



ORANGE COUNTY FIRE AUTHORITY

AGENDA

BOARD OF DIRECTORS REGULAR MEETING

Thursday, April 22, 2021
6:00 P.M.

Regional Fire Operations and Training Center

Board Room

1 Fire Authority Road
Irvine, CA 92602

Link to:

[Board of Directors Member Roster](#)

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 the 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>



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 and identify the need and the requested modification or accommodation. Please notify us as soon as is feasible, however 48 hours prior to the meeting is appreciated to enable the Authority to make reasonable arrangements to assure accessibility to the meeting.

NOTICE REGARDING PUBLIC PARTICIPATION **DURING COVID-19 EMERGENCY**

During the Statewide COVID-19 Emergency, the public is not permitted to convene in person for this public meeting. However, the public may still view and comment on the meeting as follows:

- To watch the meeting online, please go to website at www.OCFA.org
- To submit an e-comment, please email to PublicComments@ocfa.org

You may comment on items on the agenda or not on the agenda. Your comments will be forwarded electronically and immediately to the members of the Board. Comments related to a particular agenda item will only be considered prior to the close of public comments on that item.

CALL TO ORDER by Chair Shawver

INVOCATION by OCFA Chaplain Harry Robinson

PLEDGE OF ALLEGIANCE by Director Marquez

ROLL CALL by Clerk of the Authority

REPORTS

A. Report from the Budget and Finance Committee Chair

B. Report from the Fire Chief

- Wildfire Preparedness Month
- Handtevy Mobile Device

PUBLIC COMMENTS

Please refer to instructions on how to submit a public comment during COVID-19 Emergency on Page 1 of this Agenda.

1. PRESENTATIONS

No Items.

2. CONSENT CALENDAR

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

A. Minutes from the March 11, 2021, Special Meeting of the Board of Directors

Submitted by: Maria D. Huizar, Clerk of the Authority

The record will reflect that any Director not in attendance at the meeting of the Minutes will be registered as an abstention, unless otherwise indicated.

Recommended Action:

Approve as submitted.

B. Minutes from the March 25, 2021, Regular Meeting of the Board of Directors

Submitted by: Maria D. Huizar, Clerk of the Authority

The record will reflect that any Director not in attendance at the meeting of the Minutes will be registered as an abstention, unless otherwise indicated.

Recommended Action:

Approve as submitted.

C. Designation of Fire Authority Representatives to File Applications for State and/or Federal Financial Assistance Relating to Declared Disasters or Emergencies

Submitted by: Brian Fennessy, Fire Chief and Robert Cortez, Assistant Chief/Business Services Department

Recommended Actions:

1. Adopt the proposed Resolution entitled A RESOLUTION OF THE BOARD OF DIRECTORS OF THE ORANGE COUNTY FIRE AUTHORITY, CALIFORNIA, DESIGNATING OCFA REPRESENTATIVES TO FILE APPLICATIONS FOR EMERGENCY FINANCIAL ASSISTANCE.
2. Approve and authorize the Clerk of the Authority to execute the State of California Office of Emergency Services Form 130 designating the positions of Deputy Chief of Administration & Support Bureau, Assistant Chief of Business Services, or Finance Manager/Auditor to execute and file applications on behalf of the OCFA related to all State and/or Federal declarations of disaster or emergency for the next three years.

D. Budget Adjustment and Contract Amendments Related to the Fire Integrated Real-time Intelligence System (FIRIS) 2.0 Program Extension

Submitted by: Brian Fennessy, Fire Chief and Robert Cortez, Assistant Chief/Business Services Department

Budget and Finance Committee reviewed and approved the recommended action at their March 10, 2021, Regular meeting by a 7-0 vote (Directors Bourne and Sachs absent).

Recommended Actions:

1. Contingent upon written confirmation of funding from Cal OES, approve and authorize a budget adjustment to increase revenue and appropriations in the FY 2020/21 General Fund (121) budget by \$451,500 for the extension of the FIRIS 2.0 Program.
2. Approve and authorize the Purchasing Manager to adjust all FIRIS-related vendor contracts by the individual amounts needed in support of the FIRIS 2.0 Program extension, so long as the aggregate value of the increases does not exceed the revised program budget (see Table One).

3. DISCUSSION**A. Orange County Drowning Prevention Task Force Report**

Submitted by: Brian Fennessy, Fire Chief and Lori Smith, Assistant Chief/Fire Marshal

Recommended Action:

Receive and file.

B. Quick Reaction Force (QRF) Pilot Program

Submitted by: Brian Fennessy, Fire Chief

Budget and Finance Committee reviewed and approved the recommended action at their April 14, 2021, Regular meeting by a 7-0 vote (Directors Muller and Bourne absent).

Recommended Actions:

1. Approve the Funding Agreement with Southern California Edison in a form substantially consistent with the attachment and approved by legal counsel to accept funding in the amount of \$7,725,000 to fund the Quick Reaction Force Pilot Program for 150-days and an additional \$1,545,000 for a 30-day program extension. Funds will cover the cost of the daily standby lease for one CH-47 Helitanker, daily standby lease for one S-76 Aerial Supervision aircraft, Air Tactical Group Supervisors, and standby lease for one mobile retardant plant to enhance the effectiveness of aerial responses to wildland fires.
2. Approve and authorize the Purchasing Manager to execute the Public Aircraft Lease and Service Agreement with Coulson Aviation (USA), Inc. in a form substantially consistent with the attachment and approved by legal counsel utilizing the sole source procurement provision in the Purchasing Ordinance for the provision of aircraft and other operational related services in an amount not to exceed \$8,710,000.
3. Approve and authorize the Purchasing Manager to enter into new Professional Services Agreements with Perimeter Solutions in a form substantially consistent with the attachment and approved by legal counsel utilizing the sole source procurement provision in the Purchasing Ordinance for the provision of a mobile fire retardant plant and related services in an amount not to exceed \$1,490,000.
4. Approve and authorize the Purchasing Manager to enter into new Professional Services Agreements with the Air Tactical Group Supervisors (ATGS') in a form substantially consistent with the attachment and approved by legal counsel at annual amounts not to exceed \$250,000 each with an aggregate program spending cap not to exceed \$720,000.
5. Approve and authorize a FY 2020/21 General Fund (121) budget adjustment to recognize funding from SCE for a revenue increase of \$9,270,000 and to increase appropriations by the same amount.
6. Approve the updated Cost Reimbursement Rate schedule to include the CH-47 Helitanker and S-76 Helitanker hourly flight rates, and mobile fire retardant plant rates to be effective June 15, 2021.
7. Adopt an exemption from the California Environmental Quality Act (CEQA) pursuant to Title 14, California Code of Regulations, Section 15301 (Existing Facilities) and direct staff to file a Notice of Exemption.

C. Fiscal Year 2019/20 Backfill/Overtime and Calendar Year 2020 Total Earnings/Compensation Analysis

Submitted by: Robert Cortez, Assistant Chief/Business Services Department and Julie Nemes, Finance Manager/Auditor

Budget and Finance Committee reviewed and approved the recommended action at their April 14, 2021, Regular meeting by a 5-0 vote (Directors Muller, Bourne, Hasselbrink and Tettemer absent).

Recommended Actions:

1. Direct staff to continue pursuing reductions in overtime by filling permanent vacancies as quickly as possible after the positions become vacant.
2. Authorize staff to temporarily exceed the number of authorized firefighter positions on the Master Position Control to maximize the number of firefighters hired into each academy, pending attrition/promotions that occur during and following academy graduations.
3. Direct staff to continue using overtime to fill temporary vacancies rather than hiring additional personnel, recognizing this as a cost-effective practice for temporary needs

D. Proposed Updates to Public Works Procurement Procedures

Submitted by: Robert Cortez, Assistant Chief/Business Services Department and Sara Kennedy, Purchasing Manager

Budget and Finance Committee reviewed the Update on Public Works Procurement Procedures to Incorporate Best Practices item at their April 14, 2021, Regular meeting and after extensive discussion, recommended by a 6-0 vote (Directors Muller, Bourne and Sachs absent), to direct staff to place the item on the agenda for the Board of Directors meeting of April 22, 2021, with the following recommendations:

- Approve the recommendation to modify the threshold for the “Two Solicitation” pre-qualification process to \$1,000,000 and
- Recommended that staff incorporate the specific responses to the issues raised at the prior Board meeting regarding the vetting of contractors, so that it is clear these areas are being addressed in future review of contractors.

Recommended Action:

Affirm that the proposed process for pre-qualifying contractors in connection with OCFA’s Public Works solicitations meets the Board of Directors expectations for public projects.

4. PUBLIC HEARING

No Items.

BOARD MEMBER COMMENTS**CLOSED SESSION**

The Brown Act permits legislative bodies to discuss certain matters without members of the public present. The Board of Directors find, based on advice from the General Counsel, that discussion in open session of the following matters will prejudice the position of the authority in existing and/or anticipated litigation:

- CS1. CONFERENCE WITH LEGAL COUNSEL - SIGNIFICANT EXPOSURE TO LITIGATION** - pursuant to paragraph (2) and (3) of subdivision (d) of Section 54956.9 of the Government Code: Two (2) Cases.

CLOSED SESSION REPORT

ADJOURNMENT –The next regular meeting of the Orange County Fire Authority Board of Directors is scheduled for Thursday, May 27, 2021, at 6:00 p.m.

AFFIDAVIT OF POSTING

I hereby certify under penalty of perjury and as required by the State of California, Government Code § 54954.2(a), that the foregoing Agenda was posted in the lobby and front gate public display case of the Orange County Fire Authority, Regional Fire Operations and Training Center, 1 Fire Authority Road, Irvine, CA, not less than 72 hours prior to the meeting.

Maria D. Huizar, CMC
Clerk of the Authority

UPCOMING MEETINGS:

Human Resources Committee
Budget and Finance Committee
Executive Committee
Board of Directors

Tuesday, May 4, 2021, 12 noon
Wednesday, May 12, 2021, 12 noon
Thursday, May 27, 2021, 5:30 p.m.
Thursday, May 27, 2021, 6:00 p.m.

ORANGE COUNTY FIRE AUTHORITY

Board of Directors Special Meeting

Thursday, March 11, 2021

6:00 P.M.

Regional Fire Operations and Training Center Board Room

1 Fire Authority Road

Irvine, CA 92602-0125

CALL TO ORDER

A special meeting of the Orange County Fire Authority Board of Directors was called to order on March 11, 2021, at 6:01 p.m. by Chair Shawver.

INVOCATION

Chaplain Jeff Hetschel offered the invocation.

PLEDGE OF ALLEGIANCE

Chair Shawver led the Assembly in the Pledge of Allegiance to the Flag.

