acting as an employee or member of a law, architectural, engineering, or consulting firm, or a similar business entity or corporation, both the business entity or corporation and the individual are agents.
4. To determine whether a campaign contribution of more than \$250 has been made by a participant or his or her agent, contributions made by the participant within the preceding 12 months shall be aggregated with those made by the agent within the preceding 12 months or the period of the agency, whichever is shorter. Campaign contributions made to different members or alternates are not aggregated.
5. A list of the members and alternates of the Board of Directors is attached.

This notice summarizes the major requirements of Government Code Section 84308 and 2 Cal. Adm. Code Sections 18438-18438.8.

ORANGE COUNTY FIRE AUTHORITY
PARTICIPANT DISCLOSURE FORM

To be completed only if campaign contributions have been made in the preceding twelve (12) months. Attach additional copies if needed.

Prime's Business Name: _____

Party's Name: _____

Party's Address: _____

Party's Telephone: _____

Solicitation Title and Number: _____

Date: _____

Signature of Party and/or Agent _____

Board Member(s) or Alternate(s) to whom you and/or your agent made campaign contributions and dates of contribution(s) in the preceding 12 months:

Name of Member: _____

Name of Contributor (if other than Party): _____

Date(s): _____

Amount(s): _____

Name of Member: _____

Name of Contributor (if other than Party): _____

Date(s): _____

Amount(s): _____

Name of Member: _____

Name of Contributor (if other than Party): _____

Date(s): _____

Amount(s): _____

ORANGE COUNTY FIRE AUTHORITY

Board of Directors

Elizabeth Swift, Chair

City of Buena Park

Dave Harrington, Director

City of Aliso Viejo

Joseph Muller, Director

City of Dana Point

Michele Steggell, Director

City of La Palma

Laurie Davies, Director

City of Laguna Niguel

Leah Basile, Director

City of Lake Forest

Gene Hernandez, Director

City of Yorba Linda

Carol Gamble, Director

City of Rancho Santa Margarita

Sergio Farias, Director

City of San Juan Capistrano

Ellery Deaton, Director

City of Seal Beach

Al Murray, Director

City of Tustin

Tri Ta, Director

City of Westminster

Todd Spitzer, Director

County of Orange

Ed Sachs, Vice Chair

City of Mission Viejo

Rob Johnson, Director

City of Cypress

Melissa Fox, Director

City of Irvine

Don Sedgwick, Director

City of Laguna Hills

Noel Hatch, Director

City of Laguna Woods

Shelley Hasselbrink, Director

City of Los Alamitos

Craig Green, Director

City of Placentia

Tim Brown, Director

City of San Clemente

Vicente Sarmiento, Director

City of Santa Ana

David John Shawver, Director

City of Stanton

Bill Nelson, Director

City of Villa Park

Lisa Bartlett, Director

County of Orange

EXHIBIT 1

SAMPLE PROFESSIONAL SERVICES AGREEMENT

**ORANGE COUNTY FIRE AUTHORITY
PROFESSIONAL SERVICES AGREEMENT**

THIS AGREEMENT FOR PROFESSIONAL SERVICES ("Agreement") is made and entered into this [REDACTED] day of [REDACTED], 2017, by and between the Orange County Fire Authority, a public agency, hereinafter referred to as "OCFA", and **FIRM NAME, a Corporation/Partnership/Sole Proprietorship**, hereinafter referred to as "Firm". OCFA and Firm are sometimes individually referred to herein as a "Party" and collectively as the "Parties".

RECITALS

WHEREAS, OCFA requires the services of a qualified firm to provide Real Estate Advisory Services as requested in RFP RO2253, hereinafter referred to as "Project"; and

WHEREAS, Firm has submitted to OCFA a proposal dated [REDACTED], 2017, a copy of which is attached hereto as Exhibit "A" and is incorporated herein by this reference ("Proposal"); and

WHEREAS, based on its experience and reputation, Firm is qualified to provide the necessary services for the Project and desires to provide such services; and

WHEREAS, OCFA desires to retain the services of Firm for the Project.

NOW, THEREFORE, in consideration of the promises and mutual agreements contained herein, OCFA agrees to employ and does hereby employ Firm and Firm agrees to provide professional services as follows:

AGREEMENT

1. PROFESSIONAL SERVICES

1.1 Scope of Services

In compliance with all terms and conditions of this Agreement, Firm shall provide those services specified in Firm's Proposal attached hereto as Exhibit "A." The Scope of Services includes by reference and by addendum: (1) OCFA's Request for Proposal, RFP DC2253, dated [REDACTED], 2017 ("RFP"), (2) Firm's Proposal, as modified by Firm's Best and Final Offer dated [REDACTED], 2017, and (3) any amendments, addendums, change orders, or modifications mutually agreed upon by the parties hereto ("Services" or "Work"). Firm warrants that all Services shall be performed in a competent, professional and satisfactory manner in accordance with all standards prevalent in the same profession in the State of California. Firm represents and warrants that it and all employees, subconsultants and subcontractors providing any Services pursuant to this Agreement shall have a sufficient skill and experience to perform the Services. All

Services shall be completed to the reasonable satisfaction of the OCFA. In the event of any inconsistency between the terms contained in the Firm's Proposal, OCFA's RFP and/or the terms set forth in the main body of this Agreement, the terms set forth in the main body of this Agreement and then the RFP shall govern, in that order.

1.2 Compliance with Law

All Services rendered hereunder shall be provided in accordance with all laws, ordinances, resolutions, statutes, rules, and regulations of OCFA and any federal, state or local governmental agency of competent jurisdiction.

1.3 Licenses and Permits

Firm shall obtain at its sole cost and expense such licenses, permits and approvals as may be required by law for the performance of the Services required by this Agreement.

1.4 Familiarity with Work

By executing this Agreement, Firm warrants that Firm (a) has thoroughly investigated and considered the Work to be performed, (b) has investigated the site of the Work and become fully acquainted with the conditions there existing, (c) has carefully considered how the Work should be performed, and (d) fully understands the facilities, difficulties and restrictions attending performance of the Work under this Agreement. Should the Firm discover any latent or unknown conditions materially differing from those inherent in the Work or as represented by OCFA, Firm shall immediately inform OCFA of such fact and shall not proceed with any Work except at Firm's risk until written instructions are received from the Contract Officer.

1.5 Care of Work

Firm shall adopt and follow reasonable procedures and methods during the term of the Agreement to prevent loss or damage to materials, papers or other components of the work, and shall be responsible for all such damage until acceptance of the work by OCFA, except such loss or damages as may be caused by OCFA's own negligence.

1.6 Additional Services

Firm shall perform services in addition to those specified in the Proposal when directed to do so in writing by the Contract Officer, provided that Firm shall not be required to perform any additional services without compensation. Any additional compensation not exceeding ten percent (10%) of the original Agreement sum must be approved in writing by the Contract Officer. Any greater increase must be approved in writing by the Purchasing Manager.

2. TIME FOR COMPLETION

The time for completion of the Services to be performed by Firm is an essential condition of this Agreement. Firm shall prosecute regularly and diligently the work of this Agreement according to the schedules set forth in Firm's proposal. Firm shall not be accountable for delays in the progress of its work caused by any condition beyond its control and without the fault or negligence of Firm. Delays shall not entitle Firm to any additional compensation regardless of the party responsible for the delay.

3. COMPENSATION OF FIRM

3.1 Compensation of Firm

For the Services rendered pursuant to this Agreement, Firm shall be compensated and reimbursed, in accordance with the Firm's Best and Final Offer dated [REDACTED], 2017 set forth in Exhibit "A," in an amount not to exceed \$[REDACTED]. Firm guarantees that if within a one-year period after the appointment, the Fire Chief, resigns or is dismissed for cause, Firm will perform an additional recruitment at the cost of expenses only to perform the additional recruitment.

3.2 Method of Payment

In any month in which Firm wishes to receive payment, Firm shall no later than the first working day of such month, submit to OCFA in the form approved by OCFA's Director of Finance, an invoice for Services rendered prior to the date of the invoice. OCFA shall pay Firm for all expenses stated thereon which are approved by OCFA consistent with this Agreement, within thirty (30) days of receipt of Firm's invoice.

3.3 Changes

In the event any change or changes in the work is requested by OCFA, the parties hereto shall execute an addendum to this Agreement, setting forth with particularity all terms of such addendum, including, but not limited to, any additional fees. Addenda may be entered into:

A. To provide for revisions or modifications to documents or other work product or work when documents or other work product or work is required by the enactment or revision of law subsequent to the preparation of any documents, other work product or work;

B. To provide for additional services not included in this Agreement or not customarily furnished in accordance with generally accepted practice in Firm's profession.

3.4 Appropriations

This Agreement is subject to and contingent upon funds being appropriated therefore by the OCFA Board of Directors for each fiscal year covered by the Agreement. If such appropriations are not made, this Agreement shall automatically terminate without penalty to OCFA.

4. PERFORMANCE SCHEDULE

4.1 Time of Essence

Time is of the essence in the performance of this Agreement.

4.2 Schedule of Performance

All Services rendered pursuant to this Agreement shall be performed within the time periods prescribed in Firm's Proposal, attached hereto as Exhibit "A". The extension of any time period specified in Exhibit "A" must be approved in writing by the Contract Officer.

4.3 Force Majeure

The time for performance of Services to be rendered pursuant to this Agreement may be extended because of any delays due to unforeseeable causes beyond the control and without the fault or negligence of the Firm, including, but not restricted to, acts of God or of a public enemy, acts of the government, fires, earthquakes, floods, epidemic, quarantine restrictions, riots, strikes, freight embargoes, and unusually severe weather if the Firm shall within ten (10) days of the commencement of such condition notify the Contract Officer who shall thereupon ascertain the facts and the extent of any necessary delay, and extend the time for performing the Services for the period of the enforced delay when and if in the Contract Officer's judgment such delay is justified, and the Contract Officer's determination shall be final and conclusive upon the parties to this Agreement.

4.4 Term

This agreement shall continue in full force and effect until satisfactory completion of the Services, unless earlier terminated in accordance with Sections 8.5 or 8.6 of this Agreement but not exceeding 240 days from the date hereof, unless extended by mutual written agreement of the parties.

5. COORDINATION OF WORK

5.1 Representative of Firm

The following principal of the Firm is hereby designated as being the principal and representative of Firm authorized to act in its behalf with respect to the work specified herein and make all decisions in connection therewith: [REDACTED]

It is expressly understood that the experience, knowledge, capability and reputation of the foregoing principal is a substantial inducement for OCFA to enter into this Agreement. Therefore, the foregoing principal shall be responsible during the term of this Agreement for directing all activities of Firm and devoting sufficient time to personally supervise the Services hereunder. The foregoing principal may not be changed by Firm without the express written approval of OCFA.

5.2 Contract Officer

The Contract Officer shall be designated in writing by OCFA. It shall be the Firm's responsibility to keep the Contract Officer fully informed of the progress of the performance of the Services and Firm shall refer any decisions that must be made by OCFA to the Contract Officer. Unless otherwise specified herein, any approval of OCFA required hereunder shall mean the approval of the Contract Officer.

5.3 Prohibition Against Subcontracting or Assignment

5.3.1 No Subcontracting Without Prior Approval. The experience, knowledge, capability and reputation of Firm, its principals and employees, and the Firm Representative were a substantial inducement for OCFA to enter into this Agreement. Therefore, Firm shall not contract with any other entity to perform in whole or in part the Services required hereunder without the express written approval of OCFA.

5.3.2 Provisions in the Event Subcontractor(s) Are Authorized. If Firm is authorized to subcontract any part of the Services as provided in Section 5.3.1, Firm shall be responsible to OCFA for the acts and omissions of its subcontractor(s) and subconsultant(s) in the same manner as it is for persons directly employed. For purposes of this Agreement, all persons engaged in the performance of Services will be considered employees of Firm. OCFA will deal directly with and will make all payments to Firm. Nothing contained in this Agreement shall create any contractual relationships between any subcontractor and OCFA. Firm shall ensure that all subcontractor insurance requirements set forth in Section 6 below (including its subsections) are complied with prior to commencement of Services by each subcontractor.

5.3.2.1 Withholding Payment for Non-Authorized Subcontractors. OCFA shall have the right to withhold payment from Firm for Services performed by any subcontractor or subconsultant performing

Services but not authorized in writing by OCFA, or regarding which the insurance or other requirements under this Agreement have not been satisfied.

5.3.3 Assignments. Neither this Agreement nor any interest herein may be assigned, transferred, conveyed, hypothecated, or encumbered voluntarily or by operation of law, whether for the benefit of creditors or otherwise, without the prior written approval of OCFA. Transfers restricted hereunder shall include the transfer to any person or group of persons acting in concert of more than twenty five percent (25%) of the present ownership and/or control of Firm, taking all transfers into account on a cumulative basis. In the event of any such unapproved transfer, including any bankruptcy proceeding, this Agreement shall be void. No approved transfer shall release Firm or any surety of Firm from any liability hereunder without the express written consent of OCFA.

5.4 Independent Contractor

5.4.1 The legal relationship between the Parties is that of an independent contractor, and nothing herein shall be deemed to make Contractor, or any of its personnel, an OCFA employee. During the performance of this Agreement, Firm and its officers, employees, and agents shall act in an independent capacity and shall not act as OCFA officers or employees. Firm will determine the means, methods and details of performing the Services subject to the requirements of this Agreement. The personnel performing the Services under this Agreement on behalf of Firm shall at all times be under Firm's exclusive direction and control. Neither OCFA nor any of its officials, officers, employees, agents or volunteers shall have control over the conduct of Firm or any of its officers, employees, or agents, except as set forth in this Agreement. Firm, its officers, employees or agents, shall not maintain a permanent office or fixed business location at OCFA's offices. OCFA shall have no voice in the selection, discharge, supervision, or control of Firm's officers, employees, representatives or agents or in fixing their number, compensation, or hours of service. Firm shall pay all wages, salaries, and other amounts due its employees in connection with the performance of Services under this Agreement and shall be responsible for all reports and obligations respecting them, including but not limited to social security income tax withholding, unemployment compensation, workers' compensation, and other similar matters. OCFA shall not in any way or for any purpose be deemed to be a partner of Firm in its business or otherwise a joint venturer or a member of any joint enterprise with Firm.

5.4.2 Firm shall not incur or have the power to incur any debt, obligation, or liability against OCFA, or bind OCFA in any manner.

5.4.3 No OCFA benefits shall be available to Firm, its officers, employees, or agents, in connection with the performance of any Work or Services under this Agreement. Except for professional fees paid to Firm as provided for in this Agreement, OCFA shall not pay salaries, wages, or other compensation to Firm for the performance of any Work or Services under this Agreement. OCFA shall not be liable for compensation or indemnification to Firm, its officers, employees, or agents, for injury or

sickness arising out of performing any Work or Services hereunder. If for any reason any court or governmental agency determines that the OCFA has financial obligations, other than pursuant to Section 2 herein, of any nature relating to salary, taxes, or benefits of Firm's officers, employees, representatives, agents, or subconsultants or subcontractors, Firm shall defend, indemnify, and hold harmless OCFA from and against all such financial obligations.

5.6 Employee Retirement System Eligibility Indemnification

5.6.1 In the event that Firm or any employee, agent, or subcontractor of Firm providing any Work or Services under this Agreement claims or is determined by a court of competent jurisdiction to be eligible for enrollment in an employee retirement system as an employee of the OCFA, Firm shall indemnify, defend, and hold harmless OCFA against: (1) all such claim(s) and determination(s); (2) for the payment of any employee and/or employer contributions for employee retirement system benefits on behalf of Firm or its employees, agents or subcontractors; and (3) the payment of any penalties and interest on such contributions which would otherwise be the responsibility of the OCFA.

5.6.2 Notwithstanding any other agency, state or federal policy, rule, regulation, law or ordinance to the contrary, Contractor and any of its employees, agents, and subcontractors providing any Work or Services under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any claims to, any compensation, benefit, or any incident of employment by OCFA, including but not limited to eligibility to enroll in PERS as an employee of OCFA and entitlement to any contribution to be paid by OCFA for employer contribution and/or employee contributions for PERS benefits.

6. INSURANCE AND INDEMNIFICATION

6.1 Compliance with Insurance Requirements. Firm shall obtain, maintain, and keep in full force and effect during the term of this Agreement, at its sole cost and expense, and in a form and content satisfactory to OCFA, all insurance required under this section. Firm shall not commence any Services under this Agreement unless and until it has provided evidence satisfactory to OCFA that it has secured all insurance required under this section. If Firm's existing insurance policies do not meet the insurance requirements set forth herein, Firm agrees to amend, supplement or endorse the policies to meet all requirements herein.

6.2 Types of Insurance Required. Without limiting the indemnity provisions set forth in this Agreement, Firm shall obtain and maintain in full force and effect during the term of this Agreement, including any extension thereof, the following policies of insurance:

6.2.1 Professional Liability/Errors and Omissions Insurance ("PLI"). Firm shall obtain and maintain PLI insurance applicable to each licensed

profession practiced by Firm. Firm shall maintain PLI insurance with per-claim and aggregate limits no lower than one million dollars (\$1,000,000.00) each occurrence and two million dollars (\$2,000,000.00) aggregate. Covered professional services shall specifically include all Services to be performed under the Agreement and the policy shall be endorsed to delete any exclusions that may exclude coverage for claims within the minimum PLI Limits for the Services to be performed under this Agreement.

6.2.1.1 The PLI policy shall be endorsed to delete any Contractual Liability Exclusion. The PLI shall include contractual liability coverage applicable to this Agreement. The policy must “pay on behalf of” the insured, and include a provision establishing the insurer’s duty to defend the insured.

6.2.1.2 If the PLI policy of insurance is written on a “claims-made” basis, the policy shall be continued in full force and effect at all times during the term of this Agreement, and for a period of three (3) years from the date of the completion of all Services provided hereunder (the “PLI Coverage Period”). If any PLI policy is replaced, cancelled, non-renewed, discontinued, or otherwise terminated, or if the limits of a PLI policy are reduced or the available coverage depleted below the required minimum coverage amounts for any reason during the PLI Coverage Period, Firm shall immediately obtain replacement PLI coverage meeting the requirements of this Section 6.2.1. Such replacement coverage shall satisfy all requirements herein, and shall include coverage for the prior acts or omissions of Firm during the time period during which any Services were performed. The coverage shall be evidenced by either a new policy evidencing no gap in coverage, or by obtaining separate extended “tail” coverage with the present or new carrier or other insurance arrangements providing for complete coverage, either of which shall be subject to the written approval by the OCFA.

6.2.1.3 If the PLI policy is written on an “occurrence” basis, the policy shall be continued in full force and effect during the term of this Agreement, or until completion of the Services provided for in this Agreement, whichever is later. In the event of termination of the PLI policy during this period, new coverage shall immediately be obtained, and written evidence of the policy shall be immediately provided to OCFA, to ensure PLI coverage during the entire course of performing the Services.

6.2.1.4 Firm shall not perform any Services at any time during which required types or amounts of PLI insurance are not in effect, and OCFA shall have no obligation to pay Firm for Services performed while required PLI insurance is not in effect.

6.2.2 Commercial General Liability Insurance. Firm shall obtain and maintain, in full force and effect throughout the term of this Agreement, Insurance Services Office (ISO) Form CG 00 01 covering CGL on an “occurrence” basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than one million dollars (\$1,000,000.00) per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate

limit shall be twice the required occurrence limit. CGL insurance shall be provided on an occurrence-based coverage form; a "claims made" CGL policy is not acceptable. Firm shall maintain CGL insurance with per-claim, aggregate and products and operations completed limits no lower than the minimum CGL coverage limits set forth above. Defense costs shall be paid in addition to the limits. The policy shall contain no endorsements or provisions limiting coverage for any of the following: (1) contractual liability; (2) cross liability exclusion for claims or suits by one insured against another; or (3) any other exclusion contrary to this Agreement.

6.2.3 Automobile Liability Insurance. Firm shall obtain and maintain, in full force and effect throughout the term of this Agreement, a policy of Automobile liability insurance written on a per occurrence basis with limits of at least one million dollars (\$1,000,000.00) combined limit for each occurrence covering bodily injury, disease and property damage. Defense costs shall be paid in addition to the policy limits. The policy shall specifically include coverage for owned, non-owned, leased, and hired automobiles, and be endorsed to eliminate any exclusion applicable to any of them.

6.2.4 Workers' Compensation Insurance. Firm shall obtain and maintain, in full force and effect throughout the term of this Agreement, a policy of Workers' Compensation Insurance in at least the minimum statutory amounts, and in compliance with all other statutory requirements applicable in the State of California. Firm hereby waives on its own behalf, and shall obtain an endorsement from its workers' compensation insurer waiving on the insurance company's behalf, all rights of subrogation against the OCFA, its board members, officials, officers, employees, agents and volunteers.

6.2.4.1 If subconsultants or subcontractors are used, Firm shall require each of its subconsultants and subcontractors, if any, to waive all rights of subrogation, and to obtain endorsements from the subconsultants'/subcontractors' workers' compensation insurers waiving all rights of subrogation, against the OCFA, its board members, officials, officers, employees, agents and volunteers.

6.2.4.2 Firm and each of its subconsultants and subcontractors shall also maintain, in full force and effect throughout the term of this Agreement, Employer's Liability Insurance with limits of at least one million dollars (\$1,000,000.00) per injury or illness.

6.3 Acceptability of Insurers. Each insurance policy required by this section shall be issued by a licensed company authorized to transact business by the Department of Insurance for the State of California with a current rating of A-VII or better (if an admitted carrier), or a current rating of A:X or better (if offered by a non-admitted insurer listed on the State of California List of Approved Surplus Line Insurers (LASLI)), by the latest edition of A.M. Best's Key Rating Guide, except that the OCFA will accept workers' compensation insurance from the State Compensation Fund. In the event the OCFA determines that the Services to be performed under this Agreement creates an increased or decreased risk of loss to the OCFA, the Firm agrees that the minimum limits

of the insurance policies may be changed accordingly upon receipt of written notice from the OCFA.

6.3.1 Firm shall immediately replace any insurer whose A.M. Best rating drops below the levels specified herein with an insurer that meets the minimum requirements herein.

6.4 Specific Insurance Provisions and Endorsements. Required insurance policies shall not be in compliance if they include any limiting provision or endorsement that has not been submitted to the OCFA for written approval. Required insurance policies shall contain the following provisions, or Firm shall provide endorsements on forms approved by the OCFA to add the following provisions to the insurance policies:

6.4.1 CGL and Auto Liability Endorsements. The policy or policies of insurance required by this Agreement for CGL and Automobile Liability Insurance shall be endorsed as follows:

6.4.1.1 Additional Insured: The OCFA, its board members, officials, officers, employees, agents and volunteers, shall be additional insureds; and

6.4.1.1.1 Additional Insured Endorsements: Additional insured endorsements shall not (1) be restricted to "ongoing operations", (2) exclude "contractual liability", (3) restrict coverage to "sole" liability of Firm, (4) contain any other exclusions contrary to the Agreement; or (5) contain special limitations on the scope of protection afforded to additional insureds.

6.4.1.2 Primary, Non-Contributing. Each CGL and Auto Liability insurance policy shall be endorsed to be primary and any other insurance, deductible, or self-insurance maintained by the OCFA, its board members, officials, officers, employees, agents or volunteers, shall not contribute with the primary insurance.

6.4.2 Notice of Cancellation: Each policy of any type shall be endorsed to provide that coverage shall not be suspended, voided, cancelled, or modified, or reduced in coverage or in limits, except after thirty (30) days prior written notice has been provided to the OCFA. Notwithstanding the foregoing, if coverage is to be suspended, voided, or cancelled because of Firm's failure to pay the insurance premium, the notice provided by the insurer to OCFA shall be by not less than ten (10) days prior written notice. (A statement that notice will be provided "in accordance with the policy terms" or words to that effect is inadequate to meet the requirements of this Section).

6.4.2.1 Pre-Payment of Policy Premium. If for any reason an insurer declines to issue an endorsement certifying that it will notify OCFA in accordance with section 6.4.2, Firm shall either obtain insurance from another insurer

who will provide the required notice endorsement or shall provide evidence satisfactory to OCFA that the entire policy premium for the full term of that policy has been pre-paid such that the risk of non-payment of premiums during the term of the policy has been eliminated.

6.4.3 ACORD Forms Will Not Be Accepted in Lieu of Endorsements. By executing this Agreement, Firm certifies that it has – prior to execution of this Agreement - confirmed that its insurance company will issue each of the endorsements required by this Agreement. Firm also certifies that it understands that "ACORD" Certificate of Liability Insurance forms will not be accepted in lieu of required endorsements.

6.5 Deductibles and Self-Insured Retentions. Any deductible or self-insured retention must be approved in writing by the OCFA in advance. The decision whether to approve or withhold approval of a deductible or self-insured retention shall be made by the OCFA in the OCFA's sole and absolute discretion. (Firm may request pre-approval from OCFA of a deductible or self-insured retention prior to submitting Firm's Proposal).

6.6 Waiver of Subrogation. All policies of Commercial General Liability and Automobile Liability Insurance shall contain or be endorsed to waive subrogation against the OCFA, its officials, officers, employees, agents and volunteers, or shall specifically allow Firm or others providing insurance evidence in compliance with the requirements set forth in this section to waive their right to recovery prior to a loss. Firm hereby agrees to waive its own right of subrogation against the OCFA, its officials, officers, employees, agents and volunteers.

6.6.1 Waivers of Subrogation: Subconsultants and Subcontractors. If OCFA approves the use of subconsultants or subcontractors for the performance of any portion of the Services, then Firm shall obtain from each subconsultant and subcontractor, and make available to OCFA upon request, written express waivers by each subconsultant and subcontractor of the right of subrogation against the OCFA, its officials, officers, employees, agents and volunteers, and policy endorsements of each of its subconsultants' and subcontractors' insurance policies waiving any rights of subrogation against the OCFA, its officials, officers, employees, agents and volunteers insurer. All such waivers and endorsements shall be obtained prior to commencement of any Services by each subconsultant or subcontractor.

6.7 Evidence of Coverage. Concurrently with the execution of the Agreement, Firm shall deliver certificates of insurance together with original endorsements affecting each of the insurance policies required to be maintained by Firm by this Section 5. Firm shall promptly furnish, at OCFA's request, copies of actual policies including all declaration pages, endorsements, exclusions and any other policy documents OCFA requires to verify coverage.

6.7.1 Required insurance policies shall not be in compliance if they include any limiting provision or endorsement that has not been submitted to the OCFA for written approval.

6.7.2 Authorized Signatures. The certificates of insurance and original endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf.

6.7.3 Renewal/Replacement Policies. At least fifteen (15) days prior to the expiration of any policy required by this Agreement, evidence of insurance showing that such insurance coverage has been renewed or extended shall be filed with the OCFA. If such coverage is cancelled or reduced and not replaced immediately so as to avoid a lapse in the required coverage, Firm shall, within ten (10) days after receipt of written notice of such cancellation or reduction of coverage, file with the OCFA evidence of insurance showing that the required insurance has been reinstated or has been provided through another insurance company or companies meeting all requirements of this Agreement.

6.8 Requirements Not Limiting. Requirement of specific coverage or minimum limits contained in this section are not intended as a limitation on coverage, limits, or other requirements, or a waiver of any coverage normally provided by any insurance. Nothing in this section shall be construed as limiting in any way the indemnification provision contained in this Agreement, or the extent to which Firm may be held responsible for losses of any type or amount.

6.9 Enforcement of Agreement (Non-Estoppel). Firm acknowledges and agrees that actual or alleged failure on the part of the OCFA to inform Firm of any non-compliance with any of the insurance requirements set forth in this Agreement imposes no additional obligation on the OCFA nor does it waive any rights hereunder.

6.10 Insurance for Subconsultants. If OCFA approves the use of subconsultants or subcontractors for the performance of any portion of the Services, then Firm shall be responsible for causing each approved subconsultant and subcontractor to procure and maintain insurance in the same types and amounts required for Firm, and in full compliance with the insurance requirements set forth in this Agreement, except as otherwise authorized in writing by the Contract Manager.

6.10.1 Delivery of Evidence of Subcontractor Insurance. Upon request of OCFA, Firm shall deliver to OCFA all certificates of insurance and endorsements required from subcontractors and subconsultants. (Note: Firm's duty to obtain all required insurance for subcontractors and subconsultants required under this Agreement applies whether or not OCFA requests delivery of evidence of such coverage.)

6.11 Other Insurance Requirements. The following terms and conditions shall apply to the insurance policies required of Firm and its subconsultants and subcontractors, if any, pursuant to this Agreement:

6.11.1 Firm shall provide immediate written notice to OCFA if (1) any of the insurance policies required herein are terminated, cancelled, suspended, or non-renewed (2) the limits of any of the insurance coverages required herein are reduced; (3) any required insurance coverage is reduced below the required minimum limits through claims or otherwise, or (4) the deductible or self-insured retention is increased.

6.11.2 All insurance coverage and limits required under this Agreement are intended to apply to each insured, including additional insureds, against whom a claim is made or suit is brought to the full extent of the policies. Nothing contained in this Agreement or any other agreement relating to the OCFA or its operations shall limit the application of such insurance coverage.

6.11.3 None of the insurance coverages required herein will be in compliance with the requirements of this section if they include any limiting endorsement which substantially impairs the coverages set forth herein (e.g., elimination of contractual liability or reduction of discovery period), unless the endorsement has first been submitted to the OCFA and approved in writing.

6.11.4 Certificates of insurance will not be accepted in lieu of required endorsements, and submittal of certificates without required endorsements may delay the Project. It is Firm's obligation to ensure timely compliance with all insurance submittal requirements as provided herein and Firm agrees to reimburse OCFA for any losses resulting from its failure, or its subconsultants' or subcontractors' failure, to timely comply with the requirements of this Agreement.

6.11.5 Firm agrees to ensure that subconsultants and subcontractors, if any, and any other parties involved with the Project who are brought onto or involved in the Project by Firm, provide the same minimum insurance coverage required of Firm. Firm agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this section. Firm agrees that upon request, all agreements with, and evidence of insurance from, subconsultants and subcontractors and others engaged in performing any Services will be submitted to the OCFA for review.

6.11.6 Firm agrees to provide immediate written notice to OCFA of any claim, demand or loss arising out of the Services performed under this Agreement and for any other claim, demand or loss which may reduce the insurance available to an amount less than required by this Agreement.

6.12 Indemnification.

To the fullest extent permitted by law, Firm shall defend (at Firm's sole cost and expense with legal counsel reasonably acceptable to OCFA), indemnify and hold the OCFA, its board members, officials, officers, employees, agents and volunteers, free and harmless from any and all claims, demands, orders, causes of action, costs, expenses, liabilities, losses, penalties, judgments, arbitration awards, settlements, damages or injuries of any kind, in law or in equity, including but not limited to property or persons, including wrongful death, (collectively "Claims") in any manner arising out of, pertaining to, related to, or incident to any alleged acts, errors or omissions, or willful misconduct of Firm, its officers, directors, employees, subconsultants, subcontractors, agents or invitees in connection with performance under this Agreement, or in any manner arising out of, pertaining to, related to, or incident to an alleged breach of this Agreement, including without limitation the payment of all consequential damages, expert witness fees and attorneys' fees and other related costs and expenses.

Notwithstanding the foregoing, and only to the extent that the Services performed by Firm are subject to California Civil Code Section 2782.8, the above indemnity shall be limited, to the extent required by Civil Code Section 2782.8, to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Firm.

Under no circumstances shall the insurance requirements and limits set forth in this Agreement be construed to limit Firm's indemnification obligation or other liability hereunder. Notwithstanding the foregoing, such obligation to defend, hold harmless and indemnify the OCFA, its board members officials, officers, employees, agents and volunteers, shall not apply to the extent that such Claims are caused by the sole negligence or willful misconduct of that indemnified party.

7. RECORDS AND REPORTS

7.1 Reports

Firm shall periodically prepare and submit to the Contract Officer such reports concerning the performance of the Services required by this Agreement as the Contract Officer shall require.

7.2 Records

Firm shall keep such books and records as shall be necessary to properly perform the Services required by this Agreement and enable the Contract Officer to evaluate the performance of such Services. Except as provided in Section 7.5, the Contract Officer shall have full and free access to such books and records at all reasonable times, including the right to inspect, copy, audit and make records and transcripts from such records.

7.3 Ownership of Documents

Except as provided in Section 7.5, all drawings, specifications, reports, records, documents and other materials prepared by Firm in the performance of this Agreement shall be the property of OCFA and shall be delivered to OCFA upon request of the Contract Officer or upon the termination of this Agreement, and Firm shall have no claim for further employment or additional compensation as a result of the exercise by OCFA of its full rights or ownership of the documents and materials hereunder. Firm may retain copies of such documents for its own use. Firm shall have an unrestricted right to use the concepts embodied therein.

7.4 Release of Documents

All drawings, specifications, reports, records, documents and other materials prepared by Firm in the performance of Services under this Agreement shall not be released publicly without the prior written approval of the Contract Officer.

7.5 Confidential Materials

Notwithstanding anything to the contrary in this Agreement, the Firm shall be the sole owner of Firm's work papers and of any other documents, data or information which are required to be maintained confidential from OCFA by one or more rules of professional conduct governing the Firm's profession(s) (collectively, the "Confidential Materials"). Neither the OCFA nor the Contract Officer shall have access to the Confidential Materials except as may otherwise be required by order issued by a court of competent jurisdiction.

8. ENFORCEMENT OF AGREEMENT

8.1 California Law

This Agreement shall be construed and interpreted both as to validity and to performance of the parties in accordance with the laws of the State of California. Legal actions concerning any dispute, claim or matter arising out of or in relation to this Agreement shall be instituted in the Superior Court of the County of Orange, State of California, or any other appropriate court in such county, and Firm covenants and agrees to submit to the personal jurisdiction of such court in the event of such action.

8.2 Waiver

No delay or omission in the exercise of any right or remedy of a non-defaulting party on any default shall impair such right or remedy or be construed as a waiver. No consent or approval of OCFA shall be deemed to waiver or render unnecessary OCFA's consent to or approval of any subsequent act of Firm. Any waiver by either party of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this Agreement.

8.3 Rights and Remedies are Cumulative

Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the parties are cumulative and the exercise by either party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other party.

8.4 Legal Action

In addition to any other rights or remedies, either party may take legal action, in law or in equity, to cure, correct or remedy any default, to recover damages for any default, to compel specific performance of this Agreement, to obtain injunctive relief, a declaratory judgment, or any other remedy consistent with the purposes of this Agreement.

8.5 Termination Prior to Expiration of Term

OCFA reserves the right to terminate this Agreement at any time, with or without cause, upon thirty (30) days written notice to Firm, except that where termination is due to the fault of the Firm and constitutes an immediate danger to health, safety and general welfare, the period of notice shall be such shorter time as may be appropriate. Upon receipt of the notice of termination, Firm shall immediately cease all Services hereunder except such as may be specifically approved by the Contract Officer. Firm shall be entitled to compensation for all Services rendered prior to receipt of the notice of termination and for any Services authorized by the Contract Officer thereafter.

Firm may terminate this Agreement, with or without cause, upon thirty (30) days written notice to OCFA.

8.6 Termination for Default of Firm

If termination is due to the failure of the Firm to fulfill its obligations under this Agreement, OCFA may take over the work and prosecute the same to completion by contract or otherwise, and the Firm shall be liable to the extent that the total cost for completion of the Services required hereunder exceeds the compensation herein stipulated, provided that OCFA shall use reasonable efforts to mitigate damages, and OCFA may withhold any payments to the Firm for the purpose of set-off or partial payment of the amounts owed to OCFA.

8.7 Attorneys' Fees

If either party commences an action against the other party arising out of or in connection with this Agreement or its subject matter, the prevailing party shall be entitled to recover reasonable attorneys' fees and costs of suit from the losing party.

9. OCFA OFFICERS AND EMPLOYEES; NON-DISCRIMINATION

9.1 Non-Liability of OCFA Officers and Employees

No officer or employee of OCFA shall be personally liable to the Firm, or any successor-in-interest, in the event of any default or breach by OCFA or for any amount which may become due to the Firm or its successor, or for breach of any obligation of the terms of this Agreement.

9.2 Covenant Against Discrimination

Firm covenants that, by and for itself, its heirs, executors, assigns, and all persons claiming under or through them, that there shall be no discrimination or segregation in the performance of or in connection with this Agreement regarding any person or group of persons on account of race, color, creed, religion, sex, marital status, national origin, or ancestry. Firm shall take affirmative action to insure that applicants and employees are treated without regard to their race, color, creed, religion, sex, marital status, national origin, or ancestry.

10. MISCELLANEOUS PROVISIONS

10.1 Confidentiality

Information obtained by Firm in the performance of this Agreement shall be treated as strictly confidential and shall not be used by Firm for any purpose other than the performance of this Agreement without the written consent of OCFA.

10.2 Notice

Any notice, demand, request, consent, approval, or communication either party desires or is required to give to the other party or any other person shall be in writing and either served personally or sent by pre-paid, first-class mail to the address set forth below. Either party may change its address by notifying the other party of the change of address in writing. Notice shall be deemed communicated forty-eight (48) hours from the time of mailing if mailed as provided in this Section.

Orange County Fire Authority
Attention: Debbie Casper
1 Fire Authority Road
Irvine, CA 92602

WITH COPY TO:
David E. Kendig, General Counsel
Woodruff, Spradlin & Smart
555 Anton Blvd. Suite 1200
Costa Mesa, CA 92626

To Firm:

[Name]

Attention:

[Address]

10.2 Integrated Agreement

This Agreement contains all of the agreements of the parties and cannot be amended or modified except by written agreement.

10.3 Amendment

This Agreement may be amended at any time by the mutual consent of the parties by an instrument in writing.

10.4 Severability

In the event that any one or more of the phrases, sentences, clauses, paragraphs, or sections contained in this Agreement shall be declared invalid or unenforceable by valid judgment or decree of a court of competent jurisdiction, such invalidity or unenforceability shall not affect any of the remaining phrases, sentences, clauses, paragraphs, or sections of this Agreement, which shall be interpreted to carry out the intent of the parties hereunder.

10.5 Corporate Authority

The persons executing this Agreement on behalf of the parties hereto warrant that they are duly authorized to execute this Agreement on behalf of said parties and that by so executing this Agreement the parties hereto are formally bound to the provisions of this Agreement.

[Signatures on Following Page]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the dates stated below.

“OCFA”

ORANGE COUNTY FIRE AUTHORITY

Date:_____

By:_____

Debbie Casper, C.P.M., CPPB
Purchasing & Materials Manager

APPROVED AS TO FORM.

ATTEST:

By:_____

DAVID E. KENDIG
GENERAL COUNSEL

Sherry A.F. Wentz
Clerk of the Board

Date:_____

“FIRM”

FIRM NAME

Date:_____

By:_____

[Name]
[Title]

Date:_____

By:_____

[Name]
[Title]



ORANGE COUNTY FIRE AUTHORITY

RFP RO2203 – Addendum 1 Real Estate Advisory Services

November 21, 2017

Thank you to all that attended the non-mandatory pre-proposal meeting. As a result of questions received, this addendum is issued to extend the online Q&A period and to provide additional information as requested.

Answers to questions during pre-proposal meeting:

- 1) **QUESTION:** Will today's meeting attendance be made available?

RESPONSE: The attendance record is an attachment to this addendum.

- 2) **QUESTION:** Will the online Q&A be reopened to allow for additional questions?

RESPONSE: Yes, the online Q&A has been reopened until November 28, 2017 @ 11:00 a.m.

- 3) **QUESTION:** Section 975 of the Dodd-Frank Act requires that any entity providing financial advisory services to any local or state government as well as any special district and joint powers authority must be licensed and registered with the S.E.C. as a Municipal Advisor to provide such financial services. We have contacted the General Counsel of the SEC, who confirmed that the type of advisory services sought by the OCFA falls within the scope of this law because the advice involves recommendations that could affect how the OCFA may seek or require financing for the projects. Is the OCFA going to comply with this federal law and require bidders to have such licensing to qualify?

RESPONSE: Based on the services listed in the Scope of Work, OCFA requires licensing and registration with the S.E.C. Please provide this information when submitting your qualifications.

- 4) **QUESTION:** In accordance with Section 10131 of the California Business and Professions Code (Real Estate Law), California government agencies routinely require consultants that are engaged in services dealing with the acquisition, disposition, leasing and/or negotiations of real property transactions to carry a real estate license with the CA Bureau of Real Estate, even when such services do not include "brokering" the real estate or services that are commission-based. Will the services rendered under this advisory contract require such licensing, or, is it exempt?

RESPONSE: The expectation is that the selected firm will assist OCFA in providing advisory services as listed in the Scope of Work. OCFA has determined that these services are exempt from this type of licensing.

IMPORTANT: If you have submitted a proposal before this addendum was issued, your proposal will be invalidated. After you have reviewed the addendum, you must resubmit your proposal acknowledging receipt of this addendum through PlanetBids.

Thank you for your interest in doing business with OCFA.

Best Regards,

A handwritten signature in black ink, appearing to read 'Rothchild Ong', written over the printed name and title.

Rothchild Ong
Assistant Purchasing Agent



ORANGE COUNTY FIRE AUTHORITY

RFP RO2253 – Addendum 2 Real Estate Advisory Services

November 30, 2017

This addendum is issued to provide additional information regarding Appendix D - Pricing Page and to extend the due date of the Request for Proposals.

To assist in uniform pricing review, OCFA is providing a real estate transaction example as follows:

- OCFA is interested in a real estate transaction that involves the purchase of property and the sale of an existing property. The purpose of the transaction is for the building of a new Fire Station at a pre-determined location that better fits emergency response needs. The property being requested for review to purchase currently has an existing business and lot that has been deemed suitable for OCFA needs.
- OCFA will also be selling property with an existing Fire Station as part of this project.
- Please provide a pricing proposal to provide a review and valuation for both transaction and include all costs and fees necessary to provide OCFA with professional guidance through the entire real estate purchase and sale process.

This pricing proposal is required in addition to the information requested on Appendix D – Pricing Page (page 23) of the RFP. **Please provide your proposal costs sheet and rates in a table format and in a separate sealed envelope or upload as the separate “Cost File” in the online bidding system.**

The RFP due date has been extended to no later than 11:00 A. M., Thursday, December 14, 2017.

IMPORTANT: If you have submitted a proposal before this addendum was issued, your proposal will be invalidated. After you have reviewed the addendum, you must resubmit your proposal acknowledging receipt of this addendum through PlanetBids.

Thank you for your interest in doing business with OCFA.

Best Regards,

A handwritten signature in black ink, appearing to read "Rothchild Ong", is written over the printed name and title.

Rothchild Ong
Assistant Purchasing Agent

Statement of Qualifications

Response to
Request for Qualifications
Real Estate Advisory Services
RFQual Number RO2253

Presented to the
**Orange County
Fire Authority**



December 14, 2017



**Brookhurst Development
& Advisory Corporation**
Specialists in Public Facility Solutions Since 1996

4533 MacArthur Blvd., Suite 324
Newport Beach, CA 92660
Tel. 949.706.2628

www.brookhurstcorp.com



Brookhurst Development & Advisory Corporation

Specialists in Public Facility Solutions since 1996

December 14, 2017

Electronically Submitted

Orange County Fire Authority
Attn: Mr. Rothchild Ong, CPPB
Assistant Purchasing Agent
1 Fire Authority Road Bldg. C
Irvine, CA 92602

**RE: Request for Qualifications for
Real Estate Advisory Services
RFQual – RO2253**

Dear Mr. Ong and Members of the Selection Committee:

We are pleased to present you the following response (Response) to the above referenced Request for Qualifications (RFQ) for professional real estate advisory services. We trust you will find the credentials and experience of Brookhurst Development and Advisory Corporation (BDC) ideally suited to provide the Orange County Fire Authority (OCFA) the needed services as set forth in the RFQ.

BDC fully understands the approach and strategy for achieving the objectives outlined in the scope of work outlined in the RFQ because we have been providing these services exclusively for government agencies since our inception. Our experience and skills, which are ideally suited for this assignment, include some of the following benefits:

- ✓ **Local Expertise.** Headquartered in Orange County within minutes of the OCFA, BDC has intimate knowledge of the local economy and market conditions that drive value. Our immediate access to the OCFA and the sites being acquired or disposed creates cost and time efficiencies that will benefit the OCFA.
- ✓ **Deep Experience in Property Valuation.** BDC has been involved in property valuation since its inception. Our founder and CEO, Mr. Jeff Baize, has served as a professional appraiser since 1986, has successfully completed all courses for MAI designation, is a Certified Review Appraiser, and, served as a full faculty member at the University of Texas at Austin teaching its courses on real estate appraisal. He also authored an award-winning article entitled "Reviewing Valuations of Ground-Leased Property" for the **Appraisal Review Journal**; Volume 12, No. 1, 1990 (a copy of this article is enclosed as Exhibit A to this Response).
- ✓ **Governmental Contracts for a Multitude of Site Acquisitions and Valuations.** BDC was retained by Los Angeles Unified School District to

- oversee the LAUSD team acquiring sites for its \$3 billion bond measure. This oversight included the acquisition of 72 sites throughout the San Fernando and northern Los Angeles areas, and included the valuation of the sites as well as both friendly negotiations and eminent domain takings of both residential and commercial real estate in addition to ongoing businesses. The senior leadership of BDC is extremely knowledgeable about and experienced in the legal process of eminent domain (including both real property and business valuation).
- ✓ **Experience in Fire Station Site Financing and Development.** BDC has experience in site acquisitions and financing for municipal fire stations. We served as advisor on public-private partnership ("P3") financing arrangements for a team pursuing the Oxnard Fire Station development, and although not serving as developer, our financial partner in the pursuit, Stone & Youngberg, was selected and used the same P3 financing structure we developed. We have also advised the City of Roseville, California, on lease-leaseback development of a new fire station (*please see enclosed City of Roseville testimonial letter for this assignment*).
 - ✓ **Unmatched Experience in Public-Private Partnership ("P3") Deal Structuring.** BDC is recognized as the foremost authority on P3 deal structuring in the State of California. Our senior leaders, who have been involved in the review and financial structuring of almost \$5 billion in P3 developments, have worked with the California Office of the Governor, State Legislature, and California Legislative Analysts' Office on the adoption of P3 legislation that has a direct impact on the OCFA and its 23 partner municipalities. Our knowledge on California law as it applies to P3 delivery is unmatched by anyone.

Minimum Qualifications Requirement

BDC not only meets, but greatly exceeds the Minimum Qualifications requirement of the RFQ. Pursuant to the RFQ, following is our response to each minimum qualification requirement:

- *Five (5) or more years of experience in providing real estate advisory services.*

BDC and its family of companies, which include Baize Corp (www.baizecorp.com), have been providing real estate services since 1958. The predecessor to BDC, Brookhurst Capital Corp, which provided real estate capital, was incorporated in 1996. Brookhurst Development Corp (BDC), which will be the contracting entity, has been providing real estate advisory services exclusively to government entities since its incorporation in 2003 (14 years).

- *Experience with the State of California, public sector and/or educational institutional clients for property within the State of California (Note: Identify the types of properties, projects, and outcomes).*

Brookhurst is one of the few companies in the U.S. that focuses exclusively on providing real estate advisory services for local, state and federal governments. We were the first and only firm to successfully complete the financing for and development of a public education facility in California using a P3 arrangement known as lease-leaseback, and provided the supervision for the acquisition of 72 individual sites in the San Fernando and northern Los Angeles areas for LAUSD. The property types we have been involved with include:

- ✓ Raw land - both clean and environmentally contaminated. Valuations included both comparable sales and residual land valuations.
- ✓ Ground leased property (both leased fee and leasehold estates)
- ✓ Eminent domain processing and site acquisition; business entity valuation for condemnation
- ✓ Buying/selling as valuation advisor, principal or broker for the following types of improved properties:
 - Mixed-use developments
 - Office properties, mid-rise and high-rise
 - Retail centers and shopping malls
 - Industrial and business parks
 - Hospitality/Hotels
 - Single-family and multi-family residential
 - Student housing

Our many years of experience in working with California public agencies has given us in-depth understanding as to all laws that affecting the acquisition, disposition or development of real property by public agencies, particularly when private financing and development is involved. Our proficiency with California Code includes, but is not limited to, the following CA statutes that could affect how the OCFA pursues its real estate activities:

- CA Gov. Code §5956 - California's overarching P3 statute
- CA Gov. Code §54240 - California's overarching "lease-leaseback" law
- CA Gov. Code §25515 - Public-private joint use with county land
- CA Gov. Code §37350 - Public-private laws re: municipalities and joint powers authorities
- CA Gov. Code §5700 - P3 arrangements constituting government debt
- CA Ed Codes §17406 & §81335 - Lease-leaseback for education projects
- Numerous IRS Private Letter Rulings: re: tax-advantaged debt and P3s

A more detailed discussion of our various projects with the California public sector, including discussions on their successful outcomes, are presented within the Relevant Experience section of this Response.

- Experience in working effectively with multi-disciplinary teams.

Virtually all of our government contracting and public-private developments involve multi-disciplinary teams. In our advisory contract with the City of Houston for the P3 delivery of a \$1 billion justice complex, BDC was part of a team comprising 40 individuals that included developers, program managers, architects, contractors, attorneys and media affairs specialists (see Relevant Experience for discussion). Our current CSU San Marcos P3 project, which Brookhurst heads, has required a multitude of disciplines, including architects, general contractors, engineering firms, financing entities and public agency staff.

BDC's philosophy:

"The teams which are most productive are the ones whose members operate with a shared sense of purpose. Collaboration means that differences in opinions are not viewed as conflicting agendas, but instead, as a positive byproduct of teamwork resulting in greater options to reach a goal. And that is the best assurance of success."

Within the List of References section of this Response, we include testimonial letters from our current and past governmental clients. BDC's experience and strengths in working effectively within multi-disciplinary teams is evidenced, and is a quality of which we are quite proud.

- Experience with public-private partnership projects (i.e., ground leases; ground rental rates; capitalization rates) or special purpose properties.

BDC can proudly state that we are the most experienced and have the greatest in-depth knowledge of public-private partnerships (P3s) than any other firm in California. No firm in the state has our experience in working with the Office of the Governor, State Senate, State Assembly and numerous local and state governments – not only in formulating our current P3 laws, but also in utilizing them for our public agency clients. We are the only firm in California that has both development and advisory experience in all P3 delivery methodologies including lease-leaseback, build-to-suits, design-build-finance, DBFOM and most importantly, the newer foreign model known as "availability income" (a.k.a. "performance based infrastructure" or "concessions" contracts), which was introduced to the U.S. in 2004 with the Chicago Skyway Toll Road.

BDC is the only firm to have structured a true P3 delivery in public education using lease-leaseback (ground lease) arrangements with private financing. We have worked with California municipalities on ground-leased property for the delivery of fire stations, and are presently the first firm to have delivered a P3 project within the California State

University's 150-year history. In addition, our CEO, Jeff Baize, is recognized by the California Courts as an expert in P3 delivery methodologies.

We have presented a number of case studies of our successful P3 projects within the [Relevant Experience](#) section of this Response.

- Professional license(s) and/or certification(s) as required for the types of services requested

Brookhurst Development Corporation is a **Registered Municipal Advisor** with the Securities and Exchange Commission. As required by the SEC, Brookhurst Development is also registered with the Municipal Securities Rulemaking Board:

SEC Municipal Advisor Registration No.: #867-01175;
MSRB - Municipal Advisor Registration No.: #K1056

Although Dodd-Frank is not embraced by all, the one area which has received bipartisan support was the establishment of qualifications for firms providing financial advisory services to government entities, including authorities such as the OCFA. Maintaining this license assures governmental clients that their consulting firms truly understand the various municipal financing options available for the same type of projects currently contemplated by the OCFA, and that the firms are compelled to act in the best interests of the OCFA.

For instance, as a Municipal Advisor, it is against Federal Law for BDC to advise the OCFA on any financial matter absent sound reasoning justifying such advice, and, all financial alternatives must be explored and presented inclusive of why, in our, opinion our recommendation is the most prudent.

For a full updated listing of all firms that are identified by the SEC as holding the requisite Municipal Advisor licensing required to be providing financial advisory services to OCFA, we invite you to the SEC's website to verify our licensing:

<https://www.sec.gov/help/foia-docs-muniadvisorshtm.html>

Brookhurst Development Corporation also carries a California real estate license with the California Bureau of Real Estate:

California Real Estate Advisor - BRE License: #01861045

- Offeror and any subcontractors must be able to meet OCFA insurance requirements as provided.

BDC uses Cornerstone Insurance to provide all of our professional liability and general liability insurance, and will provide the requisite certificates upon being retained by OCFA.

- *Offeror and any subcontractors must not be under suspension or debarment by any state or federal government agency.*

Brookhurst Development and our affiliated companies are proud of our high levels of integrity. In our entire 60-year history, the firms comprising the Brookhurst/Baize family of companies have:

- *Never defaulted or been found in breach of any contract;*
- *Never been debarred or suspended from any government work;*
- *Never had any of its officers convicted of any crime;*
- *Never been involved in a lawsuit wherein we lost or were found liable; and*
- *Never filed bankruptcy, nor have any of its owners*

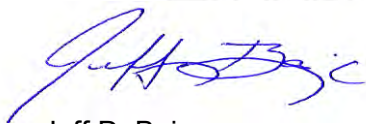
Our primary point of contact for this assignment will be:

Mr. Jeff D. Baize
Chief Executive Officer
Brookhurst Development
& Advisory Corporation
4533 MacArthur Blvd.
Suite 324
Newport Beach, CA 92660
Tel. (949) 706-2628 (direct)
Cell (818) 430-8348
email: jbaize@brookhurstcorp.com

In addition to the above, we invite you to our website to view the many governmental advisory projects of which we have enjoyed success at www.brookhurstcorp.com.

We look forward to working with our neighbor, the OCFA, and this exciting assignment!

Respectfully,



Jeff D. Baize
CEO, Brookhurst Development Corporation

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Brookhurst Development & Advisory Corp **Our History and Background Information**

Brookhurst Development Corporation's Government & Advisory Services team has focused exclusively on providing governmental agencies both traditional and alternative financial and development solutions for decades. We are one of the oldest and most experienced firms with such a focused dedication not only in California, but throughout the country. It is through this exclusive focus and many years of experience that we have gained an in-depth understanding and knowledge of issues that no other financial advisory firm can claim, particularly as it pertains to alternative financing and delivery arrangements.

Brookhurst Development Corporation (BDC) is part of a family of companies owned and operated by Jeff D. Baize, and James ("Jim") E. Baize. Baize Corporation, which was founded in 1958 by Jim Baize, a distinguished service-disabled veteran, has been involved in governmental real estate projects - including acquisition, design, financing and development - longer than any other comparable firm ([see www.baizecorp.com for more information](http://www.baizecorp.com)). Brookhurst Capital Corp. was incorporated in California in 1996, and our public-private real estate development and advisory company, Brookhurst Development Corporation, which will be the prime contractor for this assignment, is a California Corporation incorporated in 2003 (California corporation ID#: C2536706) and is in good standing. Collectively, the Brookhurst/Baize family of companies have been serving our local, state and federal governments in meeting their real estate needs for almost 60 years.

The following page is the completed [Appendix A - Offeror's Information](#)

Brookhurst Development Corp

APPENDIX A - OFFEROR'S INFORMATION

Please complete and/or provide all requested information. If the proposal is submitted by a corporation, please provide an additional attachment that states the names of the officers who can sign an agreement on behalf of the corporation and whether more than one officer must sign. If the proposal is by a partnership or a joint venture, state the names and addresses of all general partners and joint venture parties. If the respondent is a sole proprietorship or another entity that does business under a fictitious name, the proposal shall be in the real name of the respondent with a designation following showing "DBA (the fictitious name)," provided however, that no fictitious name shall be used unless there is a current registration with the Orange County Recorder.

The undersigned, as respondent, declares that all documents regarding this proposal have been examined and accepted and that, if awarded, will enter into a contract with the Orange County Fire Authority.

Business Legal Name: Brookhurst Development Corporation		
Business Parent or Ownership: Brookhurst Development Corporation		
Address: 4533 MacArthur Blvd., Suite 324 Newport Beach, CA 92660		
Business Telephone No. (949) 706-2628	Business Fax No. (949) 706-2628	
Business Tax I.D. Number: Fed. Tax ID#: 90-0208721	CSLB License Number: N/A	DIR Registration Number: N/A
Legal form of company: (partnership, corporation, joint venture) Corporation		
Length of time your business has been in business: All companies = 60 years, Brookhurst Develop. Corp = 14 years	Length of time at current location: 10 years	
Number of employees and Number of Current Clients 8 employees and independent contractors 7 active government contracts		

Management person responsible for direct contact with the Orange County Fire Authority and service required for this Request for Qualifications (RFQual).

Name: Jeff D. Baize	Title: C.E.O.
Telephone No.: (818) 430-8348	E-mail: jbaize@brookhurstcorp.com

Person responsible for the day-to-day servicing of the account:

Name: Jeff D. Baize	Title: C.E.O.
Telephone No.: (818) 430-8348	E-mail: jbaize@brookhurstcorp.com

Please indicate if you are subject to the Party and Participant disclosure requirements. Yes **No**
If yes, you are required to submit form/s (see Appendix F).

***For additional information please see page 7 "Campaign Contribution Disclosure".**

Relevant Experience

1. California's **FIRST** public-private development of a public education facility

Client: Natomas Unified School District
Sacramento, California

Project: \$80 million P3 financing and development
Lease-leaseback arrangement

Date: Financial Close - 2003
Project Completion - 2005

Term of Ground Lease: 25 years



The award-winning Inderkum High School development was the first privately financed and delivered public education facility using a P3 arrangement. To date, it remains the only true lease-leaseback delivery of a public education facility in the State. BDC won the award to provide all financing and development services, and entered into a lease-leaseback arrangement subject to California Education Code 17406. BDC procured its financing at a rate of 1.6%, 300 basis points below the District's G.O. Bond rate. BDC assumed all project risks including cost and schedule, with the District only being required to pay rent upon evidence of successful completion and occupancy. The project was delivered ahead of schedule and under budget, with \$2 million in cost savings returned to the District.

Awards won: Coalition of Adequate School Housing - Project of the Year
Construction Com. Magazine - Plaque of Honor
Facilities Magazine - Top 25 California Projects

Scope of Services:

- ✓ Due diligence; entitlement process; DSA approval
- ✓ Ground lease valuation & structuring (lease-leaseback development)
- ✓ Pro forma analysis of projected project revenue
- ✓ Public-private deal structuring
- ✓ Evaluation of alternative financing options
- ✓ Negotiation and oversight of construction services and budget
- ✓ Procurement of all funding
- ✓ Project management with guarantee on project cost and delivery schedule
- ✓ Analyses of all financing alternatives

Reference: Dr. Susan Heredia
Professor, CSU Sacramento
Former President of Natomas Board of Education

Tel. (916) 278-5942

Following are testimonial letters from District officials and those involved with this development.



CALIFORNIA STATE UNIVERSITY, SACRAMENTO

COLLEGE OF EDUCATION
DEPARTMENT OF BILINGUAL/MULTICULTURAL EDUCATION

July 31, 2006

**RE: Testimonial & Endorsement
Jeff Baize/Brookhurst Development**

This letter is presented as a testimonial of my experience with Jeff Baize of Brookhurst Development involving the financing and development of the Inderkum High School for the Natomas Unified School District in Sacramento, California. I am the current President of the Board of Trustees for the Natomas Unified School District and was an active Board Member at the time Mr. Baize presented a proposal to provide approximately \$60 million in low-cost financing while guaranteeing the construction and completion of this needed high school. I voted in favor of his proposal. In retrospect it was clearly a very good decision.

At the time, Natomas was experiencing a shortfall in funds for this and other needed school projects. Even with the passage of Proposition M, a local school bond measure, we were still deficient in funds. The financing procured by Mr. Baize/Brookhurst allowed us to free up \$50 million to provide our other schools much needed repairs and facility upgrades while providing all needed financing for the new high school. In addition, the Inderkum High School was delivered ahead of schedule and saved the District several million dollars in costs.

Mr. Baize has also been working on various projects with California State University, Sacramento, where I am presently a professor. His company's experience and capabilities have also proved invaluable here as well.

As an educator, Director-at-Large for the California School Board Association and elected political official, I am entrusted to protect the welfare of our community while furthering its mission to provide quality education. It is with pleasure and without hesitation that I endorse the financing, development and construction expertise of Mr. Baize and Brookhurst Development. Please do not hesitate to contact me directly if you wish to discuss further my recommendation of Brookhurst Development.

Sincerely,

A handwritten signature in blue ink, reading "Dr. Susan M. Heredia".

Dr. Susan M. Heredia
California State University, Sacramento

6000 J Street, Sacramento, California 95819-6079 • (916) 278-5942 • (916) 278-5993 FAX

NATOMAS UNIFIED SCHOOL DISTRICT
1901 ARENA BOULEVARD • SACRAMENTO, CA 95834**DAVID TOOKER, DISTRICT SUPERINTENDENT**

August 28, 2003

To Whom this May Concern

RE: Letter of Endorsement

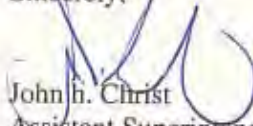
I first met Jeff Baize of Brookurst Corp when he and other representatives of The Eastridge Companies met with me, Dave Tooker, the Superintendent of Natomas Unified School District, and Mike Morman, the Director of Facilities and Planning. Our meeting was a discussion of how their development team could assist the District in the construction of our second high school (Inderkum High School). It was obvious that Mr. Baize had done his homework and had already familiarized himself with our project.

The District was planning on going out for a General Obligation Bond in November 2002. Only a portion of the Bond would go towards the payment of the high school construction. The Board of Trustees desired to have the first issuance of the Bond be used for a variety of other projects throughout the District. The District needed a way to start the construction of the high school without needing cash up front and having to wait for State funding. Jeff Baize was instrumental in convincing the Administration and the Board of Trustees of the benefit of a Lease Leaseback approach to the financing and management of the construction of Inderkum High School.

Mr. Baize was the development team's lead person on this project. Mr. Baize spearheaded the coordination of the financing and construction. This project is breaking new ground, not only in the financing but also in the management of the construction of the school. Jeff Baize made sure well in advance of any key deadline that the underwriter, bond counsel, contractors, and the District were prepared for it. Because this project was breaking new ground, Jeff Baize immersed himself in the laws of Lease Leaseback financing to the point of visiting legislators and attending legislative hearings on this issue. I am convinced that Mr. Baize is currently one of the foremost experts on Lease Leaseback financing in the state.

I appreciate the determination and hard work Jeff Baize invested in the Inderkum High School construction project to get it started and well under way. The project is currently proceeding on schedule, and I foresee no problem with it being completed on time (August 2004) and at the price agreed upon.

Sincerely,


John H. Christ

Assistant Superintendent, Business Services

*"Linking students to their future"***DAVID TOOKER**
District
Superintendent
(916) 567-5401**HENRIETTA SAKAMAKI**
Associate Superintendent
Educational Services
(916) 567-5406**JOHN CHRIST**
Assistant Superintendent
Business Services
(916) 567-5457**SANDRA REZINAS**
Assistant Superintendent
Human Resources
(916) 567-5444

Board of Trustees

B. Teri Burns
Gary Davis
Ron Dwyer-Voss
Susan Heredia
Lisa Kaplan

NATOMAS UNIFIED SCHOOL DISTRICT
1901 ARENA BOULEVARD • SACRAMENTO, CA 95834

DAVID TOOKER, DISTRICT SUPERINTENDENT

August 26, 2003

RE. Letter of Recommendation for Jeff Baize

To Whom It May Concern:

It has been my privilege, as the Director of Facilities and Planning for the Natomas Unified School District, to work with Jeff Baize of Brookhurst Development to obtain Lease Lease-Back financing for our Inderkum High School project. As the Development Director for The Natomas-Eastridge Facility Corporation, Jeff was the lead person who put together this financing package for the District. He was instrumental in obtaining the \$66 million dollars in short term funding at 1.5% interest, which made the Lease Lease-Back alternative work for our District.

I found Jeff to be extremely talented and knowledgeable in all aspects of school finance. He was able to anticipating potential problems and then took the responsibility for seeing that they got resolved.

Jeff's honesty and professionalism are an invaluable assets to all those who work with him. I was specifically impressed with the passion, energy and attention to detail that he brought to this extremely complex process as well as his political savvy.

Therefore, it is without any hesitation or reservation that I highly recommend Jeff Baize to help you with any of your school financing needs.

If you have any questions please call (916) 567-5468.

Sincerely,



Michael Morman
Director of Facilities and Planning
Natomas Unified School District

"Linking students to their future"

DAVID TOOKER
District
Superintendent
(916) 567-5401

HENRIETTA SAKAMAKI
Associate Superintendent
Educational Services
(916) 567-5406

JOHN CHRIST
Assistant Superintendent
Business Services
(916) 567-5457

SANDRA REZINAS
Assistant Superintendent
Human Resources
(916) 567-5444

2. LAUSD - Oversight of land acquisition for \$3 billion bond program

Client: Los Angeles Unified School District
Los Angeles, California

Date: 2001 through 2002

Project: Advisor/consultant for site acquisitions for following:

School	Project Budget
East Valley New High School #1A	\$ 77,616,000
East Valley New High School #1B	\$ 77,913,000
East Valley New High School #2	\$ 63,671,000
East Valley New High School #3	\$ 105,043,000
East Valley New Middle School #1	\$ 70,257,000
East Valley New Middle School #2	\$ 48,885,000
Maclay New Primary Center	\$ 12,743,000
East Valley Area Middle School #2	\$ 26,500,000
Canoga Park New High School	\$ 15,358,000
North Hollywood Primary Center #4	\$ 17,430,000
Noble Elementary	\$ 17,533,000
North Hollywood New Elem. #3	\$ 32,106,000
Monroe New Elementary School #2	\$ 21,297,000

Scope of Services

- ✓ 72 Land and property valuations
- ✓ Business entity valuations
- ✓ Acquisition negotiations (friendly)
- ✓ Oversight of eminent domain/condemnation activities
- ✓ Provided brokerage license as required of all consultants
- ✓ Ground lease valuation
- ✓ CEQA processing
- ✓ California Dept. of Education (CDE) site selection
- ✓ Lease-leaseback development analysis
- ✓ Site due diligence and environmental remediation
- ✓ California state agency (DSA, DTSC and CDE) processing

Reference: Mr. Benjamin Rodriguez
Former LAUSD Senior Development Director
(310) 463-5939

3. Student Housing Development - Crafton Hills Community College

Client: San Bernardino Community College District, California

Date: Phase 1 - April 2017 through November 2017
Phase 2 - December 2017 through June 2018 (active contract)

Project: The College District is contemplating acquiring acreage near its Crafton Hills Community College in Yucaipa California. BDC has been retained to assess the financial feasibility of developing this raw land into a student housing complex. Phase 1 included the Demand Analysis and Market Assessment for Student Housing, which involved peer group evaluation for housing, comparable and obtainable rental rates, analysis of necessary market conditions and a comprehensive survey of faculty and students within the demographic area of the college. Phase 2 will include the valuation of the site and an estimate of construction costs for developing a 400 bed student housing project on the site. Inclusive in the analysis will be addressing the cost of infrastructure, streets and entitlements.

Scope of Services:

- ✓ Financial feasibility analysis
- ✓ Land and project valuation
- ✓ Ground lease structuring
- ✓ Market and financial analyses
- ✓ Pro forma analysis and underwriting for real estate development including cash flow projection and discounted cash flow analysis
- ✓ Public-private deal structuring, including financial structure, alternative financing options, and assessment of equity participation
- ✓ Evaluation of outside funding sources
- ✓ Analysis for public-private partnerships, potentially to include developments on ground leased property
- ✓ Lease-leaseback transactions, and alternative ownership positions
- ✓ Prepare Request for Qualifications and Request for Proposals
- ✓ Development of evaluation criteria
- ✓ Evaluation of developer or owner's representative qualifications

Reference: Mr. Jose Torres; Vice Chancellor (See Appendix B for contact info.)

We have enclosed the actual Phase I Study in the Exhibits section to demonstrate our diligence in assembling and analyzing market and demographic data

4. Innovation Center Feasibility Study - Yucaipa, CA

Client: City of Yucaipa, California

Date: Phase 1 - Jan 2017 through July 2017
Phase 2 - November 2017 through April 2018 (active contract)

Project: The City of Yucaipa is contemplating acquiring 50 acres for the development of an innovation center. BDC has been retained to assess the financial feasibility of such a project. Phase 1 included a Stakeholder Assessment as possible tenants for the project. We also provided a market analysis to calculate obtainable rental revenue. Phase 2, which is currently in progress, includes a full financial feasibility of the project, inclusive of cost of land acquisition (land appraisal), conceptual design, cost of construction, financing options, pro forma and projected revenues, and discounted cash flow analyses.

Scope of Services:

- ✓ Financial feasibility analysis
- ✓ Land and project valuation
- ✓ Conceptual design/construction budget estimates
- ✓ Ground lease structuring
- ✓ Market and financial analyses
- ✓ Pro forma analysis and underwriting for real estate development including cash flow projection and discounted cash flow analysis
- ✓ Public-private deal structuring, including financial structure, alternative financing options, and assessment of equity participation
- ✓ Evaluation of outside funding sources
- ✓ Analysis for public-private partnerships, potentially to include developments on ground leased property
- ✓ Lease-leaseback transactions, and alternative ownership positions
- ✓ Prepare Request for Qualifications and Request for Proposals
- ✓ Development of evaluation criteria
- ✓ Evaluation of developer or owner's representative qualifications

Reference: Ray Casey; Yucaipa City Manager (See Appendix B for contact info.)

We have enclosed the actual Phase I Study in the Exhibits section to demonstrate our diligence in assembling and analyzing market and demographic data

**5. Lease-Leaseback; P3 Development - Municipal Aquatics Complex
Elk Grove, California**

Client: Elk Grove, California

Date: 2012 through 2013

Project: The City of Elk Grove hired BDC to provide financial and development expertise for a solicitation to fund, build and operate a new aquatics complex. The \$50 MM complex would include a state-of-the-art competitive training swim center, and a commercial recreational and entertainment component that would be privately operated. BDC was a city representative for the solicitation and award.

**Scope of
Services:**

- ✓ Prepare Request for Qualifications and Request for Proposals
- ✓ Development of evaluation criteria
- ✓ Selection committee for the developer interviews
- ✓ Evaluation of developer or owner's representative qualifications
- ✓ Evaluation of developer's financial capability to close
- ✓ Public-private deal structuring, including financial structure, alternative financing options, and assessment of equity participation
- ✓ LOI/MOU negotiations on behalf of the City
- ✓ Financial feasibility analysis
- ✓ Conceptual design/construction budget estimates
- ✓ Ground lease structuring
- ✓ Market and financial analyses
- ✓ Public-private deal structuring, including financial structure, alternative financing options, and assessment of equity participation
- ✓ Evaluation of outside funding sources
- ✓ Analysis for public-private partnerships, potentially to include developments on ground leased property
- ✓ Lease-leaseback transactions, and alternative ownership positions
- ✓ Development of evaluation criteria
- ✓ Evaluation of developer or owner's representative qualifications

Reference: Ms. Laura Gil (See Appendix B for contact info.)
Elk Grove City Manager
Tel. (916) 478-2200

Following is a testimonial letters from the then-current City Mayor, Gary Davis



Gary Davis Mayor

December 1, 2008

To Whom It May Concern:

As former President of the Board of Trustees for the Natomas Unified School District, I and my fellow Board Members voted to approve a financing and development proposal for the Inderkum High School prepared and submitted by Jeff D. Baize, President of Brookhurst Capital Corp. Mr. Baize's proposal was to engage the District in a "Lease/Leaseback" development wherein he would provide \$60 million in low cost financing at an extraordinary low interest rate of 1.6%, while concurrently guaranteeing performance and completion of the construction project. Mr. Baize's low cost structured financing and Lease/Leaseback development program for the award winning Inderkum High School was unique and cutting edge. It not only resulted in the project's delivery ahead of schedule but also saved the District millions.

Mr. Baize put together a team of leading industry firms to both fund and construct the high school project, which included one of the nation's largest builders of schools, Turner Construction Company. Mr. Baize oversaw the procurement of all financing as well as the coordination of all contracts needed for the project. In addition, he was the key representative for the team at Board meetings, and was diligent in keeping Board Members informed and apprised of challenges and issues of the project throughout.

Mr. Baize did a phenomenal job. He and his firm, Brookhurst Development, have earned my full endorsement and recommendation. Please do not hesitate to contact me directly at (916) 705 – 9538 should you wish to further discuss my recommendation of Brookhurst Development or our project.

Sincerely,

Gary Davis
Mayor, Elk Grove, California

ELK GROVE CITY HALL
8380 LAGUNA PALMS WAY
ELK GROVE, CA 95758

6. Major P3 Financial Advisory Contract Indianapolis Justice Complex

Client: City of Indianapolis/Marion County, Indiana

Project: \$1.75 billion P3/"Availability Income"
Justice and Correctional Complex
Retained as City Council Representative for
Financial Analyses and Technical Review

Date: 2012 through 2015



From 2012 through 2015, Brookhurst Development & Advisory Corporation (BDC) worked with leaders of the City of Indianapolis/Marion County towards a public-private design-build-finance-operate-maintain (DBFOM) delivery of the region's central justice and correctional facility complex. In 2014, the City Council hired BDC to provide a number of financial and other technical advisory services including the review of a financial proposal selected after an 18-month RFQ/RFP process. The contract concluded with the submission of a comprehensive financial report and presentation to the City Council.

Services Provided:

- ✓ Preliminary financial feasibility analyses
- ✓ Financial comparison of alternative P3 development structures
- ✓ Public-private deal structuring, including financial structure, alternative financing options, and assessment of equity participation
- ✓ Technical review and critique of Value-for-Money study
- ✓ Feasibility Analysis of proposals submitted
- ✓ Discounted cash flow analyses
- ✓ Review/critique of quantification of risk transference
- ✓ Evaluation of developer or owner's representative qualifications
- ✓ Evaluation of developer's financial capability to close
- ✓ Fairness opinion as to feasibility of proposal
- ✓ Publication of report findings to City Council

Reference: Mr. Bart Brown, Chief Financial Officer (See Appendix B for contact info.)

Following is a testimonial letters from Mr. Brown



**THE COUNCIL
CITY OF INDIANAPOLIS
MARION COUNTY**

April 21, 2015

To Whom it May Concern,

The Office of the Indianapolis and Marion County City-County Council recently contracted with Jeff Baize of Brookhurst Development Corp in January 2015 to provide an independent analysis of a public-private partnership ("P3") proposal put forth by the City Administration to develop a new \$1.75 billion justice center. The Council selected Mr. Baize because of his proven expertise and experience in the design, construction, development and financing of public agency facilities.

In April 2014, the City engaged in a competitive procurement to select a developer to take the long-term risk and responsibility to design, build, finance, operate and maintain the justice center for 35 years using an availability payment P3 structure. In December of 2014, the City selected its preferred offeror, a P3 consortium, for project delivery.

Despite over 30 years of government and public finance experience, Council staff was unfamiliar with this P3 model and how it differed from other options. While staff performed independent research, read numerous studies and white papers (both pros and cons) and reached out to various construction experts, we felt in order to perform our due diligence to Council professional and ethical standards, we needed an expert to not only teach us the nuances and details of public-private partnership procurements, but also provide a range of alternative financing and construction methods. This was of utmost importance to Council staff as we were tasked with looking at the most financially feasible procurement method for the taxpayers of Indianapolis and Marion County. We contracted with Brookhurst Development Corp because of Mr. Baize's expertise and background with this type of public works project.

First and foremost, Mr. Baize was the ultimate professional and an absolute pleasure to work with. His knowledge, experience and guidance allowed Council staff to perform an independent financial analysis reviewing various procurement methods. Mr. Baize explicitly walked us through the different financial models and provided leadership and direction in our own analysis. Additionally, his evidence-based approach to support underlying factors and quantitative analyses reinforced the credibility and integrity of his work.

We are confident in saying that without Mr. Baize, the Council analysis would not be the essential product it is today. His unbiased and honest approach to his work along with his willingness to produce the best product for his clients is a true win for taxpayers and clients seeking his services.

I would wholeheartedly recommend Mr. Baize and his company, Brookhurst Development Corp, for their services.

Sincerely,

A handwritten signature in black ink, appearing to read "Bart Brown".

Bart Brown
Chief Financial Officer

6. Major P3 Financial Advisory Contract Houston Justice Complex

Client: City of Houston, Texas

Project: \$1.0 billion P3/"Availability Income"
Justice & Police Headquarters Complex
Retained as technical advisor to assist
in the solicitation of the project

Date: 2014 to current (still under contract)



From 2014 to current, Brookhurst Development & Advisory Corporation (BDC) worked with MOCA Systems and the leaders of the City of Houston to solicit and review a P3/ DBFOM delivery of the region's central justice and police headquarters complex. The City is continuing its pursuit of this project.

Services Provided:

- ✓ Preliminary financial feasibility and planning analyses
- ✓ Tour of existing court and police facilities
- ✓ Numerous meetings with city leaders/city council presentations
- ✓ Review of Texas Revised Code for statutory provisions of P3 delivery
- ✓ Review of City's Comprehensive Annual Financial Report and Budget
- ✓ Financial comparison of alternative P3 development structures
- ✓ Public-private deal structuring, including financial structure, alternative financing options, and assessment of equity participation
- ✓ Wrote financial criteria and project agreement provisions of RFP
- ✓ Wrote+ financial sections of Value-for-Money study
- ✓ Financial review of submitted proposals
- ✓ Evaluation of developer or owner's representative qualifications
- ✓ Evaluation of developer's financial capability to close
- ✓ Discounted cash flow analyses
- ✓ Review/critique of quantification of risk transference
- ✓ Fairness opinion as to feasibility of proposal

Reference: Ms. Rhonda Robinson
Principal Program Manager

MOCA Systems (master contractor)
Tel. (713) 492-2269

APPENDIX C – PROPOSAL QUESTIONNAIRE

Method of Approach

1. Provide relevant information demonstrating competence in the services to be provided; including supporting evidence of strength and stability of the firm and current work load.

Over the past 20 years, Brookhurst Development & Advisory Corporation has successfully completed governmental real estate development and advisory work for almost \$5 billion in real estate transactions. As a successful company, we currently have a workload inclusive of one major P3 development for CSU, and a number of active advisory contracts with various municipalities within California including the San Bernardino Community College District, the City of Yucaipa, an on-call advisory contract with the City of Elk Grove (Sacramento area), and are part of a pool of government real estate advisors for the California State University system. We also have an active contract with the City of Houston for P3 advisory work, and the State of Oregon regarding the Governor's Infrastructure Committee on advising them on financial arrangements for alternative delivery options.

Our entire family of companies, which includes Baize Corp, has been in existence for almost 60 years, and we have never had been unable to complete any project due to lack of staffing. Supporting evidence of our strength and stability are the years we have been in business, the references provided, and, from the testimonial letters provided within this Response.

2. How does your firm integrate internal and external research? Include a description of any database system you use.

For each assignment, BDC conducts both internal/primary and external/secondary research as appropriate. We also access existing data generated by our client, as well as a range of external sources of data (such as BOMA for building costs, CBRE for real estate trends, etc). Our professionals integrate the information to provide coherent strategies and recommendations needed to guide and inform the best decision-making possible for our clients.

3. Outline your process for each of the following:

a. Development of client real estate investment strategy.

BDC will work closely with OCFA to understand your real estate investment needs and expectations, including such issues as financial returns, risk tolerance, debt capacity and any geographic location requirements. Based on this information and our analyses of tax policies, real estate and financial market trends, BDC will draft recommended real estate investment strategies specifying options designed to support OCFA's desired results. We will work with your team to refine the strategy as necessary as the document proceeds through required committee and/or board approvals. We will also recommend any adjustments on an annual basis, to track real estate and financial market shifts – and more often should rapid market changes occur.

b. Development of client real estate investment policy.

Based on the approved real estate investment strategy, BDC will work with your team to develop a real estate investment policy that identifies acceptable investments and the parameters for the selection and management of real estate investment options, as well as associated risks. BDC will also review existing real estate and/or financial investment policies of OCFA as well as those of the OCFA Joint Powers Authority members and entities with OCFA relationships (such as OCERS), to ensure the OCFA real estate investment policy does not present any conflicts, as well as identify any policies that have proven to be effective in the Orange County real estate market. We will work with your team to refine the policy as necessary as the document proceeds through required committee and/or board approvals.

c. Development of client real estate investment implementation plan.

Based on the approved real estate investment policy, BDC will develop recommended implementation procedures which may include, but not be limited to: formulating selection processes, and developing qualifications and criteria, for selecting P3 partners, development firms, real estate brokers, and/or property managers; formulating RFQ/RFP templates; development of evaluation criteria for property evaluation; formulating processes for purchasing, leasing, developing, selling, financing and/or refinancing properties; and specifying processes for evaluating development budgets, construction contracts, and leases.

4. Describe your process and methodology for making recommendations as warranted by changes in the real estate market or overall strategy. Provide an actual example of a completed written strategy.

Our process and methodology to address changes in the real estate market includes constant vigilance on market conditions, then using that knowledge to provide evaluations consistent with the current market environment. To this end, Mr. Baized formed the Real Estate Investment Advisory Council (www.reiac.org), and is its current president. This national non-profit trade association hosts quarterly educational seminars and panel presentations by owners, investors and developers of real estate wherein current rental rates, capitalization rates and investment trends are discussed for all property types.

An example of a completed written strategy occurred during our advisory work for the \$1.75 billion City of Indianapolis Justice Center P3 project. The public finance markets had witnessed a precipitous drop in cost of capital compared to the rates during the Recession. The much lower rate environment had made using a tax exempt financing as opposed to developer-borrowed conventional (taxable) financing with equity far more prudent for the City. We provided a strategic report evidencing this, and this report changed the direction the City took. **We have included this report in our Exhibits.**

Qualifications & Experience

5. Include resumes for each member of the project team including specific knowledge, expertise and experience in providing real estate advisory services.

Pursuant to the RFQ requirement to follow the same sequence as that set forth in the RFQ, we are providing the full resumes of all of our team members in Section 6 of this response.

a. Identify the lead personnel the firm proposes to assign to the project.

Our lead personnel - Jeff Baize, CEO
 Lisa Kalustian, Partner and Director of Strategic Affairs
 (resumes included in Section 6)

b. For each individual that is assigned, include a summary of work or projects performed and a statement of planned responsibilities for the project under the contract. Individuals assigned must have experience and expertise in providing real estate valuation services. OCFA reserves the right to reject any individual proposed to be assigned to the project.

The example provided in Addendum 2 would require a total of two staff professionals, which would be those two individuals identified above. Because of his certifications and licensing for this work, Mr. Baize will be the lead contact. Our qualifications for the work are presented in our resumes and under relevant experience. In the event OCFA requires the analysis/valuations of a portfolio of properties, BDC will deploy additional staff at that time based upon the expertise needed upon such work load.

Additional Information

6. Provide information on any innovative or unique methods used that distinguish your firm from other firms.

BDC provides several unique qualities and methodologies that distinguish us from other firms, as follows:

- 1) Unparalleled knowledge and experience in alternative financial arrangements. The United States is the only country that allows tax-exempt financing on projects when, pursuant to Internal Revenue Code 103(c), "*lowers the burden of government*". This experience allows us to either advise or procure alternative financing arrangements that have been proven to *cut the costs by as much as 50% on project*. By way of example:
 - BDC procured tax-exempt financing on the Inderkum High School development (see enclosed references) at an unprecedented 1.6% interest, which was 300 basis points (3%) below the District's tax-exempt general obligation bonds, which bore a rate of

4.6% at the time. The lower cost of financing saved the District almost \$4 million (15% of cost) in capitalized interest during construction without any risks to the future rate environment as opposed to the District using its own G.O. bonds.

- Our CSU San Marcos P3 development will be using low-cost, short-term tax-exempt commercial paper to fund construction with a guaranteed take-out of CSU revenue bonds. At no time during construction will the cost of capital exceed 0.8%, which is almost 350 basis points (3.5%) less than CSU's tax-exempt revenue bonds. This will save CSU almost \$5 million in carried interest costs during construction as opposed to CSU using its own revenue bonds.
 - In addition to tax-exempt debt, BDC also has experience in numerous alternative financing options, including, but not limited to, New Market Tax Credits, Enhanced Infrastructure Finance Districts (EIFDs), EB5, and, various state and federal grant programs.
- 2) BDC is an experienced developer of public-private projects, which allows us to know and understand the requirements of other developers to successfully complete deals. As a developer, we have far more experience than any other real estate advisor as it pertains to actual development costs, risk transference issues, actual obtainable financing and development deal structuring. We can negotiate purchase and sale contracts as well as development agreements knowing in advance what OCFA can reasonably obtain without compromising the deal. Our goal is to not only protect our clients, but structure transactions that actually close, and our success history evidences that. No other real estate advisor has this experience. And this experience and track record makes us unique in the field.

7. Include any other information your firm considers to be relevant to the proposal.

There are many real estate consultants that can provide appraisals of property using comparable market data, establish market-derived rates on ground leases, research capitalization rates for a given property type and market, and, have junior staff run discounted cash flow analyses on Excel spreadsheets. Because of the efficiencies of the Internet and market data services available, virtually all real estate consultants in the industry can collect and analyze data that includes occupancy levels, absorption rates, construction supply pipeline, rental rates, operating expenses, tenant improvement allowances, leasing commissions, capitalization rates, and marketing/exposure periods for similar properties.

Although BDC can evidence decades of experience in these areas, and our testimonial letters and enclosed work product evidence we are far more thorough and detailed than others in these tasks, these capabilities do not differentiate one advisor from another. If these services comprise the preponderance of those needed by the advisor, OCFA should look to the lowest-cost bidder for these standard, perfunctory tasks, as there is nothing unique about them requiring anything other than rudimentary skills, and most consultants can easily perform them.

However, if OCFA requires their advisor to also have demonstrated experience in pricing lease-leaseback developments, structuring numerous public-private partnership deals, having a high

level of proficiency in alternative financing and funding sources, being able to project obtainable net income for various property development types in a manner that a bank underwriter will accept (which ultimately will either make or break the deal), and, be able to negotiate hard on behalf of their client with intimate knowledge of what the other party should accept, then no other advisor comes close to what BDC offers OCFA.



Brookhurst Development Corp

APPENDIX B - REFERENCES

Describe fully at least three contracts performed by your firm that demonstrate your ability to provide the services included with the scope of the specifications. Attach additional pages if needed. OCFA reserves the right to contact each of the references listed for additional information regarding their experience with your company.

Customer Agency Name	San Bernardino Community College District (active contract)
Contact Individual & Title	Jose Torres, MPA; Vice Chancellor - Business/Fiscal Services
E-mail/Telephone number	jtorres@sbccd.cc.ca.us / (909) 382-0116
Date of Project & Description of services provided including contract amount	Student Housing Market Feasibility Study; Market Assessment & Demand Analysis; Land Valuation; Development Pro Forma - 2 Phases w/ Phase 1 completed, Phase 2 - due 2018 - Total contract amount: \$50,000
Customer Agency Name	City of Yucaipa (active contract)
Contact Individual & Title	Ray Casey; City Manager
E-mail/Telephone number	rcasey@yucaipa.org / (909) 797-2489, ext. 223
Date of Project & Description of services provided including contract amount	Financial Feasibility Study for acquisition of land and development of an Innovation Center on 50 acres in Yucaipa; Phase 1 completed; Phase 2 due 2018 Total contract amount: \$39,000
Customer Agency Name	City of Elk Grove, California
Contact Individual & Title	Laura Gil; City Manager
E-mail/Telephone number	mnorita@csusm.edu / (916) 478-2200
Date of Project & Description of services provided including contract amount	2012 - 2013 P3 solicitation for the financing, development and ground leasing of a new aquatics complex to feature a competitive swim center for Olympic training and a commercial recreational water park
Customer Agency Name	Evergreen Union School District
Contact Individual & Title	Brad Mendenhall; Superintendent
E-mail/Telephone number	bmendenh@evergreenusd.org / (530) 347- 3411
Date of Project & Description of services provided including contract amount	2012-2013: Feasibility Study for development of new high school; analysis of financing alternatives; alternative project delivery including public-private partnership (P3) Contract amt. - \$52,000
Customer Agency Name	City of Indianapolis/Marion County, Indiana
Contact Individual & Title	Bart Brown; Chief Financial Officer - City Council
E-mail/Telephone number	bart.brown@indy.gov / (317) 327-4246
Date of Project & Description of services provided including contract amount	2015 - Financial feasibility analysis of alternative delivery options for a \$1.75 billion judicial complex; review of submitted proposals; value for money analysis

Brad Mendenhall
Superintendent
Bend School Principal

Kristen Nobles
Evergreen Elementary School
Principal

Felicia Ross
Evergreen Middle School
Principal



19500 Learning Way
Cottonwood, CA 96022-9602

District Telephone:
530/347-3411

Fax Numbers:
District: 347-7954
Middle School: 347-7953
Elementary School: 347-4639
Bend School: 527-4670

June 10, 2013

Subject: Letter of Recommendation for Brookhurst Development Corporation

To Whom It May Concern:

Evergreen Union School District recently completed a public solicitation for proposals for advisory services pertaining to potential district reorganization, charter school formation, and the formulation of a financing and development plan for the construction of a new high school to serve grades nine through twelve. The project was awarded to Brookhurst Development Corporation and a team of experienced professionals headed by Jeff Baize, CEO and Robert Moreno, Managing Director. As the prime contractor, Brookhurst subcontracted the analysis of a potential district reorganization and unification to School Services of California.

The completed feasibility study provided by Brookhurst was impressive and far more comprehensive and detailed than we expected. Our Board of Trustees was elated with Brookhurst's excellent performance under the contract, including providing services not contemplated by the contract such as setting up tours of comparable facilities being constructed and meetings with the leadership of other school districts that have successfully accomplished similar goals. The financial feasibility study included cost projections for various school delivery options, as well as a comprehensive review of 27 comparable completed public school projects in the region. Site plans and a proposed schematic layout for a new charter school as well as detailed contractor estimates on costs were included. The study also examined various funding options such as private financing through public-private partnerships, lease lease-back development, and local, state and federal grant funding such as tax credits, qualified zone academy bonds, charter endowment grants and high performance incentive grants.

Given our excellent experience with Brookhurst, I am happy to provide this unconditional endorsement of their firm and its professionals. Please feel free to contact me regarding this recommendation.

Sincerely,

A handwritten signature in blue ink, appearing to read "Brad Mendenhall".

Brad Mendenhall
Superintendent

TEAMWORK

*

COMMUNICATION

*

EFFORT

Board of Trustees: Greg Baker Brad Constant Stephen Nelson Jim Tomasini Roxanne Vine



Development Services Department

311 Vernon Street
Roseville, California 95678-2469

November 18, 2014

Re: Recommendation for Brookhurst Development.

To whom it may concern:

Over recent years, Mr. Jeff Baize, Mr. Bob Moreno and other professionals of Brookhurst Development Corporation have provided valuable assistance to me and other staff of the City of Roseville on a number of projects. These projects included financial and development cost analyses for a downtown parking structure as well as exploration of alternative financing mechanisms for the delivery of public safety facilities. Their work also involved presentations and conducting workshops for senior staff including our City Manager on how we could fund and develop 13 projects designed to revitalize downtown as part of our Downtown Specific Plan.

