



**NOTICE AND CALL OF A SPECIAL MEETING OF
THE ORANGE COUNTY FIRE AUTHORITY BOARD
OF DIRECTORS**

A Special Meeting of the
Orange County Fire Authority Board of Directors
has been scheduled for August 27, 2015
at 5:30 p.m.

The meeting will be held at:
Orange County Fire Authority
Regional Fire Operations & Training Center
Board Room
1 Fire Authority Road
Irvine, CA

The business to be transacted at the meeting will be
as shown on the attached Agenda.

Opportunity will be provided for members of the public to address the
Orange County Fire Authority Board of Directors
regarding any item of business as described on the Agenda.

Gene Hernandez, Chair



ORANGE COUNTY FIRE AUTHORITY

AGENDA

REVISED 08/26/15

BOARD OF DIRECTORS SPECIAL MEETING

Thursday, August 27, 2015

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 Board of Directors 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 Board, 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 Board. 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 OCFA Chaplain Emily McColl

PLEDGE OF ALLEGIANCE by Director Amezcua

ROLL CALL

PUBLIC COMMENTS – CLOSED SESSION

At this time, any member of the public may address the Board on items listed under Closed Session. Comments are 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.

CLOSED SESSION

CS1. CONFERENCE WITH LABOR NEGOTIATOR

Chief Negotiator: Peter Brown, Liebert Cassidy Whitmore

Employee Organizations: Orange County Professional Firefighters' Association, Local 3631, Orange County Fire Authority Chief Officers' Association, Orange County Fire Authority Managers Association, and Orange County Employees' Association, and all unrepresented employees.

Authority: Government Code Section 54957.6

CS2. PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Position: Fire Chief

Authority: Government Code Section 54957

CS3. CONFERENCE WITH LABOR NEGOTIATORS

OCFA Designated Labor Negotiators: Board Chair Gene Hernandez, Board Vice Chair Beth Swift, and Budget and Finance Committee Chair Jerry McCloskey

Authority: Government Code Section 54957.6

Unrepresented Employee: Fire Chief

CS4. CONFERENCE WITH LEGAL COUNSEL – INITIATION OF LITIGATION

Authority: Government Code Section 54956.9(d)4

CLOSED SESSION REPORT

PRESENTATIONS

1. Requests for Commendations and Proclamations

Submitted by: Sherry Wentz, Clerk of the Authority

A. Length of Service Recognition

B. Recognition of former Board Chair Al Murray

C. Recognition of OCFA personnel involved in 405 Freeway Baby Delivery

D. Proclamation declaring October 4-10, 2015, as "Fire Prevention Week"

Recommended Action:

Approve requests as submitted and make presentations to those present.

REPORT FROM THE BUDGET AND FINANCE COMMITTEE CHAIR**REPORT FROM THE HUMAN RESOURCES COMMITTEE CHAIR****REPORT FROM THE CLAIMS SETTLEMENT COMMITTEE CHAIR****REPORT FROM THE FIRE CHIEF**

- Board Room Reconfiguration
- Emergency Notification Pink Sheet
- FY 2015/16 Performance Initiatives
- California Fires Update
- FEMA Grant Shout-out

PUBLIC COMMENTS – PUBLIC SESSION

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 July 23, 2015, Special Board of Directors Meeting**

Submitted by: Sherry Wentz, Clerk of the Authority

Recommended Action:

Approve as submitted.

3. CONSENT CALENDAR**A. Adoption of Ticket and Passes Distribution and Payments Policies**

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

Recommended Action:

Adopt the proposed Ticket and Passes Distribution Policy and Payments Policy.

B. Adoption of Board Teleconferencing Policy

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

Recommended Action:

Adopt the proposed Teleconferencing Policy.

C. Response to Grand Jury Report: “Joint Powers Authorities: Issues of Viability, Control, Transparency, and Solvency”

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

Budget and Finance Committee Recommendation: *APPROVE*

Recommended Action:

Approve and authorize the Fire Chief to submit the proposed response to the recommendations contained in the Grand Jury Report entitled “*Joint Powers Authorities: Issues of Viability, Control, Transparency, and Solvency*” to the Presiding Judge of the Superior Court and to the Orange County Grand Jury.

D. 2014 State Homeland Security Grant Program Agreement to Transfer Property or Funds

Submitted by: Brian Young, Assistant Chief/Organizational Planning Department

Recommended Actions:

1. Approve and authorize the Fire Chief, or his designee, to accept the 2014 State Homeland Security Grant award of \$100,000.
2. Increase revenue and appropriations in the FY 2015/16 General Fund by \$100,000 for the procurement of the Wildland Urban Interface Pre-fire Plans.

E. Acceptance of 2015 Department of Homeland Security/Federal Emergency Management Agency’s Urban Search & Rescue Preparedness Grant

Submitted by: David Thomas, Assistant Chief/Operations Department

Budget and Finance Committee Recommendation: *APPROVE*

Recommended Action:

1. Adopt the proposed Resolution to accept the Department of Homeland Security/Federal Emergency Management Agency’s Administrative Preparedness Grant.
2. Direct staff to increase revenue and appropriations in the amount of \$1,312,082 in the General Fund (Fund 121).

F. Grant Easement for Fire Station 31 (Mission Viejo)

Submitted by: Mike Schroeder, Assistant Chief/Support Services Department

Recommended Action:

Approve and authorize the Fire Chief, or his designee, to sign the Grant of Easement for Fire Station 31 to Southern California Edison to allow construction and maintenance of electric facilities adjacent to the fire station.

END OF CONSENT CALENDAR

4. PUBLIC HEARING(S)

No items.

5. DISCUSSION CALENDAR

A. Workers' Compensation Program Update

Submitted by: Jeremy Hammond, Director/Human Resources Department

Human Resources Committee Recommendation: *APPROVE*

Recommended Action:

Receive and file the report.

BOARD MEMBER COMMENTS

ADJOURNMENT - The next special meeting of the Orange County Fire Authority Board of Directors is scheduled for September 24, 2015, 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 24 hours prior to the meeting. Dated this 26th day of August 2015.

 Martha Halvorson, CMC
 Asst. Clerk of the Authority

UPCOMING MEETINGS:

Human Resources Committee Meeting - Cancelled	Tuesday, September 1, 2015, 12:00 noon
Budget and Finance Committee Meeting	Wednesday, September 9, 2015, 12:00 noon
Claims Settlement Committee Meeting	Thursday, September 17, 2015, 5:30 p.m.
Executive Committee Meeting	Thursday, September 17, 2015, 6:00 p.m.



ORANGE COUNTY FIRE AUTHORITY

SUPPLEMENTAL AGENDA

BOARD OF DIRECTORS SPECIAL MEETING

Thursday, August 27, 2015

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 Board of Directors 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>

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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.

DISCUSSION CALENDAR

5B. Contract Increase and Extension – Professional Labor Negotiation Services Submitted by: Jeremy Hammond, Director/Human Resources Department

Recommended Actions:

1. Approve and authorize the Purchasing Manager to increase the value of the Professional Services Agreement with Peter Brown, of Liebert Cassidy Whitmore, by \$100,000 and extend the term through June 30, 2016.
2. Direct staff to submit a request to the Board of Directors with the FY 2015/16 Mid-Year Budget Adjustments to increase General Fund (Fund 121) appropriations by \$100,000 for professional labor negotiations services.

5C. Executive Committee Membership

Submitted by: Gene Hernandez, Board Chair

Recommended Actions:

1. Board to conduct discussion regarding the Chair's request to consider expanding the membership of the Executive Committee.
2. Provide direction to staff based upon the outcome of the discussion.

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 August 2015.

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



Orange County Fire Authority
AGENDA STAFF REPORT

Board of Directors Meeting
August 27, 2015

Agenda Item No. 1A
Presentations

Length of Service Recognition(s)

Contact(s) for Further Information

Mike Schroeder, Assistant Chief Support Services Department	michaelschroeder@ocfa.org	714.573.6008
Olivia Covarrubias, Executive Assistant	oliviacovarrubias@ocfa.org	714.573.6023

Summary

This is a routine agenda item that provides an opportunity to highlight our tenured employees and allow the Board an opportunity to meet and recognize them for their service to the Orange County Fire Authority.

Prior Board/Committee Action

Not Applicable.

RECOMMENDED ACTION(S)

Recognize Length of Service recipients in attendance.

Impact to Cities/County

Not Applicable.

Fiscal Impact

Not Applicable.

Background

All employees, including professional and suppression staff members who achieve five-year milestone steps, beginning with 30 years of service, will be regularly invited for length of service recognition. Recognition will take place at regular meetings of the Board of Directors following the closest anniversary date.

The following OCFA employees have reached milestone service anniversaries and have been invited to attend tonight's Board meeting for recognition of 30 years of service: **Firefighter Bruce Brown** and **Fire Captain Jeff Hughes**.

Names bolded above identify the OCFA employees who have confirmed their attendance at the time of the preparation of the agenda report. They will be presented with new badges recognizing their service years with the OCFA.

Attachment(s)

None.



Orange County Fire Authority
AGENDA STAFF REPORT

Board of Directors Meeting
August 27, 2015

Agenda Item Nos. 1B-1C
Presentations

There are no written materials in connection with
this evening's presentations.

**FIRE PREVENTION WEEK
PROCLAMATION**

WHEREAS, fire is a serious public safety concern both locally and nationally, and homes are the locations where people are at greatest risk from fire; and

WHEREAS, working smoke alarms cut the risk of dying in reported home fires in half; and

WHEREAS, three-out-of-five home fire deaths result from fires in properties without working smoke alarms; and

WHEREAS, in one-fifth of all homes with smoke alarms, none were working because the smoke alarm batteries were missing, disconnected, or dead; and

WHEREAS, Orange County residents should install smoke alarms in every sleeping room, outside each separate sleeping area, and on every level of the home; and

WHEREAS, Orange County residents should install smoke alarms and alert devices that meet the needs of people who are deaf or hard of hearing; and

WHEREAS, Orange County residents are responsive to public education and outreach measures and are able to take personal steps to increase their safety from fire, especially in their homes; and

WHEREAS, the 2015 Fire Prevention Week theme, “Hear the Beep Where You Sleep” effectively serves to remind us that we need working smoke alarms to give us the time to get out safely.

NOW, THEREFORE BE IT RESOLVED, that the Orange County Fire Authority Board of Directors does hereby declare October 4-10, 2015, as “Fire Prevention Week” and urge Orange County residents to test their smoke alarms once a month by pushing the test button, and to support the many public safety activities and efforts of OCFA during Fire Prevention Week 2015.

MINUTES ORANGE COUNTY FIRE AUTHORITY

**Board of Directors Special Meeting
Thursday, July 23, 2015
5:30 P.M.**

**Regional Fire Operations and Training Center Board Room
1 Fire Authority Road
Irvine, CA 92602-0125**

CALL TO ORDER

A special meeting of the Orange County Fire Authority Board of Directors was called to order on July 23, 2015, at 5:34 p.m. by Chair Murray.

INVOCATION

Chaplain Hetschel offered the invocation.

PLEDGE OF ALLEGIANCE

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

ROLL CALL

Carol Gamble, Rancho Santa Margarita	Gerard Goedhart, La Palma
Craig Green, Placentia	Noel Hatch, Laguna Woods
Gene Hernandez, Yorba Linda	Robert Johnson, Cypress
Jeffrey Lalloway, Irvine	Warren Kusumoto, Los Alamitos
Jerry McCloskey, Laguna Niguel	Joseph Muller, Dana Point
Al Murray, Tustin	John Perry, San Juan Capistrano
Dwight Robinson, Lake Forest	Ed Sachs, Mission Viejo
Don Sedgwick, Laguna Hills	David Shawver, Stanton
Elizabeth Swift, Buena Park	Tri Ta, Westminster

Absent: Angelica Amezcua, Santa Ana
Lisa Bartlett, County of Orange
David Sloan, Seal Beach
Phillip Tsunoda, Aliso Viejo

Robert Baker, San Clemente
Rick Barnett, Villa Park
Todd Spitzer, County of Orange

Also present were:

Fire Chief Jeff Bowman
Assistant Chief Lori Zeller
Assistant Chief Brian Young
Assistant Chief Mike Schroeder
Clerk of the Authority Sherry Wentz

Assistant Chief Lori Smith
Assistant Chief Dave Thomas
Human Resources Director Jeremy Hammond
Communications Director Sandy Cooney
General Counsel David Kendig

PUBLIC COMMENTS – CLOSED SESSION (F: 11.11)

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

Director Sedgwick arrived at this point (5:39 p.m.)

CLOSED SESSION (F: 11.15)

General Counsel David Kendig reported the Board would be convening to Closed Session to consider the matters on the Agenda identified as CS1, Conference with Legal Counsel – Anticipated Litigation.

Chair Murray recessed the meeting to Closed Session at 5:34 p.m.

CS1. CONFERENCE WITH LEGAL COUNSEL–ANTICIPATED LITIGATION

Authority: Government Code Section 54956.9(b) – Significant Exposure to Litigation (1 case)

Chair Murray reconvened the meeting to Closed Session at 5:43 p.m., with all prior members present.

CLOSED SESSION REPORT (F: 11.15)

General Counsel David Kendig reported there was no reportable action.

PRESENTATIONS

1. Requests for Commendations and Proclamations (X: 11.09)

A. Presentation of Certificate of Achievement to the Business Services Department – Finance Division, Orange County Fire Authority for Excellence in Financial Reporting by the Government Finance Officers Association of the United States and Canada (GFOA) for its Comprehensive Annual Financial Report (CAFR). (F: 17.10F)

B. Distinguished Budget Presentation Award to the Business Services Department of the Orange County Fire Authority by the Government Finance Officers Association. (F: 17.10F)

C. Length of Service Recognition. (X: 11.09)

On motion of Director Johnson and second by Vice Chair Hernandez, the Board voted unanimously by those present to approve the requests as submitted and make presentations to those present.

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OCFA Board of Directors Special Meeting

July 23, 2015 Page - 2

Chair Murray and Chief Jeff Bowman presented a Certificate of Achievement to the Business Services Department, honoring the Finance Division for Excellence in Financial Reporting, the Distinguished Budget Presentation Award to Business Services Department, and a Length of Service Recognition to Stanton Director David John Shawver for 20 years of service on the Board of Directors.

Director Robinson arrived at this point (5:52 p.m.)

REPORT FROM THE BUDGET AND FINANCE COMMITTEE CHAIR (F: 11.12)

Budget and Finance Committee Vice Chair Elizabeth Swift reported on behalf of Chair McCloskey, at the July 15, 2015 meeting of the Budget and Finance Committee, the Committee voted unanimously to direct staff to place the Monthly Investment Reports and the Quarterly Change Order Report on the agenda for the Executive Committee meeting with the Budget and Finance Committee's recommendation that the Executive Committee receive and file the reports. The Committee voted to direct staff to place the Updated Cost Reimbursement Rates, approval of the Updated OCFA ALS Paramedic and BLS Medical Supplies Reimbursement Rates, the Community Risk Reduction Fee Study, and adoption of Associated Fee Schedules on the agenda for the Board of Directors meeting with the Budget and Finance Committee's recommendation that the Board of Directors approve the recommended actions. The Committee also reviewed the Quarterly Status Update – Orange County Employees' Retirement System and accepted the Grant Acceptance FEMA Assistance to Firefighter Grant.

REPORT FROM THE HUMAN RESOURCES COMMITTEE CHAIR (F: 11.12)

Human Resources Committee Chair Shawver reported, at the July 15, 2015 meeting of the Human Resources Committee, the Committee voted unanimously to direct staff to place the Award of RFP for Class & Compensation Study Services on the agenda for the Executive Committee meeting with the Human Resources Committee's recommendation that the Executive Committee approve the recommended actions. The Committee received updates on the Regional Fire Operations and Training Center's Active Shooter Drill, the Professional Standards Unit, Promotional Process for sworn employees, and Academy 41 Orientation.

REPORT FROM THE CLAIMS SETTLEMENT COMMITTEE CHAIR (F: 11.12)

Chair Murray reported there was no Claims Settlement Committee Meeting in July; therefore, there is nothing to report.

REPORT FROM THE FIRE CHIEF (F: 11:14)

Fire Chief Jeff Bowman introduced Assistant Chief David Thomas who reported on the 241 Fire and recent fires in northern California. Fire Chief Bowman also introduced Communications Director Sandy Cooney who provided an update on the newly modified OCFA website. Fire Chief Bowman reviewed his FY 2014/15 Performance Objectives and Initiatives and indicated that he would provide information on his FY 2015/16 Proposed Performance Measures at a future meeting.

Chair Murray took a brief opportunity to review and provide a status of his goals and achievements during his term of office as Chair of the Board of Directors.

PUBLIC COMMENTS (F: 11.11)

Stephen Wontrobski, Mission Viejo resident, addressed fees for public records and his continued request to review Lance Soll & Lunghard, LLP working papers.

Troy Hagen, Chief Executive Officer of Care Ambulance Service Inc., updated the Board of Directors on the successful transition of the countywide ambulance services.

2. MINUTES

A. Minutes from the (A) June 25, 2015, Special and the (B) July 1, 2015, Special Board of Directors Meetings (F: 11.06)

On motion of Vice Chair Hernandez and second by Director Johnson, the Board of Directors voted unanimously by those present to approve the June 25, 2015, and July 1, 2015, Special Board of Directors meeting Minutes as submitted.

Directors Muller and Robinson abstained on the Minutes of the June 25, 2015, meeting and Directors Sedgwick and Tsunoda abstained on the Minutes of the July 1, 2015, meeting due to their absences from these meetings.

