



ORANGE COUNTY FIRE AUTHORITY

AGENDA

BOARD OF DIRECTORS REGULAR MEETING
Thursday, April 28, 2016
6:00 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 Jeff Hetschel

PLEDGE OF ALLEGIANCE by Director Lalloway

NATIONAL ANTHEM performance by The Overtones

ROLL CALL

1. PRESENTATIONS

No items.

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**

- Fire Station Visitations Updates (Document Provided)
- 2016 Task Force Administrative Readiness Evaluation (Thomas)
- OC Task Force on Drowning Prevention Update (Cooney)
- Business Services Financial Checks and Balances (Zeller)
- Firefighter Recruitment Video

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 March 24, 2016, Regular Board of Directors Meeting**

Submitted by: Sherry Wentz, Clerk of the Authority

Recommended Action:

Approve as submitted.

3. CONSENT CALENDAR**A. Drowning Prevention Awareness Proclamation**

Submitted by: Sandy Cooney, Director/Communications and Public Affairs

Recommended Action:

Approve the proposed proclamation.

B. Secured Fire Protection Agreements for Apartment Projects: Encanto (Lake Forest) and Vantis (Aliso Viejo)

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

Recommended Actions:

1. Approve and authorize the Fire Chief or his designee to execute Secured Fire Protection Agreement with Meritage Homes of California, Inc., related to the Encanto Project, Lake Forest.
2. Approve and authorize the Fire Chief or his designee to execute Secured Fire Protection Agreement with Vantis Multifamily, LLC, related to the Vantis Apartment Project, Aliso Viejo.
3. Direct the Clerk of the Authority to record the Secured Fire Protection Agreements in the Official Records of the County of Orange, and furnish the developers a copy of the conformed document within fifteen days of recordation.

C. Reserve Firefighter Program Status Update

Submitted by: Dave Thomas, Assistant Chief/Operations Department

Recommended Actions:

Receive and file the report.

4. PUBLIC HEARING(S)

No items.

5. DISCUSSION CALENDAR**A. Proposed New Purchasing Ordinance – Introduction**

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

Budget and Finance Committee Recommendation: *APPROVE*

Recommended Actions:

1. Waive the full reading of the proposed Ordinance.
2. Introduce and read by title only proposed Ordinance No. 008 entitled AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE ORANGE COUNTY FIRE AUTHORITY REPEALING ORDINANCE NO. 006 AND ORDINANCE NO. 007 AND ESTABLISHING THE PURCHASING RULES AND PROCEDURES OF THE ORANGE COUNTY FIRE AUTHORITY establishing a comprehensive procurement ordinance based on the American Bar Association Model Procurement Code.
3. Approve the proposed Resolution entitled A RESOLUTION OF THE ORANGE COUNTY FIRE AUTHORITY BOARD OF DIRECTORS AMENDING THE ROLES/RESPONSIBILITIES/AUTHORITIES MATRIX TO COINCIDE WITH THE NEW PURCHASING CODE.

B. Request by Director Barnett: Discussion of Contracting for Services, Employee Compensation & Benefits, and Public Negotiation of Labor Contracts

Submitted by: Rick Barnett, Board Director

Recommended Action:

Receive and file the report.

BOARD MEMBER COMMENTS

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

Authority: Government Code Section 54957.6

CS2. CONFERENCE WITH LEGAL COUNSEL-EXISTING LITIGATION

Name of Case: Orange County Fire Authority and City of Irvine v All Persons
Interested in the Matter of the Validity of that Second Amendment to
Amended Joint Powers Authority

Case No.: Court of Appeal, Fourth Appellate District, Division Three – Appellate
Case No. G050687

Authority: Government Code Section 54956.9(d)(1)

CS3. CONFERENCE WITH LEGAL COUNSEL-ANTICIPATED LITIGATION

Authority: Government Code Section 54956.9(b) – Significant Exposure to
Litigation (3 cases)

CLOSED SESSION REPORT

ADJOURNMENT - The next regular meeting of the Orange County Fire Authority Board of Directors is scheduled for Thursday, May 26, 2016, at 6:00 p.m.

AFFIDAVIT OF POSTING

I hereby certify under penalty of perjury under the laws of the State of California, that the foregoing Agenda was posted in the lobby, front gate public display case, and website of the Orange County Fire Authority, Regional Fire Training and Operations Center, 1 Fire Authority Road, Irvine, CA, not less than 72 hours prior to the meeting. Dated this 21st day of April 2016.

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

UPCOMING MEETINGS:

Human Resources Committee Special Meeting	Tuesday, May 3, 2016, 12:00 noon
Budget and Finance Committee Meeting	Wednesday, May 11, 2016, 12:00 noon
Claims Settlement Committee Meeting	Thursday, May 26, 2016, 5:00 p.m.
Executive Committee Meeting	Thursday, May 26, 2016, 5:30 p.m.
Board of Directors Meeting	Thursday, May 26, 2016, 6:00 p.m.



Orange County Fire Authority
AGENDA STAFF REPORT

Board of Directors Meeting
April 28, 2016

In connection with
Fire Chief's Report

Fire Chief's Report

Contact(s) for Further Information

Jeff Bowman, Fire Chief

jeffbowman@ocfa.org

714.573.6010

Sherry Wentz, Clerk of the Authority
Business Services Department

sherrywentz@ocfa.org

714.573.6041

Summary

The attached are supportive materials that will be in connection with this month's Fire Chief's Report.

Prior Board/Committee Action

Not Applicable.

RECOMMENDED ACTION(S)

Receive the oral presentation.

Impact to Cities/County

Not Applicable.

Fiscal Impact

Not Applicable.

Background

The Fire Chief's Report is regularly listed on the Board's agenda as an opportunity for the Fire Chief to provide an oral report on various areas of interest to the Board of Directors.

During this month's report, one subject of interest to be reported will be on regularly monthly station visitations conducted by the OCFA's Executive Team. April's Monthly Station Visitation Updates are being provided to the Board as example.

Attachment(s)

Monthly Station Visitation Updates dated April 1, 2016

MONTHLY STATION VISITATION UPDATES

04/01/2016

Operations

General

- Congratulations to Battalion Chiefs Ashby, Levesque, and Summers on their new promotions
- Congratulations to Rosalinda Gonzales for her promotion to Executive Assistant
- Fire School 2016: June 13-24, limited to Type III Engines, limited overhead, crews, W/T's, Helo
 - We will be looking at 1-Type III S/T per day including OCFA and Metro Net
- FIREScope – 2016 FOG update nearing completion. Publishing later this year.
- CICC – ICT4 qualification process updated, communication coming out soon from CICC Oversight Committee
- Los Alamitos – Updated JFTB agreement signed. Working with Base to utilize their cone course for Tiller Training
- Westminster Ambulance service set to switch from Shoreline to Care, council approval on 4/13 is final step. 4/17 is target switchover date.
- IMT - OCFA IMT, HC, Engines, and some overhead participated in the Marine Disaster Drill on March 23. Simulated pleasure boat crash into tour boat with 80 actual victims in the water off Newport Beach.

Air Operations

- The full-time Rescue Medic has been in effect since March 18th with positive feedback from crews.
- The two Tech Trucks that will continue to provide fly-crew members during remote rescues are Truck 34 and Truck 9. This decision was driven by hours of discussion that took place in the USAR working group over the last year.
 - Part-time Tech Truck members won't be trained as flyers nor will currency be maintained
- We have an open recruitment for Fire Pilot that will close April 10th. We have one open position
- FC's Carpino and Doty are nearing the completion of their crew chief training. Carpino will be administratively assigned to the open position created by Dave Lopez's retirement
- Duke has recently been added to remote rescues per the new MOU to provide "high recon" and assistance in locating the victim.
 - Please don't cancel them
 - Make every effort to integrate them in the search effort.
- Bucho is working with George Ewan to educate land owners of those areas that our section commonly uses for training. In an effort to reassure them that our use is "light", we will be demonstrating hoist insertions and extractions.
- OCFA has agreed to lease Helicopter #4 to Santa Barbara County Fire as they make plans to stand-up their helicopter program. A signed copy of the short-term lease agreement has been sent to their Fire Chief.

HazMat

- Chief Morganstern has been identified as the program lead

- Seven members have completed HazMat technician school and have been added to the team. Administrative assignments for the new members have been announced

Equipment Project Team

- Helmet number and extrication glove distribution to begin this week. Chief Dossey is POC.

Training

- Green Sheet on Jeronimo incident progressing well and should be out by Thursday.
- Low Angle Rope Rescue Operations Class to be offered to the field on 4-29 (FC Chapman)
- Truck Academy May 16-27. Class is posted now on Hive
- BC Academy in progress and going well
- Academy 41 six month testing next week
- Academy 42 is doing wildland and is offsite this week and next.
 - Graduation is May 11th
- Academy 43 is scheduled for January of 2017
- JAC Proposals for IPADS, training shelters, chain saw chaps coming
- AFTO Recruitment EXTENDED – encourage your best personnel to put in
- TAG starts again on April 15th. We are getting strong feedback from the field.
- New skills tentative to go to the field: Single Forward Wet, Dry Barrel Hydrant, Roof Ladder Aloft (flat and pitched)

EMS:

- WEFIT
 - UCI “Heroes Study” report and presentation provided to Exec’, detailing the components and findings of the OCFA wellness and weight management pilots
 - Academy fitness training continues, trialing “Drip-Drop” hydration product for electrolyte replacement
 - Considering options and alternatives to UCI-COEH for WEFIT exams
 - Additional education efforts underway
 - Newsletter
 - Skin Cancer Awareness
 - Instagram and Facebook sites are being well received
- EPCR
 - Elite Software
 - Development continues with Jim Cass, Oliver Gillespie, and Shaun Miller working with County OCMEDS team.
 - Field testing of Elite OC-MEDS software utilizing the I-PADS will commence shortly
 - Tablets
 - We’ll be obtaining some “bridge” tablets to tide us over until Elite is release is ready
 - Apple I-Pad selected as our next tablet
- Cardiac Monitors: RFP moving forward, two products have been evaluated, including clinical simulations and field trials, Zoll and Philips

- We're hopeful we'll have a product selected and funding approved to begin training in third quarter EMS TAG
- Paramedics: Seven graduated from Class 75
 - Thomas Alvarez, Chris Finley, Daniel Hansen, George Hapsic, Michael Jaucian, Nicholas Kruger, Tim Van Klaveren
 - Six began Class 76 in January
 - Brian Graham, Mike Johnson, J. Lazar, Rich Lee, Francis Ramos, Jacob Stein
 - OC EMS Chiefs has a working group looking at enhancements to the current Saddleback Paramedic Program as well as other training options.
 - Patty Gleed, (HBFD), is the new program director, replacing Barbara
 - Eight licensed medics in Academy 41 and 29 in Academy 42
 - O.C. Accreditation process recently accredited seven additional medics
- Medications
 - No current shortages
 - Replacement Duodotes have been distributed
 - TB testing: New lab vendor selection process nearly completed; this will facilitate obtaining the QuantiFERON blood test as an alternative to the two step traditional T.B. skin test, made impractical by the 48/96 schedule
- Personnel
 - Nancy Patrick retired after 31 years of service; Koreen Kean, who was Long Beach Fire's EMS administrative assistant, began with us March 28th
 - Dr. Ken Miller accepted an offer to be Santa Clara County's medical director; his last day with OCFA was March 31st
 - Robert Acosta is replacing Bill Lockhart, who moves to the field, April 15.

Business Services

- OCFA's Equity Agreement (Second JPA Amendment): Recently invalidated by the California Appellate Court, which means that the 2nd Amendment is null and void. As a result, Business Services staff is beginning a new round of Equity Discussions with the City of Irvine and the County of Orange in an effort to negotiate a new/different type of agreement that will mitigate the equity concerns.
- FY 2016/17 Budget Development is in process, with an upcoming Board review date of May 26.
 - On the revenue side, updated property tax projections indicate that OCFA's property tax revenue will grow by 4.4% in 2016/17, followed by an average growth rate of approximately 3.3% over the following 4 years.
 - On the expenditure side, OCFA is expecting to incur increased retirement contribution rates as a result of weak performance in the investment markets during CY 2015 and the first quarter of CY 2016. While OCERS assumes it will earn 7.25% per year, they only earned 0.1% in 2015 and they are negative 3.78% so far in CY 2016
 - All in all, OCFA continues to have a balanced budget and we continue to project a balanced budget for the next 5 years

Service Center

- New Turnouts
 - Guidelines: if your gear is in need of replacement Service Center will check their inventory in your size to determine what generation of gear you will get
 - If they still have the previous generation new, that's what you will be issued
 - Service Center can't issue newest generation & let the previous generation "die on the vine"
 - Please direct any questions to Russ Snider
- Leather Helmet Identifiers/Extrication Gloves: Close to distributing both. Hopefully week of the 18th
 - Glove brand is Mechanix. They were made for the OCFA based on a wear test a few years back

Community Risk Reduction

Pre-Fire Management

- HPWREN proposal is moving forward. Next step is to introduce the proposal to the BoS with the concurrence of Chief Bowman. Wildfire, weather, public awareness cameras. (Example: <http://hpwren.ucsd.edu/>)
- USFS AOP approval still pending
- CALFIRE Gray Book Station review and AOP meeting the week of April 18
- Working with IT/ECC to resolve SRA OCFIRS/NFIRS compliance challenges

Communications and Public Affairs

Media and Public Information

- Positive exposure on the OC Register editorial pages with Chief Bowman's Letter to the Editor rebuttal published 3-30-16
- Extensive positive news coverage of incidents, including Mission Viejo sushi restaurant fire.
- Pulse Point outreach w/city managers ongoing

Community Relations and Education

- Orange County Task Force on Drowning Prevention (Task Force Chair, OCFA Director Al Murray), meets April 19, 1 p.m. to 3 p.m. at OCFA.
- 53 community outreach events and 32 drowning prevention events planned through Labor Day.
- Multiple public safety presentations under way in all OCFA Divisions

Grants and Legislation

- Application submitted to FEMA for *SAFER* grant (Staffing for Adequate Fire and Emergency Response) with support and in coordination with 3631. If awarded, this grant would support several OCFA cities in need of a fourth firefighter on engines
- *California Department of Public Health* grant for 200 life vests awarded. The life vests will support drowning prevention outreach activities in economically disadvantaged neighborhoods.

- *Assistance to Firefighters* grant application submitted. If awarded, this grant would support washing/extracting machines for turnouts

Human Resources

Recruitment

- Firefighter Trainee:
 - Academy 43 application review was completed on March 14, 2016. Members of 3631, the COA, and HR staff selected 150 applicants to be invited to the next round of interviews scheduled for May 23 – May 26, 2016
 - If you submitted your name for consideration, interview panel members will be selected on April 12, 2016 and will be notified of their selections. Interviews are scheduled for the week of May 23-27.
 - Academy 43 is scheduled to begin January, 2017
 - FAE: 21: 21 candidates are currently participating in the manipulative examination (April 4 - April 8) FAE Academy will be held beginning April 25, 2016.
 - BC Academy: Started last Friday and will run for 2 weeks. 8 Captains are attending
 - Fire Pilot: The recruitment closed on April 10. Applications are being reviewed subject matter experts.
 - Hand Crew Firefighters: 1 current vacancy remains. 4 candidates are currently in backgrounds.
 - Reserve Firefighter: Candidate interviews have been completed across all reserve stations.
 - 48 candidates began the physical and reference check process on March 30th
 - Reserve Academy 19 is scheduled to begin July 11th
 - Medical Doctor: Recruitment is being developed
- Non Safety Recruitments: In addition to the safety recruitments listed above, there are currently 15 non safety recruitments at various stages of the recruitment process.

Benefits Update

- Affordable Care Act: At the end of March 2016, the OCFA distributed IRS Form 1095-C to employees who met the definition of full-time employee in accordance with the Affordable Care Act. This form, which will be reported to the IRS, summarized whether an employee was offered health insurance in 2015 along with his/her enrollment status. These forms were mailed to the employees' home addresses. Additional information about IRS Form 1095-C can be found on The HIVE, Briefing Folder.

Support Services

Fleet Services

- Fleet Service has a 1 new parts tech that in backgrounds and should be starting by the end of April.
- In the recruitment process to fill in behind Sr. Fire App Tech Joe Enfield; Job flyer is on the street now.
- With the additional staff we are working on getting a third full-time service unit into the field that will enhance field service repair capabilities.

- Vehicle Purchases
 - (4) 100' TDAs have been ordered. We should see the first unit here in May of 2016 with an additional every 30 days. Outfitting @ OCFA will be an additional 60 to 90 days.
 - (4) New Type 1 engines ordered. ETA Units should be delivered by the end of April 2016. Once they arrive, radio and outfitting should take 6 to 10 weeks. Units that will be replaced will be in this order: **E78, E62, E48 and tbd**
 - (1) Type 6 specification/ intent to award staff report will go to the executive committee in April for the purchase of this unit along with the purchase of (5) Paramedic Squads/
 - (6) BC Suburban's have arrived, working on final configuration with Comms & Ric Schultz. Will take 3-6 months for field delivery due to back up. We should see the proto type build up for inspection this week. PLEASE BE PATIENT.
 - 10 of 18 new Chevy Colorado's have been delivered; 9 2x2 units will be going to C.R.R and 7 4x4 Crew Cab units are for safety officer vehicles for Admin Captains and Training.
 - Approximately (40) vehicles going through specifications, purchasing, outfitting and placement in 1yr
 - With the arrival of all new units fleet is working on disposing of vehicles and apparatus as we have a one in one out policy.
- Class A Foam Units on older KME: (19) Older KME units require new class A foam systems which are arriving; 15 units have been modified.
 - Working on plan and calendar to complete the installs
 - Lower priority due to the large volume of new vehicles being received.

ECC

- Dispatcher Academy graduation is anticipated for the end of April.
- Preparing to launch a project to evaluate our move-up/cover policies and technology that supports dispatcher decision-making.
- Orange County Fire Chief's continue to deliberate on the best approaches for improving automatic aid using AVL. Optimism that changes will be implemented in June
- Duke has been added to all REMOTE calls
- Dispatchers will partaking in the wildland tag as "Dispatchers at the scene" this will help with realism as well as dispatchers getting a taste of the field
- There have been some issues with the auto statusing of units i.e. AIQ and AOR when pulling in and out of their stations. This has to do when the proximity to the station by the units triggers the status. All of the bugs appear to be worked out. If there are any further issues, please make the reports to cad support via email.
- ECC encourages engine and truck companies to do sit-alongs in ECC. 3-4 hours is the norm.
- Please drop Chief Johnson a line if there is anything we can do better in ECC. I am always up for constant improvement

Property Management

- USAR Warehouse is being engineered and plan checked for necessary TI prior to occupancy
- Fire Station #11 improvements are being plan checked by the County

- Fire Station #10 relocation/build is being evaluated by the City of Yorba Linda and PM
- Fire Station #20 is currently in plan check, Edison utilities are being undergrounded, road improvements will follow prior to the start of build
- Fire Station #61 is currently being designed. Land swap with Buena Park and Knott's Berry Farm is complete

I/T

- New CAD mobile updates have been deployed to the Fleet. Of special note was the ERH screen with the closest three hospitals moved to the top.
- Staff continues to work on project to replace all T1 data lines to fire stations with fiber optic. This will be much faster than it has been. First stations to go online will be those closest to RFOTC since we will likely have some testing to work out. FS43 and 21.
- Staff is working with OCSD on 800MHz P25 radio upgrade and will be conducting a complete audit of radios and other equipment at all stations. We hope to do this in May/June to get most accurate inventory of radios preparatory to new purchases.
- Staff is working with OCEMS and OPS staff to test the new ePCR 'Elite' program with iPads. Will be doing a pilot of 20 - iPads. Plans are to replace all Windows tablets with iPads in FY16/17.

Organizational Planning

Strategic Services

- SOLAR preparations
 - Commander Workshop next week
 - Draft AOP in progress
 - BC Blawn handling resources for SOLAR exercise
- Statistics requests
 - Tustin
 - San Clemente
 - B4 areas
 - Rancho Carrillo/El Cariso
 - Santa Ana
- ISO update, one outstanding water company remaining
- Annual report should be done by next meeting

Organizational Development and Training

- Next Spark (new employee onboarding) will run April 25 & 26, and May 2 & 3 (4-day program)
- Successfully piloted our first Crucial Conversations workshop internally, had 12 participants. Upcoming classes will be announced soon
- Executive Committee approved the Crucial Accountability workshop purchase order, which will launch later this year. This workshop is designed to help have the conversations around setting and managing expectations, as well as addressing the gaps when agreed-upon expectations aren't met.
- Target Solutions new point of contact at OCFA is now Jason Caya, Training Program Specialist. (ext. 6050)

MINUTES ORANGE COUNTY FIRE AUTHORITY

**Board of Directors Regular Meeting
Thursday, March 24, 2016
6:00 P.M.**

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

CALL TO ORDER

A regular meeting of the Orange County Fire Authority Board of Directors was called to order on March 24, 2016, at 6:10 p.m. by Chair Hernandez.

INVOCATION

Chaplain Bob George offered the invocation.

PLEDGE OF ALLEGIANCE

Director Sachs led the Assembly in the Pledge of Allegiance to the Flag.

ROLL CALL

Robert Baker, San Clemente
Lisa Bartlett, County of Orange
Craig Green, Placentia
Noel Hatch, Laguna Woods
Robert Johnson, Cypress
Jerry McCloskey, Laguna Niguel
John Perry, San Juan Capistrano
Ed Sachs, Mission Viejo
David Shawver, Stanton
Todd Spitzer, County of Orange
Elizabeth Swift, Buena Park
Phillip Tsunoda, Aliso Viejo

Rick Barnett, Villa Park
Carol Gamble, Rancho Santa Margarita
Shelley Hasselbrink, Los Alamitos
Gene Hernandez, Yorba Linda
Jeffrey Lalloway, Irvine
Joseph Muller, Dana Point
Dwight Robinson, Lake Forest
Don Sedgwick, Laguna Hills
David Sloan, Seal Beach
Michele Steggell, La Palma
Tri Ta, Westminster

Absent: Angelica Amezcua, Santa Ana

Al Murray, Tustin

Also present were:

Fire Chief Jeff Bowman
Assistant Chief Brian Young
Assistant Chief Lori Zeller
General Counsel David Kendig
Sherry Wentz, Clerk of the Authority

Assistant Chief Dave Thomas
Assistant Chief Mike Schroeder
Assistant Chief Lori Smith
Communications Director Sandy Cooney

1. PRESENTATIONS

A. Requests for Commendations and Proclamations

On motion of Director McCloskey and second by Vice Chair Swift, the Board voted unanimously by those present to approve the Presentation of the Distinguished Budget Award as submitted.

Chair Hernandez and Fire Chief Bowman presented the Government Finance Officers Association of the United States and Canada Distinguished Budget Presentation Award to Accounting Manager Debbie Gunderson for OCFA's high principles in governmental budgeting. (F: 17.10F) (F: 11.09B) (X: 11.09)

On motion of Director Gamble and second by Director Bartlett, the Board voted unanimously by those present to declare "Wildfire Awareness Week" for May 1 through May 7, 2016. (F: 11.09A) (F: 11.09)

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

Budget and Finance Chair McCloskey reported at its March 9, 2016, meeting, the Committee received its monthly status update on the Orange County Employees' Retirement System, voted unanimously to send the Monthly Investment Reports to the Executive Committee for its approval, and voted unanimously to send the FY 2015/16 Mid-Year Budget Adjustment and the Proposed Change in Service Configuration Cities of Placentia & Yorba Linda to the Board of Directors for its approval.

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

Human Resources Chair Shawver reported the Human Resources Committee did not meet in the month of March; therefore there is nothing to report at this time.

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

Claims Settlement Committee Chair Hernandez reported at its March 24, 2016, meeting, the Committee considered Worker's Compensation claims for claimants Rocco DiFrancesco and Edmund Hardy and stated there were no reportable actions.

REPORT FROM THE FIRE CHIEF (F: 11.14)

Fire Chief Jeff Bowman introduced Assistant Fire Chief Brian Young who provided a PowerPoint presentation illustrating statistics of OCFA's Fire Academy recruitment; and introduced newly appointed Sergeant at Arms Justin Russell. Fire Chief Bowman also introduced Clerk of the Authority Sherry Wentz who reported on the Fair Political Practice Form 700 filing deadline.

Using the Chair's discretion, Chair Hernandez combined the Public and Closed Session Comments portion of the meeting to be heard at this time.

Director Robinson arrived at this point (6:18 p.m.).

PUBLIC COMMENTS – PUBLIC SESSION (F: 11.11)

Stephen Wontrobski, Mission Viejo resident, was provided nine minutes to address three Public and Closed Session comments including: Lance Soll and Lunghard working papers; Basic Life Support/Advanced Life Support transport totals; Orange County Employees Retirement System's unfunded liability; and labor negotiations.

Ray Geagan, President, Orange County Professional Firefighters Association, Local 3631, addressed the current labor negotiations.

2. MINUTES

A. Minutes from the February 25, 2016, Regular Board of Directors Meeting (F: 11.06)

On motion of Director Johnson and second by Director Shawver, the Board of Directors voted unanimously by those present to approve the Minutes from the February 25, 2016, Regular Board of Directors Meeting, as submitted.

Director's Baker and Ta were recorded as abstentions, due to their absence from the meeting.

3. CONSENT CALENDAR

A. FY 2015/16 Mid-Year Budget Adjustment (F: 15.04)

On motion of Director McCloskey and second by Director Johnson, the Board of Directors voted unanimously by those present to approve and authorize the proposed mid-year budget adjustments.

4. PUBLIC HEARING(S)

No items.

5. DISCUSSION CALENDAR

A. Proposed Change in Service Configuration for Cities of Placentia & Yorba Linda

Assistant Chief Brian Young presented a PowerPoint presentation and introduced Assistant Chief Lori Zeller who summarized the fiscal impact of the proposed changes.

Constance Underhill, Placentia City Council Member, spoke in support of the proposed change in service.

Director Lalloway arrived at this point (6:53 p.m.).

Stephen Wontrobski, Mission Viejo resident, spoke in support of the proposed change in service.

On motion of Director Spitzer and second by Vice Chair Swift, the Board of Directors voted unanimously by those present to approve the proposed change in service configurations with the cities of Placentia and Yorba Linda, and corresponding reductions to the city of Placentia's contract service charge.

Director Tsunoda arrived at this point (6:57 p.m.)

BOARD MEMBER COMMENTS (F: 11.13)

Director Shawver thanked Directors Bartlett, Spitzer, Lalloway, and the Irvine City Council for their support of the countywide Waste Management Agreement; passed unanimously by the City of Irvine, and thanked all city managers for the execution of the Agreement.

Vice Chair Swift reported while in attendance of an event in Santa Ana, former State Senator Lou Correa arrived late after stopping to put out a fire; saving the lives of three women and children.

Director Barnett provided a list of topics for the next Board of Directors agenda. (List is on file in the Office of the Clerk.)

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 Labor Negotiator Peter Brown, CS2, Conference with Legal Counsel – Existing Litigation, and CS3, Conference with Legal Counsel – Anticipated Litigation.

Chair Hernandez recessed the meeting to Closed Session at 7:09 p.m.

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, and Unrepresented Employees

Authority: Government Code Section 54957.6

CS2. CONFERENCE WITH LEGAL COUNSEL-EXISTING LITIGATION

Name of Case: Orange County Fire Authority and City of Irvine v All Persons
Interested in the Matter of the Validity of that Second Amendment to
Amended Joint Powers Authority

Case No.: Court of Appeal, Fourth Appellate District, Division Three – Appellate
Case No. G050687

Authority: Government Code Section 54956.9(d)(1)

CS3. CONFERENCE WITH LEGAL COUNSEL-ANTICIPATED LITIGATION

Authority: Government Code Section 54956.9(b) – Significant Exposure to
Litigation (3 cases)

Chair Hernandez reconvened the meeting at 9:20 p.m.

CLOSED SESSION REPORT (F: 11.15)

General Counsel David Kendig indicated there were no reportable actions.

ADJOURNMENT – Chair Hernandez adjourned the meeting at 9:21 p.m. in memory of the victims and all of those impacted by the recent terrorist acts that took place in Brussels this week. The next regular meeting of the Orange County Fire Authority Board of Directors is scheduled for Thursday, April 28, 2016, at 6:00 p.m.

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

DROWNING PREVENTION AWARENESS

WHEREAS, drowning is the leading cause of death and disability in California for children under five years of age, and in 2015 there were five fatal drownings and 35 non-fatal incidents in Orange County; and

WHEREAS, drowning is a major problem for adults 35-64, and as a result there were 21 fatal drownings and five non-fatal incidents in 2015; and

WHEREAS, fatal and non-fatal drowning is a silent event, occurring in as little as two inches of water, and including swimming pools, spas, lakes, the ocean and any other body of water; and

WHEREAS, the themes of this year's water safety campaign are "Always Watch Your Child Around Water" and "Never Swim Alone," in-depth information will be provided by staff on what Orange County residents can do to prevent drowning; and

WHEREAS, the initiatives set forth in the "ABCs of Water Safety" program will increase public awareness regarding proper procedures to prevent this needless tragedy; and

WHEREAS, the Orange County Fire Authority, in collaboration with the Orange County Task Force on Drowning Prevention, will be taking this opportunity to increase public awareness about drownings through a diverse community outreach campaign; and

WHEREAS, the Orange County Fire Authority will launch its 24-week water safety campaign in May and continue through October.

NOW, THEREFORE BE IT RESOLVED, that the Orange County Fire Authority Board of Directors does hereby proclaim its participation in the "Always Watch Your Child Around Water" and "Never Swim Alone" campaigns—that kick-off in May and continue through October by encouraging all families, parents, residents, schools, recreational facilities, businesses and homeowner associations to become partners in preparedness by increasing their knowledge of proper safety measures in drowning prevention.



Orange County Fire Authority
AGENDA STAFF REPORT

Board of Directors Meeting
April 28, 2016

Agenda Item No. 3B
Consent Calendar

Secured Fire Protection Agreements for Apartment Projects:
Encanto (Lake Forest) and Vantis (Aliso Viejo)

Contact(s) for Further Information

Brian Young, Assistant Chief	brianyoung@ocfa.org	714.573.6014
Organizational Planning Department		
Tamera Rivers, Management Analyst	tamyrrivers@ocfa.org	714.573.6199

Summary

This item is submitted to authorize the Fire Chief to execute Secured Fire Protection Agreements (SFPA) with Meritage Homes of California, Inc, related to the Encanto Project, Lake Forest and with Vantis Multifamily, LLC, related to the Vantis Apartment Project, Aliso Viejo.

Prior Board/Committee Action(s)

No committee action required or requested.

RECOMMENDED ACTION(S)

1. Approve and authorize the Fire Chief or his designee to execute Secured Fire Protection Agreement with Meritage Homes of California, Inc, related to the Encanto Project, Lake Forest.
2. Approve and authorize the Fire Chief or his designee to execute Secured Fire Protection Agreement with Vantis Multifamily, LLC, related to the Vantis Apartment Project, Aliso Viejo.
3. Direct the Clerk of the Authority to record the Secured Fire Protection Agreements in the Official Records of the County of Orange, and furnish the developers a copy of the conformed document within fifteen days of recordation.

Impact to Cities/County

This agreement has no negative impacts to any of our member cities or the County.

Fiscal Impact

Revenue received from these agreements will be assigned to the Capital Improvement Program in Fund 123. Revenue produced by full entitlements on the Encanto project is estimated to be \$31,200. Revenue produced by full entitlement on the Vantis Apartment Project is estimated to be \$261,000.

Background

The SFPA defines the fair share contributions needed to adequately serve the intended developments. The fair share contributions are \$600 per equivalent dwelling unit and are intended to cover a pro rata share of costs associated with providing fire protection infrastructure to the new developments. Payments will be made to OCFA after the agreement is signed and recorded and prior to the first building permit. The proposed agreement should provide OCFA and the developer with the ability to make long-range plans and decisions with respect to both

infrastructure costs and operational costs associated with the developments. These SFPAs provide the OCFA with the necessary assurances needed to complete work/review on enhancements to the regional emergency fire services delivery system.

Encanto, City of Lake Forest

Meritage Homes of California, Inc, related to the Encanto Project (Lot 13) of Tract No 13343, Book 647, Pages 23-32, in the City of Lake Forest. This project will provide the equivalent of 52 dwelling units in the project area. Revenues generated from the agreement are not restricted; staff has yet to determine which advanced planning project this will best support. Estimated revenue for the apartment project is \$31,200.

Vantis Apartments, City of Aliso Viejo

Vantis Multifamily, LLC related to the Vantis Apartments Project (Lot 7) of Tract # 16865 in the City of Aliso Viejo. This project will provide 435 dwelling units in the project area. Revenues generated from the agreement are not restricted, staff contemplates using the fees to build Fire Station 12.

Attachment(s)

1. Proposed SFPA Encanto
2. Proposed SFPA Vantis Apartments

SECURED FIRE PROTECTION AGREEMENT

by and between the

ORANGE COUNTY FIRE AUTHORITY,
A CALIFORNIA JOINT POWERS AUTHORITY

and

Meritage Homes of California, Inc

Effective Date: April 28, 2016

Project Name: Encanto

ORANGE COUNTY FIRE AUTHORITY
SECURED FIRE PROTECTION AGREEMENT

WITH

Meritage Home of California, Inc

This Secured Fire Protection Agreement ("Agreement") is made between the Orange County Fire Authority, a California Joint Powers Authority ("OCFA") and Meritage Home of California, Inc ("Company"), and is effective as of April 28, 2016.

RECITALS

A. OCFA is a governmental entity, organized as a California Joint Powers Authority, providing fire protection and life safety services to over one million residents within the County of Orange ("County"), including the City of Lake Forest ("City") and all of the real property described in this Agreement.