ROLL CALL

Chair Dave Shawver, Stanton - Chair
Lisa Bartlett, County of Orange*
Letitia Clark, Tustin*
Carol Gamble, Rancho Santa Margarita*
Noel Hatch, Laguna Woods*
Anthony Kuo, Irvine*
Frances Marquez, Cypress*
John R. O'Neill, Garden Grove*
Vince Rossini, Villa Park*
Tri Ta, Westminster*
Donald P. Wagner, County of Orange*

Vice Chair Michele Steggell, La Palma – Vice Chair
Troy Bourne, San Juan Capistrano
Ross Chun, Aliso Viejo*
Shelley Hasselbrink, Los Alamitos*
Joe Kalmick, Seal Beach
Jessie Lopez, Santa Ana*
Joe Muller, Dana Point*
Sandy Rains, Laguna Niguel*
Don Sedgwick, Laguna Hills
Mark Tettemer, Lake Forest
Kathleen Ward, San Clemente*

Absent: Gene Hernandez, Yorba Linda
Ed Sachs, Mission Viejo

Sunny Park, Buena Park

Also present were:

Fire Chief Brian Fennessy
Deputy Chief Kenny Dossey
Assistant Chief Robert Cortez
General Counsel David Kendig
Assistant Counsel Keith Dobyns

Deputy Chief Lori Zeller
Assistant Chief Randy Black
Assistant Chief Stephanie Holloman
Dir. of Communications Colleen Windsor
Clerk of the Authority Maria Huizar

**Board Members participating via Teleconferencing*

PUBLIC COMMENTS

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

CLOSED SESSION (FILE 11.15)

CS1. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION (Paragraph (1) of subdivision (d) of Government Code Section 54956.9)

Name of Claim: Phi Le vs. OCFA,
Case No. ADJ 13837889

CS2. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION (Paragraph (1) of subdivision (d) of Government Code Section 54956.9)

Name of Claim: Dylan Van Iwaarden vs. OCFA,
Case No. ADJ13838365

CS3: CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION - (Significant exposure to litigation pursuant to paragraph (2) of subdivision (d) of Government Code Section 54956.9)

Number of potential cases: Two (2), Potential claims related to injuries sustained by firefighters during the Silverado Fire in October 2020.

CLOSED SESSION REPORT (FILE 11.15)

General Counsel David Kendig stated there were no reportable actions.

ADJOURNMENT –Chair Shawver adjourned the meeting at 7:17 p.m. The next Regular meeting of the Orange County Fire Authority Board of Directors is scheduled for Thursday, March 25, 2021, at 6:00 p.m.

Maria D. Huizar, CMC
Clerk of the Authority

MINUTES ORANGE COUNTY FIRE AUTHORITY

**Board of Directors Regular Meeting
Thursday, March 25, 2021
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 25, 2021, at 6:00 p.m. by Chair Shawver.

INVOCATION

Senior Chaplain Dave Keehn offered the invocation.

PLEDGE OF ALLEGIANCE

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

ROLL CALL

Dave Shawver, Stanton, Chair
Lisa Bartlett, County of Orange*
Letitia Clark, Tustin*
Carol Gamble, Rancho Santa Margarita*
Noel Hatch, Laguna Woods*
Joe Kalmick, Seal Beach
Jessie Lopez, Santa Ana*
Joe Muller, Dana Point
Sunny Park, Buena Park*
Vince Rossini, Villa Park*
Mark Tettemer, Lake Forest
Donald P. Wagner, County of Orange*

Michele Steggell, La Palma, Vice Chair
Troy Bourne, San Juan Capistrano*
Ross Chun, Aliso Viejo*
Shelley Hasselbrink, Los Alamitos
Gene Hernandez, Yorba Linda*
Anthony Kuo, Irvine
Frances Marquez, Cypress*
John R. O'Neill, Garden Grove*
Sandy Rains, Laguna Niguel*
Tri Ta, Westminster*
Kathleen Ward, San Clemente*

Absent: Ed Sachs, Mission Viejo

Don Sedgwick, Laguna Hills

Also present were:

Fire Chief Brian Fennessy
Deputy Chief Kenny Dossey
Assistant Chief Robert Cortez
Assistant Chief Jim Ruane
General Counsel David Kendig
Dir. of Communications Colleen Windsor

Deputy Chief Lori Zeller
Assistant Chief Randy Black
Assistant Chief Stephanie Holloman
Assistant Chief Lori Smith
Assistant Chief Phil Johnson
Clerk of the Authority Maria Huizar

**Board of Director Members participating via Teleconferencing*

REPORTS

A. Report from the Budget and Finance Committee Chair (FILE 11.12)

Budget and Finance Committee Chair Joe Muller reported at the March 10, 2021, regular meeting of the Budget and Finance Committee, the Committee voted unanimously to forward the Monthly Investment Reports to the Executive Committee to receive and file the reports. Additionally, the Committee voted unanimously to forward the FY 2020/21 Mid-Year Budget Adjustment to the Board for its approval of the recommended actions. During the special Budget meeting that followed, the Committee received a Budget and Finance Committee orientation presentation by Assistant Chief Cortez and voted unanimously to approve a Budget Adjustment for the Fire Integrated Real-time Intelligence System (FIRIS) 2.0 Program Extension. Additionally, and after extensive discussion and recommendation that staff memorialize the advance payment and credit-back process as a Board-approved policy, the Committee voted unanimously to forward the Authorization to Prepare Fire & Emergency Services Proposal for the City of Fullerton to the Board of Directors for approval of the recommended actions.

B. Report from the Fire Chief (FILE 11.14)

Fire Chief Brian Fennessy presented a video presentation update and overview on the COVID-19 vaccination logistics provided by OCFA in conjunction with the County of Orange.

PUBLIC COMMENTS

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

1. PRESENTATIONS

No items.