3. CONSENT CALENDAR

A. Grant Acceptance – FEMA Assistance to Firefighter Grant (AFG) (F: 16.02D)

On motion of Vice Chair Hernandez and second by Director Johnson, the Board of Directors voted unanimously by those present to accept the grant award and approve a FY 2015/16 budget adjustment to revenues and expenditures in the amount of \$43,022 in Fund 121.

B. Request for Assignment of Cell Tower Agreement (F: 19.05)

On motion of Vice Chair Hernandez and second by Director Johnson, the Board of Directors voted unanimously by those present to:

1. Approve the request to consent to the assignment of Wireless Communications Facilities Site Lease from Vista Towers, LLC to SBA Towers VI, LLC.
2. Approve and authorize the Fire Chief or his designee to execute any additional documentation, such as an estoppel letter, required to complete the assignment of the Wireless Communications Facilities Site Lease Agreement to SBA Towers VI, LLC, for cell tower located at the Regional Fire Operations and Training Center.

C. Secured Fire Protection Agreement: Public Storage 16700 Red Hill Avenue, Irvine (F: 18.14)

On motion of Vice Chair Hernandez and second by Director Johnson, the Board of Directors voted unanimously by those present to:

1. Approve and authorize the Fire Chief or his designee to execute a Secured Fire Protection Agreement with PS Southern California One, for the Public Storage development at 16700 Red Hill Avenue, in the City of Irvine.
2. Direct the Clerk of the Authority to record the Secured Fire Protection Agreement in the Official Records of the County of Orange, and furnish the developer a copy of the conformed document within 15 days of recordation.

END OF CONSENT CALENDAR

4. PUBLIC HEARING(S)

A. Community Risk Reduction Fee Study and Adoption of Associated Fee Schedules (F: 15.05) (X: 11.07)

Assistant Chief Lori Zeller introduced Finance Division Manager Jim Ruane who delivered a PowerPoint presentation providing an overview on the proposed fees.

Director Lalloway left at this point (6:30 p.m.)

Director Ta left at this point (6:33 p.m.)

Chair Murray opened the public portion of the Public Hearing.

Steve La Motte, Director of Government Affairs for the Building Industry Association of Orange County, expressed concerns with changes to the hourly rates. (Written correspondence on file in the Office of the Clerk.)

Chair Murray closed the public portion of the Public Hearing.

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OCFA Board of Directors Special Meeting

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On motion of Director Gamble and second by Director Robinson, the Board of Directors voted by those present to approve the recommended actions withholding approval of the hourly rates, where staff will present recommendations for approval at an upcoming Board of Directors Meeting.

1. Find that, in accordance with California Government Code Section 66014, the proposed fees do not exceed the cost of providing services and are only for the purpose of meeting operational expenses and are, therefore, exempt from compliance with the California Environmental Quality Act pursuant to Public Resources Code Section 21080.
2. Approve and adopt Resolution No. 2015-10 and Exemption Policy approving changes in Community Risk Reduction and Miscellaneous fees and effective date.

RESOLUTION NO. 2015-10

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE
ORANGE COUNTY FIRE AUTHORITY SUPERSEDING ALL
PREVIOUS RESOLUTIONS AND APPROVING CHANGES IN
COMMUNITY RISK REDUCTION (FORMERLY FIRE
PREVENTION) AND MISCELLANEOUS FEES

Directors Lalloway and Ta were absent for the vote.

B. Approval of the Updated OCFA Advanced Life Support (ALS) Paramedic and Basic Life Support (BLS) Medical Supplies Reimbursement Rates (F: 15.12)

Assistant Chief Lori Zeller introduced Finance Division Manager Jim Ruane who delivered a PowerPoint presentation providing an overview on the proposed rates.

Chair Murray opened the public portion of the Public Hearing.

Stephen Wontrobski, Mission Viejo resident, spoke in opposition to the proposed increases.

Chair Murray closed the public portion of the Public Hearing.

On motion of Director Johnson and second by Vice Chair Hernandez, the Board of Directors voted by those present to:

1. Upon approval of the proposed increase to the maximum BLS emergency 9-1-1 transportation billing rate by the Orange County Board of Supervisors, authorize staff to increase OCFA's Advanced Life Support (ALS), and Basic Life Support (BLS) Medical Supply Reimbursement Rates by the same percentage increase.

Director Sachs abstained; Directors Lalloway and Ta were absent for the vote.

5. DISCUSSION CALENDAR

A. Updated Cost Reimbursement Rates (F: 15.12)

Assistant Chief Lori Zeller introduced Finance Division Manager Jim Ruane who presented the report.

On motion of Chair Murray and second by Director Shawver, the Board of Directors voted by those present to approve and adopt the proposed Cost Reimbursement Rate schedules effective retroactively to July 1, 2015.

Directors Lalloway and Ta were absent for the vote.

B. Fire Station 56 – Notice of Completion (F: 19.07C56)

Assistant Chief Mike Schroeder presented the report.

On motion of Chair Murray and second by Director Swift, the Board of Directors voted by those present to:

1. Receive and file the Notice of Completion, of Fire Station 56, Sendero Ranch.
2. Approve the Notice of Completion of Fire Station 56 dated July 10, 2015.
3. Approve and authorize staff to record the Notice of Completion with the County of Orange.

Directors Lalloway and Ta were absent for the vote.

C. Status Reports for Third Amendment to the JPA Agreement and AB 1217 (F: 11.10F4) (F: 10.02Y)

Director of Communications and Public Affairs Sandy Cooney provided an oral report on the status of Assembly Bill 1217 and the JPA Amendment.

D. Legislative Update regarding Drone Restrictions (F: 11.10F4)

Director of Communications and Public Affairs Sandy Cooney summarized three current legislative bills addressing interference by drones with wildfire incidents.

On motion of Vice Chair Hernandez and second by Director Johnson, the Board of Directors directed staff to send letters of support to the authors of State Senate Bill 167, U.S. Senate Bill S.1608, and House Bill HR 3025, including a suggestion for the authors to include additional language to prohibit the use of drones as weapons.

Director Robinson abstained; Directors Lalloway, and Ta were absent for the vote.

ELECTION OF BOARD CHAIR/VICE CHAIR (F: 11.02B)

Chair Murray opened the nominations for Chair of the Board of Directors.

Chair Murray nominated Vice Chair Hernandez with a second by Director Swift. There were no additional nominations.

Vice Chair Hernandez was elected Board Chair by unanimous vote of those present for the ensuing term.

Chair Hernandez opened the nominations for Vice Chair of the Board of Directors.

Director Shawver nominated Director Swift with a second by Director McCloskey. There were no additional nominations.

Director Swift was elected Board Vice Chair by unanimous vote by those present for the ensuing term.

BOARD MEMBER COMMENTS (F: 11.13)

Director Gamble congratulated Chair Hernandez and Vice Chair Swift, and commended and thanked Director Murray for his service on the Board.

Director Kusumoto congratulated Chair Hernandez and Vice Chair Swift; thanked Division Chief Ken Cruz, Station 2 and Care Ambulance Service, Inc. for their assistance at Los Alamitos' Fourth of July event, and Community Relations Manager Kristina Hamm for the Los Alamitos fire alarm installations. He noted attending the Fire Explorer Academy Graduation and thanked Division Chief McKeown for overseeing the program.

Director Hatch complimented OCFA employees in general, thanked Chair Murray for his leadership, and praised Fire Station 22 regarding a recent fire in Laguna Woods.

Director McCloskey thanked Senator Patricia Bates for her assistance on AB 1217.

Director Murray thanked Fire Chief Bowman for his leadership, thanked and congratulated Chair Hernandez for his service as Vice Chair, noted his pleasure to serve with this Board of Directors, and with Ray Geagan, Local 3631 President. He also noted his attendance at the Fire Explorer Academy Graduation, the City Managers Fire/EMS Demonstration, and the Grand Opening of Fire Station 56.

Director Shawver thanked the Board for his recognition of service to the Board, and commended Director Murray on his service.

Minutes

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ADJOURNMENT – Chair Hernandez adjourned the meeting at 7:42 p.m. The next special meeting of the Orange County Fire Authority Board of Directors is scheduled for August 27, 2015, at 5:30 p.m.

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



Orange County Fire Authority
AGENDA STAFF REPORT

Board of Directors Meeting
August 27, 2015

Agenda Item No. 3A
Consent Calendar

**Adoption of Ticket and Passes Distribution
and Payments Policies**

Contact(s) for Further Information

Lori Zeller, Assistant Chief lorizeller@ocfa.org 714.573.6020
Business Services Department

Sherry Wentz, Clerk of the Authority sherrywentz@ocfa.org 714.573.6041

Summary

This item is submitted to ensure the OCFA is in compliance with current Fair Political Practices Commission (FPPC) regulations regarding the distribution of tickets/passes and payments/gifts.

Prior Board/Committee Action

This item was presented to the Board at its March 26, 2015, meeting. Upon discussion, the Board recommended changes to the proposed policies and directed staff to return the item to the Board for reconsideration. Attached is a redlined version of the proposed policies that identify these recommended changes.

RECOMMENDED ACTION(S)

Adopt the proposed Ticket and Passes Distribution Policy and Payments Policy.

Impact to Cities/County

Not Applicable.

Fiscal Impact

There is no fiscal impact.

Background

Payments to the Authority Policy

The FPPC has adopted requirements (2 Cal.Code Regs. § 18944.2) for reporting payments made to agencies that would otherwise constitute gifts to public officials. Staff is requesting Board adoption of the proposed Payments to the Authority Policy (Attachment 1) to comply with these FPPC requirements. In adopting this Policy, the Board could choose provisions which are more restrictive than FPPC requirements, but the Policy may not be less restrictive than FPPC requirements.

For purposes of this Policy, “payments” include fees, goods, or services (including perishable goods such as food and beverages) with a fair market value of \$50 or more. Perishable goods may be accepted if they remain on OCFA premises to be enjoyed by all. Other payments may be considered gifts to the OCFA when the OCFA receives and controls the payment, uses the payment for official business, and identifies the recipient. Such payments must be reported as provided in Section 5.0 of the attached proposed Policy. This Policy does not address gifts of tickets or passes to events, which is covered in the proposed Tickets and Passes Distribution Policy (Attachment 2).

An example that would fall under the Payments to the Authority Policy would be a large gift basket of food provided to the Authority around holidays. To comply with the Policy, (1) the gift basket would remain on premises, (2) it would be placed in a central location for enjoyment by all, and (3) the Agency Head or OCFA Official who accepted delivery of the basket for enjoyment by all would complete the Payment to OCFA Report (provided as Attachment A to the Policy) for submission to the Clerk of the Authority within 7 days of receipt of the gift basket.

Ticket and Passes Distribution Policy

From time to time, the OCFA receives “tickets or passes” from third party sources, both public and private. Under Title 2 of the California Code of Regulations, Section 18944.1 tickets and/or passes are defined as an admission to a facility, event, show or performance for an entertainment, amusement, recreational, or similar purpose. The Fair Political Practices Commission (FPPC) adopted regulations that set up the circumstances under which the receipt of tickets and passes by a public official would need to be disclosed by the OCFA, and the circumstances by which they would be distributed to public officials and not trigger disclosure requirements for the purposes of the public official’s Statement of Economic Interests (“Form 700”).

The purpose of the Ticket and Passes Distribution Policy (Attachment 2) is to ensure that all tickets and/or passes provided to the OCFA shall be distributed in furtherance of governmental and/or public purposes as required under Section 18944.1.

An example that would fall under the Ticket and Passes Distribution Policy would be donation to the Authority of a block of tickets to a baseball game, whereby the donor wishes to promote OCFA programs or services. To comply with the Policy, (1) the tickets would be distributed to OCFA personnel and not transferred to any other person except to members of OCFA personnel’s family or no more than one guest solely for their attendance at the event, (2) the tickets could not be sold, (3) reimbursement could not be received for the tickets, (4) the tickets could not be earmarked by the donor for use by a particular OCFA member, and (5) the Clerk or her designee would complete FPPC Form 802 within 30 days, cause the form to be forwarded to the FPPC, and maintain the form as a public record.

Attachment(s)

1. Proposed Payments Policy
2. Tickets and Passes Distribution Policy

<p style="text-align: center;">PAYMENTS TO THE AUTHORITY POLICY</p>
--

1.0. PURPOSE

The purpose of this Policy is to establish procedures governing the acceptance of certain payments to the OCFA (including all Fire Stations) consistent with Section 18944 of the Fair Political Practices Commission (FPPC) Regulations. Section 18944 sets forth conditions under which a payment made to a local government agency, that is controlled by the agency and used for official agency business, is not considered a reportable or limited gift to an individual public official or employee, although the individual receives a personal benefit from the payment.

2.0 DEFINITIONS

Unless otherwise expressly provided herein, the words and terms used in this Policy shall have the same meaning as that ascribed to such words and terms in the California Political Reform Act of 1974 (Government Code Section 81000 *et seq.*, as the same may from time to time be amended) and the FPPC Regulations (Title 2, Division 6 of the California Code of Regulations, Section 18110 *et seq.*, as the same may from time to time be amended).

- 2.1 "OCFA" or "Authority" shall mean and include the Orange County Fire Authority, and any departments, boards, and commissions thereof.
- 2.2 "OCFA Official" shall mean and refer to the OCFA's "public officials", including every member, officer, employee, or consultant of the OCFA, as that term is defined by Government Code section 82048 and FPPC Regulation 18701, as may from time to time be amended. Such term shall include, without limitation, any OCFA board, commission, or committee member or other appointed official or employee required to file an annual Statement of Economic Interests (FPPC Form 700).
- 2.3 "Payment" shall mean a payment as defined in Government Code section 82044, including payment for, or provision of, fees, goods or services to the Authority where the person providing the payment has no legal obligation to do so.
- 2.4 "Agency Head" shall mean the Fire Chief of the Authority or his/her designee, acting in his/her capacity of Agency Head as that term is defined in Title 2 of the California Administrative Code, Section 18944.

3.0 APPLICATION OF POLICY

- 3.1 This Policy applies to all OCFA Officials, departments, and employees (including those employees that are not required to file an annual Statement of Economic Interest (FPPC Form 700)).
- 3.2 This Policy applies to any payment made to OCFA as a whole, and not to a specific individual, with a fair market value of \$50.00 or more.
- 3.3 This Policy does not apply to any payment to OCFA that will be used outside of official OCFA business. Any payment that will be used outside of official OCFA business for personal/individual benefit or enjoyment is a reportable and limited gift to the OCFA Official, and is subject to all applicable law and regulations.
- 3.4 This Policy does not address gifts of free passes or tickets to sporting or entertainment events governed by Section 18944.1 of Title 2 of the California Code of Regulations.

4.0 PROCEDURE – USE AND DISTRIBUTION

- 4.1 Payments of perishable goods (i.e. food and beverages) may be accepted by an OCFA Official or employee with the condition that they remain on the premises to be enjoyed by all, and subject to the Section 5.0 reporting requirements.
- 4.2 Excepting payments of perishable goods under Section 4.1, any payments given to the OCFA as a whole, with no direction as to the specific OCFA Officials or employees who may use the payments, shall be forwarded to the Agency Head.
- 4.3 The Agency Head shall review each payment and determine the specific OCFA Officials or employees who may use the payment. The Agency Head may not select him/herself as the individual who will use the payment unless such payment is for an item that provides for general use by OCFA Officials and employees and the Agency Head is one of those individuals who will have access to such use.

5.0 REPORTING

- 5.1 The Agency Head or the OCFA Official or employee accepting perishable goods under Section 4.1 shall within seven (7) days of receiving any payment to OCFA, complete and transmit to the Clerk of the Authority the "Payment to OCFA Report" attached to this Policy as Attachment "A."
- 5.2 The Clerk of the Authority, having received all Payment to OCFA Reports completed by the Agency Head and OCFA Officials or employees in any given month, shall within thirty (30) days of the end of each calendar month, complete a "Payment to Agency Report," a.k.a. FPPC Form 801, ("Form 801"), or any FPPC form that succeeds Form 801. The Form 801 for any given month shall document payments to the OCFA received during the prior month. Within seven (7) days of completing a Form 801, the Clerk of the Authority shall post a copy of that Form 801 or all information contained on that Form 801 on the OCFA's website, <http://www.ocfa.org>.

6.0 **ENFORCEMENT**

A violation of this Policy may result in prosecution by the Fair Political Practices Enforcement Division for a penalty fine of up to \$5,000 for each violation. (Government Code Section 83116). Additionally, any OCFA Official who violates this Policy is subject to discipline, including dismissal consistent with the OCFA's personnel rules and applicable civil service laws and regulations. (Government Code Section 91003.5).

Attachment "A"

PAYMENT TO OCFA REPORT

*This form is used to provide official documentation of payments made to OCFA that have a fair market value of \$50.00 or more. This form should be completed by the Fire Chief or his designee or, in the case of perishable food items, by the OCFA employee in possession of the item and immediately forwarded to the Clerk of the Authority. **This form must be completed and transmitted to the Clerk of the Authority within seven(7) days of receipt of the payment.***

Date payment/gift was given to OCFA: _____

Name of the employee who accepted the gift on behalf of OCFA:

Name and address of the organization or individual providing the payment/gift:

Describe the payment/gift:

Actual or estimated value of the payment/gift: _____

Explain how the payment/gift was distributed or used and by whom (e.g., name, title, and department of the official(s) who used the gift):

Prepared by: _____

Date: _____

[title/department]

TICKETS AND PASSES DISTRIBUTION POLICY

1.0 PURPOSE

The purpose of this Policy is to ensure that any ticket or pass provided to the OCFA by any third party or purchased or obtained directly by the OCFA shall be distributed to OCFA Officials in a manner that serves or promotes a public purpose of the OCFA in accordance with Section 18944.1 of the Fair Political Practices Commission (FPPC) Regulations.