B. This Agreement covers real property owned by Company located within the County of Orange and the City of Lake Forest as of the date of this Agreement, all as described on Exhibit A attached hereto. The extent of Company development for which fire protection services will be provided by Authority shall cover all of the property subject to Tentative Tract Map No. 17810.

C. Company's development of the Project Area is subject to the general development requirements and conditions (collectively, the "City Conditions") related to the provision for emergency response, fire protection services, equipment and facilities imposed by the City. The City Conditions generally include requirements for Company to enter into agreements with OCFA to ensure that Company will provide for and contribute its *pro rata* fair share costs of emergency response, fire protection services, equipment and facilities for the benefit of residents residing within the Project Area.

D. OCFA and Company believe that this Agreement contains adequate safeguards to ensure OCFA's ability to enforce the obligations of this Agreement and protect the public interest.

AGREEMENT

Based upon the foregoing Recitals and in consideration of the covenants and conditions contained in this Agreement, the parties agree to timely perform each of their respective obligations as set forth herein.

SECTION 1. DEFINITIONS

Unless the context otherwise requires, wherever in this Agreement the following terms are used, the intent and meaning shall be interpreted as provided herein.

"Agreement" means this Secured Fire Protection Agreement, including the attached Exhibits between OCFA and the Company.

"OCFA" means the Orange County Fire Authority, a governmental entity and California joint powers authority.

"City" means the City of Lake Forest, a member of OCFA.

"Company" means Meritage Homes of California, Inc

"City Conditions" means the general development requirements and conditions related to the provision of emergency response, fire protection services, equipment and facilities imposed by the City as conditions of approval on development projects proposed or undertaken in the City by Company.

"Effective Date" means the date this Agreement is approved by the OCFA Board of Directors.

"Fee" means the most current fee, as approved by OCFA or its successors or predecessors in interest, or as may be adopted by OCFA or its successors from time to time, for the funding in whole or in part of emergency response, fire protection services, equipment and facilities within the jurisdiction of OCFA.

"Project Area" means the property owned by Company within the City as of the date of this Agreement, and as more particularly described in Exhibit A.

"Security Instruments" means surety bonds, letters of credit or any other form of security or method, acceptable to OCFA, of assuring construction, installation, or provision of emergency response, fire protection services, equipment and facilities.

SECTION 2. COMPANY OBLIGATIONS

Company is in the process of developing the property in the Project Area and constructing improvements thereon that will result in regional impacts that will require emergency response, fire protection services, equipment and facilities by OCFA. In recognition and consideration of these impacts, OCFA and Company mutually agree as follows:

A. Acknowledgment of Obligations and Satisfaction of OCFA Requirements

Company acknowledges that pursuant to the City Conditions, Company is required (i) to provide a *pro rata* share of funding necessary to establish adequate emergency response, fire protection services, equipment and facilities, and (ii) contribute towards overall regional emergency response, fire protection services, equipment and facilities as provided herein in this Agreement. OCFA acknowledges that Company's performance of the obligations set forth in this Agreement constitute satisfaction of the obligations of Company for this Project. The *pro rata* share does not include standard processing fees for plan checking, permits and similar services or requirements of OCFA.

B. Pro Rata Share

1. Company agrees to pay in full its *pro rata* share as provided below:

(a) A cash contribution in an amount determined by multiplying the applicable fee in effect at the time payment is due by the number of proposed residential dwelling units and, in the case of commercial development, the square footage equivalency as determined by the formula in subparagraph (b) below (all as shown on the attached Exhibit B), within ten (10) days of issuance of the first residential or commercial building permit ("Due Date") for any portion of the property owned by Company within the Project Area as of the Effective Date. The parties agree that the applicable fee on the Effective Date is \$600/unit. The parties further agree that the Company's total funding obligation on the effective date of this Agreement is \$31,200.00 (all as shown on Exhibit B).

(b) Such amounts of residential dwelling units and square footage of commercial development may be adjusted according to an equivalency formula as follows: 1) commercial development square footage may be divided by 1,000 and then multiplied by 0.9 (nine/tenths or 9/10) to reach the equivalent dwelling units; 2) residential dwelling units may be divided by 0.9 (nine/tenths or 9/10) and then multiplied by 1,000 to reach the equivalent commercial square footage.

2. Nothing in this Agreement shall be construed to prohibit Company from paying all, or a portion, of the amount(s) set forth above in advance of the Due Date. Such prepayment will be calculated by multiplying \$600 or the applicable fee in effect at the time of payment by the number of units for which the Company wishes to prepay. Company will not be responsible for any subsequent fee increase that may be adopted by OCFA between the date of payment and the issuance of a building permit for the units covered by the paid fee.

3. In the event that the actual number of dwelling units, or equivalent dwelling units, built is less than 52, OCFA will make such adjustments as may be appropriate, including the payment of any refund for any amounts overpaid. At build-out, documentation satisfactory to OCFA shall be furnished to OCFA which

verifies the actual number of dwelling units, or equivalent dwelling units, constructed and that no further units, or equivalent units, shall be built on the property in the Project Area owned by Company on the Effective Date. Such documentation shall serve as the basis for making any necessary adjustments by multiplying the applicable fee in effect at the time of the last payment to OCFA by the actual number of units, or equivalent units, that were not built (calculated by subtracting the total number of units, or equivalent units, built from 52, the total number of units, or equivalent units, allowed). OCFA shall refund the Company for any amounts overpaid within thirty (30) days of the earlier of (i) written notification to OCFA that the Company will build less than the proposed residential dwelling units; and (ii) the date the OCFA receives the above-referenced documentation which shall serve as the basis for making any necessary adjustments by multiplying the applicable fee in effect at the time of the last payment to OCFA by the actual number of units, or equivalent units, that were not built.

SECTION 3. SECURITIES

A. Security to Guarantee Payment

Within sixty (60) days after execution of this Agreement, Company shall furnish OCFA with a Faithful Performance Bond or Letter of Credit or any other security instrument acceptable to the Fire Chief and OCFA Counsel, securing Company's then remaining obligation to pay OCFA the *pro rata* share amount set forth in Section 2, subject to the following requirements:

1. Form of Security Instruments. All Security Instruments shall meet the following minimum requirements and otherwise shall be in a form acceptable to OCFA:

(a) Any insurance company acting as surety shall have a minimum rating of A, as rated by the current edition of Best's Key Rating Guide published by A.M. Best's Company, Oldwick, New Jersey 08858; any bank issuing a Letter of Credit shall have a minimum rating of AA, as rated by Moody's or Standard & Poor's; each entity acting as a surety shall be licensed to do business in California.

(b) Payments under the security instrument shall be required to be made in the County of Orange, State of California.

(c) The security instrument shall reference Company's obligations under this Agreement, shall be irrevocable, and shall include, as an additional obligation secured, the responsibility to compensate OCFA for all of OCFA's reasonable attorneys' fees and litigation expenses reasonably incurred in enforcing its rights under the security instrument.

2. Release of Security Instruments. OCFA shall release or partially release the Faithful Performance Bond or Letter of Credit, *pro rata*, upon Company's written request as and when OCFA receives payment and after acceptance of Company's final payment obligation pursuant to Section 2.

SECTION 4. DEFAULT AND ATTORNEYS' FEES

A. Remedies Not Exclusive

In any case where this Agreement provides a specific remedy to OCFA for breach or default by Company hereunder, such remedy shall be in addition to, and not exclusive of, OCFA's right to pursue any other administrative, legal or equitable remedy to which it may be entitled.

B. Attorneys' Fees and Costs

In the event of any litigation arising out of this Agreement or under any of the Security Instruments referenced herein, the prevailing party in such action, in addition to any other relief, which may be granted, shall be entitled to recover its reasonable attorneys' fees and costs. Such attorneys' fees and costs shall include fees and costs on any appeal, and all other reasonable costs incurred in investigating such action, taking depositions and discovery, retaining expert witnesses, and all other necessary and related costs with respect to such litigation or arbitration. All such fees and costs shall be deemed to have accrued on commencement of the action and shall be enforceable whether or not the action is prosecuted to judgment.

SECTION 5. GENERAL PROVISIONS

A. Successors and Assigns

This Agreement shall be binding upon all successors and assigns of Company's right, title, and interest in and to the Project Area and any portions thereof.

B. Density and Intensity of Development

The provisions of this Agreement shall be deemed to be in substantial compliance with all City Conditions for this Project. In the event the density or intensity of development for this Project is proposed to be increased, OCFA and Company shall meet and confer and determine whether there should be any modification to this Agreement to provide for additional services, equipment or facilities necessary to serve the Project Area as a result of the approval of any such increase. In the event the parties cannot agree, OCFA shall have the right to protest or contest in any administrative or judicial forum as OCFA deems appropriate any approval of any such increase.

C. Waiver of Rights and Claims

Company agrees and acknowledges that there is an essential nexus between its *pro rata* share and a legitimate governmental interest and that its *pro*

rata share is roughly proportional to and reasonably and rationally related to the impacts that will be caused by development of the Project Area.

In consideration of the mutual promises and covenants set forth in this Agreement, Company, its successors and assigns, hereby waives and releases any present or future rights or claims Company, or its successors or assigns may have or possess under Government Code section 66000 et. seq. (as amended) with respect to OCFA's establishment, receipt and use of the fees required to be paid to OCFA under this Agreement so long as OCFA, or its successors in interest, continues to provide fire protection and related services to the Project Area as contemplated by this Agreement.

D. Good Faith Negotiations

Company acknowledges and agrees that OCFA is prepared to conduct a fee study that might result in an increased *pro rata* share to Company. Company desires to avoid the delay and uncertain results of such a study and enters this Agreement in good faith and in consideration for OCFA deferring such a study to a later date.

E. Severability

In the event any portion of this Agreement shall finally be determined by a court of competent jurisdiction to be unlawful, such provision shall be deemed to be severed from this Agreement and every other provision of this Agreement shall remain in full force and effect. If any one or more of the provisions contained in this Agreement shall for any reason be held to be excessively broad, it shall be construed, by limiting and reducing it, so as to be enforceable to the extent compatible with the applicable laws then in effect.

F. Notices

All written notices pursuant to this Agreement shall be addressed as set forth below or as either party may hereafter designate by written notice and shall be delivered in person or sent certified or registered mail, postage prepaid and addressed as follows:

To: Orange County Fire Authority
Attn: Fire Chief
1 Fire Authority Road
Irvine, CA 92602

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

To: Meritage Homes of California, Inc
1250 Corona Pointe # 210
Corona, CA 92879

WITH COPY TO:
None

All notices provided for herein shall be deemed effective upon receipt if personally served or seventy-two (72) hours after being sent by certified or registered mail, postage prepaid.

G. Entire Agreement

This Agreement constitutes the entire understanding between the parties and supersedes all prior negotiations or agreements between them pertaining to the subject matter hereof.

H. Recordation of Agreement

This Agreement and any amendment shall be recorded in the Official Records of the County of Orange by OCFA with a conformed copy being furnished to Company by OCFA within fifteen (15) days of recordation.

I. Time of the Essence

OCFA and Company agree that time is of the essence with respect to each provision of this Agreement of which time is an element.

J. Exhibits to Agreement

This Agreement includes the following Exhibits, which are attached hereto and made a part hereof:

- Exhibit A - Description of the Project Area
- Exhibit B - Fire Service Impact Fees

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K. Authorized Signatories

Company and its signatories herein covenant and represent that each individual executing this Agreement is a person duly authorized to execute this Agreement for Company.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year above written.

ORANGE COUNTY FIRE AUTHORITY
a California Joint Powers Authority

Date: _____ By: _____
Jeff Bowman, Fire Chief
Orange County Fire Authority

ATTEST:

By: _____ Date: _____
Sherry Wentz
Clerk of the Orange County
Fire Authority

APPROVED AS TO FORM:

DAVID E. KENDIG
GENERAL COUNSEL

By: David Kendig Date: 4/20/16

Meritage Homes of California, Inc

Date: 4/6/16 By: Peter Vanek
Peter Vanek
Authorized representative

ACKNOWLEDGMENT

(In accordance with Section 1189 of the California Civil Code)

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.

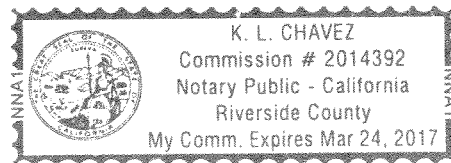
State of California

County of Riverside} ss.

On April 6, 2016, before me, K. L. Chavez, Notary Public, personally appeared Peter Vanek, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signatures on the instrument the person, or the entity upon behalf of which the person 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

K. L. Chavez
K. L. Chavez, Notary Public, #2014392
(Commission Expires March 24, 2017)

(seal)

EXHIBIT A

LEGAL DESCRIPTION OF THE PROJECT AREA

In the City of Lake Forest, County of Orange, State of California

Being a Subdivision of Lot 13 of Tract No. 13343, As Per Map Recorded in Book 647, pages 23 through 32, Inclusive, of Miscellaneous Maps, In the Office of the County Recorder of Said Orange County, Together With That Portion of Alton Parkway Dedicated to the County of Orange on Said Tract No. 13343.

EXHIBIT B
FIRE SERVICE IMPACT FEES

Dwelling Units	Rate	Obligation
52	\$600	\$31,200.00
		<hr/>
Total Units – 52	\$600	\$ 31,200.00

SECURED FIRE PROTECTION AGREEMENT

by and between the

ORANGE COUNTY FIRE AUTHORITY,
A CALIFORNIA JOINT POWERS AUTHORITY

and

Vantis Multifamily, LLC

Effective Date: April 28, 2016

Project Name: Vantis Apartments

ORANGE COUNTY FIRE AUTHORITY
SECURED FIRE PROTECTION AGREEMENT

WITH

Vantis Multifamily, LLC

This Secured Fire Protection Agreement ("Agreement") is made between the Orange County Fire Authority, a California Joint Powers Authority ("OCFA") and Vantis Multifamily, LLC ("Company"), and is effective as of March 23, 2016.

RECITALS

A. OCFA is a governmental entity, organized as a California Joint Powers Authority, providing fire protection and life safety services to over one million residents within the County of Orange ("County"), including the City of Aliso Viejo ("City") and all of the real property described in this Agreement.

B. This Agreement covers real property owned by Company located within the County of Orange and the City of Aliso Viejo as of the date of this Agreement, all as described on Exhibit A attached hereto. The extent of Company development for which fire protection services will be provided by Authority shall cover all of the property subject to Lot Line Adjustment 14-02, Instrument Number 2014000501060.

C. Company's development of the Project Area is subject to the general development requirements and conditions (collectively, the "City Conditions") related to the provision for emergency response, fire protection services, equipment and facilities imposed by the City. The City Conditions generally include requirements for Company to enter into agreements with OCFA to ensure that Company will provide for and contribute its *pro rata* fair share costs of emergency response, fire protection services, equipment and facilities for the benefit of residents residing within the Project Area.

D. OCFA and Company believe that this Agreement contains adequate safeguards to ensure OCFA's ability to enforce the obligations of this Agreement and protect the public interest.

AGREEMENT

Based upon the foregoing Recitals and in consideration of the covenants and conditions contained in this Agreement, the parties agree to timely perform each of their respective obligations as set forth herein.

SECTION 1. DEFINITIONS

Unless the context otherwise requires, wherever in this Agreement the following terms are used, the intent and meaning shall be interpreted as provided herein.

"Agreement" means this Secured Fire Protection Agreement, including the attached Exhibits between OCFA and the Company.

"OCFA" means the Orange County Fire Authority, a governmental entity and California joint powers authority.

"City" means the City of Aliso Viejo, a member of OCFA.

"Company" means Vantis Multifamily, LLC

"City Conditions" means the general development requirements and conditions related to the provision of emergency response, fire protection services, equipment and facilities imposed by the City as conditions of approval on development projects proposed or undertaken in the City by Company.

"Effective Date" means the date this Agreement is approved by the OCFA Board of Directors.

"Fee" means the most current fee, as approved by OCFA or its successors or predecessors in interest, or as may be adopted by OCFA or its successors from time to time, for the funding in whole or in part of emergency response, fire protection services, equipment and facilities within the jurisdiction of OCFA.

"Project Area" means the property owned by Company within the City as of the date of this Agreement, and as more particularly described in Exhibit A.

"Security Instruments" means surety bonds, letters of credit or any other form of security or method, acceptable to OCFA, of assuring construction, installation, or provision of emergency response, fire protection services, equipment and facilities.

SECTION 2. COMPANY OBLIGATIONS

Company is in the process of developing the property in the Project Area and constructing improvements thereon that will result in regional impacts that will require emergency response, fire protection services, equipment and facilities by OCFA. In recognition and consideration of these impacts, OCFA and Company mutually agree as follows:

A. Acknowledgment of Obligations and Satisfaction of OCFA Requirements

Company acknowledges that pursuant to the City Conditions, Company is required (i) to provide a *pro rata* share of funding necessary to establish adequate emergency response, fire protection services, equipment and facilities, and (ii) contribute towards overall regional emergency response, fire protection services, equipment and facilities as provided herein in this Agreement. OCFA acknowledges that Company's performance of the obligations set forth in this Agreement constitute satisfaction of the obligations of Company for this Project. The *pro rata* share does not include standard processing fees for plan checking, permits and similar services or requirements of OCFA.

B. Pro Rata Share

1. Company agrees to pay in full its *pro rata* share as provided below:

(a) A cash contribution in an amount determined by multiplying the applicable fee in effect at the time payment is due by the number of proposed residential dwelling units and, in the case of commercial development, the square footage equivalency as determined by the formula in subparagraph (b) below (all as shown on the attached Exhibit B), within ten (10) days of issuance of the first residential or commercial building permit ("Due Date") for any portion of the property owned by Company within the Project Area as of the Effective Date. The parties agree that the applicable fee on the Effective Date is \$600/unit. The parties further agree that the Company's total funding obligation on the effective date of this Agreement is \$261,000.00 (all as shown on Exhibit B).

(b) Such amounts of residential dwelling units and square footage of commercial development may be adjusted according to an equivalency formula as follows: 1) commercial development square footage may be divided by 1,000 and then multiplied by 0.9 (nine/tenths or 9/10) to reach the equivalent dwelling units; 2) residential dwelling units may be divided by 0.9 (nine/tenths or 9/10) and then multiplied by 1,000 to reach the equivalent commercial square footage.

2. Nothing in this Agreement shall be construed to prohibit Company from paying all, or a portion, of the amount(s) set forth above in advance of the Due Date. Such prepayment will be calculated by multiplying \$600 or the applicable fee in effect at the time of payment by the number of units for which the Company wishes to prepay. Company will not be responsible for any subsequent fee increase that may be adopted by OCFA between the date of payment and the issuance of a building permit for the units covered by the paid fee.

3. In the event that the actual number of dwelling units, or equivalent dwelling units, built is less than 435, OCFA will make such adjustments as may be appropriate, including the payment of any refund for any amounts overpaid. At build-out, documentation satisfactory to OCFA shall be furnished to OCFA which verifies the actual number of dwelling units, or equivalent dwelling units, constructed and that no further units, or equivalent units, shall be built on the property in the Project Area

owned by Company on the Effective Date without notifying OCFA in accordance with Section 5A below. Such documentation shall serve as the basis for making any necessary adjustments by multiplying the applicable fee in effect at the time of the last payment to OCFA by the actual number of units, or equivalent units, that were not built (calculated by subtracting the total number of units, or equivalent units, built from 435, the total number of units, or equivalent units, allowed). OCFA shall refund the Company for any amounts overpaid within thirty (30) days of the earlier of (i) written notification to OCFA that the Company will build less than the 435 proposed residential dwelling units; and (ii) the date the OCFA receives the above-referenced documentation which shall serve as the basis for making any necessary adjustments by multiplying the applicable fee in effect at the time of the last payment to OCFA by the actual number of units, or equivalent units, that were not built.

SECTION 3. SECURITIES

A. Security to Guarantee Payment

Within sixty (60) days after execution of this Agreement, Company shall furnish OCFA with a Faithful Performance Bond or Letter of Credit or any other security instrument reasonably acceptable to the Fire Chief and OCFA Counsel, securing Company's then remaining obligation to pay OCFA the *pro rata* share amount set forth in Section 2, subject to the following requirements:

1. Form of Security Instruments. All Security Instruments shall meet the following minimum requirements and otherwise shall be in a form acceptable to OCFA:

(a) Any insurance company acting as surety shall have a minimum rating of A, as rated by the current edition of Best's Key Rating Guide published by A.M. Best's Company, Oldwick, New Jersey 08858; any bank issuing a Letter of Credit shall have a minimum rating of AA, as rated by Moody's or Standard & Poor's; each entity acting as a surety shall be licensed to do business in California.

(b) Payments under the security instrument shall be required to be made in the County of Orange, State of California.

(c) The security instrument shall reference Company's obligations under this Agreement, shall be irrevocable, and shall include, as an additional obligation secured, the responsibility to compensate OCFA for all of OCFA's reasonable attorneys' fees and litigation expenses reasonably incurred in enforcing its rights under the security instrument.

2. Release of Security Instruments. OCFA shall partially release the Faithful Performance Bond or Letter of Credit, *pro rata*, upon Company's written request as and when OCFA receives payment and fully after acceptance of Company's final payment obligation pursuant to Section 2.

SECTION 4. DEFAULT AND ATTORNEYS' FEES

A. Remedies Not Exclusive

In any case where this Agreement provides a specific remedy to either party for breach or default by the other party hereunder, such remedy shall be in addition to, and not exclusive of, such party's right to pursue any other administrative, legal or equitable remedy to which it may be entitled.

B. Attorneys' Fees and Costs

In the event of any litigation arising out of this Agreement or under any of the Security Instruments referenced herein, the prevailing party in such action, in addition to any other relief, which may be granted, shall be entitled to recover its reasonable attorneys' fees and costs. Such attorneys' fees and costs shall include fees and costs on any appeal, and all other reasonable costs incurred in investigating such action, taking depositions and discovery, retaining expert witnesses, and all other necessary and related costs with respect to such litigation or arbitration. All such fees and costs shall be deemed to have accrued on commencement of the action and shall be enforceable whether or not the action is prosecuted to judgment.

SECTION 5. GENERAL PROVISIONS

A. Successors and Assigns

This Agreement shall be binding upon all successors and assigns of OCFA and the Company's right, title, and interest in and to the Project Area and any portions thereof.

B. Density and Intensity of Development

The provisions of this Agreement shall be deemed to be in substantial compliance with all City Conditions for this Project. In the event the density or intensity of development for this Project is proposed to be increased, OCFA and Company shall meet and confer and determine whether there should be any modification to this Agreement to provide for additional services, equipment or facilities necessary to serve the Project Area as a result of the approval of any such increase. In the event the parties cannot agree in each party's commercially reasonable discretion and after good faith negotiations, OCFA shall have the right to protest or contest in any administrative or judicial forum as OCFA deems appropriate any approval of any such increase.

C. Waiver of Rights and Claims

Company agrees and acknowledges that there is an essential nexus between its *pro rata* share and a legitimate governmental interest and that its *pro rata*

share is roughly proportional to and reasonably and rationally related to the impacts that will be caused by development of the Project Area.

In consideration of the mutual promises and covenants set forth in this Agreement, Company, its successors and assigns, hereby waives and releases any present or future rights or claims Company, or its successors or assigns may have or possess under Government Code section 66000 et. seq. (as amended) with respect to OCFA's establishment, receipt and use of the fees required to be paid to OCFA under this Agreement so long as OCFA, or its successors in interest, continues to provide fire protection and related services to the Project Area as contemplated by this Agreement.

D. Good Faith Negotiations

Company acknowledges and agrees that OCFA is prepared to conduct a fee study that might result in an increased *pro rata* share to Company. Company desires to avoid the delay and uncertain results of such a study and enters this Agreement in good faith and in consideration for OCFA deferring such a study to a later date.

E. Severability

In the event any portion of this Agreement shall finally be determined by a court of competent jurisdiction to be unlawful, such provision shall be deemed to be severed from this Agreement and every other provision of this Agreement shall remain in full force and effect. If any one or more of the provisions contained in this Agreement shall for any reason be held to be excessively broad, it shall be construed, by limiting and reducing it, so as to be enforceable to the extent compatible with the applicable laws then in effect.

F. Notices

All written notices pursuant to this Agreement shall be addressed as set forth below or as either party may hereafter designate by written notice and shall be delivered in person or sent certified or registered mail, postage prepaid and addressed as follows:

To: Orange County Fire Authority
Attn: Fire Chief
1 Fire Authority Road
Irvine, CA 92602

To:
Greg Anderson
130 Vantis Drive, Suite 200
Aliso Viejo, CA 92656

WITH COPY TO:
David Kendig, General Counsel
Woodruff, Spradlin & Smart
555 Anton Blvd., Suite 1200
Costa Mesa, CA 92626

WITH COPY TO:
Julia Guizan
130 Vantis Drive, Suite 200
Aliso Viejo, CA 92656

All notices provided for herein shall be deemed effective upon receipt if personally served or seventy-two (72) hours after being sent by certified or registered mail, postage prepaid.

G. Entire Agreement

This Agreement constitutes the entire understanding between the parties and supersedes all prior negotiations or agreements between them pertaining to the subject matter hereof.

H. Recordation of Agreement

This Agreement and any amendment shall be recorded in the Official Records of the County of Orange by OCFA with a conformed copy being furnished to Company by OCFA within fifteen (15) days of recordation.

I. Time of the Essence

OCFA and Company agree that time is of the essence with respect to each provision of this Agreement of which time is an element.

J. Exhibits to Agreement

This Agreement includes the following Exhibits, which are attached hereto and made a part hereof:

- Exhibit A - Description of the Project Area
- Exhibit B - Fire Service Impact Fees

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K. Authorized Signatories

Each party covenants and represents that each individual executing this Agreement are duly authorized to execute this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year above written.

ORANGE COUNTY FIRE AUTHORITY
a California Joint Powers Authority

Date: _____

By: _____
Jeff Bowman, Fire Chief
Orange County Fire Authority

ATTEST:

By: _____
Sherry Wentz
Clerk of the Orange County
Fire Authority

Date: _____

APPROVED AS TO FORM:

By:  _____
DAVID KENDIG
GENERAL COUNSEL

VANTIS MULTIFAMILY, LLC,
a California limited liability company

By: Shea Properties Management
Company, Inc.,
a Delaware corporation,
its Manager

By:

Name:

Title: **Greg Anderson**
Assistant Secretary

Date:

4/14/16

By:

Name:

Title: **Julia Guizan**
Vice President

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 Orange)

On April 14, 2016, before me, L. Riddle, a Notary Public, personally appeared Greg Anderson & Julia Guzman, 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 L. Riddle

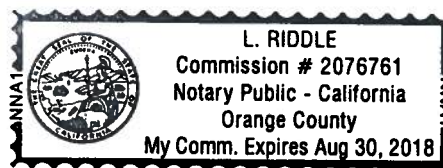


EXHIBIT A

LEGAL DESCRIPTION OF THE PROJECT AREA

PARCEL 1

Lot 7 of Tract No. 16865 in the City of Aliso Viejo, County of Orange, State of California, as shown on a map thereof filed in Book 880, Pages 39 through 47, inclusive, of Miscellaneous Maps, Parcel 1 of Lot Line Adjustment LLA 13-01 recorded January 27, 2014 as Instrument No. 2014000032378 of Official Records, and Parcel 1 of Lot Line Adjustment LLA 14-01 recorded September 25, 2014 as Instrument No. 2014000389434 of Official Records, all in the Office of the County Recorder of said Orange County.

EXHIBIT B
FIRE SERVICE IMPACT FEES

Dwelling Units	Rate	Obligation
435	\$600	\$261,000



Orange County Fire Authority
AGENDA STAFF REPORT

Board of Directors Meeting
April 28, 2016

Agenda Item No. 3C
Consent Calendar

Reserve Firefighter Program Status Update

Contact(s) for Further Information

Dave Thomas, Assistant Chief Operations Department	davethomas@ocfa.org	714.573.6012
Andy Kovacs, Battalion Chief Community Volunteer Services	andykovacs@ocfa.org	949.275.1220

Summary

This item is submitted routinely to provide a six month status report on the OCFA Reserve Firefighter Program.

Prior Board/Committee Action

Not Applicable.

RECOMMENDED ACTION(S)

Receive and file the report.

Impact to Cities/County

Not Applicable.

Fiscal Impact

Funding for the Reserve Firefighter Program is included in the FY 2015/16 adopted budget.

Background

This report on the Reserve Firefighter Program activities covers the period of July 1, 2015, to December 31, 2015.

Current Reserve Program Status: Consistently operating under budget and effectively augmenting the OCFA's career staff.

Roster Size/Strength: Current roster information is presented for review in Attachment 1.

Recruitment/Hiring: There are currently 39 candidates going through the recruitment/hiring process. A Reserve Firefighter Academy is scheduled to begin in the 2nd quarter of 2016.

Training/EMS: The Reserve Firefighter Driver/Operator Academy is currently in session with 20 reserves. Graduation is scheduled April 16, 2016. A Reserve Officer Academy is also planned for the 3rd quarter of 2016.

Attachment(s)

1. Reserve Program Staffing Levels as of 03/23/2016
2. Summary of Reserve Unit Activity (07/01/15 to 12/31/15)
3. Memo – Program Enhancements

Reserve Firefighter Program
Staffing Levels

Reserve program staffing levels, vacancies, applications and new recruits as of February, 2016.

	Station	Equipment	Total Roster Positions	# Qualified	# Vacancies	# in Academy	% of Total Roster	Apps in NeoGov
7	San Juan	Patrol, WT	25	15	10	0	60%	60
11	Emerald Bay	Patrol, Engine	25	10	15	0	40%	44
14	Silverado	Patrol, Engine	25	6	19	0	24%	34
16	Modjeska	Patrol, Engine, WT	25	21	4	0	84%	16
18	Trabuco	Patrol	20	14	6	0	70%	27
26	Irvine	Patrol	20	15	20	0	75%	104
30	Dana Point	Patrol, Air Utility	25	16	9	0	64%	70
32	Yorba Linda	Patrol, WT	25	17	8	0	68%	33
C18	Trabuco	Reserve Hand Crew	35	26	9	0	74%	37
C41	Fullerton	Heli-Support, Fuel Tender, WT	35	28	7	0	80%	148
Totals			260	168	92	0	64%	573

Summary of Reserve Unit Activity For 7/1/15 – 12/31/15

Attachment 2

SUMMARY OF RESERVE UNIT ACATIVITY (7/1/15 - 12/31/15)						
City	Unit	# Dispatched Responses	# Responses Enroute	% Dispatched Enroute	#Responses On Scene	% Dispatched On Scene
San Juan Capistrano	Patrol 7	261	45	17%	28	11%
	Water Tender 7	27	8	30%	7	26%
	Sta. 7 Total	288	53	18%	35	12%
Emerald Bay	Engine 11	26	15	58%	14	54%
	Patrol 11	96	65	68%	58	60%
	Sta. 11 Total	122	80	66%	72	59%
Silverado	Engine 14	10	3	30%	3	30%
	Patrol 14	37	29	78%	20	54%
	Sta. 14 Total	47	32	68%	23	49%
Modjeska	Engine 16	16	12	75%	5	31%
	Patrol 16	39	36	92%	25	64%
	Water Tender 16	30	28	93%	16	53%
	Sta. 16 Total	85	76	89%	46	54%
Irvine	Patrol 26	300	213	71%	100	33%
	Sta. 26 Total	300	213	71%	100	33%
Trabuco Canyon	Patrol 18	81	38	47%	22	27%
	Crew 18	27	10	37%	7	26%
	Sta. 18 Total	108	48	44%	29	27%
Dana Point	Patrol 30	126	35	28%	21	17%
	Air Utility 30	15	8	53%	5	33%
	Sta. 30 Total	141	43	30%	26	18%
Yorba Linda	Patrol 32	82	51	62%	22	27%
	Water Tender 32	23	15	65%	7	30%
	Sta. 32 Total	105	66	63%	29	28%
Fullerton Airport	Hel-Support 41	7	7	100%	4	57%
	Heli-Tender 41	15	13	87%	4	27%
	Air Utility 41	2	0	0%	0	0%
	Sta. 41 Total	24	20	83%	8	33%

Orange County Fire Authority
Community Volunteer Services

MEMO

DATE: March 6, 2016

TO: Senior Reserve Officers

FROM: Andy Kovacs/Battalion Chief
Community Volunteer Services

SUBJECT: **Reserve Officer and Driver/Operator Program Enhancement**

I am excited to share with you a program enhancement to the Orange County Fire Authority (OCFA) Reserve Firefighter (RFF) Program.

Effective immediately, each reserve station will have the ability to increase the total number of reserve officers and/or driver/operators. The addition of qualified personnel will improve the ability to meet the response staffing requirements more often, thus improving service to the community.

Please see the details of the enhancement below:

Reserve Stations	Current Allotment	Enhancement
FS11, FS14, FS16 (Level I)	5 Officers 5 Driver/Operators	7 Officers 7 Drivers/Operators
FS07, FS18, FS26, FS30, FS32 (Level 2)	3 Officers	5 Officers
FS41 (Helicopter Support Crew)	3 Officers 3 Driver/Operators	5 Officers 5 Driver/Operators
Crew 18 (Reserve Hand Crew)	5 Officers 5 Driver/Operators	7 Officers 7 Driver/Operators

Please email me the names of those individuals that are qualified to assume these added responsibilities at your earliest convenience.