2. CONSENT CALENDAR

On motion of Director Kuo and second by Director Muller, and following a roll call vote, declared Agenda Item 2A-2D passed 22-0 (Directors Rains, Sachs, and Sedgwick absent), with Agenda Items 2F and 2G pulled for separate consideration.

A. Minutes from the February 25, 2021, Regular Meeting of the Board of Directors (FILE 11.06)

Action: Approve as submitted.

B. 2021 Committee Member Roster (FILE 11.02E)

Action: Receive and file report.

C. Ratify Appointments to Executive Committee (FILE 12.02A1)

Action: Confirm the appointments of the Executive Committee and Alternate members, as required in Rule 9(b) of the Board of Directors Rules of Procedure.

D. FY 2020/21 Mid-Year Budget Adjustment (FILE 15.04)

Action: Authorize the proposed mid-year budget adjustments and transfers as detailed in this report and attachments.

E. Agenda Item 2E was pulled at the request of staff (FILE 18.09D)

F. Authorization to Prepare a Fire & Emergency Services Proposal for the City of Fullerton (FILE 10.03)

Director Bartlett pulled this agenda item for separate consideration.

Lengthy discussion ensued.

On motion of Director Kuo and second by Director Hernandez, and following a roll call vote, declared passed 15-8, (Directors Sachs and Sedgwick absent and Directors Muller, Rains, Gamble, Lopez, Clark, Rossini, Bartlett, and Wagner opposed), to:

1. Direct staff to require advance payment from the City of Fullerton in the amount of \$80,207.55 to cover the cost of OCFA staff time to prepare a fire and emergency services proposal.
2. Direct staff, when invoicing the City of Fullerton, to inform the City that should they choose to contract with the OCFA, the \$80,207.55 payment would constitute an annual payment credit over the remainder of the current Joint Powers Agreement term.
3. Direct staff to prepare a fire and emergency services proposal for Board consideration for the City of Fullerton upon receipt of the advance payment.

G. Drowning Prevention Awareness Proclamation (FILE 11.09A)

Director Muller pulled this agenda item for separate consideration.

Justin Dillon, PAC Director for Firefighter Local 3631, read a letter from Julie Lopiccolo addressed to the OCFA Board regarding the Orange County Drowning Prevention Task Force.

Discussion ensued. Directors requested item be brought back with background and fiscal information for Board consideration.

On motion by Director Wagner and second by Director Kuo, and following a roll call vote, declared passed 23-0 (Directors Sachs and Sedgwick absent) to approve proclamation designating May and continue through October as Drowning Prevention Awareness.

3. DISCUSSION

A. San Onofre Nuclear Generating Station (SONGS) Community Coalition (FILE 18.02)

Deputy Chief Kenny Dossey provided a brief summary of the Orange County Fire Authority's monitoring of the transition of the San Onofre Nuclear Generating Station.

Discussion ensued.

On motion of Director Tettemer and second by Director Shawver, and with a roll call vote, declared passed 12-2 (Directors Sachs and Sedgwick absent and Directors Park, Marquez, Hatch, Gamble, Lopez, Kalmick, Rossini, Ta, and Hernandez abstained), to move to support the SONGS Coalition efforts but limit the OCFA's involvement to the Fire Chief's participation only.

4. PUBLIC HEARING

No items.

BOARD MEMBER COMMENTS (FILE 11.13)

Director Bartlett requested adding an agenda item to the next Board of Directors meeting to discuss the usage and terms for legal contracts of special procurement authorization and sole source authorization, and provide the legal definitions for the terms of both forms of authorizations.

Director Wagner spoke in agreement with Director Bartlett's request to add the agenda item of sole source authorization and special procurement for discussion.

Minutes

OCFA Board of Directors Regular Meeting

March 25, 2021 Page - 4

Director O'Neill informed the Board that former Mayor of Garden Grove William "Bill" Dalton passed away recently. He served a combined 40 years for the City Council and as a Garden Grove police officer, was awarded the medal of valor, and had many other significant contributions throughout the years serving the public of Garden Grove.

Director Raines commended the OCFA firefighters serving Laguna Niguel who stopped to assist a community member caring for her garden late in the evening.

Director Kuo thanked firefighters from Station 71 (Santa Ana) who attended to two false alarms due to faulty equipment in his business's office building.

CLOSED SESSION (FILE 11.15)

CS1. CONFERENCE WITH LEGAL COUNSEL - SIGNIFICANT EXPOSURE TO LITIGATION - pursuant to paragraph (2) and (3) of subdivision (d) of Section 54956.9 of the Government Code: Two (2) Cases.

CS2. CONFERENCE WITH LEGAL COUNSEL - PUBLIC EMPLOYEE PERFORMANCE EVALUATION pursuant to Government Code Section 54954.5
Position: Fire Chief

CS3. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION (Paragraph (1) of subdivision (d) of Government Code Section 54956.9)
Name of Claim: Phi Le vs. OCFA,
Case No. ADJ 13837889

CS4. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION (Paragraph (1) of subdivision (d) of Government Code Section 54956.9)
Name of Claim: Dylan Van Iwaarden vs. OCFA,
Case No. ADJ13838365

CS5. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION - (Significant exposure to litigation pursuant to paragraph (2) of subdivision (d) of Government Code Section 54956.9)
Number of potential cases: Two (2), Potential claims related to injuries sustained by firefighters during the Silverado Fire in October 2020.

CLOSED SESSION REPORT (FILE 11.15)

General Counsel David Kendig stated there was no reportable action.