2.0 DEFINITIONS

Unless otherwise expressly provided herein, the words and terms used in this Policy shall have the same meaning as that ascribed to such words and terms in the California Political Reform Act of 1974 (Government Code Section 81000 *et seq.*, as the same may from time to time be amended) and the FPPC Regulations (Title 2, Division 6 of the California Code of Regulations, Section 18110 *et seq.*, as the same may from time to time be amended).

- 2.1 "OCFA" or "Authority" shall mean and include the Orange County Fire Authority, and any departments, boards, and commissions thereof.
- 2.2 "OCFA Official" shall mean and refer to the OCFA's "public officials", including every member, officer, employee, or consultant of the OCFA, as that term is defined by Government Code section 82048 and FPPC Regulation 18701, as may from time to time be amended. Such term shall include, without limitation, any OCFA board, commission, or committee member or other appointed official or employee required to file an annual Statement of Economic Interests (FPPC Form 700).
- 2.3 "Ticket" or "pass" shall mean any ticket, pass, etc. that provides admission to a facility, event, show, or performance for an entertainment, amusement, recreational or similar purpose.

3.0 APPLICATION OF POLICY

- 3.1 This Policy applies to tickets or passes that are:
 - a. Gratuitously provided to the OCFA by an outside source;
 - b. Acquired by the OCFA by purchase;

- c. Acquired by the OCFA as consideration pursuant to the terms of a contract for the use of a OCFA-owned venue; or
 - d. Acquired and distributed by the OCFA in any other manner.
- 3.2 This Policy does not apply to:
- a. A ticket or pass provided to an OCFA Official for his or her admission to an event at which the official performs a ceremonial role or function on behalf of OCFA;
 - b. A ticket or pass received by an OCFA Official where the official treats the ticket or pass as income consistent with the applicable state and federal income tax laws and the ticket is reported in accordance with the FPPC Regulations; or
 - c. A ticket or pass for which the OCFA Official reimburses the OCFA for the face value of the ticket.

4.0 GENERAL PROVISIONS

- 4.1 *No Right to Tickets:* The use of complementary tickets is a privilege extended by the OCFA and not the right of any person to which the privilege may from time to time be extended.
- 4.2 *Limitation on Transfer of Tickets:* Tickets distributed to an OCFA Official pursuant to this Policy shall not be transferred to any other person, except to members of such official's immediate family (i.e., spouse and dependent children) or no more than one guest solely for their attendance at the event.
- 4.3 *Prohibition Against Sale of or Receiving Reimbursement for Tickets:* No person who receives a ticket pursuant to this Policy shall sell or receive reimbursement for the value of the ticket.
- 4.4 *Implementation of Policy:* The Fire Chief or his/her designee shall have the authority, in his/her sole discretion, to distribute tickets or passes in accordance with this Policy and to establish related procedures.
- 4.5 *No Earmarking of Ticket:* No ticket or pass gratuitously provided to the OCFA by an outside source and distributed pursuant to this Policy shall be earmarked by the original source for use by a particular OCFA Official.

5.0 TICKET DISTRIBUTION MUST ACCOMPLISH PUBLIC PURPOSE

- 5.1 The distribution of the tickets or passes to, or at the behest of, an OCFA Official must accomplish a governmental and/or public purpose. The following list of governmental and/or public purposes the OCFA may accomplish through the distribution of tickets is illustrative rather than exhaustive:

- a. Facilitating public recognition, support, or award-giving on behalf of the OCFA at an event.
- b. Facilitating the attendance of an OCFA Official at an event where the job duties of the official require his or her attendance at the event.
- c. Promotion of intergovernmental relations and/or cooperation and coordination of resources with other governmental agencies, including, but not limited to, attendance at an event with or by elected or appointed public officials from other jurisdictions, their staff members, and their guests.
- d. Promotion of OCFA resources and/or facilities available to the public.
- e. Promotion of OCFA-run, sponsored, or supported community programs or events.
- f. Promoting, supporting and/or showing appreciation for programs or services rendered by charitable and non-profit organizations benefiting the public.

~~Attracting or rewarding volunteer public service.~~

~~Attracting and retaining highly qualified employees in the OCFA service.~~

~~Recognizing or rewarding meritorious service by an OCFA employee or volunteer.~~

~~Promoting enhanced OCFA employee performance, morale, or retention.~~

6.0 PUBLIC DISCLOSURE

- 6.1 A record of any ticket or pass distributed pursuant to this Policy must be completed on FPPC Form 802, or such alternative form(s) as from time to time may be designated by the FPPC ("Form 802"). The completed Form 802 must be maintained by the Clerk of the Authority, or his or her designee, as a public record and is subject to inspection and copying under California Government Code Section 81008(a).
- 6.2 Within 30 days of distributing any ticket or pass pursuant to this Policy, the Clerk of the Authority, or his or her designee, shall complete and cause to be forwarded to the FPPC, for posting on the FPPC's website, the completed Form 802. The completed Form 802 must contain the following information:
 - a. The name of the person receiving the ticket or pass;
 1. If the tickets or passes are distributed to an outside organization, the OCFA must post the name, address, description of the organization, and the number of tickets or passes provided to the organization in lieu of posting the names of each individual from the organization.
 2. If the tickets or passes are distributed to an OCFA Official, other than an elected official or member of the legislative or governing body of the OCFA, the Agency Head may post the name of the department or

other unit of the OCFA and the number of tickets or passes provided to the department or other unit in lieu of posting the name(s) of the individual employee(s).

- b. A description of the event;
- c. The date of the event;
- d. The face value of the ticket or pass;
- e. The number of tickets or passes provided to each person;
- f. If the ticket or pass is behested, the name of the official who behested the ticket; and
- g. A description of the public purpose under which the distribution was made or, alternative, that the ticket or pass was distributed as income to the official.

7.0 ENFORCEMENT

A violation of this Policy may result in prosecution by the Fair Political Practices Enforcement Division for a penalty fine of up to \$5,000 for each violation. (Government Code Section 83116). Additionally, any OCFA Official who violates this Policy is subject to discipline, including dismissal consistent with the OCFA's personnel rules and applicable civil service laws and regulations. (Government Code Section 91003.5).



Orange County Fire Authority
AGENDA STAFF REPORT

Board of Directors Meeting
August 27, 2015

Agenda Item No. 3B
Consent Calendar

Adoption of Board Teleconferencing Policy

Contact(s) for Further Information

Lori Zeller, Assistant Chief lorizeller@ocfa.org 714.573.6020
Business Services Department

Sherry Wentz, Clerk of the Authority sherrywentz@ocfa.org 714.573.6041

Summary

This item is submitted in response to a Board request to institute a policy regarding teleconferencing to Board meetings.

Prior Board/Committee Action

At its August 28, 2014, meeting, the Board voted to direct staff to accommodate the Directors' ability to participate remotely in Closed Session and Open Session Board meetings pursuant to the Brown Act, and return with a teleconferencing policy. This item was originally scheduled for the March 26, 2015, Board meeting, but was pulled by staff in order for Board Chair Murray to be present for the item's consideration.

RECOMMENDED ACTION(S)

Adopt the proposed Teleconferencing Policy.

Impact to Cities/County

Not Applicable.

Fiscal Impact

Not Applicable.

Background

At its August 28, 2014, Board meeting, the Board considered an agenda report relating to OCFA Board Room Audio Video Upgrades and Teleconferencing of Closed Session Meetings. In evaluating whether to continue its authorization for teleconferencing during closed sessions, Board members were asked to consider concerns raised and challenges experienced by OCFA staff relating to teleconferencing during closed sessions pursuant to the Board of Directors' July 24, 2014, authorization:

1. A concern arose regarding whether the teleconferenced locations were, in fact, accessible to the public as required by law, as both locations were out-of-state, and one location was a private residence.
2. As it was learned that the residential location was rented property, staff also felt a need to contact the property owner in addition to the on-site tenant to secure permission to use this site for this public purpose, since all remote locations must be publicly accessible. Staff also had concerns with liability risks in using a private residence for this use.

3. There was a challenge in securing proof of the agenda's posting in the remote locations. While the hotel returned the affidavit promptly in this case, there were some difficulties in securing the Affidavit of Posting for the residential site. The affidavit was eventually received several days after the meeting had taken place.
4. This was a staff intensive process. It took the Clerk more than a full day, responding to and generating approximately 100 emails and two dozen phone calls to set-up/implement the teleconference in the two locations. This does not include General Counsel or other OCFA staff's time in assisting with this process.
5. Board Members experienced difficulties hearing the two teleconferencing Board Members and vice versa.
6. Teleconferencing phones are not fully duplex. They cannot transmit and receive simultaneously; therefore, only one person can speak at a time, and if multiple users are phoning in, the complexity is increased.
7. The Brown Act requires that each action by the Board taken during a teleconference be taken as a roll call vote, which extends the overall meeting length.

The Board voted to direct staff, using an interim technological system, to accommodate the Directors' ability to participate remotely in Closed Session and Open Session Board meetings pursuant to the Brown Act, and return with a teleconferencing policy. The Board discussed the intention that the teleconferencing policy should be designed in a manner that would assist staff in resolving some of the difficulties outlined above. In addition, the Board directed staff to include technology upgrades in the pending RFP process for board room audio/video upgrades that would resolve the communication difficulties encountered at the July 24 meeting.

Teleconferencing Survey

OCFA has conducted a teleconferencing survey of nine local regional agencies: Three responded there has never been a need for teleconferencing at their agencies; two agencies follow the Brown Act requirements with no adopted policy; two agencies follow the Brown Act and have implemented a Teleconferencing Policy with one of the two agencies not permitting use of teleconferencing for its regular regional council meeting or its policy committees, but limiting use to special policy meetings, task force meetings, and subcommittees; and two agencies were non-responsive to the survey.

Brown Act Requirements

The Brown Act allows the use of teleconferencing under GC 54953 (b)(1). GC 54953 (2) requires all votes taken during a teleconferenced meeting be by roll call. GC 54953 (3) requires the identification and public noticing at the teleconference locations; locations shall be accessible to the public, a quorum of the members shall participate with the agency's jurisdiction, and members of the public shall be allowed to address the agency from the teleconference location(s).

The attached proposed policy incorporates the Brown Act requirements and provides additional guidelines and protocols for teleconferencing.

Attachment(s)

Proposed Teleconferencing Policy

TELECONFERENCING POLICY

1.0 PURPOSE

- 1.1. To establish guidelines for conducting Board meetings via teleconferencing.
- 1.2. To establish the roles and responsibilities associated with teleconferencing Board meetings.

2.0 POLICY

- 2.1. The meeting must comply in all other respects with the Brown Act and is in all respects the same as a meeting where the Directors are physically present.
- 2.2. Teleconferenced meeting must be conducted “in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body” per GC 54953(b)(3).
- 2.3. Teleconference dial-in numbers are to be utilized solely by Directors.
- 2.4. Teleconferencing will not be utilized for any special meeting that is scheduled with less than 72-hours’ notice.
- 2.5. There must be an on-site quorum for the meeting to take place.

3.0 DIRECTOR RESPONSIBILITIES

- 3.1. Secure an open and accessible public location to conduct the meeting. Caution should be used when determining the teleconferencing location.
 - a. If a Director is participating from a hotel, it should not take place inside their hotel room, as it must be open and made available to the public.
 - b. A public area is recommended, such as a business center or conference room that is also ADA compliant, as the location must be accessible to all members of the public. For this same reason, one would not likely want to participate from their home.
- 3.2. Provide notification and the following information to the Clerk at least 7 calendar days in advance of the scheduled meeting:
 - a. the physical location including the full, specific address for inclusion on the agenda and meeting notices of the teleconferencing location;
 - b. on-site contact name and on-site phone number; and
 - c. Director’s on-site phone number.

- 3.3. Secure completed Affidavit of Posting by person who posted the agenda and return to the Clerk of the Authority to provide proof of the agenda's posting at the physical location at least 72 hours in advance of the meeting. Failure to provide advance evidence of the required agenda posting at the remote location will result in denial of the request to participate in the meeting by teleconference.
- 3.4. Make an announcement at the beginning of the meeting if there is a member of the public at the teleconference location wishing to speak and identify the subject. Introduce the speaker at the appropriate time during the meeting.
- 3.5. Provide the Clerk of the Authority with any completed Request to Speak Forms for any members of the public who spoke at the teleconference location within seven (7) days following the meeting. Be sure that the speaker's name is legible as this document will be used by the Clerk in the creation of the Minutes.
- 3.6. Ensure that the remote location is actually open and accessible to the public during the meeting time, except during closed session discussions.
- 3.7. Utilize a telephone or other teleconference facility with a "mute" function to avoid noise interruptions of the meeting.

4.0 CLERK OF THE AUTHORITY RESPONSIBILITIES

- 4.1 Include the physical location and address of the teleconferencing site on the agenda.
- 4.2 Provide the Director with the following:
 - a. Agenda (for posting and provision to the public in attendance at the teleconference site);
 - b. Affidavit of Posting Form; and
 - c. Request to Speak Forms.
- 4.3 Ensure that a quorum of the Board is in attendance at our regular posted location. If a quorum is not made the Clerk will cancel the meeting due to a lack of quorum.
- 4.4 Conduct roll call votes on all items that require Board action.
- 4.5 Coordinate with IT staff and the teleconferencing Director regarding the call-in process into the meeting.
- 4.6 Provide the Director with the teleconference phone-in number.



Orange County Fire Authority
AGENDA STAFF REPORT

Board of Directors Meeting
August 27, 2015

Agenda Item No. 3C
Consent Calendar

Response to Grand Jury Report: “Joint Powers Authorities: Issues of Viability, Control, Transparency, and Solvency”

Contact(s) for Further Information

Lori Zeller, Assistant Chief
Business Services Department

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714.573.6020

Summary

This item is submitted for approval to authorize the Fire Chief to respond to the recommendations regarding “*Joint Powers Authorities: Issues of Viability, Control, Transparency, and Solvency*” contained in the 2014/2015 Orange County Grand Jury Report.

Prior Board/Committee Action – Committee Recommendation: *APPROVE*

At its August 12, 2015, meeting, the Budget and Finance Committee reviewed and unanimously recommended approval of this item.

RECOMMENDED ACTION(S)

Approve and authorize the Fire Chief to submit the proposed response to the recommendations contained in the Grand Jury Report entitled “*Joint Powers Authorities: Issues of Viability, Control, Transparency, and Solvency*” to the Presiding Judge of the Superior Court and to the Orange County Grand Jury.

Impact to Cities/County

Not Applicable.

Fiscal Impact

Not Applicable.

Background

On June 29, 2015, the 2014/2015 Orange County Grand Jury released a report requiring a response from the Orange County Fire Authority (Attachment 1). The Grand Jury report entitled “*Joint Powers Authorities: Issues of Viability, Control, Transparency, and Solvency*” addresses its concerns with JPAs in Orange County, including (1) the viability of the JPAs with Redevelopment Agencies as members since RDAs were eliminated in 2012, (2) the use of JPAs by government organizations to be controlled by a single governmental entity, (3) the lack of true disclosure and transparency of their organization and financial information to taxpayers, and (4) the extreme debt to revenue ratio of some JPAs, which brings into question their solvency.

California Penal Code Section 933 requires that the Fire Authority provide a response to the findings and recommendations within 90 days from date of public release of the report, unless the agency has requested an extension in writing. This response is due by September 28, 2015.

OCFA's proposed response to the findings and recommendations is provided as Attachment 2. The California Penal Code requires the OCFA to either agree with, or disagree in whole or in part with, each Grand Jury finding, and to indicate whether it has or will implement the Grand Jury's recommendations. The response was prepared in conformance with those requirements.

Following the Board of Director's authorization, this response will be submitted to the Presiding Judge of the Orange County Superior Court and to the Orange County Grand Jury.

Attachment(s)

1. Grand Jury Report entitled "*Joint Powers Authorities: Issues of Viability, Control, Transparency, and Solvency*"
2. OCFA Proposed Response to Grand Jury Report

JOINT POWERS AUTHORITIES: ISSUES OF VIABILITY, CONTROL, TRANSPARENCY, AND SOLVENCY



GRAND JURY 2014-2015

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EXECUTIVE SUMMARY

Joint Powers Authorities (JPAs) (also referred to as Joint Power Agencies) are California organizations set up by California Government Code section 6500. This code section allows for two or more existing public agencies to jointly agree to perform a specific service for each of the member agencies. The intent was to enable that service to be accomplished with a larger economy of scale resulting in financial benefit to the taxpayers. The code also permits this agreement to authorize the creation of a separate legal entity (authority or agency) with the full power of a separate legal entity. Consequently, a JPA has the responsibility to report as a separate legal entity and to provide accountability to its sponsor public agencies and the public through the county auditor-controller and State controller's office.

The Orange County Grand Jury has four concerns with regard to JPAs in Orange County. These concerns are (1) the viability of the JPAs with Redevelopment Agencies (RDAs) as members since RDAs were eliminated in 2012, (2) the use of JPAs by government organizations to be controlled by a single government entity, (3) the lack of true disclosure and transparency of their organization and financial information to taxpayers, and (4) the extreme debt to revenue ratio of some JPAs, which brings into question their solvency. For example, if a city sets up a JPA with another legal entity under its own direct control, such as an RDA, then the JPA has the potential to become just a "shell" organization under the control of the city. This organizational structure has the potential to cloak funds and accountability of those funds (City of Bell-like complexity). It also appears that not all JPAs provide financial information to the State Controller and the Orange County Auditor-Controller as required by law. Furthermore, the Orange County Auditor-Controller does not proactively provide the information it receives in a clear and easily accessible manner for the citizens of the County.

BACKGROUND

Joint Powers Authorities (JPAs) are California organizations set up by California Government Code section 6500. This code section allows two or more existing public agencies to mutually agree, and create an agreement, to perform a specific service for each of the signatory agencies. Essentially, a new organization is created that is completely separate from the member agencies. A JPA is so flexible that it can be applied to nearly any situation that benefits from having public agencies cooperate.