Should have any questions feel free to contact me at andykovacs@ocfa.org or (949) 275-1220.

c. Dave Thomas, Assistant Chief of Operations
Randy Black, Division 4 Chief
Payroll/Timekeeping



Orange County Fire Authority
AGENDA STAFF REPORT

Board of Directors Meeting
April 28, 2016

Agenda Item No. 5A
Discussion Calendar

Proposed New Purchasing Ordinance – Introduction

Contact(s) for Further Information

Lori Zeller, Assistant Chief
Business Services Department

lorizeller@ocfa.org

714.573.6020

Debbie Casper, Purchasing & Materials Manager

debbiecasper@ocfa.org

714.573.6641

Summary

This item is submitted for consideration to adopt a more comprehensive procurement ordinance to govern the Orange County Fire Authority procurement functions, and to discuss modifications to the Roles/ Responsibilities/Authorities Matrix for various procurements.

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

Ordinance No. 006 and No. 007 were adopted on April 23, 2009, and the purchasing items listed in the Roles/Responsibilities/Authorities Matrix were last updated February 26, 2015. At the November 3, 2015, Human Resources Committee meeting, Director Hatch inquired into the feasibility of delegating more responsibility from the Board of Directors to administration to enable management to award higher dollar purchasing contracts without requiring Board approval. Director Hatch requested staff to develop recommendations for further discussion with the Budget and Finance Committee.

At its regular April 13, 2016, meeting, the Budget and Finance Committee reviewed and unanimously recommended approval of this item.

RECOMMENDED ACTION(S)

1. Waive the full reading of the proposed Ordinance.
2. Introduce and read by title only proposed Ordinance No. 008 entitled AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE ORANGE COUNTY FIRE AUTHORITY REPEALING ORDINANCE NO. 006 AND ORDINANCE NO. 007 AND ESTABLISHING THE PURCHASING RULES AND PROCEDURES OF THE ORANGE COUNTY FIRE AUTHORITY establishing a comprehensive procurement ordinance based on the American Bar Association Model Procurement Code.
3. Approve the proposed Resolution entitled A RESOLUTION OF THE ORANGE COUNTY FIRE AUTHORITY BOARD OF DIRECTORS AMENDING THE ROLES/RESPONSIBILITIES/AUTHORITIES MATRIX TO COINCIDE WITH THE NEW PURCHASING CODE.

Impact to Cities/County

Not Applicable.

Fiscal Impact

Not Applicable.

Background

See attached extended background.

Attachment(s)

1. Ordinance No. 006 (current) Establishing Informal Bidding Procedures
2. Ordinance No. 007 (current) Establishing Purchasing Rules and Regulations
3. Proposed Ordinance No. 008 Establishing a Comprehensive Procurement Ordinance based on the Model Procurement Code
4. Purchasing Authorities Comparison Chart
5. Proposed Resolution Adopting the Roles/Responsibilities/Authorities Matrix for the OCFA

Background

The Orange County Fire Authority's purchasing ordinances and guidelines were originally established in 1995 and 1996 when OCFA had just formed and the organization was in the early stages of developing fiscal controls. The existing ordinances provide for centralized procurement functions and were subsequently updated in 2003, and again in 2009, to provide for updates allowing for electronic processes, increase informal bid limits, and to refine outdated or redundant language.

No substantial changes were made to either of the ordinances since their inception. As a result, the requirements that govern our procurement practices today are substantially the same as they were when they were adopted. The purpose of the new ordinance is to simplify, clarify, centralize, and modernize the requirements governing the procurement functions of the OCFA.

American Bar Association Model Procurement Code

Based on a review of best practices in public procurement, staff is recommending a new comprehensive procurement ordinance or code based on the American Bar Association (ABA) Model Procurement Code (MPC). The MPC was initially developed and adopted in 1979 and updated in 2000. The MPC is identified as the most recognized regulatory model for state and local government in the country. Due to its longevity and exposure to countless procurement challenges, the MPC provides the best standard. The MPC has been adopted in part and in whole by thousands of local jurisdictions across the United States.

The MPC structure is intended to provide a flexible framework that promotes transparency, fairness, competition, and reliable processes for government agencies adopting a model procurement-based code. The proposed new Ordinance No. 008 is structured into twelve articles providing policies, legal remedies and ethical considerations as summarized below. Articles I through X cover basic policies for the procurement of supplies, services and construction; disposal of supplies; and legal remedies. Article XI is reserved for any new/additional policies that OCFA may elect to become subject to in the future and Article XII establishes ethical standards for procurement staff.

The MPC provides a guide for addressing common procurement related concerns. Current OCFA Ordinance Nos. 006 and 007 are missing some key components typically found in government procurement regulations such as, authorization for best value procurements (request for proposals), protest provisions and authorization for use of cooperative purchasing contracts. The need for further direction on these elements was referenced in an Internal Control Review of Purchasing Practices (2013), which referenced some of these concerns and suggested the adoption of a purchasing ordinance based on the MPC. Due to the comprehensive changes and combination of the two ordinances into one, it was not feasible to red-line the prior ordinances in the incorporation.

OCFA legal counsel has provided an in-depth review of the new proposed purchasing Ordinance No. 008 and supports the recommended changes.

Research on Procurement Limits

The current Roles/Responsibilities/Authorities matrix was updated on February 26, 2015. Staff has reviewed and compared the purchasing limits of larger regional agencies in the county including the County of Orange, Orange County Transportation Authority (OCTA), and Irvine Ranch Water District (IRWD). The City of Irvine was also included in the comparison and a chart of the findings is included (Attachment 4). Based on this comparison, staff is proposing changes in OCFA's purchasing authority limits that will put the OCFA thresholds in line with other regional agencies of like-size.

Proposed Changes to Procurement Limits

The recommended changes in the Roles and Responsibilities matrix will provide further clarification to OCFA staff and will allow for additional management authority in an effort to streamline the purchasing process for the day to day purchasing needs. The updated code will provide the legal backbone for the source selection and contract formation methods used in awarding Fire Authority contracts. ***The Executive Committee would retain the authority to approve non-competitive contracts and those with significant value and the Board would retain the authority for all formal public projects.***

Proposed revisions to the Roles and Responsibilities matrix include:

- References to applicable sections in the procurement code
- Separates commodity purchases and fixed assets allowing for different approval limits
- Increases management authority for the approval and amendment of commodity contracts (materials, equipment and supplies) so long as the annual contract amount remains less than \$250,000
- Provides for management authority to approve fixed asset purchases less than \$100,000 per unit
- Modifies management authority to approve service contracts less than \$100,000 annually, and for multi-year contracts when the total contract amount does not exceed \$500,000
- Further defines change orders and contract amendments with revised approval amounts
- Increases management authority for sole source purchases from \$25,000 to \$50,000 aggregate in order to align with the small purchase limits defined in Sec. 1-20 of the procurement code
- Addition of special procurements defined in Sec. 1-23 with management authority at the same limits as sole source (up to \$50,000). *Special procurements are for those purchases that are in the best interest to the Fire Authority that do not meet the definition of a sole source and reasons for not going through a solicitation process are validated*
- Included details of current thresholds from the Public Contract Code Section 22032
- Reduced management authority on informal public project change orders from \$50,000 to \$17,500 which equals 10% of the current informal amount defined in the Public Contract Code
- Added Board approval for change orders on formal public projects greater than 10% of the original contract amount or \$50,000 whichever is less
- Added the authority for the Fire Chief or his designee to declare an emergency and authorize procurement of equipment, services, construction services and supplies without competitive bidding requirements with reporting to follow at the next scheduled Board meeting

Summary of Benefits in Adopting the Proposed MPC & Roles/Responsibilities Matrix

The establishment of one comprehensive ordinance that governs procurement will create a clear and consistent guide for staff, vendors doing business with OCFA, and the public. The structure of the ordinance will allow for future amendments as required without rescinding and replacing the entire ordinance. Staff recommends adoption of a new OCFA Procurement Code, proposed Ordinance No. 008, which is based in large part upon the ABA Model Procurement Code.

Revision to the Roles, Responsibilities, and Authorities Matrix will provide the OCFA staff with the tools needed to address the daily needs of the Fire Authority while permitting the Executive Committee and the Board of Directors to retain oversight in the process.

ORDINANCE NO. 006

**AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE ORANGE
COUNTY FIRE AUTHORITY REPEALING ORDINANCE NO. 002 AND
ESTABLISHING INFORMAL BIDDING PROCEDURES UNDER THE
UNIFORM PUBLIC CONSTRUCTION COST ACCOUNTING ACT
(SECTION 22000, ET SEQ, OF THE PUBLIC CONTRACT CODE)**

RECITALS

A. WHEREAS, on February 22, 1996, the Orange County Fire Authority adopted OCFA Ordinance No. 002 establishing informal bidding procedures under the Uniform Public Construction Cost Accounting Act; and

B. WHEREAS, at the time of adoption of Ordinance 002, the UPCCAA authorized informal bidding procedures to be applied for construction contracts no greater than \$75,000, and accordingly, Ordinance 002 limited the application of informal bidding procedures to contracts no greater than \$75,000; and

C. WHEREAS, since the adoption of Ordinance 002, the UPCCAA has been amended to authorize public agencies to apply informal bidding procedures to larger construction contracts, with the limit presently set at \$125,000; and

D. WHEREAS, the Board of Directors wishes to replace the existing \$75,000 limitation established in Ordinance 002 with the maximum limit set forth in the UPCCAA, as that limitation may be amended from time to time, and to make related administrative changes in the procedures.

THEREFORE, the Board of Directors of the Orange County Fire Authority does hereby ordain as follows:

Section 1. Repeal of Ordinance No. 002; Replacement.

As of the effective date of this Ordinance, Ordinance No. 002 is hereby repealed and replaced, in its entirety, with the provisions of this Ordinance.

Section 2.0 Informal Bid Procedures

Public works projects, as defined by the Uniform Public Construction Cost Accounting Act, and in accordance with the limits listed in Section 22302 of the Public Contract Code, as those limits may be amended from time to time, may be let to contract by informal procedures as set forth in Section 22032, et seq., of the Public Contract Code.

Section 2.1 Contractors List

A list of qualified contractors, identified according to categories of work, shall be developed and maintained by the Authority in accordance with the provisions of Section 22034 of the Public Contract Code and criteria established from time to time by the California Uniform Construction Cost Accounting Commission.

Section 2.2 Notice Inviting Informal Bids

Where a public works project is to be performed which is subject to the provisions of this Ordinance, a notice inviting informal bids shall be mailed to all contractors for the category of work to be bid, as shown on the list developed in accordance with Section 2.1, or to all construction trade journals as specified by the California Uniform Construction Cost Accounting Commission in accordance with Section 22036 of the Public Contract Code, unless the product or service is proprietary. Additional contractors and/or construction trade journals may be notified at the discretion of the Authority. If there is no list of qualified contractors maintained by the Authority for the particular category of work to be performed, the notice inviting bids shall be sent only to the construction trade journals specified by the Commission.

Section 2.3 Mailing of Notices and Description of Project

All mailing of notices to contractors or construction trade journals pursuant to Section 2.2 shall be completed not less than 10 calendar days before bids are due. The notice inviting informal bids shall describe the project in general terms, how to obtain more detailed information about the project, and state the time and place for the submission of bids.

Section 2.4 Bids in Excess of the Formal Limit

If all bids received are in excess of the formal limit then set forth in Section 22032, the Board may, by passage of a resolution by a 4/5ths vote, award the contract to the lowest responsible bidder, if the Board determines the cost estimate was reasonable and if the contract amount does not exceed the maximum amount then permissible set forth in Section 22034.

Section 2.5 Award of Contracts

Except as specified under Section 2.4, the Orange County Fire Authority Purchasing Manager is authorized to award informally bid contracts pursuant to provisions of this ordinance.

Section 3. Severability

If any section, subsection, subdivision, sentence, clause, or phrase of this Ordinance is for any reason held to be unconstitutional or otherwise invalid, such invalidity shall not affect the validity of the entire Ordinance or any of the remaining portions.

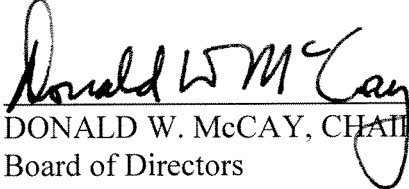
Section 4. Precedence

This Ordinance shall supercede the provisions of any previously adopted ordinance, resolution or policy inconsistent herewith.

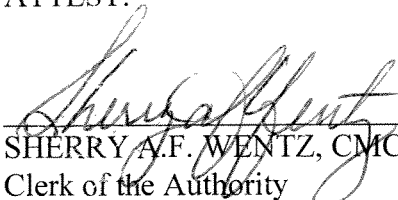
Section 5. Effective Date; Publication

This Ordinance shall take effect and be in force thirty (30) days after the date of its passage. Before the expiration of fifteen (15) days after its passage, it or a summary of it shall be published once, with the names of the members of the Board of Directors voting for and against the same in the Orange County Register, a newspaper of general circulation published in the County of Orange.

PASSED, APPROVED, AND ADOPTED this 23rd day of April 2009.


DONALD W. McCAY, CHAIR
Board of Directors

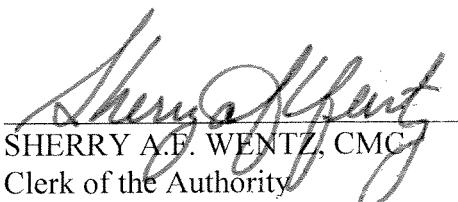
ATTEST:


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

STATE OF CALIFORNIA }
COUNTY OF ORANGE } ss.
CITY OF ORANGE }

I, SHERRY A.F. WENTZ, Clerk of the Orange County Fire Authority, do hereby certify that the foregoing Ordinance No. 006 was duly introduced and placed upon its first reading at a regular meeting of the Orange County Fire Authority Board of Directors on the 26th day of March 2009, and that thereafter, said Ordinance was duly adopted and passed at an adjourned regular meeting of the Board of Directors of the Orange County Fire Authority held on the 23rd day of April 2009, by the following vote, to wit:

AYES:	Joe Aguirre, Alternate, Placentia	Neil Blais, Rancho Santa Margarita
	Bill Campbell, County of Orange	Henry Charoen, La Palma
	Dr. Steven S. Choi, Irvine	Troy Edgar, Los Alamitos
	Trish Kelley, Mission Viejo	Don McCay, Buena Park
	Janet Nguyen, County of Orange	Jim Palmer, Alternate, Tustin
	Brad Reese, Villa Park	Nancy Rikel, Yorba Linda
	Martin Rhodes, Alternate, Laguna Woods	R. Craig Scott, Laguna Hills
	Todd Seymore, Cypress	David Shawver, Stanton
	David Sloan, Seal Beach	Tri Ta, Westminster
	Mark Tettemer, Lake Forest	Dr. Londres Uso, San Juan Capistrano
	Steven Weinberg, Dana Point	
NOES:	None	
ABSTAIN:	None	
ABSENT:	Carmen Cave, Aliso Viejo	Gary Capata, Laguna Niguel
	Greg Sowards, Placentia	James Dahl, San Clemente
	Doug Davert, Tustin	


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

ORDINANCE NO. 007

AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE ORANGE COUNTY FIRE AUTHORITY REPEALING ORDINANCE NO. 005 AND ESTABLISHING THE PURCHASING RULES AND REGULATIONS OF THE FIRE AUTHORITY

RECITALS

A. WHEREAS, on January 16, 2003, the Orange County Fire Authority adopted OCFA Ordinance No. 005 establishing the Authority's purchasing rules and regulations of the Fire Authority. Ordinance No. 005 established the general guidelines for all purchasing activities (except Public Works projects) of the Fire Authority; and

B. WHEREAS, Ordinance No. 005 limited more expedited informal bidding processes to contracts of not greater than \$5,000, the same limits established when the Fire Authority was established in 1995; and

C. WHEREAS, revising the informal bid limit to \$10,000 will help keep pace with the escalating cost of goods and services, and will result in efficiency savings; and

D. WHEREAS, additional improvements in contracting efficiency for the Fire Authority and those contracting with it can be achieved by: changing the award criteria for emergency purchases from "quickest" to "most value-added"; providing an alternate Published Notice requirement to include posting on the OCFA website; allowing for a secure, web-based system to receive formal bids; allowing posting of bid tabulations on the OCFA website; and allowing for posting bid solicitations on the OCFA website.

THEREFORE, the Board of Directors of the Orange County Fire Authority does hereby ORDAIN:

Section 1. Repeal of Ordinance No. 005; Replacement:

As of the effective date of this Ordinance, Ordinance No. 005 is hereby repealed and replaced, in its entirety, with the provisions of this Ordinance.

Section 2. ADOPTION OF PURCHASING SYSTEM

In order to establish efficient procedures for the purchase of services, supplies and equipment; to secure for the Fire Authority supplies, equipment, services at the lowest possible cost commensurate with quality needed; to exercise positive financial control over purchases; to clearly define authority for the purchasing functions; to assure the quality of purchases; and to buy without favor or prejudice, a purchasing system is hereby adopted and shall control the procedure for all purchases except Public Works projects and as otherwise provided by law.

Section 3. DEFINITION OF TERMS

The following terms, whenever used in this Ordinance, shall be construed as follows:

- A. Fire Authority: The Orange County Fire Authority.
- B. Purchases: Purchases of services, supplies and equipment shall include Master Lease Agreements and other debt service agreements.
- C. Purchasing Manager: The official appointed by the Fire Chief for enforcement of this division. The duties of the Purchasing Manager may be combined with those of another position.
- D. Services, Supplies and Equipment: Any and all services, articles, things, or personal property furnished to or used by the Fire Authority.

Section 4. A CENTRALIZED PURCHASING PROGRAM

There is hereby created a centralized purchasing program within the Orange County Fire Authority in which is vested authority for the purchase of services, supplies and equipment. The Board of Directors shall adopt by resolution policies setting forth the authority and limitations of the centralized purchasing program.

Section 5. PURCHASING MANAGER GENERAL POWERS

The Purchasing Manager shall direct and supervise the purchasing program. He/she shall appoint such deputies, assistants or other employees as shall from time to time be authorized. The Purchasing Manager utilizing sound professional purchasing practices, shall endeavor to obtain as full and open competition as reasonable on all purchases and shall award all purchases to qualified bidders. He/she shall furnish the Board of Directors with such reports and information as the Board may from time to time require, and shall establish methods and procedures necessary for the proper functioning of the purchasing program in an efficient and economical manner.

Section 6. PURCHASING MANAGER AUTHORITY

The Purchasing Manager shall have the authority to:

- A. Purchase Material: Purchase all services, supplies, equipment and other personal property required by the Fire Authority in accordance with the policies and procedures adopted by the Board of Directors, administrative procedures approved by the Fire Chief, or as otherwise provided by law. Except in cases of emergency, pursuant to Section 12 or where the Board of Directors or the Executive Committee has retained authority, no purchase of services, supplies and

equipment by any person other than the Purchasing Manager or his or her appointed designee shall be binding upon the Fire Authority or constitute a lawful charge against Fire Authority funds.

- B. Contract Generally: Enter into any contract permitted by law, including but not limited to purchase orders, price agreements, equipment service contracts, lease purchase agreements, professional service contracts and rental agreements, subject to any restrictions set forth in this division or specifically provided for by law.
- C. Dispose of Surplus Property: Dispose of all Fire Authority surplus supplies and equipment and any other surplus personal property in accordance with the provisions of Section 13 of this Ordinance.

Section 7. PURCHASING REQUIREMENTS

Purchases of services, supplies, and equipment shall be made and accomplished in conformity with Section 8, except:

- A. When the amount is less than ten thousand dollars (\$10,000); or
- B. When the Purchasing Manager determines that an emergency exists which requires that an order be placed with the most value-added source of supply; or
- C. When an emergency exists pursuant to Section 12; or
- D. When the Purchasing Manager, with the approval of the Fire Chief, determines that the services, supplies, and equipment needed can feasibly be obtained from one source only; or
- E. When the Board of Directors has contracted for or transferred the authority to make the purchase of services, supplies and equipment to another governmental agency or officer thereof pursuant to lawful authority; or
- F. When the Board of Directors finds that the public interest and convenience require the purchase of services, supplies, and equipment utilizing purchasing agreements maintained by the county, state or other public agencies; or
- G. When the Board of Directors determines to dispense with such bidding and other procedures in any individual instance upon finding that it would be impractical, useless or uneconomical in such instance to follow the bidding or other procedures, and that the welfare of the public would be promoted by dispensing with the same.

Section 8. BIDDING - PROCEDURES

The bidding procedure for the Orange County Fire Authority shall be one of the following:

A. Formal Written Bid Process:

A formal written bid shall be processed as indicated below for all purchases where required by state and/or federal laws or when required by action of the Board of Directors or Executive Committee, but shall not apply to public works contracts. The process shall include the following components:

1. NOTICE INVITING BIDS. Notices inviting bids shall include a general description of the articles to be purchased and shall state where the bid documents and specifications may be secured and the time and place for opening bids.
 - a. Published Notice: The first notice inviting bids shall be published at least ten days before the opening of the bids. Notice shall be published at least twice, not less than five days apart, in a newspaper of general circulation, printed and published in the County of Orange; or the notice may be posted on the Fire Authority's website at least ten days prior to the opening of bids.
2. BIDDERS' SECURITY. When deemed necessary, or when required by state and/or federal law, bidders' security will be prescribed in the public notices inviting bids. The security shall be returned upon rejection of a bid, provided that a successful bidder shall forfeit his bid security upon refusal or failure to execute the contract within ten days after the award of contract has been mailed, unless the Fire Authority is responsible for or agrees to the delay. The Board of Directors may, on refusal or failure of the successful bidder to execute the contract, award it to the next lowest responsive and responsible bidder. If the Fire Authority awards the contract to the next lowest responsive and responsible bidder, the amount of the lowest bidders' security shall be applied by the Fire Authority to the difference between the low bid and the second lowest bid, and the surplus, if any shall be returned to the lowest bidder or to the surety if a bidder's bond is used.
3. BID OPENING PROCEDURE. Sealed bids shall be submitted to the Fire Authority and shall be identified as bids on the envelope. Bids shall be opened in public at the time and place stated in the public notices.

A secure, web-based system or other appropriate media may be used in lieu of sealed bids opened in public, provided that the Purchasing Manager has approved the system for accuracy, confidentiality, and reliability.

A tabulation of all bids received shall be posted on the Fire Authority's website; or, open for public inspection during regular business hours for a period of not less than thirty calendar days after the bid opening.

4. REJECTION OF BIDS. At its discretion, the Board of Directors may reject all bids presented and re-advertise for bids.
5. AWARD OF CONTRACTS. Contracts shall be awarded to the lowest responsive and responsible bidder, except as otherwise provided herein.
6. TIE BIDS. If two or more bids received are for the same total amount or unit price with equal quality and service, and if the public interest will not permit the delay of re-advertising for bids, the Fire Authority shall accept the bidder whose business is located within the OCFA service areas, or accept the one it chooses, or accept the lowest responsive and responsible bid made by negotiation with the tie bidders.
7. PERFORMANCE BONDS. The Board of Directors shall have the authority to require a performance bond before entering into a contract in such amount as it shall find reasonably necessary to protect the best interests of the Fire Authority. If the Fire Authority requires a performance bond, the form and amount of the bond shall be described in the notice inviting bids or in the contract specifications.

B. Open Market Process:

Purchase of services, supplies, and equipment shall be made by the Purchasing Manager following the open market process described herein where neither state and federal laws nor action of the Board of Directors or Executive Committee require the use of the formal written bid process, or where these procedures are not otherwise exempted. This process shall include the following:

1. MINIMUM NUMBER OF BIDS. Open market purchases shall, whenever possible, be based on at least three bids.
2. SOLICITING BIDS. The Purchasing Manager shall solicit bids from prospective vendors by written request, FAX, telephone, or by public notice posted on the Fire Authority's website.

3. AWARD OF PURCHASE. Open market purchases shall be awarded to the most qualified bidder as determined by the Orange County Fire Authority.

Section 9. RECORD RETENTION

The Purchasing Manager shall maintain records of all sealed written bids and open market orders resulting therefrom for a period of one year after the submission of the bids or the placing of orders. This record, while so kept, shall be open to public inspection during regular business hours.

Section 10. ENCUMBRANCES OF FUNDS

Except in cases of emergency, or in cases where specific authority has been first obtained from the Fire Chief, the Purchasing Manager shall not issue any purchase orders for supplies or equipment unless there exists an unencumbered appropriation in the fund account against which said purchase is to be charged. All purchases, regardless of encumbrances, shall be made in conformance with the policies established by this Ordinance.

Section 11. INSPECTION AND TESTING

The Purchasing Manager may inspect supplies and equipment delivered to determine their conformance with the specifications set forth in the order or contract. The Purchasing Manager shall have authority to require chemical and physical tests of samples submitted with bids and samples of deliveries which are necessary to determine compliance with specifications.

Section 12. EMERGENCY PURCHASES

In the event services, equipment or supplies are immediately necessary for the preservation to life or property, emergency purchases may be made without compliance with Section 8 by:

The Fire Chief and/or his designee who shall provide a full report of the circumstances of all emergency purchases in excess of the Fire Chief's delegated authority. Such purchases require prior approval of the Chair or Vice-Chair and shall be reported at the next meeting of the Executive Committee.

Section 13. SURPLUS SUPPLIES AND EQUIPMENT

The process for the disposition of surplus supplies and equipment shall be as follows:

- A. Disposition of Surplus Property: The approved disposition process for surplus property will be determined by the Purchasing Manager and shall be in accordance with guidelines as established in the OCFA Purchasing Handbook.

- B. Donated Property: If the surplus property has an estimated value of less than \$5,000 and it is proposed that the property may be donated, the Purchasing Manager has the authority to determine whether the proposed donation of the surplus property to another local agency or non-profit organization is in keeping with the intent of the California Constitution. Under the California Constitution, when a public agency gives a surplus item to another organization, the item must be used for a public purpose of interest and benefit generally to the people of the agency's jurisdiction and in keeping with the agency's purpose. Said donations shall require the prior approval of the Fire Chief and a release of liability to OCFA from the agency accepting the surplus property. Donations of surplus property with an estimated value of \$5,000 or more must require prior approval of the Executive Committee or Board of Directors.
- C. Historical Surplus Property: Surplus Property deemed to have historical significance, by the Fire Chief and/or his designee, will be transferred and placed in the custody of a designated section manager for safe keeping.
- D. Surplus Property: The Purchasing Manager shall provide an annual report of surplus property disposition to the Assistant Chief of Business Services.

Section 14. SEVERABILITY

If any section, subsection, subdivision, sentence, clause, or phrase of this Ordinance is for any reason held to be unconstitutional or otherwise invalid, such invalidity shall not affect the validity of the entire Ordinance or any of the remaining portions.

Section 15. PRECEDENCE

This Ordinance shall supercede the provisions of any previously adopted ordinance, resolution or policy inconsistent herewith.

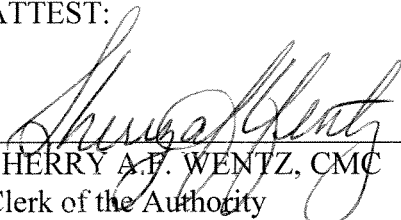
Section 16. EFFECTIVE DATE; PUBLICATION.

This Ordinance shall take effect and be in force thirty (30) days from the date of its passage. Before the expiration of fifteen (15) days after its passage, it or a summary of it shall be published once, with the names of the members of the Board of Directors voting for and against the same in the Register, a newspaper of general circulation published in the County of Orange.

PASSED, APPROVED, AND ADOPTED this 23rd day of April 2009.


DONALD W. McCAY, CHAIR
Board of Directors


ATTEST:


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

STATE OF CALIFORNIA }
COUNTY OF ORANGE } ss.
CITY OF ORANGE }

I, SHERRY A.F. WENTZ, Clerk of the Orange County Fire Authority, do hereby certify that the foregoing Ordinance No. 007 was duly introduced and placed upon its first reading at a regular meeting of the Orange County Fire Authority Board of Directors on the 26th day of March 2009, and that thereafter, said Ordinance was duly adopted and passed at an adjourned regular meeting of the Board of Directors of the Orange County Fire Authority held on the 23rd day of April 2009, by the following vote, to wit:

AYES:	Joe Aguirre, Alternate, Placentia	Neil Blais, Rancho Santa Margarita
	Bill Campbell, County of Orange	Henry Charoen, La Palma
	Dr. Steven S. Choi, Irvine	Troy Edgar, Los Alamitos
	Trish Kelley, Mission Viejo	Don McCay, Buena Park
	Janet Nguyen, County of Orange	Jim Palmer, Alternate, Tustin
	Brad Reese, Villa Park	Nancy Rikel, Yorba Linda
	Martin Rhodes, Alternate, Laguna Woods	R. Craig Scott, Laguna Hills
	Todd Seymore, Cypress	David Shawver, Stanton
	David Sloan, Seal Beach	Tri Ta, Westminster
	Mark Tettermer, Lake Forest	Dr. Londres Uso, San Juan Capistrano
	Steven Weinberg, Dana Point	
NOES:	None	
ABSTAIN:	None	
ABSENT:	Carmen Cave, Aliso Viejo	Gary Capata, Laguna Niguel
	Greg Sowards, Placentia	James Dahl, San Clemente
	Doug Davert, Tustin	


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

ORDINANCE NO. 008

AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE ORANGE COUNTY FIRE AUTHORITY REPEALING ORDINANCE NO. 006 AND ORDINANCE NO. 007 AND ESTABLISHING THE PURCHASING RULES AND PROCEDURES OF THE ORANGE COUNTY FIRE AUTHORITY

RECITALS

A. *WHEREAS*, on April 23, 2009, the Orange County Fire Authority adopted OCFA Ordinance No. 006 establishing informal bidding procedures under the Uniform Public Construction Cost Accounting Act; and

B. *WHEREAS*, on April 23, 2009, the Orange County Fire Authority adopted OCFA Ordinance No. 007 establishing the purchasing rules and procedures; and

C. *WHEREAS*, the Board wishes to replace these two ordinances with a single ordinance based on the American Bar Association Model Procurement Code.

THEREFORE, the Board of Directors of the Orange County Fire Authority does hereby ordain as follows:

Section 1. Repeal of Ordinance Nos. 006 and 007; Replacement.

As of the effective date of this Ordinance, Ordinance No. 006 and No. 007 are hereby repealed and replaced, in their entirety, with the Orange County Fire Authority Procurement Code attached hereto as Exhibit A.

Section 2. Effective Date; Publication.

This Ordinance shall take effect and be in force thirty (30) days from the date of its passage. Before the expiration of fifteen (15) days after its passage, it or a summary of it shall be published once, with the names of the members of the Board of Directors voting for and against the same in the Register, a newspaper of general circulation published in the County of Orange.

PASSED, APPROVED and ADOPTED this ____ day of _____ 2016.

GENE HERNANDEZ, CHAIR
OCFA Board of Directors

ATTEST:

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

STATE OF CALIFORNIA }
COUNTY OF ORANGE } ss
CITY OF ORANGE }

I, SHERRY A.F. WENTZ, Clerk of the Orange County Fire Authority, do hereby certify that the foregoing Ordinance No. 008 was duly introduced and placed upon its first reading at a regular meeting of the Orange County Fire Authority Board of Directors on the _____ day of _____ 2016, and that thereafter, said Ordinance was duly adopted and passed at a regular meeting of the Board of Directors of the Orange County Fire Authority held on the _____ day of _____ 2016, by the following vote, to wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

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

EXHIBIT A

ORANGE COUNTY FIRE AUTHORITY
PROCUREMENT CODE

- Art. I. In General, §§ 1-1--1-10**
- Art. II. Chief Procurement Officer Authority, §§ 1-11--1-14**
- Art. III. Source Selection and Contract Formation, §§ 1-15--1-40**
- Art. IV. Specifications, §§ 1-41--1-46**
- Art. V. Procurement of Public Works Projects and Professional Design Services, §§ 1-47--1-57**
- Art. VI. Contract Terms and Conditions, §§ 1-58--1-61**
- Art. VII. Cost Principles, §§ 1-62--1-65**
- Art. VIII. Materials Management, §§ 1-66--1-74**
- Art. IX. Legal and Contractual Remedies, §§ 1-75--1-125**
- Art. X. Cooperative Purchasing, §§ 1-126--1-131**
- Art. XI. Reserved, §§ 1-132--1-136**
- Art. XII. Ethics in Public Contracting, §§ 1-137--1-140**

Article I. General Provisions

- Sec. 1-1. General Law.
- Sec. 1-2. Applicability.
- Sec. 1-3. Definitions.
- Sec. 1-4. Supplementary general principles of law applicable.
- Sec. 1-5. Requirement of good faith.
- Sec. 1-6. Confidential information.
- Secs. 1-7--1-10. Reserved.

Article II. Chief Procurement Officer Authority

Sec. 1-11. Authority of the Chief Procurement Officer.

Sec. 1-12. Written determinations.

Secs. 1-13, 1-14. Reserved.

Article III. Source Selection and Contract Formation

Sec. 1-15. Definitions.

Sec. 1-16. Methods of source selection.

Sec. 1-17. Competitive sealed bidding.

Sec. 1-18. Competitive sealed proposals.

Sec. 1-19. Contracting for legal counsel.

Sec. 1-20. Small purchases.

Sec. 1-21. Sole source procurement.

Sec. 1-22. Emergency procurements.

Sec. 1-23. Special procurements.

Sec. 1-24. Cancellation of solicitations.

Sec. 1-25. Rejection of individual bids, proposals, quotations or statements of qualifications

Sec. 1-26. Responsibility of bidders, offerors and respondents.

Sec. 1-27. Bid and contract security, material or service contracts.

Sec. 1-28. Types of contracts.

Sec. 1-29. Approval of accounting system.

Sec. 1-30. Multi-year contracts.

Sec. 1-31. Right to inspect.

Sec. 1-32. Right to audit records.

Sec. 1-33. Reporting of anticompetitive practices.

Sec. 1-34. Prospective vendors lists.

Sec. 1-35. Contract form and execution.

Sec. 1-36. Assignment of rights and duties.

Sec. 1-37--1-40. Reserved.