As part of this endeavor, Mr. Baize introduced the concept of "lease-leaseback" financing and development to the City. He assisted us in evaluating its use for alternative funding and project delivery for use in the Roseville Downtown Specific Plan. The financing structures recommended by Mr. Baize also incorporated low-cost tax-exempt municipal financing thereby minimizing the post-construction lease payments to be made by the City. In addition to working very collaboratively with staff, he assisted us in presenting the lease-leaseback concept to our City Council during open session wherein its use was unanimously approved and is now a potential delivery methodology for us. Further evaluation of City funding sources and capabilities have allowed us to move forward on projects without this type of financing structure, but with Brookhurst's investment in time we now have this as a viable alternative.

The ongoing assistance in the aforementioned projects as well as their support in the creation of our Community Development Corporation demonstrates the community-oriented culture of Mr. Baize and his partners. Further, in my many years of experience in working on municipal projects, I have been very impressed by the level of expertise and in-depth understanding of public-private partnerships and lease-lease back financing that Mr. Baize and the other professionals of Brookhurst Development have been willing to share with the City of Roseville. It is for these reasons I give them my endorsement without reservation. Please feel free to contact me to discuss this endorsement.

Sincerely,

Kevin Payne
Director of Development Services

Individual Resumes

Senior Leadership



Jeff D. Baize, CEO

- Recognized by State of California as P3 Project Delivery Expert
- Registered Municipal Advisor with MSRB & SEC
- Licensed Real Estate Broker
- P3 Advisory, Financing, Feasibility & Regulatory Specialization
- Commercial Finance & Real Estate Experience
- Certified Review Appraiser

Jeff D. Baize is the Founder and CEO of Brookhurst Development Corporation, a national development and governmental advisory firm founded in 1996 that specializes in traditional and alternative delivery of public facilities and social infrastructure.

Having been involved with over half a billion dollars of successful P3 developments, Jeff is known as a foremost authority on the development, construction and financing of public facilities, including public-private partnerships (P3), DBFOM, lease-leaseback, and other forms of alternative delivery. He has written numerous articles and co-authored a number of books on the subject, including School Facilities Planning: A Guide to Laws and Procedures for Funding, Siting, Design and Construction (Solano Press) wherein he authored the section on public school development using private funding through lease-leaseback delivery. He has assisted the California Office of the Governor on P3 draft legislation and was requested to testify to the Senate Committee on Governance and Finance and the Assembly Committee on Local Government on P3 matters. He has provided project delivery advice to such state agencies as the California Joint Legislative Budget Committee, the State Allocation Board, the Administrative Office of the Courts, Legislative Counsel, the Judiciary to the Legislature and numerous municipalities. He has also been involved in new P3 legislation in the states of Arizona, New Mexico, Texas and Washington DC. In addition, the California courts recognize Jeff as an expert on project delivery.

From 1996 through 1998, Brookhurst worked internationally including advising the Peoples Republic of China in Shanghai on recapitalization of several of their landmark assets as well as providing investment banking services to Japanese companies in the sale of their U.S. holdings. Prior to his international endeavors, Jeff was Vice President of Prudential Insurance Company, overseeing the financing and equity investment transactions for Prudential's \$9 billion dollar Western U.S. real estate portfolio.

Jeff holds a Bachelor of Architecture and MBA degrees, both conferred at the University of Texas where he was also a faculty member teaching courses in project development and finance. He has also conducted university studies in urban development at Oxford, England. He is a Registered Municipal Advisor with the SEC, an Assoc. Member of the American Institute of

Architects, a licensed California real estate broker, and Founder and President of the Real Estate Investment Advisory Council (REIAC), a national association of real estate acquisition, development and finance professionals. He is currently Chairman of the Public-Private Partnership Committee of the Western Council of Construction Consumers.

Education:

Oxford University, England: Studies in Urban Development

University of Texas, Austin: MBA

University of Texas, Austin: Bachelor of Architecture

Memberships, Affiliations and Community Involvement:

Chairman, PPP Committee – Western Council of Construction Consumers

Registered Municipal Advisor with the Securities Exchange Commission

American Institute of Architects, Assoc. AIA

Licensed Real Estate Broker

Member of the Coalition for Adequate School Housing

Founder and President of the Real Estate Investment Advisory Council (REIAC)

Faculty at University of Texas teaching courses in Real Estate Project Finance

Master's Thesis: "Valuation Adjustment to Atypically Financed Real Estate Developments" – now part of the University of Texas library collection.

Co-author of two books on real estate, including School Facilities Planning: A Guide to Laws and Procedures for Funding, Siting, Design and Construction

Editorial Board Member of the National Association of Review Appraisers and Registered Mortgage Underwriters Journal

Raised close to half a million dollars for underprivileged children education charities

Keynote Speaker/Presenter at the Following Conferences and Seminars:

Western Council of Construction Consumers, Conference Chair – CA

AIA Large Firm Practices Committee – Los Angeles, CA

Design-Build Institute of America (DBIA) – Oakland, CA

University of Southern California – Los Angeles, CA

Saint Mary's University, Graduate Public Policy Program – San Antonio, TX

University of California at Los Angeles – Los Angeles, CA

University of Texas – Austin, TX

Northern California Carpenter's Union Conference, Oakland, CA

CBRE National Investment Conference – Los Angeles, CA

National Appraisal Foundation – Los Angeles, CA

Council for Educational Facility Planners International (CEFPI) – Seattle, WA

Mortgage Banker's Association – San Diego, CA

California Assembly Committee for Local Government – Sacramento, CA

City Economic Development Keynote Speaker – Peoria, AZ

Swinerton Builders National Executive Conference – Bastrop, TX

University Health System – San Antonio, TX

Board of Education – Albuquerque, NM

Board of Education – Washington, DC

Counsel to the Judiciary – Sacramento, CA

Senate Committee on Governance & Finance – California State Capitol



James E. Baize, Partner

- Decorated Service Veteran
- Half-Century of Real Estate Development, Project Management & Funding for Public and Private Projects Worldwide
- Architectural, Mechanical, Nuclear, Electrical, & Structural Engineering Expertise

James E. “Jim” Baize oversees Brookhurst Development’s Midwestern operations and manages the regional headquarters in Indianapolis, Indiana. Jim has an extensive and varied background in real estate development, project management on construction funding through a family of companies he founded with offices in Colorado, Arizona, California, Hawaii, Guam, Philippines, China, Korea, Japan and the corporate office in Indianapolis, Indiana. Baize Development Corporation and its affiliates developed hundreds of government and private projects in numerous Pacific Rim countries and throughout the United States for over 40 years. So successful were his operations that in 1995, an international multi-billion dollar project management conglomerate acquired his companies.

Jim has been exemplary in his dedication toward community service by assisting a multitude of community organizations, including serving the Board of Education of Wayne Metropolitan School Corporation overseeing the financing of the Ben Davis High School, serving as Chairman of construction for the 10th Pan American Games, President of the Ben Davis Lion’s Club, and fundraising for both the baseball stadium construction at Marion College and 10th Pan Am Games.

But perhaps his greatest contribution to our country was his service in War World II when he was in the United States Navy involved in four major invasions – and Saipan, Tinian, Guam and Iwo Jima. Jim was wounded numerous times, the most severely when the LCVP he was navigating onto the shores of Iwo Jima was hit by a mortar, killing all 38 marines on board. Badly injured, he continued to fiercely fight with the 4th Marine Division for seven more days until he was struck by yet another mortar, which landed him in the veterans’ hospital for the next seven months. By the end of the war, he had been awarded 23 medals. Jim’s heroism is recognized in the Congressional Record (Baize War Record) Words of War Book.

Jim is a frequent keynote speaker at numerous conferences events as well as speaking at a multitude of schools and community, trade and veteran organizations.

Education:

Northwestern University: B.S., Mechanical Engineering

Purdue University: B.S., Nuclear Engineering



Lisa Kalustian, Director of Strategic Affairs

- Policy & Communications Advisor to Two California Governors
- California State Policy & Regulatory Experience, Including CSU System
- Public and Private Sector Experience in Land Use & Infrastructure
- Expertise in Public Affairs, Government, Community & Media Relations

As Director of Strategic Affairs, Lisa oversees Brookhurst's public affairs strategies, and media, community and government relations. She is an accomplished strategist with more than 20 years of senior-level corporate, government and nonprofit board experience in complex issues management, proactive and crisis communications, policy development and implementation, and media relations. Lisa has been an advisor to top-level leadership, including two California Governors.

Serving as Chief Deputy Director for Governor Arnold Schwarzenegger, she built support for the Governor's policy agenda, including land use and infrastructure development issues, as well as managing local issues, spearheading political campaigns, and representing the Governor at hundreds of policy forums and public events.

Lisa also served as Deputy Cabinet Secretary and Deputy Press Secretary for California Governor Pete Wilson, handling policy oversight and implementation, and media relations for a broad portfolio spanning education, legal, environmental, agriculture, and health and human services issues – including the CSU System and its campuses.

Earlier, as an associate with The Wessell Company, a community/government relations management and political consulting firm focused on land use, waste management and transportation issues, she handled account supervision, program and budget development, community relations, speakers' bureau development, campaign supervision, and direct mail development and production.

During her career Lisa was also Vice President of Public Affairs for Health Net, Inc. (NYSE:HNT), one of the nation's largest health plans, overseeing public and media relations and communications for the Western Region. Previously, she held communications and public affairs positions with the senior-level executive search firm Heidrick & Struggles.

Lisa serves on the Board of Trustees for the nearly \$20 million Endowment Fund of the Armenian Church of North American, which directs the fund's investment, loan and disbursement policies. She has been a frequent keynote speaker on California policy issues for a wide range of business, professional, community and educational forums.

Education:

University of Southern California: Masters of Public Administration

University of California, Los Angeles: B.A., Phi Beta Kappa

Coro Southern California: Coro Fellows Program in Public Affairs

Selected Memberships, Affiliations and Community Involvement:

Trustee, Endowment Fund, Western Diocese of the Armenian Church of North America
Board Member, Armenian Assembly of America
Advisory Board, Our Hope-Mer Hooys educational support center, Yerevan, Armenia
Past Board Member, Coro Southern California
Past Board Member, California Board of Psychology, appointed by Governor Pete Wilson

Selected Keynote Speeches/Presentations:

American Public Works Association
ArmTech Congress
Association for Corporate Growth-Orange County (ACGOC)
Association of Energy Engineers
California Council for Excellence
California Girls' State
California Women Veterans Conference
Chambers of Commerce – more than 20 Chambers/Business Alliances across California
Contract Cities Association
Coro Southern California
Healthcare Financial Management Association
IEEE
INC5 – International Nanotechnology Conference at UCLA
Junior State
Leadership California
Los Angeles Area Chamber of Commerce
Orange County Business Council
Orange County Taxpayers Assn/OC Tax
Orange County Transportation Authority
PTA District 4 – Orange County
Raytheon Management Club
Southern California Biomedical Council Investors' Conference
Southern California Design Forum
Technolink Association
U.S. Drug Enforcement Agency Educational Foundation Advisory Committee
U.S. Marine Corps Correspondents Association
U.S. HUD Fair Housing Conference
U.S. SBA Small Business Procurement Conference
USC Healthcare Reform Conference
Ventura County Economic Club
Western Council of Construction Consumers
Westside Urban Forum



Bob Moreno, Regional Director

- Sac State Graduate, Presidents Circle, and Facilities Advisory Committee Member
- CSU System Alumni Council and Legislative Caucus Host Leader
- Experience with P3, Public And Private Development
- Capital Markets & Tax Exempt Market Expertise

Bob Moreno is the manager of the Sacramento Office of Brookhurst Development. He is an experienced financial advisor to the development industry and has been instrumental in several major development projects in Northern California. He holds a business degree from California State University, Sacramento.

Bob is presently a partner with Mr. Henry Cisneros and Mr. David Hill in the master planned development community, Parkebridge Communities, featuring 504 single family dwelling units. He is also a partner in Greenfair Communities, a master planned community that will feature 300 single family dwellings and a variety of mixed use development including retail and senior citizen housing. These development communities are located in the Natomas area of Northern Sacramento, and adjacent to UC Davis Medical Center in midtown Sacramento, respectively.

Bob began his career in finance with Merrill Lynch Pierce Fenner & Smith in 1987. He continued managing portfolios when he started Moreno Financial in 1993. He brings his expertise in Capital Markets with Moreno Consulting and the complexities of the tax exempt market.

Bob continues to be involved with CSU System, as host leader for the California State University Legislative Caucus and a member of the California State University System Alumni Council. A CSU, Sacramento Alumni Advocate of the Year, he has also continue to serve the Sacramento campus as a member of the Facilities Advisory Committee for the Office of the President and the Presidents Circle.

In addition, Bob has been a long-time advocate and supporter of the area's public K-12 education system, as well as an established recognized leader in the Sacramento political community. In these endeavors, he has served the Natomas Unified School District (NUSD) as a Member of the Executive Committee for the Measure M Bond Campaign. He is also currently on the NUSD's Budget Advisory Committee, and the District's School Site Counsel. Bob is a past President for the NUSD PTA. He was also instrumental in convincing the NUSD Board of Trustees to pursue the lease leaseback development of the Inderkum High School, which resulted in an early delivery of the project while saving the District millions in costs.

Over the last three years, Bob has raised over a quarter of a million dollars for the schools and students of Natomas Unified School District. He is a member of the Sacramento Taxpayers Association, serving as co-chair of the Education Committee.

Education:

Merrill Lynch Pierce Fenner & Smith, Princeton, NJ: Advanced Studies
Securities & Exchange Commission: Series 7 Licensee
California State University, Sacramento, School of Business: B.S. with Honors



David Karina, Project Director

- CSU Long Beach Graduate
- Member, State Architect's Task Force on Administration & Building Codes
- Member, DSA Advisory Board
- Inspector for DSA, OSHPD, ACIA & NITC
- Associate AIA, American Institute of Architects

With more than 35 years' experience as a Builder, Quality Control Manager, Project Inspector, Inspector of Record and Educator for a wide range of project types for both public and private sectors in California, David Karina provides Brookhurst an unparalleled understanding of the operational imperatives of the industry as they impact large and small design and construction projects. He holds a business administration degree from California State University, Long Beach.

David is highly experienced with all conventional delivery and alternative delivery systems, is a DSA Advisory Board Member, Past President twice for ACIA and most recently a member of the State Architect's Task Force for Project Delivery, Field Improvement and DSA Proposed Draft Amendments for the 2016 California Administrative and Building Codes. He is also professionally recognized with the AIA, OPSC, OSHPD, CASH, ACIA, Construction Specification Institute (CSI) and the Judicial Council of California (JCC). David was instructor for three years (2003-2006) teaching public facility construction inspection to more than 200 students at North Orange County Community College.

Education:

Coastline College: Inspection Technology

California State University, Long Beach: Business Administration

Orange Coast College: Construction Technology

Certifications:

DSA Class 1 Project Inspector

OSHPD Class A Inspector

ACIA Div II Building Inspector

CSI – Construction Document Technology

DSA Masonry Inspector

DSA Shotcrete Inspector

NITC Medal Gas Inspector

American Concrete Institute, Tech Grade 1

PTI Prestressed Concrete Inspector

CAFFA Fire Alarm Inspector

Affiliations & Memberships:

DSA Advisory Board Member (DSAAB)

American Institute of Architects

DSA Inspection & Testing Committee – Vice Chair

Cal-EMA Steering Committee & Certified SAP Trainer
DGS, Emergency Function 3 Advisory Council
International Code Council
American Construction Inspectors Association – Past President 2008 & 2010
National Fire Protection Association
Construction Specifications Institute
American Society of Engineers
Western Council of Construction Consumers

Awards:

State Architect Citation – 2014
Cal-EMA Undersecretary Appreciation – 2014
AIACC – President Citation – 2013
ACIA President's Certification of Achievement – 2011
LAUSD Superintendent Appreciation – 2010
Cal-EMA Undersecretary Appreciation – 2010
ACIA Ed Grey Award – 2007
CIA Inspector of the Year – 2006



Ray Rodriguez, Project Manager

- San Diego State Graduate
- Extensive Experience with Public Education Facility Development
- Administrator, SDSU Facilities Management Division
- Director of Facilities, Long Beach Community College District
- Licensed General Contractor

As a lifelong educator and construction professional, Ray Rodriguez has helped numerous school districts and colleges improve their programs and facilities during his 20+ years in public education. As a highly recognized industry professional, he has worked with major school districts and colleges to plan and deliver the facilities needed to educate tomorrow's leaders.

Ray is a graduate of San Diego State University, and also served as the Administrator for the campus' \$30 million Facilities Management Division. In that role, he oversaw the Maintenance and Operations, Industrial Hygiene and Planning and Construction branches, including long and short range facility planning and school construction. He has also served as Director of Facilities for Long Beach Community College District, and Vice President, Educational Facilities Group – Senior Manager for Parsons Brinkerhoff Construction Services.

During the course of his career, Ray has served in a multitude of increasingly important positions including Teacher, Facilities Director, Deputy Superintendent, Chief Operations Officer, and Director of Educational Services. Ray has also served as project manager for the construction of a variety of educational and other governmental facilities including pre-schools,

elementary schools, high schools, administrative headquarters and occupational centers. Additionally, he has been a licensed general contractor since 1979 and is a founding partner of an affiliate of BDC, RMA Construction Services Inc.

As a regular participant in State and National facilities organizations, Ray has presented numerous seminars and workshops on various subjects dealing with public facility development. From managing private consultants, oversight of contracts and programming of new schools, he provides information on the latest trends and approaches to matters of concern for school districts.

Ray has served on numerous state and local committees including successful school bond campaigns in the Rio Linda and Los Angeles Unified School Districts and he is a former member of the State Allocation Board Implementation Committee. Most recently, he participated in a series of Office of Public School Construction workshops to develop guidelines for the reduction of the costs of school construction.

Education:

Point Loma College: MA

San Diego State University: BA



Rebecca Q. Cedillo, Regional Director

- Expertise in Public Planning, Land Use, Economic Development, Master Planning and Redevelopment
- Director of Public Planning, City of San Antonio
- Chief of Water Resources, City of San Antonio
- Bexar County University Health System Board of Managers
- Chair, Intergovernmental Affairs Division, American Planning Association

Rebecca Cedillo is Brookhurst's Regional Director in Texas, and comes with over 30 years in service to municipal government in various progressive leadership and administrative capacities. She was Chief of Water Resources for the City of San Antonio and co-founder of the San Antonio Water System (SAWS). She was also San Antonio's Director of Public Planning overseeing 12 boards and commissions that regulated the City's growth and had responsibility for such issues as land use regulations, environmental assessments, economic development, land use master planning, downtown redevelopment, urban housing, transportation, and regulatory compliance.

Rebecca's professional affiliations include: Chair of the Intergovernmental Affairs Division of the American Planning Association, Water Resources Council, member of the American Water Works Association and the Urban Land Institute. In addition, she served as secretary of the Alamo Public Telecommunications Executive Board (KLRN), United Way of San Antonio Board of Directors, member of the San Fernando Cathedral Community Centre business affairs and strategic planning committees, Leadership Texas and St. Mary's University Academic Affairs

Council, and the San Antonio Parks Foundation as well as a board member of the Bexar County University Health System Board of Managers. She currently serves as Chair of the San Antonio Hispanic Chamber of Commerce.

She is a recipient of several awards for municipal planning projects as well as author and presenter of numerous professional articles. She is also an adjunct professor at St. Mary University's graduate Public Affairs program.

Education:

Massachusetts Institute of Technology, Master's Degree, City Planning

St. Mary's University, Bachelor's Degree, Political Science & Economics (magna cum laude)



Brookhurst Development Corp

Subcontractor Statement

BDC does not anticipate the need for any partners or subcontractors given the scope of services identified in the RFQ.



Brookhurst Development Corp

Request for Taxpayer Identification Number and Certification

Give Form to the
requester. Do not
send to the IRS.

Print or type See Specific Instructions on page 2.	1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank. Brookhurst Development Corporation	
	2 Business name/disregarded entity name, if different from above	
	3 Check appropriate box for federal tax classification; check only one of the following seven boxes: <input type="checkbox"/> Individual/sole proprietor or single-member LLC <input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶ Note. For a single-member LLC that is disregarded, do not check LLC; check the appropriate box in the line above for the tax classification of the single-member owner. <input type="checkbox"/> Other (see instructions) ▶	
	4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3): Exempt payee code (if any) _____ Exemption from FATCA reporting code (if any) _____ <small>(Applies to accounts maintained outside the U.S.)</small>	
	5 Address (number, street, and apt. or suite no.) 4533 MacArthur Blvd., Suite 324	Requester's name and address (optional)
	6 City, state, and ZIP code Newport Beach, California 92660	
	7 List account number(s) here (optional)	

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Note. If the account is in more than one name, see the instructions for line 1 and the chart on page 4 for guidelines on whose number to enter.

Social security number										
			-				-			
or										
Employer identification number										
9	0		-	0	2	0	8	7	2	1

Part II Certification

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
- I am a U.S. citizen or other U.S. person (defined below); and
- The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 3.

Sign Here	Signature of U.S. person ▶ 	Date ▶ December 14, 2017
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General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. Information about developments affecting Form W-9 (such as legislation enacted after we release it) is at www.irs.gov/fw9.

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following:

- Form 1099-INT (interest earned or paid)
- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)

- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See *What is backup withholding?* on page 2.

By signing the filled-out form, you:

- Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
- Certify that you are not subject to backup withholding, or
- Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income, and
- Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct. See *What is FATCA reporting?* on page 2 for further information.

APPENDIX F

PARTY AND PARTICIPANT DISCLOSURE FORMS

(SEE FOLLOWING PAGES)

NOT APPLICABLE

No officer of Brookhurst Development Corporation, any of its affiliates or subcontractors have made an political contributions to any elected or appointed officials or have engaged in any activities that would require disclosure as set forth in this Exhibit F.

Acknowledged



Jeff D. Baize
CEO Brookhurst Development Corporation

Dec. 14, 2017

Date

EXHIBITS



Brookhurst Development Corp

Appraisal Review **& Mortgage Underwriting** ***JOURNAL***

Volume 12, Number 1 Winter 1990

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It is the intent of the NATIONAL ASSOCIATION OF REVIEW APPRAISERS AND MORTGAGE UNDERWRITERS to include in each publication of the Journal, technical information pertaining to Appraisal Review or Mortgage Underwriting of residential, commercial, special purpose or unique properties.



Reviewing Valuations of Ground Leased Investments

By Jeff D. Baize, CRA, RMU

INTRODUCTION

THE preamble to the National Association of Realtors begins "Underneath all is the land". It is appropriate that this reflection falls at the very beginning of the preamble as it reminds us of the important role this limited resource plays in our society. Today, as our cities grow ever denser the availability of centrally located parcels available for development is dwindling.

Over recent decades, the shrinking supply of land coupled with increasing demand has caused land values in most urban settings to increase at a disproportionately faster pace than inflation. Land owners are increasingly more reluctant to give up their valuable holdings, especially when these parcels are located in dense central business districts. Consequently, the ground lease has witnessed greater popularity as it affords the owners the opportunity to receive continuous and secure returns on their holdings while allowing them to retain ownership. For the developer/investor who leases the land, it affords then the

entrepreneurial opportunity to being the site to its highest and best use without up front land costs, and, the land rent may be expensed for tax purposes.

The issue of appropriate valuation of the respective interests associated with these ground leases often causes heated debates among review appraisers and mortgage underwriters. When reviewing such valuations, the reviewer must give particular attention to the employment of proper valuation techniques as well as making sure all significant terms and conditions of the ground lease have been considered in the rendering of value.

This article addresses various aspects of ground lease contracts that are often overlooked by the reviewer yet can have an important impact on future ownership and control for both lessee and lessor. It also reviews the traditional methods of appraising ground leased property and proposes an old, but rarely used technique for valuing such interests.

KNOW THY LEASE

In the valuation and underwriting of ground leased interests, there are two cardinal rules. The first rule is know thy lease. It is surprising how often significant terms of the lease contract are omitted or completely ignored in the underwriting of leased interests. It is incumbent upon each reviewer or underwriter to conduct a comprehensive analysis of the ground lease including all amendments and addenda to this critically important document. The second cardinal rule will be discussed later in this report.

TERMINOLOGY

For those unfamiliar with ground leases, a brief review of some of the terms used in this article is as follows:

Leased Fee Estate. An ownership interest held by a landlord with the right of use and occupancy conveyed by lease to others; the rights of lessor or the leased fee owner and leased fee are specified by contract terms contained within the lease.¹

Leasehold Estate. The right to use and occupy real estate for a stated term and under certain conditions; conveyed by a lease.²

It should be noted that from a legal perspective, ownership of a leasehold estate is usually not considered ownership of real estate, rather, the leasehold interest represents personal property. The difference between the types of property may affect such items as transfer taxes, requirements for recordation and the form and nature of documentation associated with deeds and assignments.

REVERSION OF LEASEHOLD ESTATE

Almost all ground leases state that upon expiration of the lease, all improvements revert back to the land owner. Consequently, in entering the lease contract the lessee must be confident that his or her original investment in any improvements in the property will be fully recaptured prior to termination of the lease in addition to realizing an appropriate return on that investment during the holding period. This return is of particular concern when the ground lease has a shorter duration. The reviewer or underwriter must remember that the value of the leasehold diminishes as the term of the lease decreases. When discounted cash flows are used with investment horizons shorter than the duration of the ground lease, the residual value at the end of the projection must reflect this diminution of value.

RENT AND ESCALATIONS

A thorough understanding of the methods by which ground rent payments are calculated is essential. Typically, rental payments are a stated base amount, a percentage participation of gross receipts received by the lessee in the operation of the leasehold, or both a minimum rent plus overage. Also important are future rent escalations. The underwriter must be careful in reviewing the lease as contractual increases in base rent are sometimes buried in addenda or riders and are frequently overlooked.

Because it is extremely difficult to forecast what rental increases will reflect market conditions at the time of the increase, future rent adjustments are often based on a percentage of land value (usually 6% to 10%) with the estimate of value made at the time of the adjustment. This assures the ground owner that future returns will remain reasonably proportionate to the worth of his or her investment. The specific language used in describing the method by which future land value is to be estimated is important. An astute lessor will have the lease recite that the land value will reflect the fair market value of the land, as though vacant and unencumbered, and ready for development into highest and best use. Absent of such language, the lease contract may allow the lessee to successfully argue at the time of the adjustment that the land value is diminished due to the leasehold encumbrance.

Because of functional, physical or economic obsolescence, this type of ad valorem rent adjustment may have a devastating impact on future operating returns to the lessee. In circumstances where lessee returns are marginal prior to the rent escalation, such an increase may render the leasehold operations insolvent thereby wiping out any residual leasehold value. When the reviewer encounters such a phenomenon, the allocation of land value to the value of the entire fee simple interest should be examined. If the value of the land is greater than fifty or sixty percent of the entire property, there is a good chance that the property is not at its highest and best use.

FINANCING RESTRICTIONS

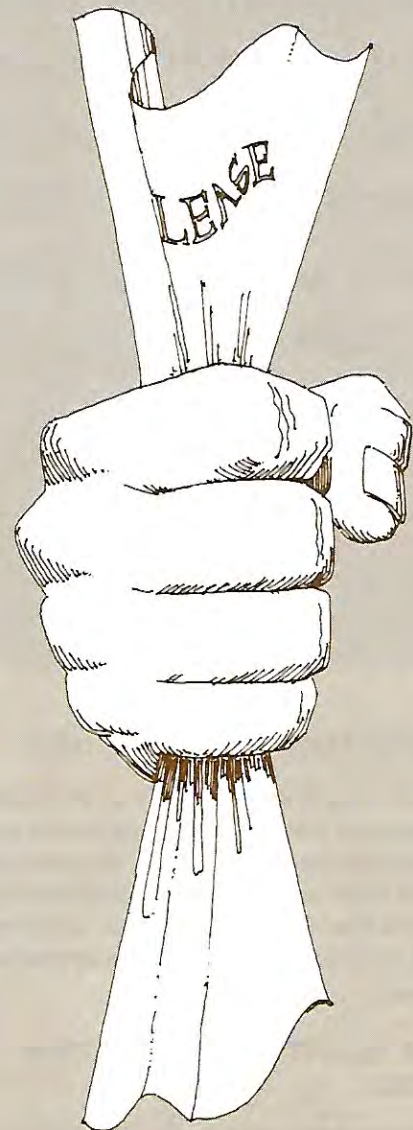
One of the first questions a prospective buyer or lender of a ground leased property will ask is whether or not the lease can be subordinated to a mortgage. The ability to hypothecate (to pledge the property as security) the entire property markedly affects the value of the leasehold. Prior to World War II, such subordination of long term ground leases were fairly common. However, the majority of ground leases executed today either expressly prohibit such subordination or recite very restrictive limitations to such financing.

When a leasehold is subject to an unsubordinated ground lease, nonrecourse financing secured solely by the leasehold is often difficult to obtain. The difficulty in obtaining financing increases as the remaining term on the ground lease decreases. Many lenders simply will not fund such a leasehold with less than fifty years remaining on the ground lease. Those lenders who do often use a truncated amortization period on the loan, typically at or less than 75% of the remaining ground lease term.

Because a shortened amortization period results in higher debt service, the underwriter should consider the impact of such financing on cash flows. These loans, which are almost always fully amortizing, do not call for a future balloon payment for the obvious reason that the mortgagor will have even a tougher time financing the property when the balloon payment is due as the duration of the lease term will be further diminished at that time.

Cardinal Rules of Ground Leases:

1. 'Know thy lease'.
2. 'The sum of the parts do not necessarily equal the whole'



"...the ground lease has witnessed greater popularity as it affords the owners the opportunity to receive continuous and secure returns on their holdings while allowing them to retain ownership."

OTHER IMPORTANT CONSIDERATIONS

When reviewing or underwriting a ground leased property, other considerations which should be addressed include which entity is responsible for property taxes, the extent of control the lessor has over lessee actions including approval rights over the assignment of lessee's interest or over the lessee encumbering the leasehold, and whether there exists any options or extensions within the lease.

REVIEW OF TRADITIONAL VALUATION TECHNIQUES

The first part of this article dealt with what the author refers to as the first cardinal rule of ground leases - know thy lease. The second cardinal rule in the valuation and underwriting of ground leased properties is that the sum of the parts do not necessarily equal the whole; that is, it is inappropriate to estimate the value

of the entire fee simple interest solely by adding together the individual values of the leased fee and leasehold estates. Likewise, it is the author's opinion that it is equally inappropriate to estimate the value of the leased fee or the leasehold estates solely by subtracting the other from the value of the fee simple estate. To do so ignores the effect that assemblage of the component estates has on value.

The terms and conditions within the ground lease that encumbers both leased fee and leasehold interests can sizeably influence the value of each respective interest. Many property rights often found in real estate, such as development rights, rights to enter, alienation rights or rights to encumber, are severed from one or both of the component estates. However, the fee simple interest conveys a full bundle of rights that neither of the component interests alone has the ability to convey.

Many of the traditional methods employed in the valuation of ground leased interests do not consider this synergistic phenomenon of assemblage. Following are some of the more prevalent methods historically used.

SALES COMPARISON APPROACH

Comparable leasehold or leased fee sales are frequently used in deriving an estimate for value. This approach is more persuasive when there is an abundance of comparable information and serves to establish economic or market ground rent for the subject. In deriving a value for the leasehold estate, analysts typically make an adjustment based on the present value of the difference between the economic ground rent and the contract rent as projected over the duration of the lease.

However, making the appropriate adjustments of comparable sale prices of ground leased interests is often problematic in that the number of adjustments required is significantly greater than the number of adjustments required with fee simple interests. Additional adjustments required with such interests include adjustments for variances in remaining terms of the leases, base rent payments, escalation and participation clauses, rights conveyed and renewal options. Unless there is a considerable abundance of comparable data upon which these adjustments can be justified, the adjustments may be arbitrary.

ALLOCATION

The allocation method is based on the concept that there is a ratio of the value of the component land interest to the value of the entire property interest that is typical for specific categories of real estate in specific locations. This method, which is more commonly used for estimating land value when comparable sales cannot be found, is sometimes used for estimating ad valorem ground rent adjustments as discussed previously. The primary deficiency of this approach is that it ignores the terms of the ground lease as well as the effect of assemblage on value. Also, such ratios are very sensitive to improvement quality and age, making the accurate ascertainment of the ratios from the market difficult if not impossible.

EXTRACTION

Extraction may be thought of as the inversion of the traditional cost approach to value. The value of the land or leased fee interest is extracted from the fee simple value by deducting the depreciated value of the improvements. Like the allocation method, this process does not consider the terms of the lease nor the affect of assemblage. Also, this approach does not reflect current market conditions.

INCOME CAPITALIZATION APPROACH

The income capitalization approach is preferred by this author as the value rendered reflects the impact of the lease terms through quantifying their affect on forecasted cash flows. Considerations for current market conditions are also included in the derivation of value. Lastly, the approach allows the reviewer to scrutinize the value of each component estate separately thereby affording the reviewer the opportunity to assess the overall affect on value of assemblage.

The affect on value through assemblage of the component estates is best estimated when the designated capitalization and yield rates accurately reflect the inherent quality of cash flows associated with each respective ownership position. For instance, the ground rent payments are usually secured by the leasehold estate. If the lease is unsubordinated and the lessee defaults, the leasehold, including all improvements, revert to lessor thereby giving him a much more valuable fee simple ownership. Consequently, the indicated rate of return for deriving the value of the leased fee estate is lower than the appropriate rate used for deriving the value of the leasehold estate. Further, when the contract ground rental rate is below market, the security of future rent payments is strengthened. Empirical studies have revealed such leased fee returns are comparable to returns on long-term U.S. Treasury securities at the time of the transaction.³

If the ground lease is subordinated, the leased fee returns are clearly at a higher level of risk. A subordinated ground lease is in second position behind the first mortgage. Thus, it can be argued that returns on a subordinated leased fee position are more commensurate with returns on secondary financing instruments than with returns on Treasury securities.

Once the appropriate discount rate has been selected, the value of the leased fee interest is estimated through calculating the present value of all future contract rent payments, including any anticipated escalation or participation rent. Added to this amount is the present value of the land of which the lessor is to regain possession at conclusion of the lease term. In deriving the present value of the land, the value of the land at the time of reversion is estimated and discounted over the term of the lease.

Review appraisers often disagree over the proper method for estimating future value of land when completing the above process. Many argue for using conservatively low growth rates for land values, or even not using any growth rate at all. It is the

opinion of this analyst that unless there are specific reasons that would indicate otherwise, the derivation of future land value should include a supposition of growth no less than the historical average over the last few business cycles. To do otherwise ignores the decreasing supply of land.

When estimating the leasehold estate value, two methods are used. This first method discounts all cash flows anticipated to be received by the lessee through the duration of the ground lease. The discount rate should be commensurate with expected yields on leasehold investments, and, typically greater than interest rates available for loans on such interests (this is to allow for positive leverage). If such a cash flow model can be easily constructed, this method can provide a good estimate of value. However, it is sometimes impractical to construct cash flow models with these long-term projection periods and some real estate computer programs simply cannot handle the length of these investment horizons.



The second and probably most popular method for estimating the leasehold value begins with an estimate of the fee simple value. The fee simple value is estimated through pulling all ground rent payments out of operating expenses and then using a standard direct or yield capitalization approach to derive the property's value. The ground rent is then capitalized in the same manner described above in deriving the leased fee value. The capitalized value of the rent is then deducted from the fee simple value with the resulting amount being the value of the leasehold estate. As discussed previously, the problem with this type of

approach is that it ignores the effect that assemblage of the component estates has on value.

AN ALTERNATIVE MODEL FOR ESTIMATING LEASEHOLD VALUE

Each of the income capitalization methods used above for leasehold estate valuation has its inadequacies. This first method can require an excessive amount of the analyst's time in the construction of such a large model while the second model ignores the effect of assemblage of interests through the supposition that the fee simple value less the leased fee value results in the leasehold value.

The problem lies in the nature of the leasehold. It does not allow for direct capitalization. Direct capitalization assumes that future cash flows will continue into perpetuity whereas the cash flows received from a leasehold estate are for a finite duration. If there were a method for deriving a capitalization that would account for the finite nature of the ground lease while still being market driven, the resulting rate could be used to directly capitalize leasehold income into value.

Such a method does exist and has for many years. It was developed by H.D. Hoskold and is called the Hoskold method of valuation. Hoskold, who was an English mining engineer in the Nineteenth Century, originated a method of valuation for real estate with depleting assets such as timberlands, geological deposits and coal mines. Hoskold's methodology is ideally applicable to the valuation of expiring ground leases.

What Hoskold developed was a factor or multiplier that provided for the recapture of the original investment by actual or hypothetical contributions to a sinking fund which grows with compound interest at a safe rate. In addition, the Hoskold factor provides for return on the investment at a higher speculative rate.⁴

Applying the Hoskold factor to a leasehold estate is a relatively simple process. We begin by estimating a rate of return that would be appropriate for the property if it were absent of the expiring ground lease. Comparable property transactions that are fee simple are examined to derive an overall capitalization rate.

The capitalization rate that would typically be appropriate for a fee interest must be upwardly adjusted or "loaded" to allow for both a "return on" and the "return of" the original investment. This upward adjustment is known as the Hoskold Factor and accounts for the amortization of the principal of the original investment. The factor may be thought of as the difference between the mortgage constant and the contract rate used to calculate loan payments. When added to the capitalization rate, this adjustment, which is essentially a sinking fund factor, adjusts the cap rate to account for the full recapture of the investment as well as providing for a market rate of return on the investment. The derivation of the appropriate sinking fund factor is as follows:⁵

"Hoskold's methodology is ideally applicable to the valuation of expiring ground leases."

$$\frac{1/S_n}{S_n - 1} = i$$

Where $1/S_n$ = Sinking Fund Factor
 i = Effective Rate of Interest
 n = Number of Compounding Periods
 S^n = Future Value Factor = $(1 + i)^n$

According to Hoskold, the effective rate above ("1") should be a safe rate of return, typically the prevailing rate for insured savings accounts or government bonds. Hoskold's argument is that once the income has been received from the investment it is no longer affected by the systematic risks associated with that particular investment and would subsequently be reinvested at the safer lower rate. The resulting sinking fund factor is then added to the speculative rate thereby creating a blended capitalization rate. The more commonly used Inwood Premise, however, holds that the present value of the income stream is based solely on one discount rate. The interest is assumed to decline gradually and is calculated as a specified percentage of the unrecovered capital.⁶

To illustrate how the loaded capitalization rate works the following hypothetical application is presented:

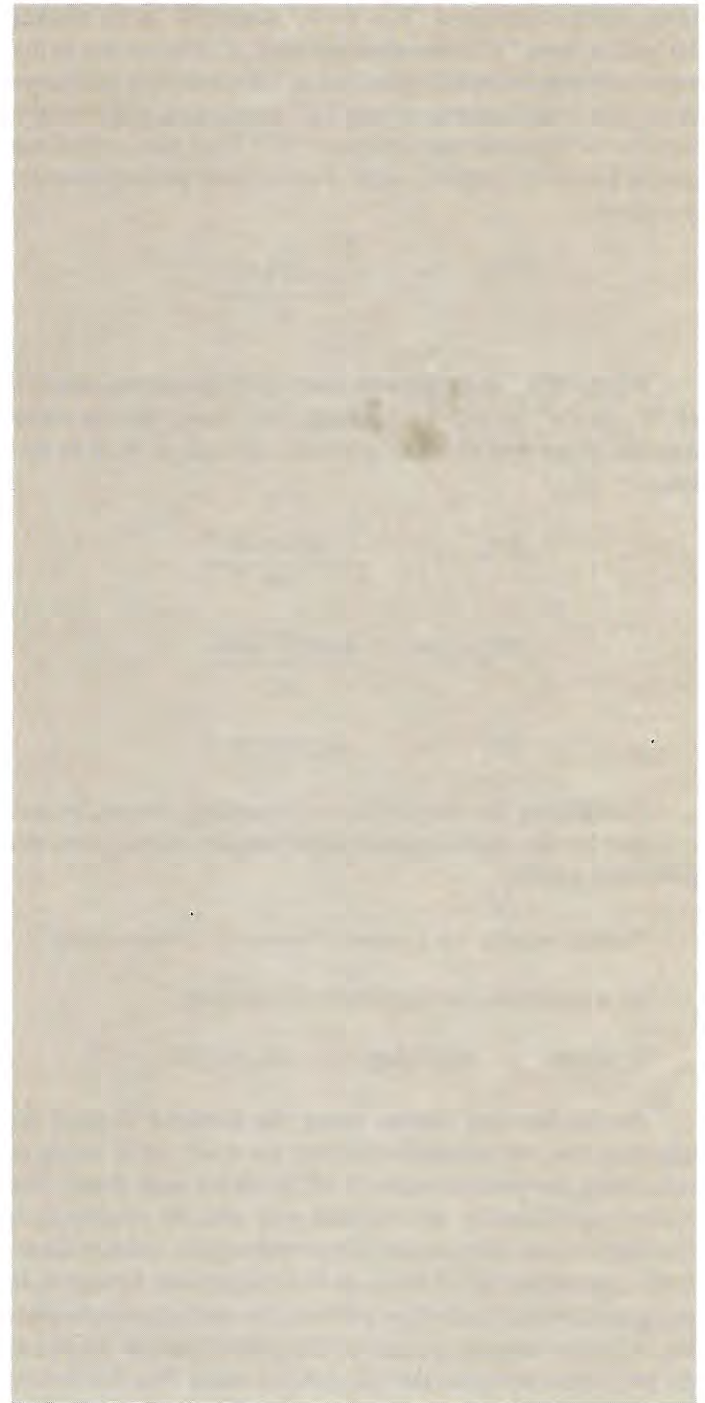
Value appraised: Leasehold estate
 Years remaining on ground lease: 25 years
 Stabilized net operating income
 (after deductions for ground rent payments): \$150,000
 Market derived rate of return for this
 particular investment: 10.0%

In keeping consistent with the Inwood Premise, we shall use only one single rate for both the speculative rate and the effective interest rate ("1") in sinking fund formula, which is the above market derived rate of 10%. The 25 years remaining on the ground lease reflects the number of compounding periods ("n"). Using simple annual compounding, the resulting adjustment factor from the above sinking fund formula is as follows:

$$\begin{aligned} 1/S_n &= \frac{.10}{(1 + .10)^{25} - 1} \\ 1/S_n &= \frac{.10}{9.834706} \\ 1/S_n &= 0.010168 \end{aligned}$$

Adding this factor back to the market rate of 10% results in a loaded capitalization rate of 11.0168% (.10 + .010168). Directly capitalizing the stabilized net operating income yields the following leasehold value:

$$\frac{\text{Stabilized N.O.I.}}{\text{Capitalization Rate}} = \text{Value of Leasehold Estate}$$



As it applies to our hypothetical example:

$$\frac{\$150,000}{11.0168\%} = \$1,361,556$$

Verification that the above capitalization calculations accurately estimates the leasehold value per the income approach can be accomplished through estimating the present worth of the anticipated income stream via yield capitalization. Because we have assumed the above income stream is stabilized with no anticipated growth, the discount rate used in our yield capitalization is the same as the market derived capitalization rate of 10%. This premise is supported by the basic cap rate/yield rate/

value change formula of " $R = Y - A$ " where " R " is the market derived cap rate, " Y " is the yield rate and " A " is a function of the relative change in capital appreciation.⁷ When there is no change in the anticipated income stream, " A " equals zero, and thus, the cap rate " R " becomes the yield rate " Y ".⁸ With this in mind, we use the traditional present value of an ordinary annuity formula as follows:

$$PV_a = \frac{1 - 1/(1+i)^n}{i}$$

Where " PV_a " is the present worth of \$1 per period at a rate of " i " for " n " periods.⁸ Applying the above present value formula to our hypothetical leasehold example is done as follows:

$$PV_a = \frac{1 - 1/(1+.10)^{25}}{.10}$$

$$PV_a = \frac{0.909077040}{.10}$$

$$PV_a = 9.077040$$

Multiplying the stabilized net operating income in our example by the above present value annuity factor gives the following results:

$$\text{Periodic Annuity} \times \text{Annuity Factor} = \text{Present Value}$$

As it applies to our hypothetical example:

$$\$150,000 \times 9.077040 = \$1,361,556$$

As can be seen above, using the Hoskold method for adjusting the capitalization rate has the exact same result as calculating the present value of all projected cash flows. The loaded capitalization rate method may also be employed in discounted cash flow models for estimating the residual leasehold value at the end of the cash flow projection. However, in using a discounted cash flow analysis, the analyst must remember to use the remaining years on the ground lease at the end of the projection period in the calculations rather than the current duration period.

Lastly, it should be pointed out that the formulae and computations presented above are not intended to be esoteric exercises that complicate or confuse the valuation process. The methods presented are fairly simple. The sinking fund factors above can be retrieved directly from established tables or readily computed using most modern calculators that have financial functions.⁹

A FINAL WORD ON GROUND RENT

When reviewing valuations of leaseholds subject to a ground lease, the review appraiser often encounters situations in income

capitalization models whereby ground rent payments are deducted after the net operating income is calculated. The arguments typically used for doing this is that ground rent is not a recoverable operating expense; rather, it is a business cost similar to debt service or preferred returns and therefore should be included with the capital expense deductions after net operating income. Those who practice this approach are not considering the fact that ground rent is not considered a capital expense; it does not affect the capital basis in the property and is expensed annually for tax purposes. This misconception is so pervasive in the real estate industry that several popular real estate programs automatically deduct ground rent payments below the net operating income line.

The review appraiser and mortgage underwriter should be keenly aware of the potential problem this creates. If the model capitalizes net operating income rather than bottom-line cash flows in estimating value (as most do), the value estimated will not include future rent payments. If an analyst, or program, does this, the present value of all future ground rent payments must also be calculated and deducted from the previously estimated value to arrive at the value for the leasehold estate.

CONCLUSION

This article has addressed various aspects of ground leased interests that play an important role in the assignment of market value. It has also critiqued traditional methods for estimating the value of these interests, and, proposes the revival of an old but well suited technique for the valuation of leasehold interests.

Ultimately, however, the final value conclusion is always made by the marketplace. Regardless of the technical accuracy of any model, the qualitative characteristics of the market must be thoroughly reviewed and understood before they may be quantified into value. ^{NA}_{PARAJ}

FOOTNOTES

- 1) The Dictionary of Real Estate Appraisal, American Institute of Real Estate Appraisers, Second Edition, 1989, p. 177.
- 2) Ibid.
- 3) Thomas Rodgers, "Valuation of a Leased Fee Interest," The Appraisal Journal (January 1989): pp. 36-50.
- 4) The Appraisal of Real Estate, American Institute of Real Estate Appraisers, Ninth Edition, 1987, p. 497.
- 5) Ibid., p. 704.
- 6) Ibid., p. 496.
- 7) Charles B. Akerson, Capitalization Theory and Techniques, American Institute of Real Estate Appraisers, 1984, p. 59.
- 8) Ibid., p. 60.
- 9) Ibid., p. T-31. Many financial textbooks also include such tables.

Phase I - Student Housing Feasibility Study

Market Assessment & Demand Analysis

College Village Overlay District
Yucaipa, California

July 7, 2017



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Executive Summary

The San Bernardino Community College District (SBCCD) is presently considering the financial viability of developing student and/or student-faculty housing on a site of undeveloped land, known as the "College Village Overlay District", immediately south of and adjacent to its Crafton Hills College (CHC) campus in Yucaipa, California. SBCCD retained Brookhurst Development & Advisory Corporation to assess the financial feasibility of developing a housing project on this site that could offer the campus up to 390 dorm units.

SBCCD determined the feasibility study would be divided into two sequential phases:

Phase I Feasibility Study: The Phase I study is the assessment of surrounding market conditions, demographic analysis, current enrollment, projected growth and rent obtainable for the new dorm units -- all of which are indicators of demand. This demand analysis includes the review of all existing reports and analyses, market study of existing off-campus housing, a review of peer benchmark projects (other California community colleges with student housing), and, a comprehensive survey of faculty, staff and students. The market assessment and demand analysis is to ascertain not only existing demand, but patterns and trends within community college student housing. Although Phase I would not prove whether the project would be financially feasibility, it would indicate whether the demand is significant enough to warrant further investigation, and if not, no further analysis would be warranted.

Phase II Feasibility Study: Whereas the Phase I study would provide an analysis of existing conditions and market demand, Phase II would provide a detailed review of the probable cost of the project, including land acquisition and the cost of designing, constructing, financing and operating the housing project. This would include the proposed siting of the project, general layout and conceptual massing, building methodologies, and projected financing costs for both private delivery, which would include conventional debt/equity funding, and, public delivery wherein financing would be in the form of tax-exempt municipal bonds. The Phase II study would provide an estimation of the annual cost to pay debt service and operate the finished housing project. This would then be compared to the anticipated obtainable rental revenue ascertained as part of the Phase I Study. A positive (green light) indication would mean that the projected revenues could cover costs and the project is potentially financially feasible, whereas a negative (red light) indication would indicate financial infeasibility with a recommendation not to proceed further. In the event of a green light conclusion, and, SBCCD decides to proceed, the next phase would contemplate the manner of procurement - private or public - and whether that would take form of a public-private partnership ("P3") solicitation, design-build/construction manager at risk delivery, and whether the project would be self-managed by SBCCD or contract it to a third party.

Upon completion of the Phase I portion of the Feasibility Study, we conclude that there are enough indicators that the demand for future student housing is significant enough to warrant proceeding to the Phase II Study.

Key Findings and Recommendations - Phase I Feasibility Study:

1. The City of Yucaipa has a disproportionate number of seniors and single-family detached housing when compared to the rest of the region. This has resulted in a dearth of local available rental properties within the affordability range of students. Consequently, 80% of CHC students renting their housing live in neighboring cities. Our survey for comparable apartment rental projects within a 10-mile radius of CHC indicates a substantial amount of available affordable rental units, but only two complexes within Yucaipa.
2. 80% of CHC students indicated they are interested in student housing located adjacent to CHC, with 28% indicating they were *somewhat* interested and 52% indicating they were *very* interested. In addition, provided that low-cost public transportation and/or free SBCCD shuttles between Valley College and the proposed CHC student housing were available, 77% of Valley College students indicated they would be interested in student housing next to CHC, with 27% indicating they were *somewhat* interested and 50% indicating they were *very* interested. In addition, of the CHC students who indicated an interest in student housing, approximately 26% indicated they would lease for at least one year, with 55% indicating an interest in leasing for two or more years.
3. Of the CHC students surveyed, 62 indicated they were not from the U.S. Of these, 34 (58%) indicated an interest in student housing whereas 28 (42%) indicated no interest. This implies CHC students with domestic origins have a greater interest in the proposed student housing than those coming from international backgrounds, which is somewhat counterintuitive given the common belief that foreign students are more likely to seek student housing, and is often a major reason cited by community colleges as to the need for housing.
4. 52% of students at CHC surveyed are full-time (enrolled in 12 units or more), which is greater than the national community college average of 40% as reported by the American Association of Community Colleges. This implies CHC students spend a greater amount of time on campus than the national average.
5. According to the 2017 CHC Master Plan, CHC's current participation rate, which measures the headcount per 1,000 residents within the college's service area, is currently just under 9/1,000. This is substantially less than the statewide participation rate for community colleges, which is approximately 54/1,000. Based upon population projections within Yucaipa, particularly for those within the age demographics of CHC students, unless CHC's participation rate can be increased substantially, significant enrollment growth for CHC is not anticipated for the foreseeable future.

The student/faculty survey also revealed that the primary reasons students attended CHC were because it was where family lived, or, where they worked. Only 14% indicated they resided where they did to specifically attend CHC. For the participation rate to increase, CHC should focus upon a curriculum that provides additional special/unique academic programs, such as the present

firefighter training, and, to work collaboratively with the City of Yucaipa to enhance the quality of the learning environment. This collaboration could be the potential co-development of the College Village Overlay District, inclusive of the proposed Innovation Center and student housing.

According to various studies cited within this report, student housing could assist CHC in reaching its academic goals as well as a higher participation rate in its service area by providing the following educational benefits:

- ✓ A sense of belonging to the college
 - ✓ Increased retention of those outside commuting area
 - ✓ Improved collaborative learning among students
 - ✓ Higher level of student-faculty engagement resulting in improved learning
 - ✓ Greater openness to diversity
 - ✓ Greater access to campus resources (e.g. library, tutoring, faculty hours)
 - ✓ Removal of campus commuting increases time allocated to scholastics
 - ✓ Higher graduation percentages for under-served minority students
 - ✓ Students in student housing typically average higher GPAs
 - ✓ Improved level of academic and career advisory
6. Both SBCCD and the City of Yucaipa have indicated interest in exploring potential faculty/staff housing in addition to traditional student housing within the College Village Overlay District. The results of the student/faculty survey revealed that both the interests and housing needs of faculty/staff are markedly different than that of students in many categories. Not surprisingly, our survey showed that when compared to students, faculty/staff are typically much older, have more children/dependents living with them and are usually married or partnered whereas SBCCD students are mostly single. In addition, faculty/staff are more prone to living much further outside of the Yucaipa area, with some commuting to CHC from as far away as Orange County, Santa Clarita and Long Beach. Most importantly, faculty/staff responded with significantly less interest in housing opportunities adjacent to CHC than did students.

Our conclusion is that although housing opportunities within the Village Overlay site is of interest to some of CHC's faculty/staff, to meet that demand such housing would necessarily be substantially different in terms of size, configuration, placement, amenities and ownership than student housing, and, would probably include market-rate apartments, condominiums, townhomes and/or detached housing. Given the uncertainty of financial sustainability of new housing *solely* dedicated to meet CHC faculty/staff needs, in order to mitigate risks builders will not want to limit the housing rentals or sales to CHC faculty/staff, but instead, build housing that is designed to be marketed to the general workforce in the Yucaipa area. Although there may be a market for additional workforce housing to be located on the Village Overlay site for the Yucaipa area, assessing the market feasibility of such housing is beyond the scope of this feasibility study. Further, SBCCD would most probably have a very limited, if any, financial role in such housing development.

7. As part of our research, we contacted a several larger development companies that have portfolios of student housing and have acquired or built student housing for community colleges in other parts of the country. Our object was to ascertain their level of success and identify areas of concern. In general, they indicated that community college student housing typically tends to be located in more rural areas where affordable housing is less available, which is consistent with our findings for California community colleges presented in our Peer Benchmark Analysis. In addition, within their portfolios of student housing developments, when compared to university student housing, financial returns and management for community college student housing tend to be more challenging due to higher levels of lease defaults, crime and vandalism.

However, within the Peer Benchmark Analysis section of this report, we provide *"From the Field - Challenges and Solutions"* wherein we interviewed the operators of California's community college student housing to ascertain how they addressed these and other challenges. The solutions provided were based upon many years of experience and were insightful and creative. They are presented within the Peer Benchmark Analysis section and our opinion is that adoption of at least some of their recommendations could prove to mitigate similar challenges for the CHC student housing.

8. Our Peer Benchmark Analysis section, which reviews and analyzes the 11 community college student housing projects within California, revealed a number of important findings:
 - Approximately 10% of California community colleges (11 of the 114 colleges) offer student housing, which is substantially less than the national average of 30%, according to the America Association of Community Colleges.
 - Similar to our findings for college student housing outside of California, all community college student housing projects within California are located outside of the state's primary population centers in more rural areas.
 - The 11 housing campuses are also among the smallest in the system, with 2015-2016 student headcounts ranging from a low of 3,300 at Feather River College to a high of 24,992 at Sierra College. Nine of these campuses are in the smallest quartile; CHC is among this group with a headcount of 8,056. The average student headcount for the housing campuses is 8,860.
 - Occupancy rates were good to excellent for most community colleges. 60% of campuses have occupancy rates at full capacity with half of them having waiting lists due to excess demand.
 - As it pertains to design, dorm-style facilities should incorporate generous indoor common area and outdoor recreation options. Regardless of

whether the housing units are apartment- or dorm-style, the need for adequate electronic and Internet infrastructure, effective security, and efficient on-line operational systems are universal.

- Regardless of whether the facilities are on- or off-campus, or, are owned/operated by the College or another entity, all student housing comes furnished. Development budgets should include the cost of furniture, fixtures and equipment (FF&E) for full occupancy. In addition, all student housing features adequate parking.
 - Determining food options for student housing – mandatory or optional meal plans, or the construction of communal kitchens or in-unit kitchenettes – are integral to both the design and operation of the housing facility, impacting not only rental rates and the student/parental decision to choose student housing over market-rate options, but also campus staffing and the necessity for alternative on- and off-campus dining options.
9. Absent a full analysis inclusive of a concept design, financing options and construction cost calculations, we cannot conclude student housing is financially feasible at this time. However, given the market rates of apartment rentals within the general region versus rates paid for student housing within the peer group of California community colleges that offer it, and, the demand indicated by CHC and VC students for student housing, it is reasonable to assume based upon this initial analysis that student housing could be financially feasible on the subject property. It is also our opinion that the viability of student housing would be further enhanced with such adjacent developments within the College Village Overlay District as retail, entertainment, and, the proposed Innovation Center presently being contemplated during previous collaborative meetings between SBCCD, CHC and the City of Yucaipa.

College Village District Overlay Concept

In the City of Yucaipa and immediately south of Crafton Hills College (CHC) are approximately 49.1 contiguous acres of undeveloped land. This site is currently under consideration for the development of a mixed-use urban village with direct connection to the CHC campus. The potential master development, known as the College Village Overlay District, is currently owned by two private parties. It is generally bordered by Sand Canyon Road to the north and east, Yucaipa Boulevard to the south, and includes the property located on the westerly side of 16th Street to the west (see Figure 1).

Working in collaboration with senior staff of SBCCD and CHC, in August, 2016, the City established the College Village Overlay District Guidelines for the site. The goal of the Overlay District was *"to encourage the development of a vibrant, pedestrian-friendly college village that offers a range of housing and nonresidential opportunities, including*

commercial, public, and institutional uses, to serve the diverse needs of the college, Yucaipa community, and the region."

The objectives of the College Village Overlay District are to:

1. Allow a sustainable mix of quasi-public/institutional and educational uses, housing (including faculty, student, and veteran-student housing), and a range of commercial uses, including office and retail, throughout the overlay area.
2. Promote infill, transit-oriented development, and other forms of sustainable development on the College Village site and across the street on the south side of Yucaipa Boulevard.
3. Provide enhanced pedestrian amenities and improvements, including benches, special pedestrian-scale lighting, theme paving, sidewalk improvements, and fully accessible ramp improvements at intersections.
4. Encourage the location of daytime and nighttime uses (i.e., retail/commercial) in the College Village area to support and serve the community and promote a dynamic environment at various times of the day.
5. Develop a strong sense of place at the College Village through branding, special architectural designs, creative site planning, and inclusion of at least one large public gathering space, such as an amphitheater.
6. Improve transit, bicycle, and pedestrian access from the site to the college and to other local and regional destinations; internal pedestrian pathways should feed into proposed and existing trails at Crafton Hills College and other trails in the area.
7. Create partnerships with public and private entities, including Crafton Hills College and private property owners, to help facilitate development of the College Village site.
8. Encourage the development of single-family detached residential units along both sides of 16th Street between Tennessee Street and Sand Canyon Road in order to serve as a transition from the Reserve residential project to the College Village.

Figure 1 - College Village Overlay District Concept Plan



The relevance of the Overlay District's objectives to the feasibility of student housing include the following:

- ✓ Ample, undeveloped acreage immediately adjacent to CHC that would expand CHC's footprint while preserving on-campus sites for future academic needs. City officials have told us that the current owner of the northern portion of the site, which is the nearest to the campus, has indicated a willingness to sell the land for development of college-related facilities;
- ✓ The site's proximity would provide housed students the ability to walk to class and use of the college's resources 24/7. This would result in less on-campus vehicular traffic and issues with parking limitations.
- ✓ Local municipal collaboration and support for new college student/faculty housing on the site, which could assist the developer in expediting entitlements, building permits and access to infrastructure;
- ✓ Creation of a "college village" that would provide adjacent retail, nightlife activities and transit-oriented development. Brookhurst is currently developing a similar college village with private land owners immediately south of California State University San Marcos. Completed phases of the CSU Urban Villages San Marcos project have already proven financially successful, and include student housing, ground-level retail and an office project nearing completion. On this site adjacent to the student housing, Brookhurst is currently developing a 135,000 square foot CSU Extended Learning Complex with a 650-space parking garage.
- ✓ Brookhurst has been commissioned by the City of Yucaipa to explore the feasibility of a proposed Innovation Center on the Overlay District site. The Innovation Center would potentially offer incubator space for start-ups and educational/vocational programs. In December, 2016, senior SBCCD/CHC staff, Yucaipa City leaders and Brookhurst toured the Dr. Dianne G. Van Hook University Center, an innovation center located on the campus of Santa Clarita Community College (College of the Canyons). The success of this project would suggest that a similar development on the Overlay District site could result in a greater demand for student housing.
- ✓ The site, together with the 527-acre CHC campus, comprise one of the most unique and beautiful settings among California's community colleges, in great part due to its hillside location among natural habitat and its mild, dry climate. The quality of the surrounding environment offers a desirable setting for potential student/faculty housing.
- ✓ The 2017 CHC Comprehensive Master Plan addresses the hilly topography surrounding the campus, which continues through the Overlay District to Yucaipa Boulevard, as an impediment for students or faculty to walk or bike to campus. An adjacent housing project would significantly mitigate or eliminate this obstacle.

Student Housing Market Assessment

Existing Conditions Analysis

Demographic Analysis

The California Community College system forms the largest postsecondary educational system in the world. California Community Colleges serve 2.1 million unduplicated students annually representing 20% of the nation's community college students. Within California, it provides approximately 72% of California's public postsecondary undergraduate students with both vocational and academic program offerings. The system consists of 72 semi-autonomous community college districts encompassing 114 colleges, 78 approved off-campus centers and 24 separately reported district offices. The system assets include more than 24,479 acres of land, 5,720 buildings and 85.1 million gross square feet of space that includes 51.3 million assignable square feet of space. In addition, the system has many off-campus outreach centers at various locations.

According to the 2017-2018 California Community Colleges 5-Year Capital Outlay Plan, enrollment in 2017-18 is estimated to be approximately 1,714,000 students, growing to 1,859,000 in 2021-22. Weekly student contact hours (WSCH) are estimated at approximately 18,086,000 in 2017-18, increasing to 19,797,000 in 2021-22.

Figure 2

California Community College 5-Year Enrollment Projection

	2017-18	2021-22	Difference	% Difference
Enrollment	1,714,000	1,859,000	145,000	8.5%
WSCH	18,086,000	19,797,000	1,711,000	9.5%

Source: California Community Colleges Chancellor's Office: 2017-18 5-Year Capital Outlay Plan

Crafton Hills College was established in 1972 as one of two colleges in the San Bernardino Community College District. According to the Chancellor's Office, the college currently serves just over 8,000 students each year, many of whom attend part-time while working. This translates to a full-time equivalent number of approximately 4,600, with 21% of students at Crafton Hills College being the first in their family to attend college. Offering over 50 different programs, the College awarded over 900 degrees and certificates in 2014-2015.

In recent years, two construction bond programs supported by local taxpayers have helped to physically transform the campus with five new buildings, including the Learning Resource Center; the Kinesiology, Health and Aquatics Center; the Public Safety and

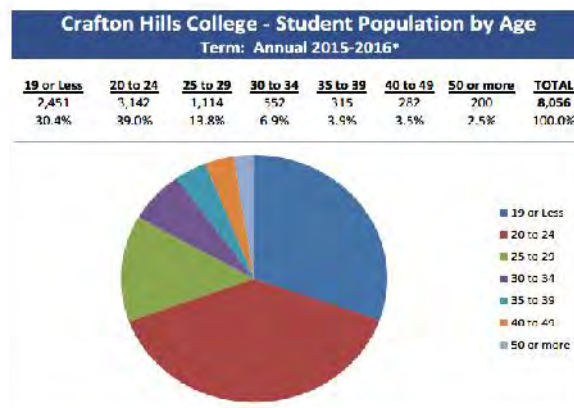
Allied Health building; a new Science building; and the Crafton Center. Additional capital improvement projects have been identified and prioritized within the current Facilities Master Plan.

According to the 2017 Crafton Hills College Master Plan, future program of instruction and space needs are estimated through the utilization of a variable growth model by academic area. The College updates growth projections annually to implement its plan for selective programmatic growth, once finalized through the collegial consultation process. Within the Plan, the College utilized the Chancellor's Office for long range WSCH projections for SBCCD to establish projected enrollment and WSCH growth for CHC. The CHC Master Plan used historical data from 10 consecutive terms (Fall 2005 to Fall 2014) to conclude that Crafton Hills College is responsible for 31.65% of District-wide WSCH.

Enrollment decline and limited staffing has been a challenge for CHC. At its enrollment peak at the start 2008 recession, the full-term enrollment for the College was at 9,339. Having been hit hard by the recession, enrollment eventually dropped to 7,420 students by the 2013-2014 academic year. The slow economic recovery combined with improved state funding that allowed for more resources to be devoted to the College have resulted in positive enrollment growth. According to the most recent data from the Chancellor's Office, 8,056 students at CHC met the full-term reporting criteria in at least one of the terms during the 2015-2016 academic year. The number of Full Time Equivalent Students (FTES) for the same year was 4,527. Looking at historical growth of CHC since 1992, which is the first year the Chancellor's Office collected and posted enrollment data, we see that full-term enrollment at CHC grew from 7,725 to 8,056, reflecting approximately a 0.2% average annual compounded growth over this period. Although this growth appears weak, it closely matches the growth of enrollment throughout the Community College system during this same period, which was marginally less than that of CHC.

Figure 3 below presents the proportion of students attending Crafton Hills College by age. As can be seen from the graph, the majority of students, approximately 53%, are between the ages of 20 and 29.

Figure 3



* Source: California Community College Chancellor's Office
Students who meet the full-term reporting criteria in at least one of the terms during an academic year are included in this query.

One metric often used to judge the success of a college in attracting students from the surrounding population is the participation rate. The participation rate is defined as the number of headcount students a college enrolls for every 1,000 persons within the service area population. According to the 2017 CHC Master Plan, during the 2014-15 academic year, Crafton Hills College had a participation rate of 8.24 students per 1,000 persons (0.824%) within the service area. During the enrollment peak discussed previously, the College's participation rate was 10.44 students per 1,000 persons (1.04%) within the service area. The statewide California Community College participation rate is approximately 54 students per 1,000 persons (5.40%) within the total population.

This represents a significant opportunity for Crafton Hills College to increase its participation rate, and thus increase its enrollment significantly. While the service area population age 20-29 years old increased by 22,000 persons from 2010 to 2015, enrollment from students age 20-29 years old increased by only 104 students (0.47%) over this same period. However, between 2015 and 2025, the 20-29 year old age group within the service area is projected to decrease by 23,501 persons (-14.5%). Because of this forecasted decrease, CHC cannot rely upon population growth as a major contributor to its future enrollment growth.

For this reason, CHC must focus efforts on attracting a larger proportion of persons within its core College demographic. We have engaged CHC in discussions of its current curriculum and those areas wherein it offers unique vocational training which are not discussed within this report as it is beyond its scope. However, offering student/faculty housing in a vibrant college village setting replete with retail and night life might be the catalyst to fill the potential void resulting from declining core demographic that provides the majority of CHC's student enrollment.

Community Colleges and Student Housing

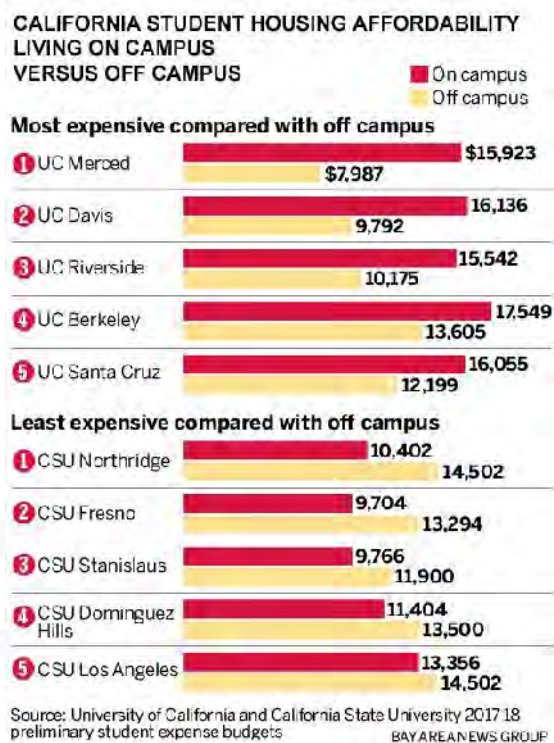
Over recent decades, colleges and universities have been placing a greater focus upon the important role that student housing plays in enhancing campus life and reaching academic goals. Historically, student housing has not been as significant a part of the community college model as it has been for four-year programs. Regardless, according to the American Association of Community Colleges, nearly 30% of community colleges now have on-campus housing. In California, of the 114 colleges within the Community College system, only 11 (10%) currently offer student housing (*see the Peer Benchmark Analysis section for a full survey of these student housing projects*).

The reason the number of California community college student housing projects trail the national average can be tied to a number of factors. Based upon research and our independent analysis, the key considerations include location of campus relative to larger population centers, inventory of nearby rental units, affordability of local housing, commute distances and the overall demographic composition of students.

One of these factors, the affordability of on-campus versus off-campus housing, is one of the most significant. Affordability is not only driven by financing and construction costs,

but can also be a function of what the institutions can charge based upon the desirableness of their academic programs. As evidenced by data collected from the University of California and the California State University systems, there is a substantial difference between the spread of on-campus versus off-campus housing. Whereas it is far more expensive to live on-campus versus off-campus within the more prominent UC campuses, it is actually *cheaper* to live on-campus within the CSU system (see Figure 4). Assuming comparable building methodologies are used, the general cost of construction should vary little between on- versus off-campus projects; thus, the inverted spreads between the two systems can primarily be attributed to housing costs being academic-driven within the UC system as opposed to market-driven. Similarly, community college surveys indicate that just as it pertains to tuition, student housing demand is driven predominantly by affordability as much as it is to the specific academic programs.

Figure 4



Regardless of students' financial motivations, research suggests that academic attainment should be the primary motivator for colleges to pursue student housing. According to a study conducted by the *Center of Postsecondary Research* at the Indiana University School of Education, the relationship between student housing and student engagement resulted in numerous benefits for on-campus student housing:

Proven Academic Benefits of Student Housing

- ✓ A sense of belonging to the college
- ✓ Improved collaborative learning between students
- ✓ Higher level of student-faculty engagement resulting in improved learning
- ✓ Greater openness to diversity
- ✓ More access to campus resources (e.g. library, tutoring, faculty hours)
- ✓ Removal of campus commuting increases time allocated to scholastics
- ✓ Higher graduation percentages for under-served minority students
- ✓ Students' average higher GPAs
- ✓ Improved level of academic and career advisory

Studies also indicate that the positive effects of living on campus can vary by different student subpopulations and across different institutional types. According to the study *The Effects of Dormitory Living on Student Performance*, published by the Center for Applied Economics and Policy Research, Feb. 9, 2010, the degree of improvement of student performance when students live on campus ranges from one-fifth to a full letter grade, with GPAs typically averaging approximately one-half a grade point higher.

Aside from the academic benefits, there could be a number of economic benefits for students and faculty that may reside within student/faculty housing adjacent to CHC. Because the 2008 recession resulted in the State losing a large amount of its tax revenues, the California State Legislature significantly decreased funding to the state universities. The resulting sizeable tuition hikes within the UC and CSU systems has placed a greater demand on the state's community colleges to provide comparable lower-level course work at more affordable costs. Collectively, these conditions have prompted many California community colleges to reevaluate the viability of student housing as well as exploring 4-year programs.

Student/faculty housing for CHC could provide a number of benefits:

Financial Benefits of CHC Student Housing to Students/Faculty

- ✓ Efficiently planned housing designed specifically for students' budgets
- ✓ Lower transportation costs
- ✓ More efficient use of time
- ✓ Convenience
- ✓ Sharing of resources with fellow students

Peer Benchmarking Analysis

Currently, 11 of the 114 California Community Colleges provide student housing. The following review and analysis of the student housing options on these campuses provides a snapshot of trends, data regarding rental and occupancy rates, and insight into some of the challenges faced by the campuses and lessons learned.

The Community College campuses and Districts (CCD) that provide student housing ("housing campuses"), and their locations depicted on the map "Student Housing – California Community Colleges" (Figure 5) on the following page, are:

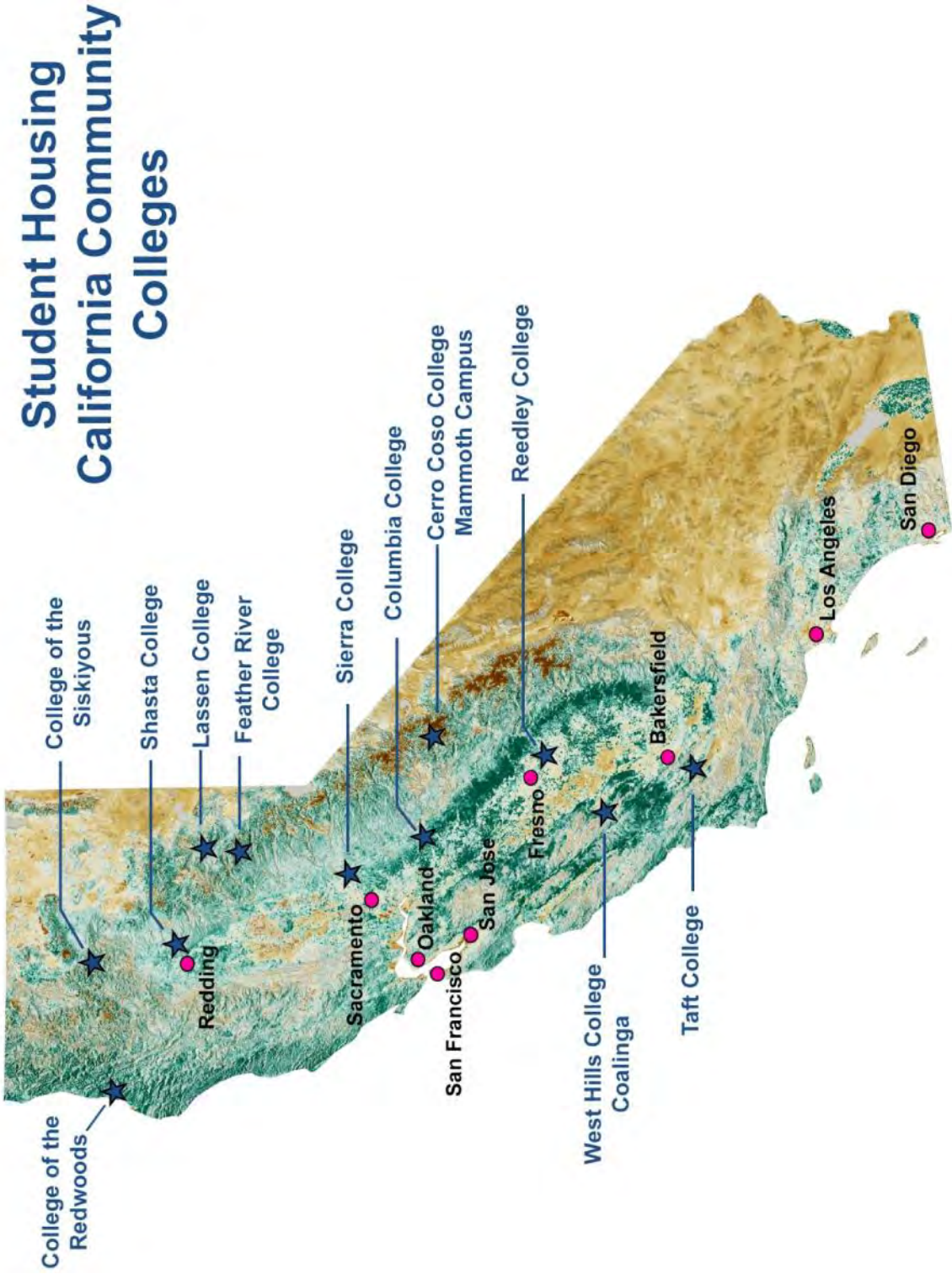
- ✓ Columbia College, Yosemite CCD; Sonora
- ✓ Cerro Coso College, Mammoth Campus, Kern CCD; Mammoth Lakes
- ✓ Feather River College, Feather River CCD; Quincy
- ✓ Lassen College, Lassen CCD; Susanville
- ✓ College of the Redwoods, Redwoods CCD; Eureka
- ✓ Reedley College, State Center CCD; Reedley
- ✓ Shasta College, Shasta-Tehama-Trinity CCD; Redding
- ✓ Sierra College, Sierra Joint CCD; Rocklin
- ✓ College of the Siskiyous, Siskiyou Joint CCD; Weed
- ✓ Taft College, West Kern CCD; Taft
- ✓ West Hills College, Coalinga Campus, West Hills CCD; Coalinga

Overview of Peer Campuses

The housing campuses serve smaller communities in the Central Valley and the more remote regions in the inland, northern and mountainous parts of the state – areas where alternative housing options are not as plentiful when compared to the state's primary population centers in the Greater Los Angeles and Bay Areas, as well as the larger cities of the Inland Empire and the Central Valley.

The 11 housing campuses are also among the smallest in the system, with 2015-2016 student headcounts ranging from a low of 3,300 at Feather River College to a high of 24,992 at Sierra College. Nine of these campuses are in the smallest quartile; Crafton Hills is among this group with a headcount of 8,056. The average student headcount for the housing campuses is 8,860.

Figure 5



Housing Overview

Information for the student housing overview and analysis was gathered from research on the California Community College Office of the Chancellor and college campus websites, as well as interviews with the Housing Directors for the housing campuses. Individual sheets summarizing housing information for each of the 11 housing campuses is included at the end of this section, beginning on page 29.

Among the housing campuses, the arrangement at Cerro Coso College in Mammoth Lakes is unique in several ways. The campus provides housing for only 59 students at the 35-unit South Gateway Student Apartments. The only student housing facility offering a studio apartment option, the apartment complex was developed, and is owned and operated, by the Mammoth Lakes Foundation. Spearheaded by the founder and developer of the Mammoth Mountain Ski Area, the Foundation also played the leading role in securing the land needed for the construction of the Cerro Coso campus itself. Given the combination of the small number of units available and percentage students housed, the unique generation of the facility's development, and its location in a major recreational resort destination with its marketing and accommodations geared to skiers, this student housing option is an outlier and not representative of student housing options and trends at any of the other housing campuses; therefore, it was not included in any further peer housing analysis. However, because this facility is the only one providing a studio apartment option, rental rate information is included in the standardized rental rate analysis summary to enable more robust comparisons to the off-campus market-rate housing supply.

Feather River College and Columbia College are the only other campuses with student housing facilities not owned by the college. The Feather River Foundation owns the three Off-Campus student housing facilities in Quincy; however, college employees staff and run the facility.

The facilities at Columbia College in Sonora are neither owned nor operated by the college. California Student Housing owns and operates the off-campus apartment complex under a site lease with the College, which retains ownership of the land. According to CA Student Housing, the Columbia College originally developed and owned the housing complex; however, the campus' overhead in running the housing operation was too high to enable it to offer units at a rental rate that was attractive enough to retain students. Market-rate 2-bedroom apartments in the community could be rented for \$700.00/month. This campus is included in the housing overview analyses given that the number of students housed and the configuration options are in-line with overall trends.

Housing Facility Occupancy Rates, Lease Terms, Options & Features

The 10 campuses in the Housing Overview provide 11 on- or off-campus student housing options (Feather River College offers both) in facilities ranging from one to five buildings, offering various configurations of bathroom arrangements, kitchen options and/or student meal plans, and parking arrangements.

Definitions

On-Campus	Housing facility is located on the college campus
Off-Campus	Housing facility is located adjacent to, across the street from, or within a few miles of the college campus
Apartment-Style	Both kitchenette and bathroom facilities in unit; often includes a multi-purpose living room area.
Dorm-Style	No kitchenette; bathroom facilities are communal or shared
Communal Bathroom	Larger facilities that are: not in-unit, typically accessed via a separate entrance from a hallway also providing access to housing rooms, and shared by all students of the same gender living in the same wing or floor of the housing facility
Shared Bathroom	One bathroom shared by two double rooms, one quad room or one apartment
Single Room	One bedroom designed to accommodate two students that is housing only one student; in all cases, the rental rate paid by the single student is higher than would have been paid by each of the two students if the bedroom had been shared
Double Unit	One bedroom housing two students of the same gender
Triple Unit	One bedroom housing three students of the same gender
Quad Unit	One bedroom or two shared bedrooms in one unit housing four students of the same gender
Kitchenette	In-unit facilities with refrigerator, sink, and cooktop or stove
Communal Kitchen	Full kitchen (including refrigerator, stove, and other appliances and utensils) which is available for use by student residents
Common Area	Facilities available for use by all student residents, and may include recreation, TV and/or game rooms; computer labs; and/or outdoor sports facilities and BBQ grills
Meal Plan	Pre-paid student meal program provided by the campus; encompasses a variety of structures and dining options
Student Lot	Parking lot reserved exclusively for students located anywhere on campus; one is near student housing facility
Dedicated Lot	Parking lot reserved exclusively for residents of adjacent or nearby student housing facility
Semester Lease	Fall or Spring semester only
Summer Lease	Summer only; typically June and July
Academic Year Lease	Fall and Spring semesters; typically late August – late May
Annual Lease	Full year lease including Summer, typically starts with Fall semester in late August
Utilities	Utilities typically include power, water, and internet access or wifi. Cable or satellite TV service may be included; if not, service is provided in common areas. Telephone jacks are provided but telephone service is not included. Garbage removal costs may be included.

Occupancy Rates

The 10 housing campuses indicated occupancy rates range from about 80% full up to wait lists every year. Nearly two-thirds of the campuses are over-subscribed or at full occupancy. Three of the campuses have plans for additional or replacement student housing facilities.

Wait Lists: Three (30%) have wait lists each year:

- ✓ Sierra, with a wait-list of 100, turns away one-third to one-half of applicants annually, and is in the midst of a feasibility study for a new On-Campus 400-bed facility;
- ✓ Siskiyou has a waiting list of about 40-50% of its capacity;
- ✓ Feather River will have a wait list of 65 this Fall despite adding another 20 Double Units (Shared Bathroom) in a converted nursing home as its seventh student housing facility, the fourth owned by the Feather River Foundation.

Full Occupancy: Three (30%) have been full in recent years:

- ✓ Reedley is 100%full;
- ✓ Lassen's occupancy dropped from full to 65% in Spring 2017 because room remodeling began during the Fall Semester and many students didn't like the disruption; however, last year, Lassen had to turn away 40 student housing applicants;
- ✓ Columbia's privately run facility of all 2-Bedroom Units considers itself "full" at about 75-80% of capacity with 3 students per Unit; it has been full for the past few years and this year had a wait list;

Four (40%) have occupancy rates that are between 75% and full:

Less than Full Occupancy - Stable:

- ✓ One (10%), Taft, has an occupancy rate that is typically about 85%.

Less than Full Occupancy – Cyclical: Three (30%) have occupancy rates that fluctuate between Fall and Spring Semesters:

- ✓ Redwoods, Shasta and West Hills Fall Semester occupancy rates range from 85% to full, dropping in Spring Semester to 75 – 90%, with each campus' rate dropping about 10%.
- ✓ Reasons for the Spring decline include athletes moving out as the Fall season ends (particularly with football), and new students meeting people and finding roommates with whom to share market-rate housing.
- ✓ West Hills is tentatively planning to build new facilities in the 2017-18 fiscal year to house over 200 students in studio-style rooms; the new residence halls would replace their current 1950s-era dorm.

Lease Specifications

Single Room leases are uncommon. Only the CA Student Housing Facility at Columbia College offers a Single Room as a regular option, in which a single student is able to rent a Double Unit paying a rate that is 70% higher than the rate paid by each student sharing the same Double Unit. All other campuses may allow for a Double Unit to be leased as a Single Room upon request to meet unique student needs; typically, the rental rate for a single student is twice that for a student sharing the room.

Lease terms for the units in the vast majority of the 11 student housing facilities are typically either for a Semester or an Academic Year, with many offering both options for students entering the facilities in the Fall semester. Only the facility run by CA Student Housing at Columbia College offers an Annual lease option including the summer months.

Only three campus facilities (27.3%) offer a separate Summer student housing lease, with options ranging from a selected number of days, to terms of 6 to 14 weeks, at rental rates equal to or less than the Semester rate. In order to keep their facilities in use and generate income during summer months, campuses may make their student housing available for rental to outside organizations for activities such as Upward Bound sessions or sports camps. Some campuses have early Fall/late Summer admittance to student housing for student athletes participating in Fall semester sports such as football. The options depend upon the needs of each campus, and the opportunities that may be presented by each campus' location or amenities, such as swimming pools or hiking trails. Given the low number of facilities offering Summer student leases, and the individualized nature of alternative Summer uses of, and potential income generated by, student housing facilities, Summer lease and rental rate information and options are not included in the analysis.

Additional fees required of student residents such as housing application fees, security deposits, and handling or financing fees for semester or monthly installment plan payment options, as well as activity and ID card fees, are separate from the rental rates, and therefore are not included in the analysis. In addition, expenses incurred by student residents for school and living supplies such as books, room décor, and personal items are not included.

Trends: Facility Options & Features

Of the 11 housing facility options (each option may include more than one building):

- ✓ Two (18.2%) are owned by an entity other than the campus, and only one (9.1%) is operated by non-college staff;
- ✓ Nine (81.8%) are On-Campus and two (18.2%) are Off-Campus – one is located three miles from campus and the other is within walking distance;
- ✓ Three (27.3%) are Apartment-Style and eight (72.7%) are Dorm-Style, half of which (36.4%) provide single-gender buildings, floors or wings;

Rooms

- ✓ Nine (81.8%) provide only one-bedroom units, one (9.1%) provides only two-bedroom units, and two (18.2%) offer both one- and two-bedroom options;
- ✓ The vast majority of bedrooms in all facilities are Doubles – only two (18.2%) provide a smaller number of Quads in addition to the Doubles, and the College of the Siskiyous facility is alone (9.1%) in using some of its Double units as Triples to accommodate increased need after a large-scale fire destroyed nearly one-third of the housing in the community of Weed in 2015;
- ✓ Only the facility run by CA Student Housing at Columbia College offers a Single Room as an option without requiring a special request (9.1%);
- ✓ All provide furnished bedrooms, including beds, desks, drawers and closet space for each student; neither of the two Apartment-Style units provide common area furniture, kitchen supplies or utensils, but one does provide a kitchen table and chairs;
- ✓ Three (27.3%) provide bathrooms in the unit, four (36.4%) provide Shared Bathrooms, and four (36.4%) provide Communal Bathrooms.

Meals

- ✓ Three (27.3%) provide Kitchenettes, four (36.4%) offer a Communal Kitchen, and four (36.4%) provide no cooking facilities at all;
- ✓ Six (54.5%) require residents of student housing to purchase Meal Plans, two of which also offer use of a Communal Kitchen; one (9.1%) offers an option to purchase convenience meal tickets for the campus cafeteria.
- ✓ Required meal plan costs range from \$975 to \$2,412.64 per semester.

Parking

- ✓ All provide parking either in Student Lots or Dedicated Lots; five (45.5%) provide free parking, and six (54.5%) require purchase of a parking permit ranging from \$25 - \$53 per semester or \$40 - \$70 per year.

A summary of the facility features provided by each campus is provided in the matrix “California Community Colleges with Student Housing - Comprehensive Statewide Survey 2017, Housing Facility Options and Features” (Figure 6) on the following page.

Figure 6

California Community Colleges with Student Housing - Comprehensive Statewide Survey 2017 Housing Facility Options and Features							
College	Housing Type	Number/Type of Units	Number of Students Housed	Student Housing Costs	Bathroom	Meal Plan/Options	Parking/ Fees
Columbia	Apt-Style Off-Campus	4, 3-story bldgs 48 Quads	196 - capacity 160 - full	\$4,125/ Acad. Yr \$5,875/Annual	Shared	Optional/ Kitchenette	Student Lot/ Permit \$60/yr
Feather River	Apt-Style On-campus	3, 1-story bldgs 6 Doubles + 32 Quads	160, On-campus	\$4,853 - Double/ Acad. Yr	Shared	No/ Kitchenette	Dedicated Lot/ \$40/yr
	Apt-Style Off-Campus	3, 1-2 story bldgs 9 Doubles + 3 Quads	30, Off-campus	\$4,542 - Quad/ Acad. Yr			
Lassen	Dorm	1, 2-story bldg 54 Doubles + 2 Quads	108	\$1,500/Semester	Shared	No/ Communal Kitchen	Dedicated Lots/Free
Redwoods	Dorm	2, 2-story bldgs 80 Doubles	150	\$8,085/ Academic Year	Shared	Required/ \$1,666/sem, extra	Dedicated Lot/ \$70/yr
Reedley	Dorm/Single Sex Floors	1, 2-story bldg 100 Doubles	100 M + 100 W	\$1,839/Semester	Communal	Required/ \$975/sem, extra Communal Kitchen	Dedicated Lot/ \$30/sem
Shasta	Dorm/Single Sex Halls	2, 2-story bldgs Doubles	63 M + 63 W	\$4,080/Acad. Yr	Communal	No/ Communal kitchen	Dedicated Lot/ Free permit
Sierra	Dorm	1, 2-story bldg Doubles	120	\$3,700/Semester	Shared	Required, \$65/week, extra/ Communal Kitchen	Dedicated Lot/ \$53/sem
Siskiyou	Dorm/Single-Sex Wings	2, 2-story bldgs 20 Doubles + 21 Triples	156	\$7,000 - Double \$6,000 - Triple Acad. Yr	Communal	Required/3 tiers; \$1,500/sem (lowest), included	Free
Taft	Dorms	5, 1-story bldgs 20 Doubles + 20 Quads	120	\$945/Semester	Shared	Required/ \$1,526/sem, extra	Free permit
West Hills	Dorm/Single Sex Halls	2, 1-2 story bldgs 88 Doubles	121 M + 56 W	\$7,977/ Academic Year	Communal	Required/ \$2,412.64/sem, included	Free

Campus Housing Rates & Housing Facility Unit Sizes

The following analysis provides information and trends regarding the percentage of students housed, unit size and monthly standardized rental rates for the 11 student housing options provided by the 10 housing campuses. Costs for required Meal Plans are included in the rental rate analysis, as the purchase requirements are included in the leases or rental agreements; rental rates are calculated both with and without Meal Plan costs to provide additional insight.

All rental rates reflect a monthly rental rate as the unit of comparison, extrapolated from the campus-quoted Semester or Academic Year rental rates – regardless of the actual lease terms available to students. In addition, the square footage (S.F.) of each Unit is divided to obtain the proportion for a single student – for example, the total S.F. for a Double is divided in half – to obtain the rate paid per student per square foot of space. These standardizations enable comparisons across the various student housing lease rate and Unit size options provided by campuses.

Trends: Housing Rates, Unit Sizes & Rental Rates

The 10 campuses in the Housing Overview provide housing for an average of 150 students per campus, or 2.5% of their student headcounts. Feather River, the smallest campus, has the most facilities and houses the highest percentage of its students at 5.8%; Sierra College, the largest campus, houses the smallest percentage of its students at 0.5%.