JPAs may be formed between local public entities, e.g., regional water districts, energy agencies, cities, counties, or other entities described in California Government Code section 6500. They can be formed for many different reasons such as, but not limited to, acquisition of land, construction, maintenance, financing, insurance pooling, and operations of facilities. The intention is to save member agencies, and ultimately taxpayers, time and money by sharing resources and combining services. JPAs exist for various reasons such as expanding regional wastewater treatment plants, providing public safety planning, constructing roads, building and setting up emergency dispatch centers, or financing new county jails. By sharing resources and combining services, the member agencies potentially save time, create efficiencies, reduce overlapping services, and reduce costs.

Statutory Authority of Joint Powers Agreements (JPAs)

Government agencies derive their authority from California Government Code sections 6500-6536, also called the Joint Exercise of Powers Act. JPAs can only administer powers that are specific to the individual agencies.

JPAs are different from other forms of government in that they are formed by mutual agreement by the member participants and are not formed by voter initiative or voted on by the electorate. Each JPA is unique. It reflects the agreement among member agencies for a common purpose. As a legally separate public agency, it can sue, be sued, hire staff, obtain financing, assume debt, and manage or lease property. Joint powers agreements usually protect their member agencies from the JPA's debts or other liabilities (Cypher & Grinnell, 2007, p. 12).

JPAs and Debt Approval Loophole

Local governments, such as a city, can issue revenue bonds, but they need majority-voter approval. If the bond measure is approved, then the local government sells revenue bonds to private investors to raise capital in order to build a public facility or for other designated purposes. As the interest and principal on the bonds become due, they are repaid from city tax revenues.

However, a JPA can issue bonds without holding a general election. California state law allows JPAs to issue revenue bonds without voter approval, provided that each of the member agencies adopts a separate local ordinance. Although local voters can force a referendum election on these local ordinances, this rarely occurs (Cypher & Grinnell, 2007, p. 13). As a result, a city could set up a JPA and have the JPA take on the debt, thereby circumventing the mandated public approval process.

Types of JPAs

There are no official categories for the types of JPAs, but their services fall into five broad groups (Cypher & Grinnell, 2007, p. 14):

- Public services: (e.g., police and fire protection)
- Financial services: (e.g., financing construction of public works such as city halls, bridges, and flood control projects)
- Insurance pooling and purchasing discounts: (e.g., pooling entities for lower insurance rates)
- Planning Services: (e.g., addressing and planning for topics of regional importance that go beyond city and county limits)
- Regulatory enforcement: (e.g., ensuring that member agencies adhere to federal and state laws and procedures by conducting educational seminars, formulating enforcement procedures, and maintaining an oversight role)

Funding of JPAs

According to "Governments Working Together: A Citizen's Guide to Joint Powers Agreements," by Trish Cypher and Colin Grinnell (Cypher and Grinnell, 2007), there are

two popular funding vehicles for JPAs: (1) create a revenue stream, and (2) raise capital through revenue bonds. While JPAs do not require voter approval to issue bonds, each member agency must pass an ordinance. Voters have a 30-day period to object through a referendum requiring a public vote. If there is no referendum petition filed, the JPA is free to sell bonds and use the proceeds to build, make improvements, or buy equipment.

JPAs that provide funding and issue bonds for multiple agencies may pay for the operations by collecting fees from their member agencies for bond services. Issuing and selling bonds is a complex process, and a joint effort by a JPA has the potential to facilitate the transactions. These JPAs have the potential to provide these services to smaller agencies wanting to issue bonds.

JPAs may also sell bonds to refinance their member agencies' debts. The process involves the JPA selling bonds and using the proceeds to "buy down" a member agency's debt. This is a practice used to pay off a member agency's debt, thus allowing that agency to refinance at a lower-interest rate. However, the state no longer allows JPAs to issue bonds for development outside their members' jurisdiction. JPAs cannot levy taxes or assessments; however, individual agencies can levy their own taxes and assessments.

JPA Control and Oversight

JPAs are subject to the Brown Act, the California Public Records Act, the Political Reform Act, and other public interest laws. As a separate legal entity, a JPA must self-monitor its actions and activities for its members since no state agency directly oversees it. County auditors should review the JPA financial reports, and county civil grand juries function as civil watchdogs (Cypher & Grinnell, 2007, p. 28). Several state agencies, including the Secretary of State, State Controller, and the California Debt and Investment Commission, collect reports and data from JPAs.

JPAs that fail to report their financial information to the State or the county violate California Government Code sections that pertain to JPAs. For example, Section 6505 requires "strict accountability of all funds and report of all receipts and disbursements" (Section 6505 (a)), and "an annual audit of the accounts and records of every agency or entity" (Section 6505 (b)). The sections do not specify whether the audit has to be external or internal. However, Section 6005 (c) requires that when an audit of an account and records is made, "a report thereof shall be filed as a public record with each of the contracting parties to the agreement and also with the county auditor of the county where the home office of the joint powers authority is located." In addition, Section 6505 (g) provides that "JPAs shall be exempt from the requirement of an annual audit if the financial statements are audited by the (State) Controller to satisfy federal audit requirements."

JPAs and Special Districts

A JPA *is not* a special district, even though it might provide the same services. A *special district* is a separate local government with its own governing body that delivers services to a dedicated community. Special districts rely on other State laws for their

existence and legal authority, and on elected boards of directors for their governance. Most special districts provide only a single service to a defined area, in contrast to county and city agencies that provide multiple services within their boundaries. While cities and counties must provide mandated services per federal and state law, special districts provide services for which the public is willing to pay. Examples include fire protection districts, water districts, pest abatement districts, etc.

Although a JPA is not a special district, its financial reporting requirements are the same. The State Controller is required by State law in SB 282 (Chapter 288) to make available annually, in a separate report published in an electronic format on the Controller's website, certain financial information about selected districts. This law amends Government Code section 12463.1 for reporting on the financials of "selected districts." It further clarifies the definition of "selected districts" to exclude school districts, but to include all other public entities including special districts, JPAs, and public benefit corporations. The information provided in this report is required to be published no later than June 30 following the end of the annual reporting period. The Controller is required to include in his or her report information that best illustrates the assets, liabilities, and equity of selected districts. Specifically, the Controller is required to include in this report a breakdown of each special district's (1) fund balance, which shall include the reserved and unreserved funds, typical for a nonenterprise district; (2) retained earnings, which shall include the reserved and unreserved funds, typical for enterprise districts; (3) fixed assets; and (4) cash and investments. The Controller may also include separate line items for "total revenues" and "total expenditures." When the report is available, the Controller is required to notify the Legislature, in writing, within one week of its publication. (SB No. 282, Chapter 288, 2001)

JPAs have both advantages and disadvantages over special districts. (Cypher & Grinnell, 2007, p. 22) The stated advantages are that they are flexible, easy to form, encourage synergy and cooperation between members, and allow for financing. However, abuse of this financing advantage is not in the best interest of taxpayers. The stated disadvantages are that they require mutual trust between the members, require management resolve to retain members, may be difficult to dissolve, and may not have clear lines of transparency and accountability.

JPAs with Redevelopment Agencies

Many California cities set up redevelopment agencies (RDAs) to fund their urban renewal efforts. These same cities then set up JPAs between the city and its own RDA. This resulted in each of these three legal entities being controlled by one organization, that is, the city council.

Governor Jerry Brown signed into law two bills that amended California Community Redevelopment Law in order to redress the state's ongoing budget deficit and to curtail abuses by redevelopment agencies that deviated from the original intent of redevelopment law. Assembly Bill x1 26 (ABx1 26) dissolved all California RDAs, effective October 1, 2011. This legislation prevented RDAs from engaging in new activities and outlined a process for winding down the RDA's financial affairs. It also set forth a process for distributing funds from the former RDAs to other local taxing entities.

In response, the California Redevelopment Association, the League of California Cities, and other parties filed petitions with the California Supreme Court challenging the constitutionality of ABx1 26. On December 29, 2011, the California Supreme Court upheld the constitutionality of ABx1 26. Although delayed by litigation, approximately 400 RDAs were dissolved on February 1, 2012, with the assets and liabilities transferred to Successor Agencies and Successor Housing Agencies pursuant to ABx1 26. The bottom line, however, is that even though California RDAs have been dissolved, and they no longer officially exist, in some cases their successor agencies still remain an active member of a JPA!

REASON FOR THE STUDY

Given the large number (71) of JPAs reported in Orange County (OC) and the complexity of JPAs, the Orange County Grand Jury (Grand Jury) anticipated that there could be four concerns with regard to JPAs in Orange County. These concerns are (1) the viability of the JPAs with RDAs as members, since RDAs were eliminated in 2012, (2) the use of JPAs by government organizations to be controlled by a single government entity, (3) the lack of true disclosure and transparency of their organization and financial information to taxpayers, and (4) the extreme debt-to-revenue ratio of some JPAs, which brings into question their solvency. The Grand Jury suspected that nearly one-fourth of the JPAs are no longer relevant, due to the elimination of RDAs, and for other reasons. The question to be answered is: Are the JPAs with RDAs as a member still relevant and viable?

It was also anticipated that there has been extensive public debt generated under these JPAs with limited understanding by the public. The reason for the study was to provide taxpayers with information regarding these organizations and the financial exposure facing the public. This information provided to the public may stimulate further public demands for inquiry on transparency and accountability.

METHODOLOGY

The Grand Jury first attempted to obtain a comprehensive list of all of the JPAs that were in Orange County. Lists were requested from both the County Auditor-Controller's Office and the State Controller's Office. Neither of these lists was determined to be complete. As a result, the Grand Jury proceeded to investigate Special District reports, city financial records, and County financial records and Internet files. The result was that the Grand Jury determined that there are currently 71 JPAs in Orange County. However, it should be noted that due to the lack of a consolidated list by any County or State organization, the actual number of JPAs may be more than 71.

Once the Grand Jury had a list of the known JPAs in Orange County, the Grand Jury sent out a request for information (RFI) letter to each organization. This letter requested confirmation that the entity was a JPA. In addition, information was requested regarding the JPA's organization, charter, financial data, and the disclosure of information by the JPA into the public domain (transparency). The data utilized in this report is primarily that data provided by the JPA itself. If there were issues with regard to

inconsistent or contradictory data that was provided, follow-up calls to confirm or correct information were conducted.

INVESTIGATION AND ANALYSIS

The Grand Jury identified 71 JPAs currently registered in Orange County. There could be more, but the absence of accurate State and County record keeping and reporting makes it practically impossible to confirm the exact number. The Grand Jury investigation's request for information to the OC Auditor-Controller revealed that the Controller knows the JPAs in which the County is a member, but does not have a list of all of the JPAs in OC and cannot confirm compliance of their submittal of required information for public access. In addition, the OC Auditor-Controller does not provide easy-to-use online access to the data submitted by the JPAs.

The investigation revealed some interesting facts about those JPAs that were identified. Nine of those have no debt, revenue, activity, or liabilities. This caused the Grand Jury to question their purpose and viability. Of the remaining 62 JPAs, 29 (or, 47%) have "Financing" as their primary service or activity. Fifteen of the 62 have at least one school district as a member. Eight of the 62 have "Insurance" listed as their primary service. Eighteen (or, 29% of the 62) still have an RDA listed as one of their member participants. The 62 new or currently active JPAs out of the total of 71 have \$1.1 billion in total revenue, \$1.2 billion in expenditures, \$4.3 billion in assets of which \$1.5 billion are in reserve, \$7.1 billion in debt, and over \$600 million in unfunded liability. The Grand Jury concluded that the JPAs in Orange County control a significant amount of public funds with a limited amount of oversight and disclosure to the taxpayers.

Viability

The following nine JPAs in Orange County have no currently reported revenues, expenditures, assets, or liabilities:

1. Buena Park Public Financing Authority
2. Capistrano Unified Public Financing Authority
3. Countywide Public Finance Authority
4. Fullerton Library Building Authority
5. Garden Grove Public Financing Authority
6. Newport-Mesa United School District Public Financing Authority
7. Stanton Public Financing Authority
8. Tustin Public Financing Authority
9. Westminster Public Finance Authority

The Grand Jury questions the rationale and continued expense by the members of these JPAs to keep these legal entities in existence.

The following 18 JPAs in Orange County still have an RDA listed as one of their member participants:

1. Anaheim Public Financing Authority
2. Brea Public Financing Authority

3. Buena Park Public Financing Authority
4. City of Fullerton Public Financing Authority
5. City of San Clemente Public Financing Authority
6. Costa Mesa Public Finance Authority
7. Fountain Valley Financing Authority
8. Garden Grove Public Financing Authority
9. Huntington Beach Public Financing Authority
10. La Habra Civic Improvement Authority
11. Mission Viejo Community Development Financing Authority
12. Rancho Canada Financing Authority
13. Santa Ana Financing Authority
14. Seal Beach Public Financing Authority
15. Stanton Public Financing Authority
16. Tustin Public Financing Authority
17. Westminster Public Financing Authority
18. Yorba Linda Public Financing Authority

JPAs with RDAs have another unique problem associated with them. The passing of the ABx1 26 forced the RDAs to cease to exist and to become successor agencies. These successor agencies were expressly prohibited from taking on additional redevelopment or debt, and were required to wind down and pay off their existing debt under a conservator's guidance and State oversight. Once the debt is fully paid off, the successor agency is to terminate. This is a key issue with regard to JPAs. Since many of the JPAs have RDAs as one of their members, that member is now a successor agency. Since this successor agency can no longer perform its original charter, the purpose of the JPA is no longer valid. The Grand Jury has determined that these legal entities no longer serve any viable purpose or benefit for taxpayers.

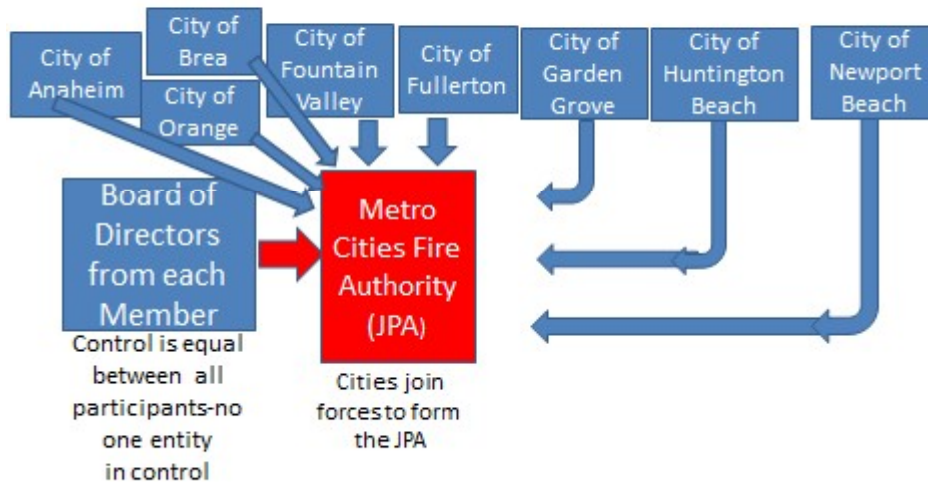
Control and Financial Loopholes

The Grand Jury determined that many different types of JPAs exist in Orange County. As a result, generalizations regarding their use or effectiveness cannot be easily made. State statutes authorize legal entities, such as cities, counties, school districts, or special districts to set up JPAs. These statutes give significant authority and latitude to these entities. As a result, many of these legal entities appear to set up JPAs which comply with the spirit of the law to provide financial benefit to the taxpayers. However, other JPAs may provide a legal means to avoid voter approval of debt decisions and to potentially mask financial accountability. This latter case is of significant concern since it is not in the best interest of taxpayers and does not provide for full transparency.

In its analysis, the Grand Jury has determined that "horizontal" JPAs appear to comply with the spirit of the law. These JPAs provide shared services such as insurance pools, training, area transportation, communication systems, workers compensation, area flood protection, and water supply to the community. JPAs were determined to be horizontal if their members were composed of similar entities that shared a common problem or opportunity. That is, each of the members was looking to delegate a function

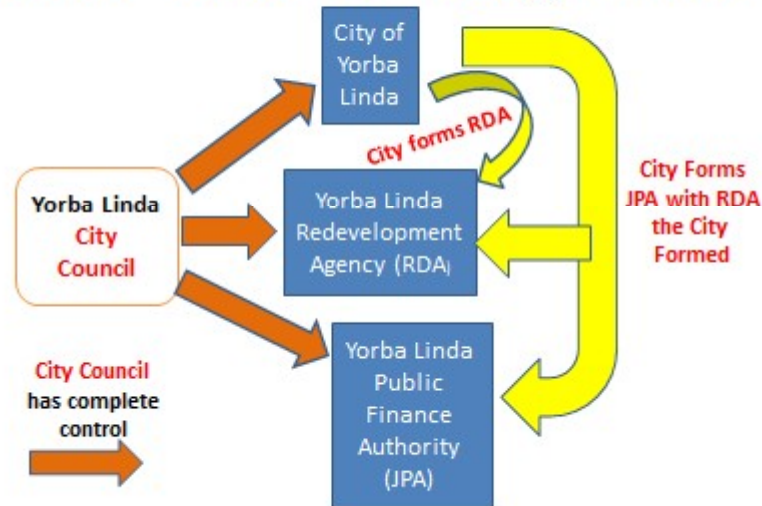
of their authority to a JPA in order to either improve the service that is provided or to reduce the cost through economies of scale. Each member in the JPA is motivated to have the JPA perform better than the individual member could do it alone. A JPA member is motivated to be looking out for their entity's best interest. As a result, if the JPA is not providing the desired results or improvements, then the member can withdraw from the JPA and go it alone. As a result, there are organizational checks and balances that tend to allow for self-correction and accountability. Many of these horizontal JPAs also tend to provide a real service to the community.