Article IV. Specifications

- Sec. 1-41. Definitions.
- Sec. 1-42. Maximum practicable competition.
- Sec. 1-43. Specifications prepared by other than Fire Authority personnel.
- Sec. 1-44. Brand name or equal specification.
- Sec. 1-45. Brand name specification.
- Sec. 1-46. Reserved.

Article V. Procurement of Public Projects and Professional Design Services

- Sec. 1-47. Definitions.
- Sec. 1-48. Procurement of public projects.
- Sec. 1-49. Public project informal bidding procedures.
- Sec. 1-50. Public project formal bidding procedures.
- Sec. 1-51. Procurement of professional design services.
- Sec. 1-52. Procurement of construction services.
- Sec. 1-53. Public project emergencies procedures.
- Sec. 1-54--1-57. Reserved.

Article VI. Contract Terms and Conditions

- Sec. 1-58. Contract terms and conditions.
- Secs. 1-59--1-61. Reserved.

Article VII. Cost Principles

- Sec. 1-62. Cost principles.
- Sec. 1-63. Cost or pricing data.
- Secs. 1-64, 1-65. Reserved.

Article VIII. Materials Management

- Sec. 1-66. Definitions.
- Sec. 1-67. Materials management guidelines.
- Sec. 1-68. Inventory management.
- Sec. 1-69. Disposition of surplus property.
- Secs. 1-70--1-74. Reserved.

Article IX. Legal and Contractual Remedies

- Sec. 1-75. Definitions.
- Sec. 1-76. Authority of the Chief Procurement Officer.
- Sec. 1-77. Right to protest.
- Sec. 1-78. Filing of a protest.
- Sec. 1-79. Time for filing protests.
- Sec. 1-80. Stay of procurements during the protest.
- Sec. 1-81. Confidential information.
- Sec. 1-82. Decision by the Chief Procurement Officer.
- Sec. 1-83. Remedies.
- Sec. 1-84. Appeals to the Fire Chief.
- Sec. 1-85. Notice of appeal.
- Sec. 1-86. Stay of procurement during appeal.
- Sec. 1-87. Contract procurement officer report.
- Sec. 1-88. Dismissal by the Fire Chief.
- Sec. 1-89. Remedies.
- Sec. 1-90. Filing of a contract claim.
- Sec. 1-91. Chief Procurement Officer's decision.
- Sec. 1-92. Issuance of timely decision.
- Sec. 1-93. Appeals to the Fire Chief.
- Sec. 1-94. Fire Authority claims against a contractor.
- Sec. 1-95. Mediation.
- Sec. 1-96. Arbitration.
- Sec. 1-97. Final decision by the Fire Chief.
- Sec. 1-98. Judicial review of protests or claims.
- Sec. 1-99. Exclusive remedy.
- Secs. 1-100--1-115. Reserved.

Article X. Cooperative Purchasing

- Sec. 1-116. Definitions.

Sec. 1-117. Applicability.

Sec. 1-118. Cooperative purchasing agreements required.

Sec. 1-119. Cooperative purchasing authorized.

Secs. 1-120, 1-121. Reserved.

Article XI. Reserved

Secs. 1-122--1-126. Reserved.

Article XII. Ethics in Public Contracting

Sec. 1-127. Procurement Ethics Standards

Secs. 1-128--1-130. Reserved.

ARTICLE I. GENERAL PROVISIONS

Purpose

The purpose of the Orange County Fire Authority Procurement Code is to:

- (a) Simplify, clarify, centralize, and modernize the Fire Authority's rules and regulations governing procurement.
- (b) Permit the continued development of best value procurement policies and practices.
- (c) Provide for increased public confidence in the procurement procedures followed by the Fire Authority.
- (d) Ensure the fair and equitable treatment of all persons who deal with the procurement system of the Fire Authority.
- (e) Provide increased economy in Fire Authority procurement activities and maximize, to the fullest extent practicable, the purchasing value of public monies of the Fire Authority, and foster effective broad-based competition within the free enterprise system.
- (f) Provide safeguards for the maintenance of a procurement system of quality and integrity.
- (g) Obtain in a cost-effective and timely manner the materials, services, and construction required by the Fire Authority to better serve its citizens.

Sec. 1-1. General Law.

Pursuant to and to the extent required by Government Code Section 6509, the Orange County Fire Authority shall be restricted in the exercises of its powers in the same manner as is a general law city in accordance with the joint power agreement formed as of February 3, 1995, and as subsequently amended.

Sec. 1-2. Applicability.

Sec. 1-2(1). The provisions of this code shall apply to the following:

- (a) Every expenditure of public monies by the Fire Authority irrespective of their source, including State and Federal assistance monies, for the procurement of materials, services, and public projects;
- (b) Disposal of property; and
- (c) Contracts where there is no expenditure of public monies or where the Fire Authority is offering something of value to the business community when the Fire Authority determines source selection and award of a contract.

Sec. 1-2(2). The following are exempt from the provisions of this code:

- (a) Grants awarded by the Fire Authority and approved by the Board of Directors;
- (b) The purchase, sale or lease of Fire Authority real property;
- (c) Contracts for professional witnesses if the purpose of such contracts is to provide for services or testimony relating to an existing or probable judicial proceeding in which the Fire Authority

is or may become a party to, and contracts for special investigative services for law enforcement purposes;

(d) Agreements negotiated by the Fire Authority in settlement of litigation or threatened litigation; or

(e) Contracts with other governmental agencies.

Sec. 1-3. Definitions.

In this code, unless the context otherwise requires:

Sec. 1-3(1). "Business" means any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture or any other private legal entity.

Sec. 1-3(2). "Change order" means a written document authorized by the Chief Procurement Officer which directs the contractor to make changes with or without the consent of the contractor.

Sec. 1-3(3). "Chief Procurement Officer" means the official appointed by the Fire Chief as the purchasing and materials manager and the central procurement and contracting authority for the Fire Authority.

Sec. 1-3(4). "Contract" means all types of Fire Authority agreements, regardless of what they may be called, for the procurement of materials, maintenance, services, public works, construction or the disposal of materials.

Sec. 1-3(5). "Construction" means the process of building, reconstructing, erecting, altering, renovating, improving, demolishing, or repairing any Fire Authority owned, leased, or operated facility. Construction does not include maintenance work, which is defined to include routine, recurring, and usual work for the preservation or protection of any Fire Authority owned or operated facility for its intended purposes.

Sec. 1-3(7). "Contract officer" means any person duly authorized by the Chief Procurement Officer to facilitate the source selection process, including but not limited to; preparing solicitations and written determinations, conducting negotiations, making award recommendations, and administering contracts.

Sec. 1-3(8). "Contractor" or "Consultant" means any person who has a procurement contract with the Fire Authority.

Sec. 1-3(9). "Days", unless otherwise specified, means calendar days and shall be computed by excluding the first day and including the last working day, unless the last day is a holiday, and then it is also excluded.

Sec. 1-3(10). "Department" means the Purchasing Section of the Business Services Department.

Sec. 1-3(11). "Designee" means a duly authorized representative of the Chief Procurement Officer, designated by the Chief Procurement Officer.

Sec. 1-3(12). "Disposal of material" means sale of surplus property by public auction, including online electronic auction, competitive sealed bidding, small purchase procedures, recycling, or other appropriate method designated by this code.

Sec. 1-3(13). "Electronic" means electrical, digital, magnetic, optical, electromagnetic, or any other

similar technology.

Sec. 1-3(14). "Emergency" means a sudden, unexpected occurrence that poses a clear and imminent danger, requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services.

Sec. 1-3(15). "Executive Committee" means the Executive Committee of the Orange County Fire Authority Board of Directors.

Sec. 1-3(16). "Fire Authority" means the Orange County Fire Authority.

Sec. 1-3(17). "Grant" means the furnishing of assistance, whether financial or otherwise, to any person to support a program authorized by law. Grant does not include an agreement whose primary purpose is to procure a specific end product, whether in the form of materials, services or construction. A contract resulting from such an agreement is not a grant but a procurement contract.

Sec. 1-3(18). "Materials" means all property, including but not limited to, equipment, supplies, printing, insurance and buildings but does not include land, a permanent interest in land or leases of real property.

Sec. 1-3(19). "Person" means any corporation, consultant, business, individual, union, committee, club, other organization or group of individuals.

Sec. 1-3(20). "Procurement" means buying, purchasing, renting, leasing, or otherwise acquiring any materials, services, or construction. Procurement also includes all functions that pertain to the acquisition of any material, service, or construction including but not limited to, description of requirements, selection and solicitation of sources, preparation, negotiation and, award of contract, and all phases of contract administration.

Sec. 1-3(21). "Professional service" means a unique, technical function performed by an independent contractor or firm qualified by education, experience, and/or technical ability to provide services and may include consulting, marketing analysis, banking services, auditing, software development/design, and editing services.

Sec. 1-3(22). "Public notice" means the distribution or dissemination of information to interested parties using methods that are reasonably available. Such methods may include electronic mailing lists and a website maintained for that purpose.

Sec. 1-3(23). "Services" means the furnishing of labor, time or effort by a contractor, consultant, subcontractor or sub-consultant which does not involve the delivery of a specific end product other than required design documents or reports and performance. Services do not include employment agreements or collective bargaining agreements. The definition of services includes, but is not limited to: consulting, personal, professional, legal counsel, auditing, technical, professional design and construction services.

Sec. 1-3(24). "Sole Source" means a product or service that is available from only one known supplier as a result of unique performance capabilities, manufacturing processes, compatibility requirements or market conditions.

Sec. 1-3(25). "Subcontractor or subconsultant" means a person who contracts to perform work or render service to a contractor or consultant as defined by this section or to another subcontractor or subconsultant as a part of a contract with the Fire Authority.

Sec. 1-3(26). "Written or in writing" means the product of any method for forming characters on paper or other material or viewable screen, which can be read, retrieved, and reproduced, including information that is electronically transmitted and stored.

Sec. 1-3(27). "Using department" means any organizational unit of the Fire Authority, which utilizes any materials, services or construction procured under this code.

Sec. 1-4. Supplementary general principles of law applicable.

Unless displaced by the particular provisions of this code, the principles of law and equity, including the uniform commercial code of this state, the common law of contracts as applied in this state and law relative to agency, fraud, misrepresentation, duress, coercion and mistake supplement the provisions of this code.

Sec. 1-5. Requirement of good faith.

This code requires all parties involved in the negotiation, performance, or administration of Fire Authority contracts to act in good faith.

Sec. 1-6. Confidential information.

All bids, proposals, offers, specifications, or protests submitted to the Fire Authority are subject to public inspection and disclosure under the California Public Records Act (Government Code Section 6250 et seq.). If a person believes that any portion of its bid, proposal, offer, specifications or protest is exempt from public disclosure, such portion may be marked "confidential." Except as required by law or court order, the Fire Authority will use reasonable means to ensure that such confidential information is safeguarded.

Secs. 1-7--1-10. Reserved.

ARTICLE II. CHIEF PROCUREMENT OFFICER AUTHORITY

Sec. 1-11. Authority of the Chief Procurement Officer.

Sec. 1-11(1). Except as otherwise provided in this code, the Chief Procurement Officer may adopt operational procedures consistent with this code governing the procurement and management of all materials, services, and construction to be procured by the Fire Authority and the disposal of materials.

Sec. 1-11(2). The Chief Procurement Officer shall serve as the central procurement and contracting authority of the Fire Authority.

Sec. 1-11(3). Except as otherwise provided in this code, the Chief Procurement Officer shall:

- (a) Procure or supervise the procurement of all materials, services and construction needed by the Fire Authority and establish the methods and procedures necessary for the proper, efficient, and economical functioning of the procurement program.
- (b) Establish guidelines for the management of all inventories of materials belonging to the Fire Authority.
- (c) Sell, trade or otherwise dispose of surplus materials belonging to the Fire Authority in accordance with the provisions of Section 1-69.

- (d) Prepare, issue, revise, maintain, and monitor the use of specifications for materials, services and construction required by the Fire Authority.
- (e) Manage the Fire Authority's procurement card (pCard) program.
- (f) Furnish the Board of Directors with such reports and information as the Board may require.

Sec. 1-11(4). The Chief Procurement Officer may delegate procurement authority to designees or to any using department or official of the Fire Authority.

Sec. 1-11(5). The Chief Procurement Officer may determine in writing that noncompliance with any provision of this code is not substantial and may allow for correction or may waive minor informalities or irregularities. The basis for the decision shall be included in the determination.

Sec. 1-11(6). The Chief Procurement Officer, in accordance with this code, shall have the authority to award contracts not exceeding the amount defined under management authority in the Roles and Responsibilities Matrix. Contracts exceeding management authority shall be executed by the Chief Procurement Officer upon approval by the Executive Committee or the Board of Directors.

Sec. 1-11(7). Except in cases of emergency, pursuant to Section 1-22, or where the Board of Directors or the Executive Committee has retained authority, no purchase of services, supplies and equipment by any person other than the Chief Procurement Officer or designee shall be binding upon the Fire Authority or constitute lawful charge against Fire Authority funds.

Sec. 1-12. Written determinations.

Written determinations required by this code shall be retained in the department.

Secs. 1-13, 1-14. Reserved.

ARTICLE III. SOURCE SELECTION AND CONTRACT FORMATION

Sec. 1-15. Definitions.

In this article, unless the context otherwise requires:

Sec. 1-15(1). "Best value" means a method in the competitive sealed proposal process which permits the evaluation of criteria to determine the best overall value to the Fire Authority.

Sec. 1-15(2). "Discussions" means communication with an offeror, bidder or respondent for the purpose of:

- (a) Eliminating minor irregularities, informalities, or apparent clerical mistakes in the offer or response;
- (b) Clarifying any offer or response to assure full understanding of, and responsiveness to, solicitation requirements;
- (c) Resolving minor variations in contract terms and conditions; or
- (d) Establishing the competency or financial stability of any offeror, bidder or respondent.

Sec. 1-15(3). "Invitation for bid" means all documents, written or electronic, whether attached or

incorporated by reference, which are used for soliciting bids in accordance with the procedures prescribed in Section 1-17.

Sec. 1-15(4). "Minor informalities or irregularities" means mistakes, or non-judgmental errors, that have negligible effect on price, quantity, quality, delivery, or other contractual terms whereby the waiver or correction of such mistakes does not prejudice other bidders, offerors or respondents.

Sec. 1-15(5). "Negotiations" means an exchange of information or any form of cooperation during which the offeror and the Fire Authority may alter or otherwise change the conditions, terms, and price, unless prohibited, of the proposed contract.

Sec. 1-15(6). "Registered supplier" means a supplier, vendor, or contractor that that has registered as an interested party to do business with the Fire Authority.

Sec. 1-15(7). "Request for proposals" means all documents, written or electronic, whether attached or incorporated by reference, which are used for soliciting proposals in accordance with procedures prescribed in Section 1-18.

Sec. 1-15(8). "Request for qualifications" means all documents, written or electronic, whether attached or incorporated by reference, which are used for soliciting responses from qualified respondents in accordance with Article V.

Sec. 1-15(9). "Responsible bidder, offeror, or respondent" means a person who has demonstrated the attribute of trustworthiness, as well as quality, fitness, capacity, and experience to satisfactorily perform the procurement contract.

Sec. 1-15(10). "Responsive bidder" means a person who submits a bid which conforms in all material respects to a solicitation.

Sec. 1-15(11). "Solicitation" means an invitation for bids, a request for technical proposals, a request for proposals, a request for qualifications, a request for quotations, or any other invitation or request by which the Fire Authority invites a person to participate in a procurement.

Sec. 1-16. Methods of source selection.

All contracts of the Fire Authority shall be awarded by one of the methods of source selection specified in this code.

Sec. 1-17. Competitive sealed bidding.

Sec. 1-17(1). Invitation for bids.

- (a) Competitive sealed bids shall be solicited through an invitation for bids. The invitation for bids shall include specifications and any applicable evaluation criteria. Contractual terms and conditions may be included within the solicitation document or incorporated by reference.
- (b) A prequalification process may be conducted prior to the issuance of an invitation for bids in order to establish a list of qualified bidders. In the event a prequalification process is used, the contract officer shall only consider bids that are submitted from prequalified bidders.

Sec. 1-17(2). Public notice. Notice of the invitation for bids shall be electronically posted and the invitation for bids shall be available for public inspection not less than fourteen (14) days prior to the date set forth therein for the opening of bids. A shorter time may be deemed necessary for a particular procurement as determined in writing by the Chief Procurement Officer. The public notice

shall state the place, date, and time of bid opening.

Sec. 1-17(3). Pre-bid conference. The Chief Procurement Officer may conduct a pre-bid conference. If a pre-bid conference is conducted, it shall be not less than seven days before the bid due date and time, unless the Chief Procurement Officer makes a written determination that the specific needs of the procurement justify a shorter time.

Sec. 1-17(4). Solicitation amendment. The Chief Procurement Officer shall issue a solicitation amendment to do any or all of the following:

- (a) Make a correction in the solicitation;
- (b) Correct defects or ambiguities;
- (c) Provide additional information or instructions; or
- (d) Extend the offer due date and time if the Chief Procurement Officer determines that an extension is in the best interest of the Fire Authority.

If a solicitation is changed by a solicitation amendment, the Chief Procurement Officer shall post the amendment electronically and notify registered suppliers. It is the responsibility of the offeror to obtain any solicitation amendments and acknowledge receipt of amendment as specified in the solicitation amendment.

Sec. 1-17(5). Late bids. A bid is late if it is received at the location designated in the invitation for bids after the time and date set for bid opening. A late bid shall be rejected. Bidders submitting bids that are rejected as late shall be so notified.

Sec. 1-17(6). Bid opening. Bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the invitation for bids. A secure web-based system or other appropriate media may be used in lieu of public bid opening, provided that the accuracy, confidentiality, and reliability is maintained. The name of each bidder and the amount of each bid, as well as other relevant information as the Chief Procurement Officer deems appropriate shall be recorded. Unless otherwise determined by the Chief Procurement Officer, this record shall be open to public inspection. In the event no attendees are present for bid opening, the sealed bids shall be opened by the department and a "bid" or "no bid" may be recorded on the tabulation. The bids shall not be available for public inspection until after a contract is awarded. After a notice of intent to award is issued or, in the absence of a notice of intent to award, after final execution of the contract, the bids shall be available for public inspection, except to the extent that the withholding of information is permitted or required by law. If the bidder designates a portion of its bid as confidential, it shall isolate and identify in writing the confidential portions in accordance with Section 1-6.

Sec. 1-17(7). Bid acceptance and bid evaluation. Bids shall be unconditionally accepted without alteration or correction, except as authorized in this code. Bids shall be evaluated based on the requirements set forth in the invitations for bids, which may include criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose. The invitation for bids shall set forth the evaluation criteria to be used. No criteria may be used in bid evaluation that is not set forth in the invitation for bids.

Sec. 1-17(8). Correction or withdrawal of bids; cancellation of awards. Correction or withdrawal of inadvertently erroneous bids before or after bid opening, or cancellation of awards or contracts based on such bid mistakes, may be permitted where appropriate. Mistakes discovered before bid opening may be modified or withdrawn by written notice received by the department prior to the time set for bid opening.

Mistakes discovered after bid opening may be modified or withdrawn only to the extent that the bidder can show by clear and convincing evidence that a mistake of a nonjudgmental character was made, the nature of the mistake, and the bid price actually intended. After bid opening, no changes in bid prices or other bid provisions prejudicial to the interest of the Fire Authority or fair competition shall be permitted. In lieu of bid correction, a bidder alleging a mistake may be permitted to withdraw its bid if:

- (a) The mistake is clearly evident on the face of the bid document but the intended correct bid is not similarly evident; or
- (b) The bidder submits evidence that clearly and convincingly demonstrates that a mistake was made.

All decisions to permit the correction or withdrawal of bids, or to cancel awards based on bid mistakes, shall be supported by a written determination made by the Chief Procurement Officer.

Sec. 1-17(9). Contract award.

- (a) *General.* The contract shall be awarded by appropriate notice to the lowest responsible and responsive bidder whose bid conforms in all material respects to requirements and criteria set forth in the invitation for bids.
- (b) *Public record.* After the Fire Authority issues a notice of intent to award, or in the absence of a notice of intent to award upon final contract execution, the bids shall be available for public inspection, except to the extent that the withholding of information is permitted or required by law. If the bidder designates a portion of its bid as confidential, it shall isolate and identify in writing the confidential portions in accordance with Section 1-6.
- (c) *Encumbrance of funds.* Except in cases of emergency, or in cases where specific authority has been first obtained from the Fire Chief, the Chief Procurement Officer shall not issue any purchase orders for supplies or equipment unless there exists an unencumbered appropriation in the fund account against which said purchase is to be charged. All purchases, regardless of encumbrances, shall be made in conformance with the policies established by this code.
- (d) *Procurement of recycled material.* Recycled products shall be used whenever practicable when they are of comparable quality, of equivalent price and appropriate for the intended use. Recycled products shall be procured in accordance with Public Contract Code, Section 22150, et seq.

Sec. 1-17(10). Low tie bids. If there are two (2) or more low responsive bids from responsible bidders that are identical in price and other evaluation criteria and that meet all the requirements and criteria set forth in the invitation for bids, award may be made by random selection in a manner prescribed by the Chief Procurement Officer.

Sec. 1-18. Competitive sealed proposals.

Sec. 1-18(1). Request for proposals.

- (a) Competitive sealed proposals shall be solicited through a request for proposals. The request for proposals shall include a scope of work and any applicable evaluation criteria. Contractual terms and conditions may be included within the solicitation document or incorporated by reference.

- (b) A prequalification process may be conducted prior to the issuance of a request for proposals in order to establish a list of qualified offerors. In the event a prequalification process is used, the contract officer shall only consider proposals that are submitted from prequalified offerors.

Sec. 1-18(2). Public notice. Adequate public notice of the request for proposals shall be given in the same manner as provided in Section 1-17(2).

Sec. 1-18(3). Pre-proposal conference. The Chief Procurement Officer may conduct a pre-proposal conference. If a pre-proposal conference is conducted, it shall be not less than seven days before the offer due date and time, unless the Chief Procurement Officer makes a written determination that the specific needs of the procurement justify a shorter time.

Sec. 1-18(4). Solicitation amendment. Solicitation amendments shall be handled in the same manner as provided in Section 1-17(4).

Sec. 1-18(5). Late proposals. A proposal is late if it is received at the location designated in the request for proposals after the time and date set for receipt of proposals. Late proposals shall be rejected in accordance with Section 1-17(5).

Sec. 1-18(6). Receipt of proposals. Proposals shall not be opened publicly. No proposals shall be handled as to permit disclosure of the contents of any proposal to competing offerors. Proposals shall be open for public inspection after final execution of the contract, except to the extent that the withholding of information is permitted or required by law. If the offeror designates a portion of its proposal as confidential, it shall isolate and identify in writing the confidential portions in accordance with Section 1-6.

Sec. 1-18(7). Evaluation of proposals.

- (a) *Evaluation criteria.* The request for proposals shall state the criteria to be used in the evaluation of the proposals and shall include their relative importance. Specific numerical weighting is not required.
- (b) *Selection committee.* The Chief Procurement Officer shall appoint a selection committee to evaluate the proposals and make a recommendation based on the criteria set forth in the request for proposals. No other factors or criteria may be used in the evaluation.

Sec. 1-18(8). Discussion with offerors. Discussions may be conducted with offerors.

Sec. 1-18(9). Negotiations with offerors and revisions to proposals. Negotiations may be conducted with offerors. Offerors shall be accorded fair and equal treatment in conducting negotiations and there shall be no disclosure of any information derived from proposals submitted by competing offerors.

- (a) *Concurrent negotiations.* Negotiations may be conducted concurrently with offerors for the purpose of determining source selection and/or contract award.
- (b) *Exclusive negotiations.* Exclusive negotiations may be conducted with the offeror whose proposal is determined in the source selection process to be most advantageous to the Fire Authority. Exclusive negotiations may be conducted subsequent to concurrent negotiations or may be conducted without requiring previous concurrent negotiations. Exclusive negotiations shall not constitute a contract award nor shall it confer any property rights to the successful offeror. If exclusive negotiations are conducted and an agreement is not reached, the Fire

Authority may enter into exclusive negotiations with the next highest ranked offeror without the need to repeat the formal solicitation process.

Sec. 1-18(10). Contract award. Contract award shall be made by the Chief Procurement Officer to the responsible offeror whose proposal is determined in writing to be the most advantageous to the Fire Authority taking into consideration the evaluation criteria set forth in the request for proposals. The contract file shall contain the basis on which the award is made.

Sec. 1-19. Contracting for legal counsel.

Sec. 1-19(1). Authority. For the purpose of procuring the services of legal counsel, as defined by the laws of the state, contracts for the services of legal counsel shall be awarded with the authorization of the Board of Directors or the Executive Committee except as otherwise provided by law.

Sec. 1-19(2). Conditions for use. Unless determined by the Board of Directors or the Executive Committee that direct selection is in the best interest of the Fire Authority, the services of legal counsel shall be procured in accordance with this code.

Sec. 1-20. Small purchases.

Sec. 1-20(1). General. Any contract for the purchase of supplies, equipment and services (including maintenance) not exceeding fifty thousand dollars (\$50,000.00) may be made by the Chief Procurement Officer in accordance with the small purchase procedures authorized in this section. Contract requirements shall not be artificially divided so as to constitute a small purchase under this section.

Sec. 1-20(2). Small purchases over ten thousand dollars (\$10,000.00). Insofar as it is practical for small purchases in excess of ten thousand dollars (\$10,000.00) but less than fifty thousand dollars (\$50,000.00), no less than three (3) businesses shall be solicited to submit quotations. Award shall be made to the responsible bidder submitting the quotation which is most advantageous to the Fire Authority and conforms in all material respects to the solicitation. The names of the businesses submitting quotations, and the date and amount of each quotation, shall be maintained as a public record. Nothing herein contained, however, shall preclude the Fire Authority from utilizing more restrictive procedures if, and when required by federal or state law, where federal or state funds are involved in the contract to be awarded or when the Chief Procurement Officer determines it is in the best interest of the Fire Authority to do so.

Sec. 1-20(3). Small purchases less than ten thousand dollars (\$10,000.00). The Chief Procurement Officer shall adopt operational procedures for making small purchases of ten thousand dollars (\$10,000.00) or less.

Sec. 1-21. Sole source procurement.

Notwithstanding any other provisions of this code, a contract may be awarded without competition when the Chief Procurement Officer determines in writing, after conducting a good faith review of available sources, that there is only one source for the required material, service, or construction item. The using department requesting a sole source procurement shall provide written evidence to support a sole source determination. The Chief Procurement Officer may require that negotiations are conducted as to price, delivery, and terms. The Chief Procurement Officer may require the submission of cost or pricing data in connection with an award under this section. Sole source procurements exceeding the amount defined in the roles and responsibilities matrix shall be executed by the Chief Procurement Officer upon approval by the Executive Committee or Board of Directors. Sole source procurement shall be avoided, except when no reasonable alternative sources exist. A record of sole source procurements shall be maintained as a

public record.

Sec. 1-22. Emergency procurements.

Notwithstanding any other provisions of this code, the Fire Chief may make or authorize others to make emergency procurements of materials, services, or construction when there exists a threat to public health, welfare, or safety or if a situation exists which makes compliance with Sections 1-17, 1-18, 1-49, or 1-50 contrary to the public interest; provided that such emergency procurements shall be made with such competition as is practicable under the circumstances. The using department requesting an emergency procurement shall provide written evidence to support an emergency determination. An emergency procurement shall be limited to those materials, services, or construction necessary to satisfy the emergency need. Emergency procurements exceeding the amount defined in the roles and responsibilities matrix shall be executed by the Chief Procurement Officer upon approval by the Chair or Vice Chair of the Board of Directors. A written determination of the basis for the emergency and for the selection of the particular contractor shall be maintained as a public record.

Sec. 1-23. Special procurements.

Notwithstanding any other provisions of this code, the Executive Committee or the Board of Directors may authorize procurements above the small purchase amount specified in Section 1-20 for supplies, equipment or services (including maintenance) when, due to unusual or special circumstances, it would be in the best interest of the Fire Authority to accomplish the procurement without compliance with Sections 1-17 (competitive sealed bidding), 1-18 (competitive sealed proposals), or 1-51 (procurement of professional design services). This is not applicable to the procurement of construction services (Section 1-50). The using department requesting a special procurement shall provide written evidence to support a special procurement determination. Any special procurement under this section shall be limited to those materials, equipment or services, necessary to satisfy the Fire Authority's need and shall be made with sound fiscal discretion. A written determination by the Chief Procurement Officer of the basis for the special procurement and for the selection of the particular contractor shall be maintained as public record. The determination and the award shall be made in accordance with internal departmental procedures ensuring that the procurement is fair, honest, prudent, and a wise exercise of discretion and is in the public interest.

Sec. 1-24. Cancellation of solicitations.

Sec. 1-24(1). Cancellation of solicitations. An invitation for bids, a request for proposals, a request for qualifications, or other solicitation may be cancelled, or any or all bids, proposals or statements of qualifications may be rejected in whole or in part as may be specified in the solicitation, when it is in the best interest of the Fire Authority.

Sec. 1-24(2). Prior to opening.

- (a) As used in this section, "opening" means the date and time set for opening of bids, receipt of statements of qualifications or receipt of proposals in competitive sealed proposals.
- (b) Prior to opening, a solicitation may be cancelled in whole or in part when the Chief Procurement Officer determines in writing that such action is in the Fire Authority's best interest for reasons including but not limited to:
 - i. The Fire Authority no longer requires the materials, services, or construction;
 - ii. The Fire Authority no longer can reasonably expect to fund the procurement; or
 - iii. Proposed amendments to the solicitation would be of such magnitude that a new solicitation is in the best interest of the Fire Authority.

- (c) When a solicitation is cancelled prior to opening, notice of cancellation shall be publicly posted.
- (d) The notice of cancellation shall:
 - i. Identify the solicitation;
 - ii. Briefly explain the reason for cancellation; and
 - iii. Where appropriate, explain that an opportunity will be given to compete on any re-solicitation or any future procurements of similar materials, services, or construction.

Sec. 1-24(3). After opening.

- (a) After opening but prior to award, all bids, proposals or statements of qualifications may be rejected in whole or in part when the Chief Procurement Officer determines in writing that such action is in the Fire Authority's best interest for reasons including but not limited to:
 - i. The Fire Authority no longer requires the materials, services or construction;
 - ii. Ambiguous or otherwise inadequate specifications or scopes of work were part of the solicitation;
 - iii. The solicitation did not provide for consideration of all factors of significance to the Fire Authority;
 - iv. Prices exceed available funds and it would not be appropriate to adjust quantities to come within available funds;
 - v. All otherwise acceptable bids, statements of qualifications or proposals received are at clearly unreasonable prices;
 - vi. There is reason to believe that the bids, statements of qualifications or proposals may not have been independently arrived at in open competition, may have been collusive, or may have been submitted in bad faith; or
 - vii. Competition was insufficient.
- (b) A notice of rejection shall be sent to all persons that submitted bids, statements of qualifications or proposals, and it shall conform to subsection 1-24(2) (d) of this section.
- (c) If all bids, proposals or request for qualifications are rejected, all bids, proposals or statements received shall remain, to the extent possible, confidential.

Sec. 1-24(4). Documentation. The reasons for cancellation or rejection shall be made a part of the procurement file and shall be available for public inspection.

Sec. 1-25. Rejection of individual bids, proposals, quotations or statements of qualifications.

- (a) A bid may be rejected if:
 - i. The bidder is determined to be non-responsible pursuant to Section 1-26;
 - ii. The bid is nonresponsive in accordance with Section 1-17; or
 - iii. It is otherwise not advantageous to the Fire Authority.
- (b) A proposal, statement of qualifications, or quotation may be rejected if:

- i. The person responding to the solicitation is determined to be non-responsible pursuant to Section 1-26; or
- ii. The proposal is incomplete, nonresponsive to solicitation requirements; or
- iii. The proposed price exceeds available funds or is unreasonable; or
- iv. It is otherwise not advantageous to the Fire Authority.

(c) The reasons for rejection shall be made a part of the procurement file and shall be available for public inspection.

Sec. 1-26. Responsibility of bidders, offerors and respondents.

Sec. 1-26(1). Findings of non-responsibility. If a bidder, offeror or respondent who otherwise would have been awarded a contract is found non-responsible, a written finding of non-responsibility, setting forth the basis of the finding, shall be prepared by the contract officer. The unreasonable failure of a bidder, offeror or respondent to promptly supply information in connection with an inquiry with respect to responsibility may be grounds for a finding of non-responsibility with respect to such bidder or offeror. The written finding shall be made part of the contract file and be made a public record.

Sec. 1-26(2). Right of nondisclosure. Except as required by law or court order, confidential information furnished by a bidder, offeror or respondent pursuant to this section shall not be disclosed by the Fire Authority outside of the agency, or using department, without prior written consent by the bidder, offeror or respondent.

Sec. 1-26(3). Factors. Factors to be considered in determining if a prospective contractor is responsible include:

- (a) The proposed contractor's financial, physical, personnel or other resources, including subcontracts;
- (b) The proposed contractor's record of performance and integrity;
- (c) Whether the proposed contractor is qualified legally to contract with the Fire Authority; and
- (d) Whether the proposed contractor supplied all necessary information concerning its responsibility.

Sec. 1-26(4). Responsibility criteria. The contract officer may establish specific responsibility criteria for a particular procurement. Any specific responsibility criteria shall be set forth in the solicitation.

Sec. 1-27. Bid and contract security, material or service contracts.

The Chief Procurement Officer may require the submission of security to guarantee faithful bid and contract performance. In determining the amount and type of security required for each contract, the Chief Procurement Officer shall consider the nature of the performance and the need for future protection to the Fire Authority. The requirement for security must be included in the invitation for bids, invitation for reverse auction bids or request for proposals. Failure to submit security in the amount and type of security required may result in the rejection of the bid or proposal.