Of the 11 housing facility options:

- ✓ Double rooms in the facilities offering Dorm-Style units range in size from 99.8 S.F. to 144 S.F., with an average of 109.8 S.F.
- ✓ Quad rooms in the facilities offering Apartment-Style units are an average of 703 S.F. in size;
- ✓ Quad rooms in the facilities offering Dorm-Style units are an average of 222.59 S.F. in size;

Rental Rates

- ✓ Students in the Dorm-Style Double units without a required Meal Plan pay an average rent of \$418.42/month, or \$4.31/S.F.; students with a required Meal Plan pay an average rent of \$824.59/month, or \$10.50/S.F.
- ✓ In the two facilities offering Apartment-Style units, students in the 2-bedroom Quad units pay an average rent of \$469.17/month, or \$2.69/S.F.;
- ✓ In the two facilities offering Dorm-Style units, students in the Quad units pay an average rent of \$440.71/month, or \$8.01/S.F.; however, one of these facilities requires students to purchase a Meal Plan;
- ✓ If that facility did not require the meal plan, students in the those Dorm-Style Quad units would pay an average rent of \$261.18/month, or \$5.62/S.F.

A summary of the percentage of students housed, Unit sizes and standardized rental rates for the 11 housing campus options is provided in the matrix “California Community Colleges with Student Housing - Comprehensive Statewide Survey 2017, Unit Sizes and Standardized Student Monthly Rental Rates” (Figure 8) on the following page.

Below, a summary of the standardized rental rates for all 11 housing campuses is provided in the matrix “California Community Colleges with Student Housing Comprehensive Statewide Survey 2017 Summary - Standardized Student Monthly Rental Rates” (Figure 7) to enable comparisons to the off-campus market-rate housing supply.

Figure 7

California Community Colleges with Student Housing Comprehensive Statewide Survey 2017 Summary - Standardized Student Monthly Rental Rates				
College	Studio Rate	1 BR Rate/Month	2 BR Rate/ Month	Meal Plan (M.P.) Costs
		Rate w/M.P.		
Cerro Coso	\$900	Private \$1,000	***	***
Columbia	***	***	\$458.33/bed \$916.66/room	***
Feather River	***	\$510.00	\$480.00	***
Lassen	***	\$300.00	***	***
Redwoods	***	\$808.50	***	Required \$416.50/mo.
		\$1,225.00		
Reedley	***	\$367.80	***	Required \$195/mo
		\$562.80		
Shasta	***	\$445.26	***	***
Sierra	***	\$740.00	***	Required \$252.00/mo
		\$992.00		
Siskiyou	***	\$400.00	***	Required \$300/mo (lowest)
		\$700.00		
Taft	***	\$222.35	***	Required \$359.06/mo
		\$581.41		
West Hills	***	\$350.19	***	Required \$536.14/mo
		\$886.33		
All rates based on full payment, not payment plans; additional student fees not included				

Figure 8

California Community Colleges with Student Housing - Comprehensive Statewide Survey 2017 Unit Sizes and Standardized Student Monthly Rental Rates								
College	Headcount ¹ % Housed	1 Bedroom Size	Student Rate/Month	Rate/S.F. ²	2 Bedroom Size	Student Rate/Month	Rate/S.F. ²	Meal Plan Costs
			w/Meal Plan	w/Meal Plan				
Columbia	4,009 3.99%	***	***	***	750 S.F. Quad	\$458.33/bed	\$2.44	***
Feather River	3,301 5.76%	447 S.F. Double	\$510.00	\$2.28	656 S.F. Quad	\$480/bed	\$2.93	***
Lassen	4,375 2.50%	99.84 S.F. Double	\$300.00	\$6.01	***	***	***	***
		145.18 S.F. Quad	\$300.00	\$8.27				
Redwoods	6,962 2.15%	204 S.F. Double	\$808.50	\$7.93	***	***	***	Required \$416.50/mo.
		154 S.F. Double	\$1,225.00	\$12.01				
Reedley	15,488 1.29%	154 S.F. Double	\$367.80	\$4.78	***	***	***	Required \$195/mo
		192 S.F. Double	\$562.80	\$7.31				
Shasta	12,703 0.99%	192 S.F. Double	\$445.26	\$4.64	***	***	***	***
Sierra	24,992 0.48%	150 S.F. Double	\$740.00	\$9.87	***	***	***	Required \$252.00/mo
		174 S.F. Double	\$992.00	\$13.23				
Siskiyou	5,527 2.82%	174 S.F. Double	\$400.00	\$4.60	***	***	***	Required 3 tiers; \$300/mo (lowest)
		175 S.F. Triple	\$700.00	\$8.05				
Taft	8,814 1.36%	200 S.F. Double	\$600.00	\$10.29	***	***	***	Required \$359.06/mo
		200 S.F. Double	\$222.35	\$2.22				
		300 S.F. Quad	\$581.41	\$5.81				
West Hills	4,335 4.08%	120 S.F. Double - M	\$222.35	\$2.96	***	***	***	Required \$536.14/mo
		144 S.F. Double - W	\$581.41	\$7.75				
		144 S.F. Double - W	\$350.19	\$5.84				
NOTE: All rates based on full payment, not payment plans; additional student fees not included								
1. Source: CA Community College Profile 2017 Student Success Scorecards								
2. Square Footage is divided to obtain proportion for single student								

From the Field: Challenges and Solutions

Interviews with the Housing Directors overseeing the facilities, most of whom have years of experience managing student housing, provided the opportunity to supplement research with information “from the field” regarding challenges faced by the housing campuses and how they were addressed. When asked how they would “do it differently” if they had the opportunity to create a student housing facility from the ground up, the Housing Directors also offered insights into how solutions to some common issues could be incorporated into the design and/or operation of the housing facility.

The following summary of recommendations gathered and insights offered is presented to help inform SBCCD student housing design and operational options.

Facility:

- ✓ Open layout/floorplans in common areas enhance security and the ability of staff and Resident Assistants (“RAs”) to do their jobs;
- ✓ Provide plenty of exits but only one entrance, with security cameras;
- ✓ Incorporate more and larger common areas both indoors and outdoors -- bigger rooms, game rooms, separate areas for showing movies, larger lawns, and more outdoor sports courts, recreational options, and BBQ grills;
- ✓ Provide in-house or nearby dining options;
- ✓ Provide in-house fitness center or access to campus fitness facilities;
- ✓ Offer in-house cafeteria or outdoor food options nearby if the campus cafeteria is not close to student housing;
- ✓ Provide sufficient parking and/or Dedicated Lots with gated access;
- ✓ Apartment-Style units with a Double and a Single room would enable more people to choose whether to share a bedroom;
- ✓ Provide an apartment unit for a full-time live-in director nearby but in a completely separate area to “prevent students from knocking on that door at all hours; otherwise, you will likely have to pay that person a lot more money.”

Infrastructure:

- ✓ Ensure a robust electrical system and sufficient outlets;
- ✓ Provide enough Internet bandwidth to accommodate each student having multiple devices, as well as gaming which entails constant updates and downloads;
- ✓ Ensuring security was a common theme, including installing adequate outdoor lighting, good security systems in common areas, and facility wide intercom systems in case of emergencies or lockdowns.

Operations

- ✓ Use an online application system to ensure an accurate electronic date/time stamp, thereby eliminating judgement calls on determining first-come, first-served for securing a spot in student housing facility;
- ✓ Hire enough maintenance staff and consider using an online system to enable students to report issues more timely and effectively;
- ✓ Have sufficient security protocols in place;
- ✓ Hire sufficient staff to allow for rotating 24/7 on-call coverage;
- ✓ Hire the head RA as classified staff, exempt from overtime;
- ✓ Ensure the RAs have a robust educational and social programs in place, to strengthen relationships with students and keep anxiety down;
- ✓ Keeping fees low and bundling them into the basic housing plan with one, all-inclusive price helps students feel they are getting a higher value, vs tacking on fees separately; bundling also helps highlight the value compared to market-rate housing where students have to pay for services like wifi, utilities, etc. in addition to rent;
- ✓ Don't treat the housing application fee as a security deposit, thus eliminating "the hassle of figuring out who gets what money back." The funds can be used to pay for general repairs, and for programs like guest speakers.

Food Options: Communal Kitchens, Meal Plans and Kitchenettes

Issues surrounding food options for residents of student housing -- Meal Plans, Communal Kitchens and/or Kitchenettes in the Units – were raised by the majority of Housing Directors.

In Dorm-Style settings, those in facilities with Communal Kitchens indicated the students were using them; as one Housing Director put it, their students were fine without a Meal Plan and *"at any time, about one-third cook in the common kitchen, about one-third eat in the cafeteria across the street from the housing, and about one-third go out or order pizza."* A few Directors in Dorm facilities without a Communal Kitchen would have wanted one for the students. Some voiced reservations about safety. One campus currently requires a training seminar, including passage of an exam, for students wishing to use the Communal Kitchen under the supervision of staff. Another campus that did not currently have a Communal Kitchen indicated that if it had one, it would likely install appliances with 15-minute automatic shut-off valves.

While mandatory Meal Plans ensure that nutritious meals are provided for students, offering both convenience for students and security for their parents, there is little commonality on how the Meal Plans are structured. Some campuses indicated there wasn't enough flexibility built in to accommodate students' tastes and meet their needs. One-size-fits-all plans require students to eat at campus dining facilities during certain hours, don't provide enough some students (like athletes), and leave other students (often the women) with unused credits that expire at the end of the term. Other plans,

typically run by outside vendors, do allow students to eat at dining facilities in the community, but could be challenged in convincing larger chains to participate. As one Housing Director indicated, *“the kids will go to Starbucks whether it’s on the Meal Plan or not, so why would Starbucks go through the hassle and pay the fees to join?”* Only one campus provides a Meal Plan with several levels, enabling some choice and flexibility beyond a standard dollar/point allocation.

Several Housing Directors agreed that Meal Plans would be better if they provided more options, and if they were available as a convenience but not required. However, a key challenge with an optional system entails the difficulties in knowing how much food to prepare.

There was acknowledgement that mandatory Meal Plans are more of an investment, requiring the campus to provide food to residents of student housing on weekends as well as during school breaks; while student housing facilities are typically closed between semesters from late December through early January, student athletes participating in tournaments and International students are often still in residence.

A few Housing Directors indicated that, if given the choice, they would discontinue the Meal Program and build Apartment-Style housing with Kitchenettes, eliminating the hassles of dealing with food altogether.

One Housing Director conveyed the dilemma this way: *“Convenience of food and costs are key benefits to the students and parents, but there’s not much money to be made if you are trying to keep costs down. Best option would be to have a meal plan available as a convenience but not mandatory -- but we would lose business. Parents can put kids in an apartment more cheaply, if not for the convenience of the meal plan and costs for housing plus food.”*

Whether a campus provides housing with a Kitchenette, a Communal Kitchen, or a required Meal Plan, options regarding the provision of food have a direct impact on student housing rental rates and decisions to choose student housing over market-rate housing options, as well as costs for facility construction, staffing, and the provision of alternative on- or off-campus dining options. SBCCD will need to determine the system that best serves the needs of its campuses and students.

Housing Campus Summary Sheets

Individual sheets summarizing campus and housing information for each of the 11 housing campuses begins on the following page.

CA COMMUNITY COLLEGES WITH STUDENT HOUSING

**Columbia College, Yosemite Community College District
Sonora, California**

Founded: 1968
Headcount: 2,500
% Housed: 3.99%

Housing

Location: Off-campus

Owned/run by: CA Student Housing (CSH)

Housing type: Apartmen-Style

Buildings: 4, 3-story bldgs

Units: 48 Quads

Capacity: 196/"Full" at 160

Rental Rate/S.F. \$2.44



Furnished: Yes
Utilities: Included
Bathrooms: One per apartment
Parking: \$60/yr., Student Lot
Meals: Kitchenette

Housing Description

California Student Housing (CSH) consists of 48, shared 2-bedroom apartments in four, three-story buildings, independently operated in a contractual relationship with Columbia College. Each of the apartments is accessed by a private entrance from an outside staircase. Apartments are each approximately 750 square feet, which consists of two furnished double bedrooms, a bathroom, and a common area with a kitchenette. The bedrooms are furnished with twin beds with mattresses, plus wardrobes, night tables, lamps and desks; kitchens include full-size refrigerator, a two-burner cook top, telephone jacks, tables, chairs, and seating and storage areas. Residents provide their own cooking utensils, microwaves, and any other personal kitchen accessories. In addition, students may purchase prepaid convenience meal tickets for use in the cafeteria.

CA COMMUNITY COLLEGES WITH STUDENT HOUSING

**Cerro Coso College, Kern Community College District
Mammoth Lakes, California**

Founded: 1973
Headcount: 6,898
% Housed: 0.86%

Housing

Location: Off-campus

Owned/run by: Mammoth Lakes Foundation

Housing type: Apartment-Style

Buildings: 1, 2-story bldg

Units: 11 Studios
24 1-Bedroom

Capacity: 59



Furnished: Yes
Utilities: Included
Bathrooms: One per apartment
Parking: Available
Meals: Kitchenette

Housing Description

Located across the street from campus, the South Gateway Student Apartments are owned and operated by the Mammoth Lakes Foundation. Each one-bedroom apartment and studio has its own private bathroom; kitchen with refrigerator, stovetop and microwave; and ski/snowboard locker. Bedrooms are furnished with full-sized beds, desks and wardrobes. All apartments are furnished with living area furniture, counter stools and flat-screen TVs; wi-fi and cable service is included. Amenities include a common area with a fireplace and jumbo flat-screen TV, pool, ping-pong, and foosball; weight room and computer lab. Outdoor facilities include shuffleboard, bocce ball, BBQ grills, bonfire pit and paved bike trails. The location encompasses mountain views and proximity to ski and snowboard trails.

CA COMMUNITY COLLEGES WITH STUDENT HOUSING

**Feather River College, Feather River Community College District
Quincy, California**

Founded: 1968
Headcount: 3,301
% Housed: 5.76%

Housing

Location: On- & Off-campus

Owned/run by: College & Feather River Foundation

Housing type: Apartment-Style

Buildings: 8, 1-2 story bldgs

Units: 15 Doubles
35 Quads

Capacity: 190

Rental Rate/S.F. \$2.28



Furnished: Yes
Utilities: Included
Bathrooms: One per apartment
Parking: \$40/yr., Dedicated Lot
Meals: Kitchenette

Housing Description

On-Campus Apartments offering 6 Doubles (shared 1-Bedroom) and 32 Quads (shared 2-bedroom) are owned and operated by the College. Located a few miles from campus, the Off-Campus Apartments offering 9 Doubles (shared 1-Bedroom) and 3 Quads (shared 2-bedroom) are owned by the Feather River Foundation and operated by the College. Rent package is the same for On- and Off-Campus facilities. Kitchenettes include full-sized refrigerator and stove with oven. Bedrooms include twin beds with extra-long mattresses and wardrobe closets. All facilities include coin-operated laundry, live-in RAs and student activities. Students provide common/kitchen area and additional bedroom furnishings as desired.

CA COMMUNITY COLLEGES WITH STUDENT HOUSING

**Lassen College, Lassen Community College District
Susanville, California**

Founded: 1925
Headcount: 4,375
% Housed: 2.50%

Housing

Location: On-campus

Owned/run by: College

Housing type: Dorm-Style

Buildings: 1, 2-story bldg

Units: 54 Doubles
2 Quads

Capacity: 108

Rental Rate/S.F. \$6.01 Double
\$8.27 Quad



Furnished: Yes
Utilities: Included
Bathrooms: Shared
Parking: Free, Dedicated Lot
Meals: Communal Kitchen

Housing Description

The Sainte Marie Residence Hall is centrally located on campus. Double bedrooms are furnished with a desk, chair, standard size twin bed (which can be converted to a bunk bed), drawers, bookshelf, closet, sink and vanity area. Two units share a single bathroom. Facilities include coin-operated laundry, television lounge, and two-story game room with floor-to- ceiling windows. The staffed Communal Kitchen includes a range top stove, microwave, oven, sink and counter space for preparing food. The Kitchen has set hours of operation, and while it is open in the morning, most of the use is for dinner. Staff monitors Kitchen use and ensures students keep the area clean. Students who wish to use the Kitchen must first participate in a 2-hour training seminar and pass an exam.

CA COMMUNITY COLLEGES WITH STUDENT HOUSING

**College of the Redwoods, Redwoods Community College District
Eureka, California**

Founded: 1964
Headcount: 6,962
% Housed: 2.15%

Housing

Location: On-campus

Owned/run by: College

Housing type: Dorm-Style

Buildings: 2, 2-story bldgs

Units: 80 Doubles

Capacity: 150

Rental Rate/S.F. \$7.93
\$12.01 w/M meal Plan



Furnished: Yes
Utilities: Included
Bathrooms: Shared
Parking: \$70/yr., Dedicated Lot
Meals: Meal Plan, Required

Housing Description

The recently renovated Mendocino Hall and Del Norte Hall are located on the northeast corner of campus. Double occupancy rooms share a bathroom. Rooms are furnished with a bed, a dresser, a desk, a vanity sink and mirror unit, and a large closet. The study hall is located in Del Norte Hall, while the game room is located in Mendocino Hall's lounge. Amenities include study areas, lounges with pool and ping pong tables, foosball, and a big screen TV with cable. Sunday through Thursday evenings, residents are welcome to use the Field House basketball court, as well as the fully equipped campus weight room. Coin-operated laundry facilities and food and beverage vending machines are located in each building. Outside, there are large lawns for recreation, picnic tables and BBQ' grills, as well as access to the trails through the surrounding forest. Residents are admitted to all campus sporting events for free. The "Study Hall", one floor in the residence halls designed to house people who want to live in a space that is quieter and more conducive to studying and scholastic achievement, is available on a first-come, first-served basis to 38 students.

CA COMMUNITY COLLEGES WITH STUDENT HOUSING

**Reedley College, State Center Community College District
Reedley, California**

Founded: 1926
Headcount: 15,488
% Housed: 1.29%

Housing

Location: On-campus

Owned/run by: College

Housing type: Dorm-Style

Buildings: 1, 2-story bldg.

Units: 100 Doubles

Capacity: 200/100M + 100W

Rental Rate/S.F. \$4.78
\$7.31 w/Meal Plan



Furnished: Yes
Utilities: Included
Bathrooms: Communal
Single-Gender Floors
Parking: \$30/sem., Dedicated Lot
Meals: Meal Plan, Required
Communal Kitchen

Housing Description

Located on the south end of campus, the Residence Hall houses women on the second floor and men on the first floor. The Double rooms are furnished with two beds and mattresses, attached desks, two chairs, two wardrobe closets, and two sets of drawers. The first floor also includes a common recreation room, computer lab, and full kitchen for student use. Laundry facilities are provided on each floor. Residents have access to outdoor tennis, basketball, volleyball, racquetball, and gymnasium activities.

CA COMMUNITY COLLEGES WITH STUDENT HOUSING

**Shasta College, Shasta-Tehama-Trinity Community College District
Redding, California**

Founded: 1948
Headcount: 12,703
% Housed: 0.99%

Housing

Location: On-campus

Owned/run by: College

Housing type: Dorm-Style

Buildings: 2, 2-story bldgs.

Units: 63 Doubles

Capacity: 126/63M + 63W

Rental Rate/S.F. \$4.64



Furnished: Yes
Utilities: Included
Bathrooms: Communal
Single-Gender Halls
Parking: Free, Dedicated Lot
Meals: Communal Kitchen

Housing Description

Located in a natural area with a seasonal creek, the Dormitories consist of two, single-gender halls sharing a Commons Building that provides recreational space and equipment. The 2-person rooms are furnished with lofted beds with full desk tops underneath, three-drawer pedestals, a two-position chair, three-drawer chest, and a built-in wardrobe/closet with hanging space and four drawers for each resident. The Commons Building includes the Communal Kitchen with two stoves, two sinks, four microwave ovens, ice/water machine, pots and pans, utensils and other appliances such as a waffle iron, rice cooker, blender, and coffee maker. Additional amenities include a computer lab; recreation room with pool tables, ping pong tables and other games; TV lounge with big-screen, surround sound and DVD rental library; outdoor BBQ grill and picnic table. Each dorm provides a study lounge and coin-operated laundry facilities.

CA COMMUNITY COLLEGES WITH STUDENT HOUSING

**Sierra College, Sierra Joint Community College District
Rocklin, California**

Founded: 1936
Headcount: 24,992
% Housed: 0.48%

Housing

Location: On-campus

Owned/run by: College

Housing type: Dorm-Style

Buildings: 1, 2-story bldg.

Units: 60 Doubles

Capacity: 120

Rental Rate/S.F. \$9.87
\$13.23 w/M meal Plan



Furnished: Yes
Utilities: Included
Bathrooms: Shared
Parking: \$53/sem., Dedicated Lot
Meals: Meal Plan, Required
Communal Kitchen

Housing Description

The co-ed North Hall provides Double rooms that share a bathroom. Each room is furnished with two extra-long twin beds, two desks and chairs, two closets, and two dressers. Common area amenities include a study room; recreation room with pool table, ping-pong table, and television with a DVD player; credit-card operated laundry facilities; and kitchen with a stove, oven, microwave, refrigerator, and some cooking utilities. The meal plan is offered in connection with the vendor DishOut. Each resident receives a meal debit card, which can be used in the campus cafeteria and at designated off-campus restaurants. Unused Meal Plan funds carry over from week to week, but expire at the end of the semester.

CA COMMUNITY COLLEGES WITH STUDENT HOUSING

**College of the Siskiyous, Siskiyou Joint Community College District
Weed, California**

Founded: 1957
Headcount: 5,527
% Housed: 2.82%

Housing

Location: On-campus

Owned/run by: College

Housing type: Dorm-Style

Buildings: 2, 2-story bldgs.

Units: 20 Doubles (D)
21 Triples (T)

Capacity: 156

Rental Rate/S.F. \$4.60 D / \$5.15 T
\$8.05 D / \$10.29 T
w/Meal Plan*



Furnished: Yes
Utilities: Included
Bathrooms: Communal
Single-Gender Wings
Parking: Free
Meals: Meal Plan, Required
3 Meal Plan Tiers:
\$1,500, \$1,800 or \$2,000
per semester

*\$1,500 Meal Plan tier used for rental rate calculations.

Housing Description

The Lodges include the 2-story Juniper Hall and Ponderosa Hall, each of which have four single-gender wings with a Communal Bathroom in each wing. Originally designed to house 136 residents in Double Units, the Halls are now housing 156 students with half of the Double rooms being used as Triples to accommodate high housing need following a 2015 fire that destroyed one-third of the housing in Weed. The rooms are furnished with beds, desks and chairs, and 3-drawer dressers in the closets. Amenities include a computer lab with free printing, events and activities, custodial services, and access to laundry facilities on-site. Microwaves in the lobby are available for student use.

CA COMMUNITY COLLEGES WITH STUDENT HOUSING

**Taft College, West Kern Community College District
Taft, California**

Founded: 1922
Headcount: 8,818
% Housed: 1.36%

Housing

Location: On-campus

Owned/run by: College

Housing type: Dorm-Style

Buildings: 5, 1-story bldgs.

Units: 20 Doubles (D)
20 Quads (Q)

Capacity:
120

Rental Rate/S.F. \$2.22 D / \$2.96 Q
\$5.81 D / \$7.75 Q
w/Meal Plan



Furnished: Yes
Utilities: Included
Bathrooms: Shared
Parking: Free
Meals: Meal Plan, Required

Housing Description

The 2-building Ash Street Residence Hall, located at the north end of campus, provides Quad rooms with a small common area and bathroom, while the 3-building Wildcat Dorms, located at the south end of campus, provide Double rooms which share a bathroom. Rooms are furnished with beds, desks and chairs, and storage space. Students may have a microwave oven, small refrigerator, coffee pot, and/or blender in their rooms. Common area amenities for each residence hall include coin-operated laundry facilities, lobby with TV, and game room.

CA COMMUNITY COLLEGES WITH STUDENT HOUSING

**West Hills College, West Hills Community College District
Coalinga, California**

Founded: 1932
Headcount: 4,335
% Housed: 4.08%

Housing

Location: On-campus

Owned/run by: College

Housing type: Dorm-Style

Buildings: 2, 1-2 story bldgs.

Units: 28 Doubles (W)
60 Doubles (M)

Capacity: 177/56 W + 121 M

Rental Rate/S.F. \$4.86 W / \$5.84 M*
\$12.31 W / \$14.77 M
w/Meal Plan



Furnished: Yes
Utilities: Included
Bathrooms: Communal
Single-Gender Halls
Parking: Free
Meals: Meal Plan, Required

*The two dorms have different sized rooms; the decision was made to house the Women (W) in the larger rooms.

Housing Description

Built in the 1950s, the 1-story Ivan's Hall houses women and Gordon Hall houses men, in Double rooms. The rooms are furnished with a beds, desk and lamp, chest of drawers and closet for each student. Amenities include housekeeping 7-days per week; study rooms with computers and printers; games, including ping pong tables and board games; TV room with cable; laundry facilities; and microwave.

Off-Campus Housing Supply

City of Yucaipa

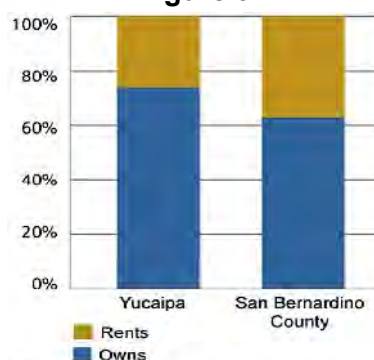
CHC and the adjacent College Village District Overlay are within the City of Yucaipa, California. Yucaipa's population characteristics have a key influence on both housing needs and existing supply of available rental property. Based upon the 2010 U.S. Census count of 51,367 and a projected growth estimated by San Bernardino County of 9% between 2010 and 2020, it is estimated that the current City population is about 54,600 residents.

Differences in housing preferences affect existing supply, and are impacted by such factors as wealth, housing type and age. The City's existing supply is therefore linked to life-cycle events such as leaving home, getting married, having children, changing jobs, retirement, and death of spouse. In Yucaipa, these break points define increasingly lengthy stays in the same housing unit.

Yucaipa has a proportionately older population than San Bernardino County as a whole, with a higher percentage of middle-age and senior adults. Over the past decade, the largest increase in Yucaipa residents was among middle-aged adults ages 45-64 years, who are presumably attracted to Yucaipa's single-family detached housing with large homes and yards. In recent years, the senior population did not increase much in number, and actually declined as a share of residents. However, seniors still comprise a much larger share of Yucaipa's population than seniors living in San Bernardino County as a whole.

According to the 2010 Census, 74% (13,503) of households owned a home whereas 26% (4,728) rented a home. In the surrounding county, the homeownership rate is lower -- 63% of the units are owner-occupied and 37% are renter-occupied. According to the City's General Plan, Yucaipa's homeownership rate is significantly higher than the regional average due to: 1) the higher proportion of single-family units built compared to apartments in recent years; and 2) the majority of residential land is general planned for single-family homes. It also indicates this ratio between home owners and renters will likely not change much through the build-out of the General Plan.

Figure 9



Source: City of Yucaipa General Plan - Housing Element

For most college communities within California, students have a variety of rental apartment complexes within their college's local market from which they can choose. However, because Yucaipa has fewer rental properties available than nearby cities, a challenge is created for CHC students who must rent, yet desire to live in Yucaipa. This challenge is exacerbated by the type of rental units available in Yucaipa, which have a higher ratio of age-restricted apartments and mobile homes for seniors as compared to surrounding communities. Yucaipa even officially recognizes their larger population of seniors and offers them a number of support services, as well as the Yucaipa Senior Center offering classes, activities and special events.

Residential detached housing that is renter-occupied also tends to be newer, larger and of higher quality in Yucaipa than its surrounding communities. Consequently, rental costs for detached housing tend to be outside of the affordability for younger households, particularly those within the age demographics of CHC students. In fact, within the entire City of Yucaipa, our off-campus survey revealed only one garden-style apartment complex with more than 30 units. This apartment complex, The Bungalows, is a 74-unit garden-style complex; upon our contacting them, they indicated they were fully occupied and had nothing available for several months.

Availability is also problematic for other types of rental properties within Yucaipa. According to RealFacts, Yucaipa's rental vacancy rates (both single and multifamily rental properties) is around 9%. This rate, which has historically been lower than the rest of the county, is estimated to continue to see declines in forthcoming years.

According to the student/faculty survey conducted for this report (see a full review within the Demand Analysis section), of those CHC students who are currently renting, approximately 81% do not live in Yucaipa. Within this same subgroup of CHC students, 82% drive alone to go to classes at CHC, with 56% having commute times ranging from 16 minutes to over an hour. And of these students surveyed, approximately 80% indicated they would be somewhat to very interested in renting student housing adjacent to CHC if it was available.

In addition, of all students surveyed that are currently renting at both Valley College and CHC, 38% indicated it was somewhat to extremely difficult finding adequate housing. As indicated in our review of California community colleges with student housing, the lack of affordable apartment rental units is one of the key characteristics for colleges to pursue their own student housing. And although not determinative by itself, Yucaipa's dearth of affordable available rental properties within close proximity to CHC would indicate that student housing could prove beneficial to CHC's future enrollment.

Off-Campus Apartment Rental Versus Student Housing

Student housing has historically competed with nearby off-campus apartment units. As discussed previously, unless the college/university has a mandatory student housing requirement for first-year students or athletes, or, the university has such a high academic standing as to negate competition from nearby apartment complexes (e.g.

UCLA, Berkeley, USC or Stanford), student housing rent should not substantially exceed the cost of what students can pay for off-campus rental units. Otherwise, maintaining enough occupancy to make the project financially feasible will could be challenging.

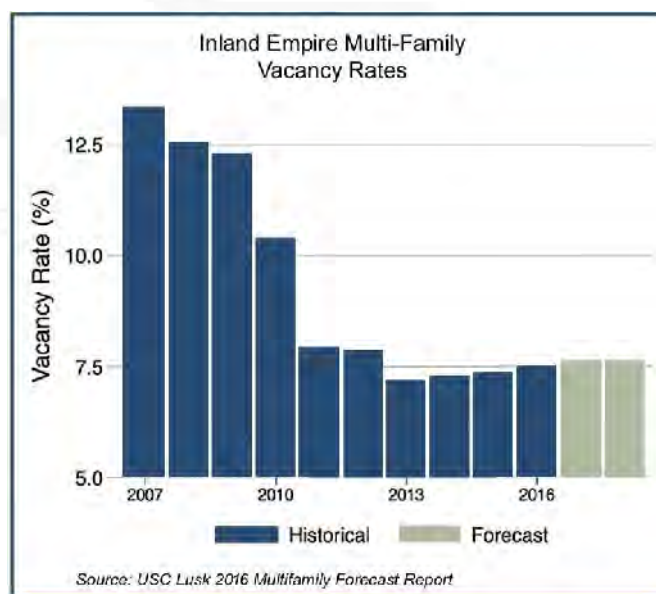
Therefore, when estimating the obtainable rental rate for new student housing, the surrounding inventory of available off-campus apartment rental property must be taken into consideration. This includes a survey of those rental properties that are located within the surrounding area that provide the type of amenities most needed by students at a rate that is affordable.

Inland Empire Multifamily Apartment Market

The Inland Empire economy rallied over the years following the recession, with significant job growth above the statewide trend pushing the region's unemployment rate to its lowest level in eight years. Job and population increases in the Inland Empire are forecasted to continue over the next two years, driving up rents along with home prices and sales, as Southern California residents once again turn to the region for more affordable housing options.

Because of this, the Inland Empire multifamily market has seen a trend in recent years towards rising rents and lower vacancy rates. According to the USC Lusk 2016 Multifamily Forecast Report, average rents in the Inland Empire increased 5.2% from 2015 to 2016, and multifamily construction had seen a modest rebound. The vacancy rate edged down slightly from 7.6% in 2014 to 7.5% in 2015.

Figure 10



Currently, the lowest average vacancy rate was in the Redlands-Fontana-High Desert submarket at 5.9%, followed by Chino Hills-Rancho Cucamonga at 7.3%. Vacancy rates fell last year in Palm Springs-Indio and Redlands-Fontana-High Desert, with slight to modest increases in the remaining submarkets. It is forecasted that rising prices and rents in Los Angeles and Orange Counties should cause population growth in the Inland Empire to accelerate.

Off-Campus Apartment Rental Survey

Because of the correlation between available affordable rental properties near a community college and the obtainable rental rates students will pay for student housing, we have conducted a survey of available apartment rental units in those areas CHC students indicated they lived.

For CHC students who are currently renting, Figure 11 identifies the municipalities in which they currently live.

Figure 11
Survey Results - Location Where CHC Students Live
Who Currently Pay Rent

Answer Choices	Responses
Beatumont	10.07% 41
Calimesa	3.69% 15
Cherry Valley	0.74% 3
Colton	1.47% 6
Fontana	0.98% 4
Grand Terrace	0.74% 3
Highland	10.07% 41
Loma Linda	2.95% 12
Mentone	2.95% 12
Moreno Valley	1.47% 6
Redlands	19.66% 80
Rialto	1.47% 6
Riverside	3.69% 15
San Bernardino	11.30% 46
Yucaipa	20.15% 82
Other (please specify)	8.60% 35
Total	407

In surveying local rental properties for CHC students, we limited the survey to those apartment complexes where CHC students are most likely to rent by narrowing the survey using the following parameters:

Apartment Rental Survey Parameters

1. Multifamily complexes that are in the immediate vicinity where most CHC students surveyed lived. This was determined by the student survey and limited to apartment complexes within a 10-mile (approximately 25 minute) commute of CHC.
2. Garden-style multifamily complexes within the affordability range of the age demographics of SBCCD students based upon what they are currently paying as indicated by the student survey.
3. Larger complexes (25 units and up).
4. Only studio, one-bedroom and two-bedroom apartments were surveyed. The survey did not include rentals of single-family homes, duplexes or condominium/apartment units that had three or more bedrooms.

The following presents the comparable data collected:

Figure 12

Off-Campus Multifamily Apartment Rent Survey Yucaipa and Surrounding Market									
#	Complex	Location	Distance/ Commute to CHC	Studio Size S.F.	Studio Rate /Mo.	1 Bdrm Size S.F.	1 Bdrm Rate /Mo.	2 Bdrm Size S.F.	2 Bdrm Rate /Mo.
1	Country Orchard Estates	12175 13th St. Yucaipa, CA	1.3 Miles/ 5 Minutes	NA	NA	NA	NA	1,000	\$1,195 \$1.20/S.F.
2	The Bungalows	33800 Chapman Heights Road Yucaipa, CA 30598	2.7 Miles/ 7 Minutes	NA	NA	769	\$1,300 \$1.69/S.F.	900	\$1,475 \$1.64/S.F.
3	Del Flora Apartments	Independence Ave. Redlands, CA	3.5 Miles/ 8 Minutes	NA	NA	700	\$1,295 \$1.85/S.F.	1,000	\$1,530 \$1.53/S.F.
4	Countrywood Apartments	1255 E. Citrus Ave. Redlands, CA	4.3 Miles/ 9 Minutes	NA	NA	900	\$1,400 \$1.56/S.F.	1,050	\$1,470 \$1.40/S.F.
5	California Apartments	12784 California St Yucaipa, CA	4.3 Miles/ 9 Minutes	600	\$700 \$1.17/S.F.	650	\$800 \$1.23/S.F.	NA	NA
6	Central Park East	1129 East Central Ave. Redlands, CA	4.4 Miles/ 10 Minutes	NA	NA	820	\$1,100 \$1.34/S.F.	950	\$1,200 \$1.26/S.F.
7	Wysteria Apartments	1340 Stillman Ave. Redlands, CA	4.5 Miles/ 10 Minutes	NA	NA	700	\$1,275 \$1.82/S.F.	850	\$1,280 \$1.51/S.F.
8	Citrus Grove Apartments	1140 East Lugonia Ave. Redlands, CA	5.3 Miles/ 11 Minutes	NA	NA	677	\$1,175 \$1.74/S.F.	859	\$1,425 \$1.66/S.F.
9	Pebble Brook Apartments	631 N. Church St. Redlands, CA	5.3 Miles/ 12 Minutes	NA	NA	650	\$875 \$1.35/S.F.	850	\$1,050 \$1.24/S.F.
10	Palm Village Apartments	1155 University St. Redlands, CA	5.6 Miles/ 12 Minutes	NA	NA	700	\$1,275 \$1.82/S.F.	935	\$1,425 \$1.52/S.F.
11	Los Arboles Apartments	950 Pine Ave. Redlands, CA	6.6 Miles/ 16 Minutes	NA	NA	600	\$1,075 \$1.79/S.F.	825	\$1,195 \$1.45/S.F.
12	Tereso Apartments	106 W. Pennsylvania Ave. Redlands, CA	6.8 Miles/ 16 Minutes	NA	NA	683	\$1,170 \$1.71/S.F.	837	\$1,295 \$1.55/S.F.
13	Red Oak Villas Apartments	106 W. Pennsylvania Ave. Redlands, CA	7.0 Miles/ 16 Minutes	NA	NA	616	\$1,350 \$2.19/S.F.	810	\$1,435 \$1.77/S.F.
14	Redlands Park Apartments	1498 Brookside Ave. Redlands, CA	7.3 Miles/ 17 Minutes	NA	NA	675	\$2,046 \$3.03/S.F.	955	\$2,750 \$2.88/S.F.
15	Redlands Lawn/Tennis Apartments	1400 Barton Road Redlands, CA	7.3 Miles/ 17 Minutes	510	\$1,335 \$2.62/S.F.	656	\$1,249 \$1.90/S.F.	872	\$1,507 \$1.73/S.F.
16	Parkview Terrace Apartments	1601 Barton Road Redlands, CA	7.5 Miles/ 18 Minutes	NA	NA	642	\$1,300 \$2.02/S.F.	870	\$1,575 \$1.81/S.F.
17	Somerset Apartments	26454 Redlands Boulevard Redlands, CA	9.7 Miles/ 18 Minutes	NA	NA	619	\$1,540 \$2.49/S.F.	811	\$1,700 \$2.10/S.F.
18	Monterey Pines Apartments	25701 Van Leuven Street Loma Linda, CA	9.9 Miles/ 23 Minutes	NA	NA	619	\$1,540 \$2.49/S.F.	811	\$1,700 \$2.10/S.F.

* NA = Units of this size/configuration were not offered by this particular complex

Figure 13
Photos of Apartments Surveyed





Figure 14

Summary of Apartment Rental Rate Survey

	Studio		One Bedroom		Two Bedroom	
	Low	High	Low	High	Low	High
Comparable	#5	#15	#5	#14	#1	#14
Rate	\$700/Mo.	\$1,335/Mo.	\$800/Mo.	\$2,046/Mo.	\$1,195/Mo.	\$2,750/Mo.
Range	\$1.17/S.F.	\$2.62/S.F.	\$1.23/S.F.	\$3.03/S.F.	\$1.20/S.F.	\$2.88/S.F.
Average Rate for all Comparables	\$1,018/Mo. \$1.89/S.F.		\$1,266/Mo. \$1.85/S.F.		\$1,470/Mo. \$1.63/S.F.	

Conclusion of Off-Campus Housing Analysis and Apartment Rental Survey

Our research of the apartment market surrounding CHC yielded a number of findings that help gauge the potential success of student housing for the college, as follows:

1. Within the City of Yucaipa, there is a dearth of available multifamily rental units. Despite the city's current population being an estimated 54,600 residents, there were less than 150 apartment units from which we could gather comparable rental data, with the majority of those units being located within the two complexes identified in our survey.
2. Conversations with the City Manager of Yucaipa indicated that there is a strong reluctance by the current City Council to allow more multifamily development to take place within the College Village Overlay District; however, they are in favor of student housing for CHC on the site. This political climate provides favorable circumstances for maintaining demand for student housing development.
3. 20% of CHC students renting their housing live in Yucaipa. Of the remainder, the largest portions live in the neighboring cities of Redlands (20%), San Bernardino (13%) Beaumont (10%) and Highland (10%). Our survey finds that the average rental rates in these areas are in the range of \$1.63 to \$1.89 per square foot per month, depending upon number of rooms offered. In addition, our student survey also reveals that affordable costs is the most important factor for both VC and CHC students when considering housing alternatives. Given this, if the cost of financing and construction for new student housing results in required rental revenue that exceeds the market rates for local apartment rentals, students will be less likely to relocate into the new student housing. This in turn increases the financial risk for a new student housing project.

Estimating what the design, construction and financing cost would be for new student housing will be part of the scope of services of Phase 2 of the Student Housing Feasibility Study.

Brookhurst Development Corp

Student/Faculty/Staff Survey

Objectives

In collaboration with SBCCD staff, Brookhurst created and implemented a web-based survey to assess demand for off-campus housing for faculty, staff and students. The objective of the survey was not only to gauge the desirability of new student/faculty housing, but to also gauge such things as preferences to various amenities that could be offered, access to transportation, existing living conditions, current expenses paid for housing, and reasons behind respondents attending college as well as their immediate plans after the current semester. We also sought to ascertain the desirability of new housing that would cater to faculty/staff as opposed to just students.

Development of Survey Questions

The survey questions were based upon our primary objective – to ascertain the actual demand from faculty, staff and students for new off-campus housing to be located adjacent to CHC. However, the survey was also designed to have tangential yet supporting academic and economic purposes, such as to understand academic goals of students, why they selected their respective college and other matters such as transportation.

In developing an initial list of questions, Brookhurst relied upon its experience in conducting similar web-based surveys for other California community college districts. We also reviewed other student housing surveys conducted elsewhere in the U.S. In addition, we sought input from SBCCD staff regarding questions and areas of information sought.

Upon creation of a preliminary draft of the questions, we presented them to SBCCD staff for review. After a number of iterations resulting from this collaboration, the survey questions were finalized with 52 questions being deemed comprehensive enough to meet the objective(s) while not being so extensive as to dissuade completion. SBCCD then obtained final internal approval with the survey being launched thereafter.

Methodology

The survey was conducted by using a web-based Internet service for which SBCCD holds an existing account. To maximize benefits of the survey, it was determined that the survey should include both faculty and students throughout SBCCD at both Valley and Crafton Hills Colleges. To encourage participation, respondents were offered the possibility of winning a \$10 coupon for Starbuck's. In addition, the presidents of each respective college assisted in collection of responses by allowing the survey to be issued through their own emails with a direct request coming from them.

The survey was launched on March 20, 2017 and was closed on June 12, 2017, and received 3,165 total responses. Statistically speaking, based upon the total target population versus the number of responses, we can conclude with a 95% confidence in the results are within a 3.5% margin of error. In layman terms, this essentially means that the survey was a success – the responses were "statistically significant" in representing 95% of the overall targeted population.

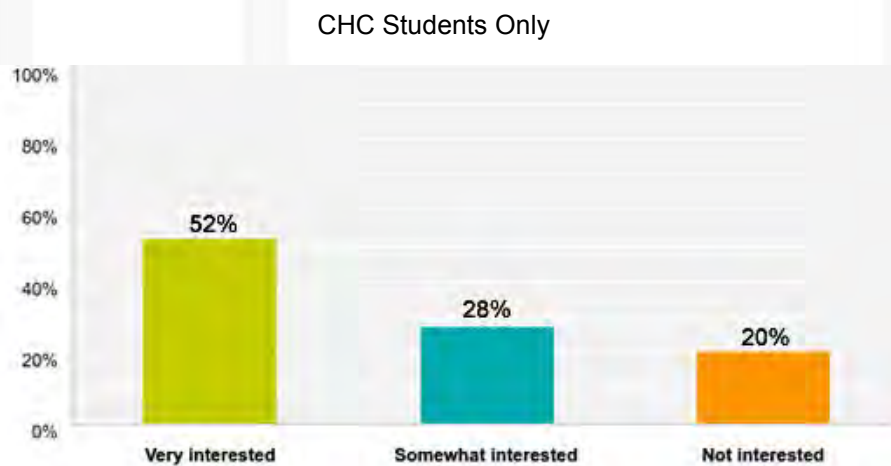
The survey service used provides analytic tools that allow filtering the questions for a specific subgroup or response (e.g. only CHC students, or alternatively, only those indicating an interest in student housing), then tabulating the data solely for that subgroup of responses. Multiple filters can be stacked in tandem to isolate response data even further within subgroups.

The entire survey with collected responses is presented as **Exhibit A** to this report.

Survey Results and Key Findings

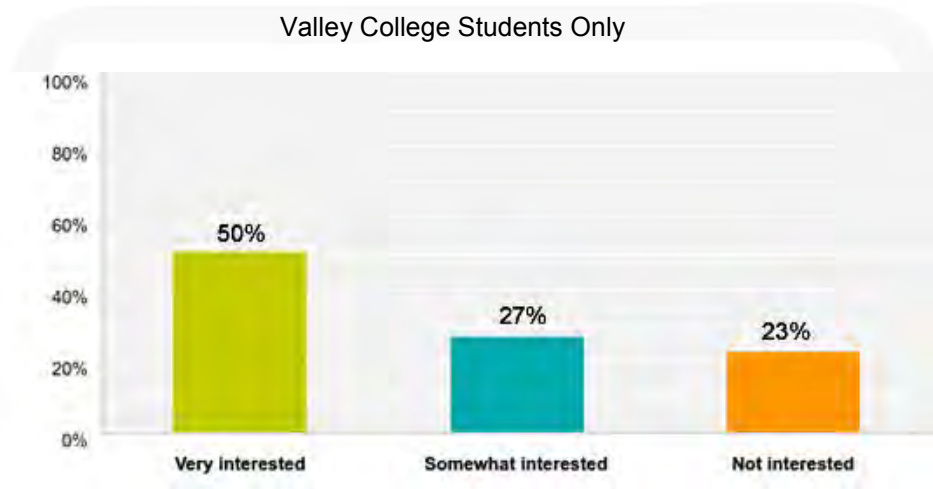
1. **Interest in CHC housing.** About 80% of CHC students indicated they were either somewhat or very interested in student housing:

Q. "Assuming rents were reasonable for housing in the area, if student/faculty housing was available across the street from Crafton Hills College, how interested would you be in living there?"



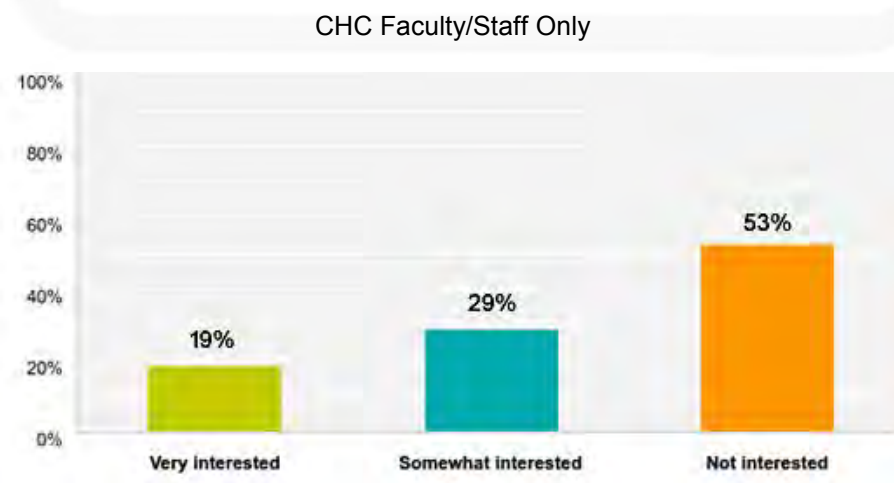
Our survey indicated that about 7.4% of Valley College students also spend time either working or taking classes at CHC. During initial meetings, SBCCD staff asked Brookhurst to explore whether students at Valley College would be interested in renting dorms at student housing next to CHC, assuming SBCCD could provide some form of transit to and from VC. The following demonstrates that there is an interest:

Q. "Assuming rents were reasonable for housing in the area, if student/faculty housing was available across the street from Crafton Hills College and public transportation or free/low-cost shuttle service was easily accessible to both Valley College and the housing, how interested would you be in living there?"



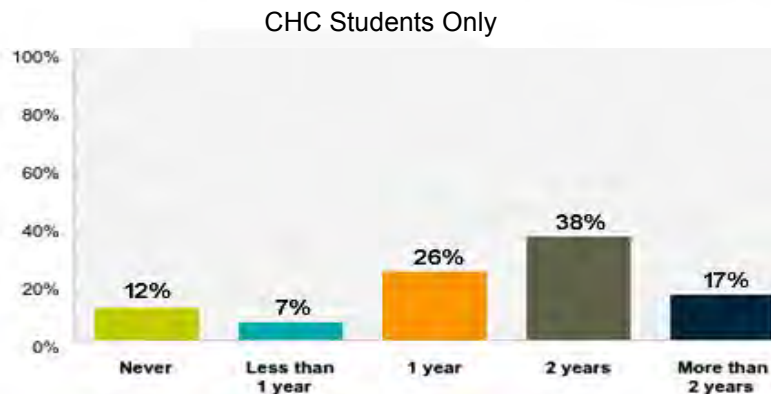
However, when only analyzing CHC faculty/staff responses, the interest in housing adjacent to CHC was less enthusiastic than it was for students:

Q. "Assuming rents were reasonable for housing in the area, if student/faculty housing was available across the street from Crafton Hills College, how interested would you be in living there?"

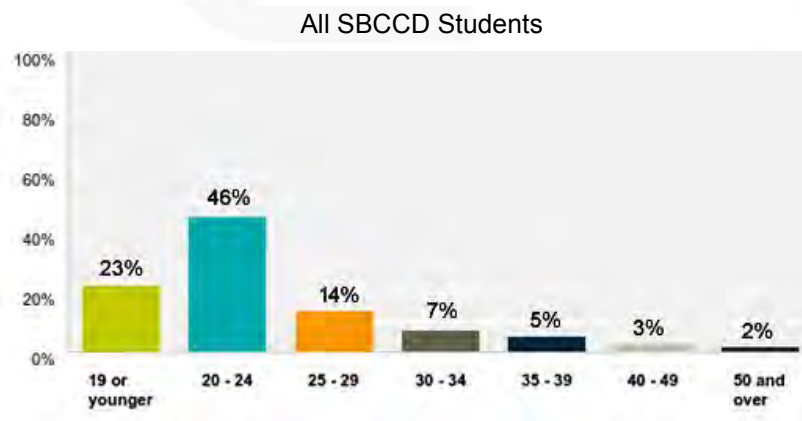


2. **Longevity of Occupancy.** For students interested in student housing adjacent to CHC, the following responses reflect the length of stay in such housing.

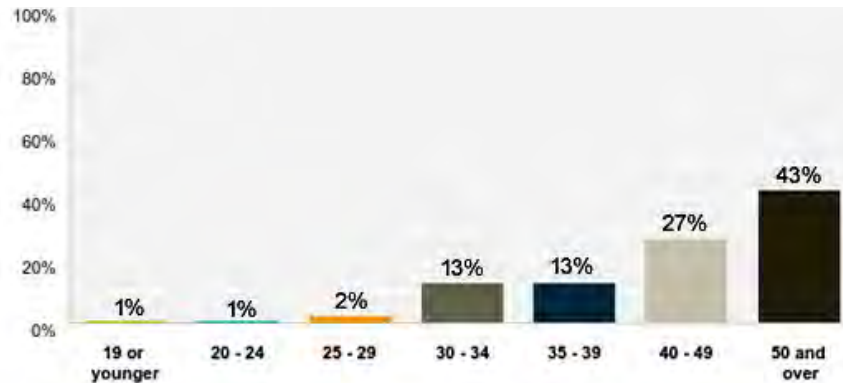
Q. "If SBCCD student/faculty housing included your primary housing needs and preferences each year, how long would you live in SBCCD's student/faculty housing?"



3. **Demographics/Age.** The following graphs show the significant difference in age between faculty/staff and students. Whereas 83% of the students surveyed were under the age of 29, 70% of the faculty/staff were over the age of 40. This further underscores the difference in demographics between those that would occupy student housing versus those occupying faculty housing.



CHC Faculty/Staff Only



4. **Living Arrangements.** Not surprisingly, the survey also indicated that faculty/staff are far more likely to be living with their spouse/partner (71%) as opposed to students living with their spouse/partner (19%).

"Q. What are your current living arrangements?"

CHC Faculty/Staff Only

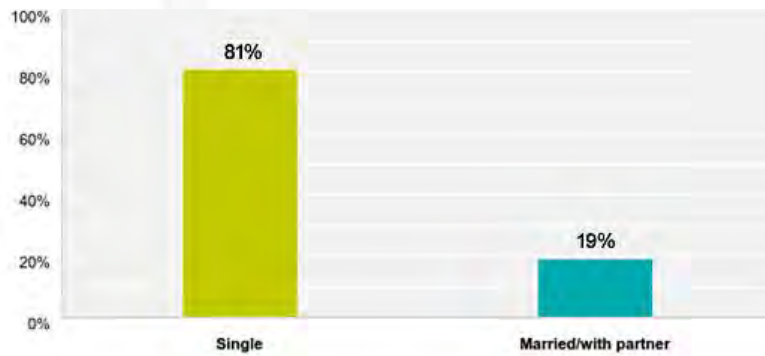
Answer Choices	Responses
I live with my parent(s)/family and/or siblings and we are renters	2.97% 3
I live with my parent(s)/family and/or siblings and we own our home	5.94% 6
I live with my spouse/partner and we rent an apartment/condo/room in a house	7.92% 8
I live with my spouse/partner and we own our own condo/home	53.47% 54
I live alone and own my own condo/home	15.84% 16
I live alone and rent an apartment/condo or room in a house	3.96% 4
I am a renter with 1 roommate	0.00% 0
I am a renter with 2 roommates	1.98% 2
I am a renter with 3 roommates	0.99% 1
I am a renter with 4 or more roommates	0.99% 1
Other (please specify)	5.94% 6
Total	101

All SBCCD Students

Answer Choices	Responses
I live with my parent(s)/family and/or siblings and we are renters	28.07% 631
I live with my parent(s)/family and/or siblings and we own our home	28.74% 646
I live with my spouse/partner and we rent an apartment/condo/room in a house	13.12% 295
I live with my spouse/partner and we own our own condo/home	7.25% 163
I live alone and own my own condo/home	2.09% 47
I live alone and rent an apartment/condo or room in a house	5.07% 114
I am a renter with 1 roommate	2.98% 67
I am a renter with 2 roommates	2.09% 47
I am a renter with 3 roommates	1.98% 44
I am a renter with 4 or more roommates	1.78% 40
Other (please specify)	6.85% 154
Total	2,248

5. The following chart reveals the number of married/partner students versus single students surveyed.

All SBCCD Students



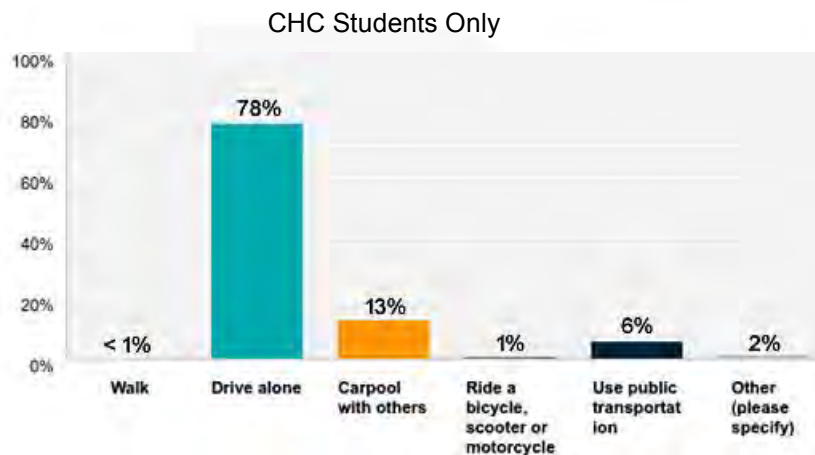
6. "Q. In choosing your housing, how important was each of the following in your decision? Please select one response for each item."

All SBCCD Students

	Very Important	Somewhat Important	Not very Important	No Importance	Total
Total cost (including rent, utilities, and other related costs)	87.41% 1,965	7.30% 164	1.60% 38	3.60% 81	2,248
Parent/guardian preferences	33.05% 743	19.44% 437	12.54% 282	34.96% 788	2,248
Needs of children/dependents	39.23% 882	12.01% 288	7.52% 189	40.44% 909	2,248
Distance from campus	48.62% 1,093	33.00% 762	8.00% 200	8.50% 193	2,248
Length of commute	34.09% 776	33.41% 751	6.27% 141	6.73% 140	2,248
Distance from workplace	46.44% 1,044	33.54% 754	7.63% 176	12.19% 274	2,248
Distance from children/dependent(s) school and/or caregivers	35.72% 803	16.15% 363	8.54% 192	39.59% 890	2,248
In an area or complex where other students live	16.50% 371	17.93% 403	21.80% 490	43.77% 984	2,248
Convenient parking	43.40% 972	26.38% 593	10.63% 239	17.33% 394	2,248
Electric vehicle charging stations	7.12% 160	6.01% 135	11.21% 252	75.67% 1,701	2,240
Close to public transportation	25.93% 583	17.39% 391	14.64% 329	42.04% 945	2,248
Close to retail (such as restaurants, entertainment and services)	23.62% 531	32.92% 740	20.55% 462	22.91% 515	2,248
Furnished	17.03% 400	24.07% 541	16.81% 370	41.10% 926	2,240
Includes security features	44.08% 991	28.11% 632	10.36% 233	17.44% 392	2,248
Kitchen	74.33% 1,671	16.28% 366	3.29% 74	6.09% 137	2,248
Study room or area	42.70% 962	28.02% 630	14.55% 327	14.64% 329	2,248
Social/recreational/TV room or area	31.58% 710	31.90% 717	18.46% 415	18.06% 408	2,248
Laundry facilities	67.35% 1,514	20.15% 453	5.20% 117	7.30% 164	2,248
Term/length of lease	50.09% 1,128	25.00% 560	6.23% 140	15.08% 337	2,248

7. The following chart indicates how the CHC students surveyed get to campus. Fewer VC students drive alone to campus as opposed to CHC (69% as opposed to 78%). In addition 48 VC students surveyed (about 3%) indicated they walk to campus, as opposed to virtually none walking to the CHC campus.

Q. "How do you typically get to and from campus?"



8. 62 CHC students indicated they were not from the U.S. Of these 34 (58%) indicated interest in student housing whereas 28 (42%) indicated no interest. In contrast, 80% of CHC students overall indicated an interest. This would seem to indicate that students of foreign nationalities have less interest in student housing than those with domestic origins.

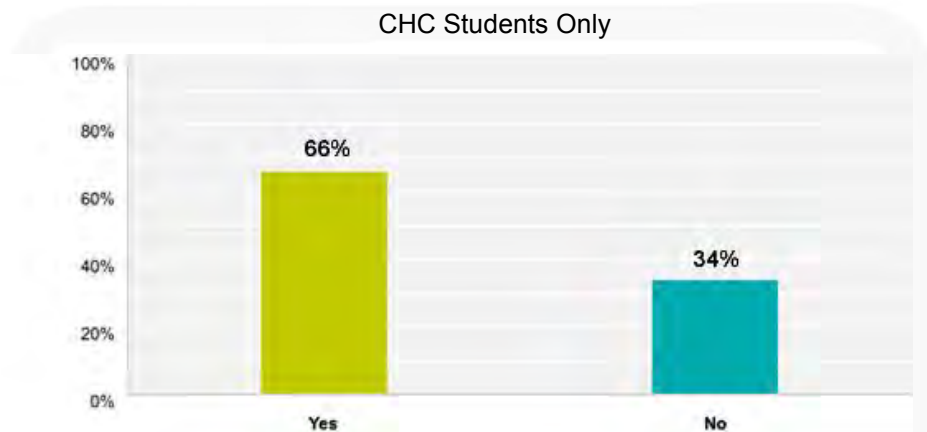
Q. "If you are a student from a different country, are you interested in student housing while you attend college?"

CHC Students Only

Answer Choices	Responses
Yes.	4.51% 34
No.	3.71% 28
I am not from a different country.	91.78% 692
Total	754

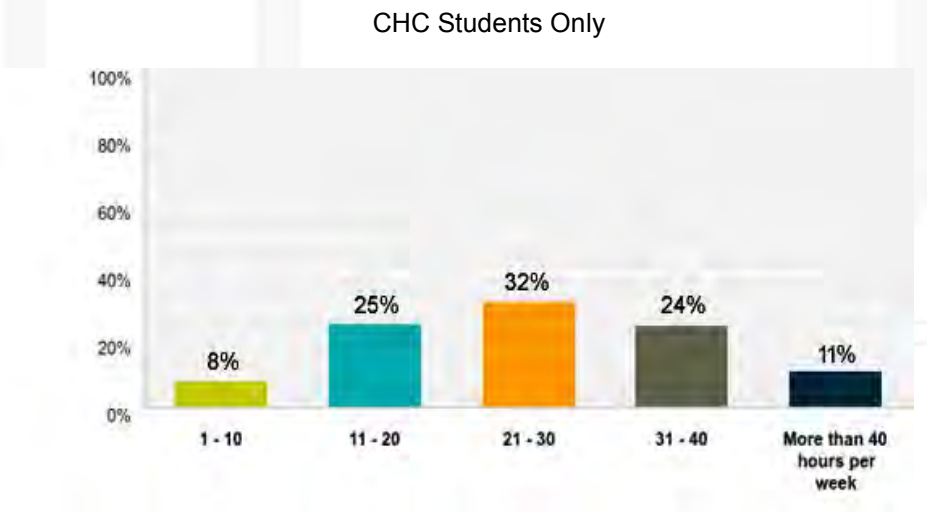
9. The following survey results reveal what percentage of CHC students work while attending college:

Q. "Are you currently employed?"



Of those employed, the following indicates how many hours they reported working each week:

Q. "How many total hours per week do you work at your current job(s)?"



10. The survey also revealed the source of funding for tuition, housing and other expenses for students with the SBCCD. Approximately 64% of students are self-funding their cost of college with about 55% receiving some form of financial aid.

Q. "How are you paying for your academic expenses (including tuition, fees, books, and other necessary class materials)? Select all that apply."

All SBCCD Students

Answer Choices	Responses	
My family	26.31%	346
Myself/self-funded	63.71%	1,564
Student loan	6.97%	171
Scholarship	10.47%	257
Financial Aid	55.23%	1,356
Grants	18.86%	463
Employer (i.e., tuition reimbursement or education program)	5.17%	127
GI Bill	1.83%	45
Other (please specify)	6.23%	153
Total Respondents: 2,455		

11. The survey also indicated that the reason students attend CHC was primarily based upon where they lived, or, where they worked with on 14% attending because they specifically wanted to attend CHC.

Q. "What is the primary reason you reside where you currently do?"

CHC Students Only

Answer Choices	Responses
To attend this specific college	13.99% 107
It is where my job is located	6.14% 47
I live with my parent(s)/family/siblings and attend this college because it happens to be the closest to my residence	51.50% 384
I don't live with my parent(s)/family, but am a local resident and this is the closest college	13.07% 100
Other (please specify)	15.29% 117
Total	765

Conclusion and Recommendations

Assessing the financial viability of student housing for community colleges necessarily requires a different approach than that for four-year institutions. Four-year university programs, which attract degree-seeking students from around the state, country and throughout the world, have the resources to establish internal student-life departments to manage their student housing. They can also implement requirements such as mandatory student housing for all freshmen while commanding higher dorm fees that are not necessarily driven by the market rental rates of local rental properties, but instead, driven by the attraction of the academic programs those institutions provide.

This unfortunately is not the case for community colleges. Our discussions with developers that have community college student housing within their housing portfolios reveal that they are typically more economically challenging than university student housing and require a more rigorous approach to management. But this is not to say they are necessarily financially infeasible as 30% of all community colleges throughout the country have some form of student housing.

Our student/faculty survey revealed that a significant majority (86%) of CHC students attend the college not because it offers unique scholastic opportunities that bring them to Yucaipa from other areas, but instead, because it is the closest college to where they live and/or work. Regardless, about 80% of these students have indicated interest in living in student housing adjacent to CHC if it were available. In addition, of the total SBCCD students surveyed, over two-thirds (68%) indicated that they intend to either transfer to a four-year university prior to or upon graduation of VC or CHC. This longer-term academic goal of the students should be embraced by CHC as part of its overall strategy to increase its participation rate for capturing the enrollment of students within its service area, which historically has been lagging the state average for community colleges.

And this can be accomplished by increasing the interface between students and faculty while providing those students better access to campus resources. As noted previously, studies evidence that having students live on or immediately adjacent to college campuses not only improves collaborative learning between students, but also creates a better sense of belonging thereby improving GPAs and higher graduation percentages. This is particularly true for the demographic profile of students that attend community colleges.

Given its location on the main thoroughfare through Yucaipa, the College Village Overlay District will eventually be developed regardless of the immediate decisions made by SBCCD for its use. This development can either be strictly for private enterprise, or, for some form public-private use that brings the site to its highest and best use in a manner that also serves the long-term goals of the college, city, and local community. The Village Overlay Concept Plan currently envisions such developments that could accomplish this goal as the proposed Innovation Center, faculty/workforce housing and student housing, and amenity retail that provides a commercial draw while providing convenient shopping to those that locate there.

Brookhurst is currently a co-developer of a highly successful similar "college village" in San Marcos adjacent to the CSU campus known as Urban Villages San Marcos (a.k.a. "North City"), which features already completed market-rate housing, student housing, retail and restaurants that are exceeding original financial proformas. It also features the imminent construction of a \$70 million extended learning complex for CSU replete with a pedestrian bridge that connects the complex to the campus with ground breaking scheduled by the end of this year. Our experience with this and other similar college village projects is that to be successful, the respective institution of high learning must demonstrate a significant degree of enthusiasm, leadership and perseverance.

The current discussions with the private land owners of the Overlay District present a unique opportunity for SBCCD, CHC and the City of Yucaipa to control that development in a manner that optimizes the ability of CHC to better reach its long-term academic and enrollment goals. Our concluding recommendation is for SBCCD, CHC and the City of Yucaipa to build a stronger collaborative alliance to further explore these opportunities in greater detail than that which has taken place to date. Through such synergistic collaboration, specific opportunities can be identified and more clearly defined thus allowing greater accuracy in assessing their financial and economic sustainability. This endeavor will clarify directions to follow and assist in the establishment of action plans to pursue those opportunities that the stakeholders collectively agree are worth pursuing.

On behalf of Brookhurst Development, we thank the San Bernardino Community College District for the exciting opportunity to help them in this pursuit.

Respectfully submitted,



Jeff D. Baize
CEO
Brookhurst Development & Advisory Corporation



Brookhurst Development Corporation
Public Facility Specialists Since 1996

4533 MacArthur Blvd.
Suite 324
Newport Beach, CA 92660

T. (direct): 949.706.2628
email: jbaize@brookhurstcorp.com
website: www.brookhurstcorp.com

Exhibit A

Comprehensive Survey Results

The following documentation presents the summarized survey results collected from all respondents of the student/faculty survey inclusive of all 52 survey questions. For brevity, due to the length of the document (65 pages), they are presented collectively in a single document as an exhibit to this report as opposed to including the additional subgroups analyses conducted. Each subgroup analysis increases the length of the documentation by a multiple of one (1). If open-ended responses are included in the documentation, each analysis increases to approximately 209 pages in length.

We have conducted and electronically archived cross-tabulation analyses that separate the responses into various subgroups with different filtering to facilitate isolation and analysis of specific subgroups and certain category of responses. Each subgroup has customized survey questions (i.e. we do not ask faculty/staff how many courses they are taking or other questions pertinent solely to students). The subgroups analyzed include, but are not limited to, the following:

Subgroup Cross-Tabulations Electronically Available

- VC and CHC student responses ("SBCCD Students")
- Only VC students
- Only CHC students
- Only CHC students who are currently renting their housing
- Only CHC faculty/staff

The electronic files archived are in both summary form (graphs and tables), and, formats that also include all individual responses to open-ended questions. All these files are being presented through separate electronic media to SBCCD alongside this report.

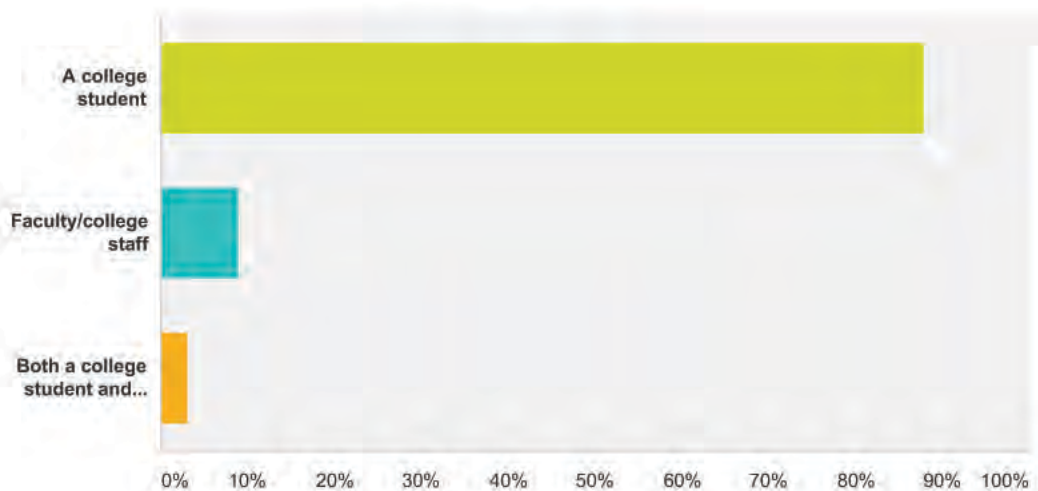
In addition, the survey results can continue to yield fruitful insights for SBCCD not limited to housing needs. Additional cross-tabulating is available to SBCCD as long as they keep their account open with the web-based service that provides the survey platform, surveymonkey.com. Depending upon what is most convenient, SBCCD staff has access to the survey results through this account, and can run additional cross-tabulations independently, or, have Brookhurst conduct them on behalf of the District.

San Bernardino Community College District Student/Faculty/Staff Survey

April - June 2017

Q1 I am currently:

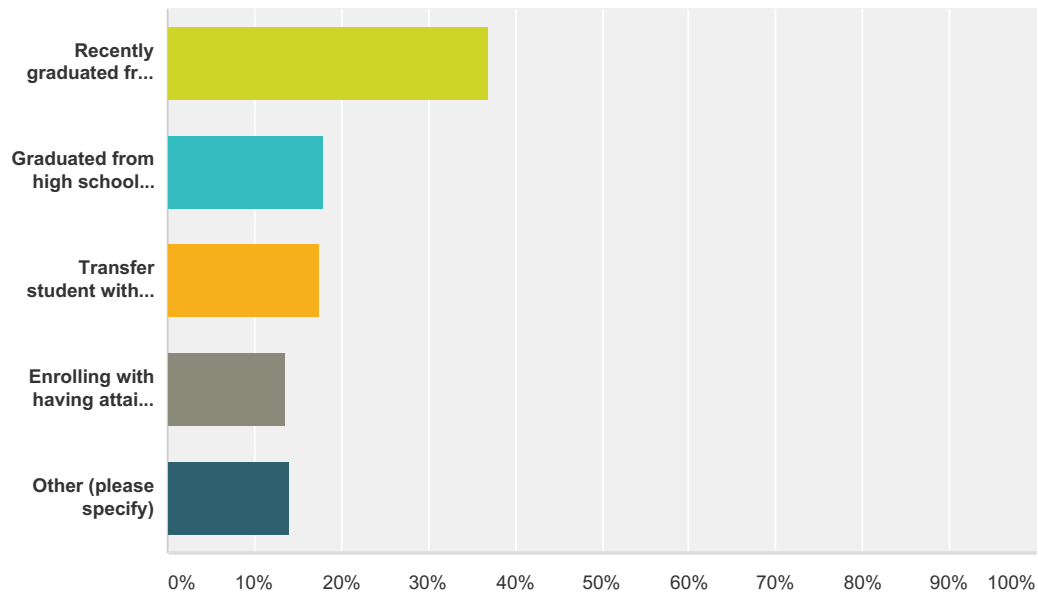
Answered: 3,165 Skipped: 0



Answer Choices	Responses	
A college student	87.87%	2,781
Faculty/college staff	9.00%	285
Both a college student and working as faculty/college staff	3.13%	99
Total		3,165

Q2 Which describes you when you first enrolled at the College:

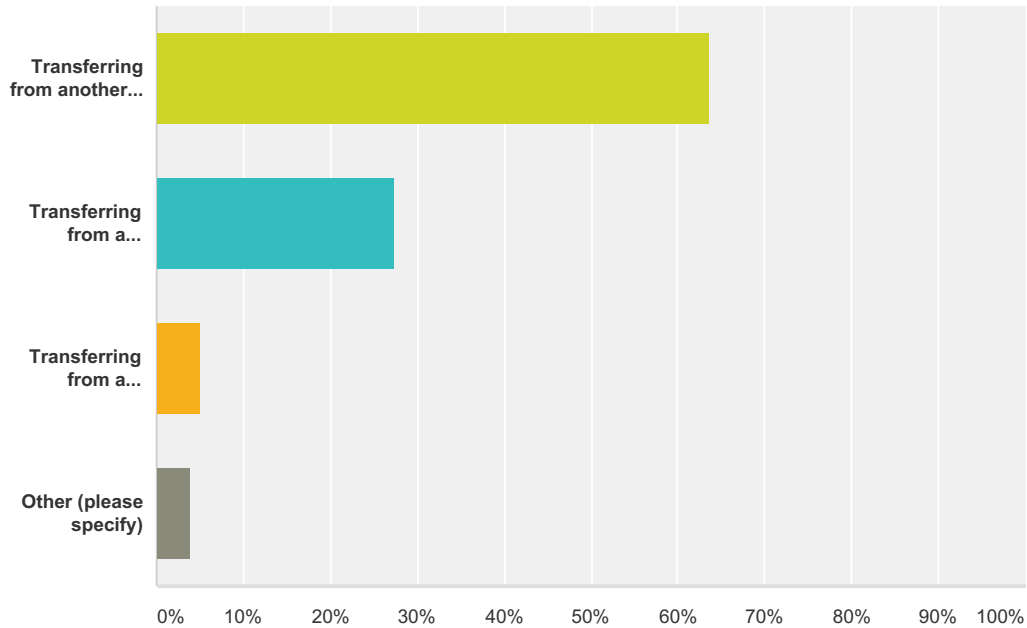
Answered: 2,785 Skipped: 380



Answer Choices	Responses	
Recently graduated from high school (graduated within previous two years)	37.02%	1,031
Graduated from high school more than two years ago, no college courses yet taken	17.92%	499
Transfer student with previous college/university courses taken, but no degree	17.45%	486
Enrolling with having attained a previous college or university degree	13.54%	377
Other (please specify)	14.08%	392
Total		2,785

Q3 You have indicated you are a transfer student. Please select the option below that best describes you.

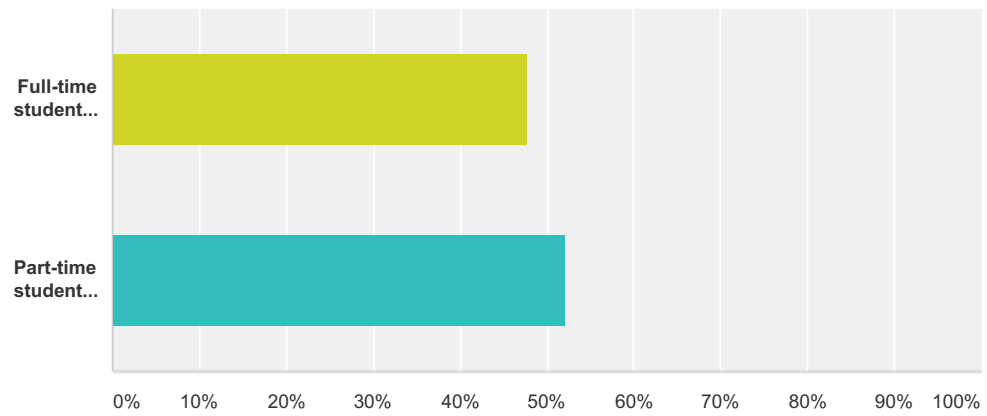
Answered: 480 Skipped: 2,685



Answer Choices	Responses	
Transferring from another community college.	63.75%	306
Transferring from a four-year university or college.	27.29%	131
Transferring from a vocational training program.	5.00%	24
Other (please specify)	3.96%	19
Total		480

Q4 Are you currently attending college full-time or part-time?

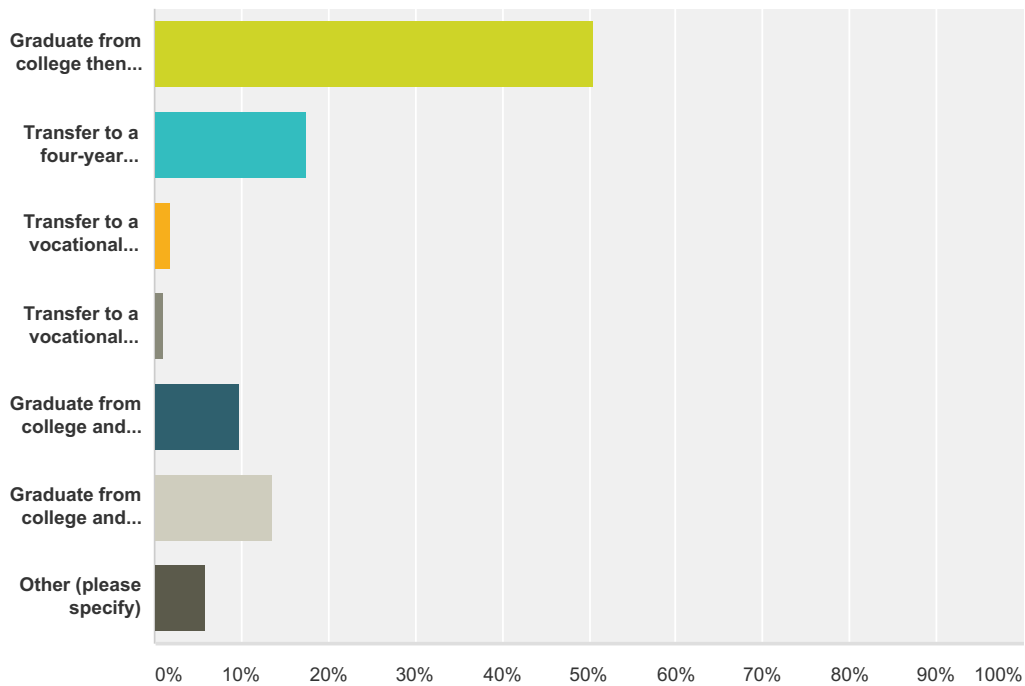
Answered: 2,455 Skipped: 710



Answer Choices	Responses	
Full-time student (enrolled in 12 or more units)	47.86%	1,175
Part-time student (enrolled in fewer than 12 units)	52.14%	1,280
Total		2,455

Q5 What are your academic plans in the future? Please select one response.

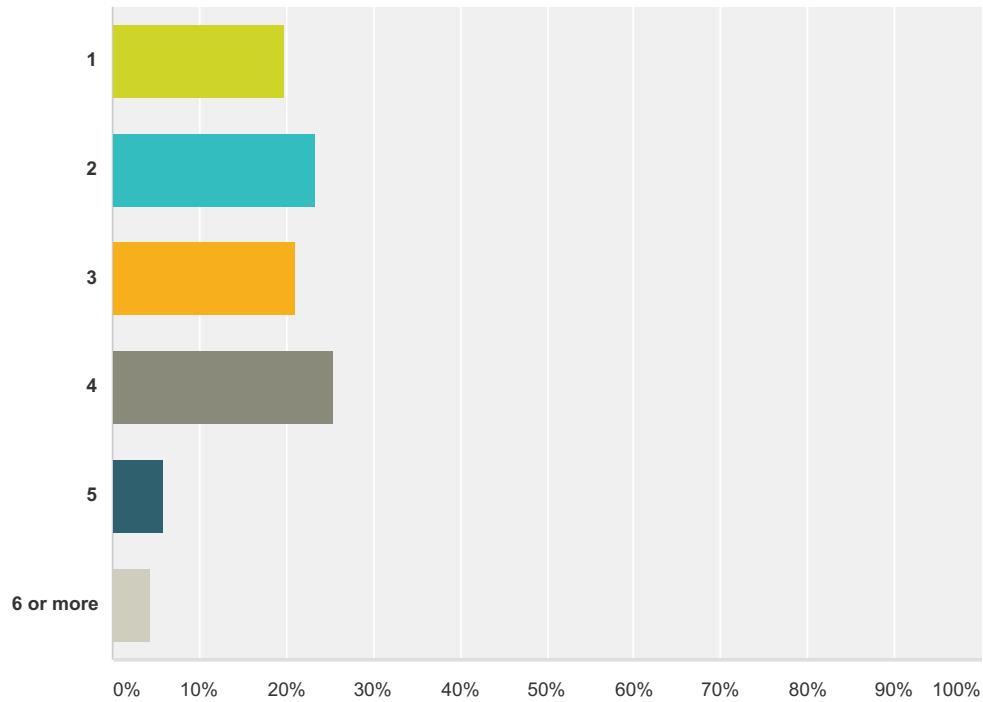
Answered: 2,455 Skipped: 710



Answer Choices	Responses	
Graduate from college then transfer to a four-year university program	50.59%	1,242
Transfer to a four-year university program prior to graduating college	17.47%	429
Transfer to a vocational training program after college graduation	1.79%	44
Transfer to a vocational training program prior to college graduation	0.98%	24
Graduate from college and enter the workforce full time	9.74%	239
Graduate from college and enter the workforce while concurrently taking post-graduation college/university courses	13.48%	331
Other (please specify)	5.95%	146
Total		2,455

Q6 How many courses are you presently taking at the College?

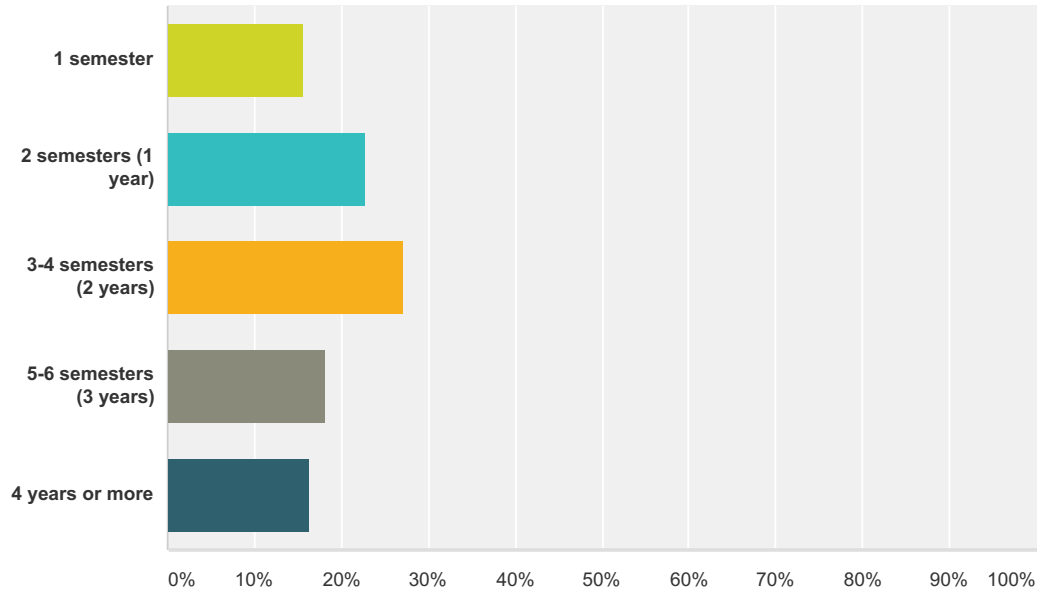
Answered: 2,455 Skipped: 710



Answer Choices	Responses	
1	19.76%	485
2	23.42%	575
3	21.06%	517
4	25.38%	623
5	5.95%	146
6 or more	4.44%	109
Total		2,455

Q7 At the end of the current semester, how long will you have you been attending college?

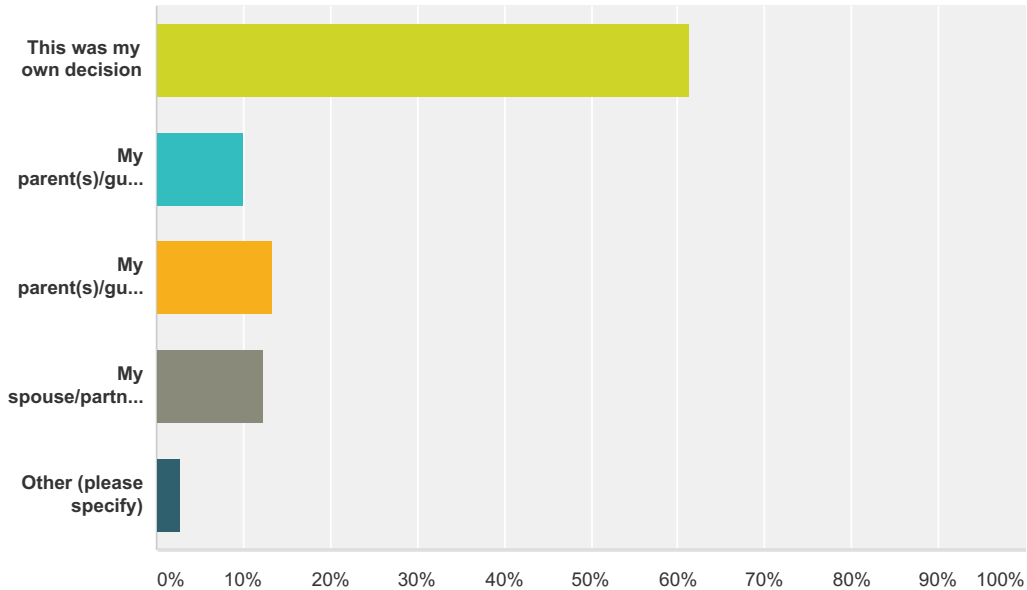
Answered: 2,455 Skipped: 710



Answer Choices	Responses	
1 semester	15.72%	386
2 semesters (1 year)	22.81%	560
3-4 semesters (2 years)	27.05%	664
5-6 semesters (3 years)	18.09%	444
4 years or more	16.33%	401
Total		2,455

Q8 Who was/were the primary decision-maker(s) regarding where you are living this year?

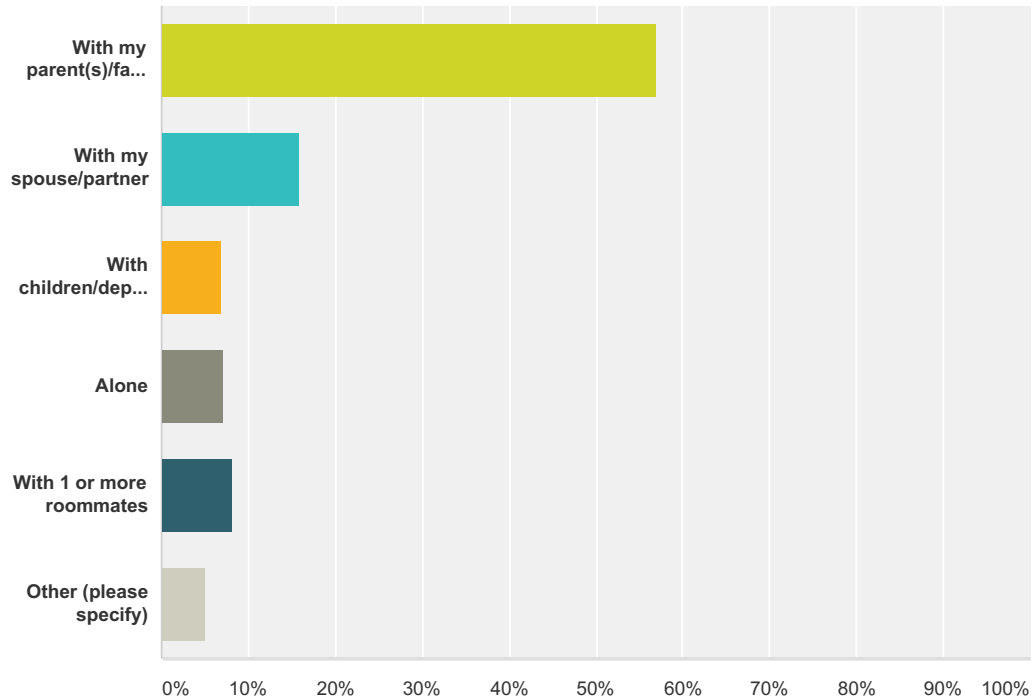
Answered: 2,455 Skipped: 710



Answer Choices	Responses	
This was my own decision	61.34%	1,506
My parent(s)/guardian(s) made the decision	10.06%	247
My parent(s)/guardian(s) and I made the decision together	13.40%	329
My spouse/partner and I made the decision together	12.38%	304
Other (please specify)	2.81%	69
Total		2,455

Q9 If you are residing where you currently attend college, what were your last living arrangements prior to attending this college?

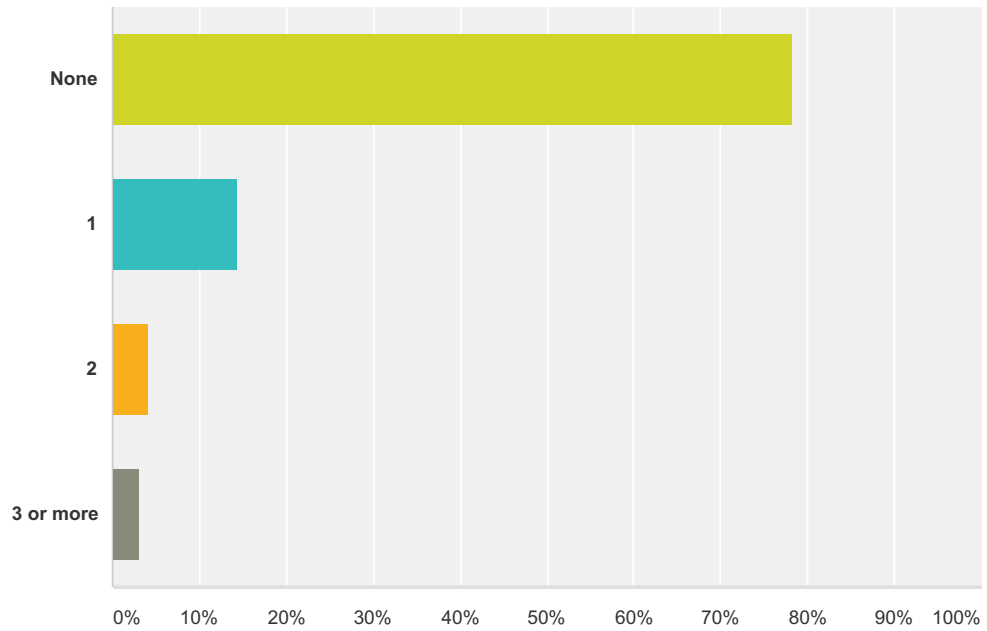
Answered: 2,455 Skipped: 710



Answer Choices	Responses	
With my parent(s)/family and/or siblings	56.90%	1,397
With my spouse/partner	15.89%	390
With children/dependents but no spouse/partner	6.88%	169
Alone	7.13%	175
With 1 or more roommates	8.15%	200
Other (please specify)	5.05%	124
Total		2,455

Q10 How many roommates do you have that are college students?