ADJOURNMENT – Chair Shawver adjourned the meeting at 9:16 p.m., in memory of former Garden Grove Mayor William “Bill” Baldwin. The next regular meeting of the Orange County Fire Authority Board of Directors is scheduled for Thursday, April 22, 2021, at 6:00 p.m.

Maria D. Huizar, CMC
Clerk of the Authority



Orange County Fire Authority
AGENDA STAFF REPORT

Board of Directors Meeting
April 22, 2021

Agenda Item No. 2C
Consent Calendar

**Designation of Fire Authority Representatives to File Applications
for State and/or Federal Financial Assistance Relating to
Declared Disasters or Emergencies**

Contact(s) for Further Information

Robert C. Cortez, Assistant Chief
Business Services Department

robertcortez@ocfa.org

714.573.6012

Julie Nemes, Finance Manager/Auditor
Business Services Department

julienemes@ocfa.org

714.573.6304

Summary

This agenda item is submitted to designate Fire Authority representatives to request financial assistance for costs related to disasters or emergencies declared at the State and/or Federal level. To expedite the application process, these designated positions will be authorized to request financial assistance for future disasters or emergencies for three years.

Prior Board/Committee Action

Board of Directors Recommendation: *APPROVE*

At its regular November 16, 2017, meeting, the Board of Directors reviewed and unanimously recommended approval to execute and file applications to obtain financial assistance for all future State and/or Federal declarations of disaster or emergency.

RECOMMENDED ACTION(S)

1. Adopt the proposed Resolution entitled A RESOLUTION OF THE BOARD OF DIRECTORS OF THE ORANGE COUNTY FIRE AUTHORITY, CALIFORNIA, DESIGNATING OCFA REPRESENTATIVES TO FILE APPLICATIONS FOR EMERGENCY FINANCIAL ASSISTANCE.
2. Approve and authorize the Clerk of the Authority to execute the State of California Office of Emergency Services Form 130 designating the positions of Deputy Chief of Administration & Support Bureau, Assistant Chief of Business Services, or Finance Manager/Auditor to execute and file applications on behalf of the OCFA related to all State and/or Federal declarations of disaster or emergency for the next three years.

Impact to Cities/County

Not Applicable

Fiscal Impact

Determined by individual incident reimbursement claims.

Background

State and Federal regulations require a resolution designating authorized representatives for requesting financial assistance in the event of a declared disaster or emergency. To expedite the application process for future declarations, the State of California Office of Emergency Services (Cal OES) allowed local agencies to submit a standing authorization for designated representatives to request assistance for disaster or emergency declarations. Article I, Section 4(j) of the Joint Powers Agreement creating the Orange County Fire Authority contains provisions for the Authority to apply for grants, loans, or other assistance from persons, firms, corporations, or governmental entities.

On November 16, 2017, the Board of Directors adopted Resolution No. 2017-08, A RESOLUTION OF THE BOARD OF DIRECTORS OF THE ORANGE COUNTY FIRE AUTHORITY, CALIFORNIA, DESIGNATING OCFA REPRESENTATIVES TO FILE APPLICATIONS FOR EMERGENCY FINANCIAL ASSISTANCE, which authorized staff to use this Resolution for any future declarations for emergency expenses to the appropriate State and/or Federal agency. Cal OES allows resolutions to only be in effect for three years from the date of a governing body's approval. Staff recommends approval of recommended action.

Attachment(s)

1. Proposed Resolution

DESIGNATION OF APPLICANT'S AGENT RESOLUTION FOR NON-STATE AGENCIES

BE IT RESOLVED BY THE Board of Directors OF THE Orange County Fire Authority
(Governing Body) (Name of Applicant)

THAT Deputy Chief of Administration & Support Bureau, OR
(Title of Authorized Agent)

Assistant Chief of Business Services, OR
(Title of Authorized Agent)

Finance Manager/Auditor
(Title of Authorized Agent)

is hereby authorized to execute for and on behalf of the Orange County Fire Authority, a public entity
(Name of Applicant)

established under the laws of the State of California, this application and to file it with the California Governor's Office of Emergency Services for the purpose of obtaining certain federal financial assistance under Public Law 93-288 as amended by the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1988, and/or state financial assistance under the California Disaster Assistance Act.

THAT the Orange County Fire Authority, a public entity established under the laws of the State of California,
(Name of Applicant)

hereby authorizes its agent(s) to provide to the Governor's Office of Emergency Services for all matters pertaining to such state disaster assistance the assurances and agreements required.

Please check the appropriate box below:

☒ This is a universal resolution and is effective for all open and future disasters up to three (3) years following the date of approval below.

☐ This is a disaster specific resolution and is effective for only disaster number(s) _____

Passed and approved this 22th day of April, 2021

Dave Shawver, Board Chair
(Name and Title of Governing Body Representative)

Michele Steggell, Board Vice Chair
(Name and Title of Governing Body Representative)

(Name and Title of Governing Body Representative)

CERTIFICATION

I, Maria Huizar, duly appointed and Clerk of the Authority of
(Name) (Title)

Orange County Fire Authority, do hereby certify that the above is a true and correct copy of a
(Name of Applicant)

Resolution passed and approved by the Board of Directors of the Orange County Fire Authority
(Governing Body) (Name of Applicant)

on the 22th day of April, 2021.

(Signature)

Clerk of the Authority
(Title)

Cal OES Form 130 Instructions

A Designation of Applicant's Agent Resolution for Non-State Agencies is required of all Applicants to be eligible to receive funding. A new resolution must be submitted if a previously submitted Resolution is older than three (3) years from the last date of approval, is invalid or has not been submitted.