Sec. 1-28. Types of contracts.

Subject to the limitations of this code, any type of contract which will promote the best interests of the Fire Authority may be used.

Sec. 1-29. Approval of accounting system.

The Chief Procurement Officer may require that the proposed contractor's accounting system is adequate to allocate costs in accordance with generally accepted cost accounting principles prior to award of a contract.

Sec. 1-30. Multi-year contracts.

Unless otherwise provided by law, a contract for materials, services or construction may be entered into for any period of time deemed to be in the best interest of the Fire Authority, if the term of the contract and conditions of renewal or extension, if any, are included in the solicitation and monies are available for the first fiscal period at the time of contracting. Payment and performance obligations for succeeding fiscal periods are subject to the availability and appropriation of monies.

Sec. 1-31. Right to inspect.

The Fire Authority may, at reasonable times, inspect the part of the plant or place of business of a contractor, consultant or any subcontractor or sub-consultant that is related to the performance of any contract awarded or to be awarded by the Fire Authority.

Sec. 1-32. Right to audit records.

Sec. 1-32(1). The Fire Authority may, at reasonable times and places, audit the books and records of any person who submits cost or pricing data as provided in Article VII of this code to the extent that the books and records relate to the cost or pricing data. Any person who is awarded a contract, change order or contract modification for which cost or pricing data is required shall maintain the books and records that relate to the cost or pricing data for three (3) years from the date of final payment under the contract, unless otherwise specified in the contract.

Sec. 1-32(2). The Fire Authority is entitled to audit the books and records of a contractor, consultant or any subcontractor or sub-consultant under any contract or subcontract to the extent that the books and records relate to the performance of the contract or subcontract. The books and records shall be maintained by the contractor for a period of three (3) years from the date of final payment under the prime contractor or consultant, and by the subcontractor or sub-consultant for a period of three (3) years from the date of final payment under the subcontract, unless otherwise specified in the contract.

Sec. 1-33. Reporting of anticompetitive practices.

If for any reason collusion or other anticompetitive practices are suspected among any bidders, offerors or respondents a notice of the relevant facts shall be transmitted to the Chief Procurement Officer. This section does not require a law enforcement agency conducting an investigation into such practices to convey such notice to the Chief Procurement Officer.

Sec. 1-34. Prospective vendors lists.

Sec. 1-35(1). The Chief Procurement Officer shall maintain a prospective vendors list. Inclusion of the name of a person shall not indicate whether the person is responsible concerning a particular procurement or otherwise capable of successfully performing a Fire Authority contract.

Sec. 1-35(2). Persons desiring to be included on the prospective vendors list may register with the department electronically. The department may remove a person from the prospective vendors list if it is determined that inclusion is not advantageous to the Fire Authority.

Sec. 1-35(3). It shall be the vendor's sole responsibility to ensure that vendor registration information is current and active.

Sec. 1-35. Contract form and execution.

All contracts entered into under this code not exceeding the amount established by Section 1-11(6) shall be executed in the name of the Fire Authority by the Chief Procurement Officer. Contracts entered into under this code exceeding the amount established by Section 1-11(6) approved by the Executive Committee shall be executed by the Fire Chief, approved as to form by the General Counsel to the Fire Authority and countersigned by the Clerk of the Authority.

Sec. 1-36. Assignment of rights and duties.

The Chief Procurement Officer shall have the rights and duties of the Fire Authority to contract for the purchase of all services, supplies, equipment and other personal property required by the Fire Authority in accordance with the code and all policies and procedures adopted by the Board of Directors, and administrative procedures approved by the Fire Chief, or as otherwise provided by law. Except in cases where the Board of Directors or the Executive Committee has retained authority, the purchase of services, supplies and equipment are not transferable or otherwise assignable without the written consent of the Chief Procurement Officer.

Sec. 1-37--1-40. Reserved.

ARTICLE IV. SPECIFICATIONS

Sec. 1-41. Definition.

As used in this article, "specification" is used interchangeably with "scope", "scope of services", or "scope of work" and means any description of the physical or functional characteristics, or of the nature of a material, service or construction item. Specification may include a description of any requirement for inspecting, testing, or preparing a material, service, or construction item for delivery.

Sec. 1-42. Maximum practicable competition.

Sec. 1-42(1). All specifications shall seek to promote overall economy for the purposes intended and encourage competition in satisfying the Fire Authority's needs and shall not be unduly restrictive.

Sec. 1-42(2). To the extent practicable and unless otherwise permitted by this code, all specifications shall describe the Fire Authority's requirements in a manner that does not unnecessarily exclude a material, service, or construction item.

Sec. 1-42(3). Restrictive specifications shall not be used unless such specifications are required and it is not practicable or advantageous to use a less restrictive specification. The using department requesting a restrictive specification shall provide written evidence to support the restrictive specification. Past success in the material's performance, traditional purchasing practices, or inconvenience of drawing specifications do not justify the use of restrictive specifications.

Sec. 1-42(4). To the extent practicable, the Fire Authority shall use accepted commercial specifications and shall procure standard commercial materials.

Sec. 1-43. Specifications prepared by other than Fire Authority personnel.

The requirements of this code regarding the purposes and non-restrictiveness of specifications shall apply to all specifications prepared other than by Fire Authority personnel, including, but not limited to, those prepared by architects, engineers, designers, and consultants for public contracts, or subcontractors. No person preparing specifications shall receive any direct or indirect benefit from the utilization of such specifications.

Sec. 1-44. Brand name or equal specification.

A brand name or equal specification may be used to describe the standards of quality, performance, and other characteristics needed to meet the requirements of a solicitation, and which invites offers for equivalent products from a manufacturer.

Sec. 1-45. Brand name specification.

A brand name specification may be used to identify the sole acceptable item that meets the Fire Authority's needs. The using department requesting a brand name specification shall provide written evidence to support a brand name determination. A written determination by the Chief Procurement Officer of the basis for the brand name shall be maintained as public record. Past success in the material's performance, traditional purchasing practices, or inconvenience of drawing specifications do not justify the use of a brand name specification.

Sec. 1-46. Reserved.

**ARTICLE V.
PROCUREMENT OF PUBLIC WORKS PROJECTS AND
PROFESSIONAL DESIGN SERVICES**

Sec. 1-47. Definitions.

In this article, unless the context otherwise requires:

Sec. 1-47(1). "Capital improvement" means an outlay of funds for the acquisition or improvement of real property, which extends the life or increases the productivity of the real property.

Sec. 1-47(2). "Contractor" shall mean any corporation, partnership, individual, sole proprietorship, joint venture or other legal entity which enters into a contract to sell commodities, services, or construction services to the Fire Authority.

Sec. 1-47(4). "Construction project management" means those services provided by a licensed architect, registered engineer, or licensed general contractor.

Sec. 1-47(5). "Construction services" means either of the following for construction- manager-at-risk, and design-build project delivery methods:

- (a) Construction, excluding services, through the construction-manager-at-risk project delivery methods.
- (b) A combination of construction and, as elected by the Fire Authority, one or more related services, such as finance services, maintenance services, operations services, design services and preconstruction services, as those services are authorized in the definitions of construction- manager-at-risk, and design-build in this section.

Sec. 1-47(6). "Construction-manager-at-risk" means a project delivery method in which:

- (a) There is a separate contract for design services and a separate contract for construction services.
- (b) The contract for construction services may be entered into at the same time as the contract for design services or at a later time.

- (c) Design and construction of the project may be in sequential phases or concurrent phases.
- (d) Finance services, maintenance services, operations services, preconstruction services and other related services may be included.

Sec. 1-47(7). "Cost" means the aggregate cost of all materials and services, including labor performed by force account.

Sec. 1-47(8). "Design-bid-build" means a project delivery method in which:

- (a) There is a sequential award of two (2) separate contracts.
- (b) The first contract is for design services.
- (c) The second contract is for construction.
- (d) Design and construction of the project are in sequential phases.
- (e) Finance services, maintenance services and operations services are not included.

Sec. 1-47(9). "Design-build" means a project delivery method in which:

- (a) There is a single contract for design services and construction services.
- (b) Design and construction of the project may be in sequential phases or concurrent phases.
- (c) Finance services, maintenance services, operations services, preconstruction services and other related services may be included.

Sec. 1-47(10). "Design professional" means an architect or engineer, or both, duly licensed for professional practice, who may be employed by an owner for the purpose of designing a project.

Sec. 1-47(11). "Emergency for Public Projects" shall have the meaning provided in Public Contract Code Sections 22035 and 22050.

Sec. 1-47(12). "Facility" means any plant, building, structure, ground facility, real property, street, highway or other public work improvement.

Sec. 1-47(13). "Firm" means any individual, firm, partnership, corporation, association or other legal entity permitted by law to practice the profession of architecture, landscape architecture, engineering, environmental services, land surveying, or construction project management.

Sec. 1-47(14). "Finance services" means financing for a construction services project.

Sec. 1-47(15). "Force account" means work performed on public projects by the Fire Authority's regularly employed personnel.

Sec. 1-47(16). "Maintenance work" shall have the meaning provided in Public Contract Code Section 22002(d), as that section may be amended from time to time, and shall include the following:

- (a) Routine, recurring, and usual work for the preservation or protection of any publicly owned or publicly operated facility for its intended purposes.

- (b) Minor repainting.
- (c) Resurfacing of streets and highways at less than one inch.
- (d) Landscape maintenance, including mowing, watering, trimming, pruning, planting, replacement of plants, and servicing of irrigation and sprinkler systems.

Sec. 1-47(17). "Preconstruction services" means advice during the design phase.

Sec. 1-47(18). "Professional design services" means architect services, engineering services, geologist services, landscape architect services, and land surveying service or any combination of those services that are legally required to be accomplished, reviewed, and approved by professionals registered to practice in the pertaining discipline in the State of California.

Sec. 1-47(19). "Professional engineer" refers to a person engaged in the professional practice of rendering service or creative work requiring education, training and experience in engineering sciences and the application of special knowledge of the mathematical, physical and engineering sciences in such professional or creative work as consultation, investigation, evaluation, planning or design of public or private utilities, structures, machines processes, circuits, buildings, equipment or projects, and supervision of construction for the purpose of securing compliance with specifications and design for any such work.

Sec. 1-47(20). "Public project" shall have the meaning provided in Public Contract Code Section 22002(c), as that section may be amended from time to time, and shall include the following:

- (a) Construction, reconstruction, erection, alteration, renovation, improvement, demolition, and repair work involving any publicly owned, leased, or operated facility.
- (b) Painting or repainting of any publicly owned, leased, or operated facility.
- (c) *"Public project"* does not include maintenance work.

Sec. 1-47(21). "Public works contract" means an agreement for the erection, construction, alteration, repair, or improvement of any public structure, building, road, or other public improvement of any kind.

Sec. 1-47(22). "Solicitation" shall mean an invitation for bids, request for quotations, request for qualifications, or request for proposals issued by the Fire Authority for the purpose of requesting bids, quotes or proposals to perform a contract.

Sec. 1-47(23) "Uniform Public Construction Cost Accounting Act" is an alternative method for public project work performed or contracted by public entities in California as defined by Public Contract Code Section 22000 et seq. The Fire Authority adopted the alternative informal bidding procedures on February 22, 1996 establishing informal bidding procedures for public works.

Sec. 1-48 Procurement of public projects.

Sec. 1-48(1). Procurement of public projects, in accordance with the limits listed in Section 22302 of the Public Contract Code, as those limits may be amended from time to time, may be let to contract by informal procedures as set forth in Section 22032, et seq., of the Public Contract Code. Nothing herein contained, however, shall preclude the Fire Authority from utilizing more restrictive procedures if, and when required by federal or state law, where federal or state funds are involved in the contract to be awarded or when the Chief Procurement Officer determines it is in the best interest

of the Fire Authority.

Sec. 1-48(2). Contracts for construction shall be solicited through a competitive sealed bid process except as otherwise provided for in Sections 1-52 (procurement of construction services), 1-20 (small purchases), 1-21 (sole source procurement), and 1-22 (emergency procurements). The Chief Procurement Officer shall award contracts for public projects in accordance with the requirements of Public Contract Code Section 22000 et seq. and this code.

Sec. 1-48(3). Force Account and informal bidding procedures. Public works projects of the amount set forth in Public Contract Code Section 22032(a), as amended from time to time, may be performed by the employees of the Fire Authority, by negotiated contract, or by purchase order.

Sec. 1-48(4). Informal bidding procedures. Public works projects of the amount set forth in Public Contract Code Section 22032(b), as amended from time to time, may be let to contract by informal bidding procedures as set forth in Section 1-49(1).

Sec. 1-48(5). Formal bidding procedures. Public projects exceeding the amount set forth in Public Contract Code Section 22032(c), as may be amended from time to time, shall be let to contract by formal bidding procedures as set forth in Section 1-50.

Sec. 1-48(6) Payment bond. In accordance with the Civil Code Section 9550 et seq. all public works bids involving an expenditure in excess of twenty-five thousand dollars (\$25,000) shall require a payment bond in an amount not less than 100 percent of the total amount payable pursuant to the public works contract.

Sec. 1-49. Public project informal bidding procedures.

Sec. 1-49(1). Public projects which are subject to the informal bidding procedures as set forth in Section 1-48, shall be awarded to the lowest responsible bidder in accordance with the Public Contract Code Section 22000 et seq.

Sec. 1-49(2). Contractors list. The Fire Authority shall maintain a list of qualified contractors, identified according to categories of work. The development and maintenance of the list shall be in accordance with the provisions in the Public Contract Code Section 22034 and criteria established from time to time by the California Uniform Construction Cost Accounting Commission.

Sec. 1-49(3). Notice inviting informal bids. All contractors on the list of qualified contractors for the category of work to be bid or all construction trade journals as specified in the Public Contract Code Section 22036, or both, shall be sent a notice inviting informal bids unless the product or service delivery is proprietary. Additional contractors and/or construction trade journals may be notified at the discretion of the Chief Procurement Officer. If there is no list of qualified contractors maintained by the Fire Authority for the particular category of work to be performed, the notice shall be sent to the construction trade journals specified by the Commission.

Sec. 1-49(4). Sending notices and descriptions of project. All sending of notices to contractors and construction trade journals pursuant to Section 1-49(3) shall be completed not fewer than ten calendar days before bids are due. The notice inviting informal bids shall describe the project in general terms, how to obtain more detailed information about the project, and state the time and place for the submission of bids.

Sec. 1-49(5). Award of informal bids. The Chief Procurement Officer is authorized to award informal bids for public projects.

Sec. 1-49(6). Bids in excess of the formal bid limit. If all bids received are in excess of the amount set forth in Public Contract Code Section 22032(b), as may be amended from time to time, the Board of Directors may by passage of a resolution by a four-fifths vote, award the contract, to the lowest responsible bidder, if it determines the cost estimate was reasonable and the contract amount will not exceed the amount set forth in Public Contract Code Section 22034(d), as may be amended from time to time.

Sec. 1-50. Public project formal bidding procedures.

Sec. 1-50(1). Public projects which are subject to formal bidding procedures, shall be awarded to the lowest responsive and responsible bidder in accordance with the procedures set forth in this section.

Sec. 1-50(2). Notice inviting formal bids. The notice inviting bids shall state the time and place for the receiving and opening of sealed bids and distinctly describe the project. The notice shall be published at least fourteen (14) calendar days before the date of opening the bids, in a newspaper of general circulation within the jurisdiction of the Fire Authority. The notice inviting formal bids shall also be sent electronically to all construction trade journals specified for the County of Orange in the Public Contract Code Section 22036 at least fifteen (15) calendar days before the date of bid opening. In addition to notice required by this section, the Fire Authority may give other notice as it deems proper.

Sec. 1-50(3). Adopt plans. The Board of Directors of the Fire Authority shall adopt plans, specifications, and working details for all public projects as required by Public Contract Code 22039, exceeding the amount specified in the Public Contract Code Section 22032(c).

Sec. 1-50(4). Bidder security. All formal public projects shall require bidder's security as required by state law. Bid security shall be in an amount equal to at least ten percent of the amount bid, or such other amount as may be set forth in Public Contract Code Section 20171, as may be amended from time to time. Any bid bond submitted shall be executed by an admitted surety insurer which meets the rating requirements established by the risk manager or designee, made payable to the Fire Authority.

Sec. 1-50(5). Prequalification. The Fire Authority may require bidders to meet certain criteria in order to be placed upon a bidder's list to bid on formal public projects.

Sec. 1-50(6). Award of formal bids. The Board of Directors of the Fire Authority shall award all formal public works projects.

Sec. 1-51. Procurement of professional design services.

Contracts for professional design services shall be solicited and selected in accordance with Government Code Section 4525 et seq. through a request for qualifications.

Sec. 1-52. Procurement of construction services.

Contracts for construction services shall be solicited through a design-bid build or a design-build process in accordance with Public Contract Code Section 22160 et seq. except as otherwise provided for in Section 1-53. The Board of Directors or delegated authority shall award all contracts for construction services in accordance with the state requirements and this code.

Sec. 1-53. Public project emergencies procedure.

In cases of emergency, when repair or replacements are necessary to permit the continued conduct of the operation or services of the Fire Authority or to avoid danger to life or property, the Chair or Vice Chair

of the Board of Directors, after making a finding that the emergency will not permit a delay resulting from a competitive solicitation for bids and, that the action is necessary to respond to the emergency, may by a four-fifths vote, proceed at once to replace or repair any public facility, take any directly related and immediate action required by that emergency, and procure the necessary equipment, services and supplies for those purposes, without giving notice for bids to let contracts. The Fire Chief shall have the power to declare a public emergency when it is impractical to convene a meeting of the Board of Directors, subject to confirmation by the Board, by a four-fifths vote, at its next meeting and reviewed at least at every regularly scheduled meeting thereafter until the action is terminated. This procedure shall be subject to any other requirements of Public Contract Code Sections 22035 and 22050, as may be amended from time to time.

Sec. 1-54--1-57. Reserved.

ARTICLE VI. CONTRACT TERMS AND CONDITIONS

Sec. 1-58. Contract terms and conditions.

All Fire Authority contracts shall include provisions necessary to define the responsibilities and rights of the parties to the contract. The Chief Procurement Officer shall have the authority to establish and modify any such terms and conditions.

Secs. 1-59--1-61. Reserved.

ARTICLE VII. COST PRINCIPLES

Sec. 1-62. Cost principles.

The Chief Procurement Officer shall establish cost principles which shall be used to determine the allowability of incurred costs for the purpose of reimbursing costs under contract provisions which provide for the reimbursement of costs.

Sec. 1-63. Cost or pricing data.

The submission of current cost or pricing data may be required in connection with any award, change order or contract modification.

Secs. 1-64, 1-65. Reserved.

ARTICLE VIII. MATERIALS MANAGEMENT

Sec. 1-66. Definitions.

In this article, unless the context otherwise requires:

Sec. 1-66(1). "Property" means controlled fixed assets including supplies, materials or equipment with a useful life of more than one (1) year and value greater than \$5,000.

Sec. 1-66(2). "Property transfer" means the transfer of controlled fixed assets between using agencies or transfer of property to or from the surplus property program.

Sec. 1-66(3). "Surplus property" means property no longer needed by using department for their operations, property in poor or non-working condition, or property that is a by-product (e.g. scrap metal, used tires and oil, etc.).

Sec. 1-67. Materials management guidelines.

The Chief Procurement Officer shall establish guidelines as may be required governing:

Sec. 1-67(1). The transfer of surplus property and operation of the surplus property program.

Sec. 1-67(2). The sale or disposal of surplus property, by auction, competitive sale or other authorized method.

Sec. 1-67(3). The trade-in of surplus property for purchase of new equipment.

Sec. 1-68. Inventory management.

The Chief Procurement Officer shall manage the Fire Authority service center which provides warehousing services including inventory management, shipping, receiving, storing, issuing and servicing of supplies and inventory for the Fire Authority. The Chief Procurement Officer will establish policies and procedures required for efficient and effective operation of the inventory system including the purchase of inventory, sale or other disposal of inventory items no longer needed, delivery and other services provided to using agencies.

Sec. 1-69. Disposition of surplus property.

Sec. 1-69(1). The Chief Procurement Officer will operate a surplus property program for the purpose of receiving, storing, transferring, or selling surplus property no longer needed by using agencies.

Sec. 1-69(2). Using agencies shall request department authorization to transfer controlled fixed assets to another using department, or to request transfer of property into or from the surplus property program.

Sec. 1-69(3). Unless otherwise provided for, surplus property no longer needed by any using department shall be offered through competitive sale to the highest responsible bidder.

Sec. 1-69(4). Unless otherwise provided, all proceeds from the sale of surplus property will be deposited into the Fire Authority's general fund. Proceeds from sale of enterprise, federal, grant or other special designation property will be reimbursed, less pro-rated selling expenses, to the appropriate fund, after completion of each sale.

Sec. 1-69(5). If surplus property has an estimated value of less than five thousand dollars (\$5,000) and it is proposed that the property may be donated, the Chief Procurement Officer has the authority to determine whether the proposed donation of the surplus property to another local agency or non-profit organization meets the intent of the California Constitution whereby when a public agency gives a surplus item to another organization, the item must be used for a public purpose of interest and benefit generally to the people of the agency's jurisdiction and in keeping with the agency's purpose. Said donations shall require the prior approval of the Fire Chief and a release of liability to the Fire Authority from the agency accepting the donated surplus property. Any request for donation with a fair market value exceeding five thousand dollars (\$5,000) shall require prior approval by the Board of Directors or the Executive Committee.

Sec. 1-69(6). If surplus property is deemed to have historical significance by the Fire Chief and or/his designee, the historical property will be transferred and placed in the custody of a designated

section manager for safe keeping.

Secs. 1-70--1-74. Reserved.

ARTICLE IX. LEGAL AND CONTRACTUAL REMEDIES

Sec. 1-75. Definitions.

In this article, unless the context otherwise requires:

Sec. 1-75(1). "Adequate evidence" means more than mere accusation but less than substantial evidence. Consideration shall be given to the amount of credible information available, reasonableness in view of surrounding circumstances, corroboration, and other inferences that may be drawn from the existence or absence of affirmative facts.

Sec. 1-75(2). "Contract claim" means a written demand or written assertion by one of the contracting parties seeking, as a matter of right, payment in a sum certain, adjustment or interpretation of contract terms, or other relief arising under or relating to the contract.

Sec. 1-75(3). "Filed" means delivery to the contract officer or to the Chief Procurement Officer, whichever is applicable. A time and date of receipt shall be documented in a verifiable manner for purposes of filing.

Sec. 1-75(4). "Governing instruments" means those legal documents that establish the existence of an organization and define its powers including articles of incorporation or association, constitution, charter and by-laws.

Sec. 1-75(5). "Interested party" means an actual or prospective bidder, respondent or offeror whose economic interest may be affected substantially and directly by the issuance of a solicitation, the award of a contract or by the failure to award a contract. Whether an economic interest exists will depend upon the circumstances of each case. An interested party does not include a supplier, subconsultant or subcontractor to an actual or prospective bidder, respondent or offeror.

Sec. 1-75(6). "Receipt" means the earlier of actual receipt or the first attempted delivery by certified mail, or by any other means that provides evidence of the attempt, to the persons last known address.

Sec. 1-75(7). "Substantial evidence" means such relevant evidence as a reasonable person might accept as sufficient to support a particular conclusion.

Sec. 1-76. Authority of the Chief Procurement Officer.

The Chief Procurement Officer shall have the authority to settle and resolve protests and contract claims. Appeals from the decisions of the Chief Procurement Officer may be made to the Fire Chief pursuant to the provisions of this article.

Sec. 1-77. Right to protest.

Any actual interested party who is aggrieved in connection with the solicitation or award of a contract may

protest to the Chief Procurement Officer.

Sec. 1-78. Filing of a protest.

Sec. 1-78 (1). "Content of protest". The protest shall be in writing and shall include the following information:

- (a) The name, address, telephone number and email address of the protestant;
- (b) The signature of the protestant or its representative;
- (c) Identification of the solicitation or contract number;
- (d) A detailed statement of the legal and factual grounds of the protest including copies of relevant documents; and
- (e) The form of relief requested.

Sec. 1-79. Time for filing protests.

Sec. 1-79(1). Protests concerning improprieties in a solicitation. Protests based upon alleged improprieties in a solicitation that are apparent before the solicitation due date shall be filed not less than five (5) working days before the solicitation due date.

Sec. 1-79(2). In cases other than those covered in subsection (1) of this section, protests shall be filed within seven (7) days after the aggrieved person knows or should have known of the facts giving rise thereto; however, in no event shall the protest be filed later than seven (7) days after issuance of intent to award.

Sec. 1-79(3). The Chief Procurement Officer, without waiving the Fire Authority's right to dismiss the protest for lack of timeliness, may consider any protest that is not filed timely.

Sec. 1-79(4). The Chief Procurement Officer shall give notice of the protest to the successful contractor if award has been made or, if no award has been made, to all interested parties. Interested parties have the right to intervene.

Sec. 1-80. Stay of procurements during the protest.

In the event of a timely protest under Section 1-79, the Fire Authority may proceed further with the solicitation or with the award of the contract unless the Chief Procurement Officer makes a written determination that there is a reasonable probability that the protest will be sustained or that the stay of procurement is not contrary to the substantial interests of the Fire Authority.

Sec. 1-81. Confidential information.

Sec. 1-81(1). Material submitted by a protestant shall not be withheld from any interested party except to the extent that the withholding of information is permitted or required by law or as determined pursuant to Section 1-6.

Sec. 1-81(2). If the protestant believes the protest contains material that should be withheld, a statement advising the Chief Procurement Officer of this fact shall accompany the protest submission in accordance with Section 1-6.

Sec. 1-82. Decision by the Chief Procurement Officer.

Sec. 1-82(1). The Chief Procurement Officer shall issue a written decision within fourteen (14) days after a protest has been filed pursuant to Section 1-78. The decision shall contain an explanation of the basis of the decision.

Sec. 1-82(2). The Chief Procurement Officer shall furnish a copy of the decision to the protestant, by e-mail and/or certified mail, return receipt requested, or by any other method that provides evidence of receipt.

Sec. 1-82(3). The time limit for decisions set forth in subsection (1) of this section may be extended by the Fire Chief for a reasonable time not to exceed thirty (30) days. The Chief Procurement Officer shall notify the protestant in writing that the time for the issuance of a decision has been extended and the date by which a decision will be issued.

Sec. 1-82(4). If the Chief Procurement Officer fails to issue a decision within the time limits set forth in subsection (1) or (3) of this section, the protestant may proceed as if the Chief Procurement Officer had issued an adverse decision.

Sec. 1-82(5). The Chief Procurement Officer's decision shall contain a statement regarding the appeals process that is available pursuant to this article.

Sec. 1-83. Remedies.

Sec. 1-83(1). If the Chief Procurement Officer sustains the protest in whole or part and determines that a solicitation, evaluation process, proposed contract award, or contract award does not comply with the procurement code, the Chief Procurement Officer shall implement an appropriate remedy.

Sec. 1-83(2). In determining an appropriate remedy, the Chief Procurement Officer shall consider all the circumstances surrounding the procurement or proposed procurement including, but not limited to:

- (a) The seriousness of the procurement deficiency;
- (b) The degree of prejudice to other interested parties or to the integrity of the procurement process;
- (c) The good faith of the parties;
- (d) The extent of performance;
- (e) Costs to the Fire Authority;
- (f) The urgency of the procurement; and
- (g) The impact of the relief on the using department's mission.

Sec. 1-83(3). An appropriate remedy may include one or more of the following:

- (a) Reject all bids, responses or proposals;
- (b) Terminate the contract;

- (c) Reissue the solicitation;
- (d) Issue a new solicitation;
- (e) Award a contract consistent with the procurement code;
- (f) Such other relief as is determined necessary to ensure compliance with the General Law and this code.

Sec. 1-84. Appeals to the Fire Chief.

Sec. 1-84(1). Appeal. An appeal from a decision entered or deemed to be entered by the Chief Procurement Officer shall be filed with the Fire Chief within seven (7) days from the date the decision is issued. The appellant shall also file a copy of the appeal with the Chief Procurement Officer.

Sec. 1-84(2). Content of appeal. The appeal shall contain:

- (a) The information set forth in Section 1-78, including the identification of confidential information in the manner set forth in Section 1-81;
- (b) A copy of the decision of the Chief Procurement Officer; and
- (c) The precise factual or legal error in the decision of the Chief Procurement Officer from which an appeal is taken.

Sec. 1-85. Notice of appeal.

Sec. 1-85(1). The Fire Chief shall give notice of the appeal to the successful contractor if award has been made or, if no award has been made, to interested parties. Such interested parties shall have the right to request copies of the appeal and to intervene in the proceedings.

Sec. 1-85(2). The Fire Chief shall, upon request, furnish copies of the appeal to those named in subsection (1) of this section subject to the provisions of Section 1-81.

Sec. 1-86. Stay of procurement during appeal.

If an appeal is filed during the procurement and before an award of a contract and the procurement or award of the contract was stayed by the Chief Procurement Officer pursuant to Section 1-80, the filing of an appeal shall automatically continue the stay unless the Fire Chief makes a written determination that the procurement or award of the contract without delay is necessary to protect substantial interests of the Fire Authority.

Sec. 1-87. Chief Procurement Officer's report.

Sec. 1-87(1). Report. The Chief Procurement Officer shall file a report on the appeal with the Fire Chief within seven (7) days from the date the appeal is filed. At the same time, Chief Procurement Officer shall furnish a copy of the report to the appellant by e-mail and/or certified mail, return receipt requested or any other method that provides evidence of receipt, and to any interested parties who have responded to the notice given pursuant to Section 1-85(2). The report shall contain copies of:

- (a) The appeal;
- (b) Any other documents that are relevant to the protest; and

- (c) A statement by the Chief Procurement Officer setting forth findings, actions, recommendations and any additional evidence or information necessary to determine the validity of the appeal.

Sec. 1-87(2). Extension for filing of report.

- (a) The Chief Procurement Officer may request in writing an extension of the time period setting forth the reason for extension.
- (b) The Fire Chief's determination on the request shall be in writing, state the reasons for the determination and, if an extension is granted, set forth a new date for the submission of the report. The Chief Procurement Officer shall notify the appellant in writing that the time for the submission of the report has been extended and the date by which the report will be submitted.

Sec. 1-87(3). Comments on report.

- (a) The appellant shall file comments on the Chief Procurement Officer's report with the Fire Chief within seven (7) days after receipt of the report. Copies of the comments shall be provided by the appellant to the Chief Procurement Officer and all other interested parties. The comments must contain a statement or confirmation as to the appellant's requested form of relief.
- (b) The Fire Chief may grant an extension on the time period to file comments pursuant to a written request made by the appellant within the period set forth in subsection (3)(a) of this section stating the reason an extension is necessary. The Fire Chief's determination on the request shall be in writing, state the reasons for the determination and, if the extension is granted, set forth a new date for the filing of comments. The Fire Chief shall notify the Chief Procurement Officer of any extension.

Sec. 1-88. Dismissal by the Fire Chief.

The Fire Chief shall dismiss, upon a written determination, an appeal if:

Sec. 1-88(1). The appeal does not state a valid basis, including a detailed statement of the legal and factual grounds, for protest; or

Sec. 1-88(2). The appeal is untimely pursuant to Section 1-84(1).

Sec. 1-89. Remedies.

If the Fire Chief sustains the appeal in whole or part and determines that a solicitation, evaluation process, proposed award, or award does not comply with the general law and/or this code, remedies may be implemented pursuant to Section 1-83.

Sec. 1-90. Filing of a contract claim.

Sec. 1-90(1). "Content of claim". The claim shall be in writing and shall include the following information:

- (a) The name, address, telephone number and email address of the claimant;
- (b) The signature of the claimant or its representative;
- (c) Identification of the solicitation or contract number;

- (d) A detailed statement of the legal and factual grounds of the claim including copies of relevant documents; and
- (e) The form of relief requested.

Sec. 1-91. Chief Procurement Officer's decision.

Sec. 1-91(1). Written decision. If a contract claim cannot be resolved by mutual agreement, the Chief Procurement Officer shall, upon a written request by the contractor for a final decision, issue a written decision no more than sixty (60) days after the request is filed. Before issuing a final decision, the Chief Procurement Officer shall review the facts pertinent to the contract claim or controversy and secure any necessary assistance from legal, financial, procurement, and other advisors.

Sec. 1-91(2). Final decision. The Chief Procurement Officer shall furnish a copy of the decision to the contractor, by certified mail, return receipt requested, or by any other method that provides evidence of receipt. The decision shall include:

- (a) A description of the claim;
- (b) A reference to the pertinent contract provision;
- (c) A statement of the factual areas of agreement or disagreement;
- (d) A statement of the Chief Procurement Officer's decision, with supporting rationale;
- (e) A statement regarding the appeals process that is available pursuant to this article.

Sec. 1-92. Issuance of a timely decision.

Sec. 1-92(1). The time limit for decisions set forth in Section 1-91(1) may be extended for good cause. The Chief Procurement Officer shall notify the contractor in writing that the time for the issuance of a decision has been extended and the date by which a decision is anticipated.

Sec. 1-92(2). If the Chief Procurement Officer fails to issue a decision within sixty (60) days after the request on a claim is filed or within the time prescribed under subsection (1) of this section, the contractor may proceed as if the Chief Procurement Officer had issued an adverse decision.

Sec. 1-93. Appeals to the Fire Chief.

Sec. 1-93(1). Appeal of final decision. An appeal of a final decision of a Chief Procurement Officer on a claim shall be filed with the Fire Chief within five (5) days from the date the decision is received. The appellant shall also file a copy of the appeal with the Chief Procurement Officer.