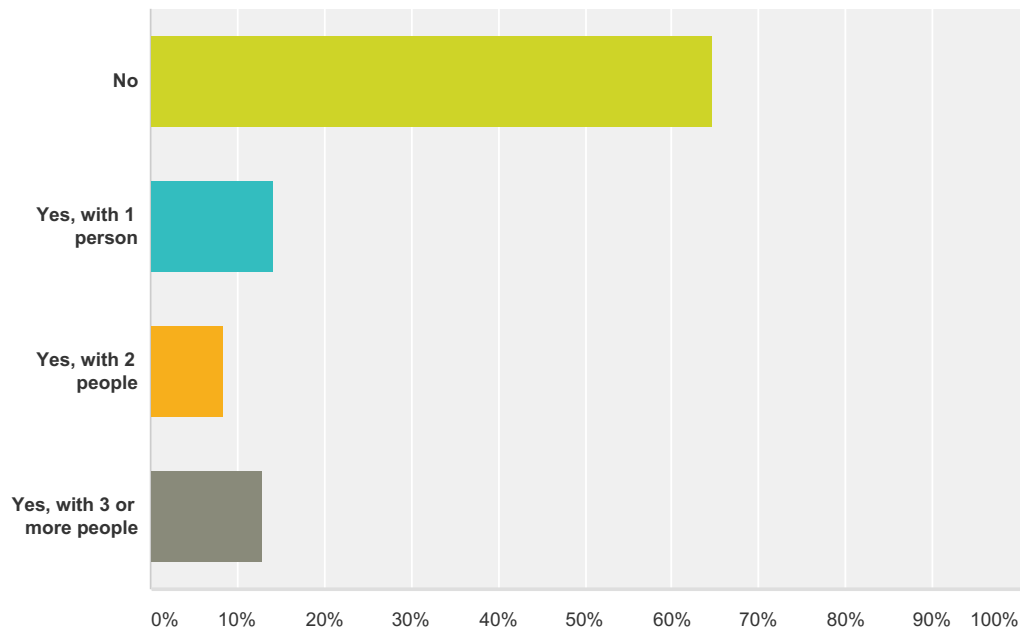
Answered: 2,455 Skipped: 710



Answer Choices	Responses	
None	78.21%	1,920
1	14.42%	354
2	4.28%	105
3 or more	3.10%	76
Total		2,455

Q11 Do you currently share a bathroom with any renters?

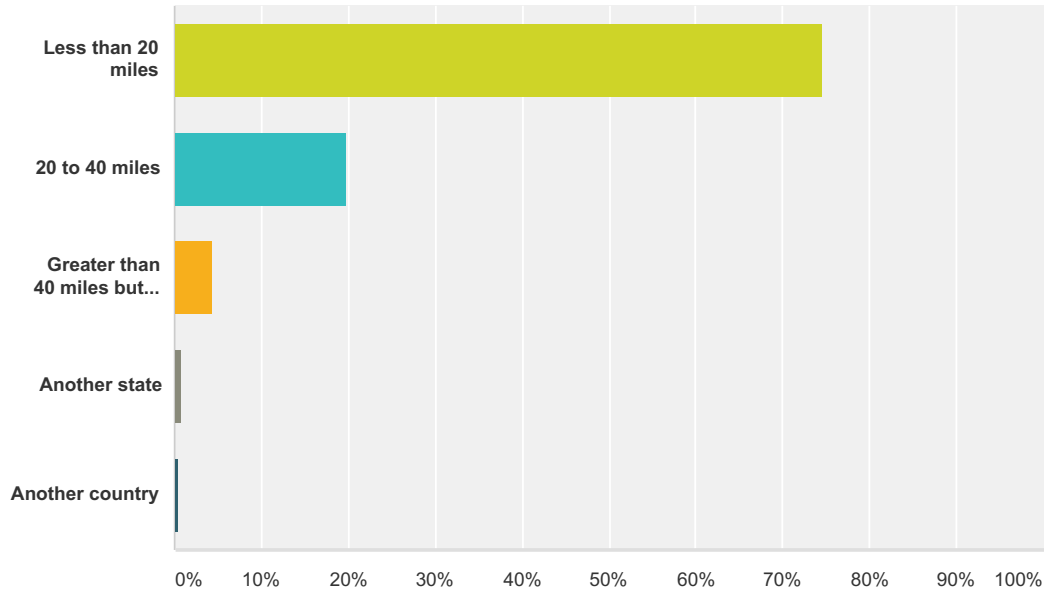
Answered: 2,455 Skipped: 710



Answer Choices	Responses	
No	64.64%	1,587
Yes, with 1 person	14.18%	348
Yes, with 2 people	8.27%	203
Yes, with 3 or more people	12.91%	317
Total		2,455

Q12 Immediately prior to entering your current college, how far away were you living from the college?

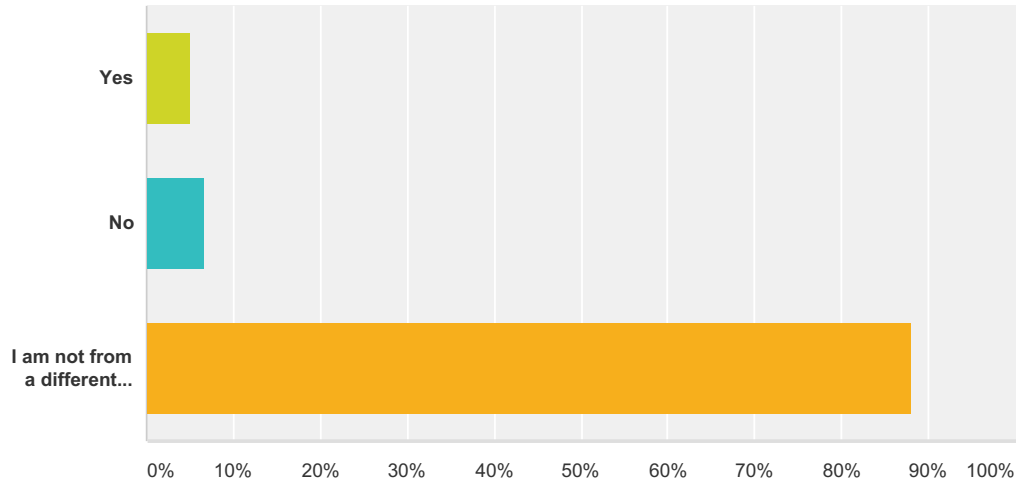
Answered: 2,455 Skipped: 710



Answer Choices	Responses	
Less than 20 miles	74.50%	1,829
20 to 40 miles	19.88%	488
Greater than 40 miles but still within California	4.44%	109
Another state	0.77%	19
Another country	0.41%	10
Total		2,455

Q13 If you are a student from a different state, are you interested in student housing while you attend college?

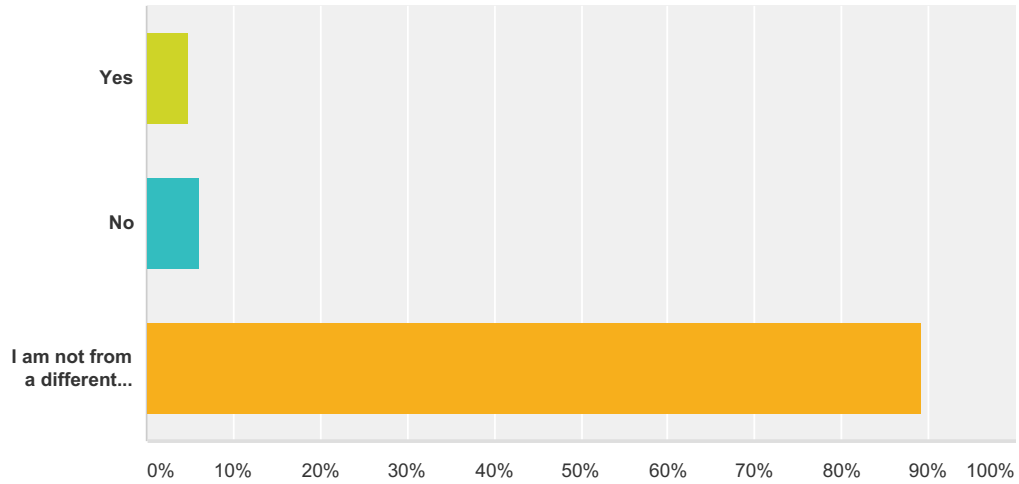
Answered: 2,430 Skipped: 735



Answer Choices	Responses	
Yes	5.10%	124
No	6.71%	163
I am not from a different state.	88.19%	2,143
Total		2,430

Q14 If you are a student from a different country, are you interested in student housing while you attend college?

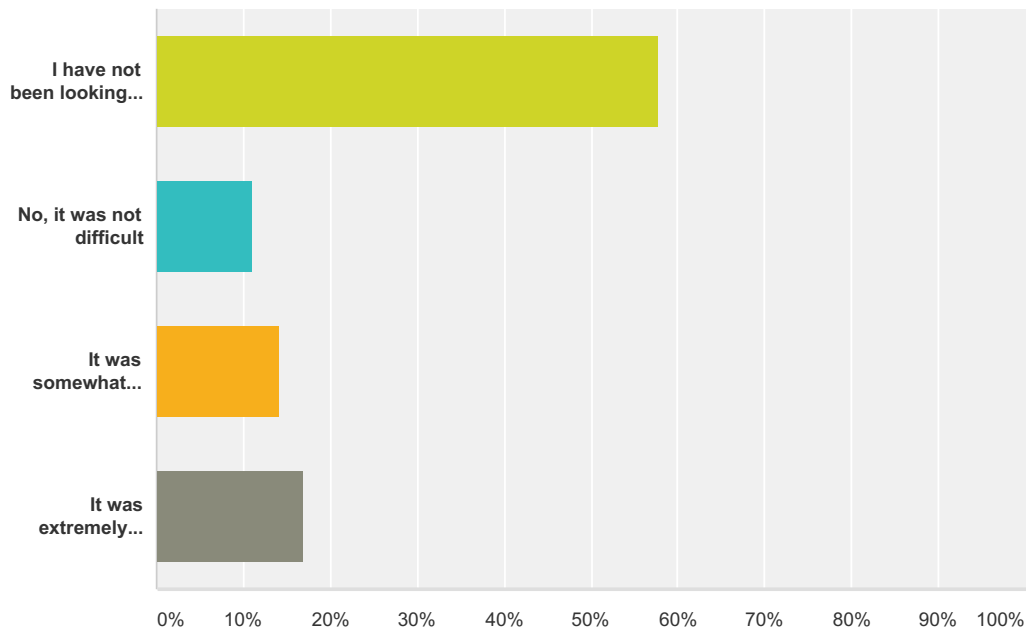
Answered: 2,426 Skipped: 739



Answer Choices	Responses	
Yes	4.78%	116
No	6.06%	147
I am not from a different country.	89.16%	2,163
Total		2,426

Q15 Have you found it challenging to find housing near college?

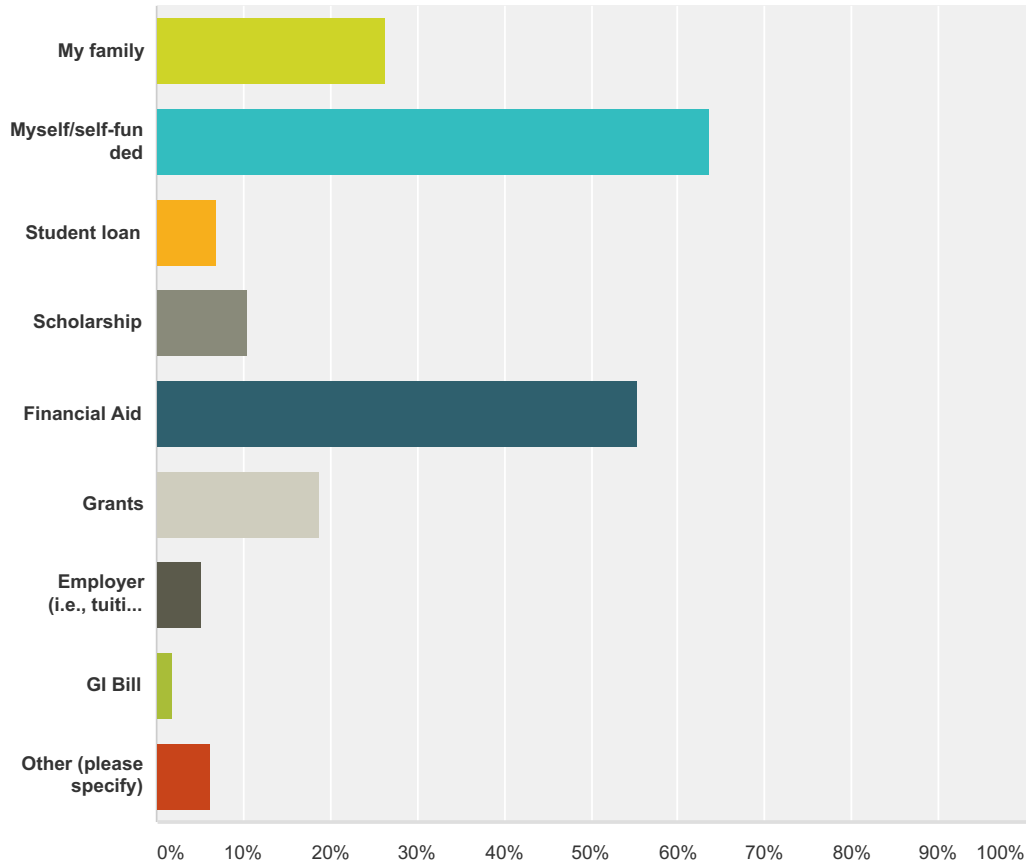
Answered: 2,455 Skipped: 710



Answer Choices	Responses	
I have not been looking for housing near college	57.76%	1,418
No, it was not difficult	11.16%	274
It was somewhat difficult	14.18%	348
It was extremely difficult	16.90%	415
Total		2,455

**Q16 How are you paying for your academic expenses (including tuition, fees, books, and other necessary class materials)?
Select all that apply.**

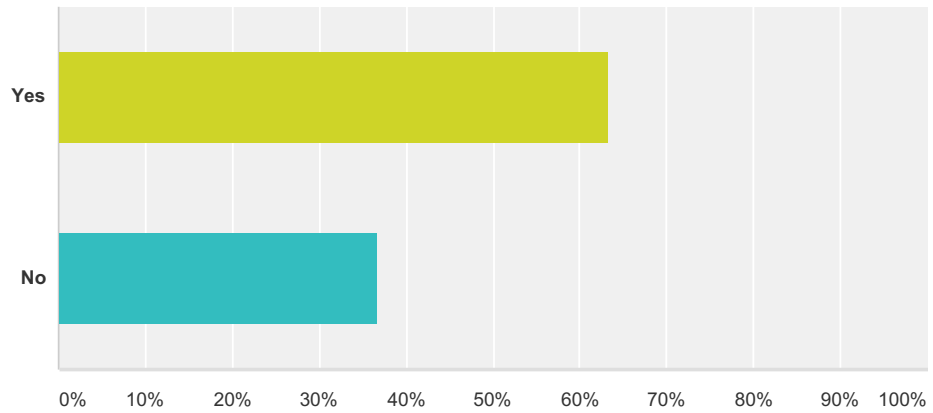
Answered: 2,455 Skipped: 710



Answer Choices	Responses	
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Myself/self-funded	63.71%	1,564
Student loan	6.97%	171
Scholarship	10.47%	257
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Grants	18.86%	463
Employer (i.e., tuition reimbursement or education program)	5.17%	127
GI Bill	1.83%	45
Other (please specify)	6.23%	153
Total Respondents: 2,455		

Q17 Are you currently employed?

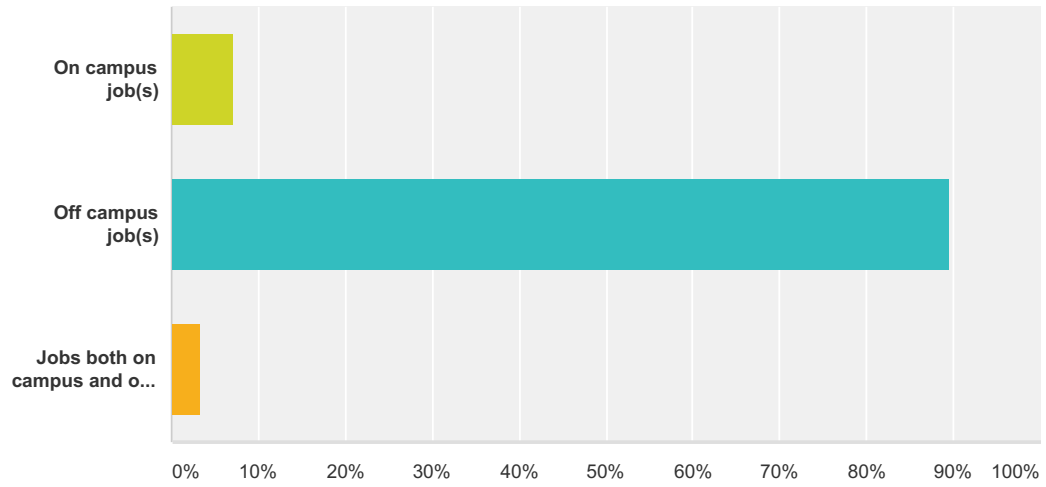
Answered: 2,455 Skipped: 710



Answer Choices	Responses	
Yes	63.22%	1,552
No	36.78%	903
Total		2,455

Q18 Where are you working?

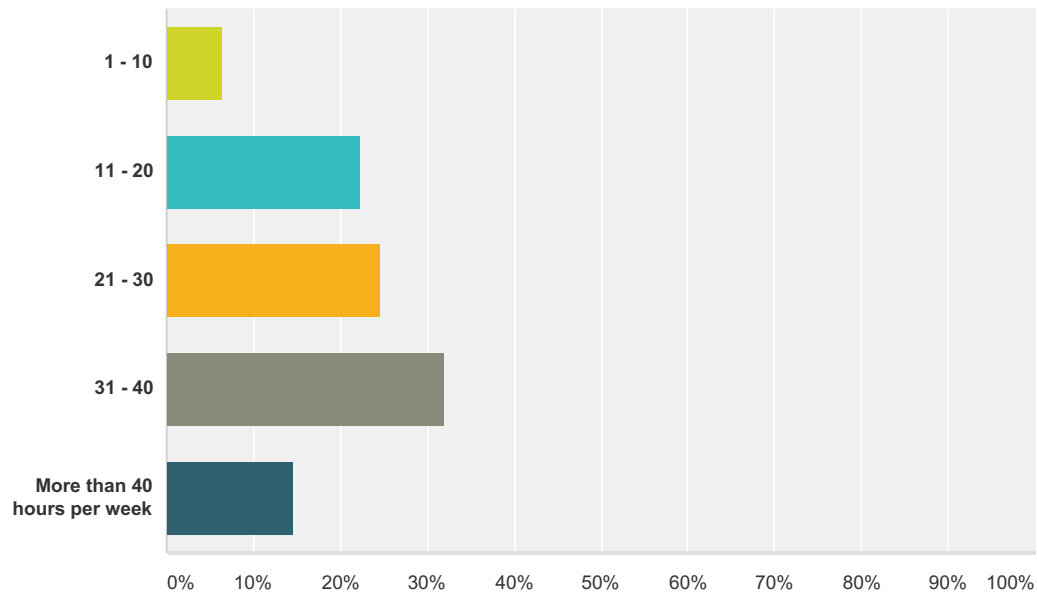
Answered: 1,537 Skipped: 1,628



Answer Choices	Responses	
On campus job(s)	7.16%	110
Off campus job(s)	89.46%	1,375
Jobs both on campus and off campus	3.38%	52
Total		1,537

Q19 How many total hours per week do you work at your current job(s)?

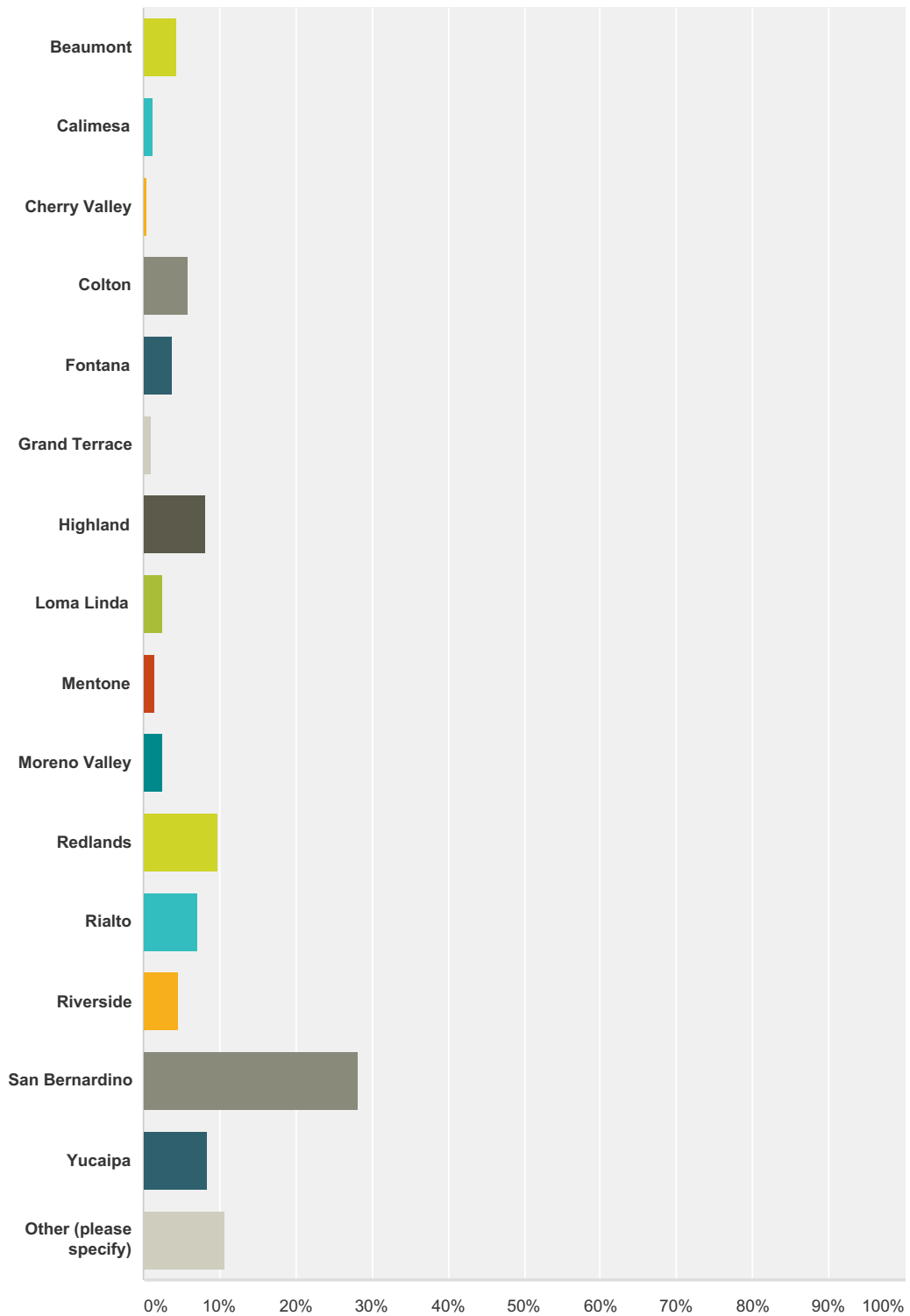
Answered: 1,537 Skipped: 1,628



Answer Choices	Responses
1 - 10	6.44% 99
11 - 20	22.25% 342
21 - 30	24.72% 380
31 - 40	31.95% 491
More than 40 hours per week	14.64% 225
Total	1,537

Q20 In which city/municipal area do you currently reside?

Answered: 2,654 Skipped: 511



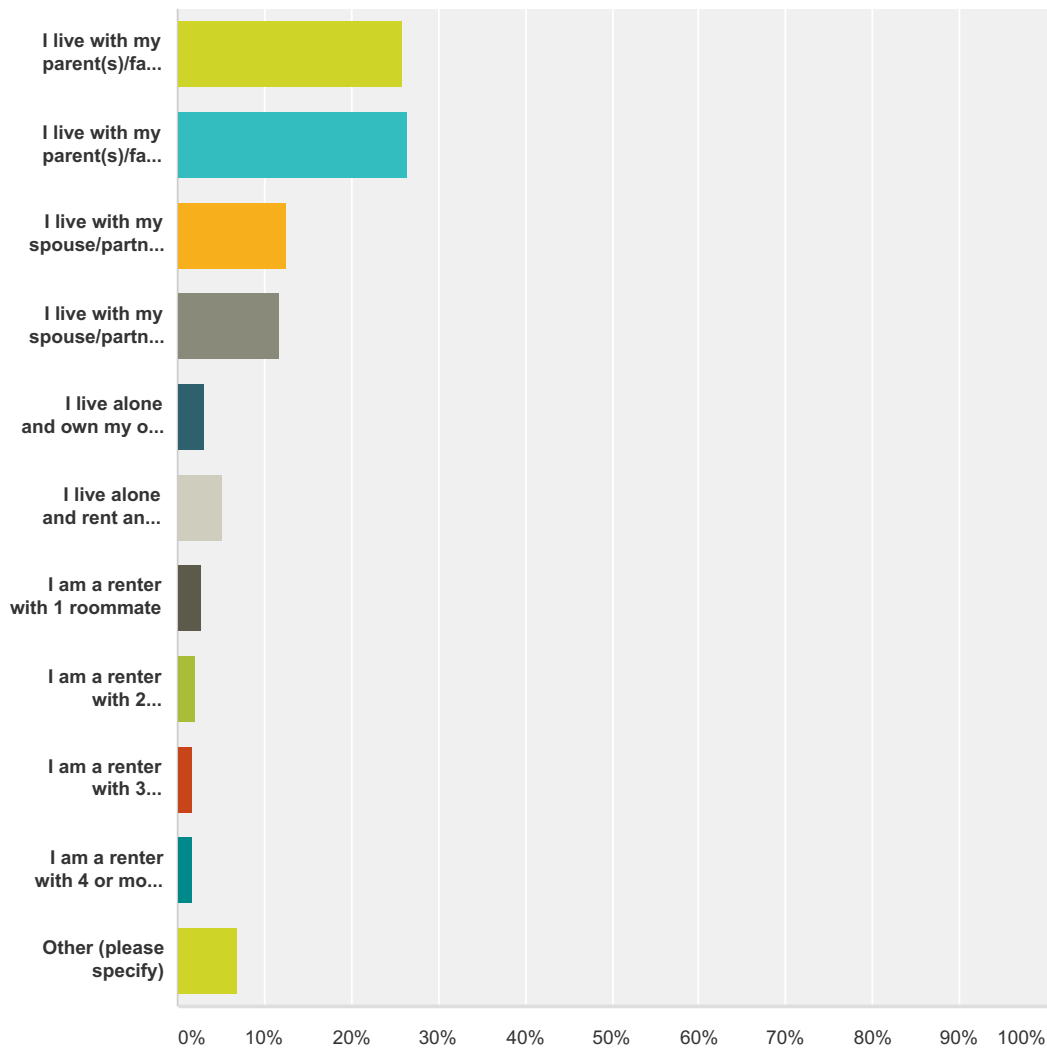
Answer Choices	Responses
Beaumont	4.37%

Student/Faculty/Staff Housing Survey

Calimesa	1.21%	32
Cherry Valley	0.49%	13
Colton	5.80%	154
Fontana	3.84%	102
Grand Terrace	1.09%	29
Highland	8.06%	214
Loma Linda	2.60%	69
Mentone	1.39%	37
Moreno Valley	2.49%	66
Redlands	9.80%	260
Rialto	7.01%	186
Riverside	4.52%	120
San Bernardino	28.22%	749
Yucaipa	8.44%	224
Other (please specify)	10.66%	283
Total		2,654

Q21 What are your current living arrangements?

Answered: 2,654 Skipped: 511



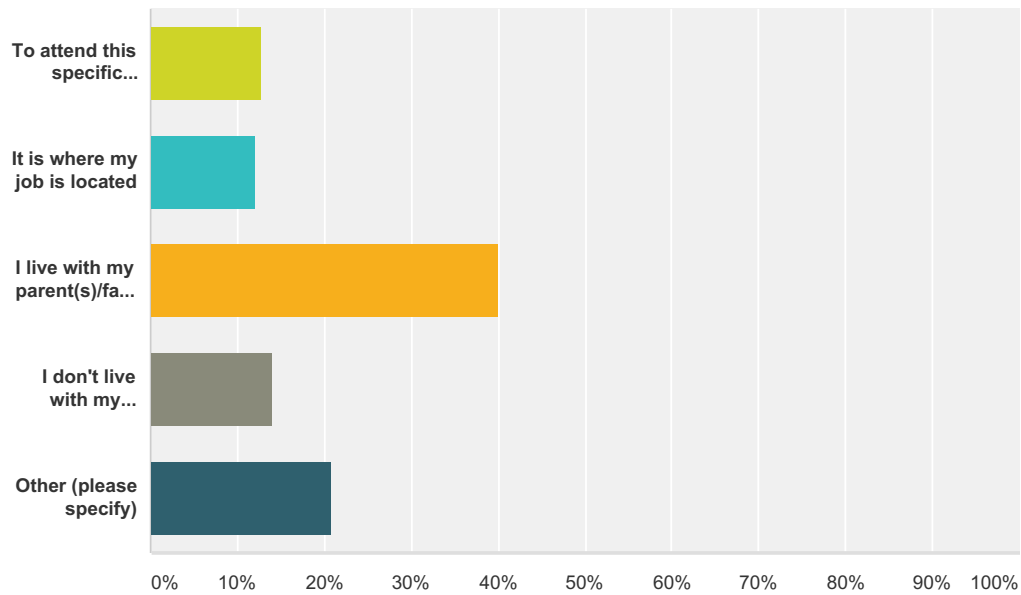
Answer Choices	Responses	
I live with my parent(s)/family and/or siblings and we are renters	25.89%	687
I live with my parent(s)/family and/or siblings and we own our home	26.45%	702
I live with my spouse/partner and we rent an apartment/condo/room in a house	12.43%	330
I live with my spouse/partner and we own our own condo/home	11.79%	313
I live alone and own my own condo/home	3.13%	83
I live alone and rent an apartment/condo or room in a house	5.12%	136
I am a renter with 1 roommate	2.75%	73
I am a renter with 2 roommates	2.11%	56
I am a renter with 3 roommates	1.77%	47

Student/Faculty/Staff Housing Survey

I am a renter with 4 or more roommates	1.62%	43
Other (please specify)	6.93%	184
Total		2,654

Q22 What is the primary reason you reside where you currently do?

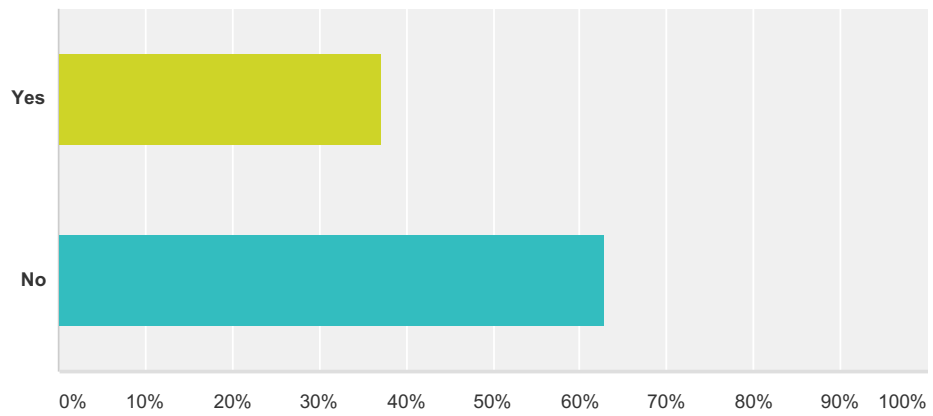
Answered: 2,654 Skipped: 511



Answer Choices	Responses	
To attend this specific college	12.70%	337
It is where my job is located	12.21%	324
I live with my parent(s)/family/siblings and attend this college because it happens to be the closest to my residence	40.17%	1,066
I don't live with my parent(s)/family, but am a local resident and this is the closest college	14.05%	373
Other (please specify)	20.87%	554
Total	2,654	

Q23 Do you have children/dependents living with you?

Answered: 2,654 Skipped: 511



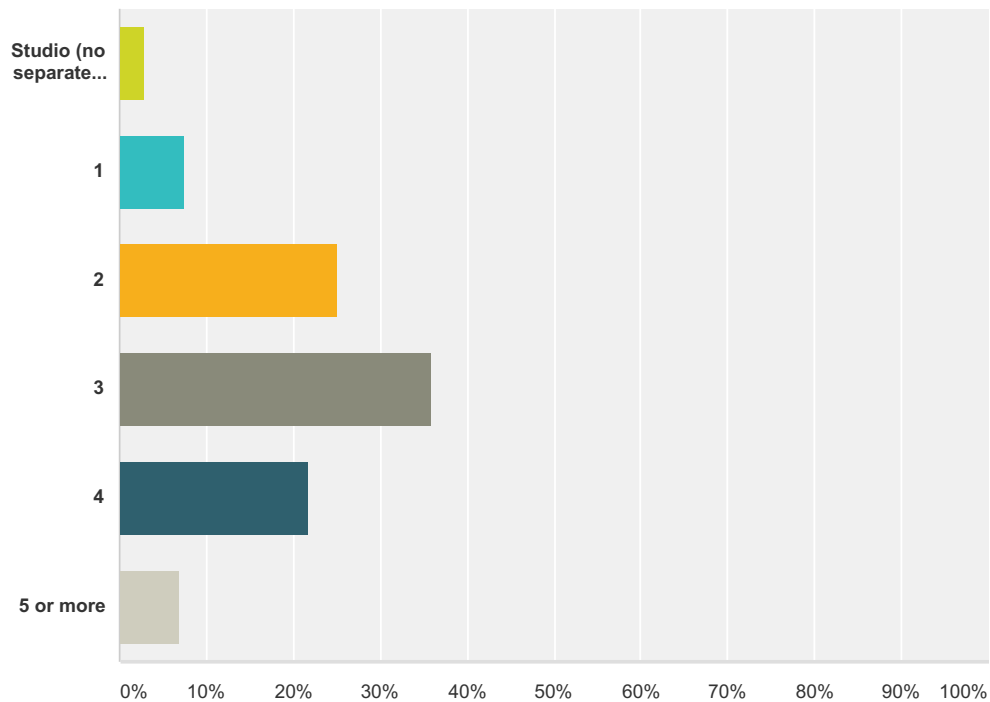
Answer Choices	Responses	
Yes	37.08%	984
No	62.92%	1,670
Total		2,654

**Q24 How many children/dependents are
living with you?**

Answered: 983 Skipped: 2,182

Q25 How many bedrooms are in your current apartment/condo/house?

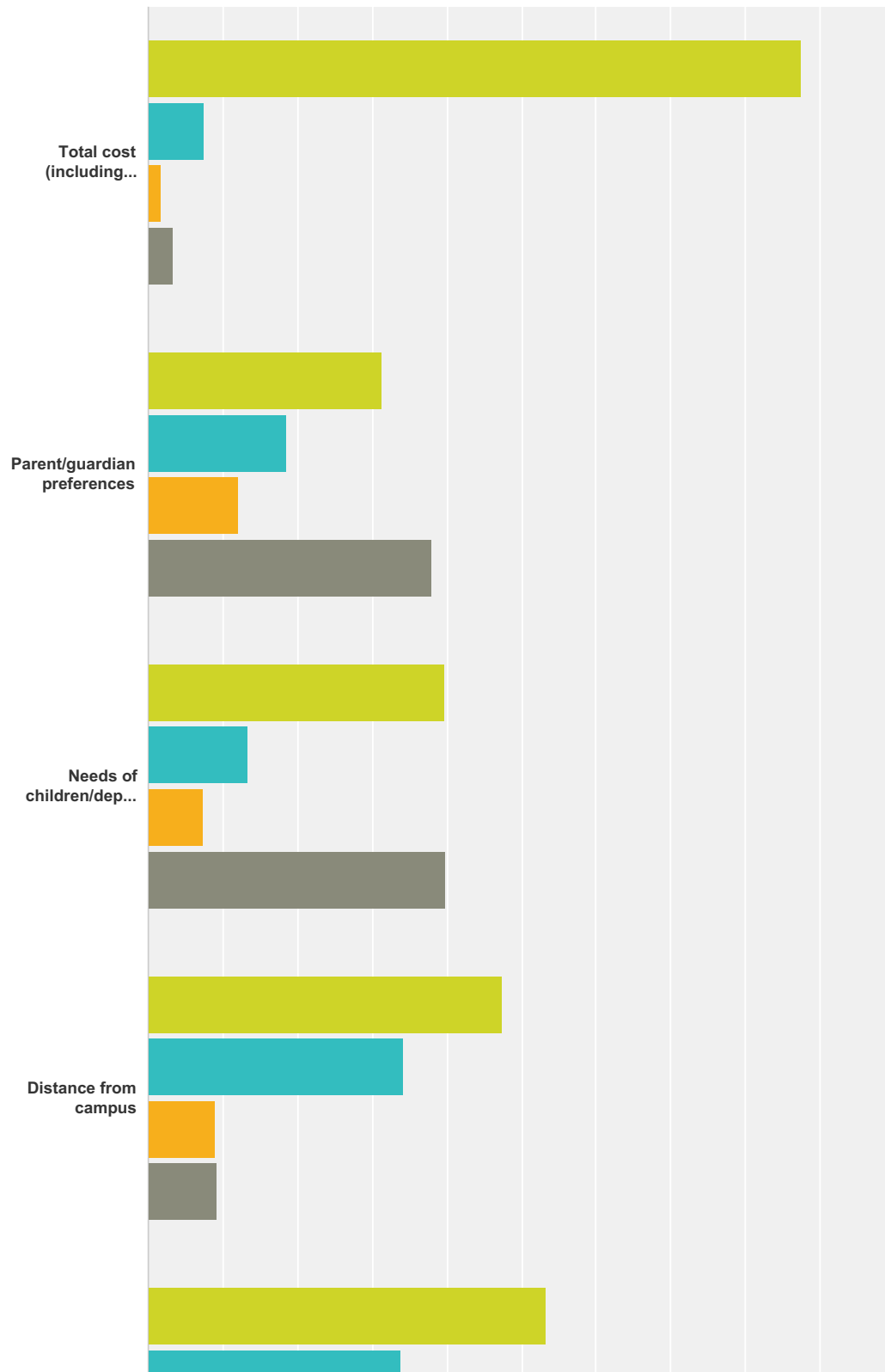
Answered: 2,509 Skipped: 656



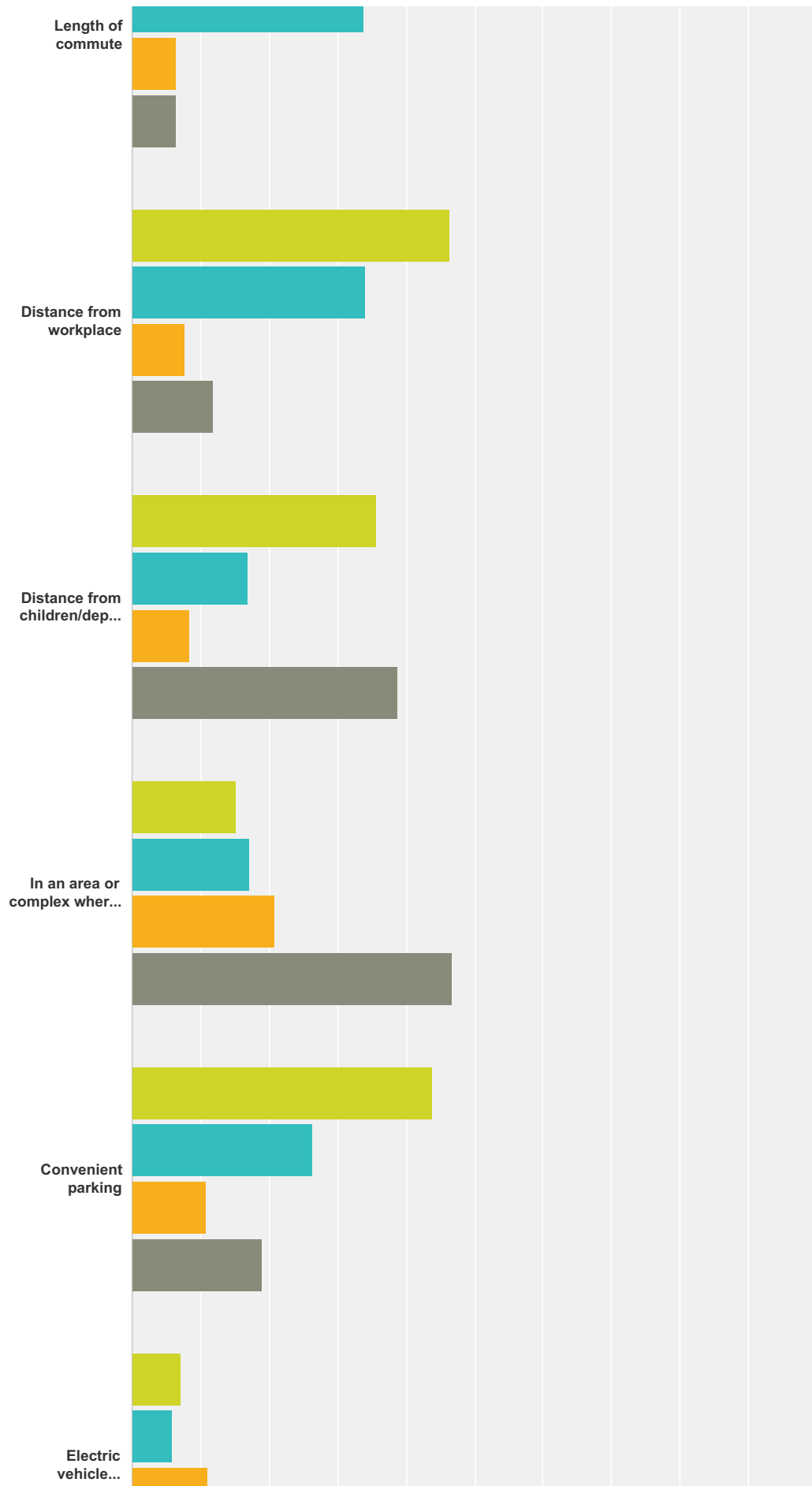
Answer Choices	Responses	
Studio (no separate bedroom)	2.87%	72
1	7.61%	191
2	24.95%	626
3	35.87%	900
4	21.80%	547
5 or more	6.90%	173
Total		2,509

Q26 In choosing your housing, how important was each of the following in your decision? Please select one response for each item.

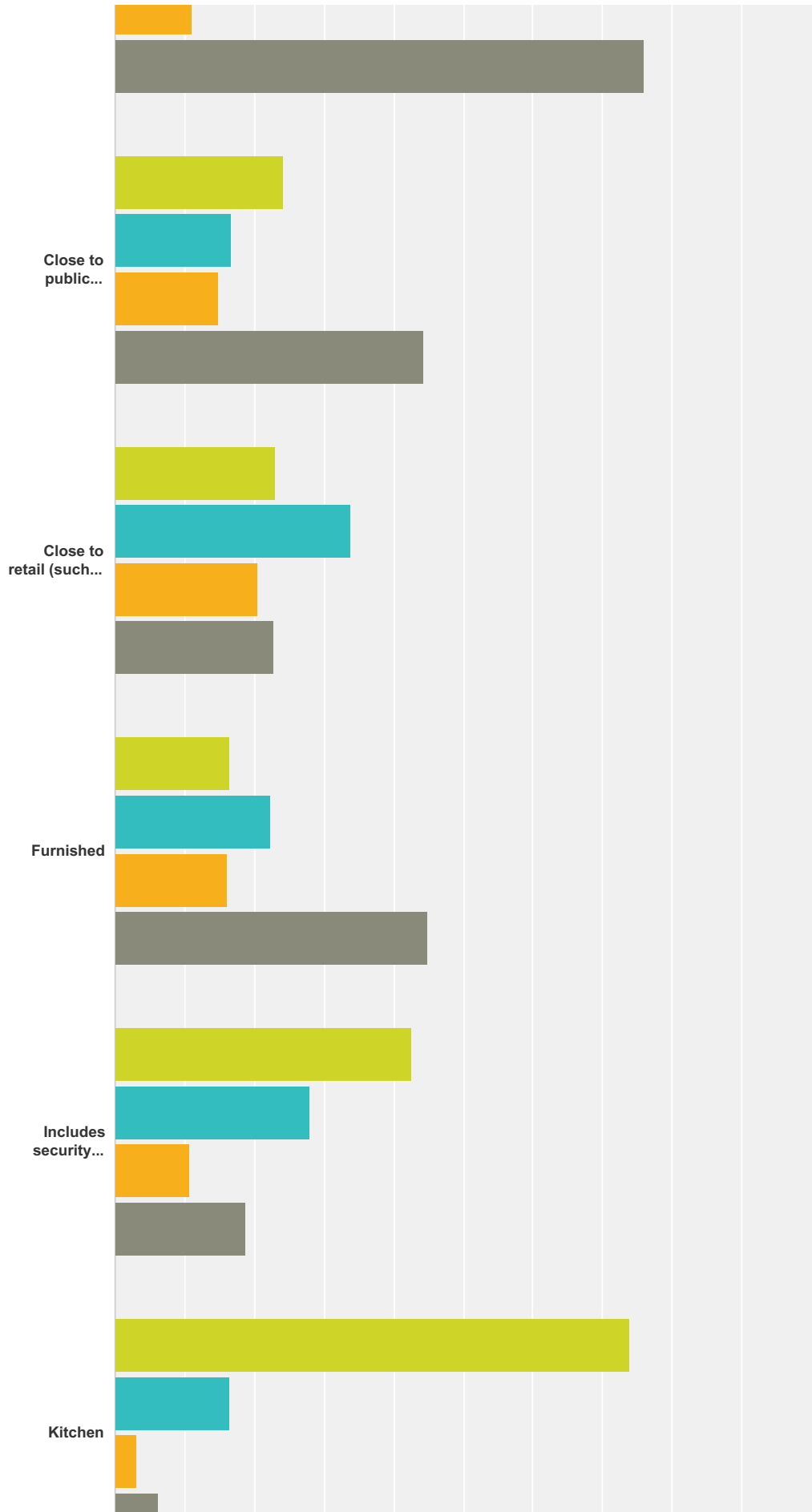
Answered: 2,509 Skipped: 656



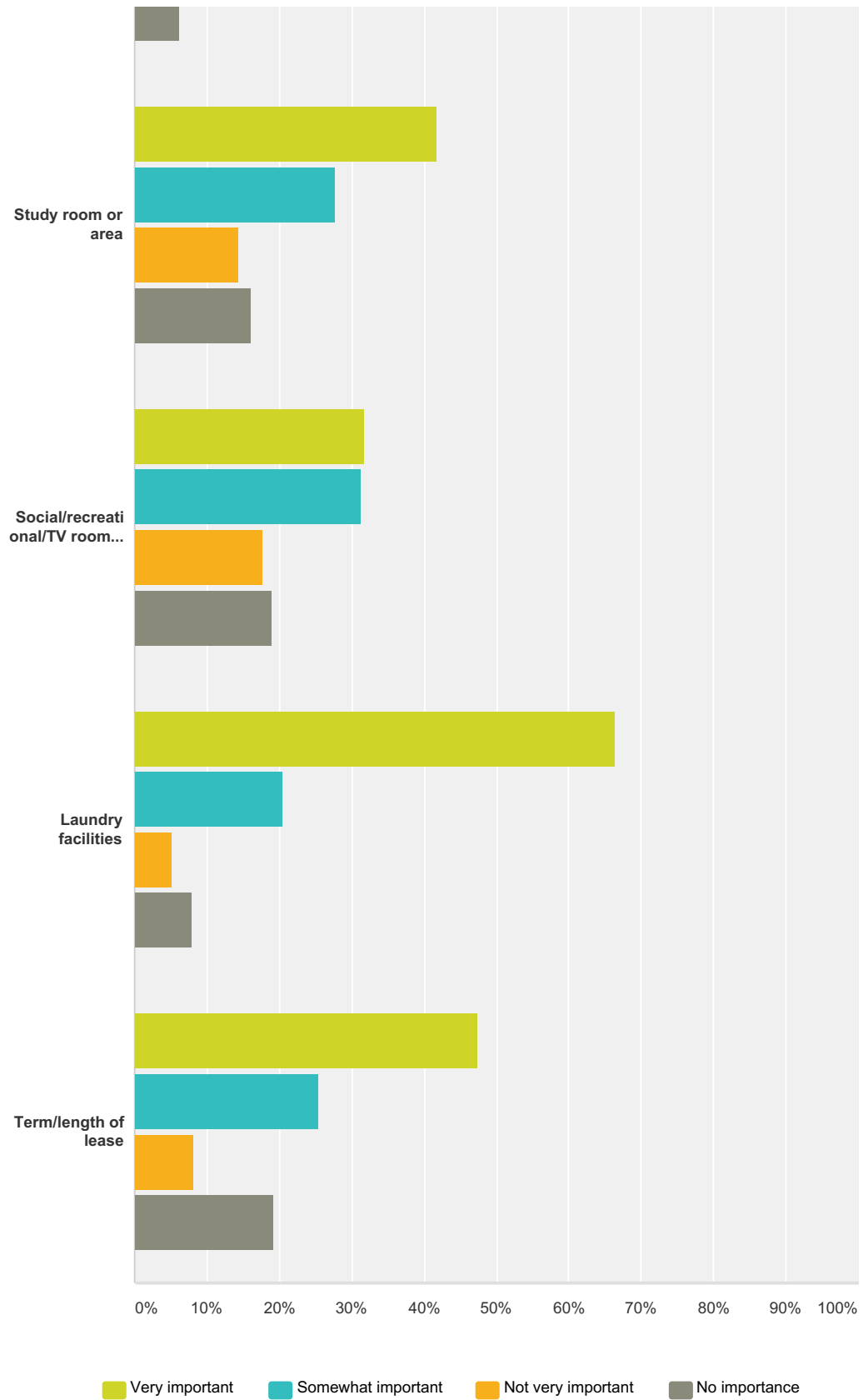
Student/Faculty/Staff Housing Survey



Student/Faculty/Staff Housing Survey



Student/Faculty/Staff Housing Survey



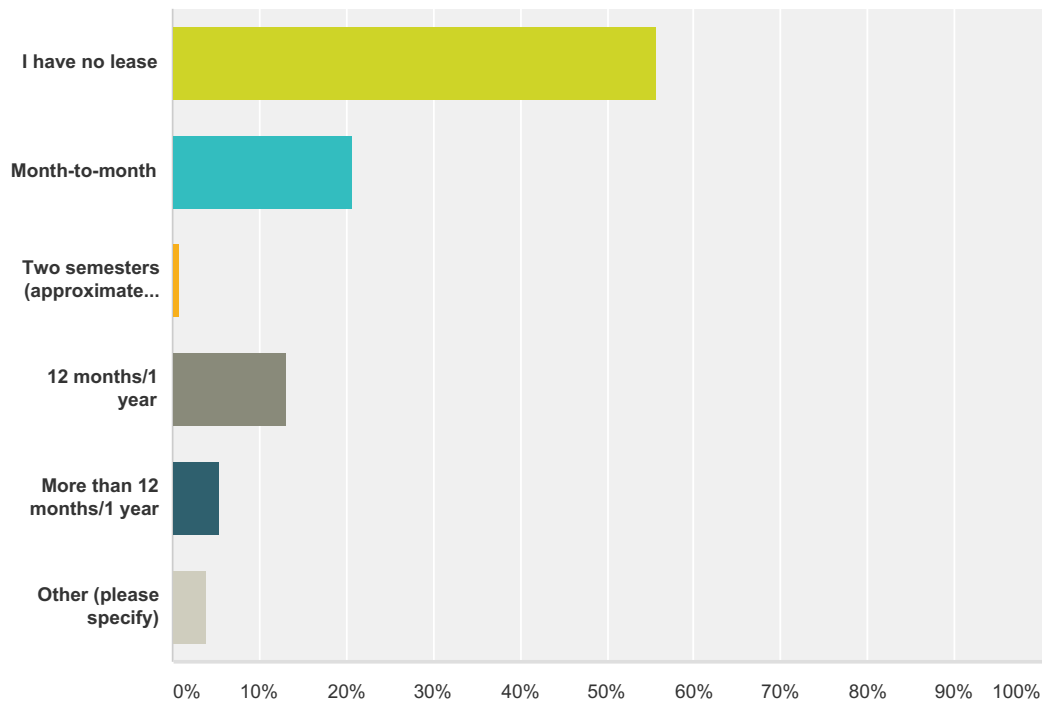
	Very important	Somewhat important	Not very important	No importance	Total
Total cost (including rent, utilities and other related costs)	87.41% 2,193	7.57% 190	1.63% 41	3.39% 85	2,509

Student/Faculty/Staff Housing Survey

Parent/guardian preferences	31.41% 788	18.65% 468	12.04% 302	37.90% 951	2,509
Needs of children/dependents	39.66% 995	13.31% 334	7.21% 181	39.82% 999	2,509
Distance from campus	47.35% 1,188	34.32% 861	9.05% 227	9.29% 233	2,509
Length of commute	53.25% 1,336	33.88% 850	6.42% 161	6.46% 162	2,509
Distance from workplace	46.43% 1,165	34.00% 853	7.73% 194	11.84% 297	2,509
Distance from children/dependent(s)' school and/or caregivers	35.75% 897	16.98% 426	8.41% 211	38.86% 975	2,509
In an area or complex where other students live	15.27% 383	17.02% 427	20.88% 524	46.83% 1,175	2,509
Convenient parking	43.88% 1,101	26.35% 661	10.80% 271	18.97% 476	2,509
Electric vehicle charging stations	7.17% 180	5.78% 145	11.12% 279	75.93% 1,905	2,509
Close to public transportation	24.23% 608	16.74% 420	14.87% 373	44.16% 1,108	2,509
Close to retail (such as restaurants, entertainment and services)	22.88% 574	33.76% 847	20.53% 515	22.84% 573	2,509
Furnished	16.54% 415	22.40% 562	16.14% 405	44.92% 1,127	2,509
Includes security features	42.53% 1,067	27.98% 702	10.64% 267	18.85% 473	2,509
Kitchen	73.97% 1,856	16.54% 415	3.15% 79	6.34% 159	2,509
Study room or area	41.73% 1,047	27.86% 699	14.39% 361	16.02% 402	2,509
Social/recreational/TV room or area	31.81% 798	31.37% 787	17.82% 447	19.01% 477	2,509
Laundry facilities	66.40% 1,666	20.49% 514	5.26% 132	7.85% 197	2,509
Term/length of lease	47.31% 1,187	25.43% 638	8.05% 202	19.21% 482	2,509

Q27 What is the length of your current lease?

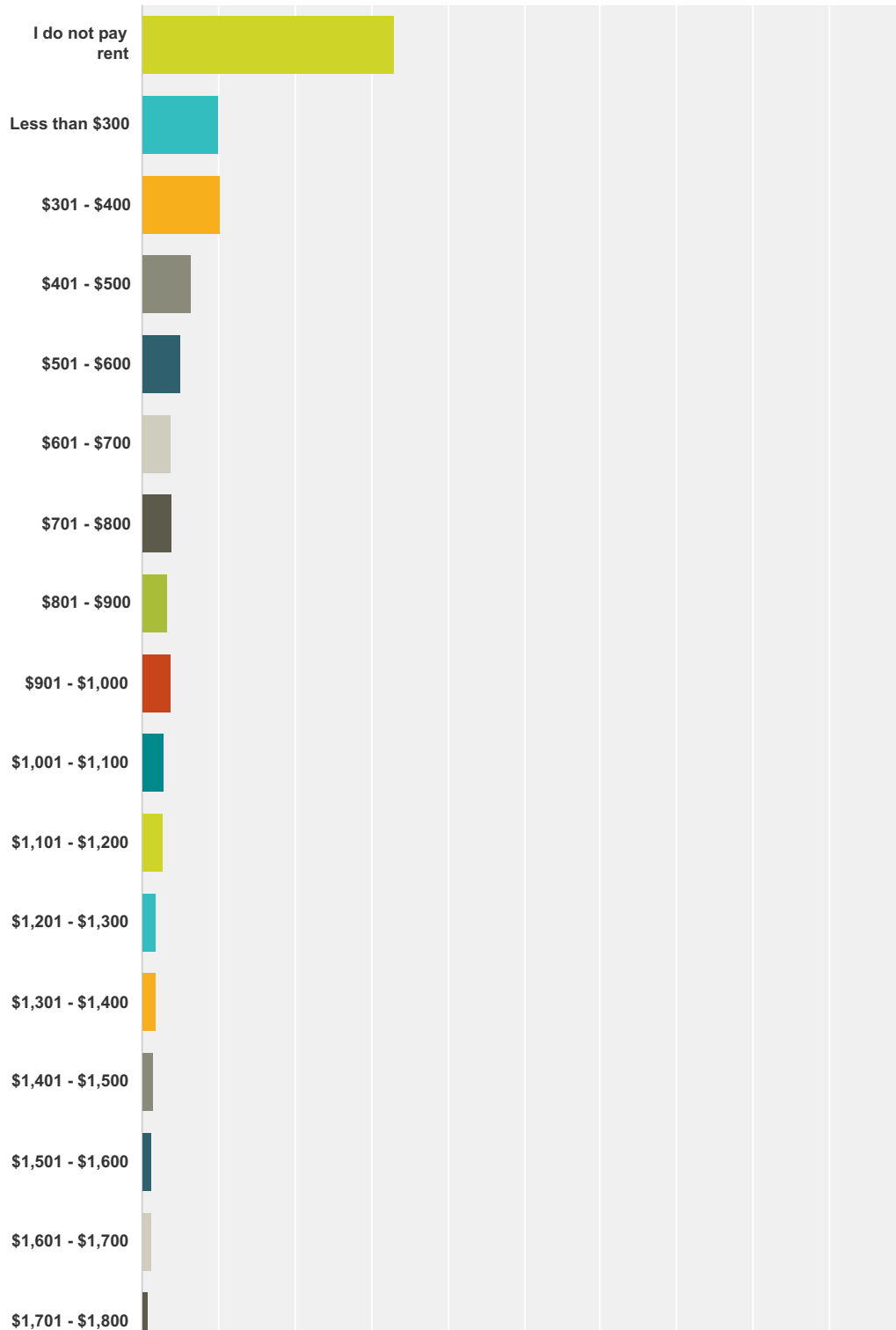
Answered: 2,509 Skipped: 656



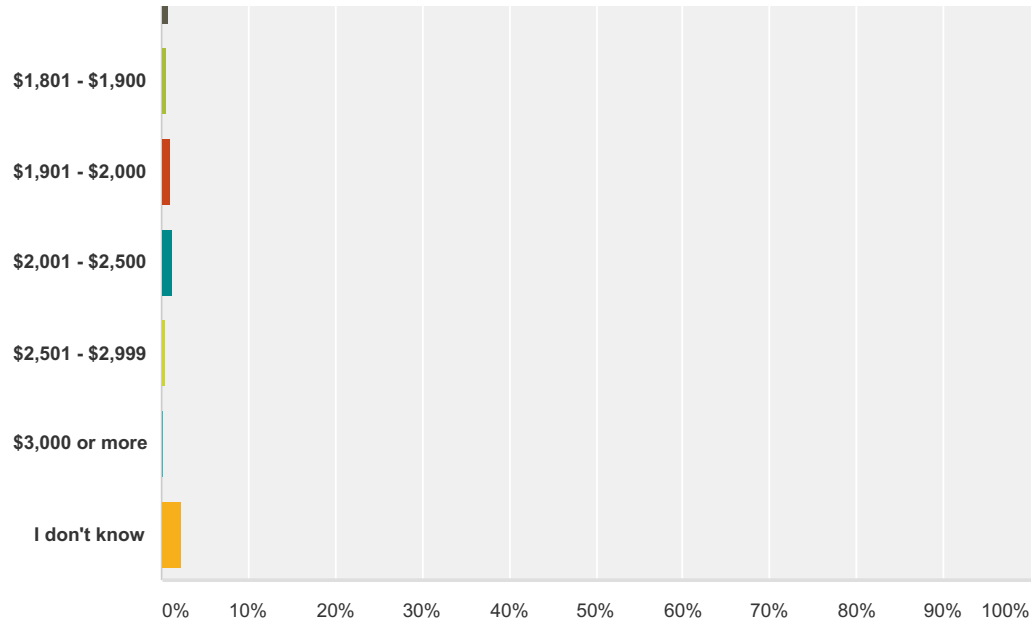
Answer Choices	Responses	
I have no lease	55.68%	1,397
Month-to-month	20.77%	521
Two semesters (approximately 9 months)	0.88%	22
12 months/1 year	13.15%	330
More than 12 months/1 year	5.50%	138
Other (please specify)	4.03%	101
Total		2,509

Q28 Approximately how much do you pay in rent every month? This is only your share of rental costs (excluding roommate(s) or family member(s) rental share) and does not include utilities, fees or other housing expenses that are paid separately from rent.

Answered: 2,509 Skipped: 656



Student/Faculty/Staff Housing Survey



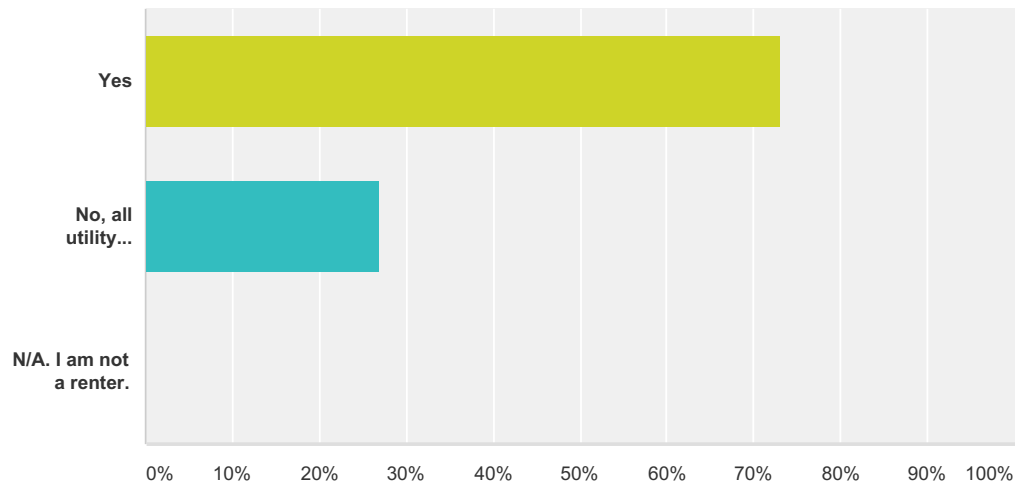
Answer Choices	Responses
I do not pay rent	33.08% 830
Less than \$300	10.12% 254
\$301 - \$400	10.32% 259
\$401 - \$500	6.42% 161
\$501 - \$600	5.02% 126
\$601 - \$700	3.75% 94
\$701 - \$800	4.03% 101
\$801 - \$900	3.43% 86
\$901 - \$1,000	3.83% 96
\$1,001 - \$1,100	2.91% 73
\$1,101 - \$1,200	2.71% 68
\$1,201 - \$1,300	1.87% 47
\$1,301 - \$1,400	1.83% 46
\$1,401 - \$1,500	1.55% 39
\$1,501 - \$1,600	1.36% 34
\$1,601 - \$1,700	1.32% 33
\$1,701 - \$1,800	0.84% 21
\$1,801 - \$1,900	0.60% 15
\$1,901 - \$2,000	0.96% 24
\$2,001 - \$2,500	1.28% 32

Student/Faculty/Staff Housing Survey

\$2,501 - \$2,999	0.40%	10
\$3,000 or more	0.16%	4
I don't know	2.23%	56
Total		2,509

Q29 Do you pay any utility expenses in addition to your monthly rent?

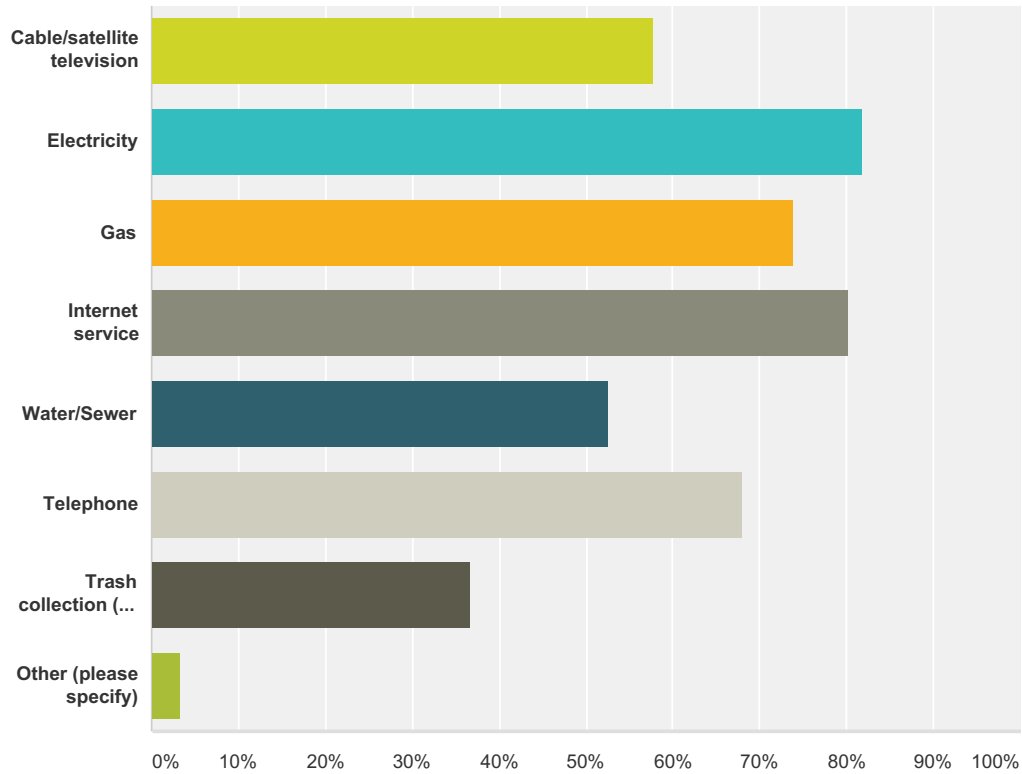
Answered: 1,676 Skipped: 1,489



Answer Choices	Responses	
Yes	73.15%	1,226
No, all utility expenses are included in my rental rate.	26.85%	450
N/A. I am not a renter.	0.00%	0
Total		1,676

Q30 For which utilities do you currently pay in addition to your rent? Select all that apply.

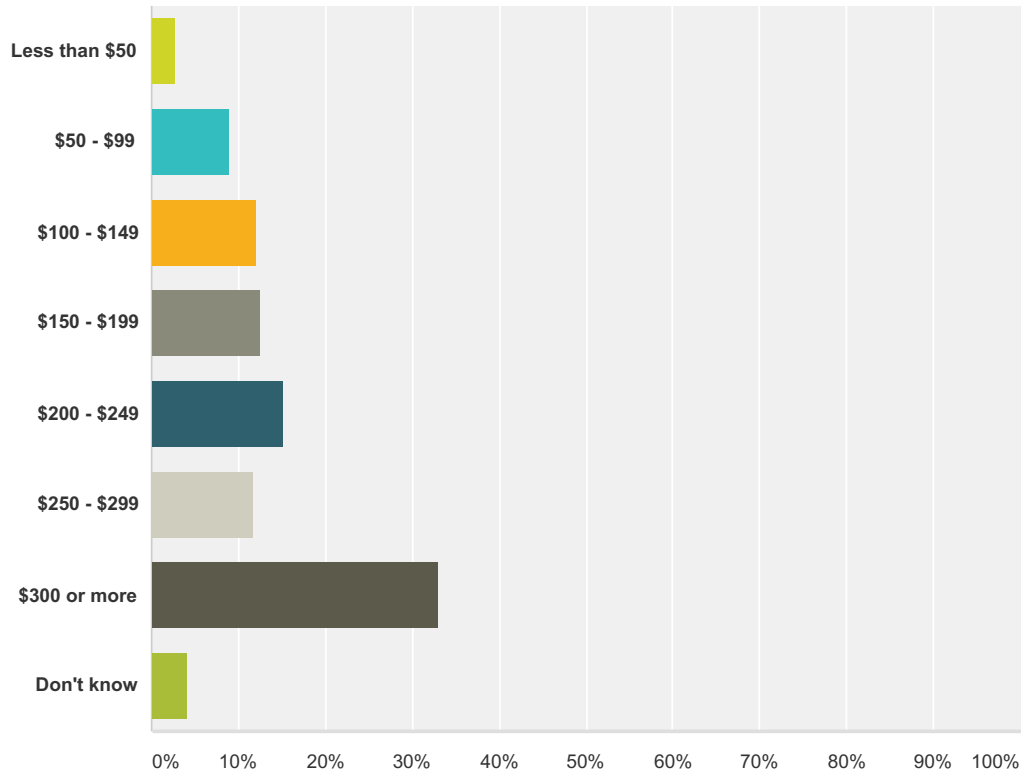
Answered: 1,221 Skipped: 1,944



Answer Choices	Responses	
Cable/satellite television	57.82%	706
Electricity	81.90%	1,000
Gas	73.87%	902
Internet service	80.18%	979
Water/Sewer	52.66%	643
Telephone	67.98%	830
Trash collection (if paid separately and not included on other utility bills such as water/sewer)	36.69%	448
Other (please specify)	3.44%	42
Total Respondents: 1,221		

Q31 How much do you pay in total for all the utilities identified in the previous question? This is only your share of costs, excluding what your roommate(s) or family member(s) pay.

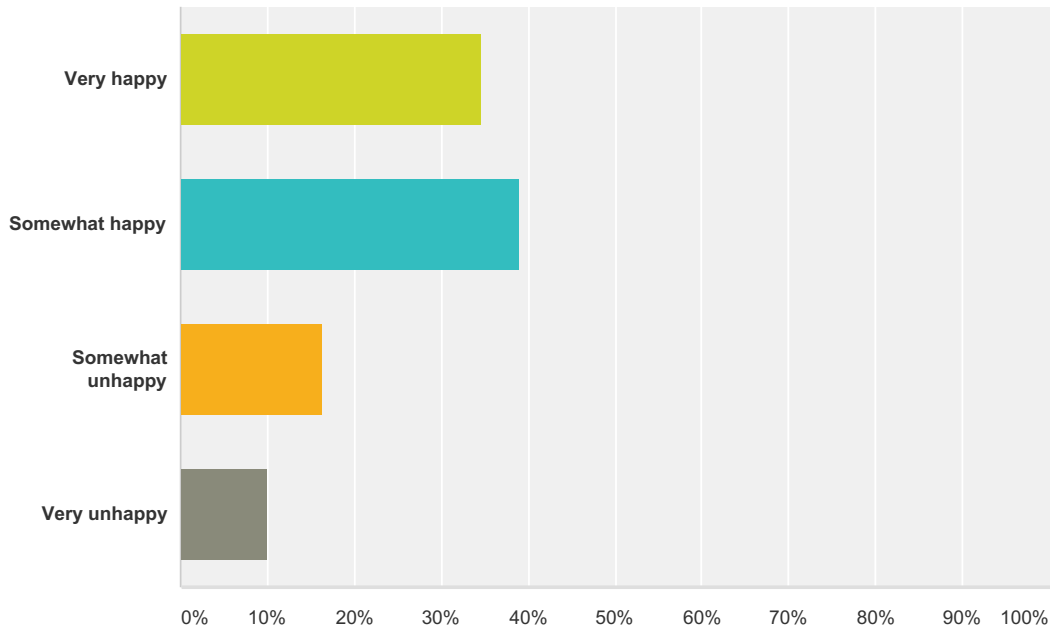
Answered: 1,221 Skipped: 1,944



Answer Choices	Responses	
Less than \$50	2.62%	32
\$50 - \$99	8.93%	109
\$100 - \$149	12.12%	148
\$150 - \$199	12.45%	152
\$200 - \$249	15.23%	186
\$250 - \$299	11.63%	142
\$300 or more	32.92%	402
Don't know	4.10%	50
Total		1,221

Q32 How happy are you with your current housing?

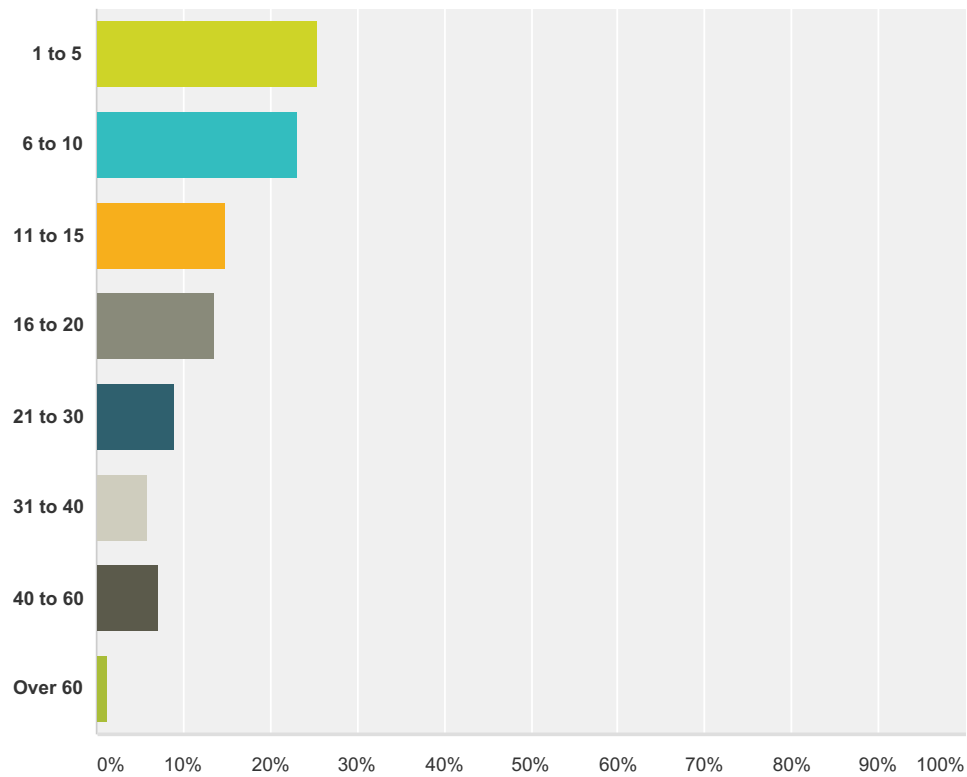
Answered: 2,484 Skipped: 681



Answer Choices	Responses	
Very happy	34.62%	860
Somewhat happy	39.05%	970
Somewhat unhappy	16.26%	404
Very unhappy	10.06%	250
Total		2,484

Q33 On average, approximately how many hours per week do you spend on campus?

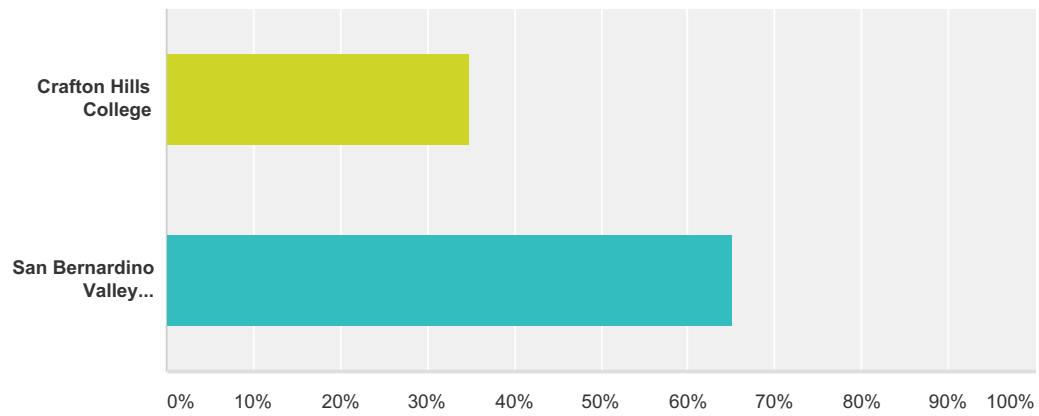
Answered: 2,484 Skipped: 681



Answer Choices	Responses	
1 to 5	25.40%	631
6 to 10	23.19%	576
11 to 15	14.81%	368
16 to 20	13.49%	335
21 to 30	9.06%	225
31 to 40	5.84%	145
40 to 60	7.05%	175
Over 60	1.17%	29
Total		2,484

Q34 At which site do you spend the most time?

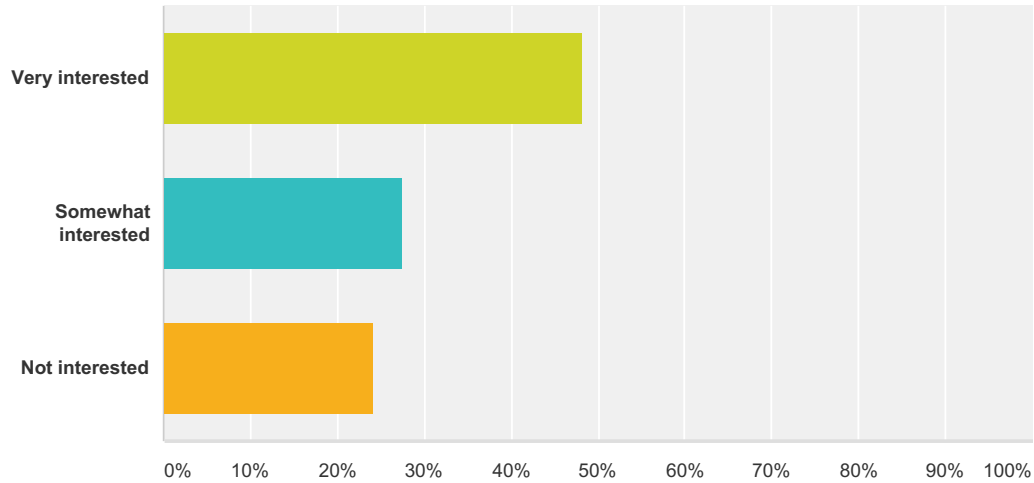
Answered: 2,484 Skipped: 681



Answer Choices	Responses	
Crafton Hills College	34.86%	866
San Bernardino Valley College/District Sites	65.14%	1,618
Total		2,484

Q35 Assuming rents were reasonable for housing in the area, if student/faculty housing was available across the street from Crafton Hills College, how interested would you be in living there?

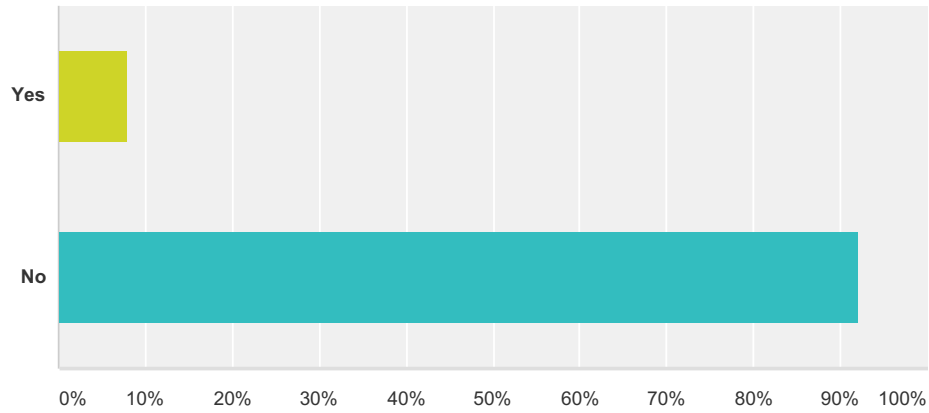
Answered: 862 Skipped: 2,303



Answer Choices	Responses	
Very interested	48.26%	416
Somewhat interested	27.61%	238
Not interested	24.13%	208
Total		862

Q36 Although you spend most of your time at the Valley campus and/or District Sites, do you also spend time working or attending classes at the Crafton campus?

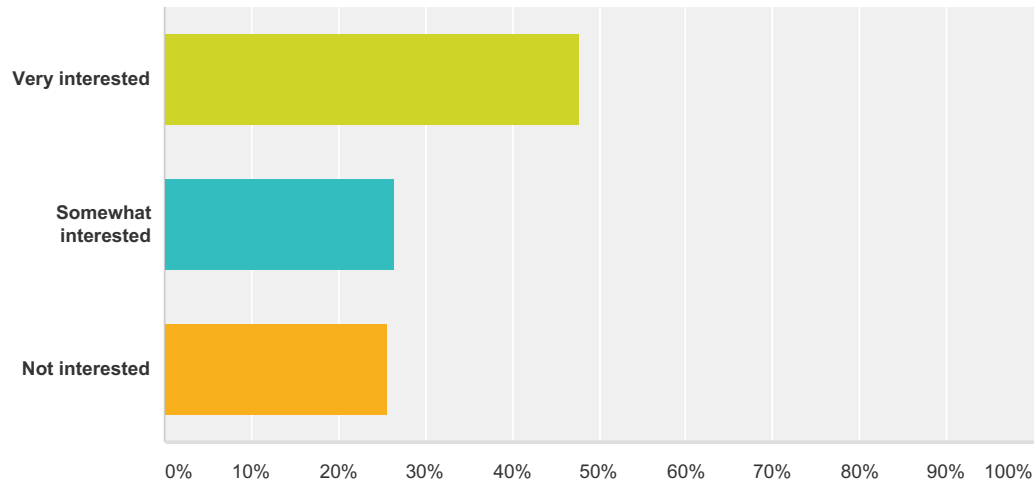
Answered: 1,605 Skipped: 1,560



Answer Choices	Responses	
Yes	7.91%	127
No	92.09%	1,478
Total		1,605

Q37 Assuming rents were reasonable for housing in the area, if student/faculty housing was available across the street from Crafton Hills College and public transportation or free/low-cost shuttle service was easily accessible to both Valley and the housing complex, how interested would you be in living there?

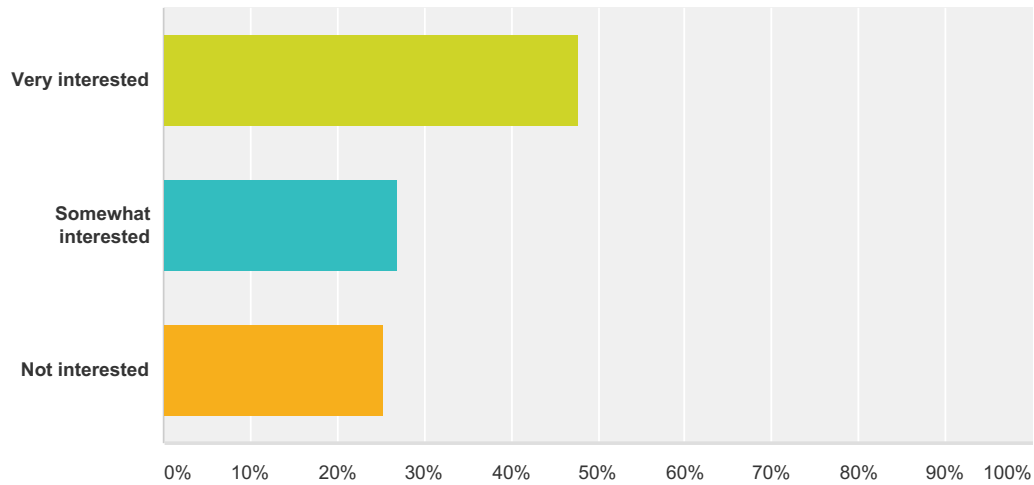
Answered: 1,605 Skipped: 1,560



Answer Choices	Responses	
Very interested	47.85%	768
Somewhat interested	26.42%	424
Not interested	25.73%	413
Total		1,605

Q38 Assuming rents were reasonable for housing in the area, if student/faculty housing was available across the street from Crafton Hills College and affordable parking was available at both Valley and the housing complex, how interested would you be in living there?

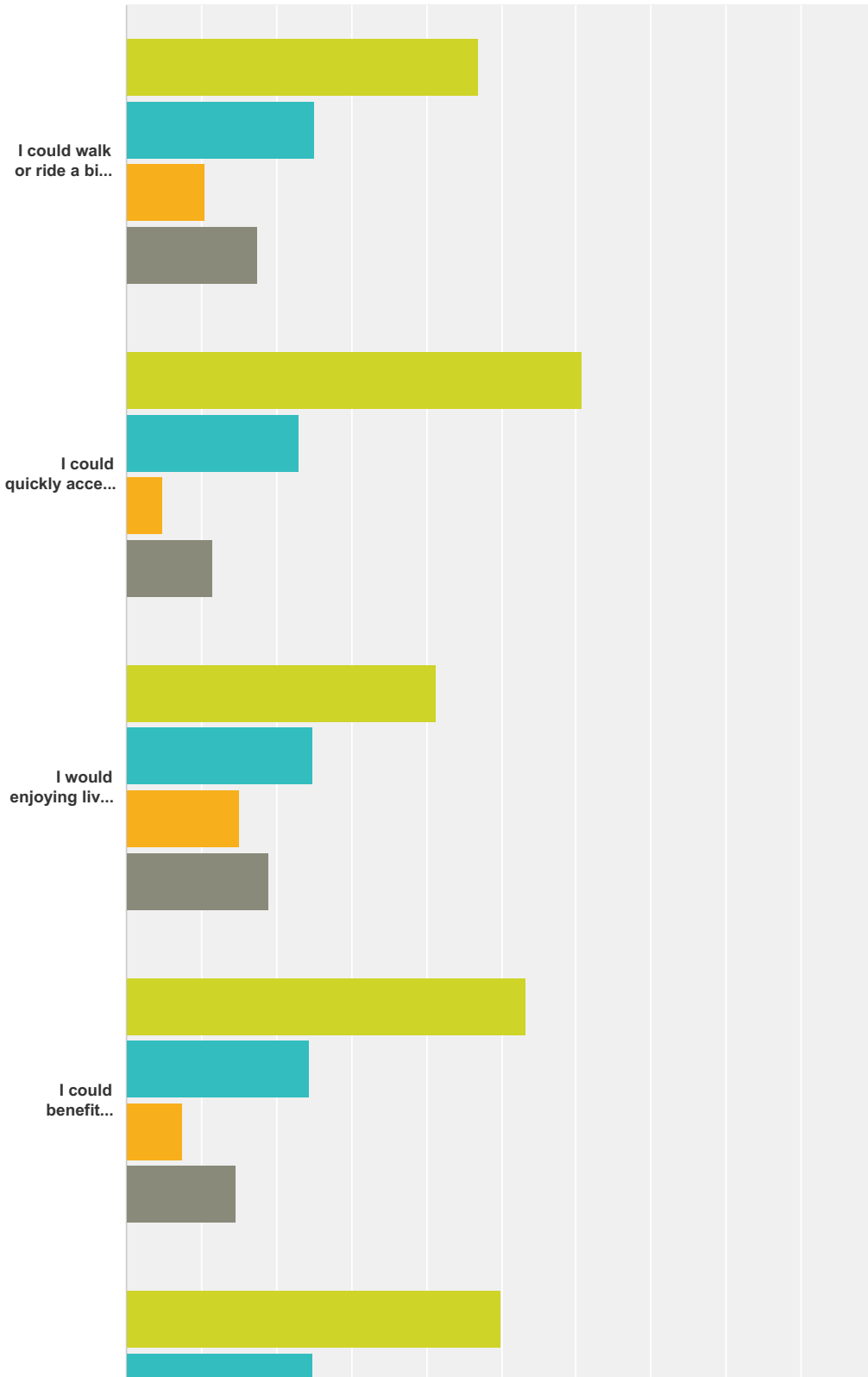
Answered: 1,605 Skipped: 1,560



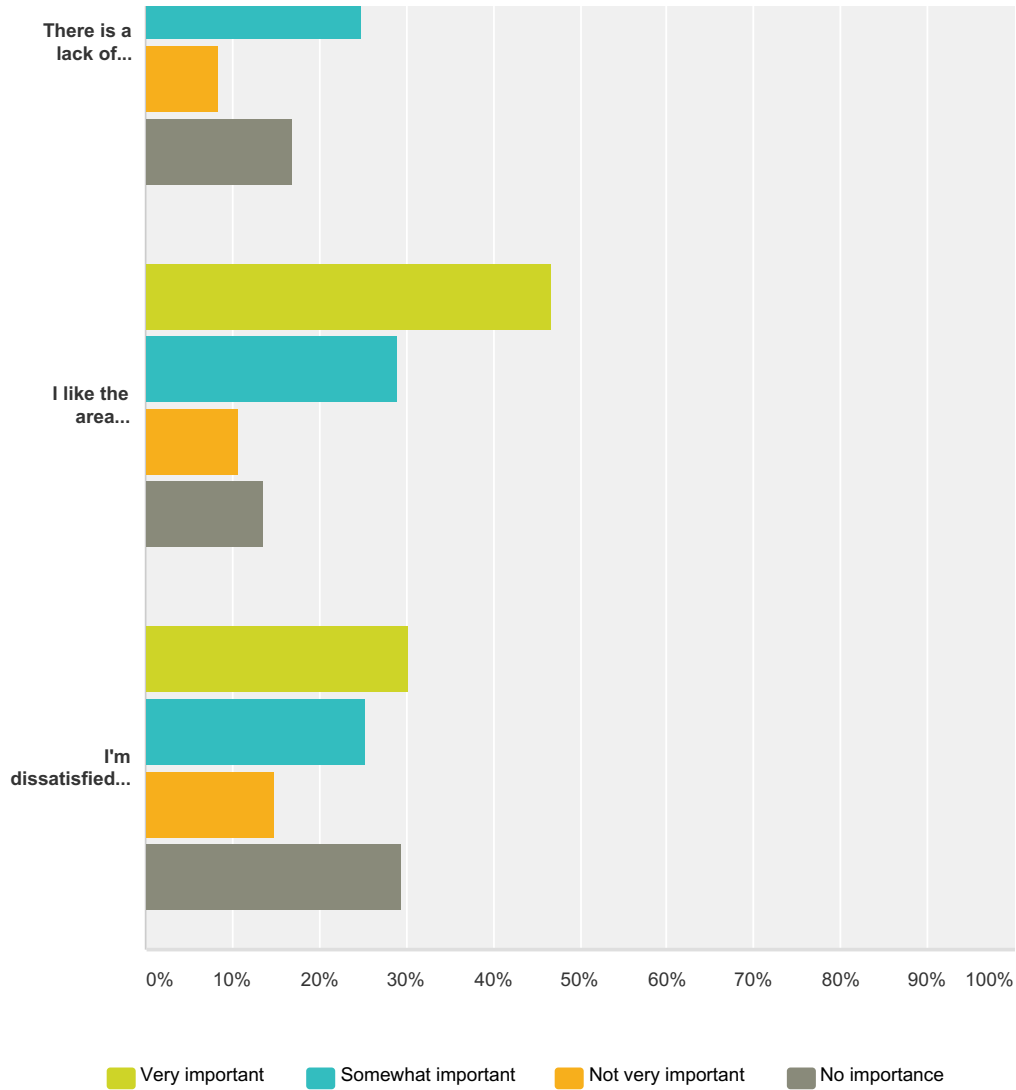
Answer Choices	Responses	
Very interested	47.73%	766
Somewhat interested	26.92%	432
Not interested	25.36%	407
Total		1,605

Q39 Please identify how important each of the following reasons are as to why you might want to live in student/faculty housing adjacent to Crafton Hills College?