When completing the Cal OES Form 130, Applicants should fill in the blanks on page 1. The blanks are to be filled in as follows:

Resolution Section:

Governing Body: This is the group responsible for appointing and approving the Authorized Agents.

Examples include: Board of Directors, City Council, Board of Supervisors, Board of Education, etc.

Name of Applicant: The public entity established under the laws of the State of California. Examples include: School District, Office of Education, City, County or Non-profit agency that has applied for the grant, such as: City of San Diego, Sacramento County, Burbank Unified School District, Napa County Office of Education, University Southern California.

Authorized Agent: These are the individuals that are authorized by the Governing Body to engage with the Federal Emergency Management Agency and the Governor's Office of Emergency Services regarding grants applied for by the Applicant. There are two ways of completing this section:

1. **Titles Only:** If the Governing Body so chooses, the titles of the Authorized Agents would be entered here, not their names. This allows the document to remain valid (for 3 years) if an Authorized Agent leaves the position and is replaced by another individual in the same title. If "Titles Only" is the chosen method, this document must be accompanied by a cover letter naming the Authorized Agents by name and title. This cover letter can be completed by any authorized person within the agency and does not require the Governing Body's signature.
2. **Names and Titles:** If the Governing Body so chooses, the names **and** titles of the Authorized Agents would be listed. A new Cal OES Form 130 will be required if any of the Authorized Agents are replaced, leave the position listed on the document or their title changes.

Governing Body Representative: These are the names and titles of the approving Board Members.

Examples include: Chairman of the Board, Director, Superintendent, etc. The names and titles **cannot** be one of the designated Authorized Agents, and a minimum of two or more approving board members need to be listed.

Certification Section:

Name and Title: This is the individual that was in attendance and recorded the Resolution creation and approval.

Examples include: City Clerk, Secretary to the Board of Directors, County Clerk, etc. This person **cannot** be one of the designated Authorized Agents or Approving Board Member (if a person holds two positions such as City Manager and Secretary to the Board and the City Manager is to be listed as an Authorized Agent, then the same person holding the Secretary position would sign the document as Secretary to the Board (not City Manager) to eliminate "Self Certification."



Orange County Fire Authority
AGENDA STAFF REPORT

Board of Directors Meeting
April 22, 2021

Agenda Item No. 2D
Consent Calendar

**Budget Adjustment and Contract Amendments Related to the
Fire Integrated Real-time Intelligence System (FIRIS) 2.0 Program Extension**

Contact(s) for Further Information

Brian Fennessy, Fire Chief	brianfennessy@ocfa.org	714.573.6010
Robert Cortez, Assistant Chief Business Services Department	robertcortez@ocfa.org	714.573.6012

Summary

This agenda item is submitted for approval of budget and contract adjustments in reference to the extension of the Fire Integrated Real-time Intelligence System (FIRIS) 2.0 Program, as requested by the California Governor's Office of Emergency Services (Cal OES) to continue providing enhanced regional wildfire situational awareness for first responders. The agenda item seeks approval to increase revenue and appropriate Cal OES funds in the amount of \$451,500 to cover the cost of the FIRIS 2.0 Program extension to June 1, 2021.

Prior Board/Committee Action

On June 25, 2020, the Board of Directors authorized the FIRIS 2.0 Program, which included approval of \$8.2 million budget via State funds and approval of various agreements for services including aviation equipment, data analytics, program managers, Air Tactical Group Supervisors (ATGSs), and other related services.

On January 28, 2021, the Board of Directors authorized spending cap adjustments to the FIRIS 2.0 Program, which included the approval to increase individual contract amounts for program managers and to increase the aggregate not-to-exceed amount for the ATGSs.

On March 10, 2021, the Budget and Finance Committee reviewed the budget adjustment item and recommended by a 7-0 vote (Directors Bourne and Sachs absent) that the Board of Directors, contingent upon the written confirmation of funding from Cal OES, approve and authorize a budget adjustment to increase revenue and appropriations in the FY 2020/21 General Fund (121) budget by \$2,638,675 for the extension of the FIRIS 2.0 Program. Subsequently, Cal OES notified OCFA that funding availability for the extension had been reduced.

RECOMMENDED ACTION(S)

1. Contingent upon written confirmation of funding from Cal OES, approve and authorize a budget adjustment to increase revenue and appropriations in the FY 2020/21 General Fund (121) budget by \$451,500 for the extension of the FIRIS 2.0 Program.
2. Approve and authorize the Purchasing Manager to adjust all FIRIS-related vendor contracts by the individual amounts needed in support of the FIRIS 2.0 Program extension, so long as the aggregate value of the increases does not exceed the revised program budget (see Table One).

Impact to Cities/County

The FIRIS 2.0 Program has greatly enhanced and will continue to enhance aerial wildfire response and situational awareness in Orange County and throughout California during the remainder of the 2020/21 wildfire season, upon approval of this extension.

Fiscal Impact

The FIRIS 2.0 Program was initially funded with an award of \$7,706,525 from Cal OES and \$500,000 in State funds remaining from the 2019 FIRIS Pilot Program. Cal OES now desires to extend the term of the Program and will provide the OCFA with an additional \$451,500 to continue the Program through June 1, 2021.

Background

FIRIS 2.0 Program

Wildland fire remains the most significant threat to life and property in California; lives, property, and natural resources are threatened on a 24-hour basis. In response to this threat, the California Governor's Office of Emergency Services, (Cal OES) provided funding for the OCFA to administer the All-Hazard Fire Integrated Real-time Intelligence System (FIRIS) 2.0 Program. FIRIS 2.0 is an all-hazard and all-weather tool that in addition to wildland fires, can also immediately respond to mudslides, flooding, and other natural disasters.