Sec. 1-93(2). Content of appeal. The appeal shall contain a copy of the decision of the Chief Procurement Officer and the basis for the precise factual or legal error in the decision of the Chief Procurement Officer from which an appeal is taken.

Sec. 1-93(3). Final decision, mediation service or arbitration. The Fire Chief may make the final decision in accordance with Section 1-97 or to refer to mediation services in accordance with Section 1-95 or refer to arbitration in accordance with Section 1-96.

Sec. 1-94. Fire Authority claims against a contractor.

All contract claims asserted by the Fire Authority against a contractor that are not resolved by mutual agreement shall promptly be referred by the Chief Procurement Officer to the Fire Chief for a final decision in accordance with Section 1-97, or mediation, in accordance with Section 1-95, or arbitration in accordance with Section 1-96.

Sec. 1-95. Mediation.

Contract claims may be resolved utilizing mediation services if the Fire Chief determines the use of such services is in the best interest of the Fire Authority.

Sec. 1-96. Arbitration.

Contract claims may be resolved utilizing arbitration if the Fire Chief determines the use of arbitration is in the best interest of the Fire Authority. The claim shall be settled by arbitration in accordance with the current construction industry arbitration rules of the American Arbitration Association or, at the option of the Fire Authority, in accordance with the provisions of the California Arbitration Act (CAA) (Cal. Civ. Proc. Code §§ 1280-1294.2) or the Federal Arbitration Act (FAA) (9 U.S.C. §§ 1-16, 201-208, 301-307).

Sec. 1-97. Final decision by the Fire Chief.

Sec. 1-97(1). The Fire Chief may affirm, modify, or reject the Chief Procurement Officer's decision in whole or in part, or make any other appropriate disposition.

Sec. 1-97(2). A decision by the Fire Chief shall be final. The decision shall be sent to all parties by e-mail, certified mail, return receipt requested or by any other method that provides evidence of receipt. If a stay was issued, the final decision by the Fire Chief shall lift any such stay, unless the Fire Chief determines that the continued stay is necessary to protect the substantial interest of the Fire Authority.

Sec. 1-98. Judicial review of protests or claims.

Any decision of the Fire Chief regarding a protest (§ 1-77 et seq.) or claim (§ 1-90 et seq.) under this code shall be final. Exhaustion of the procedures set forth in this code shall be a condition precedent to any person seeking judicial review of a final decision by the Fire Chief.

Sec. 1-99. Exclusive remedy.

Notwithstanding any law to the contrary, this article shall provide the exclusive procedure for asserting a claim or cause of action against the Fire Authority arising in relation to any procurement conducted under this code.

Secs. 1-100--1-115. Reserved.

ARTICLE X. COOPERATIVE PURCHASING

Sec. 1-116. Definitions.

In this article, unless the context otherwise requires:

Sec. 1-116(1). "Cooperative purchasing" means procurement conducted by, or on behalf of, more than one public procurement unit.

Sec. 1-116(2). "Eligible public procurement unit" means any state, county, city, town, and any other political subdivision, public authority, educational, health or other institution, and to the extent provided by law, any other entity which expends public funds for the procurement of supplies,

services and construction, and any not-for-profit entity.

Sec. 1-117. Applicability.

Agreements entered into pursuant to this article shall be limited to the areas of procurement, warehousing or materials management.

Sec. 1-118. Cooperative purchasing authorized.

The Fire Authority may participate in, sponsor, conduct or administer a cooperative purchasing agreement for the procurement of any materials, services, or construction with one or more eligible procurement units in accordance with an agreement entered into between the participants. Such cooperative purchasing may include, but is not limited to joint or multi-party contracts between public procurement unit and open-ended public procurement unit contracts that are made available to other public procurement units. Parties under a cooperative purchasing agreement may:

Sec. 1-118(1). Sponsor, conduct or administer a cooperative agreement for the procurement or disposal of any materials, services, or construction.

Sec. 1-118(2). Cooperatively use materials or services.

Sec. 1-118(3). Commonly use or share warehousing facilities, capital equipment and other facilities.

Sec. 1-118(4). Provide personnel, except that the requesting eligible procurement unit may pay the public procurement unit providing the personnel the direct and indirect cost of providing the personnel, in accordance with the agreement.

Sec. 1-118(5). On request, make available to other eligible public procurement units informational, technical or other services that may assist in improving the efficiency or economy of procurement. The public procurement unit furnishing the informational or technical services has the right to request reimbursement for the reasonable and necessary costs of providing such services.

The activities described in paragraphs (1) through (5) do not limit the activities of parties under a cooperative purchasing agreement.

Sec. 1-119. Cooperative purchasing source selection methods.

All cooperative purchasing conducted under this Article shall be through contracts awarded by a public agency through full and open competition, including use of source selection methods substantially equivalent to those specified in Article III (Source Selection and Contract Formation) of this code.

Secs. 1-120, 1-121. Reserved.

**ARTICLE XI.
RESERVED**

Secs. 1-122--1-126. Reserved.

**ARTICLE XII.
ETHICS IN PUBLIC CONTRACTING**

Sec. 1-127. Procurement Ethics Standards

Sec. 1-127(1). The Chief Procurement Officer, as well as those involved in Fire Authority procurement shall discharge their duties in accordance with high ethical standards by practicing their profession with integrity, honesty, truthfulness and adherence to the absolute obligation to safeguard the public trust.

Sec 1-127(2). The Chief Procurement Officer, as well as those involved in Fire Authority procurement, shall be subject to the Conflict of Interest Code and subsequent amendments adopted by the Fire Authority.

Sec. 1-127(3). The Chief Procurement Officer shall adopt a Procurement Ethics Policy and Procedures applicable to all Fire Authority procurement functions.

Secs. 1-128--1-130. Reserved.

Purchasing Authorities Comparison Chart

Attachment 4

	County of Orange	Orange County Transp. Authority (OCTA)	Irvine Ranch Water District	City of Irvine	<i>Proposed for OCFA</i>
Commodities (Defined as materials, equipment & supplies) Ord. 8, Sec. 1- 3(18)	Commodity contracts include all supplies and equipment and software licenses costing less than \$5,000 per unit <i>Only sole source commodity contracts exceeding \$250K annually require Board approval</i>	Inventory materials, equipment and supplies, if competed, may be awarded by management in any amount Inventory amendments for POs ≤ 30% increase none > 30% increase requires CEO signature	Inventory materials, equipment and supplies contracts can be awarded by management in any amount. The list of open supply contracts (exceeding \$100K) is provided to the finance committee annually in May. No Board approval is required	Approval for purchase occurs with budgetary pre- approval process at the line item detail, no further approval required	Executive Committee approval for commodity contracts with an annual contract amount greater than \$250,000. Authority management can approve any increase to commodity term contracts provided the annual contract amount remains less than \$250,000
Fixed Assets	<u>Budgeted Asset</u> - No Board approval if within budgeted amount in the adopted budget approved by the Board - Board approval if asset cost exceeds budgeted amount by more than 10% or \$100,000 (whichever is less) <u>Unbudgeted Asset</u> - Board approval if cost is > 25K each	<u>Budgeted</u> ≤ 250K none >250K Board approval <u>Non-budgeted</u> ≤ 25K none > 25K Board approval of bid & award	Operating budget line items that are part of the approved budget do not need Board approval unless the unit price is over \$100,000	Approval for purchase occurs with budgetary pre- approval process at the line item detail no further approval needed unless cost of the asset is greater by \$100,000 or more of the approved budgeted amount	Authority management can approve the purchase of fixed assets with unit cost less than \$100,000 Executive Committee approval is required for the purchase of fixed assets with unit cost greater than \$100,000

Purchasing Authorities Comparison Chart

	County of Orange	Orange County Transp. Authority (OCTA)	Irvine Ranch Water District	City of Irvine	Proposed for OCFA
Professional Services	<p>Board of Supervisors approval is required for contracts exceeding \$100,000 in any year of the contract</p> <p>Multi-year contracts exceeding \$500K require Board approval when the total contract exceeds or is anticipated to exceed \$500,000 when future years are taken into consideration</p>	<p><u>Budgeted</u> ≤ \$250K none >\$250K Board approval</p> <p><u>Non-budgeted</u> ≤ \$25K none > \$25K Board approval of bid & award</p> <p>If contract is not a competitive bid, Board approval is required for amounts over \$25,000</p>	<p>Board approval is required for contracts in which the annual contract amount is greater than \$100K.</p>	<p>Approval during the annual budget process (detailed line item includes description and not to exceed amount). No further Council approval required for the contract award unless the contract exceeds the budgeted amount.</p> <p><i>Unplanned contracts or if cost exceeds approved amount. Dept Director <\$30K City Mgr. <\$100K Council>\$100K</i></p>	<p><i>Service contracts include professional services facilities & equipment services, and consulting.</i></p> <p>Board approval is required for service contracts in which the annual contract amount is greater than \$100,000 or the multi-year contract exceeds \$500,000 when future years are taken into consideration.</p>
Maintenance Services	<p><i>Service contracts include: professional services, facilities & equip. services, consulting, capital leases, & revenue generating agreements</i></p> <p><u>Same rules listed for professional services (above) apply.</u></p>	<p><i>Service contract for maintenance are the same as professional services.</i></p> <p>Board approval is required for maintenance service contracts over \$250,000</p>	<p>Operating budget line items that are part of the approved budget do not need Board approval</p>	<p>Approval for purchase occurs with budgetary pre-approval process at the line item detail for service contracts, no further approval needed</p> <p><u>Same rules listed for professional services (above) apply.</u></p>	<p><i>Service contracts include professional services facilities & equipment services, and consulting.</i></p> <p>Board approval is required for service contracts in which the annual contract amount is greater than \$100,000 or the multi-year contract exceeds \$500,000 when future years are taken into consideration.</p>

Purchasing Authorities Comparison Chart

	County of Orange	Orange County Transp. Authority (OCTA)	Irvine Ranch Water District	City of Irvine	<i>Proposed for OCFA</i>
Sole Source	<u>Sole Source Commodity</u> > \$250K (annually) require Board Approval <u>Sole Source Capital Asset</u> > 50K Board approval <u>Sole Source Service Contracts</u> ≥ 50K (annual) require Board approval & may not be renewed without approval <i>Board approval is required for sole source contracts issued for two consecutive years regardless of dollar amount.</i>	<u>Sole Source</u> ≤ 25K none > 25K Board approval	<u>Sole Source</u> >\$100,000 Board approval	<u>Sole Source</u> < \$30K purchasing agent >\$100K require Council approval <i>*Different management level approvals are required up to \$100K</i>	Executive Committee approval is required for sole source contracts when aggregate amount exceeds \$50,000. <i>Sole source justification form is a required attachment to the staff report.</i> Add Special Procurements Executive Committee approval is required for special procurements when aggregate amount exceeds \$50,000. Special procurements are used when it is in the best interest of OCFA to award a contract without bidding requirements and the contract does not meet the definition of a sole source with justification. <i>Special Procurement justification form is a required attachment to the staff report.</i>
Emergency Purchases	<u>Unbudgeted Asset</u> - Board approval if cost is > 25K	Report emergencies purchases made greater than 25K at the next scheduled Board meeting	No specified limit Report emergency purchases made that were greater than \$100K at the next scheduled Board meeting	The City Manager has the authority to declare a public emergency, no specific dollar limit listed	Purchases in excess of \$100,000 require prior approval of Chair or Vice Chair and must be reported at the next Executive Committee meeting. Authorize the Fire Chief or designee to declare an emergency.

Purchasing Authorities Comparison Chart

	County of Orange	Orange County Transp. Authority (OCTA)	Irvine Ranch Water District	City of Irvine	<i>Proposed for OCFA</i>
Contract Amendments	<p>Commodity contracts can be amended by management.</p> <p>Service contracts of less than five years duration may be extended for up to one year without Board approval provided there are no monetary increases that exceed the average annual value of the prior year's contracts.</p> <p>Service contracts that exceed \$100K per year required Board approval</p>	<p><u>Management authority Inventory amendments for POs</u></p> <p>≤ 30% increase none > 30% increase requires CEO signature</p> <p><u>Informal Contract <\$50K</u></p> <p>50% of original contract or \$8,333, whichever is less, provided contract amount does not exceed \$50K</p> <p><u>Formal Contract >\$50K</u></p> <p>15% of original contract or \$250K, whichever is less</p> <p><u>Equipment Amendment</u></p> <p>5% of original contract or \$250K, whichever is less</p>	<p><u>Change Order</u></p> <p>If individual or cumulative total of change orders in a month together with any change orders previously approved exceeds 30% of the original contract and the individual or cumulative total of such change orders exceeds \$100K, Board approval is required.</p>	<p><u>Change Order</u></p> <p>When the scope of work or cost increases are inconsistent with the adopted budget, approval for the additional services must be obtained according the guidelines:</p> <p>- Between \$5K-\$30K Director Over \$30K-\$100K City Manager Over \$100K – Finance Comm. Review and Council approval</p>	<p>Authorize management to increase commodity contracts so long as the annual contract amount remains less than \$250,000.</p> <p>Authority management for service contract amendments remains the same</p> <p><u>Public Projects</u></p> <p>Reduce management authority on public projects change orders (formal and informal) to \$17,500 which equals 10% of the current PCC informal public project amount of \$175,000.</p> <p>Require Board approval for change orders on formal public projects over 10% or exceeding a total value of \$50,000</p>
Contract Duration	Board approval required for contracts longer than five years	Board approval required for contracts longer than five years	Contracts are three to five years	Contracts duration up to five years	Allow approval of contracts up to five years

RESOLUTION NO. 2016-XX

**A RESOLUTION OF THE ORANGE COUNTY FIRE AUTHORITY
BOARD OF DIRECTORS AMENDING THE
ROLES/RESPONSIBILITIES/AUTHORITIES MATRIX TO COINCIDE
WITH THE NEW PURCHASING CODE**

RECITALS

A. WHEREAS, the Orange County Fire Authority Board of Directors last amended the Roles/Responsibilities/Authorities Matrix on February 26, 2016, and

B. WHEREAS, because the OCFA is adopting by Ordinance a new procurement code, it is appropriate to update the Roles/Responsibilities/Authorities Matrix to coordinate with the new procurement code; and

C. WHEREAS, the Board has considered the attached amendments to the matrix.

THEREFORE, the Board of Directors of the Orange County Fire Authority does hereby resolve as follows:

The Roles/Responsibilities/Authorities Matrix is amended as indicated by the redline version attached hereto as Exhibit A. This Resolution shall take effect on the effective date of Ordinance No. 008.

PASSED, APPROVED and ADOPTED this 28th day of April 2016.

GENE HERNANDEZ, CHAIR
OCFA Board of Directors

ATTEST:

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

ORANGE COUNTY FIRE AUTHORITY Roles/Responsibilities/Authorities

All authority rests with the Board of Directors unless it is delegated by statute or board action. When delegated, these authorities are further defined by contracts, resolutions, policies, or other board actions. The following chart defines OCFA's levels of authority. The Board of Directors has the authority to change these delegations within the parameters of legal and contractual restrictions.

	Authority Management	Claims Settlement Committee	Executive Committee	Board of Directors
Levels of Service	Develop and implement programs to provide the identified "Levels of Service."		Approve temporary changes in "Levels of Service."	Approve "Levels of Service" for the Authority.
Resource Deployment	Establish policy/deployment that maintains the approved "Levels of Service."			
Standard Operating Procedures (SOPs) and General Orders (GOs)	Develop and implement SOPs and GOs consistent with Board policies.			
Budget Adoption	Develop the budget.		Budget & Finance Committee - Review the budget; make recommendations.	Approve the budget prior to June 30 each year (JPA Agreement, Article IV.1)
Budget Execution	Authorize expenditures within approved budget appropriations (JPA Agreement, Article IV.2)			
Budget: Intra- and inter-fund transfer; increases and decreases to appropriation.	Approve intra-fund transfers within adopted budgets			Approve inter-fund transfers between budgets; Approve increases and decreases to appropriations.

ORANGE COUNTY FIRE AUTHORITY
Roles/Responsibilities/Authorities

	Authority Management	Claims Settlement Committee	Executive Committee	Board of Directors
Fire Station 41, Air Operations Maintenance Facility - Leases	Negotiate, approve and execute leases and/or lease amendments for Hangers Nos. 1, 2, 3, and 4			
Fund Balance - Assigned	Assign amounts for workers' compensation and the capital improvement program within requirements of the <i>Assigned Fund Balance Policy</i>		Budget & Finance Committee – Review calculations used to determine assignments for workers' compensation and the capital improvement program for consistency with <i>Assigned Fund Balance Policy</i>	Assign and un-assign fund balance for any specific purposes other than workers' compensation and the capital improvement program, within the guidelines of GASB Statement No. 54
Fund Balance – Committed				Commit and un-commit fund balance via minutes action, within the guidelines of GASB Statement No. 54
Contingency Planning and funding	Develop plan; administer budget in a manner consistent with plan and policies.		Budget & Finance Committee - Review contingencies and spending for compliance with plan and policies.	Establish plan and policies. Transfer of Appropriation for Contingencies requires prior approval of the Chair or the Vice Chair, in the absence of the Chair, and must be reported to the Board immediately in writing.

ORANGE COUNTY FIRE AUTHORITY
Roles/Responsibilities/Authorities

	Authority Management	Claims Settlement Committee	Executive Committee	Board of Directors
Debt obligation	Develop and recommend financing plans.		Budget & Finance Committee – Review of recommended financing plans.	Approve all debt obligations. (Note: long-term bonded indebtedness requires approval by 2/3 rd vote of the members.)
Purchase of Commodities purchases and fixed assets (materials, equipment & supplies) <u>Ord. 8, Sec. 1-3(18)</u>	Approve purchase of commodities (<u>Ord. 8, per Art. III selection process or Art. X cooperative purchasing</u>) and fixed assets for total annual contract amount less than \$100,000 <u>250,000</u> . <u>Approve any increase to commodity term contracts provided the annual contract amount remains less than \$250,000.</u>		Approve purchase of commodities and fixed assets for with an annual total contract amount greater than over \$100,000 <u>250,000</u> . <u>Approved increase to commodity contracts if the increase results in the annual contract being greater than \$250,000.</u>	
<u>Fixed asset purchases</u>	<u>Approve purchase of fixed assets with unit cost less than \$100,000.</u>		<u>Approve purchase of fixed assets with a unit cost greater than \$100,000.</u>	

ORANGE COUNTY FIRE AUTHORITY
Roles/Responsibilities/Authorities

	Authority Management	Claims Settlement Committee	Executive Committee	Board of Directors
Purchase—Professional Service Contracts – (including consulting contracts) includes professional services, facilities & equipment services, and consulting.	<p>Approve all service contracts <u>(selection process per Ord. 8, Art. III, or Art. X) for annual contract amount less than \$100,000, for the life of the contract duration.</u></p> <p><u>Approve multi-year contracts so long as the annual amount is less than \$100,000, and the total contract amount does not exceed \$500,000.</u></p>		<p>Approve all service contracts <u>in which the annual contract amount exceeds over \$100,000 for life of contract duration or multi-year contract exceeds \$500,000 when future years are taken into consideration.</u></p> <p>Contract extensions beyond the initial contract term <u>and allowable contract extensions</u> will require Executive Committee approval prior to contract extension.</p>	
<p>Change Orders/ Modifications <u>Service Contract Amendments</u> <u>(Non Public Projects)</u> (excludes Public Works contracts in excess of the formal limit set forth in Section 22032 of Public Contract Code)</p>	<p>For <u>service</u> contracts within the limits delegated herein to Authority Management, approve change orders in any amount so long as the revised amount remains within the delegated limits.</p> <p>For contracts originally approved by the Executive Committee or Board of Directors, approve change orders within the original scope of work, less than 15% but not to exceed a total value of \$50,000.</p>		<p>Approve change order/modifications to any contracts with original or revised values that exceed those amounts delegated herein to Authority Management.</p>	

ORANGE COUNTY FIRE AUTHORITY

Roles/Responsibilities/Authorities

	Authority Management	Claims Settlement Committee	Executive Committee	Board of Directors
Emergency Purchases/Contracts	Approve emergency purchases, <u>as defined in Ord. 8, Sec. 1-3(14) & Sec. 1-22,</u> up to \$100,000.		Purchases in excess of \$100,000 require prior approval of Chair or Vice Chair and must be reported at the next Executive Committee meeting.	
Sole Source Contracts	Approve any sole source contracts up to less than \$2550,000, <u>so long as acceptable justification is provided by the using agency per the requirements in Ord. 8, Sec. 1-21.</u>		Approve any sole source contracts <u>when aggregate amount exceeds over \$2550,000. <i>Sole source justification form is a required attachment to the staff report.</i></u>	
<u>Special Procurement Contracts – utilized when it is in the best interest of OCFA to award a contract without bidding requirements and the procurement does not meet the definition of a sole source.</u>	<u>Approve any special procurement contract less than \$50,000, so long as acceptable justification is provided by the using agency per the requirements in Ord. 8, Sec. 1-23.</u>		<u>Approve any special procurement contract when the aggregate amount exceeds \$50,000. <i>Special procurement justification form is a required attachment to the staff report.</i></u>	
Public Works Projects	Approve all informal public works contracts <u>projects</u> in amounts up to the statutory limits authorized by <u>Public Contract Code Section 22032</u> of the Public Contract Code. <u>(Currently projects under \$175,000).</u>			Approve all <u>formal</u> public works contracts in amounts at or above the statutory limits authorized by <u>Public Contract Code Section 22032</u> Section 22032 of the Public Contract Code. <u>(Currently projects over \$175,000).</u>

ORANGE COUNTY FIRE AUTHORITY
Roles/Responsibilities/Authorities

	Authority Management	Claims Settlement Committee	Executive Committee	Board of Directors
Public Projects - Change Orders/ Modifications for formal and informal Public Works contracts Projects in excess of the formal limit as set forth in Public Contract Code Section 22032 of the Public Contract Code	Approve C change Order/modifications <u>for formal and informal Public Projects up to 10% of original contract amount</u> , but not to exceed less than a total value of \$50,000 <u>17,500</u> .		Approve C change Order/modifications <u>for informal Public Projects</u> over 10% <u>of original contract amount</u> , or exceeding a total value of \$50,000 <u>17,500</u> .	<u>Approve Change Order/modification on formal Public Projects over 10% of original contract amount, or exceeding a total value of \$50,000 which ever is less.</u>
<u>Public Projects – Emergency as defined in Public Contract Code Sections 22035 and 22050 (Ord. 8, Sec. 1-53)</u>	<u>Fire Chief or designee has authority to declare an emergency and authorize procurement of equipment, services, construction services and supplies without the competitive bidding requirements when it is impracticable to convene a meeting of the Board of Directors prior to addressing the emergency needs.</u>			<u>Authorize exemption from procurement requirements by four-fifths vote (at next scheduled meeting) as required per Public Contract Code Sections 22035 and 22050.</u>
Investment Practices	Provide financial data to Budget & Finance Committee, Executive Committee and Board of Directors. Develop draft policy.		Budget & Finance Committee - Review Treasury/Investment actions to insure compliance with policy. Executive Committee – review monthly reports.	Adopt investment and Treasury policies.

ORANGE COUNTY FIRE AUTHORITY
Roles/Responsibilities/Authorities

	Authority Management	Claims Settlement Committee	Executive Committee	Board of Directors
Setting of salaries/benefits and other terms and conditions of employment	Identify issues, recommend negotiations approach; negotiate with labor organizations as approved by the Board of Directors.		Review management recommendations; make recommendations to the Board of Directors.	Provide direction to chief negotiator on negotiations; adopt resulting MOUs and changes in the PSR.
Grievances	Administer procedures pursuant to MOU and PSR provisions.			
Disciplinary Actions	Implement disciplinary actions within legal and MOU requirements.			
Hire/Terminate	Hire/terminate Authority staff.		Make recommendations to the Board of Directors on General Counsel legal services contract and Fire Chief employment contract, and compensation of General Counsel and the Fire Chief.	Hire/terminate Fire Chief and General Counsel. Approve service contract for General Counsel. Approve employment contract for Fire Chief.
Appointments				Appointment of clerk, auditor, and treasurer (JPA Agreement Articles II.9 and II.13)
Classification and Salary Ranges	Administer classification system within existing classes and budget.		Adopt and approve new or modified classes and corresponding salary ranges.	
Settlement of Employee Complaints and Grievances	Approve settlements up to \$10,000 within existing PSR parameters.		Approve settlements up to \$50,000.	Approve settlements over \$50,000.

ORANGE COUNTY FIRE AUTHORITY
Roles/Responsibilities/Authorities

	Authority Management	Claims Settlement Committee	Executive Committee	Board of Directors
File Legal action				Authorize filing of legal action.
Respond to legal action				Authorize response to legal action.
Settlement of Claims and Litigation	Approve settlements of claims and litigation up to \$50,000. in accordance with Board of Directors Rules of Procedure.	Approve settlements of claims and litigation over \$50,000 not to exceed \$250,000. in accordance with Board of Directors Rules of Procedure.		Approve settlements of claims and litigation over \$250,000.
Level of risk/coverage/exposure	Recommend risk management policies; administer risk management program within established Board of Directors and legal requirements.			Establish policies.
Write-Off for Uncollectible Accounts	Approve write-off of uncollectible accounts up to \$15,000.		Approve write-off of uncollectible accounts over \$15,000. Budget and Finance Committee review annual report of uncollectibles and make a recommendation to Executive Committee for final decision.	
Accept Real Property Interests	Accept interest in real property if the Board of Directors or Executive Committee has previously approved.			Approve Secured Fire Protection Agreements and Purchase Agreements for the acquisition of real property.

ORANGE COUNTY FIRE AUTHORITY
Roles/Responsibilities/Authorities

	Authority Management	Claims Settlement Committee	Executive Committee	Board of Directors
Utility licenses and easements	Execute licenses and easements for utilities necessary to implement construction projects approved by the Board or Executive Committee		Approve licenses and easements for utilities where no prior approval of construction projects has occurred	
Accept Grants	Accept all grants except: (1) when the grantor requires approval by the governing body, or; (2) when an adjustment is immediately needed to appropriations to expend the grant, or; (3) when a contract award is needed, requiring approval by the Executive Committee or Board.		Accept all grants in which the grantor requires approval by the governing body.	



Orange County Fire Authority
AGENDA STAFF REPORT

Board of Directors Meeting
April 28, 2016

Agenda Item No. 5B
Discussion Calendar

**Request by Director Barnett: Discussion of
Contracting for Services, Employee Compensation & Benefits, and
Public Negotiation of Labor Contracts**

Contact(s) for Further Information

Rick Barnett, Board Director	rbarnett@villapark.org	714.958.1500
Jeff Bowman, Fire Chief	jeffbowman@ocfa.org	714.573.6010

Summary

This agenda item is submitted in response to a request from Director Barnett (Villa Park) for the Board of Directors to discuss organizational/financial actions that he is recommending for OCFA.

Prior Board/Committee Action

Similar requests from Director Barnett have previously been considered by the Board of Directors in September 2013, the Executive Committee in January 2015, and the Human Resources Committee in February 2015. In addition, a similar request from Director Spitzer regarding public negotiation of labor contracts was considered by the Board of Directors in November 2014.

RECOMMENDED ACTION(S)

Receive and file the report.

Impact to Cities/County

Not Applicable.

Fiscal Impact

Not Applicable

Background

This agenda item is submitted in response to a request from Director Barnett (Villa Park) for the Board of Directors to discuss and vote on organizational and financial actions that he is recommending for OCFA (Attachment 1). These actions cover the areas of contracting for services, employee compensation and benefits, and public negotiation of labor contracts.

In September 2013, the Board of Directors received and filed a report relating to Director Barnett's request for a salary and benefit survey (Attachment 2).

In January 2015, the Executive Committee referred a request from Director Barnett to the Human Resources Committee (HRC) relating to preparation of a pension report (Attachment 3).

In February 2015, the HRC considered the request (Attachment 4) and provided the attached response to Director Barnett (Attachment 5).

Finally, in November 2014, the Board of Directors considered the topic of transparency in labor negotiations and as a result, took action to amend its Board Rules of Procedures (Attachments 6 and 7).

Each of the above referenced agenda items are attached for reference as these matters are brought forward for renewed consideration by Director Barnett.

Attachment(s)

1. March 24, 2016 Letter from Director Barnett
2. September 26, 2013 Board of Directors Agenda Item - Board Member Request for Salary and Benefit Survey
3. January 15, 2015 Executive Committee Agenda Item - Director Request for Preparation of Pension Report
4. February 3, 2015 Human Resources Committee Agenda Item - Director Request for Preparation of Pension Report
5. February 9, 2015 Letter Response from HRC Chairman Shawver to Director Barnett
6. November 20, 2014 Board of Directors Agenda Item – Proposed Amendments to the Board of Directors Rules of Procedure regarding Posting Requirements of Proposed Labor Contracts and Change of Regular Meeting Date for the Claims Settlement Committee
7. November 20, 2014 Board of Directors Agenda Item – Civic Openness in Negotiations Ordinance

OCFA Financial Stabilization Through Pension Benefits Deficit Reduction

OCFA has accumulated roughly \$500,000,000 of deficit liability at an increasing rate since its inception in 1995, most of it Pension deficit liability. If more conservative investment returns and longer life expectancies are factored in that deficit increases accordingly. I see no reason to expect a meaningful improvement in this long established trend. 2015 appears likely to be another deficit increase.

Regardless of one's optimism it can not be intelligently or even rationally argued that the current Defined Benefit Pension structure involves other than a speculative expense which can not be meaningfully budgeted. In order to do so the actuaries would need to know the net investment return on pension funds for the life of the plan members (70 years or more in some case); the life spans of existing and future members; their

retirement dates and incomes; future inflation rates and more.

These variables can not be known or meaningfully predicted that far in advance. Technological advances make the estimation of life expectancies even more difficult. These type of estimations involve mere speculation. The private sector learned this lesson years ago and has effectively abandoned using these plans.

Once you acknowledge that the plans are speculative you have to ask yourself, can I write a blank check and at the same time assert that I am acting in a financially responsible manner? Particularly where that conduct has already resulted in an unexpected deficit of a half a billion dollars or more.

How many of you would persist in this conduct if your family, your business or your client had financial responsibility for these plans? I suspect not one of you. I have asked this question of individual directors over the last four years and I have not had an affirmative response to date.

I suggest there are only two meaningful ways to address the pension deficit and both involve elimination of the Defined Benefit Plan.

First and most effective would be to contract out fire and paramedic services to the private sector. The agency could then utilize the savings to eliminate the deficit attributable to employees with accrued benefits and assure them funded pensions. These employees have already earned pension benefits which they are entitled to receive. There would be no future deficits as the responsibility for negotiating and paying benefits would lie with the fire services contractor and we could require that contractor to provide insurance for its performance. Existing staff and perhaps Veterans should be given hiring priority.

For those Directors lacking background with this issue, I believe the John Wayne Airport authority bid out its fire services and obtained a private contractor bid at roughly half the cost of OCFA's bid.

The second way to address the problem would be less financially efficient, however, it would be more politically palatable for many elected

officials. The unions would need to agree to a multi tiered compensation package involving new hire pay reductions and the use of Defined Contribution Pension Plans on a go forward basis for all employees. Use of these plans would allow the agency to meaningfully budget its expenses on an annual basis and close out each financial year without concern for retroactive pension adjustments. The only continuing variable would be the cost of funding the accrued Defined Benefit Plan arrearages as those would continue to be subject to readjustment. This alternative leaves financial uncertainty, however, it is a vast improvement over the current scenario. San Diego has already implemented some of these measures.

PLEASE ASK YOURSELVES WHAT IMPACT THESE EVER INCREASING DEFICITS (see attached bar chart) WOULD HAVE ON YOUR CITY IF THE COURTS OR THE LEGISLATURE WERE TO DETERMINE THAT THEY ARE JOINT LIABILITIES OF THE MEMBER CITIES

OUR EXISTING STAFF SHOULD RECEIVE THEIR PENSION BENEFITS, NOT ANOTHER GOVERNMENT BANKRUPTCY

With the foregoing in mind, I would ask the chair to agendize the following items for a vote at the next meeting so that the full board has an opportunity to vote and the public can witness the positions taken by their elected representatives on the issues.

- 1. Obtain an independent report as to the feasibility and financial impact of contracting out fire and paramedic services to the private sector with hiring priority given to existing staff and perhaps veterans.**
- 2. Appoint a board committee to undertake discussion with the unions of a multi tiered compensation system to eliminate Defined Benefit Plans and to reduce overall labor costs in order to provide sufficient funding to assure that OCFA can remain a viable entity and pay the pension costs of those employees who have already earned those benefits.**
- 3. Obtain an independent study to determine the actual salary and benefit levels**

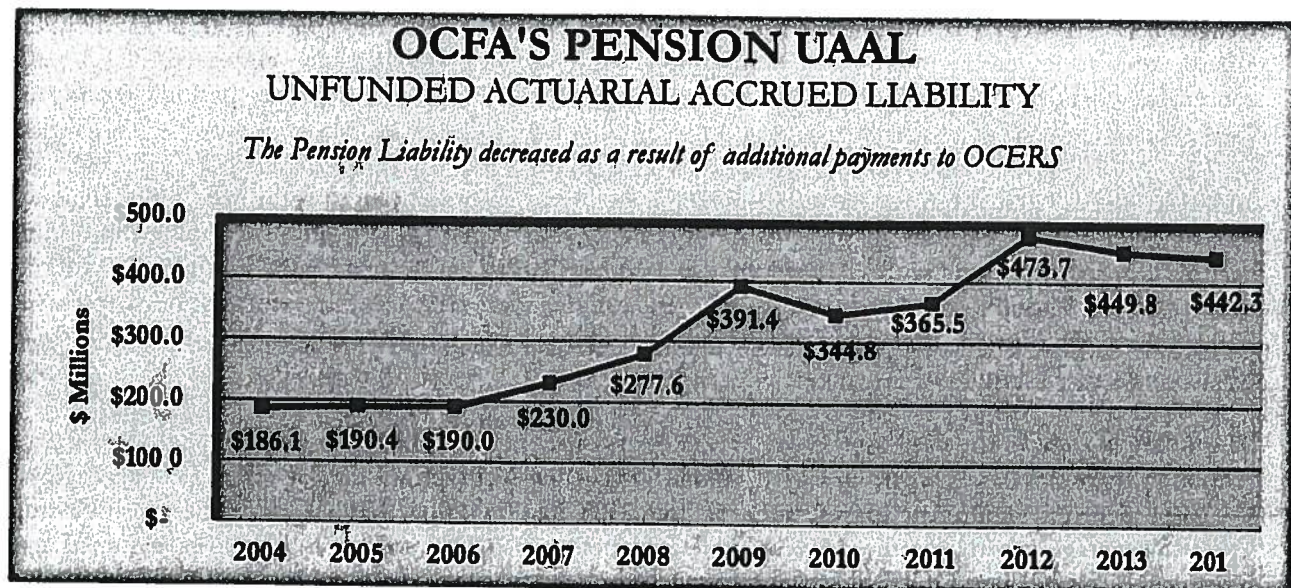
necessary to provide for fire safety and paramedic staffing.