Answered: 2,360 Skipped: 805



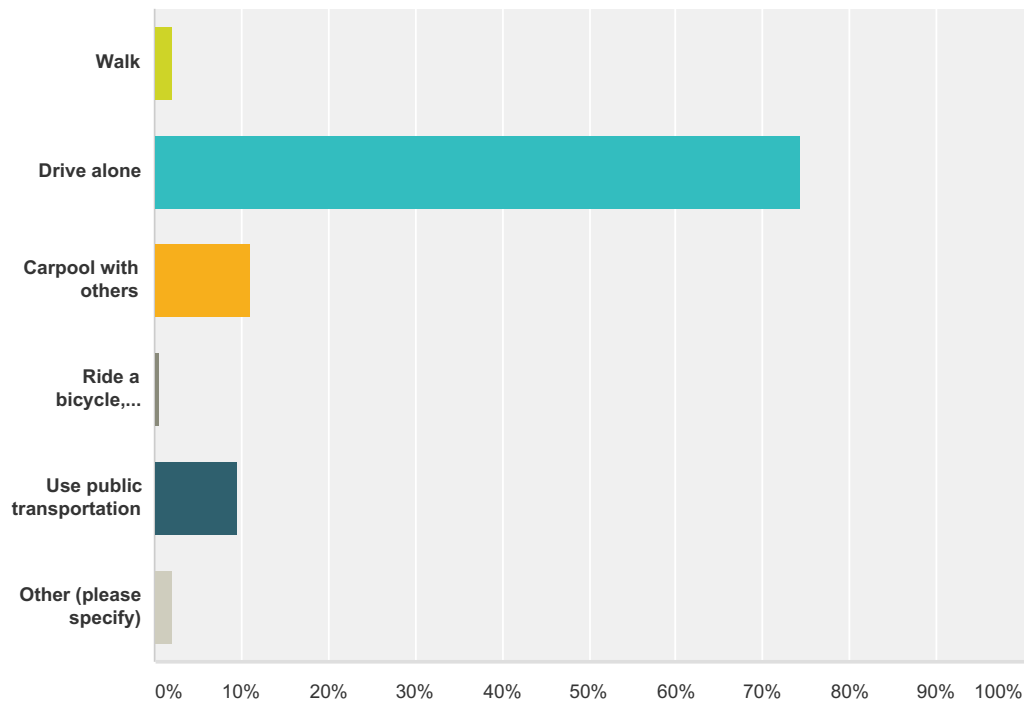
Student/Faculty/Staff Housing Survey



	Very important	Somewhat important	Not very important	No importance	Total
I could walk or ride a bike to campus as opposed to relying upon vehicular transportation	47.08% 1,111	25.04% 591	10.34% 244	17.54% 414	2,360
I could quickly access campus buildings and college resources at all hours	60.76% 1,434	22.92% 541	4.75% 112	11.57% 273	2,360
I would enjoying living in an environment with a higher concentration of college students	41.31% 975	24.75% 584	14.96% 353	18.98% 448	2,360
I could benefit academically from immediate access to fellow students or tutors for studying	53.31% 1,258	24.49% 578	7.54% 178	14.66% 346	2,360
There is a lack of available affordable housing in the area and this would be an option for me	49.83% 1,176	24.92% 588	8.39% 198	16.86% 398	2,360
I like the area surrounding the campus	46.82% 1,105	28.94% 683	10.64% 251	13.60% 321	2,360
I'm dissatisfied with my current living arrangement and want such an option	30.30% 715	25.34% 598	14.83% 350	29.53% 697	2,360

Q40 How do you typically get to and from campus?

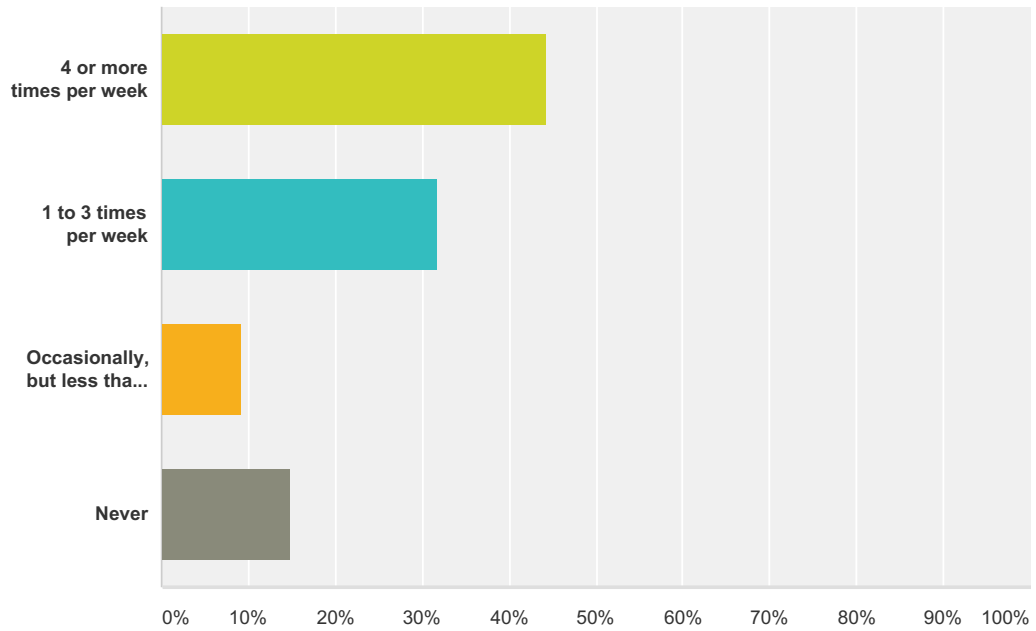
Answered: 2,360 Skipped: 805



Answer Choices	Responses	
Walk	2.12%	50
Drive alone	74.32%	1,754
Carpool with others	11.10%	262
Ride a bicycle, scooter or motorcycle	0.64%	15
Use public transportation	9.70%	229
Other (please specify)	2.12%	50
Total		2,360

Q41 On average, how much do you rely upon on-campus parking?

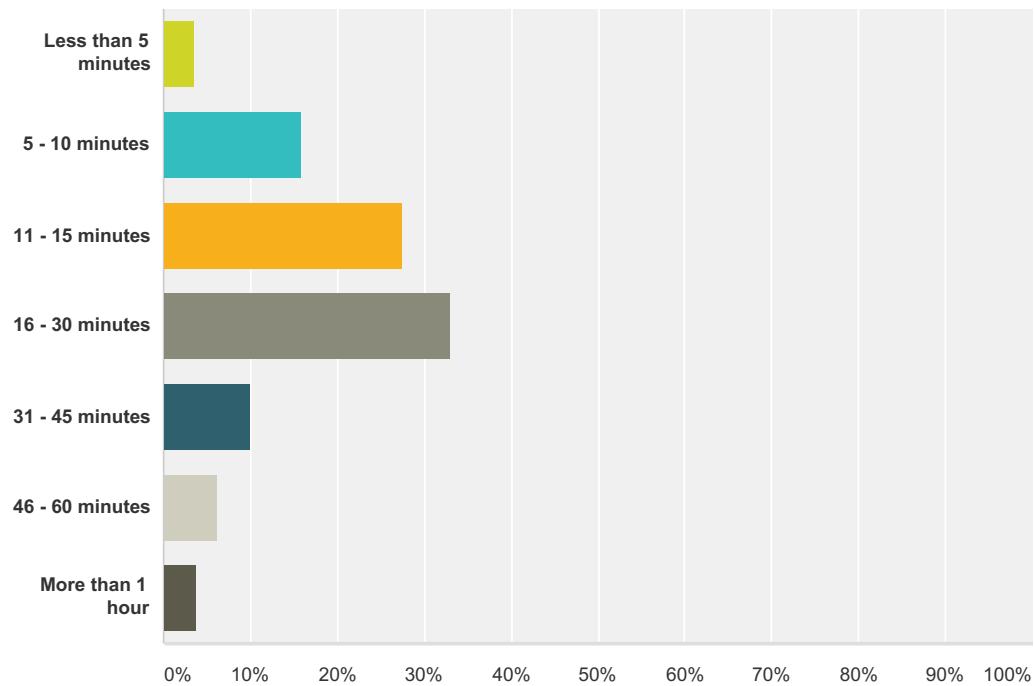
Answered: 2,360 Skipped: 805



Answer Choices	Responses	
4 or more times per week	44.32%	1,046
1 to 3 times per week	31.69%	748
Occasionally, but less than 4 times per month	9.19%	217
Never	14.79%	349
Total		2,360

Q42 How long is your commute to campus (one-way)?

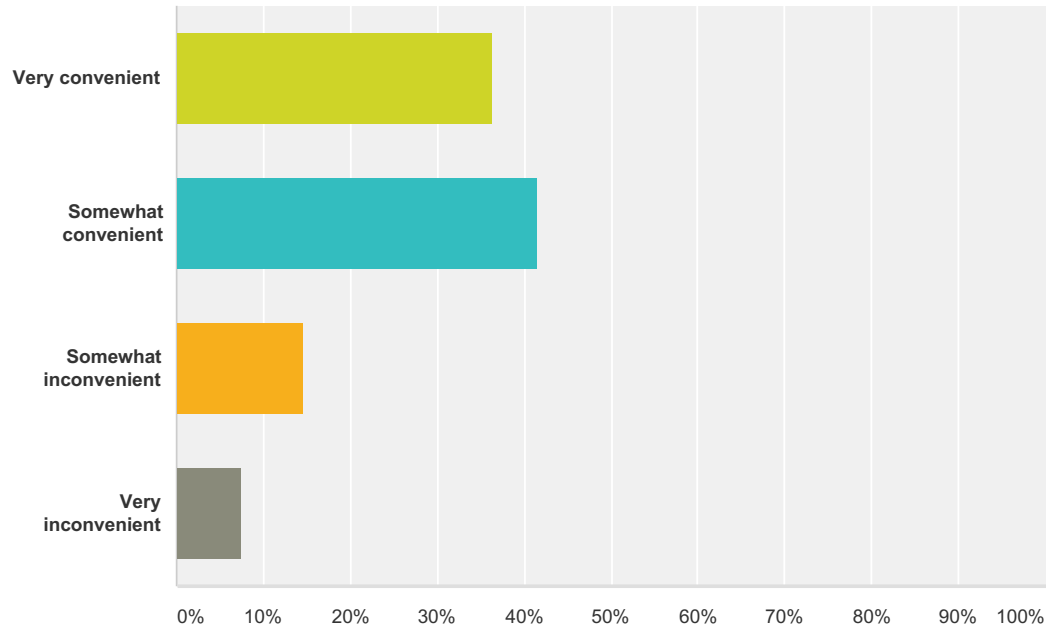
Answered: 2,360 Skipped: 805



Answer Choices	Responses	
Less than 5 minutes	3.47%	82
5 - 10 minutes	15.93%	376
11 - 15 minutes	27.63%	652
16 - 30 minutes	33.01%	779
31 - 45 minutes	10.08%	238
46 - 60 minutes	6.19%	146
More than 1 hour	3.69%	87
Total		2,360

Q43 How convenient is the location of your current housing, taking into account distance from the campus and length of commute?

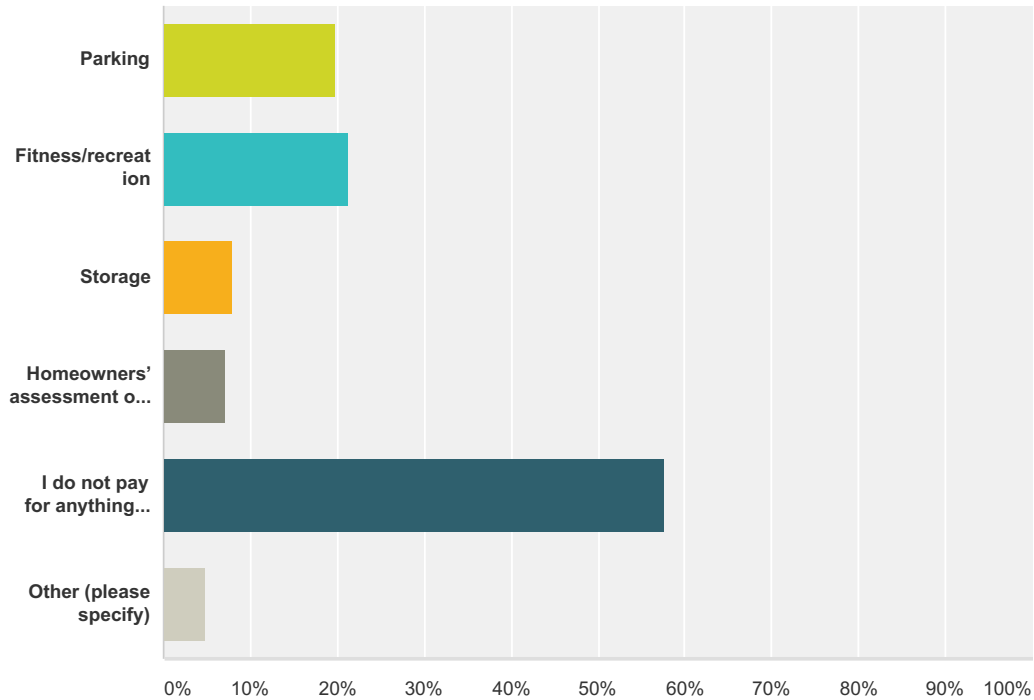
Answered: 2,360 Skipped: 805



Answer Choices	Responses	
Very convenient	36.40%	859
Somewhat convenient	41.57%	981
Somewhat inconvenient	14.58%	344
Very inconvenient	7.46%	176
Total		2,360

Q44 Do you pay any other expenses or services related to your housing accommodations? These could be either services that are available onsite or services you obtain on your own. Select all that apply.

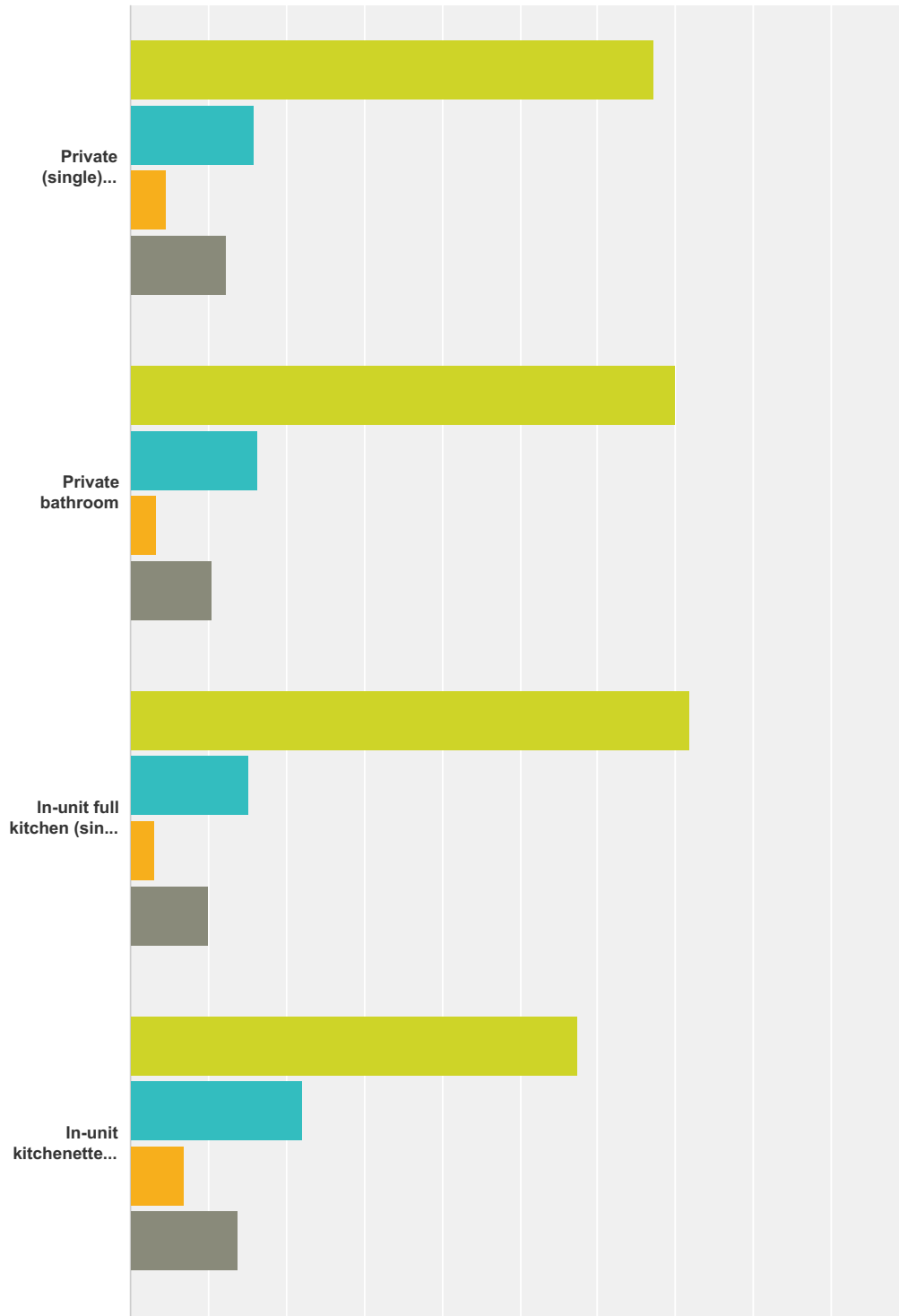
Answered: 2,360 Skipped: 805



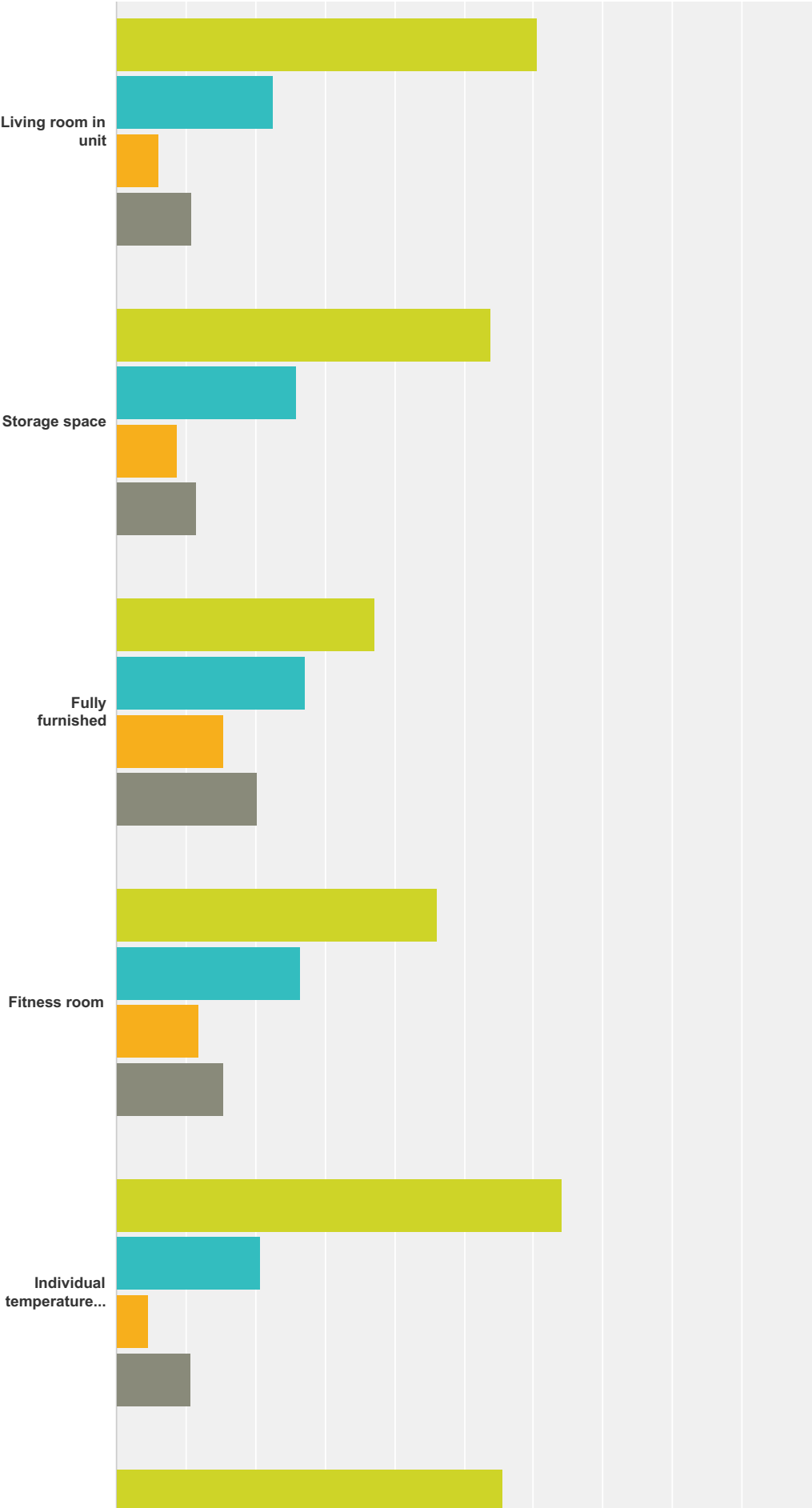
Answer Choices	Responses	
Parking	19.87%	469
Fitness/recreation	21.36%	504
Storage	7.84%	185
Homeowners' assessment or dues	7.12%	168
I do not pay for anything else	57.58%	1,359
Other (please specify)	4.87%	115
Total Respondents: 2,360		

Q45 If student/faculty housing was available, how much interest would you have in any of the following amenities, with the understanding that there might be a reasonable, market-based premium for some? Please select one response for each item.

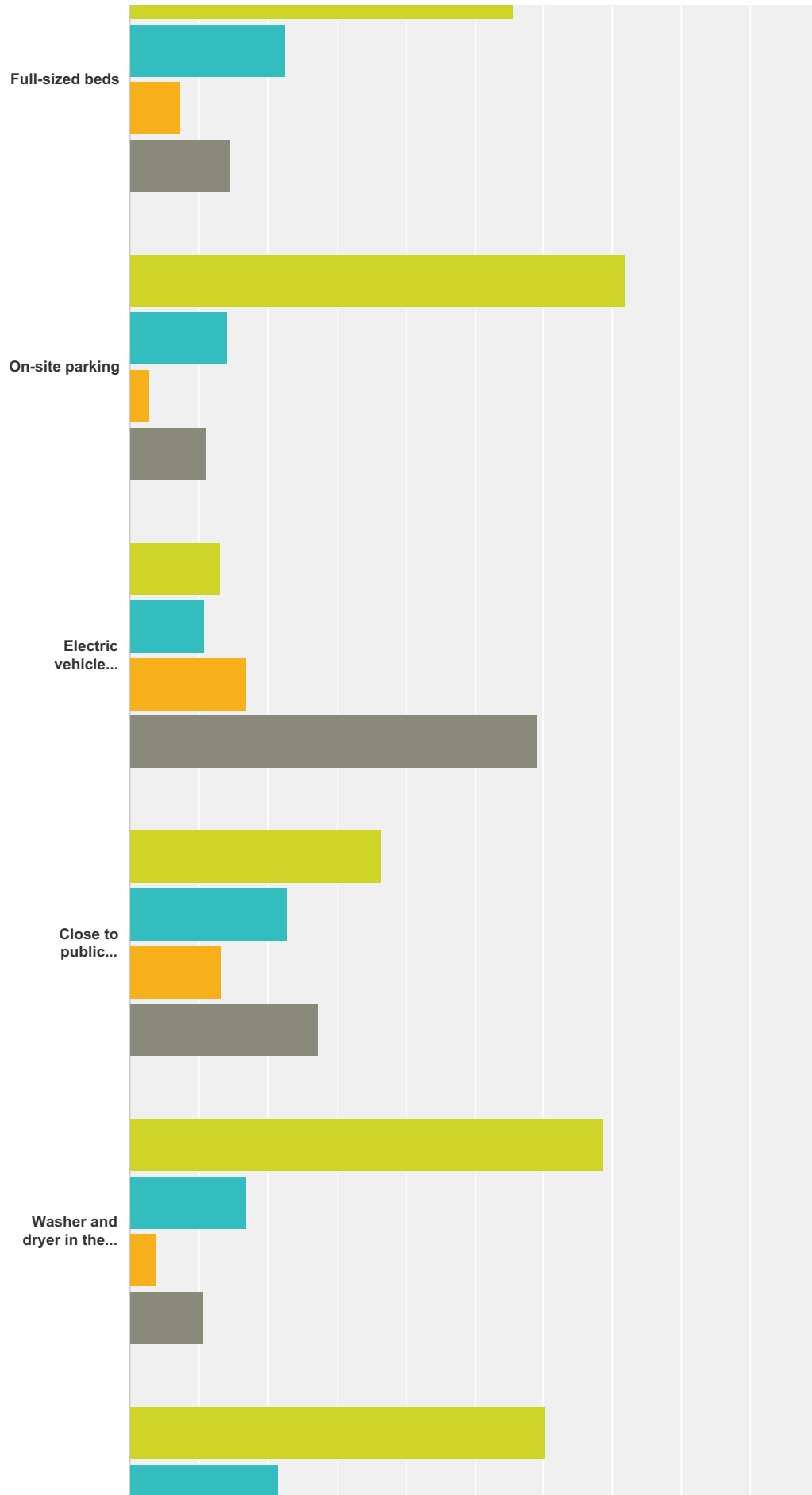
Answered: 2,360 Skipped: 805



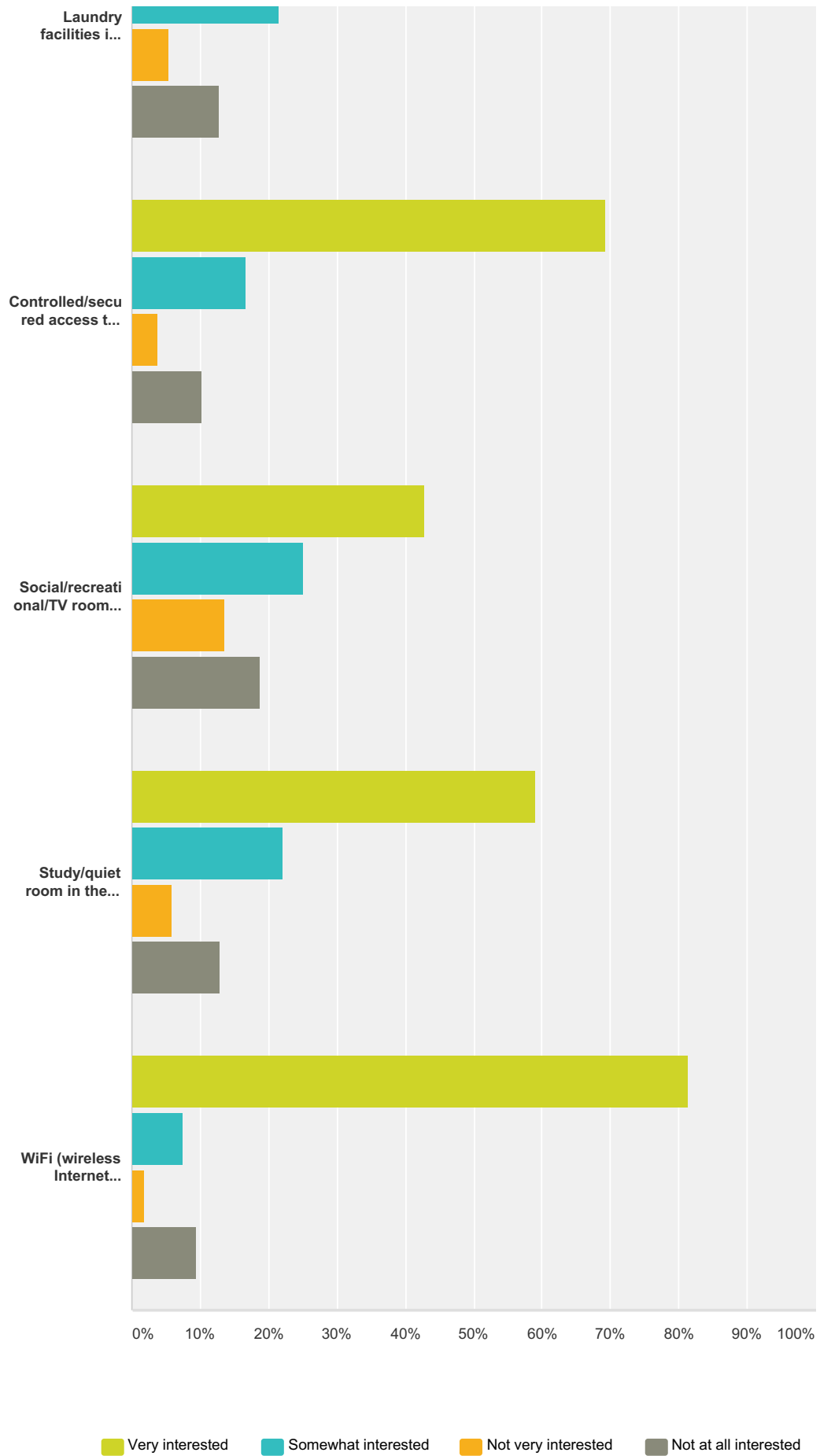
Student/Faculty/Staff Housing Survey



Student/Faculty/Staff Housing Survey



Student/Faculty/Staff Housing Survey

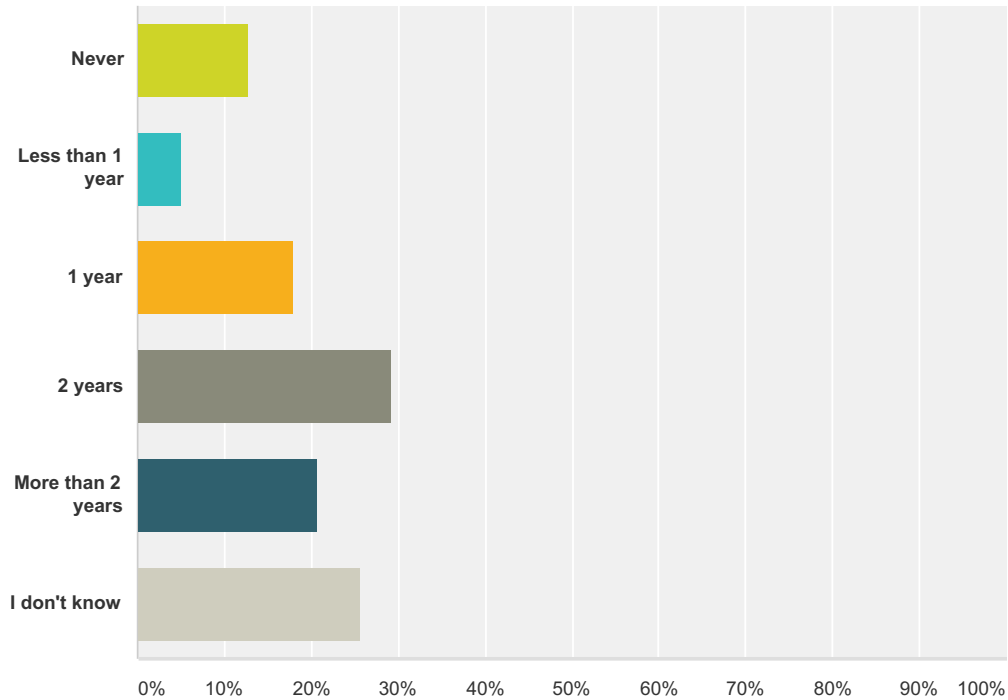


Student/Faculty/Staff Housing Survey

	Very interested	Somewhat interested	Not very interested	Not at all interested	Total
Private (single) bedroom	67.25% 1,587	15.81% 373	4.58% 108	12.37% 292	2,360
Private bathroom	70.00% 1,652	16.31% 385	3.26% 77	10.42% 246	2,360
In-unit full kitchen (sink with garbage disposal, full-sized refrigerator, microwave, stove/oven, and dishwasher)	71.78% 1,694	15.21% 359	3.05% 72	9.96% 235	2,360
In-unit kitchenette (sink with garbage disposal, small refrigerator, and microwave)	57.37% 1,354	22.03% 520	6.86% 162	13.73% 324	2,360
Living room in unit	60.64% 1,431	22.46% 530	6.06% 143	10.85% 256	2,360
Storage space	53.86% 1,271	25.89% 611	8.73% 206	11.53% 272	2,360
Fully furnished	37.12% 876	27.16% 641	15.38% 363	20.34% 480	2,360
Fitness room	46.10% 1,088	26.44% 624	11.99% 283	15.47% 365	2,360
Individual temperature controls in living units	64.07% 1,512	20.64% 487	4.58% 108	10.72% 253	2,360
Full-sized beds	55.59% 1,312	22.54% 532	7.33% 173	14.53% 343	2,360
On-site parking	71.91% 1,697	14.11% 333	2.97% 70	11.02% 260	2,360
Electric vehicle charging stations	13.05% 308	10.93% 258	16.86% 398	59.15% 1,396	2,360
Close to public transportation	36.53% 862	22.84% 539	13.35% 315	27.29% 644	2,360
Washer and dryer in the living unit	68.64% 1,620	16.91% 399	3.90% 92	10.55% 249	2,360
Laundry facilities in the building	60.38% 1,425	21.44% 506	5.47% 129	12.71% 300	2,360
Controlled/secured access to the building	69.32% 1,636	16.74% 395	3.73% 88	10.21% 241	2,360
Social/recreational/TV room in the building	42.71% 1,008	24.96% 589	13.52% 319	18.81% 444	2,360
Study/quiet room in the building	59.07% 1,394	22.08% 521	5.89% 139	12.97% 306	2,360
WiFi (wireless Internet access) in each room	81.44% 1,922	7.42% 175	1.82% 43	9.32% 220	2,360

Q46 If SBCCD student/faculty housing included your primary housing needs and preferences each year, how long would you live in SBCCD's student/faculty housing?

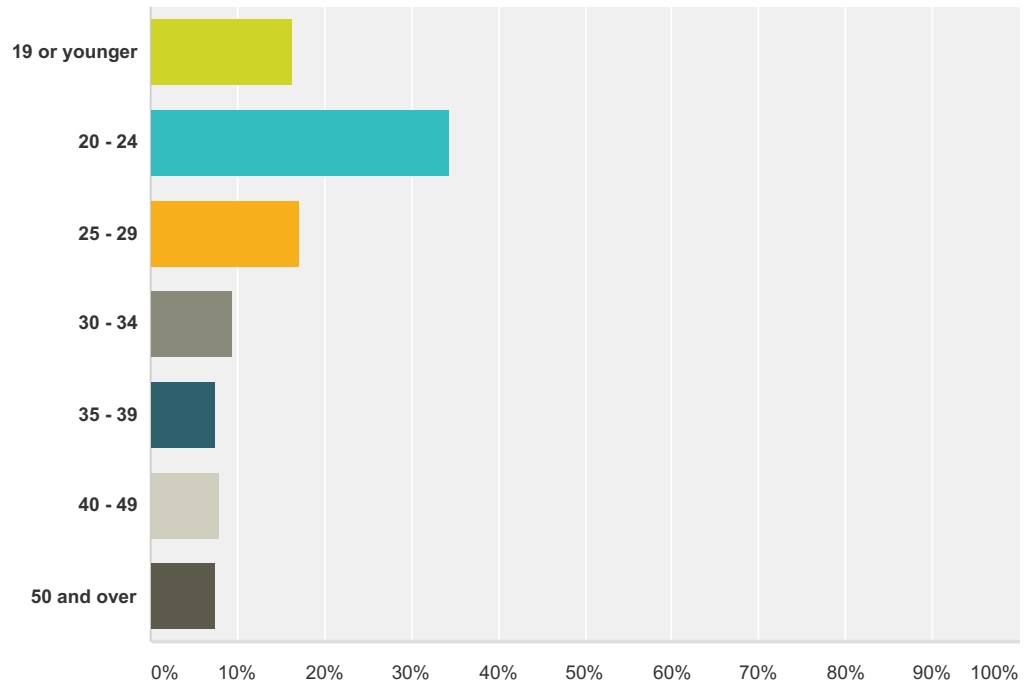
Answered: 2,360 Skipped: 805



Answer Choices	Responses	
Never	12.71%	300
Less than 1 year	4.96%	117
1 year	18.05%	426
2 years	29.32%	692
More than 2 years	20.76%	490
I don't know	25.72%	607
Total Respondents: 2,360		

Q47 Please provide us your age: (optional)

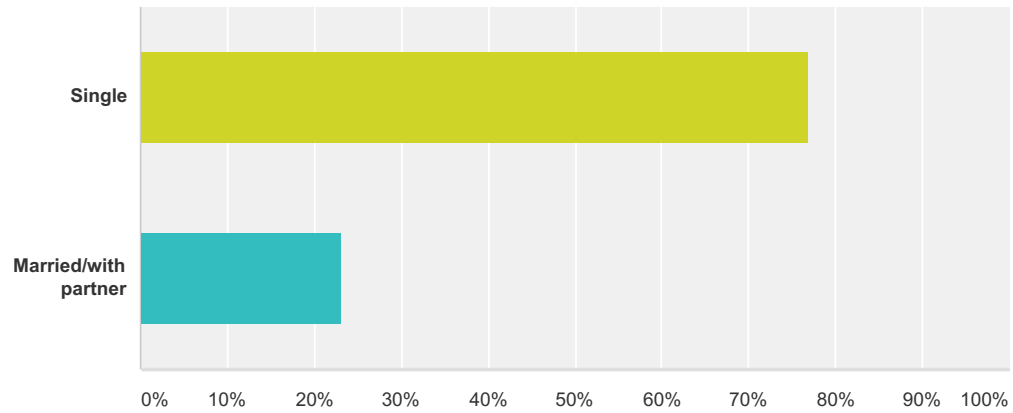
Answered: 2,292 Skipped: 873



Answer Choices	Responses	
19 or younger	16.19%	371
20 - 24	34.47%	790
25 - 29	17.15%	393
30 - 34	9.29%	213
35 - 39	7.50%	172
40 - 49	7.98%	183
50 and over	7.42%	170
Total		2,292

Q48 What is your marital status? (optional)

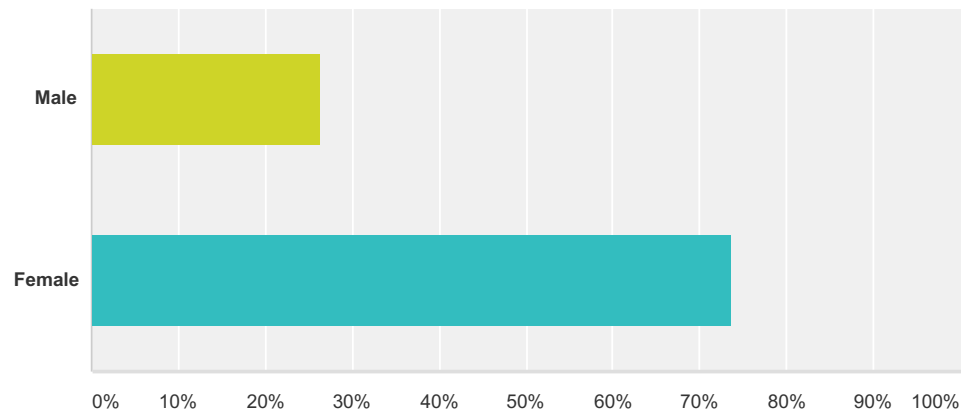
Answered: 2,270 Skipped: 895



Answer Choices	Responses	
Single	76.87%	1,745
Married/with partner	23.13%	525
Total		2,270

Q49 With what gender do you identify? (optional)

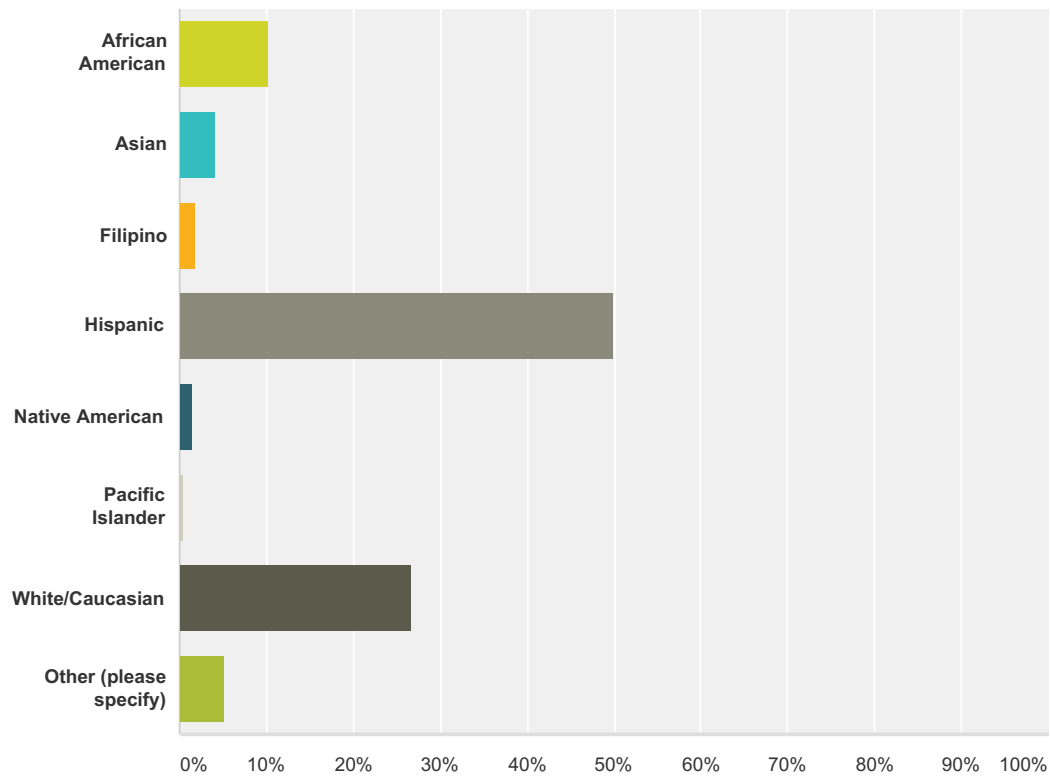
Answered: 2,280 Skipped: 885



Answer Choices	Responses	
Male	26.23%	598
Female	73.77%	1,682
Total		2,280

Q50 How would you best describe your predominant ethnicity? (optional)

Answered: 2,241 Skipped: 924



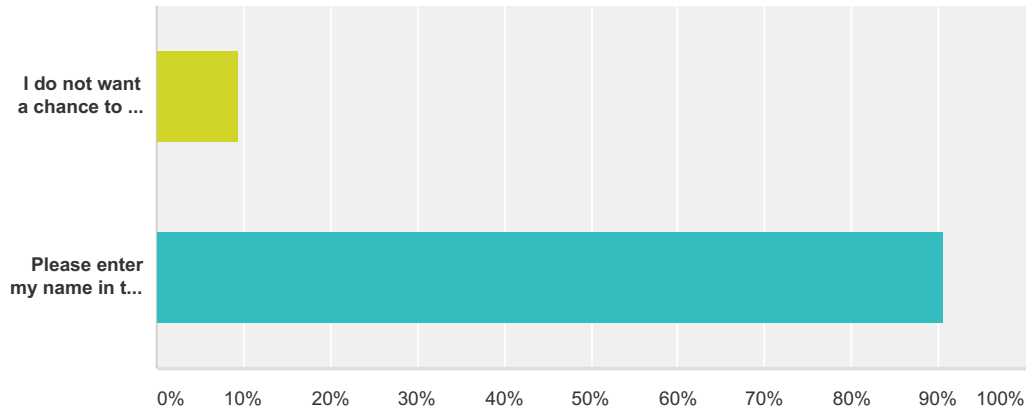
Answer Choices	Responses
African American	10.31% 231
Asian	4.15% 93
Filipino	1.83% 41
Hispanic	49.93% 1,119
Native American	1.38% 31
Pacific Islander	0.49% 11
White/Caucasian	26.64% 597
Other (please specify)	5.27% 118
Total	2,241

Q51 Please feel free to provide any additional comments or suggestions regarding this survey. All comments will be shared with SBCCD's administration but none will be personally attributable to any individual respondent.

Answered: 276 Skipped: 2,889

Q52 That's it! Thanks very much for your input. In appreciation for your time, we are offering an opportunity to win a \$10 Starbucks Gift Card via email! Just enter your name and email address below if you want to take part in the raffle. 20 winners will be chosen at random.

Answered: 2,277 Skipped: 888



Answer Choices	Responses	
I do not want a chance to win a \$10 Starbucks Gift Card via email.	9.35%	213
Please enter my name in the random drawing for a chance to win a \$10 Starbucks Gift Card via email.	90.65%	2,064
Total		2,277



Brookhurst Development
& Consulting Corporation



**Comparative Analysis of P3 Delivery Options
Quantitative Review - Deukmejian (Long Beach) Courthouse
Case Study for the Indianapolis Justice Complex**

March 26, 2015

Privileged & Confidential

Brookhurst Development Corp



INTRODUCTION

Brookhurst Development & Consulting Corporation ("Brookhurst") has been engaged by H.J. Umbaugh & Associates, LLP, Certified Public Accountants ("Umbaugh") to assist Umbaugh in its evaluation and analysis of various proposal terms and documents ("Proposal") submitted to the City of Indianapolis and County of Marion (collectively, "City") as requested of Umbaugh by the City. The Proposal being analyzed was submitted by a consortium of financing, construction, design and operations firms collectively known as WMB, and is in connection with a proposed public-private partnership agreement ("PPA") to design, build, finance, operate and maintain ("DBFOM") a new consolidation justice complex currently referred to as the Indianapolis Justice Center ("IJC").

As part of its contractual obligations in providing assistance and support of Umbaugh's evaluation, Brookhurst has prepared this report ("Report") to provide Umbaugh a comparative cost and risk analysis of the different methodologies legally available to the City that provide the full range of service which include the designing, building, financing operating and maintaining ("DBFOM") as is presently being considered. Based upon empirical data of comparable projects recently completed under both similar and different DBFOM methodologies as well as conventional delivery methods, and over 20 years of experience

in project finance, development and operations, Brookhurst prepared this Report to compare and contrast what we deem to be the three most common DBFOM structures of various social infrastructure projects that the City should consider prior to making a final decision. These three methodologies are: using traditional tax-exempt general obligation ("G.O.") bonds utilizing a design-build contract and a third-party management contract; developing and operating the project through the public-private partnership ("P3") utilizing tax-exempt financing in an arrangement known as a lease-leaseback ("LLB"); and a form of P3 development relatively new to the U.S. known as the concession/availability payment ("P3/PBI") contract.

Projected operating costs herein are based upon actual contracted amounts, or, as the case may require, current and historical operating cost data for facilities of comparable size, scope and vintage as provided by the Building Owners and Managers Association ("BOMA"). BOMA, which has been compiling such operating data since 1920, is considered to be the foremost authority on operating and maintenance costs of facilities in the U.S. and Canada, which is why we have relied most heavily on their comparative data reports. Our Report analyzed comparable operating cost data in the BOMA database, which included over 5,000 LEED-certified buildings comprising approximately 900 million square feet in the U.S. and Canada. In addition, we contacted regional facility management firms experienced in the operations and



maintenance of such facilities (such as Cassidy Turley, CBRE and ABM) for further corroboration. We also focused on current operating costs specific to the project's location inclusive of the historical trending of such data.

DISCLAIMER

The purpose of this Report is to provide general insights to the benefits and challenges of pursuing one DBFOM methodology over another as has been evidenced by past projects and verifiable cost data. The Report does not purport to opine to the benefits or challenges of any specific proposals for projects yet to be built. The budgetary constraints of the City limited the scope of review Brookhurst was contracted to perform. As of the writing of this Report, we have not been presented enough detail to review the WMB Proposal and justify a valid comparison of it against other delivery methods or proposals available to the City; therefore, this Report should not be presumed to be providing any recommendations pertaining to the Proposal, as such an analysis is beyond the scope of this Report. The findings of this Report were derived by examining only projects that have been completed and are operating, then contrasting the costs between the three identified DBFOM methodologies for delivery.

Brookhurst does not assume responsibility for the accuracy or completeness of the information that it may receive from third-party sources not under contract to Brookhurst, including, but

not limited to, the work product of the City's other advisors or consultants. We have made certain assumptions regarding future financing and operating costs; however, as with all projections, there may be differences between assumptions and reality – and such differences may be material. Our projections are based upon many different assumptions and factors that could either be independent or have a compounding effect. Because of the uncertainty of many factors such as, but not limited to, construction costs, construction timeline, future interest and inflation rates, cost of private equity, desired owner profit levels, and operating costs associated with the project's projected costs, there may be significant differences between estimated and actual cash flow schedules and costs affecting the final annual cost of the such a project.

Under no circumstances should this preliminary analysis be taken to support one method of procurement versus another at this time. Brookhurst reserves the right to change this analysis as new information becomes available and further refines our understanding of the anticipated costs between procurement methodologies. The analysis presented herein is based on sources that Brookhurst believes to be accurate and reliable, and is provided “as is” with no representation or warranty, express or implied, as to the accuracy, timeliness, completeness, merchantability or fitness for any particular purpose of such information.

Brookhurst's services may include advice and recommendations; however, all decisions with respect to acts



of either Umbaugh or the City shall be the responsibility of, and made by, Umbaugh and/or the City whether or not made pursuant to or in reliance on information or advice furnished by Brookhurst shall under no circumstances be liable for any cost or expense incurred or loss suffered by either Umbaugh or the City as a consequence of such decisions.

COMPARATIVE ANALYSIS DBFOM DELIVERY METHODOLOGIES

This Report offers a comparative analysis of methodologies available that the City could pursue in connection with the financing, facility operations and maintenance of the proposed IJC project. These options fall into three categories: (1) Tax-Exempt General Obligation ("G.O.") Bond Financing, (2) Lease-Leaseback with Tax-Exempt Financing ("LLB"), and (3) Concession/Availability Payment Contract ("P3/PBI").

I. Tax-Exempt General Obligation Bond Financing

The City has traditionally used G.O. bond or other forms of municipal financing for much of its infrastructure. In Indiana, G.O. bonds may only be issued by ballot election of the issuing jurisdiction, and are secured by all unrestricted resources of the issuer, including an unlimited property tax on all taxable property within the district. Given the familiarity of Umbaugh and the City with G.O. bond financing and its advantages and

drawbacks, we do not provide within this Report a detailed discussion on this method, other than to say that G.O. bond financing carries the lowest nominal cost of financing due to the strongest credit characteristics (full faith and credit of the City backed by its taxing authority). This methodology also has certain disadvantages, the greatest being the additional delays, costs and challenges of a voter referendum. It is also considered to be the most restrictive model for project procurement and historically carries the greatest risk of project delays, cost and schedule overruns, and claims/litigation if using design-bid-build. In addition, publicly managed facilities run a far greater risk of premature aging and deterioration due to lack of preventative maintenance and investing adequate capital for needed repairs. Our experience tells us this has little to do with the experience and capabilities of public facility management staff but more to do with limited budgets and annual funding decisions made as projects age.

II. Lease-Leaseback P3 Delivery Using Tax-Exempt Financing

As governments face continuing budget deficits due to reduced revenues and cutbacks in capital budgets, they are by necessity seeking creative ways to finance the delivery of essential facilities. Lease-leaseback arrangements provide a creative yet relatively straightforward financing alternative to traditional G.O. bond financing. Tax-exempt lease-leaseback financing has



been used by governments and other tax-exempt entities for decades, and has broad acceptance in the capital marketplace.

Key Features of P3 Lease-Leaseback Delivery

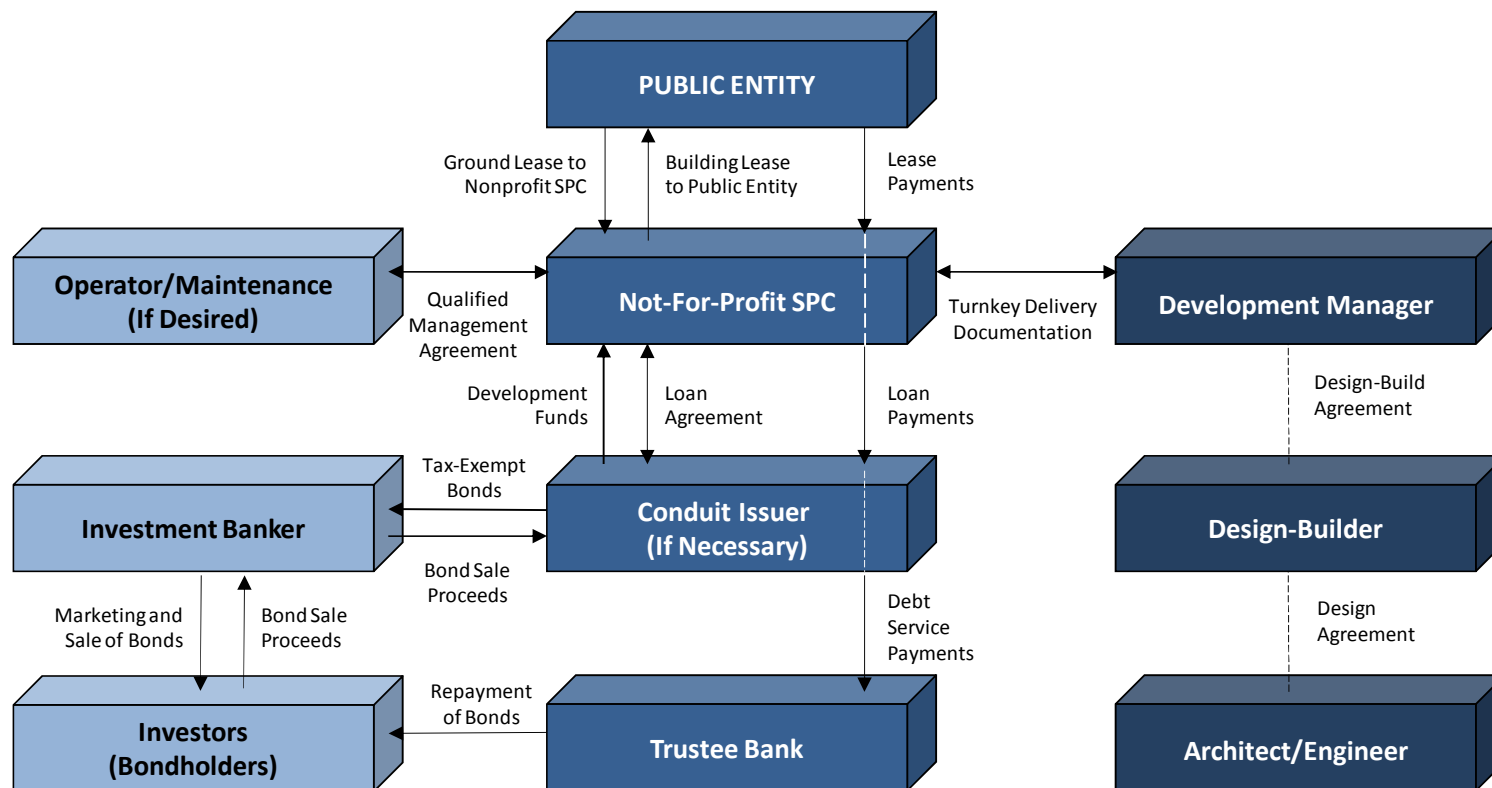
- Transference of risk on construction costs and delivery schedule.
- Voter referendum not required.
- 100% tax-exempt financing produces lowest cost of capital (other than a G.O. bond) and lowest possible lease rate.
- 100% public debt financing eliminates the need for private equity.
- The public entity is typically not required to co-sign loans or guarantee any debt. Debt is secured by the public entity's facility lease payments.
- Property tax exemption reduces occupancy costs (exemption typically not available under private financing options).
- Ultimate ownership of site and improvements by the City.
- Flexible lease term of up to 35 years or more.
- Flexible development budget and financing which can include FF&E, financing costs and reserves.
- Typical contractual structure has been around for decades and is familiar to investors, making financing easier and more efficient.

Lease-Leaseback Organization and Funding Structure

- Improvements are owned by a not-for-profit special purpose vehicle ("SPV") during lease term.
- Government entity ground leases ("Site Lease") the land to the SPV for a nominal annual rent (e.g. \$1.00).
- Completed improvements are leased to the City via an annual appropriation lease ("Lease").
- At the end of the term of the Ground Lease and Site Lease, ownership of site and improvements vests in the government entity.
- 100% of costs are financed with certificates of participation (COPs), private activity bonds (PABs), lease revenue bonds or similar tax-exempt financing commonly used by local or state governments. The issuer of the debt is typically the SPV, a financing authority created for such issuance, or the government entity itself. Out-of-state issuers may also be used to satisfy IRS requirements for access to tax-exempt financing.
- Facilities are typically delivered pursuant to a guaranteed maximum price and completion date, usually under a design-build contract (as authorized in the State of Indiana - Ind. Code Ann. § 5-30-2-1 et seq).
- Lease payments by the City, which are agreed upon prior to construction, are used to service the debt. In addition, the lease payments may also include a service fee for the operations and maintenance of the facilities.



Lease-Leaseback Contractual and Flow of Funds Diagram





Primary Advantages of Lease-Leaseback Financing

- Lowest cost of capital other than a G.O. bond financing.
- 100% public debt financing eliminates the need for higher returns required by private equity.
- Delivery unimpeded by voter referendum and associated time, cost, and risk of failure.
- Allows for fast-track delivery, avoiding associated risk of interest rate and construction cost inflation.
- Allows for best-qualifications or best-value team selection, rather than being driven to lowest bidder.
- Allows for turnkey procurement methods, reducing contractual risk to government.
- Development team working together from outset ensures most collaborative vs. adversarial relationships.
- Procurement more conducive to high-quality facilities delivered within budget and schedule without claims/litigation.
- Per IRS requirements, the use of tax-exempt financing requires fully transparent, open-book process for all private partner activities versus other P3 delivery options which can remain opaque and not subject to public inspection.
- Essential facilities can be delivered for substantially less money and months or even years ahead of schedule when the municipality is facing cutbacks in capital budgets, reduced revenue, and the time, expense and uncertain outcome of voter referendums. The prompt delivery of a facility can also insulate the government from the substantial cost of construction inflation (escalation) and the uncertainty of future interest rates.

Challenges of Lease-leaseback Financing

- As noted previously, the interest rate or cost of funds associated with lease-leaseback financing is slightly higher than that of general obligation debt, typically by about 25 to 50 basis points, depending upon market conditions. This is due to the absence of full guarantee of tax revenues by the government entity for the lease payments, which must be annually appropriated.
- The capital markets often require debt service reserves, which vary depending upon the essentiality of the project and lease credit of the occupying government agency. They typically are the lesser of (i) 10% of proceeds, or (ii) maximum annual debt service to be raised as part of the original offering. However, reserves raised as part of the offering are an asset of the leasing municipality, and earn interest that reduces the annual net debt service. Typically, in the final year of the lease, the entire reserve is applied to reduce or eliminate the final year's lease payment from the municipality. In certain cases, a lower cost solution of a debt service surety reserve may be acceptable in lieu of a full debt service reserve. However, these costs must be weighed against the savings that can accrue to a municipality by using lease-leaseback financing.
- If the government wishes to arrange for private operations and/or maintenance of facilities financed with tax-exempt instruments, such contracts must be structured as Qualified Management Agreements in accordance with I.R.S. Rev. Proc. 97-13. This may have some limitations when compared to facility management under a P3/PBI



concessions contract; 97-13 does not prohibit “availability payments” as found in concessions contracts, which penalize the operator for failing to meet pre-established management standards. However, QMA facility management contracts must be proven to be based upon “market reasonable” standards pursuant to 97-13, thus providing an element of transparency in the public’s interest absent in the P3 concessions contracts, which are not required to meet any such standards and therefore may be excessive and provide unreasonable profits to the project company for the actual services provided.

Examples of P3 Lease-Leaseback Developments*

Following is a brief sample of P3 lease-leaseback projects that utilized tax-exempt financing:

- Reno Public Safety Training Center, Reno, NV
- Lenwood A. Jackson, Sr. Justice Center, Atlanta, GA
- New York DOT Region 1 Headquarters, Schenectady, NY
- St. Joseph’s Hospital Parking Garage and Retail, Paterson, NJ
- Durham Performing Arts Center, Durham, NC
- Inderkum High School, Sacramento, CA
- Riverside County Criminal Justice Building, Indio, CA

** Other examples of completed P3 Lease-Leaseback projects available upon request*

III. Availability Payment/Performance Based Infrastructure P3 Methodology (P3/PBI)

The availability payment P3 methodology (a.k.a. “concessions” or “PBI”) is a P3 delivery model developed in the United Kingdom after the passage of UK’s Private Finance Initiative in 1992. It has since grown to be a P3 delivery model in Europe, Canada, Australia, and other countries that do not have access to tax-exempt financing such as that enjoyed in the United States. Therefore, almost all entities experienced in this delivery methodology are either foreign entities, or domestic corporations owned by foreign entities. Their entrance into the U.S. was first seen in 2004 with the sale of the operations of the Chicago Skyway Toll Road. Since then, P3/PBI contracts have been used primarily for horizontal, economic infrastructure such as toll roads and toll bridges, and public utility projects such as water treatment.

To date, only one P3/PBI concessions contract has been executed in the U.S. for social (vertical) infrastructure, and that is the Deukmejian (Long Beach) Courthouse in California; for that reason, a more in-depth analysis of that project is included as part of this section. Unlike other public-private delivery models historically used in the U.S., no facility leases are entered into by any party under the P3/PBI model. Concession contracts are characterized as service agreements rather than facility leases. This structure eliminates the ability to use tax-exempt financing for social infrastructure projects because in the U.S., tax-exempt financing is only allowed on projects either financed by



government, or leased to government with the lease serving as security for the debt. However, under the P3/PBI model, the offshore infrastructure funds financing these projects seek return on their investment, not U.S. tax exemption from the IRS. In addition, such foreign investors rely upon being excluded from the Foreign Investment In Real Property Tax Act of 1980 ("FIRPTA") to shield their real estate investments from filing with the IRS; significantly, payments under the current P3/PBI concessions model are characterized as "service payments" and not "lease payments" in order to avoid FIRPTA and the requirement for such foreign interests to pay federal taxes. P3/PBI development companies avoid any structure involving a lease, as it would result in the foreign infrastructure funds having to comply with FIRPTA and filing with the IRS, thus creating a level playing field and eliminating a competitive advantage over U.S. development entities seeking to invest in U.S. infrastructure.

P3/PBI Contract Organization and Funding Structure

- As with the LLB option, a bankruptcy-remote, stand-alone special purpose vehicle (SPV) is incorporated for the project, which then becomes the project company/concessionaire.
- The Concessionaire cannot lien the land or improvements nor secure funding for the project using the project as collateral.
- The public entity retains ownership of the land and improvements at all times, with the Concessionaire granted a license to operate the facilities.
- The concessionaire is repaid through a project management contract or public-private partnership agreement ("Project Agreement" or alternatively, "PPA") with revenues coming from either the public entity using the facility, or from the public entity on behalf of private users (i.e. toll road, utility rates). In some situations, toll fees or utility rate payments may be relied upon exclusively; however, in recent years the concessionaires have been avoiding such "demand risk" and transferring these risks back to government, as was done with the Indiana Ohio River Bridge P3 project. This results in the public entity being required to make up any shortfall in revenues from private users.
- Capital costs are repaid over time through the concessions payments as part of a larger service fee calculation. Also included in the service fee are operations and maintenance costs, a component for capital reserves, management fees, and a profit component for the concessionaire and their investors.
- The project agreements also typically contain benchmark performance standards (a.k.a. "key performance indicators" or "KPIs") on operations and maintenance, which provide for a reduction in the service fee by a pre-established formula for any given period the KPIs are not met. No concession payments are made until project occupancy, unless certain uninsurable force majeure events during construction trigger a capital call against the public partner.



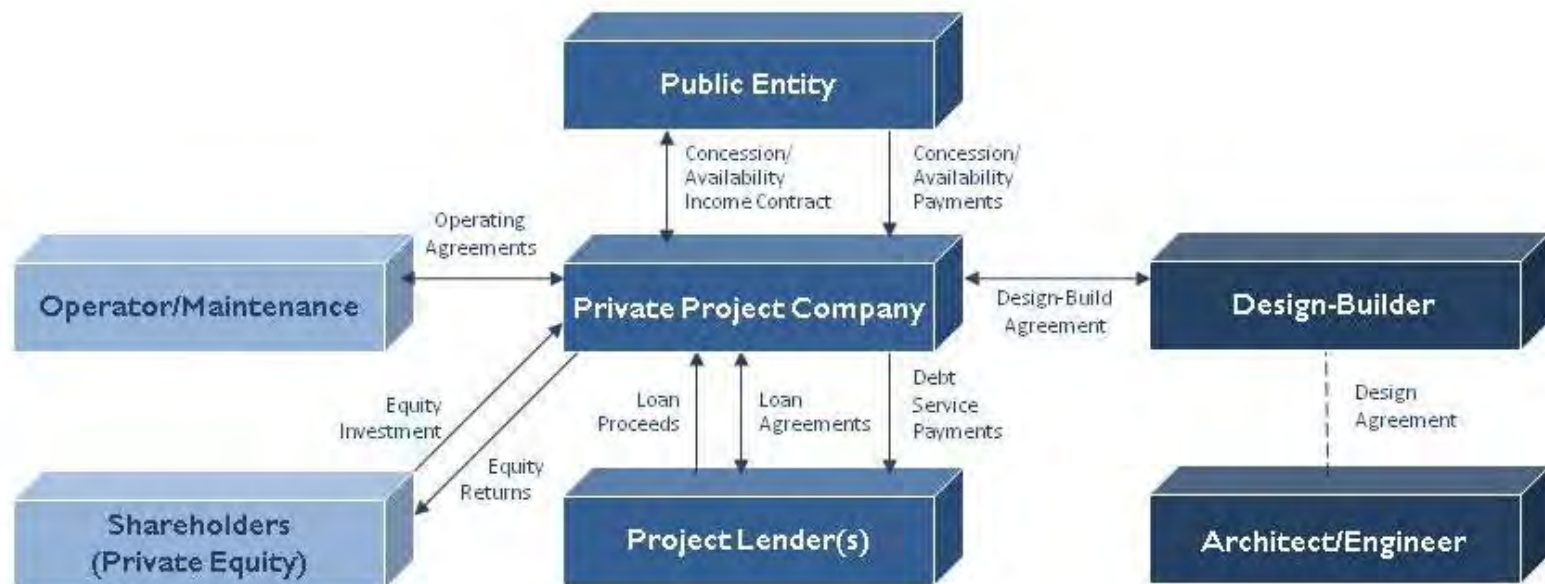
The capital structure for a P3/PBI arrangement may include a variety of sources of capital, both domestic and foreign, a mix of senior and subordinated debt, and private equity. However, because U.S. banks are unfamiliar with project finance not secured by hard assets, P3/PBI contracts in the U.S. have been historically financed by off-shore funds and banks. Bank lenders and private placement investors are among typical debt and equity providers for P3/PBI income transactions. Debt typically comprises about 85% - 90% of the capital stack, with the balance of 10% - 15% of project costs funded through private equity provided or sourced by the concessionaire.

Equity capital typically comes from an international infrastructure fund, although in some cases the general contractor or other participating firms may take an equity position by asserting that the equity is earned in lieu of a higher fee that might otherwise be earned for their services. International infrastructure funds are composed of large global institutional investors such as pension funds, life insurance companies and other financial intermediaries, who are also often lenders as well. Once the project is complete, the P3/PBI contract is often refinanced enabling some or all of the equity to be paid back, leaving predominantly only fixed-interest debt in place.

Presented on the following page is a diagram of the contractual structure and flow of funds for a typical concession/availability income contract transaction.



Concessions/Availability Payment P3/PBI Contractual Diagram





Primary Advantages of the P3/PBI Model

- As with the Lease-Leaseback P3 model, the majority of development, design, and construction risks can be transferred to the private sector.
- As with the Lease-Leaseback P3 model, long-term asset management risks are born by the P3/PBI concessionaire. It is arguable that more longer-term life-cycle costs are born by the concessionaire than with the lease-leaseback delivery due to the restrictions of QMA facility management contracts used in LLB developments.
- Taxpayer perception that the private sector is investing in, and assuming the majority of risks, in a “partnership” with the public sector, regardless of actual risk transference.
- Private sector operating and maintenance companies are highly experienced, nimble and responsive to efficient operations, maintenance and capital improvements.
- Structure of the contract ensures that the project is maintained in good condition over the concessions period, inclusive of capital repairs and refurbishments made when needed.

Challenges with the P3/PBI Model

- High cost of capital when compared to tax-exempt financing options such as the P3 LLB model.
- Procurement process typically explicitly or implicitly favors the P3/PBI foreign entities over U.S. development firms

that have historically been involved in development of U.S. infrastructure.

- P3/PBI model discourages or precludes entirely other P3 financing methods, including those unique to the U.S. that could achieve the same objectives of the procuring government (such as tax-exempt Private Activity Bonds, COPs, Lease Revenue Bonds, etc.).
- Because domestic developers/contractors and funding sources are not as familiar/comfortable and/or experienced with P3/PBI contracts, a small universe of foreign P3 companies and their off-shore funding sources are favored, thereby significantly reducing the competitiveness of the bidding process.
- Future concession or availability payments are long-term liabilities of the public entity that must be appropriated annually. In addition, the asset cannot be acquired at a market-based purchase price during the entire term of the concessions contract.
- The level of oversight and control of construction, operations and maintenance by the public entity is significantly reduced. Political opposition from public employee unions and firms that rely upon traditional public works contracting is common with P3/PBI contracting.
- Transference of long-term capital expenditure risks to private partner increases cost to the public entity over typical facility maintenance costs. The “risk premium” costs are passed through to the public partner in annual concession/availability payments, which are negotiated and guaranteed by the public partner up front. However, due to the opaqueness of actual costs born versus costs



charged the public partner in the annual payments, there is no way for the public partner to ascertain if the additional premiums paid are justified.

- Evidence shows a more adverse impact to debt capacity and credit rating of the public partner than other procurement methodologies. Despite contrary statements by advocates of the P3/PBI concessions model, GAAP Accounting requires most projects delivered under this methodology to be recognized on the balance sheets of government agencies alongside their G.O. bonds and other debt obligations. Because borrowing costs are higher with this model, it has a more adverse impact on both the government's debt capacity and credit rating than the other delivery alternatives.
- As with the Lease-Leaseback delivery method, lenders require the creation of a debt service reserve account, typically limited to six months of debt service. However, one major difference is that unlike the Lease-Leaseback delivery method, the debt service reserve and its accrued interest under the P3/PBI model are retained by the private partner rather than the public partner.
- Concession contracts have been criticized heavily in government reports due to their opaqueness and lack of transparency when it comes to the public inspection of financial records and profit and loss statements associated with the project's development and long term operations. Fully itemized long-term facility management costs are not presented but instead blended with profits within the aggregated long-term availability income payments. In addition, the contract between the concessionaire and the

facility manager is typically proprietary and not subject to disclosure to the public partner.

- The complexity and level of contractual and financing documentation is significantly higher than the other delivery methods; when combined with lack of experience with these projects in the U.S., it is often difficult for public agency staff to fully understand the content and nature of the agreements. This in turn may lessen their ability to make sound, fully-informed decisions about the project agreements.
- The dearth of experienced consultants in the U.S. able to advise government on the P3/PBI model for vertical infrastructure has allowed the few consultants with such experience to charge fees that are profoundly higher than what consultants charge for the other delivery methods. The added costs of these consultants and legal advisory firms must be weighed into the added cost exclusive to the P3/PBI delivery solicitation.

Quantification of Risk Transference & Value for Money Studies

As discussed previously, P3 delivery allows risk to be transferred from the public to private partner. Both the level of risk and type of risk transferred depends on the nature of each P3 deal. In the case of the IJC, there is no demand risk as the facility has a high degree of "essentiality" and will be used predominantly for municipal purposes. There is virtually no commercial risk, such as speculative leasing or maintaining



retail sales levels, which is an issue in other P3 projects. In addition, there are other unique circumstances for the IJC project that mitigate risks born by the private partner. For instance, a conversation with the Indianapolis/Marion County Building Authority confirmed that the proposed IJC will have an off-site central plant providing heated and chilled water; this reduces the amount of operational risk associated with the mechanical systems, which is often a major component in life-cycle ("whole of life") costs.

The quantification of risk is perhaps one of the most speculative analyses done when comparing various delivery models. The definition of risk includes the unknown, and thus such quantification is always subjective. For P3/PBI projects, the analysis comes in the form of a value for money ("VfM") study, typically conducted by a limited number of large accounting firms with operations in Europe and Canada. VfM studies compare the proposed P3/PBI deal with what the project would otherwise cost the public partner. While they are utilized to advocate support for moving forward on a P3/PBI project, they have been frequently criticized for lack of transparency and rigor. They often contain a very specific quantified amount of the risk transference, implying that a high degree of precision went into the risk-cost calculation, yet rarely demonstrate how those risks were quantified or provide any empirical data that would support the analysis. The justification typically used is the consultants' experience and expertise; however, we have yet to find a consultant authoring these VfM reports that has ever actually held a facility management contract, bid out services (for mechanical system

repairs, for example), or has staff who have adequate experience in an at-risk capacity for construction or operation services to justify or support a claim of "expertise" in these areas.

Another aspect of the VfM studies that compromise their accuracy is that they all assume the public partner only has an option the traditional delivery method known as design-bid-build, which is known to have the greatest risk of delay, change orders and budget busts. However, most local governments in the U.S. now have as an option the ability to contract through construction manager at risk (CMAR), or design-build, both of which transfer cost and delivery risks to the general contractor. More importantly, the reason the P3/PBI model claims to save money on lessening delays and transferring cost risk is not because of the model itself, but instead, because those risks are transferred pursuant to a design-build contract between the P3/PBI project company and its general contractor. As discussed elsewhere, Indianapolis has legal authorization to use design-build for its justice complex and thus get the same benefits of cost risk transference touted by the P3/PBI model, but done so in a more traditional public works process.

Further challenging the validity of VfM studies is that the consultants authoring the reports are often financially incentivized, either directly or indirectly, to produce a favorable recommendation supporting approval of the P3/PBI project being analyzed. Our review of consultants' contracts for VfM studies reveal the common practice of such incentives being



structured as a "bonus" should the P3/PBI VfM study result in the project being approved. Yet despite this obvious conflict of interest, authors of VfM studies still maintain that the reports are factually accurate and objective – while knowing that their study will very likely be the sole quantitative analysis upon which an extremely important decision on the use of public funds will be based.

By way of example, the 2014 Ontario General Auditor's report examined 200 VfM studies conducted by certain large accounting firms that specialize in the P3/PBI delivery. The Ontario AG found that while the actual costs of 74 projects would have been over \$8 billion cheaper had the public entity financed and built the projects, all 200 VfM studies supported approval of the P3/PBI deal proposals without a single one indicating a public delivery might be more favorable. Further, the AG indicated that such support could only be justified by the VfM consultant's quantification of risks, which were then added as a cost to the public delivery. Yet the AG indicated that in all cases, the VfM studies failed to provide any empirical data supporting such quantifications of risk other than using the "experience" of the report writers for the quantification.

For the Long Beach Courthouse VfM, the consultant relied upon cost estimates for the public delivery model from a firm that we learned (through our own research) was wholly owned by one of the major stakeholders on the bidding team awarded the project. Yet we could not find anywhere within the VfM report that this obvious conflict of interest was disclosed. This

begs the question as to whether this particular cost estimator was specifically selected given a probable favorable result it would produce for the VfM. Other challenges with the Long Beach VfM was that the consultant included additional costs per square foot for the public sector delivery that were not present in the cost proposal of the P3/PBI team awarded the project, yet the justification for the higher costs was not well supported, and in our opinion, arbitrary. In addition, the scope assumed under the public sector analysis was different than the actual project to be built, making it an apples-to-oranges comparison. Finally, the VfM study assumed that the AOC only uses the traditional design-bid-build methodology despite other AOC courthouses being constructed at the same time using CMAR, which also allows for the transference of construction risks through a guaranteed price and schedule, which were quantified in the VfM and added to the cost of the public sector delivery.

Despite these flaws of the VfM study, the California Administrative Office of the Courts (AOC) used it as the basis for its decision to move forward with the \$490 million P3/PBI project.

The relevance of the Long Beach VfM report is that the quantified cost savings it claims were brought by the P3/PBI delivery have been presented by the IJC's current consultants as justification for pushing forward with the current P3/PBI deal proposal. We have requested from the current consultants details as to their quantification of risks used for their VfM, including any third-party objective reports from experts in the



industry and/or any empirical data that would support their calculations. As of the writing of this Report, they have yet to produce any.

For these reasons, given the clear conflicts of interests and financial incentives motivating many of the authors of VfM reports as well as the flawed logic they often present, we are of the opinion that they cannot be used as a reliable analytic tool by public agencies in making important decisions, but instead their sole purpose should be seen as a marketing tool to sell the P3/PBI model.

As both developers of P3 projects and advisors who conduct business case studies that rely upon actual empirical data, we not only acknowledge but support the notion that there is indeed a transference of risk that occurs in P3 projects; however, it is extremely difficult if not impossible to quantify. The following diagram reflects our opinion of the increasing level of risk transference between various delivery project delivery methodologies.





QUALITATIVE COMPARISON OF FINANCING OPTIONS

Issue	TRADITIONAL PUBLIC WORKS	PUBLIC/PRIVATE PARTNERSHIPS	
	G.O. Bond Financing	Lease Lease-Back w/ Tax-Exempt Financing	Concession/Availability Income Contract
Term of Financing	Flexible; typically 30 years and fully amortizing.	Flexible; typically 30 years and fully amortizing.	Typically 35 to 50 year project agreements.
Ownership of Land	Full ownership always with public partner.	Full ownership always with public partner.	Full ownership always with public partner.
Ownership of Improvements	Full ownership always with public partner.	Improvements held by nonprofit corporation (special purpose vehicle or "SPV"); however, beneficial ownership remains with public partner. Ergo, private partner does not own improvements and cannot depreciate the asset for reporting purposes (per GAAP accounting).	Possessory interest in improvements held by project company with a requirement to maintain as though owned. Legal ownership held by public partner.
Requires Annual Appropriation of Funds?	No.	Yes.	Yes.
Cost of Capital	Lowest nominal cost of capital based on full faith and credit long-term obligation of State (no annual appropriation rights) and 100% tax-exempt debt financing.	Usually a spread over G.O. bond rates ranging from 25 to 50 basis points and is tax-exempt. Financing is typically 100% debt.	Highest due to taxable private financing and private equity. Debt on recent P3 deals are 350 basis points over Treasuries. Recent equity IRRs reported are at a low of 14.5%, but can be up to over 21%. Yields are higher with demand risk P3s.
Sales Tax on Construction Materials	Typically exempted from construction materials sales tax due to municipal ownership.	Typically exempted from construction materials sales tax due to municipal ownership.	Often subject to sales tax on construction costs due to for-profit nature of private partner.



Issue	TRADITIONAL PUBLIC WORKS	PUBLIC/PRIVATE PARTNERSHIPS	
	G.O. Bond Financing	Lease Lease-Back w/ Tax-Exempt Financing	Concession/Availability Income Contract
Annual Property Taxes	Exempt due to municipal ownership.	Exempt due to beneficial municipal ownership.	Varies. Current lawsuit pending on Long Beach Courthouse P3 between LA County Assessor and project company. Public partner is liable for property tax payments if due.
Voter Referendum Required?	Voter referendum typically required.	Typically not required due to annual appropriations provision.	Typically not required due to annual appropriations provision.
Construction Procurement Flexibility	Most restrictive when Design-Bid-Build procured mandating selection of lowest bidder. However, most jurisdictions may now pursue Design-Build or CM-at-Risk with selection of entire team based on best value or best qualifications.	Flexibility to use Design-Build/Finance or CM-at-Risk with selection of entire team based on best value or best qualifications.	Team selection based upon qualification and experience with P3 concession projects. RFP issued to finalists. Developer contracts through design-build contract with general contractor.
Client Control of Facility Design	Total control by public partner.	Varies from complete control by public partner to public partner's development of detailed performance specifications followed by significant collaboration with private team.	Private partner develops the design based on detailed performance specifications developed by the public partner.
Risk of Cost and Schedule Overruns, Claims and Litigation	Highest risk with Design-Bid-Build procurement. Risks may be transferred to general contractor through a GMP contract under a CM at Risk or Design-Build delivery.	Low risk as private partner guarantees cost and delivery schedule pursuant to established building specifications. Public partner is only obligated to make lease payments after occupancy. Uninsurable force majeure risks remain with public partner.	Low risk as private partner guarantees cost and delivery schedule pursuant to established building specifications. Public partner is only obligated to make availability payments after occupancy. Uninsurable force majeure risks remain with public partner.



Issue	TRADITIONAL PUBLIC WORKS	PUBLIC/PRIVATE PARTNERSHIPS	
	G.O. Bond Financing	Lease Lease-Back w/ Tax-Exempt Financing	Concession/Availability Income Contract
Risk of Maintenance/ Capital Replacements	Public partner responsible for all maintenance and capital replacements. Facility quality often deteriorates due to poor municipal planning for and/or provision of funds for capital replacements when needed. This is often a result of constrained budgets and other budget priorities.	Varies depending upon project. Public partner may be responsible for all maintenance and capital replacements, but associated risks can be mitigated by early life-cycle cost and value-for-money planning, and the establishment of sinking fund for capital replacements. Private partner may also enter into a Qualified Management Agreement (QMA) , which cannot exceed 15 years unless a renewal option is unilaterally approved by public partner. QMA can have abatement or deduct provisions for not meeting certain management standards. Public partner is only obligated to make availability payments after occupancy. Uninsurable force majeure risks remain with public partner.	Risk of maintenance and capital replacements resides with the private partner. Private partner plans long-term maintenance and life-cycle cost replacement and contracts with private facility management firm that typically installs its own systems while guaranteeing long-term facility performance. Availability payments may be have abatement or deduct provisions for not meeting certain management standards. Public partner is only obligated to make availability payments after occupancy. Uninsurable force majeure risks remain with public partner.
Additional Profits Earned by Private Partner	N/A	None. Internal Revenue Code prohibits profiteering from tax-exempt financing. Developer is paid "market reasonable" management fee for services rendered, typically based upon a percentage of the construction contract. Long-term facility management contracts are also required to be market-based and reasonable.	Can be significantly high. However, these contracts contain a provision that the public may not inspect the profits earned by the private partner; therefore, there is little data to confirm what margins are actually earned.



Issue	TRADITIONAL PUBLIC WORKS	PUBLIC/PRIVATE PARTNERSHIPS	
	G.O. Bond Financing	Lease Lease-Back w/ Tax-Exempt Financing	Concession/Availability Income Contract
Disclosure & Transparency	Fully transparent as required by law.	Fully transparent. Internal Revenue Code requires full transparency to avoid profiteering from the use of tax-exempt financing. IRC also requires long-term QMA facility management costs to be transparent and subject to audit upon governmental request.	Not fully transparent. Concessions contracts typically disallow public inspection of private partner's financial records such as profit and loss statements.
Labor Compliance & Wages	Prevailing wage laws typically apply. May be subject to project labor agreement.	Prevailing wage laws typically apply. May be subject to project labor agreement.	Varies by state and project. Prevailing wages can be negotiated and required by public partner.



QUANTITATIVE REVIEW OF THE DEUKMEJIAN (LONG BEACH) COURTHOUSE

The Deukmejian Courthouse ("Long Beach Courthouse") was a transformative project in public-private partnerships in the U.S. in that it was the first P3 social infrastructure (vertical) development to use the international P3/PBI deal structure. Prior to this project, only economic infrastructure projects such as toll roads and bridges in the U.S. had used this delivery model, and as of the writing of this Report, it remains the only social infrastructure project to have used the P3/PBI model.

Relevance to Indianapolis Justice Center. The Long Beach Courthouse is relevant to the current proposed IJC proposal for a multitude of reasons, which include:

1. It is the only usage of the foreign P3/PBI deal structure involving social infrastructure (vertical building) and is the same P3/PBI DBFOM deal structure now being submitted to the City Council for approval for the IJC.
2. The nature and type of project is very similar to the IJC – a justice complex of similar costs and purpose.
3. Both the Mayor's staff that seeks approval for the IJC P3/PBI deal and the consultants they have hired to support this recommendation have pointed to the Long Beach Courthouse project as the prototypical successful model to follow, and have presented the findings of the VfM study conducted for Long Beach as justification as to why the IJC P3/PBI deal should be approved.

4. The process of project solicitation was the same for the Long Beach Courthouse as that put forth by the Mayor's staff in that it intentionally targeted only those entities with experience in the foreign P3/PBI deal structure while concurrently excluding U.S. development entities that offered alternative DBFOM deal structures, some of which would allow for tax-exempt bond financing.
5. The off-shore entity that sponsored the financing and development of the Long Beach Courthouse is the same entity which created the consortium selected by City staff and their consultants to finance, develop and operate the new IJC.

For the above reasons, we are providing the following quantitative analysis that compares its delivery to other options that were available at the time it reached financial closing. In completing our analysis, we have only relied upon authenticated and verifiable data.

Our experience in presenting these findings for other municipal and state governments that are considering the Long Beach project as a prototype deal structure alerts us that we are certain to be criticized by these findings, particularly by those who would benefit should the present P3/PBI deal be approved by the Council. For this reason, we have relied upon only authenticated and verifiable data wherever possible to conduct the vast majority of the analysis. In areas where such data was unavailable, we used industry standards and our 20-year experience to approximate those inputs while clearly indentifying them and presenting our reasoning for their amounts. In our other consulting assignments, we have attempted to reach out to such critics, many of whom were P3 consultants involved in the Long Beach deal, and invite them



to review our findings and present their own information; however, we have yet to receive from them any substantiated data or information that comes from authentic, verifiable sources that would warrant amendments or alterations to our analysis. We remain open to an objective and productive review of our findings provided such critiques are provided in a productive way that keeps the interests of the taxpayers above any other interests.

Brookhurst Development Corporation's Involvement in the Long Beach Courthouse Procurement

We feel it important to discuss our history with this noteworthy project to underscore our experience and expertise, and allay any misconceptions that we may be conducting our analysis after the fact and/or only with distant third-party information. Our history may also provide insights to the political motivations and challenges this project experienced, which may be informative in navigating similar challenges facing the IJC project.

Before and during the formulation of solicitations documents, we responded to requests for separate meetings with representatives of the California Governor's Office, the California Legislative Analyst's Office, and the Office of Assemblyman Dave Jones (currently State Insurance Commissioner) including the top three officials from the Administrative Office of the Courts (AOC). These requests for our advice were based upon our history and known expertise with P3 projects in California. We had several meetings with Assemblyman Jones, as we had developed successful P3

social infrastructure projects in his district and had advised him and the California Legislative Counsel on P3 financing matters for other projects. Jones had recently authored and passed a bill to provide \$5 billion in lease revenue bonds for new California courthouse construction, so he was keenly aware of the Long Beach project pursuit. He arranged the meeting with the AOC at his office, and when we presented our analyses showing how alternative tax-exempt P3 financing could be beneficial to the state, he requested that the AOC reconsider its direction towards an exclusive focus on the P3/PBI structure for Long Beach and allow for submission of alternative financing structures. As a direct result of our analyses and these meetings, the RFP was immediately retracted from the market and rewritten to include tax-exempt financing as an option.

We also met with the Senior Economic Advisor to Governor Schwarzenegger who was the primary state official advocating the P3/PBI structure. This individual was one of the original founders of Babcock & Brown, an Australian provider of P3/PBI infrastructure financing which filed bankruptcy in 2009. The advisor was instrumental in getting a trailer bill approved to allow specific legislation authorizing the Long Beach project, and promoted the project based upon his experience with a similar P3/PBI justice complex in Ontario, Canada while at Babcock. He indicated to us that the then-current consultant for the AOC was his "friend", and had advised him on the Ontario project.



The focus of the meeting was the Foreign Investment in Real Property Tax Act (FIRPTA), which requires foreign developers and operators of real estate to file with the IRS. We were told by off-shore infrastructure funds the P3/PBI structure was necessary in the U.S. because facility leases would trigger a requirement for the concessionaire to file with the IRS pursuant to FIRPTA while recharacterization of the payments as "service fees" would allow the foreign firms to avoid IRS filing. We advised him that the challenge in only allowing submissions with the P3/PBI structure was that the IRS does not allow tax-exempt financing for "service" operations, but does allow it for a public facility secured by a lease. We maintained that unless tax-exempt financing was allowed, the FIRPTA tax loophole gave foreign entities an economic advantage over U.S. entities in the financing and building of U.S. infrastructure. The advisor not only acknowledged that FIRPTA did indeed provide foreign investors a tax advantage over U.S. firms under the P3/PBI structure, but also told us he was unconcerned because all that mattered was if it resulted in lower payments - and thus a benefit – to the state

When we demonstrated that the P3/PBI structure disallows tax-exempt financing which could have provided the state with even lower payments than the P3/PBI structure, he was dissuaded and indicated he would not intercede in the AOC's decision to target foreign entities with experience in P3/PBI deals.

After our meetings with the advisor, we decided not to be part of any team pursuing the project. Our bond counsel then

contacted us and told us they had been requested to join one of the three finalists and needed a waiver from us, which we granted. According to separate conversations with both the bankers and attorneys on that team as well as an attorney hired to review the bids by the AOC, their bid was based upon tax-exempt financing and was lower than the bid from the team awarded the project. However, we were told the consultants advised the AOC that the team would unlikely be capable of accessing tax-exempt financing, which in our opinion was wholly incorrect. The AOC and their consultants then reportedly arbitrarily adjusted the bid of the tax-exempt proposal upward *based upon what they deemed it probably would have been had the bid included higher cost debt and equity* similar to the financing structures of the P3/PBI bids. This resulted in making the two P3/PBI bids appear more favorable. We were told by the losing team that they were not informed their bid had been unilaterally adjusted upward nor given a chance to defend it until debriefing by the AOC after the project was awarded to a competing team.

It is this author's opinion that even though the bid with tax-exempt financing was the most competitive, it was rejected by the AOC and their consultants as they had made the decision a priori to only use the off-shore firms which had already completed P3/PBI deals. Further, because the lead consultant was from the Canadian office of the large accounting firm conducting the VfM, he may not have had the necessary experience or expertise to opine on a tax-exempt financing structure, as the U.S. is the only country in the world with tax-exemption on public facility bonds; such bonds are never used



in Canada or other countries that use the P3/PBI structure. The losing team ultimately decided not to file any actions or grievances pertaining to the award.