“Horizontal” JPA Structural Organization



However, the Grand Jury has determined that “vertical” JPAs do not appear to comply with the spirit of the law. These JPAs were determined to be vertical if their members were not similar entities but rather the same entity with a different organizational structure. That is, all of the members of the JPA were controlled by a single authority. The most common type of these JPAs is a finance JPA with a single city and the same city's RDA as its members. Under this structure, the city sets up its own city's RDA then “jointly” agrees to set up the financing JPA. As a result, the city council has authority over the city, the city's RDA, and the city's financing JPA. One entity is now controlling all three entities; hence, the name “vertical.” As a result, there are not the same checks and balances of membership or control as with a horizontal JPA.

“Vertical” JPA Structural Organization



The Grand Jury initially did not understand the benefit of having a vertical JPA since, in this model, the city council had control over all three entities. Clearly the city could perform these functions on its own behalf. Upon further investigation, the reasons became clearer, but the potential risk to the public also became clear and engendered concern. This understanding came from the lessons learned from the City of Bell fiasco.

The City of Bell was not able to borrow any more money to pay for the salaries that the officials had granted themselves due to Article XVI, Section 18 of the California Constitution, which prohibits cities, counties, and school districts from borrowing an amount in a given year that exceeds "...the income and revenue provided for such year" unless approval is obtained from at least 2/3 of the voters (California Constitution, Art. XVI, Sec.18). So, the City of Bell created a vertical JPA under its city council's control. The JPA now had the authority to issue debt without the approval of the voters. Since the JPA is a separate legal entity, the city is not responsible for its debt. As a result, the JPA did not have collateral to obtain a loan. So the city transferred an asset from the city to the JPA to be the collateral for the loan. Consequently, a loan was given to the JPA since the risk to the bond holders was secured. The money obtained from this loan was then transferred back to the city to pay for general obligations. This answers the question of how the City of Bell was able to borrow so much money without the ability to ever pay it back. In this case, the city taxpayers were not given their legal right to vote on the city adding additional debt upon itself. The taxpayers were also paying for the asset the city gave to the JPA twice. It was already a city asset paid by tax money and now it was being paid off again through the JPA loan.

Another example of potential abuse using a JPA is through a vertical financial JPA that involves contract leases in lieu of asset procurement. This technique has the city sign a long term lease agreement to their own JPA, with the JPA as the lessor. The

JPA then buys a building or builds a building. The JPA can obtain debt financing since it is holding a long term lease from the city as its collateral. This approach does not require voter approval of the debt or voter approval on the capital investment for the city. Since the city council has total control over this vertical JPA, they can direct the process and the decisions.

The structure of a vertical JPA with a single entity having control over all of the members is a legal organization in the State of California. However, the Grand Jury has concluded that this vertical JPA could be used by the single governing entity to bypass other legal constraints on that same entity. This structure breeds the temptation to acquire more debt without a ceiling limit like that imposed on city governments. This type of JPA can be used to circumvent the California Constitution which prohibits cities, counties, and school districts from borrowing an amount in a given year that exceeds "...the income and revenue provided for such year" unless approval is obtained from at least 2/3 of the voters (California Constitution, Article XVI, Section 18, "Debt"). The JPAs are not bound by this prohibition and do not need voter approval unless contested during the 30-day referendum period. Transparency is limited in this type of transaction because most taxpayers are unaware that a notice has been posted and there is no requirement to give it wide public dissemination. In addition, the opaque, layered structure gives the government the ability to obfuscate financial transactions within the parent organization and hence from the taxpayers. This is the equivalent of a "shell company" in business. The Grand Jury has concluded that the use of a JPA to legally by-pass the voting rights of the taxpayers or obfuscates the financial transaction's real cost is an unacceptable situation for its citizens.

Transparency

The Grand Jury originally believed that they would be able to obtain information regarding the finances of JPAs from both the County or State government organizations since there is a statutory reporting requirement. However, this was not the case. The County did not have a list of JPAs in the County other than those JPAs of which the County is a member. In addition, the State records regarding JPAs were also found to be incomplete. There appears to be confusion by many of the JPAs regarding their responsibility to report to the State under SB 282 Chapter 288. This is further complicated because the State Controller's report lists them under a "Special Districts" heading. In addition, the State Controller's report provides a disclaimer that the State is not responsible for the content. In addition, the Orange County Auditor-Controller's Office does not provide any review or easy access to the JPA financial reports that are sent to them. Any assumption by the public that either the State or the County is providing a value-added review of the audited information, or lack thereof, would be incorrect.

As a result, the Grand Jury has concluded that there is extensive non-compliance with the disclosure requirements contained in the Government Code Section 6500 and SB 282. This results in a significant loss of transparency to the public and taxpayers. There are ten JPAs in OC that do not report their financial information to either the State or the County. In addition, there are 32 JPAs in OC that do not report their financial information to the State.

Solvency

While some JPAs have relatively modest levels of debt, others have very significant debt. The Foothill Transportation Corridor Agency and the San Joaquin Transportation Corridor Agency have a joint debt level of over \$4.5 billion, which is about 63% of the total debt reported by all the JPAs in Orange County. This level of public debt on the citizens of Orange County is very significant. These two transportation agencies only have an income level of \$292 million per year. With this extreme debt burden, the Grand Jury questions their ability to pay off the principal and interest, based on their current revenue level.

The Orange County Fire Authority is a JPA with annual revenue of \$331 million and a modest reported debt level of about \$10 million. However, the Orange County Fire Authority has an off-the-books unfunded debt liability of over \$577 million. This debt liability is the result of pension commitments made to employees which encumber future tax revenues that are not actuarially held in reserve. This has the potential to become a financial debacle, for the JPA and the taxpayers.

The Anaheim Public Financing Authority which is a JPA between the City of Anaheim and the Anaheim Redevelopment Agency, has an income of \$154 million and a debt exposure of \$1.2 billion. The debt level of this JPA is extremely high compared to its income level. In addition, with the elimination of the Anaheim Redevelopment Agency, its successor agency can continue to be a member of the JPA. However, neither the JPA nor the successor agency can exist for any other purpose besides paying off remaining debt or bonds. As a result, the Grand Jury questions both the viability and the solvency of this JPA based on the information provided.

FINDINGS

In accordance with California Penal Code sections 933 and 933.05, the 2014-2015 Grand Jury requires (or, as noted, requests) responses from each agency affected by the findings presented in this section. The responses are to be submitted to the Presiding Judge of the Superior Court.

Based on its investigation titled "Joint Powers Authorities in Orange County," the 2014-2015 Orange County Grand Jury has arrived at ten principal findings, as follows:

- F.1.** Orange County has nine "inactive" Joint Powers Authorities that have no viable activity, revenue, expenditure, assets, or liabilities. The Grand Jury determined that these Joint Powers Authorities serve no benefit to the public or the taxpayers and have the potential for misuse or obfuscation of public funds.
- F.2.** Horizontal Joint Powers Authorities among peer organizations appear to meet the intent of State laws to delegate a common service for a city or other legal entity for the purpose of reducing cost on behalf of the taxpayers.
- F.3.** Orange County has 18 vertical Joint Powers Authorities created by a city along with its redevelopment agency that no longer exists. The Grand Jury determined

that these Joint Powers Authorities serve no benefit to the public or the taxpayers and have the potential for misuse or obfuscation of public funds.

- F.4.** Vertical Joint Powers Authorities with a single controlling entity, such as a city council, have the potential to use this organizational structure as a shell company to avoid other legal constraints on the controlling entity and to obfuscate taxpayer visibility.
- F.5.** Vertical Joint Powers Authorities in which the controlling entity transfers assets from itself to a Joint Powers Authority for the purpose of obtaining additional funding, or signs a long-term lease to a Joint Powers Authority to obtain assets, are avoiding transparency and are not acting in the best financial interest of the taxpayers.
- F.6.** 32 of the Joint Powers Authorities identified in Orange County are not complying with the California State reporting requirements in code Section 6500 and SB 282 according to the latest information available from the year 2013.
- F.7.** The Orange County Auditor-Controller knows of the Joint Powers Authorities in which the County is a member, but does not have a list of all of the Joint Powers Authorities in Orange County and cannot confirm compliance of their submittal for public access. The Orange County Auditor-Controller does not provide easy-to-use online access to the data submitted to it by the Joint Powers Authorities that are compliant with the requirement to submit.
- F.8.** The Foothill Transportation Corridor Agency and the San Joaquin Transportation Corridor Agency have a joint debt level of over \$4.5 billion. The Grand Jury has determined that this debt level is excessive based on their revenues, and it threatens to render them insolvent.
- F.9.** The Orange County Fire Authority has an off-the-books unfunded debt liability of \$577 million which the Grand Jury has determined to be of concern since it is a real liability on the County taxpayers.
- F.10.** The Anaheim Public Financing Authority has a debt exposure of \$1.2 billion which the Grand Jury has determined to be excessive in light of the fact that it was incurred without voter approval.

RECOMMENDATIONS

In accordance with California Penal Code sections 933 and 933.05, the 2014-2015 Grand Jury requires (or, as noted, requests) responses from each agency affected by the recommendations presented in this section. The responses are to be submitted to the Presiding Judge of the Superior Court.

Based on its investigation titled "Joint Powers Authorities in Orange County," the 2014-2015 Orange County Grand Jury makes the following eight recommendations:

- R.1.** All Orange County Joint Powers Authorities that are "inactive" should submit the official paperwork with the State of California requesting termination of their

existence or provide at the next public meeting the justification for continuing the Joint Powers Authority. (F.1.)

- R.2.** All Vertical Joint Powers Authorities created by a city along with its redevelopment agency should submit the necessary paperwork with the State of California requesting termination of their existence. (F.3.)
- R.3.** All Joint Powers Authorities should take the following actions to insure transparency to the taxpayers: (1) have an annual outside audit, (2) post the complete audit on their city website as a separate Joint Powers Authority entity, (3) send the audit to the County Controller and the State Auditor, and (4) ensure the required reports are filed annually to the County and the State. (F.4., F.5.)
- R.4.** The 32 Joint Powers Authorities that are not complying with the California State Law requiring annual reporting should become compliant by submitting their 2014 report by December 31, 2015, and submitting the required reports annually thereafter. (F.6.)
- R.5.** The Orange County Auditor-Controller should maintain a current list of all of the Joint Powers Authorities in Orange County, confirm that reports have been submitted annually, and post the completed reports with all the details on an easy-to-use Internet public access website. (F.7.)
- R.6.** The Foothill Transportation Corridor Agency and the San Joaquin Transportation Corridor Agency should address their solvency by an aggressive plan to reduce their public debt. (F.8.)
- R.7.** The Orange County Fire Authority should address their lack of transparency by providing public disclosure of their off-the-books unfunded public liability in their financial statements and address their solvency by an aggressive plan to reduce their unfunded liabilities. (F.9.)
- R.8.** The City of Anaheim City Council should redress the debt incurred by the Anaheim Public Financing Authority under its direction by an aggressive plan to reduce their public debt. (F.10.)

REQUIRED RESPONSES

The California Penal Code section 933 requires the governing body of any public agency which the Grand Jury has reviewed, and about which it has issued a final report, to comment to the Presiding Judge of the Superior Court on the findings and recommendations pertaining to matters under the control of the governing body. Such comment shall be made no later than 90 days after the Grand Jury publishes its report (filed with the Clerk of the Court). Additionally, in the case of a report containing findings and recommendations pertaining to a department or agency headed by an elected County official (e.g. District Attorney, Sheriff, etc.), such elected official shall comment on the findings and recommendations pertaining to the matters under that elected official's control within 60 days to the Presiding Judge with an information copy sent to the Board of Supervisors.

Furthermore, California Penal Code section 933.05, subdivisions (a), (b), and (c), provides as follows, the manner in which such comment(s) are to be made:

(a) As to each Grand Jury finding, the responding person or entity shall indicate one of the following:

(1) The respondent agrees with the finding

(2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefore.

(b) As to each Grand Jury recommendation, the responding person or entity shall report one of the following actions:

(1) The recommendation has been implemented, with a summary regarding the implemented action.

(2) The recommendation has not yet been implemented, but will be implemented in the future, with a time frame for implementation.

(3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a time frame for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This time frame shall not exceed six months from the date of publication of the Grand Jury report.

(4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefore.

(c) If a finding or recommendation of the Grand Jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, both the agency or department head and the Board of Supervisors shall respond if requested by the Grand Jury, but the response of the Board of Supervisors shall address only those budgetary /or personnel matters over which it has some decision making authority. The response of the elected agency or department head shall address all aspects of the findings or recommendations affecting his or her agency or department.

Comments to the Presiding Judge of the Superior Court in compliance with Penal Code section 933.05 and Penal Code 933(c) are required from the respondents listed in the following two Response Matrices (one for cities and County and one for Joint Powers Authorities):

Matrix 1 REQUIRED RESPONDENTS (Cities & County)

	Required Respondents	Findings										Recommendations							
		F 1	F 2	F 3	F 4	F 5	F 6	F 7	F 8	F 9	F 10	R 1	R 2	R 3	R 4	R 5	R 6	R 7	R 8
1	City of Anaheim Mayor & City Council			X							X		X						X
2	City of Brea Mayor & City Council			X									X						
3	City of Buena Park Mayor & City Council	X		X								X	X						
4	City of Costa Mesa Mayor & City Council			X									X						
5	City of Fullerton Mayor & City Council	X		X								X	X						
6	City of Fountain Valley Mayor & City Council			X									X						
7	City of Garden Grove Mayor & City Council	X		X								X	X						
8	City of Huntington Beach Mayor & City Council			X									X						
9	City of La Habra Mayor & City Council			X									X						
10	City of Lake Forest Mayor & City Council			X									X						
11	City of Mission Viejo Mayor & City Council			X									X						
12	City of San Clemente Mayor & City Council			X									X						
13	City of San Juan Capistrano Mayor & City Council	X										X							
14	City of Santa Ana Mayor & City Council			X									X						
15	City of Seal Beach Mayor & City Council			X									X						
16	City of Stanton Mayor & City Council	X		X								X	X						
17	City of Tustin Mayor & City Council	X		X								X	X						

	Required Respondents	Findings										Recommendations							
		F 1	F 2	F 3	F 4	F 5	F 6	F 7	F 8	F 9	F 10	R 1	R 2	R 3	R 4	R 5	R 6	R 7	R 8
18	City of Westminster Mayor & City Council	X		X								X	X						
19	City of Yorba Linda Mayor & City Council			X									X						
20	Orange County Auditor-Controller							X								X			

Matrix 2 REQUIRED RESPONDENTS (Joint Powers Authorities)

	Required Respondents	Findings										Recommendations							
		F 1	F 2	F 3	F 4	F 5	F 6	F 7	F 8	F 9	F 10	R 1	R 2	R 3	R 4	R 5	R 6	R 7	R 8
1	Anaheim Community Center Authority				X	X								X					
2	Anaheim Housing and Public Improve. Auth.				X	X								X					
3	Anaheim Public Financing Authority			X	X	X					X		X	X					X
4	Big Independent Cities Excess Pool				X	X								X					
5	Bonita Canyon Public Facilities Fin. Auth.				X	X								X					
6	Brea Community Benefits Financing Auth.				X	X								X					
7	Brea Public Financing Authority			X	X	X							X	X					
8	Buena Park Public Financing Authority	X		X	X	X						X	X	X					
9	California Insurance Pool Authority				X	X								X					
10	Capistrano Unified Public Financing Auth.	X			X	X	X					X		X	X				
11	Central Net Operations Authority				X	X	X							X	X				
12	City of Brea Midbury Assessment Auth.				X	X	X						X	X	X				
13	City of Fullerton Public Financing Auth.			X	X	X	X						X	X	X				
14	City of San Clemente Public Fin. Auth.			X	X	X	X						X	X	X				
15	Coastal Animal Services Authority				X	X	X							X	X				

Joint Powers Authorities: Issues of Viability, Control, Transparency, and Solvency

	Required Respondents	Findings										Recommendations							
		F 1	F 2	F 3	F 4	F 5	F 6	F 7	F 8	F 9	F 10	R 1	R 2	R 3	R 4	R 5	R 6	R 7	R 8
16	Coastal District Financing Authority				X	X								X					
17	Co-Op- Org. Develop. Employee Selec.Proced.				X	X								X					
18	Costa Mesa Public Finance Authority			X	X	X							X	X					
19	Countywide Public Finance Authority	X			X	X	X						X	X	X	X			
20	Fountain Valley Financing Authority			X	X	X	X						X	X	X				
21	Fullerton Arboretum Authority				X	X								X					
22	Fullerton Library Building Authority	X			X	X	X						X	X	X				
23	Fullerton School District Financing Auth.				X	X	X							X	X				
24	Garden Grove Public Financing Authority	X		X	X	X	X						X	X	X	X			
25	Huntington Beach Public Financing Auth.			X	X	X							X	X					
26	Independent Cities Risk Management Auth.				X	X	X							X	X				
27	Integrated Law and Justice Agency for OC				X	X	X							X	X				
28	Irvine Child Care Project				X	X	X							X	X				
29	Irvine Unified School District Financing Auth.				X	X								X					
30	Joint Powers Employee Benefit Authority				X	X								X					
31	La Habra Civic Improvement Authority			X	X	X	X						X	X	X				
32	Metro Cities Fire Authority				X	X	X							X	X				
33	Mission Viejo Commu. Devel. Fin. Auth.			X	X	X	X						X	X	X				
34	National Water Research Institute				X	X	X							X	X				
35	Newport-Mesa United School Fin. Auth.	X			X	X	X						X	X	X				
36	North Net Joint Powers Training Agree.				X	X	X							X	X				

Joint Powers Authorities: Issues of Viability, Control, Transparency, and Solvency

	Required Respondents	Findings										Recommendations							
		<u>F</u> <u>1</u>	<u>F</u> <u>2</u>	<u>F</u> <u>3</u>	<u>F</u> <u>4</u>	<u>F</u> <u>5</u>	<u>F</u> <u>6</u>	<u>F</u> <u>7</u>	<u>F</u> <u>8</u>	<u>F</u> <u>9</u>	<u>F</u> <u>10</u>	<u>R</u> <u>1</u>	<u>R</u> <u>2</u>	<u>R</u> <u>3</u>	<u>R</u> <u>4</u>	<u>R</u> <u>5</u>	<u>R</u> <u>6</u>	<u>R</u> <u>7</u>	<u>R</u> <u>8</u>
61	South Orange County Wastewater Auth.				X	X								X					
62	Southern Orange County Prop/Lia. Self Insu.				X	X								X					
63	Stanton Public Financing Authority	X		X	X	X	X						X	X	X	X			
64	The Foothill Trans. Corridor Agency				X	X			X					X			X		
65	Trabuco Canyon Public Financing Authority				X	X								X					
66	Tustin Public Financing Authority	X		X	X	X	X						X	X	X	X			
67	Tustin Unified School District Fin. Auth.				X	X	X							X	X				
68	West Cities Commun. Cntr. Joint Powers Auth.				X	X	X							X	X				
69	Western Orange County Self-Funded Comp				X	X								X					
70	Westminster Public Finance Authority	X		X	X	X	X						X	X	X	X			
71	Yorba Linda Public Finance Authority			X	X	X	X							X	X	X			

REFERENCES

Cypher, T. & Grinnell, C. (2007). *Governments Working Together: A Citizen's Guide to Joint Powers Agreements*. California State Legislature, Senate Local Government Committee Report.