- 4. Freeze compensation increases and restrict discretionary spending increases pending an objective and verifiable resolution of the pension deficit issue.**
- 5. Take action as necessary to open labor negotiations for public review. These involve public funds and there is no justification for concealing the negotiations.**

OCFA Retirement Costs, Liabilities and Funding

OCFA's annual retirement costs represent approximately \$72.3 million or 22% of the Authority's FY 2015/16 General Fund budget. Each year, the Authority receives its retirement rates from OCERS. The total retirement rate has two components: the Normal Cost Component plus the current year's cost for the Unfunded Actuarial Accrued Liability (UAAL). The Normal Cost Component is the cost to pay for the current year's value of retirement benefits as earned. The UAAL Component is the accrued liability for past services which were not funded by prior contributions and investments.

The UAAL is determined by the actuary and is the difference between the present value of accrued liabilities and the value of assets as of a specific date. This amount changes over time as a result of changes in accrued benefits, pay levels, rates of return on investments, changes in actuarial assumptions, and changes in the demographics of the employee base.



Based on the December 31, 2014 valuation by OCERS, the Authority's total UAAL was \$442.3 million with \$380.4 million or 86% attributed to Safety members and \$61.9 million or 14% attributed to General members. The Safety member plans are currently 71% funded, and the General member plans are 66% funded. The OCFA reduces its UAAL over time as part of the annual required pension contribution to OCERS as shown below:

General Members (2.7% @ 55, 2.0% @ 55, and 2.5% @ 67 combined)

<u>Employer Rate *</u>	<u>2014 Valuation</u>	<u>2013 Valuation</u>
Normal Cost	12.99%	13.73%
<u>UAAL</u>	<u>20.28%</u>	<u>23.34%</u>
Total	33.27%	37.07%

Safety Members (3.0% at 50, 3% @ 55 and 2.7% @ 57 combined)

<u>Employer Rate *</u>	<u>2014 Valuation</u>	<u>2013 Valuation</u>
Normal Cost	26.47%	25.70%
<u>UAAL</u>	<u>24.42%</u>	<u>24.14%</u>
Total	50.89%	49.84%

* Totals do not include *Employee Rates*, which vary based on age of entry and retirement formula. *Employee Rates* range from 6.60% - 17.15% for General and 10.49% - 20.41% for Safety (See Exhibit A).

DISCUSSION CALENDAR - AGENDA ITEM NO. 17
BOARD OF DIRECTORS MEETING
September 26, 2013

TO: Board of Directors, Orange County Fire Authority

FROM: Craig Kinoshita, Deputy Fire Chief

SUBJECT: **Board Member Request for Salary and Benefit Survey**

Summary:

This agenda item is submitted for consideration of a request from Director Barnett, Villa Park, that the Board of Directors consider conducting a salary and benefit survey for entry level firefighters.

Committee Action:

At its August 14, 2013, meeting, the Budget and Finance Committee reviewed and unanimously approved forwarding this item to the Board of Directors for its consideration without Committee endorsement.

Recommended Action:

Receive and file the report.

Background:

This agenda item was submitted to the Budget and Finance Committee in response to a request made by Director Barnett (Villa Park) at the Board meeting of July 25, 2013, that a salary and benefit survey be conducted by an independent third-party consultant to determine the salary and employee benefit (S&EB) levels that would be required by prospective candidates interested in becoming entry level firefighters with OCFA. Director Barnett indicated a desire to have independent information about these S&EB requirements from the pool of prospective candidates, rather than relying on a survey of comparable fire departments.

Identification of Prospective Candidates

In order to perform the requested survey, an independent consultant would first need to identify the target audience which is perceived to represent the pool of prospective candidates. The most recent OCFA recruitment for entry level firefighters produced a total of 1,175 applicants. Of those applicants, 675 or 57% of the applicants passed the written test. In addition to the minimum requirements, qualifying applicants possessed the following qualifications:

- 21% held Paramedic certifications
- 78% held Emergency Medical Technician certifications
- 23% held Firefighter 1 certifications
- 62% had completed a Fire Academy
- 7% had military experience

The current labor market yields more candidates for OCFA's entry level firefighter position than the number of positions that the OCFA typically has available; therefore, some may conclude that a lower compensation package could be offered without compromising our ability to fill vacancies. However, based on a 57% pass rate on the written exam, a reduction in the compensation package may result in fewer qualified candidates. In addition, as demonstrated by the above profile of our recent recruits, OCFA is attracting highly qualified individuals, from a variety of education and career backgrounds, which provides for a high success rate of entry level candidates who graduate from the OCFA's Fire Academy (approximately 90-95%). If a survey were to be conducted, properly identifying the appropriate pool of prospective candidates could be relatively challenging.

Potential Recruitment or Retention Impacts

Should the OCFA choose to utilize entry level salaries and/or benefit packages that are materially less than other Orange County/Southern California Fire Departments, the OCFA could see a reduction in the skill-sets of future candidates who apply for our vacancies. This could result in the need for additional training for newly hired firefighters, and/or a lower success rate in graduating candidates from the Academy. Further, the OCFA could potentially suffer a delayed negative impact in which our newer trained firefighters might be recruited away to other higher-paying agencies, *after* we have invested time and taxpayer funds in the hiring and training process for these recruits. The cost of training and trainee-pay provided during the Academy is estimated at \$40,000 per employee.

Potential Use of Survey Results

If the Board of Directors desires to make changes in S&EB levels for entry-level firefighters (or other classifications) as a result of this proposed survey, the change would need to be accomplished through labor negotiations, amendments would need to be made to OCFA's Memorandum of Understanding with the applicable labor group(s), and OCFA's salary table would require amendments. Amendments to the salary table would need to take into consideration the impact of the salary change on the complete career ladder for the firefighter ranks and Chief Officers.

Impact to Cities/County:

Not applicable.

Fiscal Impact:

Based upon the last classification and compensation study conducted in 2001 by Fox Lawson & Associates at a cost of \$94,478 and lacking formal direction to initiate the RFP process, staff anticipates the cost to be estimated at \$100-120K.

Staff Contact for Further Information:

Craig Kinoshita, Deputy Fire Chief

Craigkinoshita@ocfa.org

(714) 573-6014

Attachments:

None



Orange County Fire Authority
AGENDA STAFF REPORT

Executive Committee Meeting
 January 15, 2015

Agenda Item No. 5C
 Discussion Calendar

**Director Request
 for Preparation of Pension Report**

Contact(s) for Further Information

Rick Barnett, OCFA Director	rbarnett@villapark.org	714.958.1500
Jeff Bowman, Fire Chief	jeffbowman@ocfa.org	714.573.6010
Lori Zeller, Assistant Chief Business Services Department	lorizeller@ocfa.org	714.573.6020

Summary

This agenda item is submitted in response to a request from Director Barnett (Villa Park) for staff to prepare a report regarding OCFA's pension plans with the Orange County Employees Retirement System (OCERS).

Prior Board/Committee Action

Not Applicable.

Recommended Action(s)

Review the request and provide direction to staff regarding preparation of any additional reports.

Impact to Cities/County

Not Applicable.

Fiscal Impact

Not Applicable.

Background

Attached is a request received from Rick Barnett, OCFA Director from the City of Villa Park, regarding OCFA pension plans. Rule 2b of the Board Rules states the following regarding Board Member requests for items to be placed on Board agendas:

"During the Board Member Comments portion of a Board meeting, any member may request that an item be placed on a future agenda of the Board of Directors. Staff will prepare reports as appropriate and place the item on the agenda for the next meeting of the Board of Directors. **At any other time, any Board Member may contact the Chair to request that an item be placed on the agenda of the next meeting of the Board of Directors. This item will be placed on the Board Discussion Calendar portion of the agenda for concurrence by the Board. No staff reports or materials will be prepared until the full Board directs that the item be placed on an agenda.**"

Per discussion with Chairman Murray, this request is being presented to the Executive Committee to allow an opportunity for discussion with Director Barnett, and to facilitate a better understanding of the request. In addition, staff has included links to several reports that were prepared over the last year relating to OCFA pension plans.

Attachment(s)

1. E-mail Request from Director Barnett, dated December 7, 2014

The following documents are available electronically – links are included below:

2. OCFA 2014 Long Term Liability Study, October 2014
http://ocfa.org/uploads/pdf/sr_bd141023-03.pdf
3. Paying Down OCFA's Unfunded Pension Liability, September 2013
http://www.ocfa.org/uploads/pdf/sr_bd130926-15.pdf
4. OCERS 2013 Actuarial Valuation Power-Point Summary, Segal Company, June 2014, (Attachment 3a)
http://www.ocfa.org/uploads/pdf/sr_bf140611-03.pdf
5. OCERS 2013 Actuarial Valuation Report, Segal Company, June 2014 (Attachment 2a)
http://www.ocfa.org/uploads/pdf/sr_bf140709-02.pdf
6. OCERS Illustration of Retirement Costs, Unfunded Actuarial Accrued Liability and Funded Ration under Alternative Economic Scenarios, Segal Company, July 2014 (Attachment 3a)
http://www.ocfa.org/uploads/pdf/sr_bf140813-03.pdf
7. OCERS Triennial Study of Actuarial Assumptions, July 2014 (Attachment 3b)
http://www.ocfa.org/uploads/pdf/sr_bf140813-03.pdf

Zeller, Lori

From: Rick Barnett <rbarnett@villapark.org>
Sent: Sunday, December 07, 2014 10:20 AM
To: dkendig@wss-law.com; Zeller, Lori; Bowman, Jeff
Subject: Pensions

David and Lori, would you please provide a summary of the OCFA pension coverage, ie vesting schedule for both safety and non safety personal, i.e. 3/55 etc in plain English so that all board members can understand it, including the new people. I would request the summary include a synopsis of the benefits including whether or not these are joint life benefits and the effect of a death of the employee on the non employee benefits. Do children get the benefits if both spouses die? What coverage?

Please also provide a plain English translation life expectancy chart so that the board can see what life expectancies are being used to calculate the premiums.

Please also provide a summary of the health insurance benefits pre and post retirement for both classes of employees and well as an explanation of how this coverage interfaces with Medicare. In other words what happens at Medicare age when the private sector is generally relegated to Medicare coverage and how are employees dependents treated at that point?

What is the current aggregate deficit as between health and retirement and what rate of return is presently imputed in determining that deficit?

Finally, what is the status of the law with regard to the OCFS's ability to set the allocation as between the agency and employees. I understand conventional wisdom is that it is controlled by PEPRA , however, I believe there is case authority indicating that the OCFA may have constitutional latitude to transcend PEPRA (I believe our labor negotiator may be familiar with that issue).

Please segregate the response as between public and privileged information.

Since these programs are driving huge deficits and in my opinion represent the agencies most serious problem, I see this information as crucial.

I intend to make this request and any response public, so please advise as to the scope of any privileged material.

Thanks, Rick

Rick Barnett
Mayor, Villa Park, CA
Sent from a mobile device



Orange County Fire Authority
AGENDA STAFF REPORT

Human Resources Committee Meeting
February 3, 2015

Agenda Item No. 3C
Discussion Calendar

Director Request for
Preparation of Pension Report

Contact(s) for Further Information

Jeremy Hammond, Director
 Human Resources Department

jeremyhammond@ocfa.org

714.573.6018

Summary

This agenda item is submitted in response to a request from Director Barnett (Villa Park) for staff to prepare a report regarding OCFA's pension plans with the Orange County Employees Retirement System (OCERS).

Prior Board/Committee Action

This request was originally presented at the January 15, 2015, Executive Committee meeting. The Executive Committee recommended Director Barnett's request be referred to the Human Resources Committee for its review and discussion prior to taking any further action.

Recommended Action(s)

Review the item and provide direction to staff.

Impact to Cities/County

Not Applicable.

Fiscal Impact

Not Applicable.

Background

At the January 15, 2015, Executive Committee Meeting, Rick Barnett, OCFA Director from the City of Villa Park, submitted a request for a comprehensive study of the OCFA's pension plans with the Orange County Employees Retirement System (OCERS) and possible revisions to the plan. After hearing a presentation from Director Barnett, the Executive Committee unanimously approved referring this matter to the Human Resources Committee for discussion and vetting.

Attachment(s)

January 15, 2015, Executive Committee Meeting, Staff Report Agenda Item 5C entitled, "Director Request for Preparation of Pension Report"



Orange County Fire Authority
AGENDA STAFF REPORT

Executive Committee Meeting
January 15, 2015

Agenda Item No. 5C
Discussion Calendar

**Director Request
for Preparation of Pension Report**

Contact(s) for Further Information

Rick Barnett, OCFA Director	rbarnett@villapark.org	714.958.1500
Jeff Bowman, Fire Chief	jeffbowman@ocfa.org	714.573.6010
Lori Zeller, Assistant Chief Business Services Department	lorizeller@ocfa.org	714.573.6020

Summary

This agenda item is submitted in response to a request from Director Barnett (Villa Park) for staff to prepare a report regarding OCFA's pension plans with the Orange County Employees Retirement System (OCERS).

Prior Board/Committee Action

Not Applicable.

Recommended Action(s)

Review the request and provide direction to staff regarding preparation of any additional reports.

Impact to Cities/County

Not Applicable.

Fiscal Impact

Not Applicable.

Background

Attached is a request received from Rick Barnett, OCFA Director from the City of Villa Park, regarding OCFA pension plans. Rule 2b of the Board Rules states the following regarding Board Member requests for items to be placed on Board agendas:

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Per discussion with Chairman Murray, this request is being presented to the Executive Committee to allow an opportunity for discussion with Director Barnett, and to facilitate a better understanding of the request. In addition, staff has included links to several reports that were prepared over the last year relating to OCFA pension plans.

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Please segregate the response as between public and privileged information.

Since these programs are driving huge deficits and in my opinion represent the agencies most serious problem, I see this information as crucial.

I intend to make this request and any response public, so please advise as to the scope of any privileged material.

Thanks, Rick

Rick Barnett
Mayor, Villa Park, CA
Sent from a mobile device



ORANGE COUNTY FIRE AUTHORITY

P.O. Box 57115, Irvine, CA 92619-7115 • 1 Fire Authority Road, Irvine, CA 92602

Jeff Bowman, Fire Chief

(714) 573-6000

www.ocfa.org

February 9, 2015

Rick Barnett, Director
OCFA Board of Directors
17855 Santiago Boulevard
Villa Park, CA 92861

Subject: ***Request for Pension Report***

Dear Director Barnett:

Following referral from the Executive Committee, the Human Resources Committee (HRC) considered your request relating to OCFA pensions at its meeting of February 3, 2015, and directed the following actions:

- Provide additional clarification to you regarding those pension reports that already exist, and identify which of those reports can be used as resources to find the specific pieces of information being requested (See Attachment).
- Refer you to coordinate with OCFA's Legislative Services Manager, Jay Barkman, and Director of Communications, Sandy Cooney, to identify legislative proposals that affect OCFA's pension programs. Additionally, if legislative solutions to pension concerns are desired, those should be brought for consideration by OCFA's Board as part of its formal legislative platform action plan.
- Extend an offer to arrange a meeting for you with OCERS' staff and/or actuary to further discuss details used in performance of annual actuarial studies. Please let Lori Zeller, Assistant Chief/Business Services, know if you would like her to arrange such a meeting.
- Recommend that you consider attending future meetings of the OCERS' Board of Retirement to gain additional information and insight into the function and administration of the existing pension programs.

The HRC indicated its appreciation for your interest in this topic, and its intent to support your efforts through the actions outlined above. If you have any questions, please call me at (714) 931-8863 or Assistant Chief Lori Zeller at (714) 573-6020.

Respectfully,

David Shawver, Chair
Human Resources Committee

c: Human Resources Committee
Executive Committee
Executive Management
David Kendig, General Counsel

Serving the Cities of: Aliso Viejo • Buena Park • Cypress • Dana Point • Irvine • Laguna Hills • Laguna Niguel • Laguna Woods • Lake Forest • La Palma
Los Alamitos • Mission Viejo • Placentia • Rancho Santa Margarita • San Clemente • San Juan Capistrano • Santa Ana • Seal Beach • Stanton • Tustin • Villa Park
Westminster • Yorba Linda • and Unincorporated Areas of Orange County

DISCUSSION CALENDAR - AGENDA ITEM NO. 13
BOARD OF DIRECTORS MEETING
November 20, 2014

TO: Board of Directors, Orange County Fire Authority

FROM: Sherry Wentz, Clerk of the Authority

SUBJECT: **Proposed Amendments to the Board of Directors' Rules of Procedure regarding Posting Requirements of Proposed Labor Contracts and Change of Regular Meeting Date for the Claims Settlement Committee**

Summary:

This item is submitted for consideration of amendments to the Board of Directors Rules of Procedure.

Recommended Action:

Adopt the proposed Resolution amending the Board of Directors' Rules of Procedure.

Background:

The Board of Directors Rules of Procedure, adopted on January 28, 1999, set forth the protocols and procedures pertaining to meetings of the Board of Directors and its standing committees. The Board Rules are periodically reviewed and amended as appropriate.

At the October 23, 2014, Board of Directors meeting, Director Spitzer requested agendaizing the consideration of a proposed amendment to the Board Rules of Procedure regarding posting requirements of proposed labor contracts based upon the County of Oranges' Rule 16. Upon review of Rule 16 by OCFA staff and concurrence by General Counsel, staff supports and recommends the Board adopt proposed amendment (e) to Board Rule 2 – Agendas/Minutes for Meetings of the Board of Directors, as follows:

(e) "Notwithstanding any provision in these Rules to the contrary, no Memorandum of Understanding, or amendment, codicil, side letter, or any other modification to a Memorandum of Understanding, including any such documents negotiated pursuant to a reopener clause, between the Orange County Fire Authority and any employee bargaining unit ("proposed labor agreement"), shall be heard as an item on a Board agenda until and unless, at the time of the meeting during which the matter is heard by the Board, one week has passed since the later of the following to occur: (1) the Clerk of the Authority has published a copy of the proposed document on the OCFA public website; and (2) the members of the employee bargaining unit have ratified the proposed labor agreement."

Rule 10 – The Standing Committees

Staff is requesting the Board reschedule its regular Claims Settlement Committee meetings to be held on the same dates as its Executive Committee, as opposed to the Board meetings. This would maintain that these meetings are held on a monthly-basis. The proposed amendment would change the regular Claims Settlement Committee meeting from the fourth Thursday of each month to the third Thursday of each month, with the exception of December (see attached proposed Resolution).

Impact to Cities/County:

Not applicable.

Fiscal Impact:

Not applicable.

Staff Contact for Further Information:

Sherry Wentz, Clerk of the Authority

sherrywentz@ocfa.org

(714) 573-6041

Attachments:

1. Proposed Resolution with redline version of impacted pages of the Board of Directors Rules of Procedure
2. Memo from Supervisor Spitzer dated November 10, 2014

RESOLUTION NO. 2014-XX

**A RESOLUTION OF THE ORANGE COUNTY FIRE AUTHORITY
AMENDING THE BOARD OF DIRECTORS RULES OF PROCEDURE**

WHEREAS, the Orange County Fire Authority Board of Directors adopted Resolution No. 99-04, on January 28, 1999, establishing the Board of Directors Rules of Procedure, and

WHEREAS, the Board of Directors has periodically amended said Rules, the most recent amendment occurring on September 23, 2010; and

WHEREAS, the Board is considering amendments to these Rules.

NOW, THEREFORE, BE IT RESOLVED as follows:

The Board of Directors Rules of Procedures is amended as indicated by the redline version attached hereto as Exhibit A.

PASSED, APPROVED and ADOPTED this 20th day of November 2014.

ELWYN A. MURRAY, CHAIR
Board of Directors

ATTEST:

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

- (b) Crippling disaster which severely impairs public health, safety or both.
- (2) Upon determination by a two-thirds vote of the Board Members present, or a unanimous vote if less than two-thirds of the Members are present, that there is a need to take immediate action and that the need came to the attention of the Authority subsequent to the agenda being posted. The determination shall be made prior to Board consideration of the item.
- (3) The item was posted for a prior meeting occurring not more than five calendar days prior to the date action is taken on the item and at which prior meeting, the item was continued to the meeting at which action is being taken.
- (d) The OCFA Board has adopted the use of Robert's Rules of Order as its official guideline in the creation of minutes. All Board/Committee meeting will be documented using action-type minutes. Minutes will document the record of what actions were taken by the governing body, not what was said. The minutes will not contain personal comments or someone's opinion about what happened.
 - (1) The minutes shall document the items identified in Rule 3 in the Board's Order of Business.
 - (2) Public comments will identify the name of the speaker, their city of residences/or organization they represent (if provided by the speaker), and identify the subject to which their comments are being submitted. If commenting on a specific agenda item, the minutes will record the speaker's name, their city of residences/or organization they represent (if provided), and identify if they are speaking in support or opposition of that item.
- (e) "Notwithstanding any provision in these Rules to the contrary, no Memorandum of Understanding, or amendment, codicil, side letter, or any other modification to a Memorandum of Understanding, including any such documents negotiated pursuant to a reopener clause, between the Orange County Fire Authority and any employee bargaining unit ("proposed labor agreement"), shall be heard as an item on a Board agenda until and unless, at the time of the meeting during which the matter is heard by the Board, one week has passed since the later of the following to occur: (1) the Clerk of the Authority has published a copy of the proposed document on the OCFA public website; and (2) the members of the employee bargaining unit have ratified the proposed labor agreement."

RULE 3. ORDER OF BUSINESS FOR MEETINGS OF THE BOARD OF DIRECTORS

- (a) The order of business for regular meetings of the Board shall be:

- Invocation
- Pledge of Allegiance
- Roll Call
- Presentations
- Committee Reports
- Chief's Report
- Public Comments
- Minutes

Should the Board Chair or Vice Chair be unable to officiate over a Board and/or Executive Committee meeting that the Immediate Past Chair followed by the Budget and Finance Committee Chair assume the duty of presiding over the meeting.

RULE 10. THE STANDING COMMITTEES

- (a) Standing Committees may be established by the Board of Directors for the purpose of facilitating a thorough review of various issues before presentation to and action by the full Board. Alternate Directors shall not act as alternates for Directors on standing committees.
- (b) The Budget and Finance Committee shall be established as a standing committee. The regular meetings of the Budget and Finance Committee will be on the second Wednesday of each month, with the exception of December, at 12 noon located in Classroom 1 (Board Breakout Room) at the RFOTC. Special meetings may occur on other dates, times, and/or locations as noticed.
 - (1) The Chair shall make all appointments to the Budget and Finance Committee. Appointments to the Budget and Finance Committee shall be made in such a manner as to achieve, as close as reasonably possible, a balance between the number of members representing Structural Fire Fund and Cash Contract cities.
 - (2) At the first meeting of the Budget and Finance Committee following the annual election of the Chair and Vice Chair of the Board of Directors, the Directors assigned to the Budget and Finance Committee shall elect from their members a Chair and Vice Chair of the Committee.
 - (3) The Chair, or in his/her absence, the Vice Chair, of the Budget and Finance Committee shall serve as a member of the Executive Committee.
 - (4) Items for the agenda for any regular meeting of the Budget and Finance Committee shall be included on the agenda only with the approval of the Committee Chair or the Staff Liaison.
 - (5) The Board of Directors, through the Chair, shall appoint one City Manager to the Budget and Finance Committee. The City Manager shall serve as an ex officio non-voting member of the Budget and Finance Committee. As an ex officio member, the City Manager shall not be included in the determination of a quorum for any meeting.
- (c) The Claims Settlement Committee shall be established as a standing committee. The regular meetings of the Claims Settlement Committee will be at 5:30 p.m., prior to and on the same days as the regular meetings of the ~~Board-Executive Committee~~ meetings. The Committee will meet in Classroom 1 (Board Breakout Room) at the RFOTC. Special meetings may occur on other dates, times, and/or locations as noticed.
 - (1) The Claims Settlement Committee consists of the Board Chair and Vice Chair, the Budget and Finance Committee Chair, the Human Resources Committee Chair, the Fire Chief, and the Human Resources Director. The Deputy Fire Chief shall, in the absence of the Fire Chief, be an alternate



MEMO / MESSAGE

TO: OCFA BOARD OF DIRECTORS
FROM: SUPERVISOR TODD SPITZER
SUBJECT: AGENDA ITEMS 13 AND 14 (PROPOSED RULE 16 AND COIN)
DATE: NOVEMBER 10, 2014

Items 13 and 14 on the OCFA November 20th Board Agenda go hand in hand. The goal of these two agenda items that were placed on this agenda at my request is to increase government transparency by requiring public disclosure of documents and various aspects of labor negotiations. The attached agenda items outline the provisions of both Proposed Rule 16 and COIN. The County of Orange has both of these provisions in place.

I urge you to note that these two items are interrelated as they possess the same goal – to allow the public access and knowledge regarding government proceedings as they relate to MOUs and posting requirements.

In item 14, the COIN item, Mr. Kendig has suggested to, “Defer further action on this matter until after a ruling is issued in the OCEA Unfair Practice Charge filed with the Public Employee Relations Board in connection with the County’s COIN Ordinance.”

In light of the OCEA/County matter, I suggest adhering to Mr. Kendig’s suggestion, and would concur that COIN is brought back to the OCFA Board for a formal vote after the OCEA matter is addressed.

However, I urge the OCFA Board to pass Rule 16 this evening. This rule, as stated in Agenda Item 13, states that:

“Notwithstanding any provision in these Rules to the contrary, no Memorandum of Understanding, or amendment, codicil, side letter, or any other modification to a Memorandum

*of Understanding, including any such documents negotiated pursuant to a reopener clause, between the Orange County Fire Authority and any employee bargaining unit (“proposed labor agreement”), shall be heard as an item on a Board agenda until and unless, at the time of the meeting during which the matter is heard by the Board, ~~one week~~ **ten days** have ~~has~~ passed since the later of the following to occur: (1) the Clerk of the Authority has published a copy of the proposed document on the OCFA public website; and (2) the members of the employee bargaining unit have ratified the proposed labor agreement.”*

This rule has allowed transparency in government and public access for such documents at the County level. I wholeheartedly support the passage of this rule here at OCFA. I suggest that OCFA edits Rule 16 slightly in order to allow a 10 day period for review by the public – therefore allowing plenty of time to address any questions or issues. This is extremely important at OCFA since the OCFA is dark every other Friday. The County is not dark every other Friday. However, OCFA is shut down for business entirely on alternating Fridays. Having the extra three days will account for this issue as well. Please see my proposed red-line edits to Rule 16 above.

I thank you for your consideration of these two agenda items.

DISCUSSION CALENDAR - AGENDA ITEM NO. 14
BOARD OF DIRECTORS MEETING
November 20, 2014

TO: Board of Directors, Orange County Fire Authority

FROM: David Kendig, General Counsel

SUBJECT: **Civic Openness In Negotiations Ordinance**

Summary:

At the October 23, 2014, meeting of the Board of Directors, Director Spitzer requested that an item be agendized for the November meeting to discuss whether the Authority should adopt a "Civic Openness In Negotiations," or "COIN," ordinance modeled after the County's recently adopted COIN ordinance. This staff report responds to that direction.

Recommended Action:

Defer further action on this matter until after a ruling is issued in the Orange County Employees Association's Unfair Practice Charge filed with the Public Employee Relations Board in connection with the County's COIN Ordinance.

Background:

Civic Openness In Negotiations -- or COIN -- is the name given by other local public entities that have recently adopted or considered adopting ordinances requiring public disclosure of certain aspects of labor negotiations between public entities and recognized employee organizations. The professed goal of the ordinance is to increase transparency by requiring public disclosure of various aspects of labor negotiations as they occur. Currently and historically, labor negotiations with represented labor groups have occurred in private and the resulting agreements have generally been approved by public entities in closed session pursuant to state public meeting laws. Currently, there are five enacted COIN ordinances, implemented by the following agencies: the County of Orange, and the cities of Costa Mesa, Beverly Hills, Palos Verdes, and Fullerton.

Meyers-Milias-Brown Act

The Meyers-Milias-Brown Act (MMBA) is set forth in Government Code sections 3500 et seq. It governs labor-management relationships within California local governments. The MMBA requires the governing body of a local public agency to meet and confer in good faith regarding wages, hours, and other terms and conditions of employment with representatives of a recognized employee organization. The MMBA requires, if an agreement is reached, that the parties prepare jointly a written memorandum of understanding of the agreement that would then be presented to the governing body for approval.

The Ralph M. Brown Act

The Ralph M. Brown Act (the "Brown Act"), codified as Government Code sections 54950 through 54963, is California's open public meeting law. The Brown Act establishes broad public

access rights to the meetings of legislative bodies. However, it also recognizes that under certain limited circumstances there is a legitimate governmental interest in closing some discussions to the public. Examples of such statutorily-authorized closed session topics include labor negotiations. See Government Code section 54957.6.

A legislative body may meet in closed session with its labor negotiator regarding labor discussions with employee organizations over the areas of negotiation required by the MMBA (i.e. wages, hours, and terms and conditions of employment). During such closed sessions, the legislative body may approve a memorandum of understanding that sets out the binding agreement between the public entity employer and the employee organization.

Thus, historically, public entities' labor negotiations were handled by a negotiator, sometimes specifically retained by the public entity for the limited purpose of negotiating labor agreements, and terms negotiated between the public entity and the labor organization would be discussed by the entity in private. An MOU with a represented group is ordinarily approved in closed session as well, though the agency may approve the agreement in open session, as occurred during the October 23 approval of the MOU with the firefighters' organization. Under the standard approach, only after the parties have completed negotiating a final MOU does the public agency disclose the terms of the agreement to the public.

County of Orange's COIN Ordinance

On August 5, 2014, the Orange County Board of Supervisors approved a COIN ordinance (Attachment 1). The County COIN ordinance is similar in structure to the first COIN ordinance adopted by the City of Costa Mesa; however, the County ordinance differs from Costa Mesa's in some material respects. A summary comparison of the Costa Mesa Ordinance, along with other COIN ordinances adopted in Beverly Hills, Palos Verdes, and Fullerton, is provided for your Board's reference (Attachment 2)

The County ordinance calls for the following key elements:

1. The retention of an independent labor negotiator to represent the County in labor negotiations. (Under the County Ordinance, this requirement may be affirmatively waived by a majority of the Board.)
2. A fiscal impact analysis, similar in structure to that required by Costa Mesa, and prepared by the County Auditor-Controller, is required to be performed and presented to the Board at least ten (10) days before a proposal to the employee organization regarding negotiation of an MOU or any term or condition of employment therein.
3. The County must report out of closed session the content of any prior offer or counteroffer that was presented by either the County or the employee organization during negotiations.

4. Board members are also required to report out in open session any communications they have had with representatives of an employee organization. Disclosure is also required of communications by staff members of Board members.
5. Prior to the adoption of an MOU, the County must publicly disclose the proposed MOU and hold two (2) Board meetings where public discussion and comment are allowed.
6. Disclosure is also required of additional information in open session regarding negotiation sessions, including list of names of participants and dates, length, and location of negotiation sessions. (This is not addressed in the Costa Mesa ordinance.)

Other Considerations

In addition to the options and alternatives in the County Ordinance and the city ordinances described in Attachment 2, there are other options and provisions in a COIN ordinance that the OCFA Board may want to consider either including or excluding. For example, COIN ordinances can approach publication requirements differently. Publication requirements - and Board meeting frequency - can affect how quickly an agency can make revisions if changes are requested by the Board. Changes in negotiated provisions can be more readily accomplished if a Board of Directors meets weekly than if they meet only monthly.

ACCOC Publication

On a related note, the Association of California Cities Orange County (ACC-OC) recently published guidelines (Attachment 3) in response to requests from its members for cities to use when negotiating with bargaining units, "with commitment to transparency and accountability."

The Contention that Agencies Must Meet and Confer Prior to Adopting COIN Ordinance.

One issue that was raised during the discussion of the County ordinance is whether meet and confer is required under the Meyers-Milias-Brown Act prior to adopting the COIN ordinance. The Orange County Employees Association (OCEA) has since filed an Unfair Practice Charge with the Public Employment Relations Board (PERB) requesting that the PERB determine the County violated PERB Regulations and the MMBA when it adopted the COIN Ordinance and to require the County to rescind its COIN Ordinance (Attachment 4). Although that case has been briefed, it can take months or years before a final determination from the PERB is received.

In light of that pending challenge, the Board may wish to consider whether to defer action on a COIN ordinance until the PERB determines whether an obligation exists to meet-and-confer prior to adopting such an ordinance.