In 2012, Brookhurst was requested to participate in an interview with the California Legislative Analyst's Office ("LAO"), which provides nonpartisan fiscal and policy advice to the Legislature, for a report on P3s in general and the Long Beach Courthouse project specifically. Interestingly, we defended public-private partnerships to the LAO, and challenged the notion that P3s necessarily had to have significantly higher borrowing costs. Issued on November 8, 2012, the complete LAO report is attached as an exhibit to this Report. Although some matters are not technically correct, our opinion is that the LAO attempted to present a fair and balanced review of P3s. However, the LAO report indicated that the Long Beach project failed to meet California's Best Practices standards in that the excessive costs associated with the P3/PBI delivery methodology was \$160 million higher than what the state would have otherwise paid, and the project was too opaque for public inspection, particularly given it uses taxpayer's money to pay for the project.

Source of Data for Long Beach Courthouse Quantitative Review (Verification/Authentication)

The sources of the data we used in conducting our analysis included, but was not limited to:

- The final executed **Project Agreement** for the Long Beach project, which sets forth exact line-item amounts

of various operating costs and capital charges that comprise the annual "Service Fee" charged the State of California, as well as limitations on risks assumed.

- The **Value for Money** study provided by consultants hired by AOC staff to support the decision to approve the P3/PBI deal.
- The report conducted by the **Legislative Analyst's Office** ("LAO") to review and analyze the Long Beach Courthouse project and ascertain whether it complied with the State's Best Practices guidelines.
- The **2014 Governor George Deukmejian Courthouse: Evaluation of Cost-Effectiveness Report** provided to the California State Legislature by the AOC as a result of Senate Bill 75, which was passed as result of the LAO's report criticizing the Long Beach project for failing to meet the "Best Practices" standards of the State. SB 75 specifically required the AOC to provide information for the Long Beach project that had previously been withheld from public inspection, and to conduct a comparative analysis with other courthouse projects being constructed by the AOC.
- Survey reports provided by the **Building Owner's Management Association ("BOMA")** for operating costs of comparable facilities in the Long Beach area in 2010, when the Long Beach project was contracted and negotiated.
- **Thomas Reuter's Municipal Market Monitor**, a source heavily used by the public finance markets to track the cost of public debt. The Reuter's MMD scale



tracks daily the interest rates that states like California would pay on its cost to borrow debt, which provides for a comparable maturation to the taxable debt borrowed by the P3/PBI consortium for the Long Beach project.

- The **website and promotional materials** released by the off-shore sponsoring entity of the Long Beach project (as well as being the sponsoring entity for the IJC proposal) advertising the term and rates of the long term refinancing it obtained based upon the revenues provided to it from the Long Beach project.
- Confirmation of data straight from those in senior positions directly involved in the financing and development of the Long Beach project.
- Lastly, we also verified the data obtained from the above sources with industry experts for further corroboration to ensure accuracy.

The actual data we obtained from the previously identified sources that support our quantitative review are presented as exhibits to this Report. The data collected was a result of a long and tedious process of due diligence and represents our best effort attempt to obtain as much verifiable data for this project possible. As addressed by the California Legislative Analyst's Office in their review of this project, opacity of the financial matters of this project has made it difficult to obtain actual data for every line-item in our analysis. Despite this obstacle, it is our opinion that due to the document production for the project as mandated by Senate Bill 75, which resulted from the LAO's report, the resulting disclosure documentation

provided us enough data to allow us to conduct a meaningful quantitative review. We have footnoted our sources and reasoning for each input in the calculations to allow others to fact-check our analysis and findings.

We continue to encourage all reviewers of this Report that disagree with either our sources of data or the findings resulting from our analysis to provide us with suggested corrections that can improve the accuracy this analysis, which has always been our utmost priority. Our only caveat is that such data must a) be provided by independent and objective sources with adequate credentials and "hands-on" expertise in the specific area in question, b) the data not be based upon subjective opinion but instead presented with enough empirical data to support such an opinion, and c) empirical data provided must be authentic and verifiable commensurate with at least the same level of due diligence that went into the preparation of this Report.



Quantitative Analysis of Availability Income (Service Fee) Payments – Long Beach Courthouse

Long Beach Courthouse Project Space Allocation	Sq. Ft.
Occupied by the Calif. Admin. Office of the Courts	415,000
Los Angeles County Sublease ¹	100,000
Additional Office Space Meridiam may privately lease ¹	25,000
Amenity retail ¹	5,000
TOTAL square feet	545,000

Basis for Service Fee (Availability Income) Payment
Formula as expressed in executed Project Agreement:
SF = CC + BOC + MOC + IC - DC +/- EE + RC +/- CPC +/- EI

SF = Service Fee
CC = Capital Charge²
BOC = Base Operating Cost³
MOC = Market Operating Charge³
IC = Required Operating Period Insurance Charge
DC = Deductions Credit⁴
EE = Energy Efficiency Charge or Credit⁴
RC = Reimbursable Costs Charge⁵
CPC = City Payments Charge or Credit⁶
EI = Extraordinary Items⁷

Annual Actual Contracted Payments	\$/S.F.	Total
Capital Charge ²	\$86.60	\$35,940,196
Base Operating Cost ³	\$33.36	\$13,844,467
Market Operating Charge ³		
Roads & Grounds Maintenance	\$0.08	\$33,842
Exterior Janitorial	\$0.12	\$49,500
Elevators and Conveyance Systems	\$0.35	\$143,550
Asset Res. Trash Recycling Mgmt	\$0.10	\$43,125
Security Electronics	\$0.26	\$106,652
Subtotal	\$0.91	\$376,669
Required Operating Insurance	\$1.46	\$605,843
Reimbursable Costs to Project Company ⁵		
Possessory Interest (Property) Taxes ⁷		Paid by State
Documentary Transfer Taxes		Paid by State
Utility Costs		Paid by State
Electric		Paid by State
Gas		Paid by State
Water		Paid by State
Sewer		Paid by State
Other Utilities		Paid by State
TOTAL ANNUAL SERVICE FEE (AVAILABILITY INCOME) PAYMENT	\$122.33	\$50,767,175
TOTAL ANNUAL SERVICE FEE (AVAILABILITY INCOME) PAYMENT Net Operations Charge	\$35.73	\$14,826,979

Long Beach Courthouse Financing	
Construction Financing & Capital Stack ⁸	
Design-Build (Turnkey) Cost ⁹	\$346,700,000
Unused FF&E and AOC-Directed Change Allowances ¹⁰	\$15,500,000
Consulting Fee Paid to Two Unsuccessful Bidders	\$1,000,000
Estimated Additional Capital Charges ¹¹	
Loan Origination/Discount Fees @ 1% ¹²	\$4,900,000
Legal, Accounting & Misc. @ 1%	\$4,900,000
Cost of Carry (Cap. Int) During Const. @ approx. 6.5% ¹³	\$47,920,261
Capitalized Equity Yield During Const. @ 14.5% ¹⁴	\$9,473,333
Debt Service Reserve Fund ¹⁵	\$17,970,098
Concessionaire/Sponsor Fee & Profit @ 12.0% ¹⁶	<u>\$41,636,307</u>
Total Project Cost	\$490,000,000
Debt Issued	\$441,000,000
Equity Invested - 10% of Total Project Cost	<u>\$49,000,000</u>
Total Capital Stack	\$490,000,000
Blended Debt & Equity Borrowing Rate	6.60%
Term - Due in 7 Years; 35 Year Amort. ¹⁷	35
Months:	420
Resulting Monthly Payment:	\$2,995,016
Annual Payment/Capital Charge for Availability Income:¹⁸	\$35,940,197
Financing procured upon completion - funded in Nov., 2013 ¹⁹	
Total Borrowed:	\$520,000,000
Annual Interest Rate:	6.75%
Term (Years):	35
Months:	420
Resulting Monthly Payment:	\$3,231,366
Resulting Annual Payment²⁰	\$38,776,390



Notes:

- 1) Income & expenses on third party subleases belong to developer subject to Financial Model. State pays for shell, not T.I.s.
- 2) Capital charge = const. cost debt, equity yield & development profit amortized.
- 3) Base Op. Cost and O&M are CPI escalated annually. Base Op. Costs is a non-standard line item in traditional O&M schedules, and Project Agreement does not identify what it includes.
- 4) Refer to Management Standards as to deducts or increases.
- 5) Pass-thru expenses, i.e. indirectly billed back to State.
- 6) City payments are charges for off-site improvements ultimately borne by City.
- 7) Presently under litigation. State will be liable for property taxes. It should be noted that no other public works projects are subject to property taxes.
- 8) Construction funding was interim financing through a joint venture consortium of seven international banks with a 7-year balloon. Financing closed Jan. 2011.
- 9) Actual turnkey cost did not include off-site costs of \$7 million. Off-site costs are being paid back to the Concessionaire by the City of Long Beach.
- 10) Concessionaire was required to fund allowances for \$31 million in FF&E and \$10 million in owner-directed change orders. All used allowances became part of the design-build contract and are included in the Design-Build (turnkey) Cost. The remaining funds in the allowances account that were unused were applied against the AOC's first year's Service Fee.
- 11) The line items presented were based upon documentation provided by the AOC, concessionaire and other parties involved. However, the data pertaining to the actual profits earned and internally generated fees remain confidential, as the Project Agreement had a non-disclosure covenant. Regardless, the total project cost of \$490 million was made public; therefore, we have used our expertise and experience in other P3 developments to estimate the partitioning of capital costs while maintaining the overall costs the same.
- 12) Loan Origination, Discount Fees, Legal and other costs based upon typical loan costs of an origination of this magnitude.
- 13) Cost of carry (capitalized interest) is based upon draws of funds as opposed to upfront funding typical of G.O. or certificate funding. The standard practice for estimating this amount is to assume that on average, one-half of project funds have been drawn. This equates to half the debt service being capitalized over this project's 32-month completion schedule. The annual capital cost was computed based upon the capital charge allocated to the AOC in the Project Agreement, less equity invested during construction. Although a standard method, it is not exact. However, absent actual debt service amounts provided, it suffices for estimation.
- 14) According to the June, 2014 AOC Report to the Legislature, the internal rate of return (IRR) earned by the equity investors was approximately 14.5%. We have capitalized the equity IRR using the same methodology used to calculate capitalized interest.
- 15) The Credit Agreement and the Collateral Agency Agreement include a requirement for a reserve fund equal to six months of debt service on the construction loan. It is unknown whether the \$520 million permanent financing which replaced the construction/mini-perm on project completion also included a debt service reserve requirement, or whether the reserve fund required for the construction loan was cashed out by the project company and/or equity investors upon refinancing.
- 16) We have estimated the developer/concessionaire profit to be approximately 12% of total design-build cost, which is derived by analysis of all other verified and probable capital requirements and total cost.
- 17) Interim financing was through a club loan with Deutsche Bank as lead arranger with six participating banks that included BBVA, BNP Paribas, Credit Agricole, Royal Bank of Canada and Scotia
- 18) This would be the probable negotiated basis for the "Capital Charge" in the LB Project Agreement.
- 19) Permanent financing was confirmed in Meridiam publications. Financing was procured through a Regulation D private placement to 10 institutions. The level of residual equity after refinancing, if any, is a closely guarded secret by the concessionaire.
- 20) The resulting annual debt service exceeds the annual Capital Charge allocated in the Project Agreement. The additional debt service required would be paid from the additional profits within the Base Operating Cost, revenues generated from the County and commercial leases, or a combination of both. Further detail is not ascertainable due to the confidentiality of the concessionaire/operator relationship.



MODEL USING DEUKMEJIAN (LONG BEACH) COURTHOUSE FINANCING METRICS
QUANTITATIVE COMPARISON - \$100 MM PROJECT
ESTIMATED FINANCING AND DEVELOPMENT COSTS

	Traditional (Public) w/ Design-Build	Public-Private Partnership Delivery	
	G.O. Bond Tax-Exempt Full Faith & Credit	Lease-Leaseback w/ O&M Tax-Exempt Appropriations Lease	P3 Availability Payment PBI Project Agreement
Sources of Funds			
Debt Issued	\$118,300,000	\$126,900,000	\$115,290,000
Equity Invested	N/A	N/A	\$12,810,000
Total Amount Funded	\$118,300,000	\$126,900,000	\$128,100,000
Uses of Funds			
Total Project (Turnkey) Costs ¹	\$100,000,000	\$100,000,000	\$100,000,000
Loan Origination/Discount Fees ²	\$1,000,000	\$1,000,000	\$1,000,000
Legal, Accounting, Admin. ³	\$1,000,000	\$1,000,000	\$1,000,000
Cost of Carry/Capitalized Interest ⁴	\$12,800,000	\$13,600,000	\$8,700,000
Capitalized Equity During Const. ⁵	N/A	N/A	\$900,000
Debt Service Reserve Fund ⁶	N/A	\$6,800,000	\$4,500,000
Project/Construction Mgmt. ⁷	\$3,500,000	Incl. in Developer Fee	Incl. in Developer Fee
Developer/Project Co.'s Fees ⁷	N/A	\$4,500,000	\$12,000,000
Total Funds Used	\$118,300,000	\$126,900,000	\$128,100,000
Annual Debt Service	\$6,374,638	\$7,139,012	\$10,626,922
Total Debt Payments Over Term	\$191,239,152	\$214,170,353	\$318,807,662
Funding Assumptions			
Loan-to-Value Ratio ⁸	100.0%	100.0%	90.0%
Interest Rate on Debt ⁹	3.50%	3.85%	6.50%
Required Equity Yield (IRR) ¹⁰	N/A	N/A	14.5%
Blended Borrowing Cost	3.50%	3.85%	7.30%



Footnotes

1. Total project costs include all hard and soft, labor & materials, onsite and off-site, entitlements, permitting fees, design and construction fees, general conditions, insurance and permits. This is the entire construction and design costs the design-builder charges to "turn-key" the project for occupancy.
2. Debt placement and underwriting costs are necessary for all deliveries and are estimate at 1% of project cost, which approximate market standards.
3. Legal, accounting and administrative costs are necessary for all deliveries and are estimate at 1% of project cost, which approximate market standards bank.
4. Construction financing is released when needed on a draw basis. The standard practice commercial lenders use for estimating cost of carry for conventional taxable construction financing is to assume that, on average, one-half of the debt is outstanding over the construction period, which is what we have done here.
5. The compounded return on equity (yield) during construction is capitalized in the same manner as that of the construction debt.
6. Because they are based on the full faith and credit and taxing authority of the public entity, general obligations bonds do not require a debt service reserve fund whereas tax-exempt financing subject to appropriations typically require a full year of debt service to be held in reserve. P3/PBI lenders also require debt service reserves, but limit it to six months due to the debt's seniority over equity. The difference is with tax-exempt appropriations lease financing the public partner owns the debt service reserve whereas with the P3/PBI delivery, any unused debt service reserve is given to the private partner.
7. Government public works projects usually hire construction/project management firms in addition to consultants and owner's representatives, which in total is typically around 3.5% of project costs. Alternatively, when financed by developers, these services are absorbed as part of the developer's fees, which are typically 4.5% on lease-leaseback developments, and, based upon the Long Beach project, we estimate about 12% for P3/PBI projects based upon recently completed projects. When tax-exempt financing is used, project management fees are regulated by the IRS and must be based upon reasonable rates set by the market for comparable work. Development management fees set by P3/PBI concessionaires are unregulated.
8. Loan-to-value ratios on social infrastructure is typically 90%, as evidenced on the Long Beach Courthouse P3/PBI development.
9. All three scenarios assume permanent financing with a fixed rate and fully amortizing. Although the actual P3/PBI contract is 35 years, we used 30 years as to provide for a direct comparison with a standard 30-year G.O. bond. Our G.O. bond rate is based upon Money Market Data (MMD) tax-exempt rates available to the State of California given its then-current credit rating on the date of permanent financing for the Long Beach Courthouse, which closed in Nov., 2013. We have increased the rate spread by 35 basis points of the LLB delivery over G.O. financing due to the presence of appropriations risk, which was based upon comparable transactions involving lease appropriations (spreads are lessened due to the presence of a debt service reserve as identified in item #6 above). The actual interest rate on the Long Beach permanent financing was revealed in the 2014 documents submitted the California State Legislature by the AOC, as discussed elsewhere and attached as an exhibit to this Report.
10. This is the actual equity yield (IRR) revealed to the Legislature in the 2014 documents provided by the AOC.

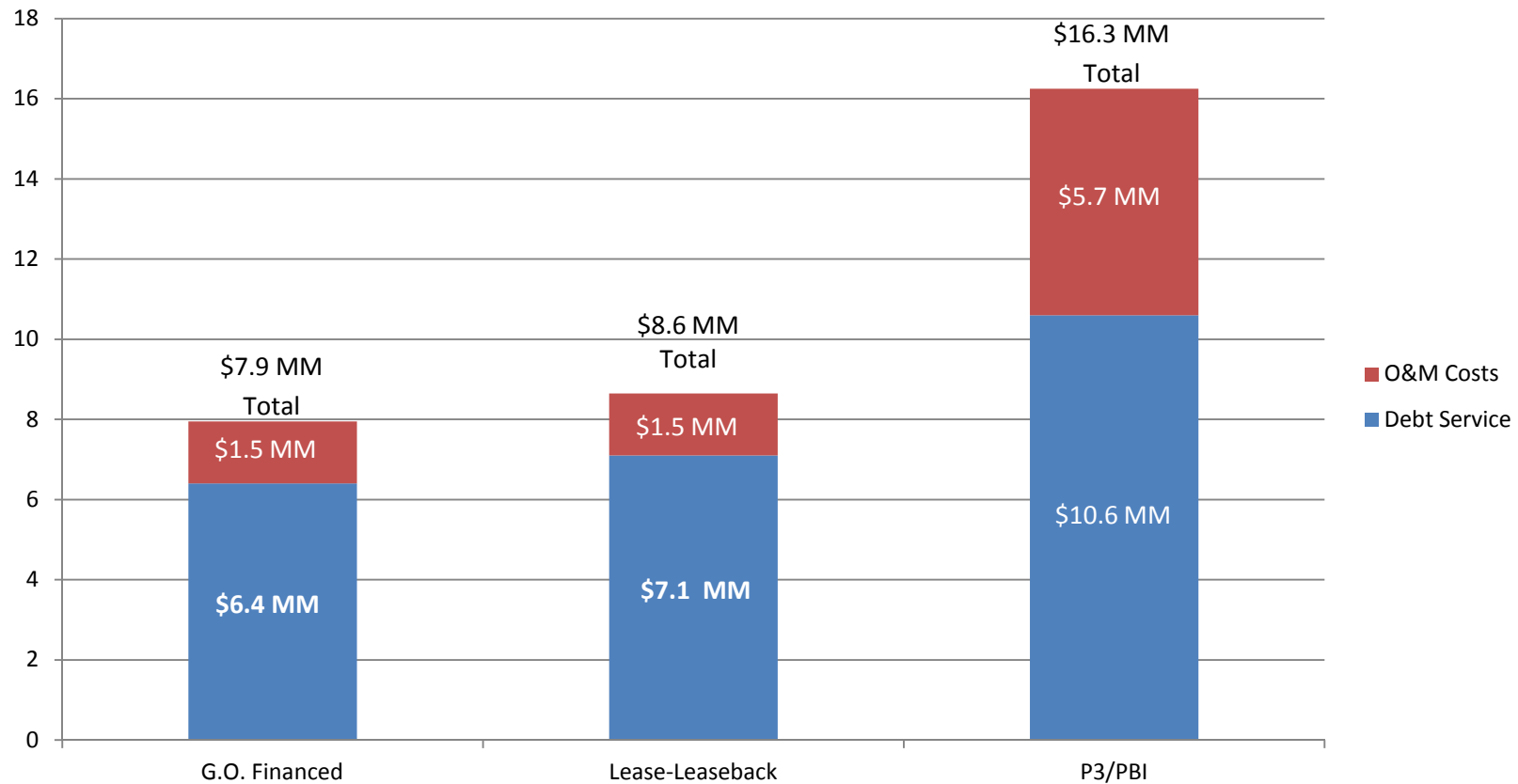


Quantitative Comparison Actual Contracted Operating & Maintenance Charges - Long Beach Courthouse Versus BOMA Market-Standard Operating Costs for Long Beach/Los Angeles			
Long Beach Courthouse - Actual Contracted O&M Amounts ¹		BOMA Market-Standard O&M Costs (High End) ⁵	
O&M Cost Item	\$/S.F.	O&M Cost Item	\$/S.F.
Base Operating Cost ²	\$33.36	Capital Costs & Reserves for Replacements ⁶	\$1.50
Market Operating Charges ³		Market Operating Charges	
Roads & Grounds Maintenance	\$0.08	Cleaning Contracts	\$1.31
Exterior Janitorial	\$0.12	Window Washing	\$0.09
Elevators and Conveyance Systems	\$0.35	Trash/Recycling	\$0.06
Asset Res. Trash Recycling Mgmt.	\$0.10	On-Site Personnel Payrol, Taxes, Fringes	\$0.85
Security Electronics	\$0.26	Elevators Systems	\$0.28
Subtotal	\$0.91	HVAC	\$0.38
Required Operating Insurance	\$1.46	Electrical	\$0.13
Reimbursable Costs to Project Company		Structural/Roofing	\$0.02
Possessory Interest (Property) Taxes	Paid by State	Plumbing	\$0.12
Documentary Transfer Taxes	Paid by State	Fire/Life Safety	\$0.14
Utility Costs	Paid by State	General Bldg. Interior	\$0.14
Electric	Paid by State	Parking Lot	\$0.04
Gas	Paid by State	Misc. Repair & Maint.	\$0.65
Water	Paid by State	Roads, Grounds & Landscaping	\$0.20
Sewer	Paid by State	Administrative/Management	
Other Utilities	Paid by State	Payroll, Taxes, Fringes	\$0.75
Security	Paid by State	Property Management Fee	\$1.16
		Professional Fees	\$0.03
		Gen. Office Expenses	\$0.31
		Employee Expenses	\$0.02
		Miscellaneous	\$0.18
		Property/Operating Insurance	\$1.68
		Reimbursable Costs to Project Company	
		Utilities - Elect. Water, Gas, Sewer	Paid by State
		Security	Paid by State
		Property Taxes	N/A
Total Annual O&M Costs	\$36.64	Total Annual O&M Costs	\$10.04
Total Assuming 154,312 S.F./\$100 MM Project ⁴	\$5,653,269	Total Assuming 154,312 S.F./\$100 MM Project	\$1,549,293



Footnotes

1. Operations and Maintenance costs used for the Long Beach Courthouse model were the actual contracted amounts as identified in the final, executed Project Agreement. The relevant excerpts from the actual Project Agreement are attached as exhibits to this Report.
2. The line item identified as Base Operating Charge ("BOC") in the Long Beach Project Agreement is not an operating or maintenance line item found in any standard O&M cost schedule, but is unique to this P3/PBI deal structure. It does not include the Market Operating Charges, utility costs, property taxes or insurance as those cost amounts are identified separately in the Project Agreement. It also does not include any principal or interest for the debt or return on equity as those amounts are included as part of the "Capital Charge" (please see the Service Fee breakdown on page 26 for further detail). Based upon BOMA cost standards, the unidentified O&M cost line items not identified in the Project Agreement that would be included in the BOC include all interior cleaning contracts; all mechanical systems maintenance; structural and electrical maintenance, roof repairs, capital reserves for replacement and administrative/management costs. All of these costs are accounted for within the BOMA survey costs above. The BOC is escalated annually based upon CPI adjustments.
3. These costs are escalated based upon CPI adjustments.
4. The quantitative financing and development cost model presented on page 28 assumes a design-build cost of \$100 million for comparative purposes. The actual Long Beach Courthouse design-build cost was contracted at \$648/S.F. Based upon the then-current design and construction costs, a \$100 million design-build budget would thus result in approximately 154,312 of occupiable space for the new justice complex. We therefore used this extrapolated total square footage for our O&M calculations in constructing the bar chart that shows a comparison of the total annual costs between the three delivery methods (see following page).
5. The Building Owners and Managers Association has been surveying operating and maintenance cost data for comparable facilities in the Long Beach/Los Angeles market for several decades, and we have acquired their entire database for this report. We have limited our survey to only buildings that are of high quality similar to the Long Beach Courthouse and in excess of 100,000 square feet with at least five floors. Our search included both government occupied and commercial facilities, but exclusively targeted cost data as of 2010, as that was the year the O&M contracts were bid Long Beach Courthouse Project Agreement. The data survey included 27 buildings in the local market that provided the requisite data in 2010. The range of operating costs in the survey was low-medium-high. We selected the highest range of costs in all categories for the BOMA market standard.
6. The strongest argument for using a P3/PBI delivery is that proponents claim it eliminates the excessive life-cycle costs typically associated with government facilities. This claim has merit in that adequate preventative maintenance and/or adequate capital reserves are not established but instead left to the mercy of future budgetary appropriation. Our conversations with experienced facility managers resulted in an adequate reserve for capital items somewhere in the \$.25/S.F. to \$.30/S.F. range. However, we have witnessed over \$1.00/S.F. for capital reserves in P3/PBI bids in projects similar to the IJC project. We therefore have assumed a \$1.50/S.F. capital reserve for all future repairs and replacement for everything from interior finishes, carpet, HVAC mechanical and electrical systems, vertical circulation, exterior treatment, roofing and parking and asphalt repair and maintenance.



ANNUAL COSTS OF NEW \$100 MM JUSTICE COMPLEX
QUANTITATIVE COMPARISON OF THREE DELIVERY METHODOLOGIES
Based upon actual reported costs for the Long Beach Courthouse versus delivery using empirical tax-exempt financing data and market-based O&M costs



CONCLUSION

To put the previous analyses in context, here are some straight-forward, indisputable facts about the Long Beach Courthouse P3 Project Agreement:

- Total cost of project (Design-Build): **\$346.7 Million**
- Project cost as charged by P3 Project Company: **\$490 Million**
- Percentage increase over actual reported design-build construction cost: **41%**
- Annual payment made by California: **\$51 Million**
- Estimated amount of annual O&M payment to P3 Project Company that cannot be supported by actual O&M costs as evidenced by BOMA survey (i.e. not tied to any specific project need): **\$11 Million**.
- Estimated unsupportable O&M costs as a percent of total \$51 Million payment: **21%**
- Highest Cost of Occupancy in 2010 (year of Long Beach contract negotiations) for Class A Facilities: **\$37/S.F.**

Based upon BOMA for the Long Beach/LA area; cost includes developers' repayment of debt and all operating

costs. Class A project costs range from \$450/S.F. to \$1,000/S.F. versus cost of Long Beach project at \$648/S.F.

- Payment Per Square Foot of Occupancy for Long Beach Courthouse Based Upon \$51 MM Payment: **\$122/S.F.**
- Refinancing By Project Company After Occupancy - Security For Debt Being \$51 MM Contract Payments: **\$520 Million**

The above facts are indisputable. Our analysis shows a significant annual cost premium tied to the P3/PBI process used by the Long Beach Courthouse project over the various delivery options available to the State of California at the time of the courthouse development.

But what the P3/PBI concessionaires have to offer is simple. They bring a concept that has been present in the U.S. for well over a century in its commercial real estate markets to the public sector – incentivized facility management that maintains the facility in good condition over the life of the asset. In the commercial markets, poorly maintained facilities lose their ability to compete for tenants and the higher rates a good facility can command. When this discipline is applied to public facilities, the attention to proper preventative maintenance, and necessary capital reserves and replacements ensures the condition of the facility is maintained much longer than is typical for government facilities.



The key question: can the City of Indianapolis and its Building Authority provide enough responsibility in its asset management and annual budget process to assure the facility will still be in as good of a condition 35 years from now as that assured by the P3/PBI delivery process? If not, the question then becomes whether it warrants paying the significant additional premium as quantified within this Report to a private partner to assure that such responsible asset management is maintained. Only the City itself can answer that question.

Discussion with Indianapolis Mayor's Office. Due to certain aspersions regarding a potential conflict of interests made of this author and Brookhurst Development Corporation during the writing of this Report, in the interest of transparency and full disclosure, we feel it necessary to present our past discussions with City officials concerning the proposed IJC project. It should be noted that prior to this assignment, at no time had we ever submitted to the City any offer for employment in connection with the IJC, nor did we submit any proposal in connection with it. Prior to this assignment, we had never held a contract with the City of Indianapolis nor do we have any political affiliations that would bias us in any way. Further, compensation for this assignment, which is provided through an independent advisor and not from the City, is not tied to any outcome or result that may occur from this Report.

History. Approximately five years prior to this Report, Brookhurst had discussions with the Mayor's Office during early planning for the new IJC with regards to how the City could meet its needs with the new justice complex. Brookhurst

proposed P3 delivery as an option, and suggested the solicitation include Lease-Leaseback delivery alongside the P3/PBI and other alternatives as that would provide the City with a multitude of options, giving the City an opportunity to select a delivery that was based upon best value and ultimately in the best interest of the City's taxpayers. As part of this process, we consulted with local bond and other counsel based in Indianapolis and learned that the City is authorized to legally pursue lease-leaseback project delivery using tax-exempt financing as described in this Report, as well as other delivery options. Subsequently, the City in fact indicated to the media that a lease-leaseback was the preferred P3 delivery option. However, after the current consultants advising the Mayor's Office had been hired, we learned the City had been advised against allowing tax-exempt financing through lease lease-back delivery as well as other delivery models as options of the RFQ/P, and that the City would only pursue the P3/PBI delivery methodology using the foreign availability payment model. Although we sought to understand the reasons behind the exclusion of other delivery options, we were never provided an adequate response.

It is our opinion that in making this decision, the City precluded itself from the opportunity to objectively compare a range of delivery options it is legally afforded in order to allow it to select the plan that provided the best value for public taxpayer dollars.

After the release of the RFQ/P, we forwarded to Mr. David Rosenberg an article from the Courthouse News Service, a nationally published news source for courthouses, that criticized



the Long Beach Courthouse project and delineated many of the same concerns addressed by the LAO's report as well as this Analysis. On that same day, this author was immediately contacted by Mr. Adam Collins, whom I did not know at the time, wherein he identified himself as an attorney working for the City. Mr. Collins forcefully told me I was not to contact anyone including staff or elected officials within the City regarding any similar documents or concerns pertaining to the IJC project. At the time, I was unaware of his involvement in the IJC project procurement, but recognizing his being an attorney with the City, I took caution from his stern assertions. Therefore, I complied and refrained from any further dialogue with any City staff or elected officials until very recently when we were requested to discuss the matter with representatives of the City Council.

Neither this author, nor the firm I represent, Brookhurst Development & Consulting, has any intentions other than to help the City in understanding its options and make the best decision for its taxpayers and deserving citizens. As a long-time supporter of P3 delivery options, we encourage the City to consider a partnership with the private sector to incorporate the many efficiencies and abilities private entities can provide. But with this, we encourage that any such decision, particularly if it has a profound impact to the budgets of various departments and tax revenue sources for this and future generations for decades to come, be contemplated and scrutinized thoroughly with objectivity and transparency. And to this end, we hope this analysis will serve the City towards that mission.

We remain respectfully at your service,

Jeff D. Baize

CEO, Brookhurst Development & Consulting Corporation



EXHIBIT 1
EXECUTED PROJECT AGREEMENT EXCERPTS
DEUKMEJIAN (LONG BEACH) COURTHOUSE

ARTICLE 18

SERVICE FEE AND OTHER PAYMENTS

SECTION 18.1. SERVICE FEE GENERALLY.

(A) Service Fee Payment Obligation. From and after the Occupancy Date and through the Termination Date, except as provided in subsection (B) of this Section, the AOC shall pay the Service Fee to the Project Company as compensation for the Project Company's performance of the Contract Services.

(B) Service Fee Payments Where Occupancy Date Occurs Prior to Scheduled Occupancy Date. In the event the Occupancy Date occurs prior to the Scheduled Occupancy Date, the AOC shall have no obligation to pay the Service Fee and no right to occupy the Project during the period between the Occupancy Date and the Scheduled Occupancy Date, except as may be agreed by the parties in accordance with Section 8.10 (AOC Right of Occupancy).

(C) Limitation on Payments. Other than the payments expressly provided for herein, the Project Company shall have no right to any further payment from the AOC in connection with the Contract Services or otherwise in connection with the Project.

(D) Service Fee Subject to Appropriation. The Service Fee and all other AOC payment obligations hereunder are subject to appropriation as provided in Article 25 (Appropriation).

SECTION 18.2. SERVICE FEE FORMULA.

The Service Fee shall be calculated in accordance with the following formula:

$$SF = CC + BOC + MOC + IC - DC \pm EE + RC \pm CPC \pm EI$$

Where,

SF = Service Fee

CC = Capital Charge

BOC = Base Operating Charge

MOC = Market Adjusted Operating Charge

IC = Required Operating Period Insurance Charge

DC = Deductions Credit

EE = Energy Efficiency Charge or Credit

RC = Reimbursable Costs Charge

CPC = City Payments Charge or Credit

EI = Extraordinary Items

SECTION 18.3. CAPITAL CHARGE.

The Capital Charge shall be \$35,940,196.00, shall be fixed for the Term and shall not be Indexed Linked.

SECTION 18.4. BASE OPERATING CHARGE AND MARKET ADJUSTED OPERATING CHARGE.

(A) Base Operating Charge. The Base Operating Charge for the Contract Year ending June 30, 2011 shall be \$13,844,467.00. The Base Operating Charge for each Contract Year thereafter shall be Index Linked.

(B) Market Adjusted Operating Charge. The Market Adjusted Operating Charge for the Contract Year ending June 30, 2011 shall be \$376,670.00, consisting of the sum of the following elements, as described in Table 2.1.2 of Appendix 6 (Management Standards):

<u>Service</u>	<u>Amount</u>
(1) Roads and Grounds Maintenance	\$33,842.00
(2) Exterior Janitorial	\$49,500.00
(3) Elevators and Conveyance Systems	\$143,550.00
(4) Asset and Resource Trash and Recycling Management	\$43,125.00
(5) Security Electronics	\$106,652.50

Each such service element price component of the Market Adjusted Operating Charge shall be Index Linked except as and to the extent it is required to be benchmarked or market tested under Appendix 9 (Benchmarking and Market Testing Procedures).

SECTION 18.5. REQUIRED OPERATING PERIOD INSURANCE CHARGE.

The Required Operating Period Insurance Charge for the Contract Year ending June 30, 2011 shall be \$605,843.00. The Required Operating Period Insurance Charge shall be Index Linked except as and to the extent it is required to be benchmarked under Section 4 of Appendix 9 (Benchmarking and Market Testing Procedures).

SECTION 18.6. DEDUCTIONS CREDIT.

The Deductions Credit shall be the sum of all Deductions imposed pursuant to Appendix 8 (Deductions) hereunder. Examples of the calculation of Deductions are included in Appendix 13 (Example Deductions Calculations).

SECTION 18.7. ENERGY EFFICIENCY CHARGE OR CREDIT.

The AOC is generally obligated to pay energy costs relating to the AOC Space on a reimbursable basis as provided in subsection 18.8(3). The energy efficiency charge or credit shall be an amount determined pursuant to Section 2.2.5 of Appendix 6 (Management Standards) based on the energy

efficiency the Project Company achieves through its operation, maintenance and management of the Court Building.

SECTION 18.8. REIMBURSABLE COSTS CHARGE.

The Reimbursable Costs Charge shall be an amount equal to the following (without mark-up for administration, profit or otherwise):

(1) Possessory Interest Taxes. Any possessory interest taxes paid by the Project Company with respect to (i) the AOC Space, or (ii) the portion of the Parking Structure reserved for Court Parking Users, and with respect to which the Project Company is unable to secure a waiver or exemption pursuant to its duty to mitigate as set forth in Section 28.5 (General Duty to Mitigate);

(2) Certain Documentary Transfer Taxes. Any documentary transfer tax paid by the Project Company in connection with the transfer of the AOC Space or the portion of the Parking Structure reserved for Court Parking Users to or from the Project Company; and

(3) Certain Utility Costs. The costs paid by the Project Company for electric, gas, water, sewer and other utility service with respect to the AOC Space, less any fines, penalties or other assessments imposed by the utility service provider on account of late payment or resulting from the Project Company's non-performance of this Project Agreement,

which taxes and costs shall be reimbursed to the Project Company, through the payment of the Reimbursable Costs Charge, on an "as incurred basis."

SECTION 18.9. CITY PAYMENTS CHARGE OR CREDIT.

(A) City Payments. The parties acknowledge that the City is obligated under the Property Exchange Agreement to pay the AOC the following amounts: (1) \$2,000,000 for off-site improvements and utility relocation, payable in accordance with the Property Exchange Agreement (the "City Off-Site Improvements and Utility Relocation Payments"); and (2) \$5,000,000 for off-site and on-site improvements, payable in equal annual installments over 20 years (the "City Improvements Payments").

(B) Assignment to Project Company. The parties further acknowledge that the AOC, on the Contract Date, has assigned its right to receive the City Off-Site Improvements and Utility Relocation Payments and the City Improvements Payments to the Project Company.

(C) Non-Payment by the City. In the event the City fails to pay any City Off-Site Improvements and Utility Relocation Payments or City Improvements Payments to the Project Company, the AOC shall pay the Project Company an amount equal to the unpaid amount. If, following any such adjustment, the City subsequently pays the Project Company the unpaid amount, the Service Fee shall be decreased by an amount equal to such payment. Such amounts shall constitute the City Payments Charge or Credit, respectively.

SECTION 18.10. EXTRAORDINARY ITEMS.

The Extraordinary Items component of the Service Fee, which may be a charge or a credit, shall be equal to the net amount of the following items (each an "Extraordinary Item" hereunder):

- (1) The amount payable by the Project Company under Section 7.21 (LEED NC Silver Certification) on account of a failure to achieve LEED NC Silver certification by the time required;
- (2) The amounts payable by the AOC for increased operation, maintenance or other costs incurred on account of the occurrence of a Relief Event or on account of an AOC-directed Design-Requirement Change which is chargeable to the AOC hereunder, net of any Avoidable Costs achieved by the Project Company in mitigating the effects of the occurrence of such a Relief Event;
- (3) Any adjustments to the Service Fee resulting from a Capital Modification or an Operating Services Change under the provisions of Article 10 (Capital Modifications and Operating Services Changes);
- (4) Any adjustment resulting from the exercise by the AOC of a periodic right to take possession of portions of the Commercial Office Space under the Ground Lease; plus or minus
- (5) Any adjustment resulting from Vandalism pursuant to subsection 9.5(B) (Vandalism);
- (6) Any adjustment resulting from the exercise by the AOC of its rights under Article 21 (Remedies of the Parties and AOC Step-In Rights);
- (7) Any indemnification payments owed by the Project Company pursuant to Section 27.1 (Project Company's Obligation to Indemnify) or any other provision hereof;
- (8) Any adjustments reflecting additional insurance costs incurred pursuant to Section 16.5 (Availability of Insurance for Uninsurable Force Majeure Events);
- (9) Any adjustments reflecting savings in insurance costs, or additional insurance costs paid by the AOC for replacement insurance coverage, pursuant to Section 16.6 (Unavailability of Insurance for Insurable Force Majeure Events);
- (10) Any adjustment reflecting the AOC's share of certain rental income from Leased Space, pursuant to Section 12.5 (Leased Space Risk and Revenue);
- (11) Any adjustments reflecting the AOC's share of any Refinancing Gain;
- (12) Any adjustments relating to the City Off-Site Improvements and Utility Relocation Payments or the City Improvements Payments, pursuant to subsection 18.9(C) (Non-Payment by the City);
- (13) Any amounts specified in subsection 18.14(C) (Possessory Interest Tax With Respect to the AOC Space), to the extent any such amounts are payable during the Operating Period; and
- (14) Any other increase or reduction in the Service Fee provided for under any other provision of this Project Agreement.



EXHIBIT 2
CALIFORNIA LEGISLATIVE ANALYST'S OFFICE

EXCERPTS FROM P3 REPORT
DEUKMEJIAN (LONG BEACH) COURTHOUSE

alone do not constitute a robust set of screening criteria. In other words, the selection process for the project did not include such recommended criteria as the ability to transfer risk to the private sector and whether the state would benefit from using non-state financing. While the selection process for a P3 project does not need to include all of the best practice criteria, including such criteria does help ensure that the intended P3 benefits are achieved. Our analysis indicates that if Caltrans utilized such criteria in its selection process, the Presidio Parkway project would have been found to be inappropriate for P3 procurement.

For example, the Presidio Parkway project was too far along to transfer many of the project's risks to a private partner. This is because the Presidio Parkway's first phase of construction was already underway using a design-bid-build procurement when the second phase of the project was selected for P3 procurement. As a result, potential private partners had limited access to the construction site, which in turn made them less willing to take on many of the project's construction risks. For example, the state retained significant risks regarding the discovery of archeological artifacts and endangered species. In addition, Caltrans had already designed about half of the project's second phase prior to awarding the P3 contract. Thus, the winning bidder may be limited in its ability to find cost-savings through innovative design and construction techniques because it must adhere to certain specifications it did not design.

Long Beach Courthouse Selection Was Problematic. According to AOC staff, the Long Beach courthouse project was selected as a P3 candidate based primarily on two criteria: (1) it was one of the largest court construction projects considered at that time and (2) the Long Beach area has a competitive market for the type of property management staff needed to operate a P3. Similar to the selection of the Presidio Parkway

project, the selection process for the Long Beach courthouse project did not include much of the recommended best practice criteria. For example, the selection process did not evaluate whether the project is technically complex. While the ideal level of complexity for a P3 is difficult to define in specific terms, the Long Beach courthouse project lacks unique or complex features that would likely benefit from innovative design and construction techniques. Accordingly, our analysis indicates that if AOC utilized best practice criteria in its selection process, the Long Beach courthouse project would have been found to be inappropriate for P3 procurement.

VFM Analyses Based on Assumptions That Favored P3 Procurement

As described above, VFM analyses can help decision-makers compare the cost of a project under different procurement options. Both Caltrans and AOC contracted with private consultants to perform such analyses for the Presidio Parkway and Long Beach courthouse projects. Specifically, the analyses compared the costs of constructing the project under a more traditional approach to a P3 approach. The VFM analyses found that the state would benefit financially if the Presidio Parkway and Long Beach courthouse projects were procured as P3s—meaning it would be cheaper to have a private developer build and operate the planned facility. Our review of these particular analyses, however, indicates that both VFM analyses were based on several assumptions that are subject to significant uncertainty and interpretation and tended to favor a P3 procurement. If a series of different assumptions were made, the VFM analyses would have shown that the P3 procurement on the Presidio Parkway and Long Beach courthouse projects would be more expensive in the long run than a more traditional procurement.

Assumptions in Presidio Parkway Analysis Favored P3. Some of the key assumptions made

by Caltrans in the VFM analysis of the Presidio Parkway project that tended to favor P3 procurement include:

- **Relatively High Discount Rate.** In order to calculate the net present cost of the project, Caltrans' VFM analysis discounts the cost of the project under a traditional approach and a P3 procurement by 8.5 percent per year. As discussed above, this adjustment is intended to reflect that money spent in the near term is more valuable than money spent in the future. In the past, our office has suggested that a 5 percent discount rate be used for such analyses, but acknowledges there is no one "right" discount rate. We also note that the state's long-term borrowing rate is currently less than 5 percent.
- **Unjustified Tax Adjustment.** The VFM analysis for this project also included a \$167 million adjustment in order to account for increased tax revenues (such as from corporate taxes) that the private developer would pay to the state under the P3 approach. The analysis assumed that if the project was not procured as a P3, the state would not receive these additional revenues. However, we found the adjustment included mostly revenues related to potential federal taxes, which would not directly benefit the state. Thus, the adjustment made a P3 approach look more favorable than is warranted.
- **Assumed Early Payment of Cost Overruns.** Under a more traditional procurement approach (such as design-bid-build), Caltrans assumed the Presidio Parkway project would exceed its budget by \$125 million and that such cost overruns

would need to be paid for at the start of construction. However, such overages do not typically occur at the start of a project, but rather as a project progresses through construction. While some consideration of the potential for cost overages is reasonable, Caltrans' method relies on subjective judgment rather than objective evidence. Consequently, the chosen method has the effect of overstating the net present cost of the project under a traditional procurement approach, thereby favoring a P3 procurement approach for the project.

- **Failed to Account for Competitive Bidding Environment.** The Caltrans' VFM analysis, which was prepared in February 2010, also did not take into account the competitive construction bidding environment that occurred around that time. During this period, Caltrans awarded construction contracts that were on average 30 percent below the project's original cost estimate. While it is not possible to know exactly what the bids would have been if the Presidio Parkway project had been procured using a more traditional procurement, it appears reasonable to assume that the project could have been awarded at a much lower cost than the engineer's cost estimate.

Our analysis indicates that utilizing a different set of assumptions (such as a discount rate of 5 percent and excluding the assumed tax adjustment) would result in the cost of the Presidio Parkway project being less—by as much as \$140 million in net present value terms—in the long run under a traditional procurement approach than the chosen P3 approach.

Assumptions in Long Beach Courthouse Analysis Favored P3. Some of the key assumptions

in the VFM analysis of the Long Beach courthouse that tended to favor P3 procurement include:

- ***Unjustified Tax Adjustment.*** Similar to the Presidio Parkway project, the VFM analysis for the Long Beach courthouse project included a \$232 million adjustment to account for increased tax revenues that would be paid for by the private developer under the P3 approach. A major component of this adjustment reflects revenues from federal taxes. Since additional federal tax revenues would not directly benefit the state, there appears to be little to no justification for increasing the cost of using a traditional procurement approach to reflect the federal taxes that would be paid by a private developer.
- ***Overstated Cost Overruns.*** The VFM analysis assumed that using AOC's more traditional procurement approach of construction manager at risk—rather than a P3 procurement approach—would result in construction cost overruns for the Long Beach courthouse project totaling \$128 million (about 30 percent of the project's estimated cost). However, given that AOC has procedures in place to prevent such cost overages and has not experienced them with recent court construction projects, this assumption has the effect of overstating the cost of the project under a construction management at risk approach.
- ***Leasing of Additional Space.*** The AOC's VFM analysis assumes that under the P3 approach, the courthouse project would include space that would initially be leased by the private developers to other entities, but could eventually be

used by the court. The VFM analysis also assumes this additional space would be needed by the court in Long Beach in the future, and builds the cost of leasing this additional space into its estimates. This factor adds \$260 million in costs to a traditional procurement of the Long Beach courthouse project, but only \$69 million to the cost of the P3. The higher cost under a traditional approach assumes that a separate building would be leased and that the leased building would need substantial modifications. The analysis for the traditional procurement also assumes increased costs for security officers to monitor the leased building. While there is some basis for estimating a higher cost for the potential need to lease additional space under a traditional procurement approach, the AOC has not conclusively demonstrated that all of this additional space would be needed by the court in Long Beach. Moreover, AOC's other courthouse construction projects ordinarily do not include this kind of extra space.

- ***Project Completion.*** The AOC's VFM analysis assumes that it would take 14 months longer to complete the Long Beach courthouse under construction manager at risk procurement than as a P3 project. Accordingly, the analysis uses different timelines to discount the costs of the project under each type of procurement. The way the VFM analysis adjusts for these assumed differences in timing effectively increases the cost of a traditional procurement in net present value terms. However, it is not evident that such a procurement would necessarily take 14 months longer—especially in view of the

considerable flexibility state law gives AOC with respect to its construction contracting methodology.

Our analysis indicates that utilizing a different set of assumptions than those discussed above (such as excluding the assumed federal tax adjustment and leasing costs) would result in the cost of the Long Beach courthouse project being less—by as much as \$160 million in net present value terms—in the long run under a traditional procurement approach than the chosen P3 approach.

State Law Lacks Thorough Project Approval Processes

Our analysis found that for both the Presidio Parkway and Long Beach courthouse projects, the state did not utilize a thorough process for selecting P3 projects. Having thorough processes in place could have prevented Caltrans and AOC from entering into a P3 agreement for each project, or at least required changes to negotiate lower prices and better ensure that the intended P3 benefits are achieved.

For P3 transportation projects, state law requires the CTC to conduct a limited review of the basic features of each project sponsored by Caltrans or a regional transportation agency. (We note that in reviewing the Presidio Parkway project, CTC extended its evaluation beyond the basic requirements to further review the project's financing.) However, state law does not require the commission or another entity to conduct an overall review of whether (1) the state would benefit from procuring a particular project as a P3 and (2) whether a particular P3 contract is structured to maximize the state's benefits. Moreover, while state law does provide a 60-day period for the appropriate legislative fiscal and policy committees and PIAC to review P3 proposals before Caltrans can sign an agreement with a private developer,

state law does not require that Caltrans address any of the concerns raised in these reviews.

For court construction projects, state law authorizes the Joint Legislative Budget Committee and DOF to review a potential P3 project *before* AOC can fully develop the project's concept. Accordingly, the Legislature reviewed and approved the general criteria used by AOC to select the private partner for the Long Beach courthouse project. However, the Legislature did not have an opportunity to review and comment on the VFM analysis before it was finalized and the contract was signed with the private developer.

State Lacks P3 Expertise

As previously discussed, experts recommend that government entities develop expertise regarding P3s in order to better protect public resources when entering into large contracts with private developers. Our review, however, finds that such expertise within state government has not been sufficiently developed in California.

PIAC Has Limited P3 Expertise. The PIAC was established in 2009 to assemble and share research on best practices and lessons learned from transportation P3s around the world. However, based on our discussions with staff at the BT&H Agency and our review of various PIAC documents (including the minutes from the seven PIAC meetings that have taken place), we find that PIAC has done little to implement best practices for transportation P3s. The only steps that PIAC appears to have taken in this regard are to post reports containing information on P3 best practices on its website and to contract for two reports on P3s. We also note that the commission currently lacks members with in-depth expertise on issues such as state financing, state procurement, and state labor issues. Perspectives on these issues could help to ensure that the state maximizes its benefits when using P3s.

No Systematic Approach for Reviewing Lessons Learned. Our review also finds that the state does not have a systematic process for identifying and applying lessons learned from prior P3 projects. Although Caltrans is the only state agency to have entered into multiple P3 agreements, it currently lacks a formal process for reviewing

past P3 projects in order to maximize benefits and avoid repeating past mistakes. We understand that AOC is currently developing a review and reporting process for the Long Beach courthouse project. Once completed, these reports may provide helpful lessons learned about AOC's use of P3 procurement.

RECOMMENDATIONS TO MAXIMIZE STATE BENEFITS FROM P3S

In this report, we reviewed the state's experience with P3s and identified several instances where the best practices identified in existing P3 research have not necessarily been followed. Based on our review and findings, we have identified several opportunities for the state to further maximize its benefits when deciding to procure a state infrastructure project as a P3. Our specific recommendations are summarized in Figure 8 and discussed in detail below.

Specify P3 Project Selection Criteria

As previously mentioned, the state's processes for selecting P3 projects are inadequate and not necessarily based on selection criteria identified in the research as best practices. Accordingly, we recommend that the Legislature adopt legislation requiring that each state department with P3

authority utilize certain criteria when evaluating whether a particular project should be procured as a P3. According to the research, these selection criteria should not be highly prescriptive, but rather should provide general guidance regarding the selection of potential P3 projects. Such an approach would provide for greater consistency across departments in terms of how P3 projects are selected. The selection criteria should include being a technically complex project, as well as a project that can transfer risks to a private partner and benefit from non-state financing. In addition, the Legislature may want to specify whether P3 projects must have a revenue source, such as a user fee.

Require Analysis of a Range of Procurement Options

In order to determine which procurement

approach would most effectively benefit the state, we recommend that the Legislature adopt legislation requiring a comparative VFM analysis of a range of procurement options (including design-bid-build, design-build, and P3) for all potential

Figure 8

LAO Recommendations to Maximize Public-Private Partnership (P3) Benefits

- ✓ Specify P3 project selection criteria.
- ✓ Require analysis of a range of procurement options.
- ✓ Modify structure and responsibilities of Public Infrastructure Advisory Commission.
- ✓ Improve consistency of state's P3 approval process.

P3 infrastructure projects. Evaluating a range of procurement options would allow the state to better balance the potential benefits of increased private sector involvement with the potential risks unique to each project. In contrast, the benefit of evaluating only two procurement approaches—as was done by Caltrans and AOC—can be limited. This is because it does not evaluate other options (such as design-build), which in some cases may be the best option.

We also recommend that the Legislature specify in statute that such VFM analyses:

- ***Exclude Federal Tax Adjustments.*** Increased federal tax revenues do not directly benefit the state and should not be included in a VFM analysis.
- ***Apply Costs to Expected Year of Expenditure.*** Project costs should be accounted for in the year they are likely to be incurred, in order to effectively estimate the project's likely total cost in the long run.
- ***Use Current Construction Cost Estimates.*** Construction cost estimates should be based on the current bidding environment in the state.
- ***Include a Sensitivity Analysis.*** A sensitivity analysis can help to indicate how the results of the VFM analysis might change with a different set of assumptions. Specifically, this analysis should evaluate project costs and revenues with a range of reasonable discount rates to show how differing assumptions can influence the outcome of the VFM analysis. If a project will generate revenue, such as from tolls or fares, a reasonable range of revenues should also be evaluated in the sensitivity analysis.

Modify Structure and Responsibilities of PIAC

In order to help ensure that PIAC effectively assembles and shares research, best practices, and lessons learned from transportation P3s around the world, we recommend the Legislature adopt legislation to:

- ***Expand PIAC's Authority.*** In order to provide a consistent review and approval process for the use of P3 procurement, we recommend expanding the PIAC's role to require the commission to approve all state P3 projects, as discussed in detail later in this report. We also recommend expanding the scope of PIAC to all types of infrastructure projects, rather than only those related to transportation. Having the commission involved in all types of P3 will further the state's P3 expertise. To reflect this broader scope, we also recommend making PIAC an independent commission, rather than part of the BT&H Agency.
- ***Direct PIAC to Evaluate Other Departments for P3 Authority.*** We have found that certain types of projects may benefit the state if procured using a P3. It is possible that state departments other than Caltrans, AOC, and HSRA will have projects meeting these P3 criteria. Accordingly, we recommend that the Legislature direct PIAC to review the types of projects planned by other state departments and recommend to the Legislature whether P3 authority should be granted to additional state departments.
- ***Broaden PIAC's Expertise.*** In order to ensure that PIAC has the expertise necessary to advise state departments on all types of P3s, we believe it would be beneficial for the commissioners to



EXHIBIT 3
EXCERPTS FROM
2014 GOVERNOR DEUKMEJIAN COURTHOUSE:
EVALUATION OF COST EFFECTIVENESS REPORT

A REPORT MANDATED BY THE SENATE BILL 75
MANDATING FULL DISCLOSURE AND ANALYSIS
OF THE COSTS AND DELIVERY EFFECTIVENESS FOR THE
P3 DELIVERY OF THE LONG BEACH COURTHOUSE

Table 2.3
Governor George Deukmejian Courthouse
VfM Analysis Assumption and Actual Capital Costs

Capital Project Costs (nominal unless stated otherwise)	Assumption	Actual
1. <u>Size of Facility</u> (total nominal gross areas)		
a. Superior court facility	416,100 sq ft	416,100 sq ft
b. County justice agencies	73,900 sq ft	73,900 sq ft
c. Probation	31,400 sq ft	31,400 sq ft
d. Commercial	2,100 sq ft	2,100 sq ft
e. Retail	7,500 sq ft	7,500 sq ft
Total Size of Facility.....	<u>531,000 sq ft</u>	<u>531,000 sq ft</u>
2. <u>Court Parking Facility</u> (gross area)	399,052 sq ft	399,052 sq ft
3. <u>Hard Construction Costs</u>		
a. Court building	\$ 231,783,520	\$ 234,629,660
b. Office	24,920,543	23,249,943
c. Parking structure	8,695,409	8,319,628
d. Site work	13,420,931	13,766,172
e. FF&E	31,000,000	21,183,000
f. Tenant improvements ²³	2,286,082	w/FF&E
g. Contingency allowance – AOC changes	10,000,000	4,296,000
h. Insurances, bonds, and taxes	11,714,114	11,714,114
Subtotal Hard Construction Costs (Item 3).....	<u>\$ 333,820,599</u>	<u>\$ 317,158,517</u>
4. <u>Other Costs</u>		
a. Architecture and engineering	\$ 20,545,933	\$ 21,195,933
b. Site acquisition – county equity in existing court building	5,889,000	5,889,000
c. Art in architecture ²⁴	2,482,045	2,482,045
Subtotal Other Costs (Item 4)	<u>\$ 28,916,978</u>	<u>\$ 29,566,978</u>
Total Capital Project Costs.....	<u>\$ 362,737,577</u>	<u>\$ 346,725,495</u>
5. <u>Fees and Transaction Costs</u> (not included above)		
a. Required and recommended insurance	\$ 2,034,684	\$ 2,034,684
b. Compensation to unsuccessful proposers	1,000,000	1,000,000
c. Possessory tax (non-reimbursable)	300,000	300,000
d. Nonconstruction administration	10,215,588	10,215,588
e. Independent Building Expert	4,650,000	4,650,000
Subtotal Fees and Transaction Costs (Item 5).. Total Capital Project Costs, including Fees and Transactions.....	<u>\$ 18,200,272</u> <u>\$ 380,937,849</u>	<u>\$ 18,200,272</u> <u>\$ 364,925,767</u>

²³ An additional \$14.995 million was spent by the project company from a county-funded allowance for change orders related to the tenant improvements in the county lease space. This item was not contemplated in the VfM analysis.

²⁴ The Project Company initiated and provided the public art and will maintain it over the 35-year term of the project agreement.

2.7 contains a comparison of the VfM analysis against the actual financial terms resulting from the recent refinance of the project company's debt.

Table 2.7
Governor George Deukmejian Courthouse
VfM Analysis Assumption and December 2013 Financing

Financing Structure Component	Assumption	Actual Based on December 2013 Refinance
Outline of equity/subordinated funding	Equity provided	Equity provided
Outline of senior funding	Short-term construction phase financing: taxable bank debt with assumed refinancing with a long-term project finance bank debt facility after 5 years	The bonds will be repaid over 34.1 years with the final repayment made 9 months before the project company finishes operating the Courthouse on behalf of the Administrative Office of the Courts.
Equity internal rate of return requirement	14.00% nominal	Equity internal rate of return postrefinancing is 14.48% nominal.
Term of short-term debt	7 years	Not applicable – the short term debt was repaid as a result of the refinancing.
Swapped London Interbank Offered Rate (LIBOR)	4.42%	
Swap margin	0.25%	
Interest rate credit spread (short-term financing)		The original bank loans were repaid on refinancing, and the spread on the refinance facility was fixed for the duration of the debt at 3.50%.
<i>Construction to Sep-2013</i>	2.75%	
<i>From Sep-2013</i>	3.25%	
<i>From Sep-2016</i>	3.50%	
<i>From Sep-2017</i>	3.75%	
“All in” bank debt interest rate (before refinancing)	7.42% - 8.42%	6.880%
Term of long-term debt	29 years	34.10
Type of debt	Bank	Bond
Interest rate/swap margin/credit spread on long term bank debt, if refinanced	4.42% + 0.25% + 2.25% from December 2015	Bond spread was 3.50%
Investment rate on deposit balances	N/A	N/A
Debt to equity ratio target (at financial close)	90:10	93:7
Weighted average cost of capital	7.86%	7.42%

Project Risks

As part of its internal project management process and before retaining the project company, the AOC engaged Ernst & Young to facilitate the process to identify, rank, and determine the



EXHIBIT 4
BUILDING OWNERS AND MANAGERS ASSOCIATION (BOMA)
OPERATING COST SURVEY
LONG BEACH/LOS ANGELES MARKETS

Experience Exchange Report ®

Report Year:	2013	Sector:	All Sectors	Building Size:	100,000 - 299,999 Sq Ft 300,000 - 599,999 Sq Ft 600,000+ Sq Ft	Unit of Measure:	Square Feet
Country:	USA	Building Type:	All Functions	Public Transit:	Any Proximity	Location:	All Locations
Market:	Long Beach, CA Los Angeles, CA	Ownership Type:	All Types	All Electric:	Any	Building Age:	0 - 9 Years 10 - 19 Years 20 - 29 Years
Zip Code:	Any Zip Code	Number of Floors:	< 5 Floors 5 - 9 Floors 10 - 19 Floors 20 - 29 Floors 30 - 39 Floors 40 - 49 Floors	Agency Managed:	Any	Property Class:	Class A

Occupancy Summary - 2010

Occupancy Info.	# Blds	Avg
SQFT per Office Tenant	27	12,558.55
SQFT per Retail Tenant		
SQFT per Office Worker	14	279.43
SQFT per Maintenance Staff	22	53,119.25
Office Occupancy (%)	28	89.75
Retail Occupancy (%)		
YR-End Rent (\$ per SQFT)	10	35.00
Gross Parking INC per Stall (\$)	10	518.15
Parking Ratio (Stalls per 1000 SQFT)	15	2.31
Rentable per Gross SQFT	15	0.91
Rentable per Usable SQFT	12	1.16
Total BTUs		
Capitalization Threshold (\$)	9	18,215.43
Building Hours	21	66.21

Occupancy Summary - 2013

Occupancy Info.	# Blds	Avg
SQFT per Office Tenant	19	16,792.79
SQFT per Retail Tenant	5	5,817.08
SQFT per Office Worker	10	345.49
SQFT per Maintenance Staff	19	58,976.01
Office Occupancy (%)	24	77.82
Retail Occupancy (%)	5	66.14
YR-End Rent (\$ per SQFT)	5	37.40
Gross Parking INC per Stall (\$)	10	1,674.77
Parking Ratio (Stalls per 1000 SQFT)	10	2.00
Rentable per Gross SQFT	10	0.94
Rentable per Usable SQFT	8	1.05
Total BTUs		
Capitalization Threshold (\$)	6	13,500.00
Building Hours	19	62.85

Experience Exchange Report ®

Report Year:	2013	Sector:	All Sectors	Building Size:	100,000 - 299,999 Sq Ft 300,000 - 599,999 Sq Ft 600,000+ Sq Ft	Unit of Measure:	Square Feet
Country:	USA	Building Type:	All Functions	Public Transit:	Any Proximity	Location:	All Locations
Market:	Long Beach, CA Los Angeles, CA	Ownership Type:	All Types	All Electric:	Any	Building Age:	0 - 9 Years 10 - 19 Years 20 - 29 Years
Zip Code:	Any Zip Code	Number of Floors:	< 5 Floors 5 - 9 Floors 10 - 19 Floors 20 - 29 Floors 30 - 39 Floors 40 - 49 Floors	Agency Managed:	Any	Property Class:	Class A

Income and Expense Overview - 2010										Income and Expense Overview - Trend Data 2013									
	Total Building Rentable Area					Total Office Rentable Area					Total Building Rentable Area					Total Office Rentable Area			
	28 Blds	9,240,939 Sq. Ft.				9,006,416 Sq. Ft.					24 Blds	9,863,037 Sq. Ft.				9,390,817 Sq. Ft.			
	# Blds	Dollars/S.F.		Mid Range		Dollars/S.F.		Mid Range			# Blds	Dollars/S.F.		Mid Range		Dollars/S.F.		Mid Range	
		Avg	Mdn	Low	High	Avg	Mdn	Low	High			Avg	Mdn	Low	High	Avg	Mdn	Low	High
Income										Income									
Total Rental Income	15	37.53	30.06	25.57	41.14	38.49	32.88	25.98	41.14	Total Rental Income	9	23.84	25.65	17.65	30.38	24.49	27.18	17.90	30.39
Total Income	15	40.73	32.80	28.62	43.05	41.77	35.88	29.08	43.33	Total Income	9	26.24	28.43	18.74	32.54	26.95	30.14	19.01	32.55
Expense										Expense									
Total Oper Exp	28	8.78	7.71	6.86	9.45	9.01	8.23	6.91	9.51	Total Oper Exp	20	7.87	7.94	6.51	9.85	8.32	8.06	6.88	10.45
Total Oper + Fixed Exp	28	14.12	12.51	10.53	16.11	14.48	12.93	10.53	16.15	Total Oper + Fixed Exp	19	12.29	12.38	11.38	14.06	12.98	13.75	12.09	14.24
Income and Expense Summary - 2010										Income and Expense Summary - Trend Data 2013									
Income										Income									
Office Rent	16					38.78	32.49	25.95	41.26	Office Rent	11					22.69	24.85	11.38	27.81
Retail Rent										Retail Rent	6	17.93	17.97	10.01	29.23				
Other Rent	5	11.28	4.70	2.19	35.08					Other Rent									
Telecom Income										Telecom Income									
Miscellaneous Income	16	3.17	2.88	1.11	3.41					Miscellaneous Income	11	2.35	2.27	0.39	2.92				
Expense										Expense									
Cleaning	28	1.44	1.42	1.27	1.62	1.46	1.43	1.29	1.62	Cleaning	24	1.43	1.37	1.07	1.79	1.43	1.40	1.09	1.79
Repair / Maintenance	28	2.19	1.65	1.34	2.57	2.23	1.65	1.34	2.59	Repair / Maintenance	22	2.06	1.54	0.91	2.44	2.08	1.54	0.91	2.46
Utility	28	2.49	2.27	2.09	2.70	2.53	2.27	2.11	2.71	Utility	22	1.88	2.08	1.69	2.39	1.89	2.09	1.71	2.39
Roads / Grounds	28	0.12	0.13	0.06	0.16	0.13	0.13	0.06	0.16	Roads / Grounds	22	0.08	0.09	0.06	0.17	0.09	0.09	0.07	0.17
Security	28	0.85	0.84	0.71	1.03	0.87	0.84	0.76	1.06	Security	22	1.11	1.13	0.74	1.46	1.18	1.15	0.79	1.61
Administrative	26	1.53	1.32	1.00	1.91	1.57	1.41	1.11	1.93	Administrative	20	1.52	1.61	1.28	1.82	1.60	1.73	1.36	1.85
Fixed	28	5.34	5.15	3.43	6.06	5.47	5.15	3.43	6.16	Fixed	21	4.21	4.09	2.40	5.61	4.44	4.21	2.84	5.62
Directly Expensed Leasing	5	0.70	0.35	0.02	1.39	0.77	0.35	0.02	1.50	Directly Expensed Leasing	5	1.63	0.13	0.06	0.17	1.67	0.13	0.06	0.17
Amortized Leasing	8	3.01	2.86	1.92	4.14	3.05	2.87	1.93	4.22	Amortized Leasing	5	8.05	5.48	3.90	8.99	8.17	5.48	3.90	9.25

Experience Exchange Report ®

Report Year:	2013	Sector:	All Sectors	Building Size:	100,000 - 299,999 Sq Ft 300,000 - 599,999 Sq Ft 600,000+ Sq Ft	Unit of Measure:	Square Feet
Country:	USA	Building Type:	All Functions	Public Transit:	Any Proximity	Location:	All Locations
Market:	Long Beach, CA Los Angeles, CA	Ownership Type:	All Types	All Electric:	Any	Building Age:	0 - 9 Years 10 - 19 Years 20 - 29 Years
Zip Code:	Any Zip Code	Number of Floors:	< 5 Floors 5 - 9 Floors 10 - 19 Floors 20 - 29 Floors 30 - 39 Floors 40 - 49 Floors	Agency Managed:	Any	Property Class:	Class A

Parking										Parking													
Telecom						5	0.08	0.08		0.08	0.08		Telecom										
Income and Expense Detail - 2010										Income and Expense Detail - Trend Data 2013													
		Total Building Rentable Area				Total Office Rentable Area						Total Building Rentable Area				Total Office Rentable Area							
		Dollars/S.F.		Mid Range		Dollars/S.F.		Mid Range				Dollars/S.F.		Mid Range									
		# Blds	Avg	Mdn	Low	High	Avg	Mdn	Low			High	Avg	Mdn	Low	High	Avg	Mdn	Low	High			
Income										Income													
Office Rent										Office Rent													
Base Rent		15				34.46	28.13	25.81	37.00	Base Rent		11				16.50	19.24	10.99	27.45				
Pass Throughs		9				1.51	1.13	0.55	1.50	Pass Throughs													
Escalations		14				4.06	2.39	1.57	2.72	Escalations													
Lease Cancellations		10				0.31	0.31	0.12	0.75	Lease Cancellations													
Rent Abatements (-)		6				1.75	1.85	0.88	2.52	Rent Abatements (-)		7				0.88	0.58	0.56	1.45				
Telecom Income										Telecom Income													
Rooftop Income										Rooftop Income													
Wire/Riser Access Income		50.080.040.040.13								Wire/Riser Access Income													
Miscellaneous Income										Miscellaneous Income													
Gross Parking Income		152.962.791.603.23								Gross Parking Income		102.232.191.392.55											
Tenant Service Income		140.140.170.060.25								Tenant Service Income													
Other Misc. Income		150.170.050.030.39								Other Misc. Income		110.100.070.010.12											
Expense										Expense													
Cleaning										Cleaning													
Payroll, Taxes, Fringes										Payroll, Taxes, Fringes													
Routine Contracts		281.191.190.951.31				1.21	1.19	0.96	1.31	Routine Contracts		22	1.17	1.27	0.84	1.48	1.18	1.27	0.84	1.48			
Window Washing		270.070.060.030.08				0.07	0.06	0.03	0.09	Window Washing		24	0.07	0.05	0.03	0.08	0.07	0.05	0.03	0.08			
Other Specialized Contracts										Other Specialized Contracts		7	0.03	0.04	0.01	0.07	0.03	0.04	0.01	0.07			

Experience Exchange Report ®

Report Year:	2013	Sector:	All Sectors	Building Size:	100,000 - 299,999 Sq Ft 300,000 - 599,999 Sq Ft 600,000+ Sq Ft	Unit of Measure:	Square Feet
Country:	USA	Building Type:	All Functions	Public Transit:	Any Proximity	Location:	All Locations
Market:	Long Beach, CA Los Angeles, CA	Ownership Type:	All Types	All Electric:	Any	Building Age:	0 - 9 Years 10 - 19 Years 20 - 29 Years
Zip Code:	Any Zip Code	Number of Floors:	< 5 Floors 5 - 9 Floors 10 - 19 Floors 20 - 29 Floors 30 - 39 Floors 40 - 49 Floors	Agency Managed:	Any	Property Class:	Class A

Supplies / Materials	23	0.13	0.12	0.10	0.16	0.13	0.13	0.10	0.16	Supplies / Materials	19	0.09	0.12	0.06	0.14	0.10	0.12	0.06	0.15
Trash Removal / Recycling	28	0.05	0.05	0.04	0.06	0.05	0.05	0.04	0.06	Trash Removal / Recycling	24	0.03	0.04	0.02	0.06	0.03	0.04	0.02	0.06
Miscellaneous / Other	7	0.01	0.01	0.00	0.02	0.01	0.01	0.00	0.02	Miscellaneous / Other	7	0.10	0.16	0.03	0.21	0.10	0.16	0.03	0.21
Repair / Maintenance										Repair / Maintenance									
Payroll, Taxes, Fringes	26	0.86	0.80	0.72	0.85	0.86	0.80	0.73	0.85	Payroll, Taxes, Fringes	19	0.88	0.74	0.51	0.94	0.89	0.75	0.52	0.94
Elevator	28	0.21	0.18	0.13	0.27	0.22	0.19	0.13	0.28	Elevator	24	0.28	0.19	0.16	0.33	0.29	0.19	0.16	0.34
HVAC	28	0.28	0.21	0.14	0.38	0.28	0.22	0.14	0.38	HVAC	24	0.32	0.17	0.08	0.33	0.33	0.17	0.08	0.33
Electrical	28	0.10	0.06	0.04	0.13	0.10	0.06	0.04	0.13	Electrical	24	0.15	0.05	0.04	0.18	0.15	0.05	0.04	0.18
Structural / Roofing	13	0.02	0.02	0.01	0.02	0.02	0.02	0.01	0.02	Structural / Roofing	11	0.01	0.01	0.01	0.01	0.01	0.01	0.01	0.01
Plumbing	28	0.08	0.05	0.03	0.12	0.08	0.05	0.03	0.12	Plumbing	24	0.06	0.04	0.03	0.08	0.06	0.04	0.03	0.08
Fire / Life Safety	28	0.11	0.12	0.09	0.14	0.12	0.12	0.09	0.14	Fire / Life Safety	24	0.11	0.11	0.08	0.13	0.11	0.11	0.08	0.13
General Building Interior	28	0.13	0.13	0.06	0.14	0.13	0.13	0.06	0.14	General Building Interior	24	0.16	0.09	0.05	0.16	0.16	0.09	0.05	0.16
General Building Exterior	24	0.10	0.08	0.06	0.16	0.10	0.08	0.06	0.17	General Building Exterior	21	0.08	0.06	0.02	0.10	0.08	0.06	0.02	0.10
Parking Lot	7	0.13	0.03	0.03	0.04	0.13	0.03	0.03	0.04	Parking Lot	5	0.35	0.03	0.02	0.31	0.35	0.03	0.02	0.32
Miscellaneous / Other	22	0.45	0.10	0.03	0.65	0.45	0.10	0.03	0.65	Miscellaneous / Other	17	0.08	0.08	0.06	0.13	0.08	0.08	0.06	0.13
Utility										Utility									
Total Electricity	28	2.25	2.07	1.95	2.33	2.28	2.07	1.96	2.36	Total Electricity	24	1.64	1.76	1.43	2.20	1.65	1.77	1.43	2.20
Gas	21	0.05	0.06	0.04	0.08	0.05	0.06	0.04	0.08	Gas	18	0.04	0.03	0.01	0.06	0.04	0.03	0.01	0.06
Fuel Oil										Fuel Oil									
Steam										Steam									
Chilled Water										Chilled Water									
Water / Sewer	28	0.13	0.12	0.10	0.15	0.14	0.12	0.10	0.15	Water / Sewer	23	0.12	0.12	0.06	0.22	0.12	0.12	0.06	0.22
Roads / Grounds										Roads / Grounds									
Landscaping	28	0.11	0.11	0.06	0.16	0.11	0.11	0.06	0.16	Landscaping	24	0.08	0.09	0.06	0.14	0.08	0.09	0.06	0.14
Snow Removal										Snow Removal									
Miscellaneous / Other	8	0.04	0.04	0.02	0.04	0.04	0.04	0.02	0.04	Miscellaneous / Other	9	0.31	0.01	0.01	0.07	0.31	0.01	0.01	0.07

Experience Exchange Report ®

Report Year:	2013	Sector:	All Sectors	Building Size:	100,000 - 299,999 Sq Ft 300,000 - 599,999 Sq Ft 600,000+ Sq Ft	Unit of Measure:	Square Feet
Country:	USA	Building Type:	All Functions	Public Transit:	Any Proximity	Location:	All Locations
Market:	Long Beach, CA Los Angeles, CA	Ownership Type:	All Types	All Electric:	Any	Building Age:	0 - 9 Years 10 - 19 Years 20 - 29 Years
Zip Code:	Any Zip Code	Number of Floors:	< 5 Floors 5 - 9 Floors 10 - 19 Floors 20 - 29 Floors 30 - 39 Floors 40 - 49 Floors	Agency Managed:	Any	Property Class:	Class A

Security										Security														
Payroll, Taxes, Fringes										Payroll, Taxes, Fringes														
Contracts	28	0.78	0.84	0.51	0.95	0.80	0.84	0.52	0.96	Contracts	21	1.04	1.08	0.69	1.42	1.09	1.13	0.71	1.49					
Equipment	13	0.07	0.04	0.02	0.07	0.07	0.04	0.02	0.07	Equipment	9	0.04	0.03	0.03	0.04	0.05	0.04	0.03	0.04					
Miscellaneous / Other	9	0.04	0.05	0.00	0.07	0.05	0.05	0.00	0.08	Miscellaneous / Other	12	0.05	0.02	0.01	0.06	0.06	0.02	0.01	0.06					
Administrative										Administrative														
Payroll, Taxes, Fringes	26	0.79	0.69	0.55	0.74	0.81	0.73	0.56	0.75	Payroll, Taxes, Fringes	23	0.60	0.68	0.55	0.75	0.63	0.69	0.58	0.75					
Management Fees	15	1.16	0.96	0.53	1.14	1.19	0.96	0.57	1.16	Management Fees	13	0.71	0.57	0.36	0.82	0.75	0.57	0.38	0.91					
Professional Fees	18	0.01	0.02	0.00	0.03	0.01	0.02	0.00	0.03	Professional Fees	17	0.06	0.02	0.00	0.16	0.07	0.03	0.01	0.16					
General Office Expenses	22	0.29	0.11	0.07	0.31	0.30	0.11	0.07	0.31	General Office Expenses	24	0.28	0.10	0.05	0.21	0.29	0.10	0.05	0.21					
Employee Expenses	19	0.01	0.01	0.00	0.02	0.01	0.01	0.00	0.02	Employee Expenses	14	0.01	0.01	0.00	0.01	0.01	0.01	0.00	0.01					
Miscellaneous / Other	17	0.07	0.06	0.04	0.18	0.07	0.06	0.04	0.18	Miscellaneous / Other	12	0.07	0.06	0.01	0.13	0.07	0.06	0.01	0.13					
Fixed										Fixed														
Real Estate Taxes	27	4.21	4.10	2.90	4.55	4.28	4.25	3.00	4.56	Real Estate Taxes	24	3.06	2.87	1.81	3.74	3.21	2.93	1.87	3.74					
Personal Property Tax										Personal Property Tax														
Other Tax	12	0.06	0.04	0.04	0.09	0.06	0.05	0.04	0.09	Other Tax	12	0.04	0.05	0.03	0.05	0.04	0.05	0.03	0.05					
Building Insurance	28	1.11	0.88	0.63	1.56	1.14	0.88	0.63	1.68	Building Insurance	17	1.22	1.16	0.82	1.73	1.24	1.19	0.84	1.73					
License / Fees / Permits	10	0.06	0.05	0.00	0.08	0.06	0.05	0.00	0.08	License / Fees / Permits	7	0.03	0.03	0.01	0.04	0.03	0.03	0.01	0.04					
Directly Expensed Leasing										Directly Expensed Leasing														
Payroll										Payroll														
Commissions / Fees										Commissions / Fees														
Advertising / Promotion										Advertising / Promotion					6	0.08	0.10	0.03	0.12	0.08	0.11	0.03	0.12	
Professional Fees										Professional Fees					5	0.02	0.02	0.02	0.02	0.02	0.02	0.02	0.02	0.02
Tenant Improvements										Tenant Improvements														

Experience Exchange Report ®

Report Year:	2013	Sector:	All Sectors	Building Size:	100,000 - 299,999 Sq Ft 300,000 - 599,999 Sq Ft 600,000+ Sq Ft	Unit of Measure:	Square Feet
Country:	USA	Building Type:	All Functions	Public Transit:	Any Proximity	Location:	All Locations
Market:	Long Beach, CA Los Angeles, CA	Ownership Type:	All Types	All Electric:	Any	Building Age:	0 - 9 Years 10 - 19 Years 20 - 29 Years
Zip Code:	Any Zip Code	Number of Floors:	< 5 Floors 5 - 9 Floors 10 - 19 Floors 20 - 29 Floors 30 - 39 Floors 40 - 49 Floors	Agency Managed:	Any	Property Class:	Class A

Other Leasing Costs										Other Leasing Costs	5	0.07	0.02	0.02	0.04	0.07	0.02	0.02	0.04
Amortized Leasing										Amortized Leasing									
Commissions / Fees	8	1.08	0.76	0.68	1.65	1.09	0.76	0.68	1.68	Commissions / Fees	5	1.70	1.52	1.46	2.13	1.73	1.53	1.51	2.14
Tenant Improvements	7	1.77	1.79	1.50	2.44	1.79	1.84	1.51	2.48	Tenant Improvements									
Other Leasing Costs	6	0.29	0.21	0.14	0.23	0.29	0.22	0.14	0.24	Other Leasing Costs									
Parking										Parking									
In-house										In-house									
Contract										Contract									
Snow Removal										Snow Removal									
Shuttle										Shuttle									



EXHIBIT 5
RAYMOND JAMES/MORGAN KEEGAN
REUTER'S MUNICIPAL MARKET DATA RATES
2013 TAX-EXEMPT MUNICIPAL BORROWING RATES

MARKET COMMENT

January 28, 2013

PUBLIC FINANCE

FIXED INCOME MARKET

Kevin Giddis, Managing Director

Treasuries were trading lower, in fact, much lower Friday morning as investors shed safe assets and take a greater swipe at the riskier ones, for reasons that one might question. The principal driver of lower prices/higher yields in Treasuries has to do with the ECB's announcement that the banks are planning to take a bigger bite of the debt repayment than originally thought. The difference is about 80-90 billion dollars, which is significant, but is it really worth 5/8 of a point on the 10-year note? 2) To me, traders are using this news as a technical "probe" to determine where selling resistance is found and where being support begins. As long as nobody steps in, the downward trade will likely continue. My guess is somewhere around 1.95% to 1.97%, buyers step in and turn the tide. 3) One thing that may help get the buyers "in" is the fact that New Home Sales for the month of December fell 7.3% after rising 9.3% in November. While the housing recovery appears to be underway, it will likely be a choppy recovery with a series of up and down months. 4) For the most part, this is a Friday. Besides that, there were not any additional economic numbers released, the Treasury did not issue paper, and the creatures in Washington were not stirring, so with the volume trade down, the momentum trade took center stage. My guess is that we finish the day somewhere in the middle of the range and the traders go home and wait for snow.

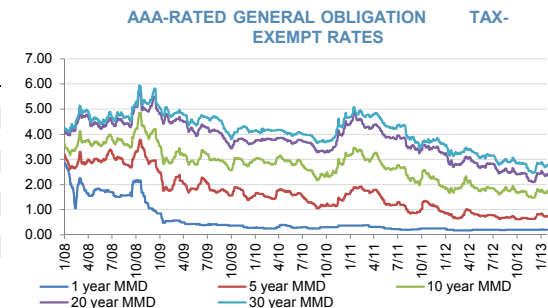
MUNICIPAL MARKET

Casy O'Brien, Managing Director / Kevin Thompson, Managing Director

Municipal bond trading seemed to fade last week as buyers focused on the heavier supply offered in the primary market. The week started stronger and seemed to fade as more primary supply was absorbed. Secondary market volume was down as attention appeared focused on the primary market. On Friday MMD yields increased 5 to 6 bps throughout the curve. Primary volume for this week is approximately \$6.4 billion - a little over half of last week's volume. Thirty day visible supply is down to approximately \$9 billion, showing adjustments for last week's sales. And, municipal bond funds saw inflows of \$871 million according to Lipper. The \$6.4 billion in supply for the week includes approximately \$4.6 billion of negotiated and \$1.8 billion of competitive sales. The largest negotiated issues for the week include \$1.5 billion Jobs Ohio Beverage System (A2/AA, JP Morgan), \$334.455 million Bay Area Water Supply & Conservation Agency, CA (Aa3/AA-, Goldman Sachs), and \$288.84 million Nashville Metro Government (Aa1/AA, Raymond James). **In other news, U.S. budget** issues continue. Representative Paul Ryan (R - Wisconsin) spoke over the weekend saying a March government shutdown won't happen. Senate Budget Committee Chair Patty Murray (D - Washington) released a 10 page memo stating tax expenditures must be cut and revenues must be increased for the 2014 budget. The memo outlined a number of corporate and individual tax breaks to address. And, Municipal Bonds for America released a two page memo outlining the impacts of implementing a 28% tax cap. The memo stated such a move would change 100 years of precedent, increase borrowing costs for public issuers and dampen economic development and infrastructure investment. **And just in case you** missed it, Assured Guaranty was downgraded by Moody's two levels to A2 from Aa3. Moody's is adjusting the ratings on 78 issues of variable rate bonds to reflect the change. Taxable money funds saw outflows of \$12.85 billion and tax-exempt money funds fell by \$2.44 billion last week. SIFMA rose to 0.10% last week.

KEY INTEREST RATES

	Today 1/25/2013	Last Week 1/18/2013	Last Month 12/24/2012	Last Year 1/27/2012
Federal Funds Rate	0.25	0.25	0.25	0.25
Prime Rate	3.25	3.25	3.25	3.25
LIBOR (1 month)	0.20	0.20	0.21	0.27
LIBOR (3 month)	0.30	0.30	0.31	0.55
SIFMA	0.10	0.08	0.13	0.08
SIFMA/1 M LIBOR %	49.1	39.1	62.0	29.6
B.B. 20 Bond Index	3.54	3.53	3.64	3.68
B.B. Rev. Index	4.24	4.22	4.26	4.71
30-Day Visible Supply	9.0 B	10.8 B	3.6 B	6.9 B



GENERAL OBLIGATION TAX-EXEMPT BOND MARKETS

Year	AAA Tax-Exempt	Current Tax-Exempt Credit Spreads			1 Month Ago Tax-Exempt Credit Spreads			1 Year Ago Tax-Exempt Credit Spreads		
		AA	A	BBB	AA	A	BBB	AA	A	BBB
1	0.20	0.05	0.24	0.82	0.05	0.24	0.82	0.03	0.35	1.20
5	0.75	0.15	0.50	1.39	0.19	0.55	1.44	0.15	0.72	1.83
10	1.75	0.23	0.67	1.44	0.24	0.73	1.52	0.23	0.92	2.00
20	2.43	0.23	0.67	1.42	0.25	0.72	1.49	0.23	0.93	1.75
30	2.79	0.23	0.63	1.27	0.25	0.67	1.31	0.25	0.81	1.59

GENERAL OBLIGATION TAXABLE MARKET

Year	Treasury	AAA Taxable	65% Taxable	Spread to AAA Tax-Exempt	LIBOR	SWAP MARKET 70% LIBOR	SIFMA
1	0.14	0.23	0.15	-0.05	0.36	0.25	0.21
5	0.89	1.19	0.77	0.02	1.04	0.72	0.76
10	1.99	2.49	1.62	-0.13	2.06	1.44	1.65
20	2.58	3.76	2.44	0.01	2.81	1.97	2.44
30	3.17	3.86	2.51	-0.28	3.00	2.10	2.72

The information contained herein is based on sources which we believe reliable but is not guaranteed by us and is not to be considered all inclusive. It is not to be construed an offer or the solicitation of an offer to sell or buy the securities herein mentioned. This firm and/or its affiliates and/or its individual shareholders and/or members of their families may have position in the securities mentioned and may make purchases and/or sales of these securities from time to time in the open market or otherwise. Opinions expressed are present opinions only and are subject to change without notice. Morgan Keegan & Company, Inc., a subsidiary of Raymond James Financial, Inc., is a member of FINRA and SIPC. Raymond James and Morgan Keegan may also perform or seek to perform investment banking for entities referred herein. The securities and other investment products described herein are: 1) Not insured by the FDIC, 2) Subject to investment risks, including possible loss of the principal amount invested, 3) Not deposits or other obligations of, nor guaranteed by Morgan Keegan, Raymond James or any of their affiliates.



EXHIBIT 6
WEBPAGE FROM MERIDIAM INFRASTRUCTURE
ANNOUNCEMENT OF TERMS OF
REFINANCING FOR THE LONG BEACH COURTHOUSE

News



Long Beach Courthouse - Meridiam reaches financial close on \$520m private placement refinancing

PROJECT

RECORM

26 November 2013

As the 3-year construction period reached completion and operations started at the courthouse, the private placement replaced the original 7-year mini perm bank loan.

The refinancing process was initiated as the project reached substantial completion

Meridiam established Long Beach Judicial Partners LLC ("LBJP") for the special purpose of constructing and operating the new Governor George Deukmejian Courthouse in Long Beach, California. In December 2010, LBJP entered into an approximately 38-year long contract with the State of California's Administrative Office of the Courts, under which LBJP is responsible for the financing, design, construction, operation and maintenance of a five-story, 545,000 square-foot courthouse building, comprising 31 courtrooms, as well as administrative offices, detention facilities and retail space. In addition to the new building, the project also includes the renovation and operation of an existing 1,000 car parking structure.

The construction of the building was successfully completed 11 days ahead of schedule, and the 35-year operation and maintenance period commenced in September 2013.

Concurrently with the beginning of this second phase for the project, Meridiam initiated the refinancing of the medium-term bank loan that had been raised at the original financial closing of the transaction. Following a 10-week period of structuring and marketing to investors, a \$520m 34-year Reg. D Private Placement was issued by LBJP on November 26, 2013 and successfully subscribed to by ten investors. Meridiam was assisted by JP Morgan and Deutsche Bank, Joint Placement Agents for the transaction.

New financing instruments available for public private partnerships

Since inception, Meridiam has pioneered the use of long term capital market solutions for the financing of public service infrastructure. After the \$400m public bond issuance for the NTE project in Texas in 2009, Meridiam has used capital market instruments on multiple occasions in North America and in Europe, including the 2013 NTE 3 extension project in Texas (public bonds), and the University of Hertfordshire in the UK and the L2 Marseille bypass in France (both of which were private placements).

Thierry Déau, CEO and founding partner of Meridiam said: "This successful refinancing follows the on-time delivery of a state-of-the-art courthouse for the State of California, the Superior Court of Los Angeles County, and Los Angeles County justice partners. The overall strength of the project attracted significant institutional investor appetite, and this private placement demonstrates Meridiam's unique capacity to innovate through the implementation of long-term financing alternatives for the benefit of local communities."



Photo gallery



See also



Orange County Fire Authority
AGENDA STAFF REPORT

Executive Committee Meeting
May 24, 2018

Agenda Item No. 3F
Consent Calendar

Special Procurement for
Communications Equipment Installation Professional Services

Contact(s) for Further Information

Dave Anderson, Assistant Chief Support Services Department	daveanderson@ocfa.org	714.573.6006
Joel Brodowski, IT Manager	joelbrodowski@ocfa.org	714.573.6421

Summary

This agenda item is submitted for approval to utilize the special procurement provision under Article III (Section 1-23) in the Purchasing Ordinance to execute a special procurement agreement with Bear Communications, Inc. (Bear Com.) for installing 800MHz mobile radios in OCFA emergency apparatus and vehicles.

Prior Board/Committee Action

At its October 27, 2016, meeting, the Executive Committee approved a sole source purchase order with Motorola Solutions, Inc. to purchase 1,555 new 800MHz radios for an amount not to exceed \$6,715,163 and approved a second sole source purchase order to Orange County Sheriff's Department to reprogram the new 800MHz radios for a not to exceed amount of \$77,750.

RECOMMENDED ACTION(S)

Approve and authorize the Purchasing Manager to execute the proposed six-month Professional Services Agreement with Bear Communications, Inc. for a not to exceed amount of \$157,500 to install new Motorola APX6500 mobile radios in up to 225 emergency apparatus and vehicles.

Impact to Cities/County

Not Applicable.

Fiscal Impact

Funding for this contract has been approved in the Adopted FY 2017/18 Capital Improvement Program Budget, specifically in Fund 124 (Communications & Information Systems) for a total budget amount of \$750,516.

Background

The OCFA has an emergent deadline to complete the removal and replacement of the mobile 800MHz radios in all apparatus and vehicles as quickly as possible. This is due to the start of the "Re-banding" phase of the 800MHz Countywide Coordinated Communications System (CCCS) P-25 upgrade project that begins May 17, 2018. It is estimated that it will take approximately four months to complete and requires that all older mobile 800MHz radios, which are not compatible with the re-banded frequencies, be replaced with new Motorola P25 800MHz radios that were purchased by each agency.

Special Procurement Justification

IT staff determined that based on the urgency of finishing this project and the time required to complete a formal solicitation process, that utilizing a special procurement in this instance would be in the best interest of OCFA. IT staff contacted five vendors that have provided radio installations for other agencies and requested quotes to remove and install the new radios in up to 225 OCFA apparatus and vehicles. The requested pricing included costs for services during regular business hours (8 a.m. – 5 p.m.) and after hours (evenings and weekends).