State of California Constitution. *Article XVI. Section 18. "Debt"*.

State of California Government Code Section 6500. *Joint Exercise of Powers Act*

State of California Senate Bill No. 282. (2001). *Chapter 288, Amended Section 12463.1* [Government Code].

**Grand Jury Response: “Joint Powers Authorities: Issues of Viability,
Control, Transparency, and Solvency”**

August 28, 2015

The Honorable Glenda Sanders
Presiding Judge
Orange County Superior Court
700 Civic Center Drive West
Santa Ana, CA 92701

Your Honor,

The Orange County Fire Authority (OCFA) Board of Directors reviewed the 2014/15 Grand Jury report, “Joint Powers Authorities: Issues of Viability, Control, Transparency, and Solvency,” during its public meeting held on August 27, 2015. The Board has reviewed and authorized this formal response from our agency.

We appreciate the time and effort the Grand Jury has dedicated to the citizens of Orange County in the pursuit of fair and transparent governance. The enclosed responses describe the OCFA’s compliance with the Grand Jury’s recommendations.

If I may be of service in the clarification of this response, please feel free to contact me at jeffbowman@ocfa.org or (714) 573-6010.

Sincerely,

Jeff Bowman
Fire Chief

**Grand Jury Response: “Joint Powers Authorities: Issues of Viability,
Control, Transparency, and Solvency”**

Reserved for Board Recommendation/Action

Grand Jury Response: “Joint Powers Authorities: Issues of Viability, Control, Transparency, and Solvency”

Background and History of Compensation Cost Transparency at OCFA

The Orange County Grand Jury released a report entitled, “*Joint Powers Authorities: Issues of Viability, Control, Transparency, and Solvency*” on June 29, 2015. The report addresses concerns with (1) the viability of the JPAs with Redevelopment Agencies as members since RDAs were eliminated in 2012, (2) the use of JPAs by government organizations to be controlled by a single governmental entity, (3) the lack of true disclosure and transparency of their organization and financial information to taxpayers, and (4) the extreme debt to revenue ratio of some JPAs, which brings into questions their solvency.

Summary

Since becoming a Joint Powers Authority in 1995, the Orange County Fire Authority has evolved from a start-up organization to one that has continually received awards for excellence in financial reporting. A key to the current success and recognition has been the involvement and oversight by our Board of Directors in fiscal responsibility and strategic planning.

Some of the key documents that ensure continued transparency of our organization and financial information, and which are made available annually to our Board of Directors and the public include:

- Average annual firefighter earnings presented every November since 2008 including:
 - Annual overtime costs
 - Top earners and reasons for overtime
- Since 2009, the OCFA has regularly forwarded all compensation information on an annual basis to the State Controller’s Office for posting on its website, and provides a web link on OCFA’s website to this information
- The OCFA posts all employee’s and director’s compensation information on its website as recommended by the 2012 Grand Jury Report using the Grand Jury’s model that was to be replicated by all Orange County local governments, since 2012
- Annual Budget Adoption (occurs annually each May or June)
 - While not required by law, the OCFA conducts a public hearing with each proposed budget adoption
 - Retirement and benefit costs are included in the publicly circulated budget documents, as well as retirement rate information
 - Future salary increases per labor agreements, if any, are disclosed within the budget documents
 - Five-year financial forecasts are provided in the budget documents, including a narrative which describes the detailed assumptions used within the forecast pertaining to salary and benefit costs
- Comprehensive Annual Financial Reports & Single Audit Reports
- The Orange County Retirement System (OCERS) posts retirement rate information on its website
- Since 2012, the OCFA has provided annual Liability Studies at public meetings of the Board of Directors, with the stated purpose “to ensure the long-term viability of the organization.”

**Grand Jury Response: “Joint Powers Authorities: Issues of Viability,
Control, Transparency, and Solvency”**

Response to Findings and Recommendations

Finding 4. Vertical Joint Powers Authorities with a single controlling entity, such as a city council, have the potential to use this organizational structure as a shell company to avoid other legal constraints on the controlling entity and to obfuscate taxpayer visibility.

The OCFA partially disagrees with this finding because the above finding is not applicable to the OCFA. Based upon the criteria provided in the Grand Jury report, the OCFA is a horizontal JPA, not a vertical JPA, since our members are composed of multiple similar entities that share a common problem or opportunity.

The OCFA membership is made up of 23 Orange County cities and the County of Orange for the purpose of providing public safety through shared fire prevention, suppression and emergency medical services. Each member agency has delegated these functions to the OCFA, reduced the cost of service through economies of scale, and has representation on its Board of Directors. The OCFA provides regional services, including specialty resources that would be difficult (financially) for many of our individual member agencies to provide on their own, such as air operations, hazardous materials response, hand crew and heavy equipment (bulldozer) services, etc. Each member agency also has the ability to withdraw from the OCFA JPA, if it so chooses. As a result, there are organizational checks and balances that allow for self-correction and accountability. As cited in the Grand Jury report as an example of horizontal JPAs, the OCFA JPA *does* provide a real service to the community.

Finding 5: Vertical Joint Powers Authorities in which the controlling entity transfers assets from itself to a Joint Powers Authority for the purpose of obtaining additional funding, or signs a long-term lease to a Joint Powers Authority to obtain assets, are avoiding transparency and are not acting in the best financial interest of the taxpayers.

The OCFA partially disagrees with this finding because the above finding is not applicable to the OCFA. As explained in Finding 4, the OCFA is not a vertical JPA structure, but a horizontal JPA structure.

Finding 9: The Orange County Fire Authority has an off-the-books unfunded debt liability of \$577 million which the Grand Jury has determined to be of concern since it is a real liability on the County taxpayers.

The OCFA disagrees partially with this finding. The OCFA complies with all requirements issued by the Government Accounting Standards Board (GASB). GASB previously required governmental agencies to disclose pension contribution information in the footnotes of their financial statements; however, GASB did not require liabilities to be recognized for the local government’s obligations in a pension plan. Under new GASB Statement 68 (*Accounting and Financial Reporting for Pensions*) effective fiscal year ended June 30, 2015, OCFA will begin reporting a liability in its financial statements for the unfunded portion of its pension liability. This action is described in greater detail in the response to Recommendation 7, below.

Separate from the financial statement reporting discussed above, the OCFA has routinely provided disclosure and transparency of its liabilities well-beyond GASB requirements by

Grand Jury Response: “Joint Powers Authorities: Issues of Viability, Control, Transparency, and Solvency”

issuing an annual Liability Study at public meetings and making the Study available on its website.

<http://www.ocfa.org/Transparency/Transparency.aspx#financial>

Further, the OCFA has taken a proactive role in paying down this debt. See response to Recommendation 7.

Recommendation 3. All Joint Powers Authorities should take the following actions to insure transparency to the taxpayers: (1) have an annual outside audit, (2) post the complete audit on their city website as a separate Joint Powers Authority entity, (3) send the audit to the County Controller and the State Auditor, and (4) ensure the required reports are filed annually to the County and the State.

The OCFA has previously and routinely followed these recommended practices; therefore, the recommendation has been implemented.

Since its creation, the OCFA has regularly conducted annual financial audits performed by an outside Certified Public Accounting (CPA) firm, with the results presented to its Budget and Finance Committee and Board of Directors for approval. These audit reports are routinely included as attachments to the corresponding staff reports for the public meetings, and are made available on the OCFA’s website. In addition, the audit reports are posted as independent documents on the OCFA’s webpage dedicated to “transparency.” OCFA staff routinely forwards these audit and financial reports to each member agency, which includes the County of Orange’s CEO and the State Controller’s Office. The Grand Jury report is recommending that audits be transmitted specifically to the County Controller and the State Auditor. While the OCFA already transmits its audits with the County CEO and the State Controller, we will also add the County Controller and State Auditor to future transmittals.

Recommendation 7. The Orange County Fire Authority should address their lack of transparency by providing public disclosure of their off-the-books unfunded public liability in their financial statements and address their solvency by an aggressive plan to reduce their unfunded liabilities.

The recommendation has not yet been fully implemented, but will be in the future.

Although we believe there has been no lack of transparency by OCFA concerning its long-term liabilities due to our reporting process through an annual Liability Study, we agree that OCFA’s pension liability was not included in the financial statements, as discussed under Finding 9. Under new GASB Statement 68 (*Accounting and Financial Reporting for Pensions*) effective fiscal year ended June 30, 2015, OCFA will begin reporting a liability in its financial statements for the unfunded portion of its pension liability. The financial statements will be presented to the Budget and Finance Committee and Board of Directors for approval in November 2015, after the completion of the annual audit.

OCFA’s Annual Liability Study

In July 2012, OCFA staff presented a comprehensive Liability Study to its Budget and Finance Committee specifically highlighting long term liabilities facing the OCFA. This Study was reviewed by the OCFA Board of Directors at its September 2012, meeting. The Liability Study

Grand Jury Response: “Joint Powers Authorities: Issues of Viability, Control, Transparency, and Solvency”

not only included pension liabilities, but also included retiree medical liabilities, workers compensation liabilities, and compensated absences. This report exceeded the then current GASB reporting requirements and was intended to keep the Board of Directors and members of the public aware of significant financial challenges facing OCFA so that appropriate plans could be developed for addressing these liabilities. This report was updated and again presented to both the OCFA Budget and Finance Committee and Board of Directors in September 2013 and October 2014.

Actions taken based on these public reports included (1) directing staff to transmit a copy of the report to the County Board of Supervisors and the OCERS Board of Retirement, for its consideration of potential cost-containment actions relating to Pension Cost of Living Adjustments (COLAs) under the authority granted by the '37 Retirement Act, (2) directing staff to pursue a special actuarial study relating to the OCFA's Retiree Medical Defined Benefit Plan to evaluate options for potential plan amendments which could improve plan funding, subject to future negotiation with OCFA's labor groups, (3) directing staff to evaluate the financial feasibility of paying off the outstanding lease financing obligations associated with the OCFA's helicopters, as part of the 2014/15 budget development process, and (4) directing staff to evaluate options for mitigating the budget and liability impacts of payouts for accumulated sick and vacation balances, subject to future negotiation with OCFA's labor groups.

Governmental Accounting Standards Board Statement 68

The following information was presented to the OCFA Budget and Finance Committee at its May 14, 2015, meeting in connection with its regular communication with its independent financial auditor in accordance with Statements on Auditing Standards (SAS) No. 114 for the FY 2014/15 Financial Audit:

“On June 25, 2012, the Governmental Accounting Standards Board (GASB) issued new Statement No. 68, Accounting and Financial Reporting for Pensions, which affects the government-wide financial statements of governmental employers that sponsor or contribute to pension plans. OCFA is required to implement this new standard as part of the Fiscal Year 2014/15 financial audit for its full-time employee pension plan with the Orange County Employees' Retirement System (OCERS).

OCERS utilizes an actuary to annually calculate its Total Pension Liability (TPL) for the pension system. The TPL accounts for all future benefit payments that will be made, decades into the future, to current employees of all OCERS plan sponsors. The difference between the pension plan's assets and its TPL is the Net Pension Liability (NPL), also commonly referred to as the “unfunded liability.” With GASB Statement No. 68, OCFA will now be required to report its proportionate share of the overall NPL as a long-term liability on its financial statements.

Previously, there had been a close relationship between how governments fund pensions and how they account and report pension information in their financial statements. A pension liability was only reported if there was a cumulative difference between the required and actual contributions made to the pension plan. For OCFA, the amount of any pension liability reported in its financial statements has always been \$0, since all required contributions determined by the OCERS actuary have been contributed each year. Under GASB Statement No. 68, the funding

Grand Jury Response: “Joint Powers Authorities: Issues of Viability, Control, Transparency, and Solvency”

of OCFA’s pension liability is now completely disconnected from how the liability and related pension expense is reported in the financial statements. It is anticipated that OCFA will begin reporting a Net Pension Liability of approximately \$450 million in its Fiscal Year 2014/15 financial statements.

It is important to note that the factual situation of OCFA’s pension plan has not changed. Only the way the plan is accounted for and reported in the financial statements is changing. The new guidance provided in GASB Statement No. 68 is a definitive shift from a ***funding-based approach*** to an ***accounting-based approach***. This shift will improve the decision-usefulness of employer-level reported pension information and increase the transparency, consistency, and comparability of pension information across governments.

OCERS has worked with Segal Consulting to develop an actuarial valuation that includes all of the elements necessary for a successful implementation of GASB Statement No. 68 by both OCERS and the various plan sponsors. As part of OCERS’ 2014 financial audit, its auditors Macias Gini & O’Connell, LLP, (MGO) completed additional audit tests that directly relate to the pension plan as a whole. In addition, OCFA’s financial auditors Lance, Soll & Lunghard, LLP, (LSL) will also be increasing the scope of its audit testing that directly relates to OCFA’s portion of the pension plan. The increase in audit test work by both firms (MGO and LSL) will likely include additional steps to test the census data provided to the actuary, as well as any new schedules and disclosures required to be included in the financial statements.”

Accelerated Pay Down of OCFA’s Unfunded Pension Liability

At its September 26, 2013 Board of Director’s meeting, the following strategies for expedited payment of OCFA’s unfunded pension liability were approved. These actions were originally estimated to reduce OCFA’s amortization period significantly, with payoff anticipated in less than 16 years instead of the 29 year amortization period that was in place by OCERS when this plan was adopted. In 2014, updated actuarial reviews indicated that OCFA’s accelerated pay down plan would result in full payment of OCFA’s unfunded pension liability within 13 years.

The accelerated pay down strategies that have been operational for the past two years include:

1. Contribute additional amounts each year using the unencumbered fund balance available following the close of the prior fiscal year, estimated at approximately \$3 million per year.
2. Contribute additional funds each year, using the savings that will be realized under PEPRA and savings from reductions to OCFA’s retirement contribution rates, based on recent 15-year rate projections provided by Segal Consulting.
3. Beginning in FY 2016/17, contribute an additional \$1 million per year building to \$5 million in annual payments over 5 years; at year 5, pause to reassess whether the annual increases should continue to build, remain at \$5 million, or be adjusted otherwise.

In addition, the Board of Directors took the following actions at its public meeting:

**Grand Jury Response: “Joint Powers Authorities: Issues of Viability,
Control, Transparency, and Solvency”**

1. Directed staff to provide updates to the Board each year as part of the mid-year budget presentation, indicating the amount of Fund Balance Available (FBA) from the prior fiscal year, and directing those amounts to be paid to OCERS as annual lump-sum payments towards the OCFA’s UAAL.

2. Directed staff to include additional payments towards the OCFA’s UAAL in the annual budget, including the following factors:
 - a. Savings that result from the new Public Employees’ Pension Reform Act provisions and other reductions in OCFA’s retirement contribution rates shall be used as a source for additional UAAL payments.

 - b. Beginning in FY 2016/17, an additional \$1 million should be added to the OCFA’s annual budget each year for 5 years, for retirement contributions to OCERS as a base-building source for additional UAAL payments.

 - c. Provide updates to the Board each year as part of the annual budget presentation, indicating the amount planned in each yearly budget as additional payments towards the OCFA’s UAAL, resulting from the factors above.

The OCFA has been proactive in disclosing its pension liability to the Board of Directors, making the information transparent to the public, and developing creative plans to pay down the pension liability, thereby enhancing the organization’s financial strength.

OCFA has been apportioned \$100,000 of the 2014 grant award to the Orange County Operational Area. The objective of this grant award is to develop a standardized regional Wildland Urban Interface Pre-fire Response Plan, which will be available to fire and law enforcement first responders and emergency managers throughout Orange County. The Plan will emphasize area-specific strategies and tactics for structural defense, responder safety, evacuation and public protective actions, and critical infrastructure protection. OCFA will use the grant funds to hire a contractor with expertise in developing and writing Wildland Urban Interface Pre-fire Response Plans to assist with this project.

Staff recommends acceptance of these grant funds for development of the Wildland Urban Interface Pre-fire Plans, and that revenue and appropriations be increased by \$100,000 in the FY 2015/16 General Fund.