The FIRIS 2.0 Program Incident Awareness and Assessment (IAA) aircraft have been engineered and equipped so that decision-makers can view information in real-time, keep pace and understand the true scale of all-hazard disaster needs and response. FIRIS 2.0 has also put first responders and equipment in position to quickly address climate-driven emergencies and provides more targeted and effective evacuations. Improved communications and real-time technologies give firefighters, Incident Commanders, policymakers, the California State Operations Center (SOC), the intelligence units based at the two Geographic Area Coordination Centers (NOPS & SOPS) in California, the California Fire and Rescue Coordination Center, local Emergency Command Centers (ECC) and Emergency Operations Centers (EOC) better and faster information about fast-paced disasters. Furthermore, FIRIS 2.0 reduces the risk to Orange County and California citizens and mitigates the impacts of climate-driven disasters within the first hour of report of a disaster.

As a result of COVID-19, one objective is to adopt wildland fire suppression activities like FIRIS 2.0, so that when fire suppression resources are limited, they can be deployed in a more strategic manner than in the past, and that evacuations occur in a more efficient and effective manner.

FIRIS 2.0 Program Update

The FIRIS aircraft have been used on numerous incidents throughout the State during the 2020/21 wildfire season, and most notably here in Orange County including: Silverado, Blue Ridge, Bond as well as other smaller vegetation fires. In addition, the Program is also being utilized in the all hazards arena to include rain events to monitor hillside movement in mud and debris flow susceptible areas. This important tool will allow ground units additional time to affect evacuations as well and assess damage in real time.

During the Silverado, Blue Ridge and Bond Fires, the OCFA applied for FEMA's Fire Management Assistance Grant also known as "FMAG". FMAG pays for up to 75% of suppression costs if agencies are successful in submitting an application. In order for agencies to qualify for FMAG, agencies need to submit their application through Cal OES while the fire is still active and there is a threat to life, property, and infrastructure. Time is of the essence in order to successfully qualify for the grant. Given the imagery and data gathered and provided by the FIRIS 2.0 program,

OCFA received FMAG approval within a record 2-3 hours for all three major fires. Cal OES stated that these were the fastest approvals from FEMA they have ever seen and it was due to the FIRIS modeling that was included with the grant application.

CalOES Request for FIRIS 2.0 Program Extension

Since September of 2020, the OCFA has been providing enhanced regional wildfire situational awareness for first responders in Orange County and throughout the State of California at the request of Cal OES per agreement number A201003758. Based on the current allocation of Cal OES funding, program modifications, and expenditure trends, the FIRIS 2.0 Program is anticipated to end on May 7, 2021 absent any new funding. Given the success of the FIRIS 2.0 Program, Cal OES notified OCFA of its desire to extend the Program through June 1, 2021. OCFA Staff has determined that the cost of continuing the Program through June 1, 2021 is \$451,500 and has requested written confirmation from Cal OES regarding the amended term and funding needed to continue the Program.

Given the timing of Cal OES Program extension request and the short timeline OCFA staff had to secure the necessary approvals to accommodate for uninterrupted Program services, staff submitted a supplemental agenda item only seeking a budget adjustment to the Budget and Finance Committee. Based on the Budget and Finance Committee review and recommendation of the budget adjustment at its March 10, 2021 meeting, and updated information on Cal OES available funds to extend the program, staff now seeks Board of Directors approval for a budget adjustment and authorization to amend FIRIS related vendor contracts.

The tables below detail the recommended FIRIS 2.0 budget adjustments and estimated contract adjustments to allow for the Program extension:

Table One

Funding Source	Funding Description	Current Budget	Proposed Adjustment	Proposed Revised Budget
Cal OES	Reimbursement Basis	\$7,706,525	\$451,500	\$8,158,025
2019 FIRIS Program Fund Balance	Re-allocation of remaining State Funds (est.)	\$500,000	\$0	\$500,000
Total Funding		\$8,206,525	\$451,500	\$8,658,025

Table Two

Service Contracts	Services/Equipment	Current Spending Cap	Proposed Adjustment	Proposed Revised Spending Cap
Project Management & Support – North & South Operations	Project Managers and support services	\$590,000	\$45,500	\$635,500
Air Tactical Group Supervisors	12-hr shifts at North and South Operations	\$1,350,000	\$61,707	\$1,411,707
AEVEX - North & South Operations Aircraft	Daily aircraft availability and flight hours	\$4,269,138	\$280,002	\$4,549,140
Intterra	Enhanced mapping, coordination and consulting services	\$800,000	\$48,000	\$848,000

Service Contracts	Services/Equipment	Current Spending Cap	Proposed Adjustment	Proposed Revised Spending Cap
Air Base – North & South Operations	Airfield to serve as home base for aircraft	\$100,000	\$9,237	\$109,237
OCFA	Project administration, communications, and other needs	\$97,387	\$7,054	\$104,441
UCSD/WIFIRE	Enhanced situational awareness/fire modeling and other related services	\$1,000,000	\$0	\$1,000,000
	Total Spending Cap	\$8,206,525	\$451,500	\$8,658,025

Attachment(s)

None.