Four vendors provided pricing, with Bear Com. submitting the lowest per unit installation cost. This company has worked extensively for the OC Sheriffs removing and installing radios in over 500 vehicles. The company has also programmed the 1,555 new 800MHz Motorola radios purchased by OCFA. Bear Com. can provide two crews to work simultaneously and they are available to work regular business hours, evenings, and weekends as needed. See pricing matrix below for quote information.

BEAR COMMUNICATIONS, INC.	Hours Work Performed:		
	8am - 5pm	Evening/Wknd	
Price per apparatus/vehicle	\$630	\$945	
Qty apparatus/vehicles (estimated)	175	50	Total
	\$110,250	\$47,250	\$157,500
CDCE, Inc.			
Price per apparatus/vehicle	\$680	\$808	
Qty apparatus/vehicles (estimated)	175	50	Total
	\$119,000	\$40,375	\$159,375
RIVCOM, Inc.			
Price per apparatus/vehicle	\$800	not quoted	
Qty apparatus/vehicles (estimated)	175		
	\$140,000		
DAY WIRELESS SYSTEMS			
Price per apparatus/vehicle	\$975 - \$1,390	not quoted	
Qty apparatus/vehicles (estimated)	175		
	\$170,625-\$243,250		

800MHz Countywide Coordinated Communications System (CCCS)

The OCFA utilizes the 800MHz CCCS for in-county radio communications that is administered by the Orange County Sheriff's Department/Communications (OCSD) staff. In 2009, OCSD/Communications staff were directed to develop the next generation system proposal and develop an upgrade plan for the CCCS that would be compatible with FEMA and Department of Homeland Security Program 25 (P25) interoperability requirements, and support re-banded frequencies. In FY 2016/17, the OCFA budgeted \$7,540,000 in Fund 124 to purchase and install 1,555 P25 compatible 800MHz portable, mobile and base station radios. The radios were purchased in Dec. 2016 for \$6,715,163 and the remaining unspent funds were carried over to FY 2017/18 to the Fund 124 Budget for programming, installation, and additional radio equipment purchases including battery chargers, additional batteries, etc. An additional \$3,539,250 is budgeted in FY 2018/19 to upgrade the dispatcher consoles which will be the final upgrade to new P25 800MHz radio equipment for the OCFA.

Conclusion

Staff is recommending approval of the special procurement and professional services contract for radio installation services with Bear Communications, Inc. in a total not to exceed amount of \$157,500.

Attachment(s)

1. Professional Services Agreement with Bear Communications, Inc.
2. Special Procurement Form

**ORANGE COUNTY FIRE AUTHORITY
PROFESSIONAL SERVICES AGREEMENT**

THIS AGREEMENT FOR PROFESSIONAL SERVICES ("Agreement") is made and entered into this ____ day of March, 2018, by and between the Orange County Fire Authority, a public agency, hereinafter referred to as "OCFA", and Bear Communications, Inc., a Corporation, hereinafter referred to as "Firm". OCFA and Firm are sometimes individually referred to herein as a "Party" and collectively as the "Parties".

RECITALS

WHEREAS, OCFA requires the services of a qualified firm to provide Radio Installation Services for the OCFA Vehicle Radio Installation Project, hereinafter referred to as "Project"; and

WHEREAS, Firm has submitted to OCFA a Vehicle Installation Proposal dated April 25, 2018, which is incorporated herein by this reference ("Proposal"); and

WHEREAS, based on its experience and reputation, Firm is qualified to provide the necessary services for the Project and desires to provide such services; and

WHEREAS, OCFA desires to retain the services of Firm for the Project;

NOW, THEREFORE, in consideration of the promises and mutual agreements contained herein, OCFA agrees to employ and does hereby employ Firm and Firm agrees to provide professional services as follows:

AGREEMENT

1. PROFESSIONAL SERVICES

1.1 Scope of Services

In compliance with all terms and conditions of this Agreement, Firm shall provide those services specified in the Proposal, attached hereto as Exhibit "A," which includes by reference and by addendum: (1) Firm's Proposal, and (2) any amendments, addendums, change orders, or modifications mutually agreed upon by the parties hereto ("Services" or "Work"). Firm warrants that all Services shall be performed in a competent, professional and satisfactory manner in accordance with all standards prevalent in the same profession in the State of California. Firm represents and warrants that it and all employees, subconsultants and subcontractors providing any Services pursuant to this Agreement shall have a sufficient skill and experience to perform the Services. All Services shall be completed to the reasonable satisfaction of the OCFA. In the event of any inconsistency between the terms contained in the Proposal, and/or the terms set forth

in the main body of this Agreement, the terms set forth in the main body of this Agreement and then the Proposal shall govern, in that order.

1.2 Compliance with Law

All Services rendered hereunder shall be provided in accordance with all laws, ordinances, resolutions, statutes, rules, and regulations of OCFA and any federal, state or local governmental agency of competent jurisdiction.

1.3 Licenses and Permits

Firm shall obtain at its sole cost and expense such licenses, permits and approvals as may be required by law for the performance of the Services required by this Agreement.

1.4 Familiarity with Work

By executing this Agreement, Firm warrants that Firm (a) has thoroughly investigated and considered the Work to be performed, (b) has investigated the site of the Work and become fully acquainted with the conditions there existing, (c) has carefully considered how the Work should be performed, and (d) fully understands the facilities, difficulties and restrictions attending performance of the Work under this Agreement. Should the Firm discover any latent or unknown conditions materially differing from those inherent in the Work or as represented by OCFA, Firm shall immediately inform OCFA of such fact and shall not proceed with any Work except at Firm's risk until written instructions are received from the Contract Officer.

1.5 Care of Work

Firm shall adopt and follow reasonable procedures and methods during the term of the Agreement to prevent loss or damage to materials, papers or other components of the work, and shall be responsible for all such damage until acceptance of the work by OCFA, except such loss or damages as may be caused by OCFA's own negligence.

1.6 Additional Services

Firm shall perform services in addition to those specified in the Proposal when directed to do so in writing by the OCFA Purchasing Manager, provided that Firm shall not be required to perform any additional services without compensation. Any additional compensation exceeding fifteen percent (15%) must be approved in writing by the Executive Committee of the OCFA Board of Directors.

2. TIME FOR COMPLETION

The time for completion of the Services to be performed by Firm is an essential condition of this Agreement. Firm shall prosecute regularly and diligently the work of this Agreement according to the schedules set forth in Firm's Proposal. Firm shall not be accountable for delays in the progress of its work caused by any condition beyond its control and without the fault or negligence of Firm. Delays shall not entitle Firm to any additional compensation regardless of the party responsible for the delay.

3. COMPENSATION OF FIRM

3.1 Compensation of Firm

For the Services rendered pursuant to this Agreement, Firm shall be compensated and reimbursed, in accordance with the terms set forth in Exhibit "A", in an amount not to exceed \$157,500 (One Hundred Fifty-Seven Thousand, Five Hundred) Dollars.

3.2 Method of Payment

In any month in which Firm wishes to receive payment, Firm shall no later than the first working day of such month, submit to OCFA in the form approved by OCFA's Director of Finance, an invoice for Services rendered prior to the date of the invoice. OCFA shall pay Firm for all expenses stated thereon which are approved by OCFA consistent with this Agreement, within thirty (30) days of receipt of Firm's invoice.

3.3 Changes

In the event any change or changes in the work is requested by OCFA, the parties hereto shall execute an addendum to this Agreement, setting forth with particularity all terms of such addendum, including, but not limited to, any additional fees. Addenda may be entered into:

A. To provide for revisions or modifications to documents or other work product or work when documents or other work product or work is required by the enactment or revision of law subsequent to the preparation of any documents, other work product or work;

B. To provide for additional services not included in this Agreement or not customarily furnished in accordance with generally accepted practice in Firm's profession.

3.4 Appropriations

This Agreement is subject to and contingent upon funds being appropriated therefore by the OCFA Board of Directors for each fiscal year covered by the Agreement. If such appropriations are not made, this Agreement shall automatically terminate without penalty to OCFA.

4. PERFORMANCE SCHEDULE

4.1 Time of Essence

Time is of the essence in the performance of this Agreement.

4.2 Schedule of Performance

All Services rendered pursuant to this Agreement shall be performed within the time periods prescribed in the Proposal, attached hereto as Exhibit "A". The extension of any time period specified in Exhibit "A" must be approved in writing by the Contract Officer.

4.3 Force Majeure

The time for performance of Services to be rendered pursuant to this Agreement may be extended because of any delays due to unforeseeable causes beyond the control and without the fault or negligence of the Firm, including, but not restricted to, acts of God or of a public enemy, acts of the government, fires, earthquakes, floods, epidemic, quarantine restrictions, riots, strikes, freight embargoes, and unusually severe weather if the Firm shall within ten (10) days of the commencement of such condition notify the Contract Officer who shall thereupon ascertain the facts and the extent of any necessary delay, and extend the time for performing the Services for the period of the enforced delay when and if in the Contract Officer's judgment such delay is justified, and the Contract Officer's determination shall be final and conclusive upon the parties to this Agreement.

4.4 Term

Unless earlier terminated in accordance with Sections 8.5 or 8.6 of this Agreement, this Agreement shall commence upon the Effective Date, and shall continue in full force and effect until Project completion.

5. COORDINATION OF WORK

5.1 Representative of Firm

The following principal of the Firm is hereby designated as being the principal and representative of Firm authorized to act in its behalf with respect to the work specified herein and make all decisions in connection therewith: Michael A. Conrey

It is expressly understood that the experience, knowledge, capability and reputation of the foregoing principal is a substantial inducement for OCFA to enter into this Agreement. Therefore, the foregoing principal shall be responsible during the term of this Agreement for directing all activities of Firm and devoting sufficient time to personally supervise the Services hereunder. The foregoing principal may not be changed by Firm without the express written approval of OCFA.

5.2 Contract Officer

The Contract Officer shall be Joel Brodowski, unless otherwise designated in writing by OCFA. It shall be the Firm's responsibility to keep the Contract Officer fully informed of the progress of the performance of the Services and Firm shall refer any decisions that must be made by OCFA to the Contract Officer. Unless otherwise specified herein, any approval of OCFA required hereunder shall mean the approval of the Contract Officer.

5.3 Prohibition Against Subcontracting or Assignment

5.3.1 No Subcontracting Without Prior Approval. The experience, knowledge, capability and reputation of Firm, its principals and employees, and the Firm Representative were a substantial inducement for OCFA to enter into this Agreement. Therefore, Firm shall not contract with any other entity to perform in whole or in part the Services required hereunder without the express written approval of OCFA.

5.3.2 Provisions in the Event Subcontractor(s) Are Authorized. If Firm is authorized to subcontract any part of the Services as provided in Section 5.3.1, Firm shall be responsible to OCFA for the acts and omissions of its subcontractor(s) and subconsultant(s) in the same manner as it is for persons directly employed. For purposes of this Agreement, all persons engaged in the performance of Services will be considered employees of Firm. OCFA will deal directly with and will make all payments to Firm. Nothing contained in this Agreement shall create any contractual relationships between any subcontractor and OCFA. Firm shall ensure that all subcontractor insurance requirements set forth in Section 6 below (including its subsections) are complied with prior to commencement of Services by each subcontractor.

5.3.2.1 Withholding Payment for Non-Authorized Subcontractors. OCFA shall have the right to withhold payment from Firm

for Services performed by any subcontractor or subconsultant performing Services but not authorized in writing by OCFA, or regarding which the insurance or other requirements under this Agreement have not been satisfied.

5.3.3 Assignments. Neither this Agreement nor any interest herein may be assigned, transferred, conveyed, hypothecated, or encumbered voluntarily or by operation of law, whether for the benefit of creditors or otherwise, without the prior written approval of OCFA. Transfers restricted hereunder shall include the transfer to any person or group of persons acting in concert of more than twenty five percent (25%) of the present ownership and/or control of Firm, taking all transfers into account on a cumulative basis. In the event of any such unapproved transfer, including any bankruptcy proceeding, this Agreement shall be void. No approved transfer shall release Firm or any surety of Firm from any liability hereunder without the express written consent of OCFA.

5.4 Independent Contractor

5.4.1 The legal relationship between the Parties is that of an independent contractor, and nothing herein shall be deemed to make Contractor, or any of its personnel, an OCFA employee. During the performance of this Agreement, Firm and its officers, employees, and agents shall act in an independent capacity and shall not act as OCFA officers or employees. Firm will determine the means, methods and details of performing the Services subject to the requirements of this Agreement. The personnel performing the Services under this Agreement on behalf of Firm shall at all times be under Firm's exclusive direction and control. Neither OCFA nor any of its officials, officers, employees, agents or volunteers shall have control over the conduct of Firm or any of its officers, employees, or agents, except as set forth in this Agreement. Firm, its officers, employees or agents, shall not maintain a permanent office or fixed business location at OCFA's offices. OCFA shall have no voice in the selection, discharge, supervision, or control of Firm's officers, employees, representatives or agents or in fixing their number, compensation, or hours of service. Firm shall pay all wages, salaries, and other amounts due its employees in connection with the performance of Services under this Agreement and shall be responsible for all reports and obligations respecting them, including but not limited to social security income tax withholding, unemployment compensation, workers' compensation, and other similar matters. OCFA shall not in any way or for any purpose be deemed to be a partner of Firm in its business or otherwise a joint venturer or a member of any joint enterprise with Firm.

5.4.2 Firm shall not incur or have the power to incur any debt, obligation, or liability against OCFA, or bind OCFA in any manner.

5.4.3 No OCFA benefits shall be available to Firm, its officers, employees, or agents, in connection with the performance of any Work or Services under this Agreement. Except for professional fees paid to Firm as provided for in this Agreement, OCFA shall not pay salaries, wages, or other compensation to Firm for the performance of any Work or Services under this Agreement. OCFA shall not be liable for

compensation or indemnification to Firm, its officers, employees, or agents, for injury or sickness arising out of performing any Work or Services hereunder. If for any reason any court or governmental agency determines that the OCFA has financial obligations, other than pursuant to Section 2 herein, of any nature relating to salary, taxes, or benefits of Firm's officers, employees, representatives, agents, or subconsultants or subcontractors, Firm shall defend, indemnify, and hold harmless OCFA from and against all such financial obligations.

5.6 Employee Retirement System Eligibility Indemnification

5.6.1 In the event that Firm or any employee, agent, or subcontractor of Firm providing any Work or Services under this Agreement claims or is determined by a court of competent jurisdiction to be eligible for enrollment in an employee retirement system as an employee of the OCFA, Firm shall indemnify, defend, and hold harmless OCFA against: (1) all such claim(s) and determination(s); (2) for the payment of any employee and/or employer contributions for employee retirement system benefits on behalf of Firm or its employees, agents or subcontractors; and (3) the payment of any penalties and interest on such contributions which would otherwise be the responsibility of the OCFA.

5.6.2 Notwithstanding any other agency, state or federal policy, rule, regulation, law or ordinance to the contrary, Contractor and any of its employees, agents, and subcontractors providing any Work or Services under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any claims to, any compensation, benefit, or any incident of employment by OCFA, including but not limited to eligibility to enroll in PERS as an employee of OCFA and entitlement to any contribution to be paid by OCFA for employer contribution and/or employee contributions for PERS benefits.

6. INSURANCE AND INDEMNIFICATION

6.1 Compliance with Insurance Requirements. Firm shall obtain, maintain, and keep in full force and effect during the term of this Agreement, at its sole cost and expense, and in a form and content satisfactory to OCFA, all insurance required under this section. Firm shall not commence any Services under this Agreement unless and until it has provided evidence satisfactory to OCFA that it has secured all insurance required under this section. If Firm's existing insurance policies do not meet the insurance requirements set forth herein, Firm agrees to amend, supplement or endorse the policies to meet all requirements herein.

6.2 Types of Insurance Required. Without limiting the indemnity provisions set forth in this Agreement, Firm shall obtain and maintain in full force and effect during the term of this Agreement, including any extension thereof, the following policies of insurance:

6.2.1 Professional Liability/Errors and Omissions Insurance ("PLI"). Firm shall obtain and maintain PLI insurance applicable to each licensed profession practiced by Firm. Firm shall maintain PLI insurance with per-claim and aggregate limits no lower than one million dollars (\$1,000,000.00) each occurrence and two million dollars (\$2,000,000.00) aggregate. Covered professional services shall specifically include all Services to be performed under the Agreement and the policy shall be endorsed to delete any exclusions that may exclude coverage for claims within the minimum PLI Limits for the Services to be performed under this Agreement.

6.2.1.1 The PLI policy shall be endorsed to delete any Contractual Liability Exclusion. The PLI shall include contractual liability coverage applicable to this Agreement. The policy must "pay on behalf of" the insured, and include a provision establishing the insurer's duty to defend the insured.

6.2.1.2 If the PLI policy of insurance is written on a "claims-made" basis, the policy shall be continued in full force and effect at all times during the term of this Agreement, and for a period of three (3) years from the date of the completion of all Services provided hereunder (the "PLI Coverage Period"). If any PLI policy is replaced, cancelled, non-renewed, discontinued, or otherwise terminated, or if the limits of a PLI policy are reduced or the available coverage depleted below the required minimum coverage amounts for any reason during the PLI Coverage Period, Firm shall immediately obtain replacement PLI coverage meeting the requirements of this Section 6.2.1. Such replacement coverage shall satisfy all requirements herein, and shall include coverage for the prior acts or omissions of Firm during the time period during which any Services were performed. The coverage shall be evidenced by either a new policy evidencing no gap in coverage, or by obtaining separate extended "tail" coverage with the present or new carrier or other insurance arrangements providing for complete coverage, either of which shall be subject to the written approval by the OCFA.

6.2.1.3 If the PLI policy is written on an "occurrence" basis, the policy shall be continued in full force and effect during the term of this Agreement, or until completion of the Services provided for in this Agreement, whichever is later. In the event of termination of the PLI policy during this period, new coverage shall immediately be obtained, and written evidence of the policy shall be immediately provided to OCFA, to ensure PLI coverage during the entire course of performing the Services.

6.2.1.4 Firm shall not perform any Services at any time during which required types or amounts of PLI insurance are not in effect, and OCFA shall have no obligation to pay Firm for Services performed while required PLI insurance is not in effect.

6.2.2 Commercial General Liability Insurance. Firm shall obtain and maintain, in full force and effect throughout the term of this Agreement, Insurance Services Office (ISO) Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than five million dollars (\$5,000,000.00) per

occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this Project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit. CGL insurance shall be provided on an occurrence-based coverage form; a "claims made" CGL policy is not acceptable. Firm shall maintain CGL insurance with per-claim, aggregate and products and operations completed limits no lower than the minimum CGL coverage limits set forth above. Defense costs shall be paid in addition to the limits. The policy shall contain no endorsements or provisions limiting coverage for any of the following: (1) contractual liability; (2) cross liability exclusion for claims or suits by one insured against another; or (3) any other exclusion contrary to this Agreement.

6.2.3 Automobile Liability Insurance. Firm shall obtain and maintain, in full force and effect throughout the term of this Agreement, a policy of Automobile liability insurance written on a per occurrence basis with limits of at least one million dollars (\$1,000,000.00) combined limit for each occurrence covering bodily injury, disease and property damage. Defense costs shall be paid in addition to the policy limits. The policy shall specifically include coverage for owned, non-owned, leased, and hired automobiles, and be endorsed to eliminate any exclusion applicable to any of them.

6.2.4 Workers' Compensation Insurance. Firm shall obtain and maintain, in full force and effect throughout the term of this Agreement, a policy of Workers' Compensation Insurance in at least the minimum statutory amounts, and in compliance with all other statutory requirements applicable in the State of California. Firm hereby waives on its own behalf, and shall obtain an endorsement from its workers' compensation insurer waiving on the insurance company's behalf, all rights of subrogation against the OCFA, its board members, officials, officers, employees, agents and volunteers.

6.2.4.1 If subconsultants or subcontractors are used, Firm shall require each of its subconsultants and subcontractors, if any, to waive all rights of subrogation, and to obtain endorsements from the subconsultants'/subcontractors' workers' compensation insurers waiving all rights of subrogation, against the OCFA, its board members, officials, officers, employees, agents and volunteers.

6.2.4.2 Firm and each of its subconsultants and subcontractors shall also maintain, in full force and effect throughout the term of this Agreement, Employer's Liability Insurance with limits of at least one million dollars (\$1,000,000.00) per injury or illness.

6.3 Acceptability of Insurers. Each insurance policy required by this section shall be issued by a licensed company authorized to transact business by the Department of Insurance for the State of California with a current rating of A-:VII or better (if an admitted carrier), or a current rating of A:X or better (if offered by a non-admitted insurer listed on the State of California List of Approved Surplus Line Insurers (LASLI)), by the latest edition of A.M. Best's Key Rating Guide, except that the OCFA will accept workers' compensation insurance from the State Compensation Fund. In the event the

OCFA determines that the Services to be performed under this Agreement creates an increased or decreased risk of loss to the OCFA, the Firm agrees that the minimum limits of the insurance policies may be changed accordingly upon receipt of written notice from the OCFA.

6.3.1 Firm shall immediately replace any insurer whose A.M. Best rating drops below the levels specified herein with an insurer that meets the minimum requirements herein.

6.4 Specific Insurance Provisions and Endorsements. Required insurance policies shall not be in compliance if they include any limiting provision or endorsement that has not been submitted to the OCFA for written approval. Required insurance policies shall contain the following provisions, or Firm shall provide endorsements on forms approved by the OCFA to add the following provisions to the insurance policies:

6.4.1 CGL and Auto Liability Endorsements. The policy or policies of insurance required by this Agreement for CGL and Automobile Liability Insurance shall be endorsed as follows:

6.4.1.1 Additional Insured: The OCFA, its board members, officials, officers, employees, agents and volunteers, shall be additional insureds; and

6.4.1.1.1 Additional Insured Endorsements: Additional insured endorsements shall not (1) be restricted to "ongoing operations", (2) exclude "contractual liability", (3) restrict coverage to "sole" liability of Firm, (4) contain any other exclusions contrary to the Agreement; or (5) contain special limitations on the scope of protection afforded to additional insureds.

6.4.1.2 Primary, Non-Contributing. Each CGL and Auto Liability insurance policy shall be endorsed to be primary and any other insurance, deductible, or self-insurance maintained by the OCFA, its board members, officials, officers, employees, agents or volunteers, shall not contribute with the primary insurance.

6.4.2 Notice of Cancellation: Each policy of any type shall be endorsed to provide that coverage shall not be suspended, voided, cancelled, or modified, or reduced in coverage or in limits, except after thirty (30) days prior written notice has been provided to the OCFA. Notwithstanding the foregoing, if coverage is to be suspended, voided, or cancelled because of Firm's failure to pay the insurance premium, the notice provided by the insurer to OCFA shall be by not less than ten (10) days prior written notice. (A statement that notice will be provided "in accordance with the policy terms" or words to that effect is inadequate to meet the requirements of this Section).

6.4.2.1 Pre-Payment of Policy Premium. If for any reason an insurer declines to issue an endorsement certifying that it will notify OCFA in accordance with section 6.4.2, Firm shall either obtain insurance from another insurer who will provide the required notice endorsement or shall provide evidence satisfactory to OCFA that the entire policy premium for the full term of that policy has been pre-paid such that the risk of non-payment of premiums during the term of the policy has been eliminated.

6.4.3 ACORD Forms Will Not Be Accepted in Lieu of Endorsements. By executing this Agreement, Firm certifies that it has – prior to execution of this Agreement - confirmed that its insurance company will issue each of the endorsements required by this Agreement. Firm also certifies that it understands that "ACORD" Certificate of Liability Insurance forms will not be accepted in lieu of required endorsements.

6.5 Deductibles and Self-Insured Retentions. Any deductible or self-insured retention must be approved in writing by the OCFA in advance. The decision whether to approve or withhold approval of a deductible or self-insured retention shall be made by the OCFA in the OCFA's sole and absolute discretion. (Firm may request pre-approval from OCFA of a deductible or self-insured retention prior to submitting Firm's Proposal).

6.6 Waiver of Subrogation. All policies of Commercial General Liability and Automobile Liability Insurance shall contain or be endorsed to waive subrogation against the OCFA, its officials, officers, employees, agents and volunteers, or shall specifically allow Firm or others providing insurance evidence in compliance with the requirements set forth in this section to waive their right to recovery prior to a loss. Firm hereby agrees to waive its own right of subrogation against the OCFA, its officials, officers, employees, agents and volunteers.

6.6.1 Waivers of Subrogation: Subconsultants and Subcontractors. If OCFA approves the use of subconsultants or subcontractors for the performance of any portion of the Services, then Firm shall obtain from each subconsultant and subcontractor, and make available to OCFA upon request, written express waivers by each subconsultant and subcontractor of the right of subrogation against the OCFA, its officials, officers, employees, agents and volunteers, and policy endorsements of each of its subconsultants' and subcontractors' insurance policies waiving any rights of subrogation against the OCFA, its officials, officers, employees, agents and volunteers insurer. All such waivers and endorsements shall be obtained prior to commencement of any Services by each subconsultant or subcontractor.

6.7 Evidence of Coverage. Concurrently with the execution of the Agreement, Firm shall deliver certificates of insurance together with original endorsements affecting each of the insurance policies required to be maintained by Firm by this Section 5. Firm shall promptly furnish, at OCFA's request, copies of actual policies

including all declaration pages, endorsements, exclusions and any other policy documents OCFA requires to verify coverage.

6.7.1 Required insurance policies shall not be in compliance if they include any limiting provision or endorsement that has not been submitted to the OCFA for written approval.

6.7.2 Authorized Signatures. The certificates of insurance and original endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf.

6.7.3 Renewal/Replacement Policies. At least fifteen (15) days prior to the expiration of any policy required by this Agreement, evidence of insurance showing that such insurance coverage has been renewed or extended shall be filed with the OCFA. If such coverage is cancelled or reduced and not replaced immediately so as to avoid a lapse in the required coverage, Firm shall, within ten (10) days after receipt of written notice of such cancellation or reduction of coverage, file with the OCFA evidence of insurance showing that the required insurance has been reinstated or has been provided through another insurance company or companies meeting all requirements of this Agreement.

6.8 Requirements Not Limiting. Requirement of specific coverage or minimum limits contained in this section are not intended as a limitation on coverage, limits, or other requirements, or a waiver of any coverage normally provided by any insurance. Nothing in this section shall be construed as limiting in any way the indemnification provision contained in this Agreement, or the extent to which Firm may be held responsible for losses of any type or amount.

6.9 Enforcement of Agreement (Non-Estoppel). Firm acknowledges and agrees that actual or alleged failure on the part of the OCFA to inform Firm of any non-compliance with any of the insurance requirements set forth in this Agreement imposes no additional obligation on the OCFA nor does it waive any rights hereunder.

6.10 Insurance for Subconsultants. If OCFA approves the use of subconsultants or subcontractors for the performance of any portion of the Services, then Firm shall be responsible for causing each approved subconsultant and subcontractor to procure and maintain insurance in the same types and amounts required for Firm, and in full compliance with the insurance requirements set forth in this Agreement, except as otherwise authorized in writing by the Contract Manager.

6.10.1 Delivery of Evidence of Subcontractor Insurance. Upon request of OCFA, Firm shall deliver to OCFA all certificates of insurance and endorsements required from subcontractors and subconsultants. (Note: Firm's duty to obtain all required insurance for subcontractors and subconsultants required under this Agreement applies whether or not OCFA requests delivery of evidence of such coverage.)

6.11 Other Insurance Requirements. The following terms and conditions shall apply to the insurance policies required of Firm and its subconsultants and subcontractors, if any, pursuant to this Agreement:

6.11.1 Firm shall provide immediate written notice to OCFA if (1) any of the insurance policies required herein are terminated, cancelled, suspended, or non-renewed (2) the limits of any of the insurance coverages required herein are reduced; (3) any required insurance coverage is reduced below the required minimum limits through claims or otherwise, or (4) the deductible or self-insured retention is increased.

6.11.2 All insurance coverage and limits required under this Agreement are intended to apply to each insured, including additional insureds, against whom a claim is made or suit is brought to the full extent of the policies. Nothing contained in this Agreement or any other agreement relating to the OCFA or its operations shall limit the application of such insurance coverage.

6.11.3 None of the insurance coverages required herein will be in compliance with the requirements of this section if they include any limiting endorsement which substantially impairs the coverages set forth herein (e.g., elimination of contractual liability or reduction of discovery period), unless the endorsement has first been submitted to the OCFA and approved in writing.

6.11.4 Certificates of insurance will not be accepted in lieu of required endorsements, and submittal of certificates without required endorsements may delay the Project. It is Firm's obligation to ensure timely compliance with all insurance submittal requirements as provided herein and Firm agrees to reimburse OCFA for any losses resulting from its failure, or its subconsultants' or subcontractors' failure, to timely comply with the requirements of this Agreement.

6.11.5 Firm agrees to ensure that subconsultants and subcontractors, if any, and any other parties involved with the Project who are brought onto or involved in the Project by Firm, provide the same minimum insurance coverage required of Firm. Firm agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this section. Firm agrees that upon request, all agreements with, and evidence of insurance from, subconsultants and subcontractors and others engaged in performing any Services will be submitted to the OCFA for review.

6.11.6 Firm agrees to provide immediate written notice to OCFA of any claim, demand or loss arising out of the Services performed under this Agreement and for any other claim, demand or loss which may reduce the insurance available to an amount less than required by this Agreement.

6.12 Indemnification.

To the fullest extent permitted by law, Firm shall defend (at Firm's sole cost and expense with legal counsel reasonably acceptable to OCFA), indemnify and hold the OCFA, its board members, officials, officers, employees, agents and volunteers, free and harmless from any and all claims, demands, orders, causes of action, costs, expenses, liabilities, losses, penalties, judgments, arbitration awards, settlements, damages or injuries of any kind, in law or in equity, including but not limited to property or persons, including wrongful death, (collectively "Claims") in any manner arising out of, pertaining to, related to, or incident to any alleged acts, errors or omissions, or willful misconduct of Firm, its officers, directors, employees, subconsultants, subcontractors, agents or invitees in connection with performance under this Agreement, or in any manner arising out of, pertaining to, related to, or incident to an alleged breach of this Agreement, including without limitation the payment of all consequential damages, expert witness fees and attorneys' fees and other related costs and expenses.

Notwithstanding the foregoing, and only to the extent that the Services performed by Firm are subject to California Civil Code Section 2782.8, the above indemnity shall be limited, to the extent required by Civil Code Section 2782.8, to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Firm.

Under no circumstances shall the insurance requirements and limits set forth in this Agreement be construed to limit Firm's indemnification obligation or other liability hereunder. Notwithstanding the foregoing, such obligation to defend, hold harmless and indemnify the OCFA, its board members officials, officers, employees, agents and volunteers, shall not apply to the extent that such Claims are caused by the sole negligence or willful misconduct of that indemnified party.

7. RECORDS AND REPORTS

7.1 Reports

Firm shall periodically prepare and submit to the Contract Officer such reports concerning the performance of the Services required by this Agreement as the Contract Officer shall require.

7.2 Records

Firm shall keep such books and records as shall be necessary to properly perform the Services required by this Agreement and enable the Contract Officer to evaluate the performance of such Services. Except as provided in Section 7.5, the Contract Officer shall have full and free access to such books and records at all reasonable times, including the right to inspect, copy, audit and make records and transcripts from such records.

7.3 Ownership of Documents

Except as provided in Section 7.5, all drawings, specifications, reports, records, documents and other materials prepared by Firm in the performance of this Agreement shall be the property of OCFA and shall be delivered to OCFA upon request of the Contract Officer or upon the termination of this Agreement, and Firm shall have no claim for further employment or additional compensation as a result of the exercise by OCFA of its full rights or ownership of the documents and materials hereunder. Firm may retain copies of such documents for its own use. Firm shall have an unrestricted right to use the concepts embodied therein.

7.4 Release of Documents

All drawings, specifications, reports, records, documents and other materials prepared by Firm in the performance of Services under this Agreement shall not be released publicly without the prior written approval of the Contract Officer.

7.5 Confidential Materials

Notwithstanding anything to the contrary in this Agreement, the Firm shall be the sole owner of Firm's work papers and of any other documents, data or information which are required to be maintained confidential from OCFA by one or more rules of professional conduct governing the Firm's profession(s) (collectively, the "Confidential Materials"). Neither the OCFA nor the Contract Officer shall have access to the Confidential Materials except as may otherwise be required by order issued by a court of competent jurisdiction.

8. ENFORCEMENT OF AGREEMENT

8.1 California Law

This Agreement shall be construed and interpreted both as to validity and to performance of the parties in accordance with the laws of the State of California. Legal actions concerning any dispute, claim or matter arising out of or in relation to this Agreement shall be instituted in the Superior Court of the County of Orange, State of California, or any other appropriate court in such county, and Firm covenants and agrees to submit to the personal jurisdiction of such court in the event of such action.

8.2 Waiver

No delay or omission in the exercise of any right or remedy of a non-defaulting party on any default shall impair such right or remedy or be construed as a waiver. No consent or approval of OCFA shall be deemed to waiver or render unnecessary OCFA's consent to or approval of any subsequent act of Firm. Any waiver by either party of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this Agreement.

8.3 Rights and Remedies are Cumulative

Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the parties are cumulative and the exercise by either party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other party.

8.4 Legal Action

In addition to any other rights or remedies, either party may take legal action, in law or in equity, to cure, correct or remedy any default, to recover damages for any default, to compel specific performance of this Agreement, to obtain injunctive relief, a declaratory judgment, or any other remedy consistent with the purposes of this Agreement.

8.5 Termination Prior to Expiration of Term

OCFA reserves the right to terminate this Agreement at any time, with or without cause, upon thirty (30) days written notice to Firm, except that where termination is due to the fault of the Firm and constitutes an immediate danger to health, safety and general welfare, the period of notice shall be such shorter time as may be appropriate. Upon receipt of the notice of termination, Firm shall immediately cease all Services hereunder except such as may be specifically approved by the Contract Officer. Firm shall be entitled to compensation for all Services rendered prior to receipt of the notice of termination and for any Services authorized by the Contract Officer thereafter.

Firm may terminate this Agreement, with or without cause, upon thirty (30) days written notice to OCFA.

8.6 Termination for Default of Firm

If termination is due to the failure of the Firm to fulfill its obligations under this Agreement, OCFA may take over the work and prosecute the same to completion by contract or otherwise, and the Firm shall be liable to the extent that the total cost for completion of the Services required hereunder exceeds the compensation herein stipulated, provided that OCFA shall use reasonable efforts to mitigate damages, and OCFA may withhold any payments to the Firm for the purpose of set-off or partial payment of the amounts owed to OCFA.

8.7 Attorneys' Fees

If either party commences an action against the other party arising out of or in connection with this Agreement or its subject matter, the prevailing party shall be entitled to recover reasonable attorneys' fees and costs of suit from the losing party.

9. OCFA OFFICERS AND EMPLOYEES; NON-DISCRIMINATION

9.1 Non-Liability of OCFA Officers and Employees

No officer or employee of OCFA shall be personally liable to the Firm, or any successor-in-interest, in the event of any default or breach by OCFA or for any amount which may become due to the Firm or its successor, or for breach of any obligation of the terms of this Agreement.

9.2 Covenant Against Discrimination

Firm covenants that, by and for itself, its heirs, executors, assigns, and all persons claiming under or through them, that there shall be no discrimination or segregation in the performance of or in connection with this Agreement regarding any person or group of persons on account of race, color, creed, religion, sex, marital status, national origin, or ancestry. Firm shall take affirmative action to insure that applicants and employees are treated without regard to their race, color, creed, religion, sex, marital status, national origin, or ancestry.

10. MISCELLANEOUS PROVISIONS

10.1 Confidentiality

Information obtained by Firm in the performance of this Agreement shall be treated as strictly confidential and shall not be used by Firm for any purpose other than the performance of this Agreement without the written consent of OCFA.

10.2 Notice

Any notice, demand, request, consent, approval, or communication either party desires or is required to give to the other party or any other person shall be in writing and either served personally or sent by pre-paid, first-class mail to the address set forth below. Either party may change its address by notifying the other party of the change of address in writing. Notice shall be deemed communicated forty-eight (48) hours from the time of mailing if mailed as provided in this Section.

Orange County Fire Authority
Attention: Debbie Casper
1 Fire Authority Road
Irvine, CA 92602

WITH COPY TO:

David E. Kendig, General Counsel
Woodruff, Spradlin & Smart
555 Anton Blvd. Suite 1200
Costa Mesa, CA 92626

To Firm:

Bear Communications, Inc.
Attention: Michael A. Conrey
2601 Manhattan Beach Blvd.
Redondo Beach, CA 90278

10.2 Integrated Agreement

This Agreement contains all of the agreements of the parties and cannot be amended or modified except by written agreement.

10.3 Amendment

This Agreement may be amended at any time by the mutual consent of the parties by an instrument in writing.

10.4 Severability

In the event that any one or more of the phrases, sentences, clauses, paragraphs, or sections contained in this Agreement shall be declared invalid or unenforceable by valid judgment or decree of a court of competent jurisdiction, such invalidity or unenforceability shall not affect any of the remaining phrases, sentences, clauses, paragraphs, or sections of this Agreement, which shall be interpreted to carry out the intent of the parties hereunder.

10.5 Corporate Authority

The persons executing this Agreement on behalf of the parties hereto warrant that they are duly authorized to execute this Agreement on behalf of said parties and that by so executing this Agreement the parties hereto are formally bound to the provisions of this Agreement.

[Signatures on Following Page]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the dates stated below.

"OCFA"

ORANGE COUNTY FIRE AUTHORITY

Date: _____

By: _____

Debbie Casper, C.P.M., CPPB
Purchasing & Materials Manager

APPROVED AS TO FORM.

ATTEST:

By: _____

DAVID E. KENDIG
GENERAL COUNSEL

By: _____

Sherry A.F. Wentz
Clerk of the Authority

Date: _____

"FIRM"

BEAR COMMUNICATIONS, INC.

Date: 5-10-18

By: _____


~~Greg Kaplanek~~ Mark Carry
Account Executive Service Manager

Date: 5-10-18

By: _____


Michael Conrey
Project Manager

Exhibit "A"



Orange County Fire Authority Vehicle Installation Proposal

5/9/2018

The design, technical, pricing, and other information ("Information") furnished with this submission is proprietary information of Bear Communications, Inc. ("BearCom") and is submitted with the restriction that it is to be used for evaluation purposes only. To the fullest extent allowed by applicable law, the Information is not to be disclosed publicly or in any manner to anyone other than those required to evaluate the Information without the express written permission of BearCom.



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About Us

For more than 35 years, BearCom has designed and delivered high-performance wireless voice and data communication solutions that boost operating efficiency and increase safety for leading airlines, manufacturing and petrochemical plants, distribution centers, hotels and resorts, construction firms, public safety agencies, schools, and more. Every year, our rentals team supports major sporting events, award shows, conventions, and fairs, as well as the largest music festivals in the nation.

Whether you need a multi-point wireless network to connect your work teams, a fully integrated two-way radio system to combine voice and data across your facility, a bi-directional amplifier to enable communications between first responders in an emergency, or any other wireless solution to improve staff collaboration, BearCom can help. Our knowledgeable team is ready to meet your challenges with a wide selection of innovative equipment, infrastructure, and solutions that enhance the success of your communications. With our proven expertise serving more than 20,000 customers in nearly every commercial and public sector, you can count on BearCom to design and deliver the best solutions for your organization.

BearCom is headquartered in the Dallas, Texas area with over 40 locations around the country, employing more than 500 people. BearCom is Motorola Solutions largest value-added reseller (VAR) and has earned the prestigious Service Elite Specialist designation.

What We Do

BearCom is proud to serve a wide variety of customers in every type of industrial, commercial, and public enterprise. By collaborating with BearCom, you get the skill sets and expertise required to successfully design, install, and service integrated voice and data communication solutions that improve productivity while enhancing safety.

Our Technical Services Group includes more than 100 highly knowledgeable, highly experienced wireless industry professionals, many of whom hold advanced engineering degrees. Our team stays up-to-date with wireless technology by earning the latest credentials for DMR and P25 networking, R56 site installation, and other key industry certifications.

BearCom is the only nationwide two-way radio system integrator, so we can be your sole point of contact across the country to serve both single-site and multi-site needs for voice/data communications. In addition to two-way radio systems, BearCom offers deep levels of technical expertise with Point-To-Point and Point-To-Multipoint networks, Bi-Directional Amplifiers (BDAs), Distributed Antenna Systems (DASs), CCTV/process cameras, remote call boxes, emergency communication systems, and many other end-to-end wireless networking solutions.

Our team has a long and proven history working with organizations of every size and description. Because of our breadth of operations, we offer many unique resources and benefits. For instance, we maintain a substantial in-stock inventory for better selection and speed-of-delivery, our unmatched financial resources provide added stability and peace-of-mind that we will be there when you need us most, and we run our business using a world-class ERP platform that assures reliable, long-term tracking, reporting, and recordkeeping.



Overview

This document describes the deliverables to be provided to Orange County Fire Authority ("Customer") by Bear Communications, Inc. ("BearCom") It outlines the tasks to be completed by BearCom for the removal of the existing radio and installation of APX radios into the fire apparatus for OCFA. The customer estimates the need for radio replacement in approximately 200 vehicles.

Your Team

BearCom is America's only nationwide wireless equipment dealer and integrator. We are headquartered in Dallas, Texas. BearCom has more than 40 branches across the United States and is continually growing. We're here to help you!



Local Branch

Redondo Beach

2601 Manhattan Beach Blvd.
Redondo Beach, CA. 90278

424-675-7116

Greg Kaplanek

Account Executive

Email: greg.kaplanek@bearcom.com

Phone: 760-539-7655

Mark Carry

Service Manager

Email: mark.carry@bearcom.com

Phone: 310-261-3620

Michael Conrey

Project Manager

Email: michael.conrey@bearcom.com

Phone: 310-420-3792

Installation Team

- Bearcom employs five full time installation technicians based in the Redondo Beach office.
- We are able to pull resources from our adjacent branches (Costa Mesa, Riverside and San Diego) to assist with any size project.
- Bearcom also utilizes subcontractors from Nationwide Fleet Installation when needed for larger projects. We have gone through great lengths to vet and approve Nationwide as a contractor and fully back their work under our supervision.



Executive Summary

Thank you in advance for allowing BearCom to submit the following proposal for your consideration.

Please be advised that BearCom has the technical competency, financial stability, and industry experience that enable us to meet and exceed your needs. Our engineering, project management, and sales teams have collaborated to provide you with a maintenance solution which best fits your desired needs. If after reviewing this proposal you should have any questions, please feel free to contact us at the phone number or e-mail address listed above. We welcome the opportunity to continue to serve you.

Statement of Work

This SOW provides the most current understanding of the work required by both parties to ensure a successful project implementation. It is understood that this SOW is a working document, and that it will be revised as needed to incorporate any changes associated with contract negotiations, or any change orders that may occur during the execution of the project.

SOW Summary

Bearcom will provide labor services for the removal of existing radio in fire apparatus and installation of new APX radio in its place.

Bearcom Responsibilities

- Bearcom PM will coordinate with OCFA POC on weekly scheduling of personnel, locations, and rigs for installation
- Provide a minimum of one team (two installers) daily for installs. More teams will be ready for deployment based on the number of vehicles and locations per day
- All work to be completed to the OCFA standards.
- The Bearcom team will not make any assumptions on installation locations and will ask for instruction when needed
- Technicians will provide their own hand and power tools needed for installation as well as misc. supplies (zip ties, split loom, etc.)
- Technician will conduct a watt check once installation is complete and document results on installation form. If reading is not to specifications technician will check antenna connection. If connection is good technician will recommend antenna replacement on installation completion form

Customer Responsibilities

- Provide access to facilities where installations are to take place
- Provide all installation equipment including, radio, cabling, faceplates, radio heads, and mics
- Direct installation team on install locations and proper cable paths. Make the determination of install should there be an issue.
- Coordinate with OCFA contracted cities to provide access to the units
- Sign off technician work ticket upon completion of daily installs



General Customer Responsibilities

Customer will assume responsibility for the installation and performance of all other equipment and work necessary for completion of this project that is not provided by BearCom.

Location(s) of Work, Start Date, and Period of Performance

Work Location	Address
Orange County Fire Authority main maintenance facility	1 Fire Authority, Irvine, CA 92602
Various areas within the County of Orange	

Start Date: To be determined and agreed upon by Customer and Bearcom PM.

All non-emergency work will be performed within a standard workweek, Monday through Friday, 8:00 A.M. to 4:30 P.M.
Pacific Standard Time

Emergency calls will be dispatched 24/7, 365 with 4 hour response to call

Pricing for Proposed Equipment and Services

Description of Pricing

Pricing is on a per unit basis. Installation pricing is for a single radio installation regardless of install location and vehicle type.

System and Services Pricing

Description	Qty	Unit Price	Extended
Per unit pricing for Radio Installation – Normal Business Hours Monday to Friday 7:30am to 4:30pm	175	\$630.00	\$110,250.00
Per unit pricing for Radio Installation – Outside above listed hours	50	\$945.00	\$47,250.00
Estimated Total	225		\$157,500.00

Payment Terms

- Monthly invoices will be generated with summary sheet of vehicles completed in the billing timeframe until project is completed
- Customer carries net 30 day terms for contract
- Main customer contact will be notified and expected to resolve any billing issues should they arise

Acceptance and Authorization

- The parties hereby enter into this agreement as of the date below:



Bear Communication, Inc.

Michael A. Conrey
Name: _____

Title: Project Manager

Date: 4/25/2018

Orange County Fire Authority

Name: _____

Title: _____

Date: _____

OCFA Special Procurement Justification Form

The Purchasing Ordinance of the Orange County Fire Authority requires competitive bids and proposals for service and commodity contracts. A special procurement is defined as a purchase, where due to unusual or special circumstances, it would be in the best interest of the OCFA to accomplish the procurement without compliance with the competitive bidding requirements. Special Procurements are not applicable to construction services. The using department requesting a special procurement shall provide written evidence to support a special procurement determination. This form is to be submitted with the purchase requisition to Purchasing with any special procurement requests.

SECTION I - INSTRUCTIONS

1. Written justification on this form will be completed by the requesting department and submitted with the purchase requisition.
2. The request must be approved by the section manager and assistant chief prior to submitting the request to the purchasing manager.
3. All special procurement forms must be submitted to the Purchasing Manager and then reviewed and approved by the Assistance Chief, Business Services.
4. All special procurements exceeding \$50,000 (life of contract) require Executive Committee approval. In this case, the special procurement form must be submitted to the Executive Committee as an attachment to the staff report.
5. The approved special procurement justification form will be included in the contract file.

SECTION II – REQUEST INFORMATION

Department/Section: Support Services/Information Technology		Requested By: David Johnson	Date: 9-May-2018
Recommended Vendor: BEAR COMMUNICATIONS, INC.		Vendor Contact: Michael A. Conrey	Vendor's E-mail Address: michael.conrey@bearcom.com
Vendor Address: 2601 Manhattan Beach Blvd., Redondo Beach, CA. 90278		Vendor's Telephone #: 424-675-7116	
Type of Contract: <input checked="" type="checkbox"/> One-time <input type="checkbox"/> Multi-Year <input type="checkbox"/> Renewal <input type="checkbox"/> Amendment <input type="checkbox"/> Increase		Contract Term (Dates): 5/25/2018 - 11/30/2018	Contract Amount: \$157,500
If the contract type is a Renewal, Amendment or Increase, please provide previous contract information with this request (PO, BO, previous approval date, Chief approval or EC approval, and dollar amount).			Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

SECTION III – JUSTIFICATION

1. **Provide a detailed description of the product or service requested. Describe what it is. Attach additional sheet if necessary.**

OCFA is replacing all 800MHz radios as part of the 800MHz Countywide Coordinated Communication System (CCCS) P-25 upgrade project including portable, mobile, base station and dispatch radios. This request is to hire BEAR COMMUNICATIONS, INC. to supplement OCFA staff to expedite the replacement of all mobile 800MHz radios in OCFA apparatus and vehicles.

2. **Please state the reasoning for the special procurement and the special circumstances of why it would be in the best interest of OCFA to accomplish the procurement without a competitive bidding process. Provide a summary of findings (research and analysis) including any supporting documentation which validates your recommendation and demonstrates the nature of this request. Attach additional sheet if necessary.**

There is an emergent deadline to replace all mobile radios before the "re-banding" phase of the 800MHz CCCS upgrade is completed, starting May 17, 2018 and proceeding for 4 - months. There was not time for a formal RFP process, so staff contacted

SECTION III – JUSTIFICATION (continued)

five communications installation companies had worked with other city and county agencies and invited them to provide quotes to replace mobile radios in up to 225 OCFA apparatus and vehicles. Four vendors responded and the lowest price bidder was BEAR COMMUNICATIONS.

3. **Pricing - What efforts were made to get the best pricing (e.g., did you simply request a quote, negotiate a better price with the vendor, did the vendor provide a discount)?** Please provide the quote with your special procurement request.

Staff met with the vendors for onsite tours of the apparatus and vehicles at the RFOTC reviewed the installation kits, answered all questions and requested that the vendors provide their best pricing to install the radios during normal business hours, evenings, and weekends.

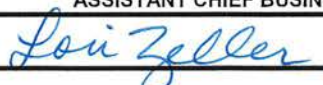
4. **Will this purchase obligate the OCFA to future purchases (maintenance, licensing or continuing needs)?**
(If yes, please explain how and what the future costs will be.)

No

Special Procurement Request Submitted by:

REQUESTORS NAME	SIGNATURE	DATE
David Johnson		9-May-2018
DIVISION CHIEF/SECTION MANAGER NAME	SIGNATURE	DATE
Joel Brodowski		9-May-2018
ASSISTANT CHIEF NAME	SIGNATURE	DATE
Dave Anderson		9-May-2018

Purchasing Manager's Comments: A special procurement for these services is requested by IT since a formal solicitation (as required by Ordinance) could not be done with the time constraints. Multiple quotes were received & IT requested award to the vendor w/ lowest price.

PURCHASING MANAGER'S APPROVAL	DATE
	5/10/18
ASSISTANT CHIEF BUSINESS SERVICES APPROVAL	DATE
	5/10/18

Executive Committee Approval Required ☐ Yes ☐ No Special Procurement over \$50,000

Executive Committee Approved: ☐ Yes ☐ No Date approved _____



Orange County Fire Authority

Vehicle Installation Proposal

5/9/2018



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Redondo Beach, CA. 90278

424-675-7116

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Acceptance and Authorization

- The parties hereby enter into this agreement as of the date below:



Bear Communication, Inc.

Michael A. Conrey

Name: _____

Title: Project Manager

Date: 4/25/2018

Orange County Fire Authority

Name: _____

Title: _____

Date: _____

CDCE, Inc.
22641 Old Canal Road
Yorba Linda, CA 92887



Sales Quote

Telephone: 800-373-5353

Sales Quote No.	111662
Customer No.	COOCFIREAU
Customer PO #	

Bill To

Orange County, Fire Authority
Attn: AP Vend#00004617 ID:930988382
P.O. Box 53008
Irvine, CA 92619-3008
Orange County
Contact: Joel Brodowski
Telephone: 714-573-6421

Ship To

Service Center
PO#
1 Fire Authority Road
Irvine, CA 92602

Telephone: 714-573-6642 714-

Order Date	Ship Via	F.O.B.	Customer PO Number	Payment Method
05/04/18	UPS Ground	Yorba Linda		NET 30
Entered By	Salesperson	Ordered By	Resale Number	
Brian Solomon	Brian Solomon	Joel Brodowski		
Order Quantity	Approve Quantity	Item Number / Description	Unit Price	Extended Price
225	225	LAB-320001 Installation Customer Site (Motorola APX6500 Radio)	680.00	153,000.00
		Two Techs per Truck		
100	100	LAB-320002 Installation Customer Site (Overtime and or weekends)	127.50	12,750.00
		Quote is based on Motorola APX6500 Radio Installation SOW		
<p>Approved By: _____</p> <p><input type="checkbox"/> Approve All Items & Quantities</p>				

Print Date	05/04/18
Print Time	02:36:37 PM
Page No.	1 of 1

Printed By: Brian Solomon

Subtotal	165,750.00
Freight	0.00
Order Total	165,750.00



www.daywireless.com

Date: May 2, 2018

To: Craig Nowak at Orange County Fire Authority

Subject: APX6500 Radio Installation for OC Rebanding

❖ Scope of Work:

Day Wireless Systems (DWS) will support OCFA's rebanding project by:

- Remove existing Motorola Astro Radio and accessories (radio pack, mounting bracket, head, faceplate, intercom interface, microphone and microphone extension).
- DWS will either remove the control cable or cut ends as far back into the harness as possible (depending on accessibility) and remove old control head power harness.
- Install new APX6500 radio, dash overlay plate, radio head, face plate, new control cable, new power & ground ignition circuit, new intercom radio interface & inline amplifier, new control head power harness and new remote microphone extension.
- Check main power/ground cable and push-on connectors to ensure good condition and securely fits into new radio pack.
- Use a calibrated watt meter to inspect and document existing Mini UHF antenna connector.
- Document removed asset & serial number, new radio asset & serial number and watt meter test results.

Customer will:

- Provide all equipment and hardware required for each installation
- Provide sufficient supplies for scheduled installations.
- Define acceptable watt meter power reflection levels.
- Coordinate vehicle availability.
- Provide asset tracking template.

Heavy Duty Vehicle (Engines):	\$1390.00 per engine
Light Duty Vehicles (Ambulance, Battalion, etc.):	\$975.00 per vehicle
Standby Time (scheduled vehicle not available):	\$150.00 per hour

Thank you for the opportunity to bid on this work. Please call me with any questions or changes you may have.

Jared Duchow
(818)557-7390
jduchow@daywireless.com

RIVCOMM, Inc.

1330 Dodson Way
Riverside, CA 92507
951.328.0211 fax 951.328.8491

(951) 328-0211

(951) 328-8491 Fax

Quotation

Customer

Name Orange County Fire Authority
Address _____
City _____ State _____ ZIP _____
Phone _____

Date 5/8/2018
Quotation No. 050818
Rep _____
FOB _____

Qty	Description	Unit Price	TOTAL
	Installation of Motorola APX 6500 Into Misc. Fire Trucks Price below is Per Unit		

Payment Terms

SubTotal	\$0.00
Shipping & Handling	
Taxes CA	
Installation	\$800.00
TOTAL	\$800.00

Office Use Only

Thank You! Your quotation is valid for 60 Days. Please note that installation labor is an estimate.



Orange County Fire Authority
AGENDA STAFF REPORT

Executive Committee Meeting
May 24, 2018

Agenda Item No. 3G
Consent Calendar

**Support and Maintenance Services for
Staffing and Timekeeping Business Systems**

Contacts for Further Information

Lori Zeller, Assistant Chief Business Services Department	lorizeller@ocfa.org	714.573.6020
Jim Ruane, Finance Manager/Auditor	jimruane@ocfa.org	714.573.6304

Summary

This agenda item is submitted for approval to renew the previously approved professional services agreement with Information Management Technologies (IMT) for software support and maintenance services for the OCFA Staffing and Timekeeping Business Systems.

Prior Board/Committee Actions

Not Applicable.

RECOMMENDED ACTION(S)

Approve and authorize the Purchasing Manager to execute a renewed Professional Services Agreement with Information Management Technologies for up to five years, with a first year not-to-exceed cost of \$465,456, and annual percentage increases based on the U.S. Department of Labor Consumer Price Index for All Urban Consumers, Services in the Los Angeles-Riverside, Orange County, CA Area, not to exceed 3%.

Impact to Cities/County

Not Applicable.

Fiscal Impact

Funding is included in the General Fund budget for this contract.

Background

Justification

OCFA completed a Professional Services RFP in April 2008 for development and support of our Staffing and Timekeeping systems, resulting in the award of a professional services contract to Information Management Technologies. Contract renewals were awarded to IMT in 2012 and 2015 for ongoing support and custom programming of these systems, as well as custom interfaces with other OCFA applications.

In April 2018, OCFA received a professional services proposal from IMT to continue serving OCFA with the specialized knowledge, experience, and understanding of business rules required to support the OCFA's Staffing and Timekeeping systems. IMT's experience with OCFA ensures our ongoing ability to respond to required changes and updates to these complex applications and system integrations.

Staffing System

The Staffing system is utilized to ensure that the OCFA fire stations are constantly staffed (over 330 positions daily), and assists with assignments during major incidents. Capabilities include determining staff availability to fill open positions due to advanced requested and unplanned leaves, while ensuring equitable distribution of overtime and adherence with current memorandums of understanding. The system is currently being utilized by Operations Personnel (Firefighters/Engineers/Captains and Battalion Chiefs), along with our Emergency Command Center (ECC) staff.

Timekeeping System

The Timekeeping system is utilized to capture staff hours worked and leave taken information from the Staffing System, allows direct input of non-shift staff hours, and provides the data required by the third-party (Ellucian/Banner) Payroll application to calculate and process employees' pay. OCFA Timekeeping provides a series of reconciliations and reports to ensure accuracy, and includes a module for compliance with the requirements of the Fair Labor Standards Act (FLSA).

Support and Development

The functions performed by OCFA's Staffing and Timekeeping systems, their integration with Banner Payroll and other OCFA programs (Records Management System, Computer Aided Dispatch, and intranet), are critical to continuity of operations, providing 24/7 real-time system access throughout the organization. The complex nature of the Staffing and Timekeeping systems, resulting from their ability to support OCFA specific operating rules and system integrations, requires the use of specialized technical services to provide day-to-day system support and problem resolution.

In addition to supporting the current OCFA operating environment, system development is necessary to accomplish the Board's objective that OCFA use technology to improve operational efficiency and internal controls. An expanded development program for the Staffing system is recommended to allow the application to adapt to OCFA's evolving operational requirements, including but not limited to the below identified near-term requirements:

- Optimization of the system rules to reduce the number of force hires
- Enhancements to increase availability opportunities to facilitate voluntary coverage
- Implementation of MOU modifications
- Upgrade the operating environment /security features

In order to provide the necessary resources to develop, test, and implement the priority enhancements identified for the Staffing and Timekeeping applications, while continuing to provide ongoing comprehensive system support, a recommended funding level for the increased OCFA objectives and system enhancement expectations is summarized as follows:

IMT Proposal Support & Development (06/01/18-05/30/19)	Hours	Cost
Sr. Applications Developer	1,600/annual	\$248,400
Applications Developer	1,600/annual	\$ 217056
24/7 On-Call Support		
Total (maximum annual)	3,200	\$465,456

The hourly rates proposed by IMT have remained competitive with other software support vendors who contract with OCFA for critical OCFA computer systems and programs, as shown in the below table. IMT does not charge for travel time or incidental costs.

Hourly Rate Comparison to Other OCFA Contracted Support Vendors

Vendor / Positions	Systems / Tasks	Hourly
<i>Information Management Technology</i> Sr. Application / Consultant Application Developers	<i>Staffing - Timekeeping</i> Software development, custom programming, system interfaces	\$135.66 to \$155.25 (proposed)
<i>Westnet</i> Software Development and Systems Integration	<i>First-In Alerting System</i> Software development, custom programming, systems integration	\$185.00 to \$325.00 (August 2017)
<i>TriTech Software Inc. (CAD)</i> Sr. Software Developer	<i>Computer assisted dispatching (CAD)</i> Software development, custom programming	\$175.00 (April 2018)

Recommendation

Staff is recommending approval and authorization to enter into a professional services agreement with Information Management Technologies for up to five years, with a first year not-to-exceed cost of \$465,456, and annual percentage increases based on the U.S. Department of Labor Consumer Price Index for All Urban Consumers, Services in the Los Angeles-Riverside, Orange County, CA Area, not to exceed 3%.

Attachments

1. Professional Services Agreement with Information Management Technologies
2. Special Procurement Information Form

ORANGE COUNTY FIRE AUTHORITY PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT FOR PROFESSIONAL SERVICES ("Agreement") is made and entered into this ____ day of May, 2018, by and between the Orange County Fire Authority, a public agency, hereinafter referred to as "OCFA", and Information Management Technologies, a Sole Proprietorship, hereinafter referred to as "Firm". OCFA and Firm are sometimes individually referred to herein as a "Party" and collectively as the "Parties".

RECITALS

WHEREAS, OCFA requires the services of a qualified firm to provide Technology Professional Services as requested, hereinafter referred to as "Project"; and

WHEREAS, Firm has submitted to OCFA a proposal dated April 30, 2018, a copy of which is attached hereto as Exhibit "A" and is incorporated herein by this reference ("Proposal"); and

WHEREAS, based on its experience and reputation, Firm is qualified to provide the necessary services for the Project and desires to provide such services; and

WHEREAS, OCFA desires to retain the services of Firm for the Project.

NOW, THEREFORE, in consideration of the promises and mutual agreements contained herein, OCFA agrees to employ and does hereby employ Firm and Firm agrees to provide professional services as follows:

AGREEMENT

1. PROFESSIONAL SERVICES

1.1 Scope of Services

In compliance with all terms and conditions of this Agreement, Firm shall provide those services specified in Firm's Proposal attached hereto as Exhibit "A." The Scope of Services includes by reference and by addendum: (1) Firm's Proposal, dated April 30, 2018, and (2) any amendments, addendums, change orders, or modifications mutually agreed upon by the parties hereto ("Services" or "Work"). Firm warrants that all Services shall be performed in a competent, professional and satisfactory manner in accordance with all standards prevalent in the same profession in the State of California. Firm represents and warrants that it and all employees, subconsultants and subcontractors providing any Services pursuant to this Agreement shall have a sufficient skill and experience to perform the Services. All Services shall be completed to the reasonable satisfaction of the OCFA. In the event of any inconsistency between the terms

contained in the Firm's Proposal and/or the terms set forth in the main body of this Agreement, the terms set forth in the main body of this Agreement shall govern.

1.2 Compliance with Law

All Services rendered hereunder shall be provided in accordance with all laws, ordinances, resolutions, statutes, rules, and regulations of OCFA and any federal, state or local governmental agency of competent jurisdiction.

1.3 Licenses and Permits

Firm shall obtain at its sole cost and expense such licenses, permits and approvals as may be required by law for the performance of the Services required by this Agreement.

1.4 Familiarity with Work

By executing this Agreement, Firm warrants that Firm (a) has thoroughly investigated and considered the Work to be performed, (b) has investigated the site of the Work and become fully acquainted with the conditions there existing, (c) has carefully considered how the Work should be performed, and (d) fully understands the facilities, difficulties and restrictions attending performance of the Work under this Agreement. Should the Firm discover any latent or unknown conditions materially differing from those inherent in the Work or as represented by OCFA, Firm shall immediately inform OCFA of such fact and shall not proceed with any Work except at Firm's risk until written instructions are received from the Contract Officer.

1.5 Care of Work

Firm shall adopt and follow reasonable procedures and methods during the term of the Agreement to prevent loss or damage to materials, papers or other components of the work, and shall be responsible for all such damage until acceptance of the work by OCFA, except such loss or damages as may be caused by OCFA's own negligence.

1.6 Additional Services

Firm shall perform services in addition to those specified in the Proposal when directed to do so in writing by the Contract Officer, provided that Firm shall not be required to perform any additional services without compensation. Any additional compensation not exceeding ten percent (10%) of the original Agreement sum must be approved in writing by the Contract Officer. Any greater increase must be approved in writing by the Purchasing Manager.

2. TIME FOR COMPLETION

The time for completion of the Services to be performed by Firm is an essential condition of this Agreement. Firm shall prosecute regularly and diligently the work of this Agreement according to the schedules set forth in Firm's proposal. Firm shall not be accountable for delays in the progress of its work caused by any condition beyond its control and without the fault or negligence of Firm. Delays shall not entitle Firm to any additional compensation regardless of the party responsible for the delay.

3. COMPENSATION OF FIRM

3.1 Compensation of Firm

For the Services rendered pursuant to this Agreement, Firm shall be compensated and reimbursed, in accordance with the Firm's Proposal Pricing set forth in Exhibit "A", in an amount not to exceed \$465,456 (Four Hundred Sixty-Five Thousand, Four Hundred Fifty-Six) Dollars. Firm guarantees that if within a one-year period after the appointment, the Fire Chief, resigns or is dismissed for cause, Firm will perform an additional recruitment at the cost of expenses only to perform the additional recruitment.

3.2 Method of Payment

In any month in which Firm wishes to receive payment, Firm shall no later than the first working day of such month, submit to OCFA in the form approved by OCFA's Director of Finance, an invoice for Services rendered prior to the date of the invoice. OCFA shall pay Firm for all expenses stated thereon which are approved by OCFA consistent with this Agreement, within thirty (30) days of receipt of Firm's invoice.

3.3 Changes

In the event any change or changes in the work is requested by OCFA, the parties hereto shall execute an addendum to this Agreement, setting forth with particularity all terms of such addendum, including, but not limited to, any additional fees. Addenda may be entered into:

A. To provide for revisions or modifications to documents or other work product or work when documents or other work product or work is required by the enactment or revision of law subsequent to the preparation of any documents, other work product or work;

B. To provide for additional services not included in this Agreement or not customarily furnished in accordance with generally accepted practice in Firm's profession.

3.4 Appropriations

This Agreement is subject to and contingent upon funds being appropriated therefore by the OCFA Board of Directors for each fiscal year covered by the Agreement. If such appropriations are not made, this Agreement shall automatically terminate without penalty to OCFA.

4. PERFORMANCE SCHEDULE

4.1 Time of Essence

Time is of the essence in the performance of this Agreement.

4.2 Schedule of Performance

All Services rendered pursuant to this Agreement shall be performed within the time periods prescribed in Firm's Proposal, attached hereto as Exhibit "A". The extension of any time period specified in Exhibit "A" must be approved in writing by the Contract Officer.

4.3 Force Majeure

The time for performance of Services to be rendered pursuant to this Agreement may be extended because of any delays due to unforeseeable causes beyond the control and without the fault or negligence of the Firm, including, but not restricted to, acts of God or of a public enemy, acts of the government, fires, earthquakes, floods, epidemic, quarantine restrictions, riots, strikes, freight embargoes, and unusually severe weather if the Firm shall within ten (10) days of the commencement of such condition notify the Contract Officer who shall thereupon ascertain the facts and the extent of any necessary delay, and extend the time for performing the Services for the period of the enforced delay when and if in the Contract Officer's judgment such delay is justified, and the Contract Officer's determination shall be final and conclusive upon the parties to this Agreement.

4.4 Term

This agreement shall continue in full force and effect until satisfactory completion of the Services, unless earlier terminated in accordance with Sections 8.5 or 8.6 of this Agreement but not exceeding one year from the date hereof, unless extended by mutual written agreement of the parties.

5. COORDINATION OF WORK

5.1 Representative of Firm

The following principal of the Firm is hereby designated as being the principal and representative of Firm authorized to act in its behalf with respect to the work specified herein and make all decisions in connection therewith: Jim Mabey

It is expressly understood that the experience, knowledge, capability and reputation of the foregoing principal is a substantial inducement for OCFA to enter into this Agreement. Therefore, the foregoing principal shall be responsible during the term of this Agreement for directing all activities of Firm and devoting sufficient time to personally supervise the Services hereunder. The foregoing principal may not be changed by Firm without the express written approval of OCFA.

5.2 Contract Officer

The Contract Officer shall be designated in writing by OCFA. It shall be the Firm's responsibility to keep the Contract Officer fully informed of the progress of the performance of the Services and Firm shall refer any decisions that must be made by OCFA to the Contract Officer. Unless otherwise specified herein, any approval of OCFA required hereunder shall mean the approval of the Contract Officer.

5.3 Prohibition Against Subcontracting or Assignment

5.3.1 No Subcontracting Without Prior Approval. The experience, knowledge, capability and reputation of Firm, its principals and employees, and the Firm Representative were a substantial inducement for OCFA to enter into this Agreement. Therefore, Firm shall not contract with any other entity to perform in whole or in part the Services required hereunder without the express written approval of OCFA.

5.3.2 Provisions in the Event Subcontractor(s) Are Authorized. If Firm is authorized to subcontract any part of the Services as provided in Section 5.3.1, Firm shall be responsible to OCFA for the acts and omissions of its subcontractor(s) and subconsultant(s) in the same manner as it is for persons directly employed. For purposes of this Agreement, all persons engaged in the performance of Services will be considered employees of Firm. OCFA will deal directly with and will make all payments to Firm. Nothing contained in this Agreement shall create any contractual relationships between any subcontractor and OCFA. Firm shall ensure that all subcontractor insurance requirements set forth in Section 6 below (including its subsections) are complied with prior to commencement of Services by each subcontractor.

5.3.2.1 Withholding Payment for Non-Authorized Subcontractors. OCFA shall have the right to withhold payment from Firm for Services performed by any subcontractor or subconsultant performing

Services but not authorized in writing by OCFA, or regarding which the insurance or other requirements under this Agreement have not been satisfied.

5.3.3 Assignments. Neither this Agreement nor any interest herein may be assigned, transferred, conveyed, hypothecated, or encumbered voluntarily or by operation of law, whether for the benefit of creditors or otherwise, without the prior written approval of OCFA. Transfers restricted hereunder shall include the transfer to any person or group of persons acting in concert of more than twenty five percent (25%) of the present ownership and/or control of Firm, taking all transfers into account on a cumulative basis. In the event of any such unapproved transfer, including any bankruptcy proceeding, this Agreement shall be void. No approved transfer shall release Firm or any surety of Firm from any liability hereunder without the express written consent of OCFA.

5.4 Independent Contractor

5.4.1 The legal relationship between the Parties is that of an independent contractor, and nothing herein shall be deemed to make Contractor, or any of its personnel, an OCFA employee. During the performance of this Agreement, Firm and its officers, employees, and agents shall act in an independent capacity and shall not act as OCFA officers or employees. Firm will determine the means, methods and details of performing the Services subject to the requirements of this Agreement. The personnel performing the Services under this Agreement on behalf of Firm shall at all times be under Firm's exclusive direction and control. Neither OCFA nor any of its officials, officers, employees, agents or volunteers shall have control over the conduct of Firm or any of its officers, employees, or agents, except as set forth in this Agreement. Firm, its officers, employees or agents, shall not maintain a permanent office or fixed business location at OCFA's offices. OCFA shall have no voice in the selection, discharge, supervision, or control of Firm's officers, employees, representatives or agents or in fixing their number, compensation, or hours of service. Firm shall pay all wages, salaries, and other amounts due its employees in connection with the performance of Services under this Agreement and shall be responsible for all reports and obligations respecting them, including but not limited to social security income tax withholding, unemployment compensation, workers' compensation, and other similar matters. OCFA shall not in any way or for any purpose be deemed to be a partner of Firm in its business or otherwise a joint venturer or a member of any joint enterprise with Firm.

5.4.2 Firm shall not incur or have the power to incur any debt, obligation, or liability against OCFA, or bind OCFA in any manner.

5.4.3 No OCFA benefits shall be available to Firm, its officers, employees, or agents, in connection with the performance of any Work or Services under this Agreement. Except for professional fees paid to Firm as provided for in this Agreement, OCFA shall not pay salaries, wages, or other compensation to Firm for the performance of any Work or Services under this Agreement. OCFA shall not be liable for compensation or indemnification to Firm, its officers, employees, or agents, for injury or

sickness arising out of performing any Work or Services hereunder. If for any reason any court or governmental agency determines that the OCFA has financial obligations, other than pursuant to Section 2 herein, of any nature relating to salary, taxes, or benefits of Firm's officers, employees, representatives, agents, or subconsultants or subcontractors, Firm shall defend, indemnify, and hold harmless OCFA from and against all such financial obligations.

5.6 Employee Retirement System Eligibility Indemnification

5.6.1 In the event that Firm or any employee, agent, or subcontractor of Firm providing any Work or Services under this Agreement claims or is determined by a court of competent jurisdiction to be eligible for enrollment in an employee retirement system as an employee of the OCFA, Firm shall indemnify, defend, and hold harmless OCFA against: (1) all such claim(s) and determination(s); (2) for the payment of any employee and/or employer contributions for employee retirement system benefits on behalf of Firm or its employees, agents or subcontractors; and (3) the payment of any penalties and interest on such contributions which would otherwise be the responsibility of the OCFA.

5.6.2 Notwithstanding any other agency, state or federal policy, rule, regulation, law or ordinance to the contrary, Contractor and any of its employees, agents, and subcontractors providing any Work or Services under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any claims to, any compensation, benefit, or any incident of employment by OCFA, including but not limited to eligibility to enroll in PERS as an employee of OCFA and entitlement to any contribution to be paid by OCFA for employer contribution and/or employee contributions for PERS benefits.

6. INSURANCE AND INDEMNIFICATION

6.1 Compliance with Insurance Requirements. Firm shall obtain, maintain, and keep in full force and effect during the term of this Agreement, at its sole cost and expense, and in a form and content satisfactory to OCFA, all insurance required under this section. Firm shall not commence any Services under this Agreement unless and until it has provided evidence satisfactory to OCFA that it has secured all insurance required under this section. If Firm's existing insurance policies do not meet the insurance requirements set forth herein, Firm agrees to amend, supplement or endorse the policies to meet all requirements herein.

6.2 Types of Insurance Required. Without limiting the indemnity provisions set forth in this Agreement, Firm shall obtain and maintain in full force and effect during the term of this Agreement, including any extension thereof, the following policies of insurance:

6.2.1 Professional Liability/Errors and Omissions Insurance ("PLI"). Firm shall obtain and maintain PLI insurance applicable to each licensed

profession practiced by Firm. Firm shall maintain PLI insurance with per-claim and aggregate limits no lower than one million dollars (\$1,000,000.00) each occurrence and two million dollars (\$2,000,000.00) aggregate. Covered professional services shall specifically include all Services to be performed under the Agreement and the policy shall be endorsed to delete any exclusions that may exclude coverage for claims within the minimum PLI Limits for the Services to be performed under this Agreement.

6.2.1.1 The PLI policy shall be endorsed to delete any Contractual Liability Exclusion. The PLI shall include contractual liability coverage applicable to this Agreement. The policy must "pay on behalf of" the insured, and include a provision establishing the insurer's duty to defend the insured.

6.2.1.2 If the PLI policy of insurance is written on a "claims-made" basis, the policy shall be continued in full force and effect at all times during the term of this Agreement, and for a period of three (3) years from the date of the completion of all Services provided hereunder (the "PLI Coverage Period"). If any PLI policy is replaced, cancelled, non-renewed, discontinued, or otherwise terminated, or if the limits of a PLI policy are reduced or the available coverage depleted below the required minimum coverage amounts for any reason during the PLI Coverage Period, Firm shall immediately obtain replacement PLI coverage meeting the requirements of this Section 6.2.1. Such replacement coverage shall satisfy all requirements herein, and shall include coverage for the prior acts or omissions of Firm during the time period during which any Services were performed. The coverage shall be evidenced by either a new policy evidencing no gap in coverage, or by obtaining separate extended "tail" coverage with the present or new carrier or other insurance arrangements providing for complete coverage, either of which shall be subject to the written approval by the OCFA.

6.2.1.3 If the PLI policy is written on an "occurrence" basis, the policy shall be continued in full force and effect during the term of this Agreement, or until completion of the Services provided for in this Agreement, whichever is later. In the event of termination of the PLI policy during this period, new coverage shall immediately be obtained, and written evidence of the policy shall be immediately provided to OCFA, to ensure PLI coverage during the entire course of performing the Services.

6.2.1.4 Firm shall not perform any Services at any time during which required types or amounts of PLI insurance are not in effect, and OCFA shall have no obligation to pay Firm for Services performed while required PLI insurance is not in effect.

6.2.2 Commercial General Liability Insurance. Firm shall obtain and maintain, in full force and effect throughout the term of this Agreement, Insurance Services Office (ISO) Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than one million dollars (\$1,000,000.00) per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate

limit shall be twice the required occurrence limit. CGL insurance shall be provided on an occurrence-based coverage form; a "claims made" CGL policy is not acceptable. Firm shall maintain CGL insurance with per-claim, aggregate and products and operations completed limits no lower than the minimum CGL coverage limits set forth above. Defense costs shall be paid in addition to the limits. The policy shall contain no endorsements or provisions limiting coverage for any of the following: (1) contractual liability; (2) cross liability exclusion for claims or suits by one Insured against another; or (3) any other exclusion contrary to this Agreement.

6.2.3 Automobile Liability Insurance. Firm shall obtain and maintain, in full force and effect throughout the term of this Agreement, a policy of Automobile liability insurance written on a per occurrence basis with limits of at least one million dollars (\$1,000,000.00) combined limit for each occurrence covering bodily injury, disease and property damage. Defense costs shall be paid in addition to the policy limits. The policy shall specifically include coverage for owned, non-owned, leased, and hired automobiles, and be endorsed to eliminate any exclusion applicable to any of them.

6.2.4 Workers' Compensation Insurance. Firm shall obtain and maintain, in full force and effect throughout the term of this Agreement, a policy of Workers' Compensation Insurance in at least the minimum statutory amounts, and in compliance with all other statutory requirements applicable in the State of California. Firm hereby waives on its own behalf, and shall obtain an endorsement from its workers' compensation insurer waiving on the insurance company's behalf, all rights of subrogation against the OCFA, its board members, officials, officers, employees, agents and volunteers.

6.2.4.1 If subconsultants or subcontractors are used, Firm shall require each of its subconsultants and subcontractors, if any, to waive all rights of subrogation, and to obtain endorsements from the subconsultants/subcontractors' workers' compensation insurers waiving all rights of subrogation, against the OCFA, its board members, officials, officers, employees, agents and volunteers.

6.2.4.2 Firm and each of its subconsultants and subcontractors shall also maintain, in full force and effect throughout the term of this Agreement, Employer's Liability Insurance with limits of at least one million dollars (\$1,000,000.00) per injury or illness.

6.3 Acceptability of Insurers. Each insurance policy required by this section shall be issued by a licensed company authorized to transact business by the Department of Insurance for the State of California with a current rating of A:VII or better (if an admitted carrier), or a current rating of A:X or better (if offered by a non-admitted insurer listed on the State of California List of Approved Surplus Line Insurers (LASLI)), by the latest edition of A.M. Best's Key Rating Guide, except that the OCFA will accept workers' compensation insurance from the State Compensation Fund. In the event the OCFA determines that the Services to be performed under this Agreement creates an increased or decreased risk of loss to the OCFA, the Firm agrees that the minimum limits

of the insurance policies may be changed accordingly upon receipt of written notice from the OCFA.

6.3.1 Firm shall immediately replace any insurer whose A.M. Best rating drops below the levels specified herein with an insurer that meets the minimum requirements herein.

6.4 Specific Insurance Provisions and Endorsements. Required insurance policies shall not be in compliance if they include any limiting provision or endorsement that has not been submitted to the OCFA for written approval. Required insurance policies shall contain the following provisions, or Firm shall provide endorsements on forms approved by the OCFA to add the following provisions to the insurance policies:

6.4.1 CGL and Auto Liability Endorsements. The policy or policies of insurance required by this Agreement for CGL and Automobile Liability Insurance shall be endorsed as follows:

6.4.1.1 Additional Insured: The OCFA, its board members, officials, officers, employees, agents and volunteers, shall be additional insureds; and

6.4.1.1.1 Additional Insured Endorsements: Additional insured endorsements shall not (1) be restricted to "ongoing operations", (2) exclude "contractual liability", (3) restrict coverage to "sole" liability of Firm, (4) contain any other exclusions contrary to the Agreement; or (5) contain special limitations on the scope of protection afforded to additional insureds.

6.4.1.2 Primary, Non-Contributing. Each CGL and Auto Liability insurance policy shall be endorsed to be primary and any other insurance, deductible, or self-insurance maintained by the OCFA, its board members, officials, officers, employees, agents or volunteers, shall not contribute with the primary insurance.

6.4.2 Notice of Cancellation: Each policy of any type shall be endorsed to provide that coverage shall not be suspended, voided, cancelled, or modified, or reduced in coverage or in limits, except after thirty (30) days prior written notice has been provided to the OCFA. Notwithstanding the foregoing, if coverage is to be suspended, voided, or cancelled because of Firm's failure to pay the insurance premium, the notice provided by the insurer to OCFA shall be by not less than ten (10) days prior written notice. (A statement that notice will be provided "in accordance with the policy terms" or words to that effect is inadequate to meet the requirements of this Section).

6.4.2.1 Pre-Payment of Policy Premium. If for any reason an insurer declines to issue an endorsement certifying that it will notify OCFA in accordance with section 6.4.2, Firm shall either obtain insurance from another insurer

who will provide the required notice endorsement or shall provide evidence satisfactory to OCFA that the entire policy premium for the full term of that policy has been pre-paid such that the risk of non-payment of premiums during the term of the policy has been eliminated.

6.4.3 ACORD Forms Will Not Be Accepted in Lieu of Endorsements. By executing this Agreement, Firm certifies that it has – prior to execution of this Agreement - confirmed that its insurance company will issue each of the endorsements required by this Agreement. Firm also certifies that it understands that "ACORD" Certificate of Liability Insurance forms will not be accepted in lieu of required endorsements.

6.5 Deductibles and Self-Insured Retentions. Any deductible or self-insured retention must be approved in writing by the OCFA in advance. The decision whether to approve or withhold approval of a deductible or self-insured retention shall be made by the OCFA in the OCFA's sole and absolute discretion. (Firm may request pre-approval from OCFA of a deductible or self-insured retention prior to submitting Firm's Proposal).

6.6 Waiver of Subrogation. All policies of Commercial General Liability and Automobile Liability Insurance shall contain or be endorsed to waive subrogation against the OCFA, its officials, officers, employees, agents and volunteers, or shall specifically allow Firm or others providing insurance evidence in compliance with the requirements set forth in this section to waive their right to recovery prior to a loss. Firm hereby agrees to waive its own right of subrogation against the OCFA, its officials, officers, employees, agents and volunteers.

6.6.1 Waivers of Subrogation: Subconsultants and Subcontractors. If OCFA approves the use of subconsultants or subcontractors for the performance of any portion of the Services, then Firm shall obtain from each subconsultant and subcontractor, and make available to OCFA upon request, written express waivers by each subconsultant and subcontractor of the right of subrogation against the OCFA, its officials, officers, employees, agents and volunteers, and policy endorsements of each of its subconsultants' and subcontractors' insurance policies waiving any rights of subrogation against the OCFA, its officials, officers, employees, agents and volunteers insurer. All such waivers and endorsements shall be obtained prior to commencement of any Services by each subconsultant or subcontractor.

6.7 Evidence of Coverage. Concurrently with the execution of the Agreement, Firm shall deliver certificates of insurance together with original endorsements affecting each of the insurance policies required to be maintained by Firm by this Section 5. Firm shall promptly furnish, at OCFA's request, copies of actual policies including all declaration pages, endorsements, exclusions and any other policy documents OCFA requires to verify coverage.

6.7.1 Required insurance policies shall not be in compliance if they include any limiting provision or endorsement that has not been submitted to the OCFA for written approval.

6.7.2 Authorized Signatures. The certificates of insurance and original endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf.

6.7.3 Renewal/Replacement Policies. At least fifteen (15) days prior to the expiration of any policy required by this Agreement, evidence of insurance showing that such insurance coverage has been renewed or extended shall be filed with the OCFA. If such coverage is cancelled or reduced and not replaced immediately so as to avoid a lapse in the required coverage, Firm shall, within ten (10) days after receipt of written notice of such cancellation or reduction of coverage, file with the OCFA evidence of insurance showing that the required insurance has been reinstated or has been provided through another insurance company or companies meeting all requirements of this Agreement.

6.8 Requirements Not Limiting. Requirement of specific coverage or minimum limits contained in this section are not intended as a limitation on coverage, limits, or other requirements, or a waiver of any coverage normally provided by any insurance. Nothing in this section shall be construed as limiting in any way the indemnification provision contained in this Agreement, or the extent to which Firm may be held responsible for losses of any type or amount.

6.9 Enforcement of Agreement (Non-Estoppel). Firm acknowledges and agrees that actual or alleged failure on the part of the OCFA to inform Firm of any non-compliance with any of the insurance requirements set forth in this Agreement imposes no additional obligation on the OCFA nor does it waive any rights hereunder.

6.10 Insurance for Subconsultants. If OCFA approves the use of subconsultants or subcontractors for the performance of any portion of the Services, then Firm shall be responsible for causing each approved subconsultant and subcontractor to procure and maintain insurance in the same types and amounts required for Firm, and in full compliance with the insurance requirements set forth in this Agreement, except as otherwise authorized in writing by the Contract Manager.

6.10.1 Delivery of Evidence of Subcontractor Insurance. Upon request of OCFA, Firm shall deliver to OCFA all certificates of insurance and endorsements required from subcontractors and subconsultants. (Note: Firm's duty to obtain all required insurance for subcontractors and subconsultants required under this Agreement applies whether or not OCFA requests delivery of evidence of such coverage.)

6.11 Other Insurance Requirements. The following terms and conditions shall apply to the insurance policies required of Firm and its subconsultants and subcontractors, if any, pursuant to this Agreement:

6.11.1 Firm shall provide immediate written notice to OCFA if (1) any of the insurance policies required herein are terminated, cancelled, suspended, or non-renewed (2) the limits of any of the insurance coverages required herein are reduced; (3) any required insurance coverage is reduced below the required minimum limits through claims or otherwise, or (4) the deductible or self-insured retention is increased.

6.11.2 All insurance coverage and limits required under this Agreement are intended to apply to each insured, including additional insureds, against whom a claim is made or suit is brought to the full extent of the policies. Nothing contained in this Agreement or any other agreement relating to the OCFA or its operations shall limit the application of such insurance coverage.

6.11.3 None of the insurance coverages required herein will be in compliance with the requirements of this section if they include any limiting endorsement which substantially impairs the coverages set forth herein (e.g., elimination of contractual liability or reduction of discovery period), unless the endorsement has first been submitted to the OCFA and approved in writing.

6.11.4 Certificates of insurance will not be accepted in lieu of required endorsements, and submittal of certificates without required endorsements may delay the Project. It is Firm's obligation to ensure timely compliance with all insurance submittal requirements as provided herein and Firm agrees to reimburse OCFA for any losses resulting from its failure, or its subconsultants' or subcontractors' failure, to timely comply with the requirements of this Agreement.

6.11.5 Firm agrees to ensure that subconsultants and subcontractors, if any, and any other parties involved with the Project who are brought onto or involved in the Project by Firm, provide the same minimum insurance coverage required of Firm. Firm agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this section. Firm agrees that upon request, all agreements with, and evidence of insurance from, subconsultants and subcontractors and others engaged in performing any Services will be submitted to the OCFA for review.

6.11.6 Firm agrees to provide immediate written notice to OCFA of any claim, demand or loss arising out of the Services performed under this Agreement and for any other claim, demand or loss which may reduce the insurance available to an amount less than required by this Agreement.

6.12 Indemnification.

To the fullest extent permitted by law, Firm shall defend (at Firm's sole cost and expense with legal counsel reasonably acceptable to OCFA), indemnify and hold the OCFA, its board members, officials, officers, employees, agents and volunteers, free and harmless from any and all claims, demands, orders, causes of action, costs, expenses, liabilities, losses, penalties, judgments, arbitration awards, settlements, damages or injuries of any kind, in law or in equity, including but not limited to property or persons, including wrongful death, (collectively "Claims") in any manner arising out of, pertaining to, related to, or incident to any alleged acts, errors or omissions, or willful misconduct of Firm, its officers, directors, employees, subconsultants, subcontractors, agents or invitees in connection with performance under this Agreement, or in any manner arising out of, pertaining to, related to, or incident to an alleged breach of this Agreement, including without limitation the payment of all consequential damages, expert witness fees and attorneys' fees and other related costs and expenses.

Notwithstanding the foregoing, and only to the extent that the Services performed by Firm are subject to California Civil Code Section 2782.8, the above indemnity shall be limited, to the extent required by Civil Code Section 2782.8, to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Firm.

Under no circumstances shall the insurance requirements and limits set forth in this Agreement be construed to limit Firm's indemnification obligation or other liability hereunder. Notwithstanding the foregoing, such obligation to defend, hold harmless and indemnify the OCFA, its board members officials, officers, employees, agents and volunteers, shall not apply to the extent that such Claims are caused by the sole negligence or willful misconduct of that indemnified party.

7. RECORDS AND REPORTS

7.1 Reports

Firm shall periodically prepare and submit to the Contract Officer such reports concerning the performance of the Services required by this Agreement as the Contract Officer shall require.

7.2 Records

Firm shall keep such books and records as shall be necessary to properly perform the Services required by this Agreement and enable the Contract Officer to evaluate the performance of such Services. Except as provided in Section 7.5, the Contract Officer shall have full and free access to such books and records at all reasonable times, including the right to inspect, copy, audit and make records and transcripts from such records.

7.3 Ownership of Documents

Except as provided in Section 7.5, all drawings, specifications, reports, records, documents and other materials prepared by Firm in the performance of this Agreement shall be the property of OCFA and shall be delivered to OCFA upon request of the Contract Officer or upon the termination of this Agreement, and Firm shall have no claim for further employment or additional compensation as a result of the exercise by OCFA of its full rights or ownership of the documents and materials hereunder. Firm may retain copies of such documents for its own use. Firm shall have an unrestricted right to use the concepts embodied therein.

7.4 Release of Documents

All drawings, specifications, reports, records, documents and other materials prepared by Firm in the performance of Services under this Agreement shall not be released publicly without the prior written approval of the Contract Officer.

7.5 Confidential Materials

Notwithstanding anything to the contrary in this Agreement, the Firm shall be the sole owner of Firm's work papers and of any other documents, data or information which are required to be maintained confidential from OCFA by one or more rules of professional conduct governing the Firm's profession(s) (collectively, the "Confidential Materials"). Neither the OCFA nor the Contract Officer shall have access to the Confidential Materials except as may otherwise be required by order issued by a court of competent jurisdiction.

8. ENFORCEMENT OF AGREEMENT

8.1 California Law

This Agreement shall be construed and interpreted both as to validity and to performance of the parties in accordance with the laws of the State of California. Legal actions concerning any dispute, claim or matter arising out of or in relation to this Agreement shall be instituted in the Superior Court of the County of Orange, State of California, or any other appropriate court in such county, and Firm covenants and agrees to submit to the personal jurisdiction of such court in the event of such action.

8.2 Waiver

No delay or omission in the exercise of any right or remedy of a non-defaulting party on any default shall impair such right or remedy or be construed as a waiver. No consent or approval of OCFA shall be deemed to waiver or render unnecessary OCFA's consent to or approval of any subsequent act of Firm. Any waiver by either party of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this Agreement.

8.3 Rights and Remedies are Cumulative

Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the parties are cumulative and the exercise by either party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other party.

8.4 Legal Action

In addition to any other rights or remedies, either party may take legal action, in law or in equity, to cure, correct or remedy any default, to recover damages for any default, to compel specific performance of this Agreement, to obtain injunctive relief, a declaratory judgment, or any other remedy consistent with the purposes of this Agreement.

8.5 Termination Prior to Expiration of Term

OCFA reserves the right to terminate this Agreement at any time, with or without cause, upon thirty (30) days written notice to Firm, except that where termination is due to the fault of the Firm and constitutes an immediate danger to health, safety and general welfare, the period of notice shall be such shorter time as may be appropriate. Upon receipt of the notice of termination, Firm shall immediately cease all Services hereunder except such as may be specifically approved by the Contract Officer. Firm shall be entitled to compensation for all Services rendered prior to receipt of the notice of termination and for any Services authorized by the Contract Officer thereafter.

Firm may terminate this Agreement, with or without cause, upon thirty (30) days written notice to OCFA.