[Attachment\(s\)](#)

2014 State Homeland Security Grant Program Award Letter

GY2014 Homeland Security Grant Program

Project Approval Notification

Chief Randy Black
Orange County Fire Authority
1 Fire Authority Rd.
Irvine, CA 92602

Requesting Jurisdiction: Orange County Fire Authority
Project Request: Wildland Urban Interface Pre-Fire Plans
Project Allocation: \$100,000
Awarding Agency: CalOES / Department of Homeland Security
Award Name: Homeland Security Grant Program
CFDA: 97.067

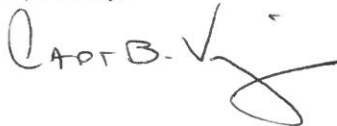
The application for the above project has been reviewed. This letter serves to inform you that your project has been approved by the Homeland Security Grant Program (HSGP).

An in depth review process of the application and the project concept itself was necessary prior to approval. This process is required due to stringent HSGP Grant Guidelines that must be adhered to. Following the review, your project was found to be a viable concept based on investment justifications, regional benefit, and degree of applicability to the over arching Homeland Security Grant goals and objectives.

It is critical that you become familiar with the 2014 Homeland Security Grant Program Guidance and the 2014 Homeland Security Grant Program California Supplemental Guidance. It is also imperative you contact the Homeland Security Grant Unit before funding any project that may be questionable in regards to Homeland Security Grant Program procurement guidelines and/or the Authorized Equipment List. We will seek approval from the State on your behalf in hopes of eliminating any reimbursement issues.

If you have any questions regarding this notification or the review process, please feel free to contact me or Luis Ramirez at 714-647-1871, or luramirez@ocsd.org.

Respectfully,

A handwritten signature in black ink, appearing to read "B. Virgoe", with a stylized flourish at the end.

Captain Brad Virgoe
Homeland Security Division
Orange County Sheriff's Department
714-647-1854
bvirgoe@ocsd.org



Orange County Fire Authority
AGENDA STAFF REPORT

Board of Directors Meeting
August 12, 2015

Agenda Item No. 3E
Consent Calendar

Acceptance of 2015 Department of Homeland Security/Federal Emergency Management Agency's Urban Search & Rescue Preparedness Grant

Contact(s) for Further Information

Dave Thomas, Assistant Chief davidthomas@ocfa.org 714.573.6012
Operations Department

Jeff Adams, Battalion Chief jeffadams@ocfa.org 949.837.7468
US&R Program Manager

Summary

This item is submitted for approval and acceptance of the 2015 Preparedness Grant from the Department of Homeland Security/Federal Emergency Management Agency's (DHS/FEMA) National Urban Search and Rescue (US&R) Program.

Prior Board/Committee Action – Committee Recommendation: *APPROVE*

At its August 12, 2015, meeting, the Budget and Finance Committee reviewed and unanimously recommended approval of this item.

RECOMMENDED ACTION(S)

1. Adopt the proposed Resolution to accept the Department of Homeland Security/Federal Emergency Management Agency's Administrative Preparedness Grant.
2. Direct staff to increase revenue and appropriations in the amount of \$1,312,082 in the General Fund (Fund 121).

Impact to Cities/County

Not Applicable.

Fiscal Impact

\$1,312,082 increase in General Fund (Fund 121) revenue and appropriations in the FY 2015/16 budget.

Background

California Task Force 5 (CA TF-5), located in Orange County and sponsored by the Orange County Fire Authority, is one of 28 National US&R Task Forces. CA TF-5 has used past grant funds and activation reimbursements to equip and train the task force members for the mission of rescuing victims in collapsed structures and for weapons of mass destruction/terrorist responses.

Currently, CA TF-5 maintains a response capability that includes apparatus and equipment supply inventory worth approximately \$8 million. There is also a personnel cadre of over 220 members, composed of a civilian element of structural engineers, disaster canines, and physicians, as well as firefighters from the participating agencies of Anaheim, Orange, and the OCFA.

DHS/FEMA has authorized a grant award of \$1,154,582 to each US&R Task Force for the administration of an approved National Urban Search and Rescue Response System. In addition to this \$1.1 million grant that has been awarded to each US&R Task Force, our OCFA sponsored CA TF-5 will receive additional funding for our members' participation and support of the national program. Total grant funding for CA TF-5 is as follows:

Grant Funding Component	Component Amount	Total Grant Funding
<i>Base grant provided to each US&R Task Force:</i>		
• Administration	354,332	
• Training (including travel expenses)	246,302	
• Equipment/Cache (acquisition, modifications)	203,084	
• Storage and Maintenance	350,864	
<i>Subtotal</i>		\$1,154,582
<i>Additional grant components provided to CA TF-5 only:</i>		
• Administration – National US&R Logistics Leader	12,000	
• Administration – Two National Incident Support Team Leaders	12,000	
• Administration – Deputy Operations Leader	4,000	
• Administration – Documentation Sub Group Leader	4,500	
• Training – National Course, Task Force Leader	25,000	
• Training – National Course, S-420 Command and General Staff	100,000	
<i>Subtotal</i>		\$157,500
Total Grant Funding Awarded to CA TF-5		\$1,312,082

The final grant total of \$1,312,082 for CA TF-5 is the second highest total provided to any National US&R Team. Through the leadership of OCFA's immediate-past Board Chair, Al Murray, OCFA was able to enhance relationships with Congressional representatives. This effort not only helped to broaden appreciation for OCFA's US&R program, it may have facilitated additional funding in HR 1471. The legislation, currently moving through Congress, identifies \$50M nationally for the country's 28 US&R teams. This is an increase of \$15M from the previous year, and may result in an additional \$500,000 for CA TF-5.

The grant funding continues the development and maintenance of the National US&R Response System resources to be prepared to provide qualified, competent US&R personnel in support of all US&R activities/incidents under the Federal Response Plan.

This grant funding is available for use beginning October 1, 2015 through December 31, 2016.

[Attachment\(s\)](#)

Proposed Resolution for Acceptance of FEMA US&R Grant

RESOLUTION NO. 2015-XX

**A RESOLUTION OF THE ORANGE COUNTY FIRE AUTHORITY
ACCEPTING THE FEMA NATIONAL URBAN SEARCH AND RESCUE
(US&R) PROGRAM GRANT TO PURCHASE US&R EQUIPMENT AND
SUPPLIES, MAINTENANCE AND REPAIR OF US&R EQUIPMENT,
TRAINING AND PROGRAM ADMINISTRATION**

WHEREAS, the Orange County Fire Authority is one of only 28 agencies in the country selected to participate in the FEMA's National US&R Response System; and

WHEREAS, OCFA entered into a tri-party agreement with FEMA and Cal-OES, that provides oversight and additional support for the program; and

WHEREAS, currently Orange County US&R Task Force 5 maintains a response capability including apparatus and equipment supply inventory worth approximately \$8 million; and

WHEREAS, Orange County US&R Task Force 5 maintains a personnel cadre of more than 220 members that includes a civilian element of structural engineers, disaster search canines, physicians, as well as firefighters from the participating agencies of Anaheim, Orange and the OCFA; and

WHEREAS, FEMA has authorized a grant award of \$1,312,082 which is available for use beginning September 30, 2015, through December 31, 2016, for preparedness issues related to the Urban Search and Rescue Program.

NOW, THEREFORE, the Board of Directors of the Orange County Fire Authority does hereby resolve to accept the FEMA US&R grant to be utilized for such things as procurement of US&R equipment and supplies, maintenance and repair of US&R equipment, training and program administration. Additionally, these funds can be used for associated travel expenses for task force personnel to attend US&R related training courses, exercises, meetings, and for the management and administration of US&R activities. This includes expenses relating to task force maintenance, development, record-keeping, and correspondence.

PASSED, APPROVED, AND ADOPTED this 27th day of August 2015.

GENE HERNANDEZ, CHAIR
Board of Directors

ATTEST:

SHERRY A. F. WENTZ, CMC
Clerk of the Authority



Orange County Fire Authority
AGENDA STAFF REPORT

Board of Directors Meeting
August 27, 2015

Agenda Item No. 3F
Consent Calendar

Grant Easement for Fire Station 31 (Mission Viejo)

Contact(s) for Further Information

Mike Schroeder, Assistant Chief Support Services Department	michaelschroeder@ocfa.org	714.573.6008
Steve Chambers, Property Manager	stevechambers@ocfa.org	714.573.6471

Summary

This item seeks Board approval to allow Southern California Edison (SCE) a permanent easement on Fire Station 31 (Mission Viejo) property to allow construction and maintenance of electric facilities adjacent to the fire station.

Prior Board/Committee Action

Not Applicable.

RECOMMENDED ACTION(S)

Approve and authorize the Fire Chief, or his designee, to sign the Grant of Easement for Fire Station 31 to Southern California Edison to allow construction and maintenance of electric facilities adjacent to the fire station.

Background

SCE seeks a permanent 17 foot wide easement around the electrical transformer located on the extreme northern edge of the Fire Station 31 property, adjacent to the sidewalk/right of way (Attachments 1 and 2). SCE plans to extend electrical power by underground conduit to and from a transformer to be located adjacent to the transformer serving the fire station. The new equipment will serve a neighboring property at 22548 Olympiad, Mission Viejo. The Grant of Easement (Attachment 3) will not interfere with the operation, access or egress from the fire station. This action represents a routine cooperation with the utility.

Impact to Cities/County

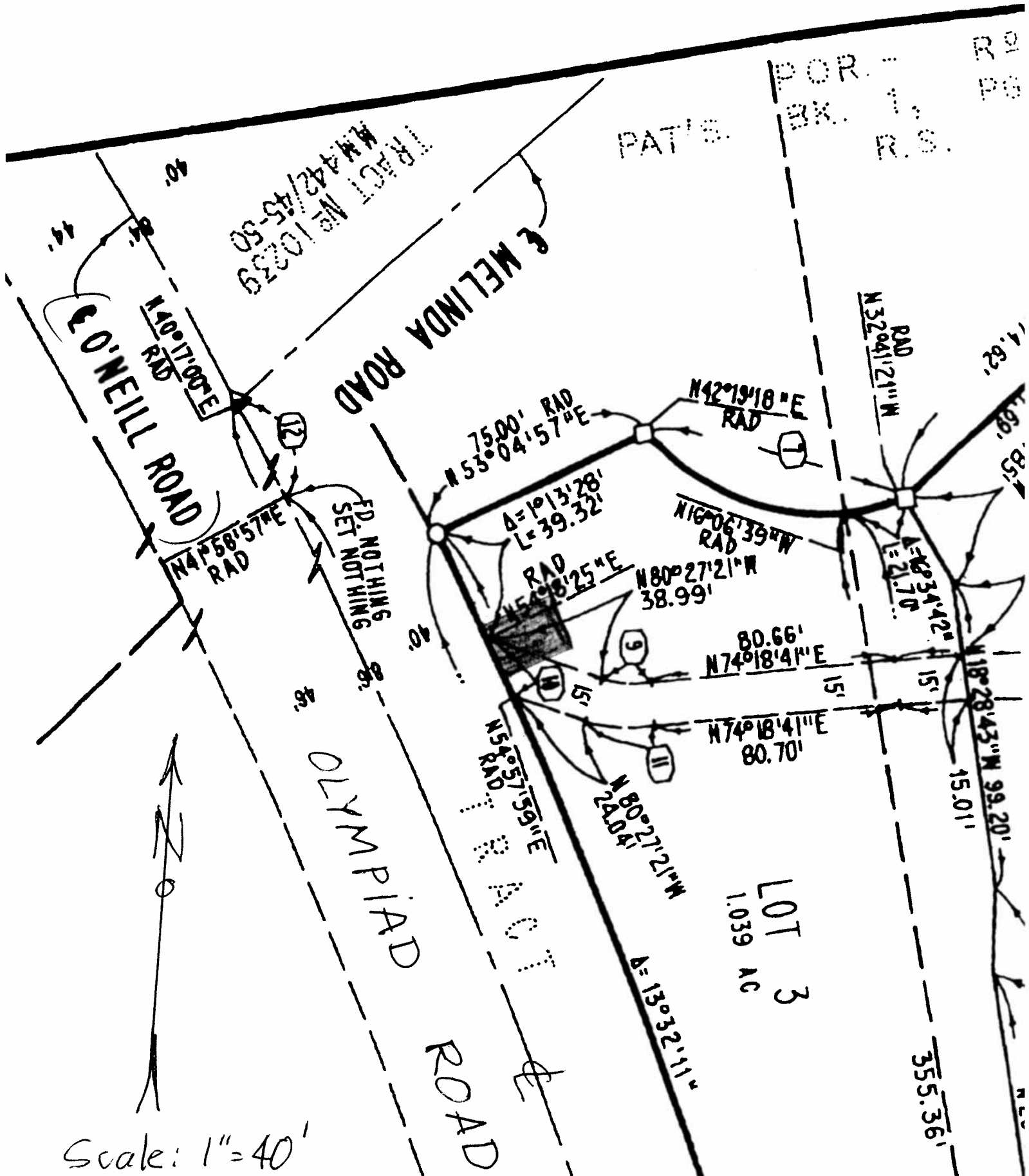
Not Applicable.

Fiscal Impact

Not Applicable.

Attachment(s)

1. Tract Map No. 10836
2. Photograph Fire Station 31 Proposed Easement
3. Grant of Easement



Scale: 1" = 40'



RECORDING REQUESTED BY



SOUTHERN CALIFORNIA
EDISON

An EDISON INTERNATIONAL Company

WHEN RECORDED MAIL TO

SOUTHERN CALIFORNIA EDISON COMPANY

Real Properties
2131 Walnut Grove Avenue, 2nd Floor
Rosemead, CA 91770

Attn: Distribution/TRES

SPACE ABOVE THIS LINE FOR RECORDER'S USE

GRANT OF EASEMENT

DOCUMENTARY TRANSFER TAX \$ NONE (VALUE AND CONSIDERATION LESS THAN \$100.00)	DISTRICT	WORK ORDER	IDENTITY	MAP SIZE
	Saddleback	TD1002731	n/a	n/a
SCE Company	FIM: 537-1576-5	APPROVED:	BY	DATE
SIG. OF DECLARANT OR AGENT DETERMINING TAX FIRM NAME	APN: 786-281-03	Real Properties	SLS/GB	07/15/15

ORANGE COUNTY FIRE AUTHORITY (FIRE AUTHORITY) (hereinafter referred to as "Grantor"), hereby grants to SOUTHERN CALIFORNIA EDISON COMPANY, a corporation, its successors and assigns (hereinafter referred to as "Grantee"), an easement and right of way to construct, use, maintain, operate, alter, add to, repair, replace, reconstruct, inspect and remove at any time and from time to time underground electrical supply systems and communication systems (hereinafter referred to as "systems"), consisting of wires, underground conduits, cables, vaults, manholes, handholes, and including above-ground enclosures, markers and concrete pads and other appurtenant fixtures and equipment necessary or useful for distributing electrical energy and for transmitting intelligence by electrical means, in, on, over, under, across and along that certain real property in the County of Orange, State of California, described as follows:

A 17.00 FOOT WIDE STRIP OF LAND LYING WITHIN LOT 3, TRACT NO. 10836, AS PER MAP FILED IN BOOK 496, PAGES 29 AND 30 OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, THE CENTERLINE OF SAID STRIP IS DESCRIBED AS FOLLOWS:

COMMENCING AT THE MOST WESTERLY CORNER OF SAID LOT 3; THENCE SOUTHEASTERLY ALONG A CURVE IN THE SOUTHWESTERLY LINE OF SAID LOT 3, SAID CURVE BEING CONCAVE SOUTHWESTERLY AND HAVING A RADIUS OF 1840.00 FEET, THROUGH A CENTRAL ANGLE OF 01° 20' 20" AN ARC DISTANCE OF 43.00 FEET TO THE **TRUE POINT OF BEGINNING**; THENCE ALONG A RADIAL LINE OF SAID CURVE, N 54° 25' 17" E 24.00 FEET.

THE SIDELINES OF SAID STRIP ARE TO BE PROLONGED TO TERMINATE SOUTHWESTERLY IN SAID CURVED SOUTHWESTERLY LINE.

It is understood and agreed that the above description is approximate only, it being the intention of the Grantor(s) to grant an easement for said systems as constructed. The centerline of the easement shall be coincidental with the centerline of said systems as constructed in, on, over, under, across, and along the Grantor(s) property.

This legal description was prepared pursuant to Sec. 8730(c) of the Business & Professions Code.

Grantor agrees for himself, his heirs and assigns, not to erect, place or maintain, nor to permit the erection, placement or maintenance of any building, planter boxes, earth fill or other structures except walls and fences on the above described real property. The Grantee, and its contractors, agents and employees, shall have the right to trim or cut tree roots as may endanger or interfere with said systems and shall have free access to said systems and every part thereof, at all times, for the purpose of exercising the rights herein granted; provided, however, that in making any excavation on said property of the Grantor, the Grantee shall make the same in such a manner as will cause the least injury to the surface of the ground around such excavation, and shall replace the earth so removed by it and restore the surface of the ground to as near the same condition as it was prior to such excavation as is practicable.

Grantee hereby agrees to defend, indemnify, and hold harmless Grantor from and against any and all claims, liability, and damages caused by Grantee's activities related to said easement, except to the extent that such claims arise from the active negligence or willful misconduct of Grantor, its employees', agents' and contractors'.

EXECUTED this ____ day of _____, 20__.

GRANTOR

ORANGE COUNTY FIRE AUTHORITY (FIRE AUTHORITY)

Signature

Print Name

Title

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
)
County of _____)

On _____ before me, _____, notary public,
(here insert name)

personally appeared _____
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct

WITNESS my hand and official seal.