Options

The Board has several options, including:

- A. Direct General Counsel to prepare a COIN ordinance modelled after the County ordinance;
or
- B. Direct General Counsel to prepare a COIN ordinance, but that differs from the County's ordinance in certain respects to be identified by the Board;
or
- C. Defer further action on this matter until after a ruling is issued in the OCEA Unfair Practice Charge filed with the Public Employee Relations Board in connection with the County's COIN Ordinance (staff's Recommended Action);
or
- D. Receive and file this report (e.g. take no further action).

Impact to Cities/County:

None.

Fiscal Impact:

If a COIN ordinance is adopted that requires audit reports of future labor negotiation proposals, there would be some unknown additional cost to the Authority for professional services necessary to prepare such reports.

Staff Contact for Further Information:

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dkendig@wss-law.com
(714) 415-1083

Attachments:

1. County COIN Ordinance
2. Summary Comparison of COIN Ordinances
3. ACCOC Labor Negotiation Strategies Principles
4. OCEA Unfair Labor Practice Charge
5. Memo from Supervisor Spitzer dated November 10, 2014

ORDINANCE No. ###

AN ORDINANCE OF THE COUNTY OF ORANGE, CALIFORNIA ADDING
SECTION 1-3-21 TO THE CODIFIED ORDINANCES OF THE COUNTY OF
ORANGE TO REQUIRE CIVIC OPENNESS IN NEGOTIATIONS (COIN)

WHEREAS, the Board of Supervisors of the County of Orange finds that civic openness during labor negotiations is essential to good government; and

WHEREAS, Government Code section 3500 *et seq.* is known as the “Meyers- Milias-Brown Act” (“the Act”); and

WHEREAS, Government Code section 3500 provides in pertinent part that the purpose and intent of the Act is “to strengthen merit, civil service and other methods of administering employer-employee relations through the establishment of uniform and orderly methods of communication between employees and the public agencies by which they are employed”; and

WHEREAS, the Board of Supervisors finds that the establishment of uniform and orderly methods of communication between employees and the public agencies by which they are employed is enhanced by the transparency of those methods of communication; and

WHEREAS, the County of Orange (County), as a public agency, owes a duty to its residents of transparency in its decision-making; and

WHEREAS, the Board of Supervisors finds that public information and knowledge is enhanced by virtue of employees and public agencies undertaking their duties and obligations pursuant to the Act in an open and transparent manner; and

WHEREAS, the Board of Supervisors finds that the communication between the County and its employees required by the Act regarding changes in wages, hours and other terms and conditions of employment would benefit from public scrutiny; and

WHEREFORE, the Board of Supervisors of the County of Orange ordains as follows:

SECTION 1. Section 1-3-21 is hereby added to the Codified Ordinances of Orange County and shall be titled "Civic Openness in Negotiations (COIN)."

SECTION 2. Section 1-3-21 is hereby added to the Codified Ordinances of Orange County to read as follows:

Sec. 1-3-21. Civic Openness in Negotiations (COIN)

(a) Applicability.

- (1) This Ordinance shall apply to labor contract negotiations undertaken pursuant to the Meyers-Milias-Brown Act (Government Code Sections 3500 *et seq.*), where either a recognized employee organization or the County, through their respective representatives, propose changes in wages, hours, or any other terms or conditions of employment. This Ordinance shall not apply to any labor contract negotiations undertaken pursuant to the Meyers-Milias-Brown Act that have commenced prior to the date of adoption of the Ordinance and until the current contracts are expired.
- (2) In an effort to avoid inherent conflicts of interest, the principal representative negotiating on behalf of the County (herein “principal negotiator”) shall not be an employee of the County and shall have a demonstrated expertise, to the sole satisfaction of the Board of Supervisors, in negotiating labor and employment agreements on behalf of public entities. The use of such a principal negotiator as described herein may only be waived by a majority vote of the Board of Supervisors. The Chief Human Resources Officer or his or her designee(s) will be present during negotiations and participate in the negotiations with the principal negotiator.
- (3) This Ordinance shall not prevent the negotiation of ground rules applicable to any labor contract negotiations undertaken pursuant to the Meyers-Milias-Brown Act and is not intended to revise or nullify any agreed-upon ground rules established for negotiations that have commenced as of the date of the adoption of this Ordinance. Consistent with the Meyers-Milias-Brown Act, the parties may, but are not required to, negotiate preliminary procedural matters governing the conduct of negotiations including, but not limited to, the time and place for bargaining, the order of issues to be discussed, the signing of tentative agreements, the requirement of package bargaining, or the use of supposals. A “supposal” is an agreement by the parties to seek resolution of meet and confer disputes by means of exchanging hypothetical settlement provisions. These hypothetical settlement provisions are designed to explore the feasibility of reaching agreement on disputed issues. By definition, a “supposal” does not constitute a “proposal”, “offer”, or “counter offer” as those terms are used by the PERB, under the Meyers-Milias-Brown Act, or by the courts. Instead, a supposal is a tool allowing the parties to explore informally and without binding impact, possible settlement options without incurring the legal impact of a “proposal,” “offer” or “counter offer.”

(b) Independent Economic Analysis.

- (1) In order to implement the requirements of this Sec. 1-3-21, the Auditor-Controller of the County shall initially prepare an Independent Economic Analysis (hereinafter “report”) which describes and summarizes the fiscal costs to the County of the benefit and pay components currently provided to members of recognized employee organizations in comparison to the costs of each term and condition of employment offered in negotiations, including the costs of each term and condition of employment proposed in a supposal, if a supposal is used. The report will itemize the annual and cumulative costs that would or may result from adoption or acceptance of any initial

meet and confer proposal to be considered by the Board of Supervisors. The report shall provide all relevant data upon which the report is based.

- (2) The report shall be completed and made available for review by the Board of Supervisors and the public at least thirty (30) calendar days before consideration by the Board of Supervisors of an opening proposal to be presented to any recognized employee organization regarding negotiation of an amended, extended, successor, or original memorandum of understanding.
- (3) The report shall be regularly updated by the Auditor-Controller to itemize the annual and cumulative costs that would or may result from adoption or acceptance of each meet and confer proposal (hereinafter referred to as "update"). These itemizations shall display the fiscal impacts of each employee association and county proposal. Each report and update shall be prepared in the following format, including all benefit and/or pay aspects of each MOU. The particular categories of pay / benefits listed are provided as examples only. The actual pay / benefit categories may vary depending on the particular bargaining unit. Each report and update shall provide the total compensation calculations for each compensation element and compare them to the prior year, as well as to the prior proposals made in the particular negotiation to which the report and updates apply. Additionally, each report and update shall include the computation of a best estimate of the absolute amount and the change from the currently computed pension unfunded actuarial accrued liability and the retiree medical unfunded actuarial accrued liability. The Auditor-Controller may add additional information as they deem appropriate.

REPORT FORMAT

	ASSOCIATION				
BENEFIT/PAY	VALUE OF BENEFIT/ PAY	EXISTING COST TO County	PROJECTED COST TO County	PENSIONABLE	NON- PENSIONABLE
[Examples of possible benefit/pay elements]					
Base Salary Pension/Retirement Benefit					
Bilingual Pay					
Class A/B License Pay					
Shift Differential Pay					
Shift Differential Pay - A/M					
Emergency Med Dispatch Pay					
Canine Care Pay					
Motor Officer Assignment Pay					
Motor Training Officer Assign Pay					
POST Advanced Certificate Pay					
POST Intermediate Certificate Pay					
Uniform Pay-Patrol					
Investigator II Certification Pay					
Instructor II Certification Pay					
Instructor III Certification Pay					
Public Education Officer Certification Pay					
Driver/Operator Certification Pay					
Rescue Specialist Certification Pay					
Confined Space Oper Tech Certification Pay					
Others as deemed necessary					

(c) Civic Openness in the Meet and Confer Process.

- (1) Under Government Code section 3505 of the Meyers-Milias-Brown Act, as it currently exists, a governing body of a public agency, or the agency's designated agent, must meet and confer in good faith with representatives of recognized employee organizations before making any changes in wages, hours and other terms and conditions of employment. Under Government Code section 54957.6, the Board of Supervisors can meet in closed session with its designated representatives to discuss these negotiations, review its position in negotiations, and instruct its designated representatives on how to proceed in upcoming negotiations.

- (2) The Board of Supervisors shall report out from such closed session any and all prior formal offers, formal counteroffers and supposals made by either the County or by representatives of the recognized employee organization which were communicated to the County during the closed session. The report shall be made in a timely manner without undue delay. For purposes of this section an “offer” is a formal proposal regarding wages, hours or other term or condition of employment made by the parties in negotiation sessions. A “counteroffer” is a proposal regarding wages, hours or other terms or conditions of employment made in response to an offer. A “supposal” is used as defined in subdivision (a)(3) above.
- (3) The report out of closed session shall also include the release of a list of names of all persons in attendance during the negotiation sessions, the date of the sessions, the length of the sessions, the location where the sessions took place and any pertinent facts regarding the negotiations that occurred in a particular session, including, without limitation, all formal offers and counteroffers made both by the County and the recognized employee organization.
- (4) Board of Supervisor representatives shall have a duty to advise the Board of Supervisors during any such closed session of offers, counteroffers, information provided, and/or statements of position discussed by the employee organization and County representatives participating in the meet and confer process since the last such closed session.
- (5) This section shall not mandate publication of Board-directed future proposals, the analytical thought process utilized by the Board of Supervisors in addressing issues subject to the meet and confer process, or the content or substance of any discussions subject to the deliberative process or attorney-client privileges. It is the intent of this Ordinance that, except as specifically stated, such privileges are not waived by any provision of this Ordinance.
- (6) Notwithstanding the provisions of this Subsection (c)(1)-(5), the County shall disclose to the Board of Supervisors and to the public any and all offers, counteroffers and supposals made by: (a) the County to representatives of the recognized employee organization; and (b) representatives of the recognized employee organization to the County. Such disclosure shall be made within twenty-four (24) hours of the making of such offer, counteroffer, or supposal. The terms “offer,” “counteroffer,” and “supposal” shall have the same meanings ascribed to them in Section 1-3-21(c)(2) above.

(d) Adoption of Memorandum of Understanding.

Excepting the resolution of any meet and confer impasse, the rendering of a final Board of Supervisors determination regarding adoption of a memorandum of understanding shall only be undertaken after the matter has been heard at a minimum of two (2) board meetings wherein the public has had the opportunity to review and comment on the matter. Not less than seven (7) days prior to the first board meeting where the matter shall be heard, the County shall post on its website the memorandum of understanding under consideration for adoption, along with any final report and updates made by the Auditor-Controller pursuant to subsection (b) herein.

(e) Inconsistencies.

Any provision of the Codified Ordinances of Orange County or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies, is hereby repealed or modified to the extent necessary to effect the provisions of this Ordinance.

(f) Severability.

If any provision or clause of this Ordinance or the application thereof to any person or circumstances is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other provisions or clauses or applications of this Ordinance which can be implemented without the invalid provision, clause or application; and to this end, the provisions of this Ordinance are declared to be severable.

(g) Publication.

This Ordinance shall take effect and be in full force thirty (30) days from and after the passage thereof, and prior to the expiration of fifteen (15) days from its passage shall be published once in the _____, a newspaper of general circulation, printed and published in the County of Orange or, in the alternative, the Clerk of the Board may cause to be published a summary of this Ordinance and a certified copy of the text of this Ordinance shall be posted in the office of the Clerk of the Board five (5) days prior to the date of adoption of this Ordinance, and within fifteen (15) days after adoption, the Clerk of the Board shall cause to be published the aforementioned summary and shall post in the office of the Clerk of the Board a certified copy of this Ordinance together with the names and members of the Board of Supervisors voting for and against the same.

PASSED AND ADOPTED this _____ day of _____, 2014.

Summary of Other Southern California COIN Ordinances

Costa Mesa's COIN Ordinance

In 2012, the City of Costa Mesa was the first public entity to approve an ordinance which required public disclosure of certain aspects of the labor negotiation process during the negotiation process.

Like the County ordinance, the Costa Mesa ordinance requires an independent fiscal review of current labor agreements and publication of those reviews 30 days before the first negotiation meeting between an independent negotiator retained by the City and the employee representatives. Audit reports are thereafter required for each change or addition to any benefit of employment. Unlike the County ordinance, the Costa Mesa ordinance requires the audit report to be prepared by an independent auditor. Each City Council member is also required to officially acknowledge his or her reading and consideration of each audit report.

The City Council is also required to report out from closed sessions regarding certain aspects of the labor negotiations as they occur. These include all prior offers, counteroffers, and positions no longer considered by the city or the labor organization. Additionally, each City Council member is required to disclose publicly the identity of all employee representative members with whom the Council member has had communication with regarding labor negotiations. The City does not require Council members' staff members to make similar reports, though Council members likely do not have staff in the same regard as County Supervisors' staff.

Finally, the City ordinance requires disclosure and public comment on any proposed MOU tentatively agreed to by the City and the labor organization. Disclosure and public comment must occur at a minimum of two City Council meetings and all materials explaining the basis for the MOU must be posted on the City's website at least seven (7) days before the first Council meeting disclosing the MOU terms.

Beverly Hills's and Palos Verdes's OPEN Ordinances

The Beverly Hills and Palos Verdes ordinances, referred to by Palos Verdes as Open Public Employee Negotiations ("OPEN") Ordinance, is similar to the Costa Mesa ordinance, although not as comprehensive. The OPEN ordinances mimic the Costa Mesa and County ordinances in some regards, although there are significant differences as well.

Like Costa Mesa and the County, the OPEN ordinances requires the city councils to disclose the terms of a proposed memorandum of understanding at two (2) city council meetings which occur at least two weeks apart. The MOU and fiscal analysis must be posted on each city's website at least 72 hours before the first council meeting disclosing the proposed MOU.

Additionally, both OPEN ordinances require a fiscal analysis done of any meet and confer proposal, MOU proposal, or proposed amendment to an MOU. Like the County ordinance, but unlike the Costa Mesa ordinance, the City of Palos Verdes allows for its own Department of

Finance to conduct the financial analysis as opposed to an independent auditor to prepare the report, which is an aspect of both Costa Mesa's and Beverly Hills's ordinances.

Also different from Costa Mesa and the County ordinances, both Palos Verdes and Beverly Hills allow their city councils to avoid conducting a financial analysis at all so long as they report their decision not to during each meeting in which they consider a meet and confer proposal or MOU. Similarly, the provisions of both Palos Verdes's and Beverly Hills's ordinances allows for each city council to avoid retaining an independent labor negotiator so long as they report their decision during each meeting at which the MOU is considered.

Neither the Beverly Hills ordinance nor the Palos Verdes ordinance requires council members to disclose communications with employee representatives regarding labor negotiations.

Fullerton's Transparency and Accountability in Labor Negotiations Ordinance

Fullerton's ordinance allows for an independent labor negotiator to represent the city, unless the City Council waives the requirement. Unlike the other ordinances, Fullerton's ordinance does not require an independent fiscal analysis of proposals. Rather, Fullerton city staff is required to prepare fiscal reports regarding the costs and liabilities of each existing MOU. These reports are required on an annual basis irrespective of the status of labor negotiations. Updated reports prepared by staff are required during negotiations only if negotiations would result in any change in the fiscal analysis. The reports are reviewed by the Fullerton City Council and posted publicly.

Fullerton's ordinance provides for an independent labor negotiator if labor negotiations involve "significant changes" to the terms of employment, unless the City Council waives the requirement. Additionally, if the employee association does not have a third party negotiator, the City is not required to retain one.

Fullerton's ordinance requires each City Council member to publicly disclose any communications they have had with employee association representatives. Rejected offers are also required to be publicly disclosed. Any tentative agreement reached must be publicly disclosed and discussed at two (2) City Council meetings. These provisions are similar to those set forth in the other ordinances.



LABOR NEGOTIATION STRATEGIES AND PRINCIPLES

I. Introduction

The Association of California Cities – Orange County (ACC-OC) serves as the regional advocate for local control, both regionally and in Sacramento. The ACC-OC accomplishes this by adhering to a member-driven model for creating good public policy from the ground up. As such, the ACC-OC has responded to member requests to provide model guidelines to cities when negotiating with bargaining units, with commitment to transparency and accountability.

II. Background

Existing California law, known as the Meyers-Milias-Brown Act (MMBA),¹ seeks to provide a uniform and orderly process for communication between public agencies and employees regarding the changes in wages, hours, or any other terms or conditions of employment of county or city employees. All policies and ordinances must comply with the MMBA.

The ACC-OC seeks to provide a guideline for bringing transparency and accountability to the collective bargaining process, while wishing to respect the autonomy and inherent practices of each city.

III. General Approach

It is important for all parties involved that the rules of engagement be set forth in advance.

Including staff subject matter experts in closed session meetings can provide council members with greater confidence and understanding of issues. In addition, ongoing discussion and disclosure of budget and financial information can assist in facilitating the negotiation process.

¹ To access the Meyers-Milias-Brown Act, Government Code Section 3500-3511, please click the following link: <http://www.leginfo.ca.gov/cgi-bin/displaycode?section=gov&group=03001-04000&file=3500-3511>

The following strategies are offered as a menu of suggestions that can be adopted by cities in whole or in part and should be customized by cities for each specific application.

1. Use of Outside Negotiators

Utilization of an outside negotiator as the principal negotiator for the city is an example of good governance and a general good practice to avoid actual or perceived conflicts of interest.

FACTORS TO CONSIDER:

A. Expertise

An outside negotiator may provide greater expertise in subject matter, negotiation strategies, contract language, and a valuable independent, third-party perspective.

B. Complexity

While requiring an outside negotiator is a good practice, the necessity may be considered on a case-by-case basis, based on the complexity and value of the issues at hand.

C. Costs

Costs of the negotiation should be evaluated based on the value of the contracts negotiated. Cities should balance the costs of the contract over the costs of an outside negotiator, with the understanding that the labor contract may go to arbitration.

D. Evaluate Existing Code

Make sure that proposed policy and language does not violate current municipal code.

SAMPLE LANGUAGE:

The use of an outside negotiator shall apply to all formal meet and confer processes undertaken pursuant to the Meyers-Milias-Brown Act, where either a recognized employee organization or the city, through their respective representatives propose 1) significant changes to contract terms, 2) extensions, or 3) when the employee association negotiates with third party negotiators or legal counsel. In an effort to avoid inherent conflicts of interest, if an outside negotiator is deemed necessary, the principal representative negotiating on behalf of the city shall 1) not be an employee of the city, 2) not be a member of any public pension plan under the city, and 3) have a demonstrated expertise in negotiating labor and employment agreements on behalf of municipalities. The city

council shall designate one or more management level employees to be present during negotiations and to assist the principal negotiator as the city council and/or principal negotiator deem appropriate.

2. Fiscal Impact of Public Disclosure

Clear and factual information is the starting point for an effective economic analysis of the fiscal impacts of the contract, and can be utilized to justify the action taken. There are various methods for acquiring this information and for communicating it with the public.

FACTORS TO CONSIDER:

A. Actuarial Analysis

Preparing and providing an actual and specific economic analysis of the short and long term costs of every term and condition of employment in the contract is the first way to ensure that 1) City council members have the best data available in front of them to negotiate and make a decision, and 2) the public has the appropriate data to vet the contract and the Council's proceedings.

The economic analysis may include both the funded and unfunded actuarial liability that would or may ensue from adoption of the contract.

B. Confidence from Analysis

The use of an independent auditor will allow city council members, staff, and the public to benefit from the general level of confidence provided by a thorough and reliable economic analysis by an external professional.

Information from outside auditors should be used in conjunction with information from staff whenever practical.

C. Tangible Comparisons

The economic analysis of each term and condition of the contract can be viewed in the framework of how it will affect the citizens.

Utilize tangible examples of comparisons with other programs. For instance, if a contract will cost the city X amount of dollars, contextualize it to show that X amount of dollars is equal to a specific city service or program.

D. Staff Training

In addition to the use of an independent auditor, city human resources professionals need the proper resources and training to provide and analyze an economic analysis.

E. Public Review

The City may consider making the fiscal impacts of the contract available to the public and the City Council at least two (2) City Council meetings prior to consideration by the City Council of an initial meet and confer proposal.

F. Council Acknowledgement

Consider requiring City Council members to acknowledge receipt and review of the economic analysis in writing.

SAMPLE LANGUAGE:

An independent auditor, a certified public accountant, or an actuarial accountant, shall prepare a study and supplemental data upon which the study is based, that identifies the fiscal impacts attributed to each term and condition of employment made available to the members of all recognized employee organizations.

The first analysis shall be of existing contract costs and of each thereafter.

The above report and findings of the independent auditor shall be completed and made available for review by the city council and the public at least two (2) City Council meetings before consideration by the city council of an initial meet and confer process.

The above report shall be regularly updated by the independent auditor to itemize the cost and the funded and unfunded actuarial liability which would or may result from adoption or acceptance of each meet and confer proposal. These measurements shall display the fiscal impacts of the employee association and or/city proposals. The report shall be prepared to include all benefit and pay aspects of each MOU, and shall include written council member acknowledgement that the report has been read and considered by the signing councilmember.

3. Discussion of Offers and Counteroffers

California's current open meeting laws provide that a City Council can meet in closed session to provide its bargaining unit representatives with instructions and parameters for negotiation in the meet and confer process. Closed sessions allow City Councils to speak privately regarding their bargaining parameters without disclosing these parameters to labor representatives.²

² Institute for Local Government, *A Local Official's Guide to Labor Relations Terminology*, Version 2: September 1, 2011.

Additionally, the meet and confer process provides the opportunity for city representatives and labor representatives to bargain in good faith in order to reach an agreement on the proposed labor contract.

FACTORS TO CONSIDER:

A. Report the Facts

Transparency may result in more realistic counters or counteroffers.

Broad dissemination of offers and counteroffers provides a progress report and clearer understanding for both the public and bargaining unit members.

B. Discretion

Disclosure of offers and counteroffers may result in additional public posturing and increased politicization, which can affect negotiations.

All parties involved in negotiations should use caution and clear communication when reporting out of closed session.

SAMPLE LANGUAGE:

The city council shall report out the details of all formal offers that have been rejected at the time of the counteroffer rejecting each proposed term.

City council labor negotiators shall have the duty to advise the city council during any closed session of all offers, counteroffers, information, and/or statements of position discussed by the labor negotiators taking place in the meet and confer process since the last such closed session.

4. Disclosures of Private Communications

Having city council members disclose communication contacts that were had with any labor representative is another way to bring transparency to the negotiation process and to build faith with the public. A careful value judgment can be made to what type of conversation is appropriate to report to the public.

FACTORS TO CONSIDER:

A. Disclose Communications

While this principle may be contentious for some city council members, it can be viewed as a disclosure requirement, not a “no-deal” requirement.

The communication that is disclosed may simply be that the conversation occurred.

B. Impact on the Process

There is some historical context that private meetings, without the disclosure of names, have been the environment needed to reach an agreement. However, a balance can be found to reconcile transparency with private communications.

If a council member is going to meet with the employee group they should remember their closed session obligations and just listen.

Council members that talk to employee groups outside of formal negotiations may undermine the negotiation process.

C. Ongoing Relationship

All parties should approach the process in a respectful and sensitive way that will assist in building long-term working relationships that survive the sometimes difficult negotiation process.

SAMPLE LANGUAGE:

Each city council member shall disclose both publicly and during closed sessions, the identity of any and all employee association representatives with whom the city council member has had any verbal, written, electronic or other communication(s) regarding a subject matter of a pending meet and confer process.

5. Ordinance Model Process

Disclosing the MOU and making it subject to more than one (1) city council meeting provides the opportunity for the public to effectively weigh in on the matter.

FACTORS TO CONSIDER:

A. Consistency

1st and 2nd readings at City Council meetings is standard practice for normal ordinances, and this seeks to put labor negotiations under that standard.

B. Timing

Cities must remain in compliance with AB 537 (Chapter 785, Statutes of 2013)³ which requires that if a tentative agreement is reached by the authorized representative of a City and a recognized bargaining unit, the city council must vote to accept or reject that agreement within thirty (30) days of 1st consideration at a noticed public meeting.

SAMPLE LANGUAGE:

Any agreed upon memorandum of understanding shall be introduced for first reading at a regular city council meeting and presented for approval at the next regular city council meeting in the same manner as a the first and second reading of an ordinance.

³ To read Assembly Bill No. 537 (Chapter 785, Statutes of 2013) please click the following link:
http://www.leginfo.ca.gov/pub/13-14/bill/asm/ab_0501-0550/ab_537_bill_20131013_chaptered.htm

UNFAIR PRACTICE CHARGE No. LA-CE-934-M
STATEMENT OF CHARGE (cont.)

BACKGROUND

1. The Orange County Employees Association (OCEA) is the exclusive representative for multiple County of Orange (County) bargaining units including the following: General Unit, Health Care Professional Unit, Community Services Unit, Office Services Unit, Sheriff's Special Officer and Deputy Coroner Unit, Supervisory Management Unit, Probation Services Unit, and Probation Supervisory Management Unit (collectively, the "OCEA bargaining units").

2. OCEA and the County are parties to Memorandums of Understanding for each of the OCEA bargaining units, which expire on June 25, 2015 and have been in full force and effect at all times relevant to this charge.

3. During the six months immediately preceding the filing of this Unfair Practice Charge the County has unilaterally changed terms and conditions of employment and failed to bargain in good faith regarding mandatory subjects of bargaining with OCEA as representative for the bargaining units, all in violation of the Meyers-Milias-Brown Act (MMBA).

**FAILURE TO BARGAIN, INTERFERENCE WITH
EXCLUSIVE REPRESENTATIVE AND INTERFERENCE WITH
COLLECTIVE BARGAINING RIGHTS UNDER MMBA**

4. On May 20, 2014 the Orange County Board of Supervisors (BOS) agenda included the first reading of a new ordinance titled "Civic Openness in Negotiations," also known as "COIN." (See Attachment 1A to the initial Unfair Practice Charge).

5. Under the initial proposed COIN ordinance, for any proposed labor contract, the County Auditor-Controller would have been required to estimate the financial impact of the new contract terms, to be made available to the public for comment. (Attachment 1A, p. 2-3).

6. The initial proposed COIN ordinance would have required the BOS to publicly report any offers and counteroffers discussed in closed session. (Attachment 1A, p. 4).

7. Any closed session itself would have been required to “include the release of a list of names of all persons in attendance during the negotiation session, the date of the sessions, the length of the sessions, the location where the sessions took place, and any pertinent facts regarding the negotiations that occurred in a particular session, including, without limitation, all offer and counteroffers made both by the County and the recognized employee association.” (*Id.*).

8. Under the initial proposed COIN ordinance it would also have been the duty of BOS representatives to provide the foregoing information to the BOS in closed session. (*Id.*)

9. On June 11, 2014, the office of Supervisor John Moorlach sent an e-mail to Jennifer Muir, OCEA Assistant General Manager. Attached to the e-mail was modified language for the proposed COIN ordinance, along with copies of two memoranda. A June 3, 2014 memorandum from Supervisor Moorlach attached to the e-mail contended that the ordinance “... does not impact the wages, hours, or terms and conditions of employment for County employees and does not impact the negotiation of ground rules for current or future labor negotiations and therefore does not have to be bargained.” (Attachment 1B to the initial Unfair Practice Charge).

10. In response to the first reading of the COIN ordinance on May 20, 2014 and Supervisor Moorlach’s e-mail dated June 11, 2014, OCEA sent a request to the County on June 13, 2014, to meet and confer regarding the adoption and implementation of the COIN ordinance. (Attachment 1C to the Initial Unfair Practice Charge).

11. The County failed and refused, and has continued to fail and refuse, to respond to OCEA’s request to meet and confer.

12. On June 24, 2014, the BOS agendized and unanimously passed a modified version of the COIN ordinance and scheduled it for a second reading and adoption at its July 15, 2014 meeting.

13. On July 11, 2014, OCEA filed an initial Unfair Practice Charge against the County based on the County’s refusal to meet and confer regarding the COIN ordinance. (UPC No. LA-CE-934-M).

14. On July 15, 2014, Supervisor Moorlach introduced a second modified version of the COIN ordinance and it was set for a first reading at the July 22, 2014 BOS meeting. OCEA was not informed or aware of the existence or content of the second modified version of COIN until its introduction at the BOS meeting on July 15, 2014.

15. On July 22, 2014, the BOS set the COIN ordinance for a first reading with new amendments and unanimously set the ordinance for second reading and adoption, to occur at its August 5, 2014 meeting. OCEA was not informed or aware of the new amendments until their introduction at the BOS meeting on July 22, 2014.

16. The BOS approved the amended COIN ordinance at its meeting on August 5, 2014. A true and correct copy of the COIN ordinance as adopted by the BOS is attached hereto as Attachment 1D.

17. By the BOS's adoption of the COIN ordinance, the County unilaterally implemented a change to matters within the scope of representation on the OCEA bargaining units and their represented employees.

18. By refusing to bargain with OCEA regarding the COIN ordinance prior to its adoption after OCEA's timely request to do so, and subsequently adopting the COIN ordinance, the County unlawfully implemented a unilateral change and committed a per se violation of its obligation to bargain in good faith. The County's actions and omissions also interfere with OCEA's statutory right to represent OCEA-bargaining unit members as their exclusive representative and with the rights of those members to be represented by OCEA.

19. The COIN ordinance adopted by the BOS virtually requires immediate public disclosure of all offers, counteroffers, and supposals made by the County and OCEA during contract negotiations. In practice, the County has thus unilaterally required that bargaining sessions be conducted in public, subjecting both OCEA and its represented employees to elements of bias, intimidation, and coercion not present in the bargaining process contemplated by and historically conducted under the MMBA.

20. Under the COIN ordinance, an "independent economic analysis" must be prepared and made public for every offer, counteroffer, and supposal made by the County and OCEA. Like the immediate public disclosure of offers, counteroffers, and supposals, this requirement interferes with and discourages full communication between the County and its employees, in direct conflict with the purpose and intent of the MMBA.

21. In addition to the foregoing, the COIN ordinance unilaterally sets additional ground rules for bargaining, specifically setting release of information and confidentiality standards, including the release of names of those participating, the location where negotiations are held, and “any pertinent facts” regarding negotiations.

22. The cumulative effect of the COIN ordinance is to disrupt and undermine the statutory collective bargaining process, interfere with the legal rights of both the exclusive representative and bargaining unit employees, and unilaterally impose conditions inconsistent with the purpose and intent of the MMBA. In short, the COIN ordinance is a thinly-veiled attempt by the County to significantly preempt state law and authority applicable to the subject of collective bargaining.

REQUESTED REMEDY

Based on the foregoing, OCEA respectfully requests that the Public Employment Relations Board:

1. Determine that the County has violated PERB Regulation 32603 and Government Code Sections 3500, 3502, 3502.1, 3503, 35404.5, 3505, 3505.1, 3506, 3506.5, and 3507;
2. Require the County and its Board of Supervisors, representatives and agents to immediately rescind the COIN ordinance, restore the status quo with respect to all matters within the scope of representation, and make OCEA and members of OCEA-represented bargaining units whole for any monetary losses resulting from the County’s unlawful unilateral change to a matter within the scope of representation;
3. Retain continuing jurisdiction of this charge until such time as PERB shall make a determination that the County has fully complied with PERB’s order herein;
4. Award OCEA its attorneys fees and costs related to bringing this charge; and
5. Grant such other and further relief as may be deemed appropriate.



MEMO/MESSAGE

TO: OCFA BOARD OF DIRECTORS
FROM: SUPERVISOR TODD SPITZER
SUBJECT: AGENDA ITEMS 13 AND 14 (PROPOSED RULE 16 AND COIN)
DATE: NOVEMBER 10, 2014

Items 13 and 14 on the OCFA November 20th Board Agenda go hand in hand. The goal of these two agenda items that were placed on this agenda at my request is to increase government transparency by requiring public disclosure of documents and various aspects of labor negotiations. The attached agenda items outline the provisions of both Proposed Rule 16 and COIN. The County of Orange has both of these provisions in place.

I urge you to note that these two items are interrelated as they possess the same goal – to allow the public access and knowledge regarding government proceedings as they relate to MOUs and posting requirements.

In item 14, the COIN item, Mr. Kendig has suggested to, “Defer further action on this matter until after a ruling is issued in the OCEA Unfair Practice Charge filed with the Public Employee Relations Board in connection with the County’s COIN Ordinance.”

In light of the OCEA/County matter, I suggest adhering to Mr. Kendig’s suggestion, and would concur that COIN is brought back to the OCFA Board for a formal vote after the OCEA matter is addressed.

However, I urge the OCFA Board to pass Rule 16 this evening. This rule, as stated in Agenda Item 13, states that:

“Notwithstanding any provision in these Rules to the contrary, no Memorandum of Understanding, or amendment, codicil, side letter, or any other modification to a Memorandum

*of Understanding, including any such documents negotiated pursuant to a reopener clause, between the Orange County Fire Authority and any employee bargaining unit (“proposed labor agreement”), shall be heard as an item on a Board agenda until and unless, at the time of the meeting during which the matter is heard by the Board, ~~one week~~ **ten days** have ~~has~~ passed since the later of the following to occur: (1) the Clerk of the Authority has published a copy of the proposed document on the OCFA public website; and (2) the members of the employee bargaining unit have ratified the proposed labor agreement.”*

This rule has allowed transparency in government and public access for such documents at the County level. I wholeheartedly support the passage of this rule here at OCFA. I suggest that OCFA edits Rule 16 slightly in order to allow a 10 day period for review by the public – therefore allowing plenty of time to address any questions or issues. This is extremely important at OCFA since the OCFA is dark every other Friday. The County is not dark every other Friday. However, OCFA is shut down for business entirely on alternating Fridays. Having the extra three days will account for this issue as well. Please see my proposed red-line edits to Rule 16 above.

I thank you for your consideration of these two agenda items.