8.6 Termination for Default of Firm

If termination is due to the failure of the Firm to fulfill its obligations under this Agreement, OCFA may take over the work and prosecute the same to completion by contract or otherwise, and the Firm shall be liable to the extent that the total cost for completion of the Services required hereunder exceeds the compensation herein stipulated, provided that OCFA shall use reasonable efforts to mitigate damages, and OCFA may withhold any payments to the Firm for the purpose of set-off or partial payment of the amounts owed to OCFA.

8.7 Attorneys' Fees

If either party commences an action against the other party arising out of or in connection with this Agreement or its subject matter, the prevailing party shall be entitled to recover reasonable attorneys' fees and costs of suit from the losing party.

9. OCFA OFFICERS AND EMPLOYEES; NON-DISCRIMINATION

9.1 Non-Liability of OCFA Officers and Employees

No officer or employee of OCFA shall be personally liable to the Firm, or any successor-in-interest, in the event of any default or breach by OCFA or for any amount which may become due to the Firm or its successor, or for breach of any obligation of the terms of this Agreement.

9.2 Covenant Against Discrimination

Firm covenants that, by and for itself, its heirs, executors, assigns, and all persons claiming under or through them, that there shall be no discrimination or segregation in the performance of or in connection with this Agreement regarding any person or group of persons on account of race, color, creed, religion, sex, marital status, national origin, or ancestry. Firm shall take affirmative action to insure that applicants and employees are treated without regard to their race, color, creed, religion, sex, marital status, national origin, or ancestry.

10. MISCELLANEOUS PROVISIONS

10.1 Confidentiality

Information obtained by Firm in the performance of this Agreement shall be treated as strictly confidential and shall not be used by Firm for any purpose other than the performance of this Agreement without the written consent of OCFA.

10.2 Notice

Any notice, demand, request, consent, approval, or communication either party desires or is required to give to the other party or any other person shall be in writing and either served personally or sent by pre-paid, first-class mail to the address set forth below. Either party may change its address by notifying the other party of the change of address in writing. Notice shall be deemed communicated forty-eight (48) hours from the time of mailing if mailed as provided in this Section.

Orange County Fire Authority
Attention: Debbie Casper
1 Fire Authority Road
Irvine, CA 92602

WITH COPY TO:
David E. Kendig, General Counsel
Woodruff, Spradlin & Smart
555 Anton Blvd. Suite 1200
Costa Mesa, CA 92626

To Firm:

Information Management Technologies
Attention: Jim Mabey
2696 Hudson Avenue
Corona, CA 92881

10.2 Integrated Agreement

This Agreement contains all of the agreements of the parties and cannot be amended or modified except by written agreement.

10.3 Amendment

This Agreement may be amended at any time by the mutual consent of the parties by an instrument in writing.

10.4 Severability

In the event that any one or more of the phrases, sentences, clauses, paragraphs, or sections contained in this Agreement shall be declared invalid or unenforceable by valid judgment or decree of a court of competent jurisdiction, such invalidity or unenforceability shall not affect any of the remaining phrases, sentences, clauses, paragraphs, or sections of this Agreement, which shall be interpreted to carry out the intent of the parties hereunder.

10.5 Corporate Authority

The persons executing this Agreement on behalf of the parties hereto warrant that they are duly authorized to execute this Agreement on behalf of said parties and that by so executing this Agreement the parties hereto are formally bound to the provisions of this Agreement.

[Signatures on Following Page]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the dates stated below.

"OCFA"

ORANGE COUNTY FIRE AUTHORITY

Date: _____

By: _____

Debbie Casper, C.P.M., CPPB
Purchasing & Materials Manager

APPROVED AS TO FORM.

By:  _____

DAVID E. KENDIG
GENERAL COUNSEL

Date: 5/16/18

ATTEST:

Sherry A.F. Wentz
Clerk of the Board

"FIRM"

**INFORMATION MANAGEMENT
TECHNOLOGIES**

Date: 05-09-18

By:  _____

Jim Mabey
Owner / Software Developer

EXHIBIT "A"

Information Management Technologies

Proposal to Provide

**Staffing and Timekeeping Software Development and
Support Services**

To the Orange County Fire Authority

Information Management Technologies

ORANGE COUNTY FIRE AUTHORITY

Jim Ruane, Finance Director
1 Fire Authority Road,
Irvine, CA 92602

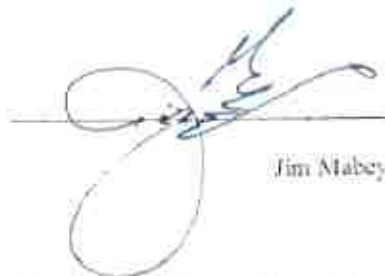
April 30, 2018

Response to Request for Proposal

Mr. Ruane,

In our attached response, we propose to provide software development and support services for the Staffing and Timekeeping modules and associated interfaces that our company developed for the OCFA to help ensure the continuity of business at the OCFA.

Respectfully Submitted,



Jim Mabey

Owner / Software Developer
INFORMATION MANAGEMENT TECHNOLOGIES
www.IMTdata.com
(714) 230-6246 (Ext. 701)
(800) 314-2476 (voice/fax)

GENERAL PROPOSAL REQUIREMENTS

I. BIDDER'S INFORMATION FORM

INFORMATION:

Company Legal Name: Information Management Technologies

Company Phone : 800-314-2476

Company Fax : 714-230-6246

Company website: www.imtdata.com

Company Address: 2696 Hudson Avenue
Corona, California 92881

The contact person responsible to represent Firm:

Contact Person : Jim Mabey

Contact Person's Title : Owner

Contact Person's Phone : 714-230-6246 x 701

Contact cell phone : 951-733-1334

Contact Person's e-Mail : Jim@imtdata.com

GENERAL PROPOSAL REQUIREMENTS

II. ORGANIZATION BACKGROUND

Information Management Technologies was started on August 1, 1986. We have been designing, developing and providing support for mission critical application software for government agencies in the Southern California area for over 30 years.

Our company utilizes Rapid Application Development tools that we have designed and developed to allow us to quickly and easily bring up large scale applications. These same tools allow us to easily adapt our applications as needed.

Our team of experienced and knowledgeable developers and analysts has a vast and extensive experience in having designed, developed and provided support for large enterprise wide applications. Here is a list of just some of the applications that we have designed, developed and provided support for: Timekeeping, Staffing, Payroll, Online Bill Payment, IVR (phone) solutions, SMS Texting solutions, Web Portal applications, Touch Screen Kiosk applications, Scheduling, Accounts Payable, General ledger, Purchasing, Budget preparation, Budgetary control, Project management, Accounts receivable, Billing, Human Resources, Applicant Tracking, Benefits, Risk Management, Liability Claims Management, Workers' Compensation, Cost Accounting, Records Management, Fleet Management, Inventory Control, Fixed Assets, Work Order, Public Works, Public Safety (Police and Fire), Water Service, Water Billing, Trash service, Trash billing and this is just a partial list.

Our team members also possess a wealth of knowledge and experience in the areas of business rules, regulatory, compliance requirements and best practices for the applications that we have designed and developed.

GENERAL PROPOSAL REQUIREMENTS

III. EXPERIENCE

We have been developing and supporting application software and have been helping support Orange County Fire Authority with continuity of business for many years including prior to when the Fire Authority split away from Orange County.

We have a solid understanding of Orange County Fire Authority's business rules, business processes, labor agreements, operating procedures and practices.

We look forward to continuing our relationship and working together to help Orange County Fire Authority leverage technology to run more efficiently.

Here are a few of the projects that we have completed for Orange County Fire Authority in the recent past:

We designed and developed a Strike Team Management module to streamline the process of mobilizing resources to better enable the OCFA to quickly and efficiently manage strike teams.

We developed and implemented an interface for the new OCFA 911 CAD system to interface with the STAFFING module on a real-time basis. Other Fire Agencies using Kronos/Telestaff software are limited to daily flat file exports and do not have access to data on a real-time basis.

We helped OCFA comply with labor negotiation and labor law and compliance requirement changes including significant changes to labor force work schedules and FLSA overtime calculation requirements resulting from these changes.

We developed and provided support for additional interfaces to various systems throughout the OCFA to help streamline processes and procedures.

Some of these include: Staffing to RMS interface to allow the RMS to make the Fire Reporting process easier.

Interface from Staffing, Timekeeping and Payroll to the OCFA Sharepoint / Hive system to streamline access to shared information.

We also made a number of enhancements to OCFA software to give the OCFA additional flexibility with being able to adapt and make changes quickly.

We helped upgraded servers and operating systems to help ensure the continuity of business.

We designed and developed payroll system enhancements to assist with PEPRAs compliance.

We also developed enhancements to assist the OCFA with monitoring and controlling labor costs.

Designed and developed an automated group SMS texting enhancement for the OCFA.

Made enhancements to extend and provide additional remote access to system resources by personnel using mobile devices.

We also developed and instituted controls and processes to identify and prevent payroll errors utilizing a “pre calc audit report” process that checks for setup errors in the payroll system.

We wrote a new interface to allow OCFA to comply with changes in the requirements for the reporting of retirement data to the OCERS Pension System.

We assisted OCFA with upgrading their Banner Payroll software from Unix to a newer Windows platform.

We designed and developed an automated Reserve Response reporting module including controlled tracking and payment of stipends for these responses.

By integrating the Scheduling, Timecard and FLSA modules we instituted a state of the art system including checks and balances to ensure that employees are being paid properly, that overtime distribution is performed in an equitable manner and that paid in compliance with Fair Labor Standards Act regulations.

While doing this, we reduced the time required to process fire suppression payroll thereby reducing the window of estimating required at the end of the payroll while

at the same time eliminated the need for field suppression employees to submit timecards. Instead of having the employee report what they worked, the system uses the scheduled data that has already been assigned and approved by their supervisor. At the end of the payroll, the employee is presented with this approved time and asked to verify/certify that he or she was paid properly.

As a result of our desire to leverage technology and to automate, Orange County Fire Authority led the County as one of first agencies in the County to submit electronic timecards eliminating the need for manual data entry.

We continue to automate and streamline as much as possible. We helped automate retro-payroll computation so that pay adjustments can be automatically generated instead of requiring that the user manually compute retro-active pay adjustments, we automated the tracking of certifications, bonus determination, Workers' Comp approvals and many other things.

In 1998, OCFA opted to decentralize the manning function out to the various Battalions. We worked together with OCFA staff to develop a Web-based module to allow for the decentralized scheduling of suppression personnel.

As with other projects that we had been involved with in the past, this was a joint effort. The success of this project was due not only to my efforts, but also to all of those on the committee and to those that supported the project including Joan Steiner, support from Executive Management and Operations, Linda Cable, Jim Ruane, John Wieland, Chief Witesman, Jorge Camargo, Ray Valenzuela and others.

The timing of web-based technology becoming available was perfect. We were forced to go with a Web-based solution due to the limited speed of OCFA's intranet (internal network). A thick-client application simply would not have been able to run over the 56k connection speed that existed to some of the stations back then.

Fortunately we had experience with web application development in having developed web based applications for other agencies including the City of Ontario – a GIS map based address lookup of assessor property owner data and business license data and the second a prototype application to allow for developers to check their plan check status via a web-browser.

Concerted efforts went into designing the OCFA staffing application to be as “light weight” as possible (to utilize as little band width as possible) while at the same time not compromise too much on the functionality side.

We developed a way of safely and securely verifying user identity utilizing a variable/dynamic signature scheme that we developed. We also developed a custom method of “state management” to keep track of where users are in the web app and to allow the user to leave where they are in the app to bring up other screens and then return back to where they were before. This custom method of managing states utilized a server based “virtual session stack” that we developed - without using cookies or storing any data on the client work station’s hard drive – using cookies was the accepted standard way of doing things back then. We also developed a “record locking” scheme to make concurrency proactive (to reduce the need to reject changes from a user due to changes made at the same time by another user).

We designed and developed a system that dynamically generates java-scripted HTML utilizing both client and server side validation where limited data is sent to and from the client.

We went live with this web-based module on January 1, 1999. The module has been live 24 hours a day, 7 days a week ever since. The system has been down very few times – mainly to install upgrades, enhancements and for planned maintenance.

We further expanded the Staffing module to eliminate manual paperwork that was previously required by allowing individual fire fighters, engineers and captains to view their own work schedules and to electronically submit requests to be considered available for backfill. After going live with this, we then continued to improve the system by allowing employees to electronically request trade of overtime locations with each other, to allow employees to electronically confirm assignments that their MPC’s have assigned to them using electronic approval.

We also enhanced the system to handle the requirements of both BC and ECC (dispatch) employees.

Another example is where we implemented an enhanced overtime cause tracking system that results in exact overtime costs and reasons being available from within the Banner GL module.

GENERAL PROPOSAL REQUIREMENTS

IV. STAFF QUALIFICATIONS

We have a team of very knowledgeable and talented individuals including employees and contractors.

Here are the skills, qualifications and contact information for some of our key team members.

Jim Mabey – Owner / Software Developer

Founder of Information Management Technologies. Over 30 years of experience as an Application Software Developer.

Has designed and developed numerous programs and large enterprise wide applications for Public Agencies (City, County) as well as private companies.

Some of Jim's core strengths are Payroll, Fire Departments, Public Safety, FLSA, Labor Laws, Pension, Scheduling, Staffing & Timekeeping, Finance (GL, AP, AR, Budgeting & Budget Preparation), CIS, Water Billing, Service & Meter Reading, Trash Service & Billing (Industrial, Commercial & Residential), Public Works, Work Management, Code Enforcement, Police Applications, Purchasing & Inventory, Records Management, Fleet Management, GIS (centralized application address validation, geo coding, street device inventory tracking and maintenance scheduling and tracking), Collections, Payment Processing, Online web, phone and text message bill payment, touch screen kiosks, SMS texting, IVR, web and Rapid Application Development. I know and have used about 30 programming languages over the years some of these include Open Insight, AREV32, Visual Studio/.net, Oracle, MS SQL, Peopletools, SQR, Peoplecode, C, Cobol, Visual Basic, HTML, Javascript, SQL, VXML, CCXML, Rapid Application Development tools that I have created along with numerous other languages and tools.

Jim Mabey
Owner/Software Developer
jim@imtdata.com
(714) 230-6246 (Ext. 701)

Andrew Suddarth - Software Engineer, Master's Degree in Computer Science

More than a decade of software development experience in various industries, including a CRM company, education software company, college and schools, insurance logistics, world famous collectibles company, internet marketing firm, international MLM company, architecture firm and insurance payment processing company.

Full-stack developer with a range of experience from business to scientific simulation and web development.

Developed automated CRM systems, automated email systems, school management system for teachers, students and parents, children's web browser, 3D visualization software and numerous websites.

Experience with C#.NET, VB.NET, ASP.NET, JavaScript, PHP, MVC, WCF, jQuery, CSS3, SQL Server, MySQL, Crystal Reports, SSRS, Windows Services and Web Services.

Bachelor of the Arts in Computer Science, minoring in Business Administration.
Master of Computer Science from California State University, Long Beach.

Andrew Suddarth

Software Engineer, Master's Degree in Computer Science

andrew@imtdata.com

(714) 230-6246 (Ext. 706)

Mahyar Daeiohlhagh – Application Developer / Analyst

More than a decade of software development experience in different industries including a manufacturing company, a home construction company, an international Pharmaceutical company and a nationwide insurance company.

Solutions-focused, team oriented Web/Desktop DB oriented Application Analyst and Developer with broad-based experience and hands-on skill in the successful implementation of highly effective Database solutions.

Proven ability to successfully analyze an organization's critical support requirements, identify deficiencies and potential opportunities to develop innovative solutions for increasing reliability and improving productivity. A broad understanding of computer software, including Database and Software Design, implementation, maintenance and administration, troubleshooting, and support.

Analyzed and Developed Data management systems like: Scheduling, Dispatching, Inventory and Accounting (GL, A/P, A/R, Payroll, Inventory, Sales and Purchase, Budgeting, Fixed asset, software for two companies.

Developed Analytical Dashboards using business intelligence techniques for two companies.

Developed Customer Portal, Broker Portal, Enrollment websites and many Internal Customer management tools For an Insurance Company.

Lots of experiences working with various software and technologies including C#, VB.NET, ASP.NET, MVC, WCF, Web API, JQuery, Bootstrap, AngularJs, CSS3, Sql Server, Crystal Reports, SSIS, SSRS and SSAS.

Mahyar Daeiohlhagh
Application Developer / Analyst
mahyar@imtdata.com
(714) 230-6246 (Ext. 703)

Dave Harmacek - Software Developer

Over 30 years of experience developing and maintaining business applications. My systems are fully integrated with networked desktops and terminal services and websites. Very proficient with using the Revelation Technologies products including Arev32, OpenInsight, and O4W for desktop. Experience with tablet and smartphones development. Have been a featured speaker at six Revelation User Conferences.

* Designed, installed and maintained the system for a specialty medical billing company. Manages all accounts, automates analysis, collection of data, and presentation of invoices to insurance companies. Prints tens of thousands of invoices per week. Converted all paper files into a paperless system.

- Upgrades and maintains system for a water heater rental and plumbing company. Functions include Customer Service, Collections, Service, and Billing. Portions re-written into OpenInsight. The plumbers' jobs are managed using a website running O4W.

* Automating the business side of a printing company.

- Automated the advertising agency of a national investment company. System features Project Management and Control, Job Specifications, Requisitions, Vendor Quoting, Purchase Orders, Delivery Instructions, Time Sheets and Comparisons of Estimate vs. Actual.

- The Student Employment Office of a Boston university provides employment services to students by posting both short-term and temporary jobs. The system maintains lists of Employers, Job Listings and eligible Students. Prints current postings and management reports.

Masters of Science in Management degree, and a Bachelor of Science in Electrical Engineering degree.

Dave Harmacek
Software Developer
dave@imtdata.com
(714) 230-6246 (Ext. 702)

GENERAL PROPOSAL REQUIREMENTS

V. REFERENCES

- 1. Name of Firm:** Orange County Fire Authority
Address of Firm: 1 Fire Authority Way; Irvine, CA 92602
Contact Person/Title: Karen Angers,
Payroll & Accounts Payable Manager
Jim Ruane, Finance Manager / Auditor
Phone/Fax: 714-573-6349, 714-368-8858
Email: karenangers@ocfa.org
jimruane@ocfa.org
Date of Project: FROM: 2006 – 2007, 2007 thru current

Brief Description of Project (scope and intent of contract):

Ongoing support and enhancement of OCFA's Staffing, Timekeeping and FLSA modules. Ongoing support with the Banner Financial System.

- 2. Name of Firm:** City of Ontario, Revenue Services
Address of Firm: 303 East "B" St; Ontario CA 91764
Contact Person/Title: Delilah Patterson,
Revenue Services Director
Phone/Fax: 909-395-2074, 909-395-2051
Email: dpatters@ci.ontario.ca.us
Date of Project: FROM: 2006 – 2007, 2007 thru current

Brief Description of Project (scope and intent of contract):

Ongoing development, support and enhancement of city's mission critical CIS Water/Refuse billing systems including IVR, IWR, Kiosk and interfaces with other agencies.

3. Name of Firm: City of La Habra
Address of Firm: 110 E. La Habra Blvd.
La Habra, CA 90633
Phone: (562) 383-4000
Contact Person/Title: Mel Shannon, Finance Director
John Balderas, Senior Accountant
Tracy Ponce, Payroll
Phone/Fax: 562-383-4050
Email: MShannon@lahabraca.gov
Date of Project: FROM: 1986 thru current

Brief Description of Project (scope and intent of contract):

Ongoing support and enhancements to City Payroll and Budget Preparation software.

4. Name of Firm: City of Ontario, Information Systems
Address of Firm: 303 East "B" Street; Ontario, CA 91764
Contact Person/Title: Elliott Ellsworth, IT Director
Phone/Fax: 909-395-2406, 909-395-2394
Email: eellsworth@ci.ontario.ca.us
Date of Project: FROM: 1986 thru current

Brief Description of Project (scope and intent of contract):

Designed, development and provided support for numerous application software module used throughout the entire City of Ontario including: Payroll, FLSA calculation, Timekeeping, Online Bill Payment, IVR phone automation, SMS texting, Touch Screen Kiosk, Web portal, Finance, General Ledger, Budget Preparation, Water Billing, Trash Billing, Human Resources, Public Works Administration and many others.

SCOPE OF SERVICES

VI. SUPPORT, DEVELOPMENT AND PROJECT MANAGEMENT

A. Support Services

- Provide dedicated, on-site (OCFA Regional Operations and Training Center, Irvine, CA) support necessary to ensure operational continuity of the OCFA Staffing and Timekeeping applications to be performed during OCFA's administrative offices core business hours. Support functions shall include, but not be limited to:
 - Problem resolution
 - Maintenance/updates for compliance with all applicable federal and California specific labor laws
 - Consultation on operation of the system and as-needed training for Finance and Payroll administrative staff
- Provide dedicated on-call support with 24/7/365 availability to Finance and Payroll administrative staff, with guaranteed response times (by voice, email, or text) ranging from fifteen minutes to next business day, as determined by priority of request, in accordance with the following service level summary:

Priority	Definition	Response Time After Notification*	Target Resolution Time
Emergency	• Entire organization is affected. • Core business process cannot be carried out. • Security violation.	15 Minutes	2 hours
Critical	• Multiple users or departments are directly affected. • Incident has serious impact on critical tasks and no workaround is available • End users affected.	1 hour	4 hours
High	• System cannot function as designed or installed • Small group of users are directly affected. •	1 day	3 days

* Notification to be by voice, email, and/or text messaging

B. Application Enhancement

- During the base term of the Professional Services Agreement (36 months), and during each of the two (2) optional twelve (12) month extension periods, perform development and enhancement of the Staffing/Time and Attendance applications, comprised of 1,600 hours annually.

Identification and prioritization of enhancements shall be as directed solely by designated OCFA Finance and Payroll administrative staff,

NOTE: The annual minimum required consulting services hours dedicated to application enhancement are in addition to, and not a substitution for, dedicated support hours as defined in above Section A.

- ☐ Based on the minimum required service hours for application enhancement, OCFA expects resolution of known system issues, and substantial completion of priority enhancements. Management of enhancements and ongoing prioritization of specific tasks are accomplished by the OCFA Finance and Payroll administrative staff. OCFA intends to update the prioritization of tasks on a quarterly basis as needed, with updated expectations and schedule deadlines to be mutually agreed upon by Consultant and OCFA.
- ☐ *Consultant shall provide all necessary training, including technical and application system administration, manuals and documents sufficient to leave OCFA staff prepared to make the best use of the enhanced applications.*

C. Additional Services

- *Develop and maintain various Staffing/Time Keeping application interfaces to OCFA's Ellucian/Banner payroll application, the Orange County Employees Retirement System (OCERS), and other third-party applications as needed.*

PERFORMANCE MANAGEMENT AND GENERAL REQUIREMENTS

In the performance of services as described in above sections A – C, Consultant shall:

- Ensure continuity of operations, requiring the use and management of a development/testing environment, and carefully managed deployments to the production environment.
- Maintain information for each service request, including but not limited to, problem description, start and end dates/times, actual or potential root cause(s), corrective action taken, and future action required.
- Provide and utilize a support/change control application where all the work orders from OCFA will be recorded, approved, tracked, and managed.
- Develop and provide written Support Request troubleshooting procedures.
- Provide monthly status reporting to designated OCFA Finance/Payroll staff including, but not limited to actual hours usage, average cycle time, quality issues, and improvement recommendations.
- Provide a problem escalation process to ensure urgent problems are resolved in accordance with the services Scope of Work.
- Provide a process to record after-hours problems for next day resolution.
- Provide the necessary technical resources (at agreed upon rates) to modify or enhance applications to ensure that the software continues to support OCFA business requirements in accordance with the services Scope of Work.

- Provide justifiable resource and timeframe estimates for software design, development, testing, and deployment of all application modifications and upgrade requests within the time frames established for application enhancements.
- Begin and end each application modification and upgrade effort within established timeframes.
- Maintain source code version and release of software versions in accordance with OCFA's configuration management standards during the life of the project.
- Provide and maintain coding standards and quality control to ensure coding readability, performance, and sustainability.
- Make proper resource arrangements to ensure support continuity in accordance with the services Scope of Work.

PROJECT CONTROL AND MANAGEMENT

Consultant shall provide the level of staff necessary to successfully and consistently provide the proposed services, and designate a Project Manager who will be responsible for the overall coordination of the Consultant's resources necessary to fulfill its responsibilities for this project. Said Project Manager will work closely with the OCFA to set specific action dates for both parties and communicate detailed information as needed. In cooperation with the OCFA, the Project Manager will also be responsible for tracking the progress of the project and reporting of actual task completion dates, as well as any ongoing revisions to the project plan that may be mutually determined.

Reasons for OCFA to require a change to firm's consultants assigned to OCFA include, but are not limited to:

- ☐ Security violation
- ☐ Communication deficiency
- ☐ Reliability Problem
- ☐ Failed to demonstrate professional behavior
- ☐ Failed to comply with OCFA policy, including harassment

OCFA RESPONSIBILITIES

OCFA's responsibilities during the contract term are as follows:

- An OCFA representative will be designated to coordinate and monitor all aspects of the contract, and serve as the primary coordinator between the OCFA and Consultant.
- Coordinate the necessary access to the OCFA information technology resources.
- Provide the personnel to perform testing and trial use of the installed applications.

VII. PROPOSAL PRICING

The cost of services proposed shall be in accordance with following tables. Additional fees for services outside the scope of the agreement will not be charged without prior written agreement between IMT and OCFA. Pricing is inclusive of all costs and expenses; IMT will not seek reimbursement for costs not included in the proposal.

Year One			
Support Services (Scope of Services Sections A and C)	Hourly Rate*	No. of Hours	Total Not-to-Exceed Cost
Performed during normal business hours (OCFA Core hours)			
Add other Support Services rate tiers (if applicable)			
Application Developer	\$ 135.66	1,600	\$ 217,056
Application Development (Scope of Services Section B; annual minimum 2,000 hours, exclusive of Support Services Hours)	Hourly Rate	No. of Hours	Total Not-to-Exceed Cost
(specify proposed rate tiers)			
Senior Application Developer	\$ 155.25	1,600	\$ 248,400

Years two and three	
	Maximum Annual Percentage Increase
Support Services	3%
Application Development	3%

We agree to provide OCFA with daily written service reports that reflect specific work done each day by each of our staff along with exact start and end times for the various work performed as requested by OCFA.

OCFA will only be charged for time that we are actively working on OCFA related projects. OCFA will never be charged for any disruptions we may receive from other clients while working for OCFA whether onsite or offsite. This has always been our practice. We document these events in our daily service reports.

We do not charge for travel time.

We maintain detailed logs of programming changes made and provide detailed user and technical documentation for enhancements that make as a part of the work that we do. IMT provides OCFA with source code left onsite at OCFA for in the event that something happens to key resources at IMT.

IMT is not involved in the day to day use and operations of the software that we designed and developed for OCFA. We have documented and trained OCFA personnel for every enhancement that we have made. We have also documented the procedure for how to rebuild the entire system from scratch for in the event a server crashes. The documentation resides on OCFA's Sharepoint environment under the Staffing Team Site.

We are requesting a minimum onsite charge of 4 hours for non-scheduled days that require onsite visits along with a minimum of 2 hour charge for emergency off hours support (support needed outside of the hours of 0800 – 1800 PST).

We request the option to increase our rates annually based on Bureau of Labor Statistics Consumer Price Index Percentage, for Los Angeles, Long Beach/Orange County area where we agree the increase is not to exceed 3% per year.

OCFA Special Procurement Justification Form

The Purchasing Ordinance of the Orange County Fire Authority requires competitive bids and proposals for service and commodity contracts. A special procurement is defined as a purchase, where due to unusual or special circumstances, it would be in the best interest of the OCFA to accomplish the procurement without compliance with the competitive bidding requirements. Special Procurements are not applicable to construction services. The using department requesting a special procurement shall provide written evidence to support a special procurement determination. This form is to be submitted with the purchase requisition to Purchasing with any special procurement requests.

SECTION I - INSTRUCTIONS

1. Written justification on this form will be completed by the requesting department and submitted with the purchase requisition.
2. The request must be approved by the section manager and assistant chief prior to submitting the request to the purchasing manager.
3. All special procurement forms must be submitted to the Purchasing Manager and then reviewed and approved by the Assistance Chief, Business Services.
4. All special procurements exceeding \$50,000 (life of contract) require Executive Committee approval. In this case, the special procurement form must be submitted to the Executive Committee as an attachment to the staff report.
5. The approved special procurement justification form will be included in the contract file.

SECTION II – REQUEST INFORMATION

Department/Section: Business Services	Requested By: Jim Ruane, Finance Manager	Date: 04/24/2018
Recommended Vendor: Information Management Technologies	Vendor Contact: Jim Mabey	Vendor's E-mail Address: jim@imtdata.com
Vendor Address: 2696 Hudson Ave, Corona, CA 92881		Vendor's Telephone #: 951-733-1334
Type of Contract: <input type="checkbox"/> One-time <input type="checkbox"/> Multi-Year <input checked="" type="checkbox"/> Renewal <input type="checkbox"/> Amendment <input checked="" type="checkbox"/> Increase	Contract Term (Dates): 6/1/2018 - 5/31/2021	Contract Amount:
<i>If the contract type is a Renewal, Amendment or Increase, please provide previous contract information with this request (PO, BO, previous approval date, Chief approval or EC approval, and dollar amount).</i>		Attachments: <input type="checkbox"/> Yes <input type="checkbox"/> No

SECTION III – JUSTIFICATION

1. **Provide a detailed description of the product or service requested. Describe what it is. Attach additional sheet if necessary.**

Software support, maintenance, and upgrades to the OCFA Staffing and Timekeeping business systems, including database administration, source code trouble-shooting and development, system administrator and end users support/training, support/development of user interfaces, reporting, and interfaces with various OCFA applications.

2. **Please state the reasoning for the special procurement and the special circumstances of why it would be in the best interest of OCFA to accomplish the procurement without a competitive bidding process. Provide a summary of findings (research and analysis) including any supporting documentation which validates your recommendation and demonstrates the nature of this request. Attach additional sheet if necessary.**

The OCFA Staffing and Timekeeping business systems were developed exclusively by Information Management Technologies to meet the OCFA's specific and highly specialized fire personnel staffing and business operations requirements. A comprehensive understanding of the systems'

SECTION III – JUSTIFICATION (continued)

programming, how that programming is applied to OCFA operating procedures or emergency personnel staffing, and the systems' integration with the OCFA Ellucian/Banner Payroll application, is necessary to ensure continuity of operations and completion of identified functional enhancements.

As the exclusive developer of the OCFA Staffing and Timekeeping systems, IMT is uniquely qualified to perform the specified services.



- 3. Pricing - What efforts were made to get the best pricing (e.g., did you simply request a quote, negotiate a better price with the vendor, did the vendor provide a discount)? Please provide the quote with your special procurement request.**

Negotiations were conducted with the vendor, resulting in pricing that remains below or comparable with other current OCFA contracts for specialized IT services.

- 4. Will this purchase obligate the OCFA to future purchases (maintenance, licensing or continuing needs)?**
(If yes, please explain how and what the future costs will be.)

This purchase would result in the continuing requirement of technical support for the OCFA Staffing and Timekeeping systems, as is necessary for all OCFA applications used for business operations.

Special Procurement Request Submitted by:

REQUESTORS NAME	SIGNATURE	DATE
Jim Ruane, Finance Manager		5-9-18
DIVISION CHIEF/SECTION MANAGER NAME	SIGNATURE	DATE
ASSISTANT CHIEF NAME	SIGNATURE	DATE
Lori Zeller		5/10/18

Purchasing Manager's Comments:

PURCHASING MANAGER'S APPROVAL	DATE
 Rethinking For Debbie Carter	5/11/18
ASSISTANT CHIEF BUSINESS SERVICES APPROVAL	DATE
	5/10/18

Executive Committee Approval Required ☐ Yes ☐ No Special Procurement over \$50,000

Executive Committee Approved: ☐ Yes ☐ No Date approved _____



Orange County Fire Authority
AGENDA STAFF REPORT

Executive Committee Meeting
May 24, 2018

Agenda Item No. 4A
Discussion Calendar

May 2018 Legislative Report

Contact(s) for Further Information

Brian Young, Assistant Chief
Operations Department

brianyoung@ocfa.org

714.573.6012

Jay Barkman, Legislative Analyst

jaybarkman@ocfa.org

714.573.6048

Summary

This item is submitted to allow discussion on AB 1912 (Rodriguez), and to direct staff on amendments and a recommended position.

Prior Board/Committee Action

A brief overview was presented on AB 1912 at the Executive Committee's April 26, 2018, meeting. By consensus, the Executive Committee requested that a copy of AB 1912 be sent to the Board of Directors, and that staff agendize discussion of the bill at its next regular and Board of Directors meeting in May.

RECOMMENDED ACTION(S)

Review the proposed agenda item and direct staff to place the item on the agenda for the Board of Directors meeting of May 24, 2018, with the Executive Committee's recommendation that the Board of Directors direct staff to forward to the Board a recommendation on AB 1912 (Rodriguez) to "seek amendments" to exclude liabilities of Structural Fire Fund cities and to avoid reporting of OCFA's retirement liabilities by member agencies.

Impact to Cities/County

Not Applicable.

Fiscal Impact

Not Applicable.

Background

AB 1912 (Rodriguez) JPA Pension Liability

Staff Recommendation:

Status: Assembly Appropriations Committee

Reviewed by: Lori Zeller, Assistant Chief Business Services

AB 1912 by Assemblymember Rodriguez (D-Pomona) was amended on May 9, 2018 (Attachment 1). Prior to those amendments the bill required all members of a joint powers authority be jointly and severally liable for all obligations to a public retirement system. The author and public employee groups, which includes Orange County Professional Firefighters Association (OCPFA), point to a 2015 delinquency by a JPA as one need for this legislation. In 2014, the East San Gabriel Valley Human Services Consortium discontinued services and terminated most of its employees. The JPA was comprised of the cities of Azusa, Covina, Glendora, and West Covina. According to supporters and

the committee analysis when the JPA could not pay, “CalPERS then sought payments from the JPA’s member agencies.” However, those four cities responded that they were under no obligation to pay the amount owed.

AB 1912 as amended on May 9, imposes joint and several liability only on JPAs entering into new contracts with a retirement system on or after January 1, 2019. Existing JPA’s that contract with a retirement system will be required to “apportion” retirement liabilities amongst the member agencies. OCFA counsel indicates that this will apply to OCFA’s unfunded pension liabilities of \$400.6 million with the Orange County Employee Retirement System (OCERS). The bill requires members of the JPA to mutually agree to an apportionment, or be subject to the OCERS board allocating the liability based on a member’s “share of service” or “population.”

Previously in 2013, the Board directed staff to prepare a calculation to show a hypothetical apportionment of OCFA’s unfunded pension liability among the member agencies. For purposes of this discussion, that hypothetical calculation is provided as Attachment 2. This hypothetical apportionment is based on a “share of service” method using the ratio of firefighters assigned within each member agency compared to the total OCFA firefighters. However, there are flaws in using this method which would need to be resolved. For example, this simplistic method does not account for the fact that Santa Ana has only been a member since 2012, and that OCFA’s unfunded liability has steadily declined since then with no new layers of liability added during their period of membership.

The bill also poses a concern unique to Structural Fire Fund (SFF) cities that has been raised by city managers and OCFA Counsel. Specifically, SFF cities do not have the legal responsibility or entitlement to the SFF. Property tax revenues from the SFF are directed to OCFA by the County independent of the SFF cities. A SFF city does not have the ability to assume fire service or receive SFF without approval from the County and OCFA. In discussion with city managers, it was agreed that OCFA should recommend amendments recognizing this unique JPA structure. Staff therefore requests direction to work with OCFA counsel on amendments allocating SFF liabilities to the Structural Fire Fund and not SFF members or cash contract city members.

Finally, the bill if passed will require OCFA’s member agencies to “double report” OCFA’s liabilities on their financial reports. Regardless of whether OCFA’s member agencies mutually agree or OCERS allocates the liability the effect will be that OCFA will report a total liability and member agencies will “double report” their allocated share. Staff is recommending that direction be provided to seek amendments, working with other local agencies, eliminating the requirement that member agencies disclose the allocated liability on their financial reports.

The bill as of May 10, 2018, is opposed by the California League of Cities and the California State Association of Counties.

Attachment(s)

1. AB1912
2. Hypothetical Distribution of Unfunded Pension Liability by Member Agency

AMENDED IN ASSEMBLY MAY 9, 2018

AMENDED IN ASSEMBLY APRIL 19, 2018

AMENDED IN ASSEMBLY MARCH 19, 2018

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL

No. 1912

Introduced by Assembly Member Rodriguez

January 23, 2018

An act to amend Section 6508.1 of, to add Sections 6508.2, 20461.1, 20574.1, and 20575.1 to, and to repeal and add Section 20577.5 of, the Government Code, ~~and to amend Section 366.2 of the Public Utilities Code~~, relating to public agencies, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 1912, as amended, Rodriguez. Public employees' retirement: joint powers agreements: liability.

(1) Existing law establishes various public agency retirement systems, including, among others, the Public Employees' Retirement System, the State Teachers' Retirement System, the Judges' Retirement System II, and various county retirement systems pursuant to the County Employees Retirement Law of 1937. These systems provide defined pension benefits to public employees based on age, service credit, and amount of final compensation.

The Joint Exercise of Powers Act generally authorizes 2 or more public agencies, by agreement, to jointly exercise any common power. Under the act, if ~~the~~ *an* agency is not one or more of the parties to the agreement but is a public entity, commission, or board constituted pursuant to the agreement, the debts, liabilities, and obligations of the agency are the debts, liabilities, and obligations of the parties to the

agreement, unless the agreement specifies ~~otherwise and except as otherwise provided with respect to certain community choice aggregator joint powers agencies.~~ *otherwise*. The act also authorizes a party to a joint powers agreement to separately contract for, or assume responsibilities for, specific debts, liabilities, or obligations of the agency.

This bill would eliminate that authorization, *and* would specify that if an agency ~~to established by~~ a joint powers agreement participates ~~in in, or contracts with,~~ a public retirement system, ~~all parties, member agencies,~~ both current and former to the agreement, would be ~~jointly and severally liable for all required to mutually agree as to the apportionment of the agency's retirement obligations to the retirement system, and would eliminate the authority of those parties to agree otherwise with respect to the retirement liabilities among themselves,~~ *provided that the agreement equals the total retirement liability of the agency. The bill would require the board, in cases in which the member agencies are unable to mutually agree to apportionment, to apportion the retirement liability of the agency to each member agency, as specified.* The bill would also provide that if a judgment is rendered against an agency or a party to the agreement for a breach of its obligations to the retirement system, the time within which a claim for injury may be presented or an action commenced against the other party that is subject to the liability determined by the judgment begins to run when the judgment is rendered. The bill would specify that those provisions apply retroactively to all parties, both current and former, to the joint powers agreement.

(2) The Public Employees' Retirement Law (PERL) creates the Public Employees' Retirement System (PERS), which provides a defined benefit to members of the system, based on final compensation, credited service, and age at retirement, subject to certain variations. PERL vests management and control of PERS in its Board of Administration. Under PERL, the board may refuse to contract with, or to agree to an amendment proposed by, any public agency for any benefit provisions that are not specifically authorized by that law and that the board determines would adversely affect the administration of the retirement system.

This bill would prohibit the ~~board~~ *board, on and after January 1, 2019,* from contracting with any public agency formed under the Joint Exercise of Powers Act unless all the parties to that agreement are jointly and severally liable for all of the public agency's obligation to

the system. ~~The bill would specify that those provisions apply retroactively to all parties, both current and former, to the agreement. The bill would also require any current agreement that does not meet these requirements to be reopened to include a provision holding all member agencies party to the agreement jointly and severally liable for all of the public agency's obligations to the system.~~

(3) Existing law authorizes the governing board of a contracting agency to terminate its membership with PERS, subject to specified criteria. Existing law requires the PERS board to enter into a specified agreement with the governing body of a terminating agency, upon request of that agency, to ensure that final compensation is calculated in the same manner as benefits of nonterminating agencies, and that related necessary adjustments in the employer's contribution rate are made and benefits adequately funded, including a lump-sum payment at termination, if agreed to by the terminating agency and the board. Existing law requires a terminating agency to notify the PERS board of its intention to enter into this agreement within a specified period of time. Existing law authorizes the PERS board to choose not to enter into an agreement to terminate if the board determines that it is not in the best interests of PERS. Existing law requires all plan assets and liabilities of a terminating agency to be deposited in a single pooled account, the terminated agency pool subaccount within the Public Employees' Retirement Fund, a continuously appropriated fund.

This bill would also require the PERS board to enter into the above-described agreement upon request of a member agency of a terminating agency formed under the Joint Exercise of Powers Act, and would require a member agency to notify the PERS board of its intention to enter into this agreement within a specified period of time. The bill would authorize the board, if it determines that it is not in the best interests of the retirement system, to choose not to enter into that agreement. To the extent that the bill would increase any lump-sum payments made by a terminating agency and deposited into a subaccount within the Public Employees' Retirement Fund, the bill would make an appropriation. The bill would also provide that if the governing body of a terminating agency or the governing bodies of its member agencies do not enter into an agreement, the member agencies would then assume the retirement obligations for their retirement systems, ~~by apportionment among the member agencies as mutually agreed to by those agencies, or as determined by the board if the member agencies are unable to mutually agree, as prescribed: systems.~~

(4) Existing law makes a terminated agency liable to the system for any deficit in funding for earned benefits, interest, and for reasonable and necessary costs of collection, including attorney's fees. Existing law provides that the board has a lien on the assets of a terminated contracting agency, as specified, and that assets shall also be available to pay actual costs, including attorney's fees necessarily expended for collection on the lien.

This bill would extend that liability and lien to all of the parties of a terminating agency that was formed under the Joint Exercise of Powers Act. ~~The bill would specify that the liability of those parties is joint and several.~~ To the extent that these changes would increase deposits in the Public Employees' Retirement Fund, the bill would make an appropriation.

(5) Existing law authorizes the board of PERS to elect not to impose a reduction, or to impose a lesser reduction, on a terminated plan if the board has made all reasonable efforts to collect the amount necessary to fully fund the liabilities of the plan and the board finds that not reducing the benefits, or imposing a lesser reduction, will not impact the actuarial soundness of the terminated agency pool.

This bill would eliminate that provision. The bill would require the ~~board~~ board, *prior to exercising its authority to reduce benefits, to consider and exhaust all options and necessary actions, including evaluating whether* to bring a civil action against any member agencies to a terminated agency formed by an agreement under the Joint Exercise of Powers Act to compel payment of the terminated public agency's pension obligations. The bill would also specify that the board is entitled to reasonable attorney's fees in addition to other costs. The bill would also set forth related legislative findings.

Vote: majority. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

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

1 SECTION 1. The Legislature finds and declares as follows:

2 (a) Retirement security is important to families, workers, and
3 communities, as well as to the local, regional, and statewide
4 economies, and provides financial security and dignity to those
5 who retire.

6 (b) A defined benefit plan offers, among other types of
7 retirement plans, a guarantee of financial security in retirement.

1 (c) A Joint Power Authority (JPA) created pursuant to the Joint
2 Exercise of Powers Act (Chapter 5 (commencing with Section
3 6500) of Division 7 of Title 1 of the Government Code) provides
4 important services and benefits to its geographical areas and
5 communities.

6 (d) A JPA may offer a defined benefit plan to attract, recruit,
7 and retain highly skilled employees toward providing services and
8 fulfilling its purpose.

9 (e) Employees who have been promised a retirement allowance
10 and the other benefits of a defined benefit plan by their employer
11 should be provided those benefits after reaching the requisite age,
12 based on years of service and an established benefit formula, as
13 promised by that employer.

14 (f) Further, an employee who accepts employment with a JPA
15 employer that promises a defined benefit plan may detrimentally
16 rely on the retirement benefit, as committed by the employer,
17 during his or her employment and retirement from that employer.

18 (g) Moreover, a JPA might have limited sources of revenue,
19 and an inability to increase, or secure additional sources of revenue,
20 that may lead to financial distress or insolvency of the JPA, absent
21 the financial surety of its member agencies and for the retirement
22 benefits of the JPA's employees.

23 (h) Additionally, employees who rely on a promise by a JPA
24 employer to provide retirement benefits by accepting and
25 maintaining employment with the employer based partly on the
26 employer's promise may do so to their own retirement detriment.

27 (i) Thus, member agencies of a JPA should not be permitted to
28 absolve themselves of financial liability, in whole or in part, of
29 the financial distress or insolvency of a JPA that results in
30 reductions in a defined benefit plan retirement allowance of a
31 retired JPA employee, of which the agencies are members.

32 (j) Therefore, in order to ensure that the ~~Board of Administration~~
33 ~~of the Public Employees' Retirement System~~ *board of a public*
34 *retirement system* is meeting its fiduciary duties and responsibilities
35 to its members and the system, the board should be permitted to
36 seek legal redress on behalf of its members as a result of the
37 financial insolvency of a JPA that contracts with the retirement
38 system if the financial distress or insolvency of the JPA may result
39 in a reduction of retirement benefits to its members.

(k) Further, to ensure that the board is meeting its fiduciary duties and responsibilities, ~~both current and future contracts with the retirement system by a JPA must include joint and several liability provisions that apply to all agencies under the agreement in order to protect the members of the retirement system against financial insolvency. contracts with the retirement system by a JPA must protect present and future retirees of the JPA.~~

(l) For purposes of this section, “public retirement system” means any pension or retirement system of a public employer, including, but not limited to, an independent retirement plan offered by a public employer that the public employer participates in or offers to its employees for the purpose of providing retirement benefits, or a system of benefits for public employees that is governed by Section 401(a) of Title 26 of the United States Code.

SEC. 2. Section 6508.1 of the Government Code is amended to read:

6508.1. (a) If the agency is not one or more of the parties to the agreement but is a public entity, commission, or board constituted pursuant to the agreement, the debts, liabilities, and obligations of the agency shall be debts, liabilities, and obligations of the parties to the agreement, unless the agreement specifies otherwise. However, the parties to the agreement may not agree otherwise with respect to the retirement liabilities of the agency if the agency contracts with a public retirement system.

(b) For purposes of this section, “public retirement system” means any pension or retirement system of a public employer, including, but not limited to, an independent retirement plan offered by a public employer that the public employer participates in or offers to its employees for the purpose of providing retirement benefits, or a system of benefits for public employees that is governed by Section 401(a) of Title 26 of the United States Code.

SEC. 3. Section 6508.2 is added to the Government Code, to read:

6508.2. (a) ~~Notwithstanding Section 6508.1, if the agency~~ (1) An agency established by agreement under this chapter that participates ~~in in, or contracts with,~~ a public retirement system, ~~all parties, and member agencies,~~ both current and former, to the agreement, including all amendments thereto, shall ~~be jointly and severally liable for all obligations to the retirement system.~~ mutually agree as to the apportionment of the agency’s retirement

obligations among themselves, provided that the agreement equals the total retirement liability of the agency. A copy of this mutual agreement, signed by all parties thereto, shall be provided to the board, which shall be reflected in the agreement with the board. If the member agencies are unable to mutually agree to apportionment of the total retirement liability of the agency, the board shall apportion the retirement liability of the agency to each member agency based on the share of service received from the joint power authority by the agency, or population of each member agency, such that the apportionment equals the total retirement liability of the agency, which shall be reflected in the agreement with the board. However, if, after the board apportions the retirement liability, the member agencies mutually agree to apportionment that equals the total retirement liability of the agency, a copy of that agreement signed by all parties thereto shall be provided to the board, which shall supersede the apportionment made by the board, and be reflected in the agreement with the board.

(2) For purposes of this section, “board” means the board of any pension or retirement system of a public employer, including, but not limited to, an independent retirement plan offered by a public employer that the public employer participates in or offers to its employees for the purpose of providing retirement benefits, or a system of benefits for public employees that is governed by Section 401(a) of Title 26 of the United States Code.

(b) Notwithstanding any other law, if a judgment is rendered against an agency or a party to the agreement for a breach to its obligations to the public retirement system, the time within which a claim for injury may be presented or an action commenced against any other party that is subject to the liability determined by the judgment begins to run when the judgment is rendered.

(c) This section shall apply retroactively to all parties, both current and former, to the agreement.

SEC. 4. Section 20461.1 is added to the Government Code, to read:

20461.1. ~~(a) The~~ On and after January 1, 2019, the board shall not contract with any public agency formed by an agreement under Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 unless all the parties to that agreement, including all amendments

1 thereto, are jointly and severally liable for all of the public agency's
2 obligations to this system.

3 ~~(b) This section shall apply retroactively to all parties, both~~
4 ~~current and former, to the agreement. Any current agreement~~
5 ~~forming a public agency under Chapter 5 (commencing with~~
6 ~~Section 6500) of Division 7 of Title 1 that does not meet the~~
7 ~~requirements set forth in this section shall be reopened to include~~
8 ~~a provision holding all member agencies party to the agreement~~
9 ~~jointly and severally liable for all of the public agency's obligations~~
10 ~~to this system.~~

11 SEC. 5. Section 20574.1 is added to the Government Code, to
12 read:

13 20574.1. In lieu of the procedure set forth in Section 20574,
14 all parties to a terminating agency that was formed by an agreement
15 under Chapter 5 (commencing with Section 6500) of Division 7
16 of Title 1 shall be jointly and severally liable to the system for any
17 deficit in funding for earned benefits, as determined pursuant to
18 Section 20577, interest at the actuarial rate from the date of
19 termination to the date the agency pays the system, and reasonable
20 and necessary costs of collection, including attorneys' fees. The
21 board shall have a lien on the assets of a terminated contracting
22 agency and on the assets of all parties to the terminating contracting
23 agency, subject only to a prior lien for wages, in an amount equal
24 to the actuarially determined deficit in funding for earned benefits
25 of the employee members of the agency, interest, and collection
26 costs. The assets shall also be available to pay actual costs,
27 including attorney's fees, necessarily expended for collection of
28 the lien.

29 SEC. 6. Section 20575.1 is added to the Government Code, to
30 read:

31 20575.1. (a) Notwithstanding any other provision of this part
32 to the contrary, upon request of a terminating agency formed by
33 an agreement under Chapter 5 (commencing with Section 6500)
34 of Division 7 of Title 1 or of any member agency to the agreement,
35 the board shall enter into an agreement with the governing body
36 of a terminating agency or the governing body of the member
37 agency in order to ensure that (1) the final compensation used in
38 the calculation of benefits of its employees shall be calculated in
39 the same manner as the benefits of employees of agencies that are
40 not terminating, regardless of whether they retire directly from

1 employment with the terminating agency or continue in other
2 public service; and (2) related necessary adjustments in the
3 employer's contribution rate are made, from time to time, by the
4 board prior to the date of termination to ensure that benefits are
5 adequately funded or any other actuarially sound payment
6 technique, including a lump-sum payment at termination, is agreed
7 to by the governing body of the terminating agency and the board.

8 (b) A terminating agency formed by an agreement under Chapter
9 5 (commencing with Section 6500) of Division 7 of Title 1 that
10 will cease to exist or its member agency shall notify the board not
11 sooner than three years nor later than one year prior to the
12 terminating agency's termination date of its intention to enter into
13 agreement pursuant to this section. The terms of the agreement
14 shall be reflected in an amendment to the agency's contract with
15 the board.

16 (c) If the board, itself, determines that it is not in the best
17 interests of the system, it may choose not to enter into an agreement
18 pursuant to this section.

19 (d) If the governing body of a terminating agency formed by
20 an agreement under Chapter 5 (commencing with Section 6500)
21 of Division 7 of Title 1 or the governing bodies of its member
22 agencies do not enter into an agreement pursuant to this section,
23 the member agencies shall assume the retirement obligations on
24 their retirement systems. ~~Member agencies of the agency shall~~
25 ~~mutually agree as to the apportionment of the agency's retirement~~
26 ~~obligations among themselves provided that the agreement equals~~
27 ~~the total retirement liability of the agency. A copy of this mutual~~
28 ~~agreement signed by all parties thereto shall be provided to the~~
29 ~~board, which shall be reflected in the agreement with the board.~~
30 ~~If the member agencies are unable to mutually agree to~~
31 ~~apportionment of the total retirement liability of the agency, the~~
32 ~~board shall, in its discretion, apportion the retirement liability of~~
33 ~~the agency to each member agency such that the apportionment~~
34 ~~equals the total retirement liability of the agency, which shall be~~
35 ~~reflected in the agreement with the board. However, if after the~~
36 ~~board apportions the retirement liability, the member agencies~~
37 ~~mutually agree to apportionment that equals the total retirement~~
38 ~~liability of the agency, a copy of that agreement signed by all~~
39 ~~parties thereto shall be provided to the board, which shall supersede~~

1 ~~the apportionment made by the board, and be reflected in the~~
2 ~~agreement with the board.~~

3 SEC. 7. Section 20577.5 of the Government Code is repealed.

4 SEC. 8. Section 20577.5 is added to the Government Code, to
5 read:

6 20577.5. The board ~~shall bring a~~ *shall, prior to exercising*
7 *authority granted pursuant to Section 20577, consider and exhaust*
8 *all options and necessary actions, including evaluating whether*
9 *to bring a civil action against any and all of the member agencies*
10 *that are parties to a terminated agency formed by an agreement*
11 *under Chapter 5 (commencing with Section 6500) of Division 7*
12 *of Title 1 to compel payment of the terminated agency's pension*
13 *obligations; retirement obligations pursuant to Section 20575.1,*
14 *and shall be entitled to reasonable attorneys' attorney's fees in*
15 *addition to other costs.*

16 SEC. 9. Section 366.2 of the Public Utilities Code is amended
17 to read:

18 366.2. (a) (1) ~~Customers shall be entitled to aggregate their~~
19 ~~electric loads as members of their local community with~~
20 ~~community choice aggregators.~~

21 (2) ~~Customers may aggregate their loads through a public~~
22 ~~process with community choice aggregators, if each customer is~~
23 ~~given an opportunity to opt out of his or her community's~~
24 ~~aggregation program.~~

25 (3) ~~If a customer opts out of a community choice aggregator's~~
26 ~~program, or has no community choice aggregation program~~
27 ~~available, that customer shall have the right to continue to be served~~
28 ~~by the existing electrical corporation or its successor in interest.~~

29 (4) ~~The implementation of a community choice aggregation~~
30 ~~program shall not result in a shifting of costs between the customers~~
31 ~~of the community choice aggregator and the bundled service~~
32 ~~customers of an electrical corporation.~~

33 (5) ~~A community choice aggregator shall be solely responsible~~
34 ~~for all generation procurement activities on behalf of the~~
35 ~~community choice aggregator's customers, except where other~~
36 ~~generation procurement arrangements are expressly authorized by~~
37 ~~statute.~~

38 (b) ~~If a public agency seeks to serve as a community choice~~
39 ~~aggregator, it shall offer the opportunity to purchase electricity to~~
40 ~~all residential customers within its jurisdiction.~~

1 ~~(e) (1) Notwithstanding Section 366, a community choice~~
2 ~~aggregator is hereby authorized to aggregate the electrical load of~~
3 ~~interested electricity consumers within its boundaries to reduce~~
4 ~~transaction costs to consumers, provide consumer protections, and~~
5 ~~leverage the negotiation of contracts. However, the community~~
6 ~~choice aggregator may not aggregate electrical load if that load is~~
7 ~~served by a local publicly owned electric utility. A community~~
8 ~~choice aggregator may group retail electricity customers to solicit~~
9 ~~bids, broker, and contract for electricity and energy services for~~
10 ~~those customers. The community choice aggregator may enter into~~
11 ~~agreements for services to facilitate the sale and purchase of~~
12 ~~electricity and other related services. Those service agreements~~
13 ~~may be entered into by an entity authorized to be a community~~
14 ~~choice aggregator, as defined in Section 331.1.~~

15 ~~(2) Under community choice aggregation, customer participation~~
16 ~~may not require a positive written declaration, but each customer~~
17 ~~shall be informed of his or her right to opt out of the community~~
18 ~~choice aggregation program. If no negative declaration is made~~
19 ~~by a customer, that customer shall be served through the~~
20 ~~community choice aggregation program. If an existing customer~~
21 ~~moves the location of his or her electric service within the~~
22 ~~jurisdiction of the community choice aggregator, the customer~~
23 ~~shall retain the same subscriber status as prior to the move, unless~~
24 ~~the customer affirmatively changes his or her subscriber status. If~~
25 ~~the customer is moving from outside to inside the jurisdiction of~~
26 ~~the community choice aggregator, customer participation shall not~~
27 ~~require a positive written declaration, but the customer shall be~~
28 ~~informed of his or her right to elect not to receive service through~~
29 ~~the community choice aggregator.~~

30 ~~(3) A community choice aggregator establishing electrical load~~
31 ~~aggregation pursuant to this section shall develop an~~
32 ~~implementation plan detailing the process and consequences of~~
33 ~~aggregation. The implementation plan, and any subsequent changes~~
34 ~~to it, shall be considered and adopted at a duly noticed public~~
35 ~~hearing. The implementation plan shall contain all of the following:~~

36 ~~(A) An organizational structure of the program, its operations,~~
37 ~~and its funding.~~

38 ~~(B) Ratesetting and other costs to participants.~~

39 ~~(C) Provisions for disclosure and due process in setting rates~~
40 ~~and allocating costs among participants.~~

1 ~~(D) The methods for entering and terminating agreements with~~
2 ~~other entities.~~

3 ~~(E) The rights and responsibilities of program participants,~~
4 ~~including, but not limited to, consumer protection procedures,~~
5 ~~credit issues, and shutoff procedures.~~

6 ~~(F) Termination of the program.~~

7 ~~(G) A description of the third parties that will be supplying~~
8 ~~electricity under the program, including, but not limited to,~~
9 ~~information about financial, technical, and operational capabilities.~~

10 ~~(4) A community choice aggregator establishing electrical load~~
11 ~~aggregation shall prepare a statement of intent with the~~
12 ~~implementation plan. Any community choice load aggregation~~
13 ~~established pursuant to this section shall provide for the following:~~

14 ~~(A) Universal access.~~

15 ~~(B) Reliability.~~

16 ~~(C) Equitable treatment of all classes of customers.~~

17 ~~(D) Any requirements established by state law or by the~~
18 ~~commission concerning aggregated service, including those rules~~
19 ~~adopted by the commission pursuant to paragraph (3) of~~
20 ~~subdivision (b) of Section 8341 for the application of the~~
21 ~~greenhouse gases emission performance standard to community~~
22 ~~choice aggregators.~~

23 ~~(5) In order to determine the cost-recovery mechanism to be~~
24 ~~imposed on the community choice aggregator pursuant to~~
25 ~~subdivisions (d), (e), and (f) that shall be paid by the customers of~~
26 ~~the community choice aggregator to prevent shifting of costs, the~~
27 ~~community choice aggregator shall file the implementation plan~~
28 ~~with the commission, and any other information requested by the~~
29 ~~commission that the commission determines is necessary to develop~~
30 ~~the cost-recovery mechanism in subdivisions (d), (e), and (f).~~

31 ~~(6) The commission shall notify any electrical corporation~~
32 ~~serving the customers proposed for aggregation that an~~
33 ~~implementation plan initiating community choice aggregation has~~
34 ~~been filed, within 10 days of the filing.~~

35 ~~(7) Within 90 days after the community choice aggregator~~
36 ~~establishing load aggregation files its implementation plan, the~~
37 ~~commission shall certify that it has received the implementation~~
38 ~~plan, including any additional information necessary to determine~~
39 ~~a cost-recovery mechanism. After certification of receipt of the~~
40 ~~implementation plan and any additional information requested,~~

1 the commission shall then provide the community choice
2 aggregator with its findings regarding any cost recovery that must
3 be paid by customers of the community choice aggregator to
4 prevent a shifting of costs as provided for in subdivisions (d), (e),
5 and (f).

6 (8) No entity proposing community choice aggregation shall
7 act to furnish electricity to electricity consumers within its
8 boundaries until the commission determines the cost recovery that
9 must be paid by the customers of that proposed community choice
10 aggregation program, as provided for in subdivisions (d), (e), and
11 (f). The commission shall designate the earliest possible effective
12 date for implementation of a community choice aggregation
13 program, taking into consideration the impact on any annual
14 procurement plan of the electrical corporation that has been
15 approved by the commission.

16 (9) All electrical corporations shall cooperate fully with any
17 community choice aggregators that investigate, pursue, or
18 implement community choice aggregation programs. Cooperation
19 shall include providing the entities with appropriate billing and
20 electrical load data, including, but not limited to, electrical
21 consumption data as defined in Section 8380 and other data
22 detailing electricity needs and patterns of usage, as determined by
23 the commission, and in accordance with procedures established
24 by the commission. The commission shall exercise its authority
25 pursuant to Chapter 11 (commencing with Section 2100) to enforce
26 the requirements of this paragraph when it finds that the
27 requirements of this paragraph have been violated. Electrical
28 corporations shall continue to provide all metering, billing,
29 collection, and customer service to retail customers that participate
30 in community choice aggregation programs. Bills sent by the
31 electrical corporation to retail customers shall identify the
32 community choice aggregator as providing the electrical energy
33 component of the bill. The commission shall determine the terms
34 and conditions under which the electrical corporation provides
35 services to community choice aggregators and retail customers.

36 (10) If the commission finds that an electrical corporation has
37 violated this section, the commission shall consider the impact of
38 the violation upon community choice aggregators.

39 (11) The commission shall proactively expedite the complaint
40 process for disputes regarding an electrical corporation's violation

1 of its obligations pursuant to this section in order to provide for
2 timely resolution of complaints made by community choice
3 aggregation programs, so that all complaints are resolved in no
4 more than 180 days following the filing of a complaint by a
5 community choice aggregation program concerning the actions of
6 the incumbent electrical corporation. This deadline may only be
7 extended under either of the following circumstances:

8 (A) Upon agreement of all of the parties to the complaint.

9 (B) The commission makes a written determination that the
10 deadline cannot be met, including findings for the reason for this
11 determination, and issues an order extending the deadline. A single
12 order pursuant to this subparagraph shall not extend the deadline
13 for more than 60 days.

14 (12) (A) An entity authorized to be a community choice
15 aggregator, as defined in Section 331.1, that elects to implement
16 a community choice aggregation program within its jurisdiction
17 pursuant to this chapter, shall do so by ordinance. A city, county,
18 or city and county may request, by affirmative resolution of its
19 governing council or board, that another entity authorized to be a
20 community choice aggregator act as the community choice
21 aggregator on its behalf. If a city, county, or city and county, by
22 resolution, requests another authorized entity be the community
23 choice aggregator for the city, county, or city and county, that
24 authorized entity shall be responsible for adopting the ordinance
25 to implement the community choice aggregation program on behalf
26 of the city, county, or city and county.

27 (B) (i) Two or more entities authorized to be a community
28 choice aggregator, as defined in Section 331.1, may participate as
29 a group in a community choice aggregation program pursuant to
30 this chapter, through a joint powers agency established pursuant
31 to Chapter 5 (commencing with Section 6500) of Division 7 of
32 Title 1 of the Government Code, if each entity adopts an ordinance
33 pursuant to subparagraph (A).

34 (ii) Pursuant to Section 6508.1 of the Government Code,
35 members of a joint powers agency that is a community choice
36 aggregator may specify in their joint powers agreement that, unless
37 otherwise agreed by the members of the agency, the debts,
38 liabilities, and obligations of the agency shall not be the debts,
39 liabilities, and obligations, either jointly or severally, of the
40 members of the agency.

1 ~~(iii) Notwithstanding clause (ii), if the agency contracts with a~~
2 ~~public retirement system, the members of the agency shall be~~
3 ~~jointly and severally liable for the retirement liabilities of the~~
4 ~~agency.~~

5 ~~(iv) Except as provided in clause (iii), the commission shall not,~~
6 ~~as a condition of registration or otherwise, require an agency's~~
7 ~~members to voluntarily assume the debts, liabilities, and obligations~~
8 ~~of the agency to the electrical corporation unless the commission~~
9 ~~finds that the agreement by the agency's members is the only~~
10 ~~reasonable means by which the agency may establish its~~
11 ~~creditworthiness under the electrical corporation's tariff to pay~~
12 ~~charges to the electrical corporation under the tariff.~~

13 ~~(13) Following adoption of aggregation through the ordinance~~
14 ~~described in subparagraph (A) of paragraph (12), the program shall~~
15 ~~allow any retail customer to opt out and to continue to be served~~
16 ~~as a bundled service customer by the existing electrical corporation,~~
17 ~~or its successor in interest. Delivery services shall be provided at~~
18 ~~the same rates, terms, and conditions, as approved by the~~
19 ~~commission, for community choice aggregation customers and~~
20 ~~customers that have entered into a direct transaction where~~
21 ~~applicable, as determined by the commission. Once enrolled in~~
22 ~~the aggregated entity, any ratepayer that chooses to opt out within~~
23 ~~60 days or two billing cycles of the date of enrollment may do so~~
24 ~~without penalty and shall be entitled to receive default service~~
25 ~~pursuant to paragraph (3) of subdivision (a). Customers that return~~
26 ~~to the electrical corporation for procurement services shall be~~
27 ~~subject to the same terms and conditions as are applicable to other~~
28 ~~returning direct access customers from the same class, as~~
29 ~~determined by the commission, as authorized by the commission~~
30 ~~pursuant to this code or any other provision of law, except that~~
31 ~~those customers shall be subject to no more than a 12-month stay~~
32 ~~requirement with the electrical corporation. Any reentry fees to~~
33 ~~be imposed after the opt-out period specified in this paragraph,~~
34 ~~shall be approved by the commission and shall reflect the cost of~~
35 ~~reentry. The commission shall exclude any amounts previously~~
36 ~~determined and paid pursuant to subdivisions (d), (e), and (f) from~~
37 ~~the cost of reentry.~~

38 ~~(14) Nothing in this section shall be construed as authorizing~~
39 ~~any city or any community choice retail load aggregator to restrict~~
40 ~~the ability of retail electricity customers to obtain or receive service~~

1 from any authorized electric service provider in a manner consistent
2 with law.

3 ~~(15) (A) The community choice aggregator shall fully inform~~
4 ~~participating customers at least twice within two calendar months,~~
5 ~~or 60 days, in advance of the date of commencing automatic~~
6 ~~enrollment. Notifications may occur concurrently with billing~~
7 ~~cycles. Following enrollment, the aggregated entity shall fully~~
8 ~~inform participating customers for not less than two consecutive~~
9 ~~billing cycles. Notification may include, but is not limited to, direct~~
10 ~~mailings to customers, or inserts in water, sewer, or other utility~~
11 ~~bills. Any notification shall inform customers of both of the~~
12 ~~following:~~

13 ~~(i) That they are to be automatically enrolled and that the~~
14 ~~customer has the right to opt out of the community choice~~
15 ~~aggregator without penalty.~~

16 ~~(ii) The terms and conditions of the services offered.~~

17 ~~(B) The community choice aggregator may request the~~
18 ~~commission to approve and order the electrical corporation to~~
19 ~~provide the notification required in subparagraph (A). If the~~
20 ~~commission orders the electrical corporation to send one or more~~
21 ~~of the notifications required pursuant to subparagraph (A) in the~~
22 ~~electrical corporation's normally scheduled monthly billing~~
23 ~~process, the electrical corporation shall be entitled to recover from~~
24 ~~the community choice aggregator all reasonable incremental costs~~
25 ~~it incurs related to the notification or notifications. The electrical~~
26 ~~corporation shall fully cooperate with the community choice~~
27 ~~aggregator in determining the feasibility and costs associated with~~
28 ~~using the electrical corporation's normally scheduled monthly~~
29 ~~billing process to provide one or more of the notifications required~~
30 ~~pursuant to subparagraph (A).~~

31 ~~(C) Each notification shall also include a mechanism by which~~
32 ~~a ratepayer may opt out of community choice aggregated service.~~
33 ~~The opt out may take the form of a self-addressed return postcard~~
34 ~~indicating the customer's election to remain with, or return to,~~
35 ~~electrical energy service provided by the electrical corporation, or~~
36 ~~another straightforward means by which the customer may elect~~
37 ~~to derive electrical energy service through the electrical corporation~~
38 ~~providing service in the area.~~

39 ~~(16) A community choice aggregator shall have an operating~~
40 ~~service agreement with the electrical corporation prior to furnishing~~

1 electric service to consumers within its jurisdiction. The service
2 agreement shall include performance standards that govern the
3 business and operational relationship between the community
4 choice aggregator and the electrical corporation. The commission
5 shall ensure that any service agreement between the community
6 choice aggregator and the electrical corporation includes equitable
7 responsibilities and remedies for all parties. The parties may
8 negotiate specific terms of the service agreement, provided that
9 the service agreement is consistent with this chapter.

10 (17) The community choice aggregator shall register with the
11 commission, which may require additional information to ensure
12 compliance with basic consumer protection rules and other
13 procedural matters.

14 (18) Once the community choice aggregator's contract is signed,
15 the community choice aggregator shall notify the applicable
16 electrical corporation that community choice service will
17 commence within 30 days.

18 (19) Once notified of a community choice aggregator program,
19 the electrical corporation shall transfer all applicable accounts to
20 the new supplier within a 30-day period from the date of the close
21 of the electrical corporation's normally scheduled monthly
22 metering and billing process.

23 (20) An electrical corporation shall recover from the community
24 choice aggregator any costs reasonably attributable to the
25 community choice aggregator, as determined by the commission,
26 of implementing this section, including, but not limited to, all
27 business and information system changes, except for
28 transaction-based costs as described in this paragraph. Any costs
29 not reasonably attributable to a community choice aggregator shall
30 be recovered from ratepayers, as determined by the commission.
31 All reasonable transaction-based costs of notices, billing, metering,
32 collections, and customer communications or other services
33 provided to an aggregator or its customers shall be recovered from
34 the aggregator or its customers on terms and at rates to be approved
35 by the commission.

36 (21) At the request and expense of any community choice
37 aggregator, electrical corporations shall install, maintain, and
38 calibrate metering devices at mutually agreeable locations within
39 or adjacent to the community choice aggregator's political
40 boundaries. The electrical corporation shall read the metering

1 devices and provide the data collected to the community choice
2 aggregator at the aggregator's expense. To the extent that the
3 community choice aggregator requests a metering location that
4 would require alteration or modification of a circuit, the electrical
5 corporation shall only be required to alter or modify a circuit if
6 such alteration or modification does not compromise the safety,
7 reliability, or operational flexibility of the electrical corporation's
8 facilities. All costs incurred to modify circuits pursuant to this
9 paragraph, shall be borne by the community choice aggregator.

10 (d) (1) It is the intent of the Legislature that each retail end-use
11 customer that has purchased power from an electrical corporation
12 on or after February 1, 2001, should bear a fair share of the
13 Department of Water Resources' electricity purchase costs, as well
14 as electricity purchase contract obligations incurred as of the
15 effective date of the act adding this section, that are recoverable
16 from electrical corporation customers in commission-approved
17 rates. It is further the intent of the Legislature to prevent any
18 shifting of recoverable costs between customers.

19 (2) The Legislature finds and declares that this subdivision is
20 consistent with the requirements of Division 27 (commencing with
21 Section 80000) of the Water Code and Section 360.5 of this code,
22 and is therefore declaratory of existing law.

23 (e) A retail end-use customer that purchases electricity from a
24 community choice aggregator pursuant to this section shall pay
25 both of the following:

26 (1) A charge equivalent to the charges that would otherwise be
27 imposed on the customer by the commission to recover
28 bond-related costs pursuant to any agreement between the
29 commission and the Department of Water Resources pursuant to
30 Section 80110 of the Water Code, which charge shall be payable
31 until any obligations of the Department of Water Resources
32 pursuant to Division 27 (commencing with Section 80000) of the
33 Water Code are fully paid or otherwise discharged.

34 (2) Any additional costs of the Department of Water Resources,
35 equal to the customer's proportionate share of the Department of
36 Water Resources' estimated net unavoidable electricity purchase
37 contract costs as determined by the commission, for the period
38 commencing with the customer's purchases of electricity from the
39 community choice aggregator, through the expiration of all then

1 existing electricity purchase contracts entered into by the
2 Department of Water Resources.

3 (f) A retail end-use customer purchasing electricity from a
4 community choice aggregator pursuant to this section shall
5 reimburse the electrical corporation that previously served the
6 customer for all of the following:

7 (1) The electrical corporation's unrecovered past
8 undercollections for electricity purchases, including any financing
9 costs, attributable to that customer, that the commission lawfully
10 determines may be recovered in rates.

11 (2) Any additional costs of the electrical corporation recoverable
12 in commission-approved rates, equal to the share of the electrical
13 corporation's estimated net unavoidable electricity purchase
14 contract costs attributable to the customer, as determined by the
15 commission, for the period commencing with the customer's
16 purchases of electricity from the community choice aggregator,
17 through the expiration of all then existing electricity purchase
18 contracts entered into by the electrical corporation.

19 (g) Estimated net unavoidable electricity costs paid by the
20 customers of a community choice aggregator shall be reduced by
21 the value of any benefits that remain with bundled service
22 customers, unless the customers of the community choice
23 aggregator are allocated a fair and equitable share of those benefits.

24 (h) (1) Any charges imposed pursuant to subdivision (c) shall
25 be the property of the Department of Water Resources. Any charges
26 imposed pursuant to subdivision (f) shall be the property of the
27 electrical corporation. The commission shall establish mechanisms,
28 including agreements with, or orders with respect to, electrical
29 corporations necessary to ensure that charges payable pursuant to
30 this section shall be promptly remitted to the party entitled to
31 payment.

32 (2) Charges imposed pursuant to subdivisions (d), (e), and (f)
33 shall be nonbypassable.

34 (i) The commission shall authorize community choice
35 aggregation only if the commission imposes a cost-recovery
36 mechanism pursuant to subdivisions (d), (e), (f), and (h). Except
37 as provided by this subdivision, this section shall not alter the
38 suspension by the commission of direct purchases of electricity
39 from alternate providers other than by community choice
40 aggregators, pursuant to Section 365.1.

~~(j) (1) The commission shall not authorize community choice aggregation until it implements a cost-recovery mechanism, consistent with subdivisions (d), (e), and (f), that is applicable to customers that elected to purchase electricity from an alternate provider between February 1, 2001, and January 1, 2003.~~

~~(2) The commission shall not authorize community choice aggregation until it has adopted rules for implementing community choice aggregation.~~

~~(k) (1) Except for nonbypassable charges imposed by the commission pursuant to subdivisions (d), (e), (f), and (h), and programs authorized by the commission to provide broader statewide or regional benefits to all customers, electric service customers of a community choice aggregator shall not be required to pay nonbypassable charges for goods, services, or programs that do not benefit either, or where applicable, both, the customer and the community choice aggregator serving the customer.~~

~~(2) The commission, Energy Commission, electrical corporation, or third-party administrator shall administer any program funded through a nonbypassable charge on a nondiscriminatory basis so that the electric service customers of a community choice aggregator may participate in the program on an equal basis with the customers of an electrical corporation.~~

~~(3) Nothing in this subdivision is intended to modify, or prohibit the use of, charges funding programs for the benefit of low-income customers.~~

~~(l) (1) An electrical corporation shall not terminate the services of a community choice aggregator unless authorized by a vote of the full commission. The commission shall ensure that prior to authorizing a termination of service, that the community choice aggregator has been provided adequate notice and a reasonable opportunity to be heard regarding any electrical corporation contentions in support of termination. If the contentions made by the electrical corporation in favor of termination include factual claims, the community choice aggregator shall be afforded an opportunity to address those claims in an evidentiary hearing.~~

~~(2) Notwithstanding paragraph (1), if the Independent System Operator has transferred the community choice aggregator's scheduling coordination responsibilities to the incumbent electrical corporation, an administrative law judge or assigned commissioner, after providing the aggregator with notice and an opportunity to~~

1 respond, may suspend the aggregator's service to customers
2 pending a full vote of the commission.
3 (m) Any meeting of an entity authorized to be a community
4 choice aggregator, as defined in Section 331.1, for the purpose of
5 developing, implementing, or administering a program of
6 community choice aggregation shall be conducted in the manner
7 prescribed by the Ralph M. Brown Act (Chapter 9 (commencing
8 with Section 54950) of Part 1 of Division 2 of Title 5 of the
9 Government Code).

O

Orange County Fire Authority
Hypothetical Distribution of Unfunded Pension Liability by Member Agency
Potential Method of Apportionment per AB 1912 (does not work for OCFA)
As of December 31, 2017

Member Agency	Share of Service (based on # of FFs)	FY 2017 Incidents	% of Total	Hypothetical Distribution of Pension Liability
County Unincorporated (SFF)	96		10.39%	41,617,662
Aliso Viejo (SFF)	15		1.62%	6,502,760
Buena Park (CCC)	45		4.87%	19,508,279
Cypress (SFF)	21		2.27%	9,103,864
Dana Point (SFF)	24		2.60%	10,404,416
Placentia (CCC)	30		3.25%	13,005,519
Irvine (SFF)	156		16.88%	67,628,701
Laguna Hills (SFF)	36	3,078	1.38%	5,512,645
Laguna Woods (SFF)		5,636	2.52%	10,093,979
Laguna Niguel (SFF)	30		3.25%	13,005,519
Lake Forest (SFF)	33		3.57%	14,306,071
La Palma (SFF)	9		0.97%	3,901,656
Los Alamitos (SFF)	9		0.97%	3,901,656
Mission Viejo (SFF)	48		5.19%	20,808,831
Rancho Santa Margarita (SFF)	27		2.92%	11,704,968
San Clemente (CCC)	33		3.57%	14,306,071
San Juan Capistrano (SFF)	15		1.62%	6,502,760
Santa Ana (CCC) [Note]	150		16.23%	65,027,597
Seal Beach (CCC)	18		1.95%	7,803,312
Stanton (CCC)	15		1.62%	6,502,760
Tustin (CCC)	18		1.95%	7,803,312
Villa Park (SFF)	12		1.30%	5,202,208
Westminster (CCC)	45		4.87%	19,508,279
Yorba Linda (SFF)	39		4.22%	16,907,175
Totals	924		100.00%	400,570,000

Note: This method is flawed for OCFA, in particular, as it relates to Santa Ana. Santa Ana has only been a member of OCFA since 2012 and their contract with OCFA specified that they were not responsible for OCFA's previously accrued unfunded pension liability. This is a flaw in this method which would need to be addressed, revised, and resolved.



ORANGE COUNTY FIRE AUTHORITY

SUPPLEMENTAL AGENDA

Pursuant to the Brown Act, this meeting also constitutes a meeting of the Board of Directors.

EXECUTIVE COMMITTEE REGULAR MEETING

Thursday, May 24, 2018

5:30 P.M.

Regional Fire Operations and Training Center

Board Room

1 Fire Authority Road

Irvine, CA 92602

This Agenda contains a brief general description of each item to be considered. Except as otherwise provided by law, no action or discussion shall be taken on any item not appearing on the following Agenda. Unless legally privileged, all supporting documents, including staff reports, and any writings or documents provided to a majority of the Executive Committee after the posting of this agenda are available for review at the Orange County Fire Authority Regional Fire Operations & Training Center, 1 Fire Authority Road, Irvine, CA 92602 or you may contact Sherry A.F. Wentz, Clerk of the Authority, at (714) 573-6040 Monday through Thursday, and every other Friday from 8 a.m. to 5 p.m. and available online at <http://www.ocfa.org>

If you wish to speak before the Fire Authority Executive Committee, please complete a Speaker Form identifying which item(s) you wish to address. Please return the completed form to the Clerk of the Authority prior to being heard before the Committee. Speaker Forms are available at the counters of both entryways of the Board Room.



In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, you should contact the Clerk of the Authority at (714) 573-6040.

The following item is added to the above stated agenda in the location noted below. This item is posted in conformance with the Brown Act and is to be considered as part of the regular agenda.

3. CONSENT CALENDAR

H. Vehicle Lease Agreement between Orange County Fire Authority and City of Santa Maria for One 110' Tractor Drawn Aerial

Submitted by: Dave Anderson, Assistant Chief/Support Services

Recommended Action:

Approve and authorize the Fire Chief to execute the proposed Vehicle Lease Agreement, including any non-substantive amendments to this Vehicle Lease Agreement as determined by General Counsel, with the City of Santa Maria in the amount of one dollar (\$1.00) for the use of one 1988 110' Duplex/LTI Tractor Drawn Aerial.

AFFIDAVIT OF POSTING

I hereby certify under penalty of perjury under the laws of the State of California, that the foregoing Agenda was posted in the lobby, front gate public display case, and website of the Orange County Fire Authority, Regional Fire Training and Operations Center, 1 Fire Authority Road, Irvine, CA, not less than 72 hours prior to the meeting. Dated this 21st day of May, 2018

Sherry A.F. Wentz, CMC
Clerk of the Authority



Orange County Fire Authority
AGENDA STAFF REPORT

Executive Committee Meeting
May 24, 2018

Agenda Item No. 3H
Consent Calendar

Vehicle Lease Agreement between Orange County Fire Authority and City of Santa Maria for One 110' Tractor Drawn Aerial

Contact(s) for Further Information

Dave Anderson, Assistant Chief
Support Services Department

daveanderson@ocfa.org

714.573.6006

Rick Oborny, Fleet Services Manager

rickoborny@ocfa.org

714.573.6651

Summary

This agenda item is submitted to request approval of the submitted Vehicle Lease Agreement with the City of Santa Maria for one 110' Tractor Drawn Aerial.

Prior Board/Committee Action(s)

Not Applicable.

RECOMMENDED ACTION(S)

Approve and authorize the Fire Chief to execute the proposed Vehicle Lease Agreement, including any non-substantive amendments to this Vehicle Lease Agreement as determined by General Counsel, with the City of Santa Maria in the amount of one dollar (\$1.00) for the use of one 1988 110' Duplex/ LTI Tractor Drawn Aerial.

Impact to Cities/County

Not Applicable.

Fiscal Impact

Not Applicable

Background

The City of Santa Maria Fire Department contacted the Orange County Fire Authority regarding the availability of the use of one tractor drawn aerial (TDA). The request was made due to the fact the Fire Department has purchased one new tractor drawn aerial and is expecting delivery end of June 2018. Their new TDA was purchased through an Assistance to Firefighter Grant and they are under a strict timeline to train their personnel on driving operations and have the apparatus in service in July 2018.

If approval is granted, this will allow the City of Santa Maria Fire Department to move forward with the required driver training of 56 personnel while the City's new TDA is being outfitted for service.

Attachment(s)

1. City of Santa Maria Fire Department request letter
2. Vehicle Lease Agreement



CITY OF SANTA MARIA
FIRE DEPARTMENT

314 WEST COOK ST. #8 • SANTA MARIA, CALIFORNIA 93458-5557 • 805-925-0951, EXT. 2255 • FAX 805-928-4746

May 10, 2018

Dennis Gomez, Battalion Chief
Operations Training and Safety
Orange County Fire Authority
1 Fire Authority Road
Irvine, CA 95602

Chief Gomez,

Thank you for providing your contact information to Jon Holmes to forward to our department. The Santa Maria Fire Department has ordered our first TDA, which is scheduled to arrive by June 28th. The TDA will replace our 1999 LTI 110 foot straight stick, three-axle truck. The TDA was purchased through an Assistance to Firefighters Grant and we are under a strict timeline to train our personnel on driving operations and put our TDA into service by early July.

We hired a company to provide train-the-trainer instruction, but they are not available until mid-July. We would like to find a TDA to borrow to provide driver training to our personnel. The vehicle would be used for driver training purposes only, no emergency calls. Pumping operations and aerial setup will occur when our new TDA arrives.

The timeline you have indicated that your TDA would be available works perfectly with our training needs. Santa Maria City Fire Department has 56 personnel that require driver training on a TDA. We would very much like to know if we could work out an agreement for the use of your training TDA.

In addition, we have put together a taskbook that our personnel will be required to complete to be signed off as an operator/driver of the TDA. We are gathering policies, procedures, and guidelines from other departments to assist us in developing our own and would appreciate a copy of any policies you may have for your TDA operations.

Thank you for your consideration. I may be reached at (805) 878-1369 (cell), (805) 925-0951 extension 2337 (office), or by email at tcrakes@cityofsantamaria.org.

THOMAS CRAKES
Battalion Chief - A shift / Department Logistics

**VEHICLE LEASE AGREEMENT
BETWEEN
ORANGE COUNTY FIRE AUTHORITY
AND
THE CITY OF SANTA MARIA
FOR ONE 110' TRACTOR DRAWN AERIAL**

This Vehicle Lease Agreement ("Agreement") is made by and between the Orange County Fire Authority, a California joint powers authority ("OCFA") and The City of Santa Maria ("City"), and is effective as of the date last approved by the City or OCFA.

1. OCFA is the owner of the following personal property: A 1988 110' Duplex/ LTI Tractor Drawn Aerial (vehicle identification number #1D91D51J3J1008938) ("Vehicle").

2. OCFA will lease the vehicle to City for City use during the period from June 1, 2018 through July 15, 2018 ("Term").

3. Ownership of the Vehicle shall remain with OCFA. City shall have no right, title, or interest in the Vehicle, except as set forth in this Agreement. The parties intend that this Agreement shall not constitute a sale of, nor create a security interest in, the Vehicle.

4. As consideration for this Agreement, City shall pay OCFA a total of One Dollar (\$1.00) by no later than June 1, 2018.

5. This Agreement shall terminate July 15, 2018, unless earlier terminated by either party upon giving five days' written notice to the other.

6. The Vehicle shall be used by City's Fire Department only for operational driver training, no emergency calls; operation is limited to public safety personnel employed by the City's Fire Department.

7. City shall be responsible for payment of fees for any licenses, registrations, permits or other certificates required for the lawful operation of the Vehicle during the term of this Agreement.

8. During the Term of this Agreement, City shall (a) furnish all labor and parts required for maintaining, repairing, and replacing component parts of the Vehicle to keep it in good operating condition and appearance, (b) comply with the manufacturer's operating procedures and warranty restrictions and all laws, ordinances, and regulations applicable to the Vehicle or the use, (c) maintain accurate and complete records of all repairs and maintenance of Vehicle and allow OCFA to inspect those records at any time. City will not make any alterations, additions or improvements to the Vehicle without OCFA's prior written consent. OCFA shall have

the right to remove any such alterations, additions or improvements at the end of the Term.

9. City shall take possession of and, upon expiration or earlier termination of this Agreement, return the Vehicle to the OCFA Regional Fire Operations & Training Center (RFOTC) located at 1 Fire Authority, Irvine CA 92602.

10. City shall bear the entire risk of loss, damage, theft, or destruction of the Vehicle until returned to OCFA. In the event of damage to the Vehicle, City shall repair and restore the Vehicle to the condition it was in immediately prior to the time of damage. If it is not repairable, as determined in the sole discretion of OCFA, City shall pay OCFA the fair market value of the Vehicle.

11. The Vehicle will be leased to City "as is." OCFA has not made, may not be considered to have made, and specifically disclaims (a) any express or implied representation or warranty with respect to the Vehicle, regarding condition, design, operation, merchantability, freedom from claims of infringement or the like, fitness for use for a particular purpose, or absence of discoverable or non-discoverable defects and (b) any other express or implied representation or warranty with respect to the Vehicle, (including any implied warranty arising from a course of performance, course of dealing, or usage of trade.) City understands and acknowledges this Vehicle is shown as relief vehicle by OCFA and considered by OCFA to be relief/ training 110' Tractor Drawn Aerial. City assumes all risk of use of the Vehicle and City will assert no claim or defense against OCFA, its agents, officers, directors, employees, volunteers and attorneys arising from the condition or use of the Vehicle or risks relating to it, excepting those claims arising from OCFA's gross negligence or willful misconduct. City waives any claim for incidental or consequential damages.

12. City agrees to indemnify, defend and hold harmless OCFA, its agents, officers, directors, employees, volunteers and attorneys from and against all claims, damages, losses, liabilities, demands, suits, judgments, causes of action, legal proceedings, penalties, fines, and other sanctions, and any attorneys' fees and other reasonable costs and expenses, arising or imposed with or without City's fault or negligence (whether active or passive) or under the doctrine of strict liability (collectively, "claims") relating to or arising in any manner out of this Agreement or the breach of any representation, warranty, or covenant made by OCFA under this Agreement, or the Vehicle condition, excepting where arising from OCFA's gross negligence or willful misconduct.

13. City waives, and releases OCFA, its agents, officers, directors, employees, volunteers and attorneys from, any claims in any way connected with injury to or death of City's personnel, loss or damage of City's property, or loss of use of any property that may (a) result from or arise in any manner out of the condition, use, or operation of the Vehicle, or (b) be caused by any defect in the Vehicle, its design, testing or construction, or any maintenance, service or repair, excepting where arising from OCFA's gross negligence or willful misconduct. Paragraphs 4, 11, 12 and 13 of this Agreement shall continue in full force and effect notwithstanding the expiration or other termination of this Agreement and are expressly included for the benefit of, and may be enforceable by, OCFA.

14. City shall submit to OCFA certificates of insurance and required endorsements indicating it meets the following minimum insurance requirements.

- (1) Workers Compensation insurance to cover City Employees as required by the California Labor Code, in the minimum amount of \$1,000,000 each accident/\$1,000,000 each employee for disease. A waiver of subrogation is required.
- (2) General Liability insurance including operations, products and completed operations with a limit of \$1,000,000/\$2,000,000 each occurrence for bodily injury, personal injury and property damage. If commercial general liability insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this Agreement or the general aggregate limit shall be twice the required occurrence limit.
- (3) Automobile insurance in the amount of \$1,000,000 each accident/\$1,000,000 uninsured motorist
 - a. OCFA, its agents, officers, employees, and volunteers are to be covered as additional insureds with respect to liability arising out of Vehicles leased by the City. This condition must be endorsed on the City's insurance policy.
 - b. For any claims related to the leased Vehicle, the City's insurance coverage shall be primary insurance as respects OCFA, its agents, officers, employees, and volunteers. Any insurance or self-insurance maintained by OCFA, its officers, officials, employees, and volunteers shall be excess of the contractor's insurance and shall not contribute with it. This condition must be endorsed on the City's insurance policy

15. City may not assign its interest or sublease the Vehicle without OCFA's written consent.

16. This Agreement constitutes the entire agreement between City and OCFA relating to the Vehicle. Any prior agreements, promises, negotiations or representations not expressly set forth in this Agreement are of no force and effect. Any amendment to this Agreement shall be of no force and effect unless it is in writing and signed by OCFA and City.

17. All written notices pursuant to this Agreement shall be addressed as set forth below and shall be delivered in person or sent Certified or Registered mail, postage prepaid:

To:

OCFA
Attn: Rick Oborny
1 Fire Authority Road
Irvine, CA 92602

To:

City of Santa Maria
Attn: Battalion Chief Thomas Crakes
314 West Cook St. #8
Santa Maria, CA 93458-

IN WITNESS WHEREOF, the parties hereto have executed this Vehicle Lease Agreement on the date last approved by the City or OCFA.

ORANGE COUNTY FIRE AUTHORITY,
a California Joint Powers Authority

Date: _____

By: _____

Brian Fennessy
Fire Chief

ATTEST:

By: _____

Sherry A.F. Wentz
Clerk of the Authority

Date: _____

APPROVED AS TO FORM:

DAVID KENDIG
GENERAL COUNSEL

By:  for

Date: 5/21/18

CITY OF SANTA MARIA FIRE

Date: 5/21/18

By: 

Leonard Champion
Fire Chief