Signature _____

(This area for notary stamp)



Orange County Fire Authority
AGENDA STAFF REPORT

Board of Directors Meeting
August 27, 2015

Agenda Item No. 5A
Discussion Calendar

Workers' Compensation Program Update

Contact(s) for Further Information

Jeremy Hammond, Director Human Resources Department	jeremyhammond@ocfa.org	714.573.6018
Jonathan Wilby, Risk Manager	jonathanwilby@ocfa.org	714.573.6832

Summary

This agenda item provides an update on the workers' compensation self-insured program and the performance of CorVel Corporation, our third party administrator (TPA), since June 1, 2014.

Prior Board/Committee Action – Committee Recommendation: *APPROVE*

At its August 4, 2015, meeting, the Human Resource 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

The recent changes to the program have yielded an annual savings of approximately \$1,492,432.

Background

See the attached extended background that provides comprehensive detail and explanation of the programmatic enhancements and savings.

Attachment(s)

Detailed Summary of Workers' Compensation Program

Detailed Summary of Workers' Compensation Program

Background

The OCFA was approved by the Division of Industrial Relations Self-Insurance Plans in 2002 to have a self-insured workers' compensation program which is administered through a third party administrator (TPA). The TPA was York Risk Services Group until June 1, 2014 when the OCFA changed TPA by partnering with CorVel Corporation. Staff committed to provide an update on the workers' compensation program and TPA performance after the first year with CorVel Corporation.

Budgeting for Self-Insurance Fund:

An independent actuary is used twice a year to project future workers' compensation costs and to update the amount of funding required to self-insure the OCFA workers' compensation program. The projection of costs and necessary funding are determined following an analysis of claims data dating back to the beginning of the self-insured program. Claims data includes case reserves set by the TPA, historical loss experience and industry trends. The OCFA averages approximately 31 claims a month or 372 claims per year (not including first aid injuries) and currently has 749 open claims.

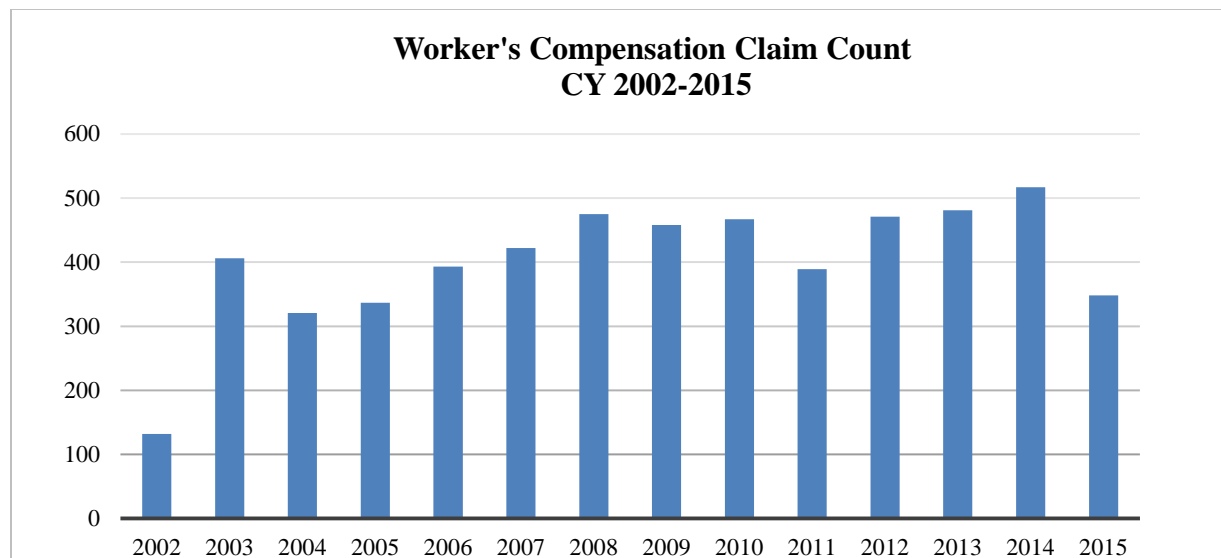


Figure 1: Workers' Compensation Claims CY 2002-2015

The actuary provides outstanding losses and projected ultimate losses at various confidence levels which is an estimate of the probability that a given dollar amount will cover a specific group of open or unreported claims. Estimated outstanding liabilities include the current liabilities and long-term liabilities. Current liabilities are the amount of estimated losses that the OCFA is expected to pay off during the next fiscal year. Long-term liabilities are the remaining estimated outstanding losses (i.e. the portion of the estimated losses that will be paid off in fiscal years beyond the upcoming fiscal year). The actuary also reviews past years' workers' compensation losses to recalculate, if necessary, a more accurate case level reserve.

Analysis of Actuary Projections from the January 28, 2015 Actuary Report:

The OCFA policy is to fund the workers' compensation program at the 50% confidence level for outstanding losses which includes medical payments, indemnity payments, allocated and unallocated expenses. The actuarial projection for all estimated outstanding liabilities at the 50%

confidence level is \$62,372,690 which is less than a 1% increase from the estimated outstanding liabilities identified in the July 14, 2014 actuary report.

Projected Liabilities – the actuary has projected the ultimate loss liabilities estimated to be paid in the 2015/16 fiscal year to be \$12,729,592.

The increase in cost associated with the actuarial study reflects all outstanding paid claims to include reserves and incurred but not reported claims in addition to the statutory benefits up to the OCFA self-insured retention level of \$2.0M. The reserve increase reflects injury presumptions for safety personnel as well as an aging workforce which contributes to a longer recovery time and higher permanent disability. Additionally, the OCFA increased its workforce in 2012 with the addition of the City of Santa Ana.

Workers’ Compensation Program Overview:

Risk Management evaluated the workers’ compensation program in 2013 and identified deficiencies that did not allow the program to maximize care to the employee necessary to “cure and or relieve the effects of the injury” or provide for ultimate cost savings to the OCFA. The program review identified enhancements in the following areas that when implemented would better serve the needs of the injured employee and the financial needs of the OCFA: 1) TPA contract; 2) medical provider network (MPN) and occupational clinics; 3) pharmacy benefit management (PBM) program; 4) alternative dispute resolution (ADR) program; and 5) return to work program.

Third Party Administrator (TPA):

CorVel Corporation was awarded the contract to administer the workers’ compensation program as of June 1, 2014 following a competitive and complex request for proposal (RFP) process. The award of the contract has resulted in a decrease in TPA administrative fees, bill review fees and utilization review fees of \$541,022 (36% reduction).

TPA Administrative Services	FY 2013/14	FY 2014/15	Savings
TPA Administrative Fees	\$690,000	\$528,753	\$161,247
Bill Review Fees	\$516,860	\$358,446	\$158,414
Utilization Review Fees	\$283,376	\$62,015	\$221,361
Total	\$1,490,236	\$949,214	\$541,022

Table 1: FY 2013/14 vs FY 2014/15 TPA Administrative Services Fees

CorVel Corporation has partnered with Risk Management in the development of the enhancements listed above and has reduced open claims by 14.5% (876 to 749) which impacts long-term liabilities and provides financial savings to the OCFA.

Open Claims	FY 2013/14	FY 2014/15	% Change
Death	4	3	-25.0%
Indemnity	639	615	-3.8%
Maintenance	197	84	-57.4%
Medical Only	36	47	30.6%
Total	876	749	-14.5%

Table 2: Open Claims Administered by CorVel Corporation

Medical Provider Network (MPN):

Legislation was created in 2004 authorizing employers to create MPNs which allow physicians who understand and practice workers’ compensation medical care to treat injured workers. The benefits of creating a MPN are prevention of treatment and utilization review delays and cost savings due to physicians treating under the medical fee schedule. CorVel Corporation assisted Risk Management in identifying high quality medical professionals to include in our MPN such as Kerlan and Jobe, Southern California Orthopedic Institute (SCOI) and other specialist and subspecialty medical professionals. The usage rate since inception is 86.7% of employees treating within the MPN. Additionally, implementation of the MPN has reduced backfill costs due to workers’ compensation injuries by streamlining the return to work process. Employees treating within the MPN no longer require a second evaluation through UCI before returning to work.

MPN Usage	
Total MPN Usage %	86.7%
Total Bills Received*	2,077
Total Bills in MPN	1,800
MPN Savings	\$81,539

**does not include med-legal, DME or Rx bills*

Table 3 : MPN Usage and Savings

Occupational Clinics:

The OCFA did not utilize occupational clinics for non-emergency first care treatment of injuries prior to 2014 which resulted in most injured employees seeking treatment at emergency rooms. The OCFA was not taking the opportunity to exercise the first 30-day control of medical treatment which left the employees to make unfamiliar medical choices often with delayed results in treatment and expensive costs. Risk Management identified, evaluated and provided protocols to fourteen (14) occupational clinics that would be used to service all of our fire stations. Each station has access to an occupational clinic within a seven (7) mile radius that provides 24/7 non-emergency medical treatment. Occupational clinic usage has been 56.5% since Risk Management began their monitoring. The cost of an occupational clinic visit is 29% less than an emergency room which resulted in a projected savings of \$122,429.

Occupational Clinic Usage	
Total Claims Reported	368
Total Claims using Occupational Clinics	208
Occupational Clinic Usage %	56.5%
Projected Savings	\$122,429

Table 4: Occupational Clinic Usage and Projected Savings

Risk Management monitors the performance of the occupational clinics in meeting the protocols and service expectations of the OCFA through the use of electronic surveys distributed to employees following their visits to the facilities.

Pharmacy Benefit Management Program (PBM):

The PBM was designed to reduce the cost of medication and medical supplies by providing generics wherever possible and ensuring pharmacists in the program comply with Labor Code §4600.2. The pharmacy first fill card instituted as part of the program has prevented prescription delays and out of pocket expenses to the employee and increased savings above the official medical fee schedule.

PBM Program	2014 Q1	2014 Q2	2014 Q3	2014 Q4	Total
Total Prescriptions Dispensed	412	682	546	463	2,103
Prescriptions Dispensed through PBM	111	348	364	345	1,168
CorVel PBM Usage %	26.9%	51.0%	66.7%	74.5%	44.5%
Prescription Charges	\$74,023	\$99,721	\$95,729	\$77,875	\$347,348
Total Paid	\$48,201	\$52,367	\$49,765	\$39,573	\$189,906
Savings	\$25,822	\$47,354	\$45,964	\$38,302	\$157,442

Table 5: PBM Program Usage and Savings

Alternative Dispute Resolution Program (ADR):

The ADR program is a collaborative effort between the International Association of Firefighters (IAFF) Local 3631 and Executive Management which was designed to expedite the delivery of workers' compensation benefits by eliminating the delay process of the traditional workers' compensation system when disputes arise. The program was approved by the Department of Industrial Relations and became effective on October 1, 2014.

The ADR program requires that medical appointments are made within 10-days and that disputes are resolved and a decision of compensability made within timeframes less than the 90-day statutory requirement. The ADR program has resolved disputed claims in as short as 57-days as compared to 90-180 days in the traditional workers' compensation system which results in employees returning to work at a much faster rate. Backfill costs in FY 2014/15 due to workers' compensation decreased by \$592,000 (14%) compared to FY 2013/14 as a result of the ADR program and the streamlined return to work process described earlier.

ADR Tracking	2011 Pre- ADR	2012 Pre-ADR	2013 Pre-ADR	10/1/2014 Post-ADR	2015 Post- ADR	Total
Count of claims that went to an QME/AME (2011-2013) or IME (2014-2015) appointment	10	21	13	8	25	77
Average # of days from Statutory Decision Date to actual IME/QME/AME appointment	201.90	92.57	95.15	16.13	-27.00	N/A
Pre ADR Backfill Costs	\$468,391	\$268,559	\$184,706	N/A	N/A	\$921,656
Pre ADR Average Annual Backfill Costs						\$307,219
Post ADR Backfill Costs	N/A	N/A	N/A	\$0.00	\$0.00	\$0.00
ADR Savings						\$307,219

Table 6: ADR Program Decision Timeframes and Costs

Enhanced Transitional Return to Work Program:

Risk Management assessed how injured employees were returned to transitional, alternative and/or modified duty and determined an enhancement to the program was necessary to better serve the injured employee and the organization. A program was created that utilizes a transitional duty job bank based on the needs of the departments that can be paired with injured employees work restrictions, existing skillset and experience. The program will allow the injured employee to heal while providing a more rewarding experience for them. Additionally, disability will be reduced, job skills expanded, productivity and retention improved, and statutory workers' compensation benefits maximized for the injured employee.

Summary and Conclusions:

The partnering with CorVel Corporation and program changes implemented over the past year have resulted in enhanced medical care to the injured employee and significant financial savings to the OCFA.

	FY 2013/14	FY 2014/15	Savings
TPA Administration Charges	\$690,000	\$528,753	\$161,247
Bill Review Fees	\$516,860	\$358,446	\$158,414
Utilization Review Fees	\$283,376	\$62,015	\$221,361
MPN Savings	\$0	\$81,539	\$81,539
Occupational Clinic Savings	\$0	\$122,429	\$122,429
PBM Savings	\$0	\$157,442	\$157,442
ADR Average Costs*	\$307,219	\$0	\$307,219
Backfill Costs	\$4,360,000	\$3,770,000	\$590,000
Total			\$1,492,432

**ADR savings is not added in the total as it is already reflected in total backfill costs*

Table 7: Overall Workers' Compensation Program Savings



Orange County Fire Authority
AGENDA STAFF REPORT

Board of Directors Meeting
August 27, 2015

Agenda Item No. 5B
Discussion Calendar

**Contract Increase and Extension
Professional Labor Negotiation Services**

Contact(s) for Further Information

Jeremy Hammond, Director jeremyhammond@ocfa.org 714.573.6018
Human Resources Department

Lori Zeller, Assistant Chief lorizeller@ocfa.org 714.573.6020
Business Services Department

Summary

This item is submitted for approval to increase the value and extend the term of the contract for professional labor negotiations services.

Prior Board/Committee Action

At its December 11, 2013, meeting, the Board of Directors appointed Peter Brown of Liebert Cassidy Whitmore to serve as OCFA's professional labor negotiator. This contract was previously increased and extended by action of the Executive Committee on November 20, 2014.

Last Thursday, the Executive Committee provided additional direction to staff to schedule a meeting with Mr. Brown, Chair Hernandez, Vice Chair Swift, and Director Spitzer to discuss modification, if not full removal, of invoicing travel expenses associated with this contract. As time is of the essence due to the upcoming labor negotiations scheduled to begin next month, the Committee directed staff to place this item on the August Board of Directors meeting for further consideration.

RECOMMENDED ACTION(S)

1. Approve and authorize the Purchasing Manager to increase the value of the Professional Services Agreement with Peter Brown, of Liebert Cassidy Whitmore, by \$100,000 and extend the term through June 30, 2016.
2. Direct staff to submit a request to the Board of Directors with the FY 2015/16 Mid-Year Budget Adjustments to increase General Fund (Fund 121) appropriations by \$100,000 for professional labor negotiations services.

Impact to Cities/County

Not Applicable.

Fiscal Impact

The proposed increase in the contract value was not anticipated in the FY 2015/16 Budget; therefore, a budget adjustment is required to fund this contract. The budget adjustment will be requested with the mid-year adjustments that will be submitted to the Board of Directors in March 2016.

Background

The professional services agreement was approved for an initial total of \$100,000, plus an approved contingency of \$50,000 to be used, if needed, in the event negotiations required more hours of service than originally anticipated. Subsequently, the Board provided additional direction to Mr. Brown regarding negotiation activities that they wanted him to pursue over the following year and as a result increased the contract value by \$100,000.

To date, Mr. Brown has successfully negotiated a comprehensive memorandum of understanding (MOU) with the Firefighters Union (3631), a subsequent mutually agreeable language clean-up MOU with 3631, a comprehensive MOU with Orange County Employees Association, and recently completed labor negotiations with the newly formed Orange County Fire Authority Management Association. In addition, Mr. Brown participated in the legal analysis of the Helicopter Pilot/FLSA grievance, and is currently at the table negotiating a new contract with 3631. In addition to the current negotiations that are underway, the current MOU with the Chief Officers Association (COA) expires at the end of the year which means that these negotiations should commence soon as well. Due to the amount of time that Mr. Brown has spent preparing for upcoming negotiations with 3631 as well as his institutional knowledge of the OCFA, it would be counter-productive to end his contract and employ another labor negotiator at this point in time.

In the interest of full disclosure, members of the Board have expressed concern over contractors billing for travel time to and from the OCFA. The contract with Liebert Cassidy Whitmore provides for reimbursement of travel time at Mr. Brown's full hourly rate. Instead of charging for travel from his office, Mr. Brown charges for travel from his home (which is closer to the OCFA) and offsets the billing for time spent in communications with other clients while on the road. Additionally, Mr. Brown negotiates for other local municipalities and will split travel charges when providing services for local municipalities on the same date. While the average round trip for Mr. Brown is approximately 2 to 2.5 hours, his average round trip travel charge to the OCFA is 1.74 hours. Total travel expenses incurred in this contract over its 20-month duration (December 2013 to July 2015) are \$36,617.50, which represents 16% of the total amount spent.

To complete the current negotiations with 3631, as well as upcoming negotiations with the COA, staff is requesting to increase the contract value by \$100,000 and to extend the term through June 30, 2016. To date, we have spent \$229,279 against the current contract value of \$250,000.

Attachment(s)

None.



Orange County Fire Authority
AGENDA STAFF REPORT

Board of Directors Meeting
August 27, 2015

Agenda Item No. 5C
Discussion Calendar

Executive Committee Membership

There are no written materials in connection with this agenda item. This will be a verbal discussion by the Board of Directors.