Orange County Fire Authority
AGENDA STAFF REPORT

Board of Directors Meeting
April 22, 2021

Agenda Item No. 3A
Discussion Calendar

Orange County Drowning Prevention Task Force Report

Contact(s) for Further Information

Brian Fennessy, Fire Chief	brianfennessy@ocfa.org	714.573.6010
Lori Smith, Assistant Chief/Fire Marshal	lorismith@ocfa.org	714.573.6016

Summary

This agenda item is a reporting of the Orange County Fire Authority involvement and participation with the Orange County Drowning Task Force as well as budget actions related to the program. The report is submitted at the request of the Board of Directors at the March 31 meeting.

Prior Board/Committee Action(s)

No committee action required or requested.

RECOMMENDED ACTION(S)

Receive and file.

Impact to Cities/County

Not Applicable.

Fiscal Impact

Not Applicable.

Background

See Attached Background

Attachment(s)

1. Background
2. Agenda Staff Report for funding request, dated August 12, 2015
3. Agenda Staff Report for funding request, dated September 9, 2015
4. Agenda Staff Report for funding request, dated September 24, 2015
5. Agenda Staff Report for funding request, dated May 25, 2017
6. Agenda Staff Report for funding request, dated April 26, 2018
7. Agenda Staff Report for funding request, dated August 23, 2018

Orange County Drowning Prevention Task Force

Background

- **June 18, 2015 – Executive Committee Meeting.** During Director comments, Directors Spitzer, Lalloway and Murray led a discussion on the need for a hard-hitting drowning safety campaign. Chief Jeff Bowman and Communications Director Sandy Cooney shared in their concerns and agreed to expanding OCFA efforts to a countywide coalition effort.
- **August 12, 2015 – Budget and Finance Committee Meeting.** This agenda item requested an appropriation of \$25,000 for start-up costs for focus groups and market research with a match commitment from the Orange County Health Care Agency. The Committee continued the item to the September 9, 2015 meeting and directed staff to provide additional information related to goals and objectives framework, demographics of the intended audience and evaluation methodology.
- **September 9, 2015 – Budget and Finance Committee Meeting.** This agenda item provided additional information regarding more accurate cost estimates, top five language groups and intended in-kind services utilizing graduate students from local universities. The initial quote for the focus groups was \$116,000. The recommended actions were as follows:
 1. Increase appropriations in the 2015/16 General Fund budget not to exceed \$25,000 for seed funding for the Orange County Drowning Prevention Task Force.
 2. Direct staff, in collaboration with county agencies, to develop a plan for use of the funds for start-up expenses, to include market research and focus groups.
 3. The release of this seed funding is contingent upon the commitment of contributions by other agencies.

The item was approved and moved to the September 24, 2015 Board of Directors meeting.

The Orange County Health Care Agency was facilitating all of the budget deposits and expenditures for the task force.

- **September 24, 2015 – Board of Directors Meeting.** The Board approved the appropriation of funds with the promise that other Orange County agencies would be asked to contribute to these costs. At this time, it was unclear how many or how much other agencies might contribute.

The start-up working group consisted of staff from the Orange County Health Care Agency, the Orange County Sheriff's Department, the Orange County Fire Authority, Newport Beach Lifeguards, City of Tustin, Blue Buoy Swim School and the Jasper Ray Foundation.

- **May 10, 2017 – Budget and Finance Committee Meeting.** The agenda item requested an appropriation from the General Fund in the amount of \$25,000 for the Orange County Drowning Prevention Task Force. At this time the task force reported that in 2016, approximately \$225,000 in funding from the County and Task Force partners developed a campaign targeting parents and caregivers of young children and adults over the age of 50 in both English and Spanish. In this agenda item it was reported that a letter was recently mailed to each of the OCFA Directors encouraging a donation of \$5,000 or more on behalf of their city. Then Director Al Murray was serving as the Chair of the Task Force Finance Committee working with OCFA to encourage contributions.
- **May 25, 2017 – Board of Directors Meeting.** The agenda item requested an appropriation from the General Fund in the amount of \$25,000 approved by the Budget and Finance Committee. At this time then Director Todd Spitzer was serving as Chair of the Task Force Public Safety Outreach Committee and was considering an item authorizing the Orange County Health Care Agency to accept contributions. There was some discussion concerning the OCFA letter writing campaign to encourage city donations for a County task force. The item was approved with the following campaign updates:

Attachment

"It Only Takes Seconds to Drown"
2016 Drowning Prevention Campaign
October 2016

The Orange County Health Care Agency has implemented the 2016 drowning prevention campaign "It Only Takes seconds to Drown" on behalf of the Orange County Drowning Prevention Task Force (Task Force).

With approximately \$225,000 in funding from the County and Task Force partners the campaign targets parents and caregivers of young children and adults over 50 in both English and Spanish.

The campaign was successfully launched in May and a pre-July 4th holiday weekend press event was held on June 29, 2016. A second event took place prior to the Labor Day holiday weekend. Campaign targets and messages were initiated by the Task Force, market tested, and fully developed by Westbound Communications, under contract with the County. Media used includes bus advertisements, posters and standees, direct mail pieces to public pool operators, digital ads and radio spots.

Campaign Placements

Bus Advertisements
 Approximately 230 Orange County Transit Authority buses display the campaign; creating an estimated **35.9 million** total impressions.

Phase I placement, running May 2 through October 16 includes:


- 4 Ultra Super Kings
- 50 Tallights
- 100 Interiors

Phase II placement, running July 11 through October 2 includes:

- 25 Headlight Displays
- 50 King Size Displays

Digital Advertising- Parents and Caregivers
 Brief text driven banner ads will be posted on websites visited by parents and caregivers. Ads will run July through October creating an estimated **2.1 million** impressions.

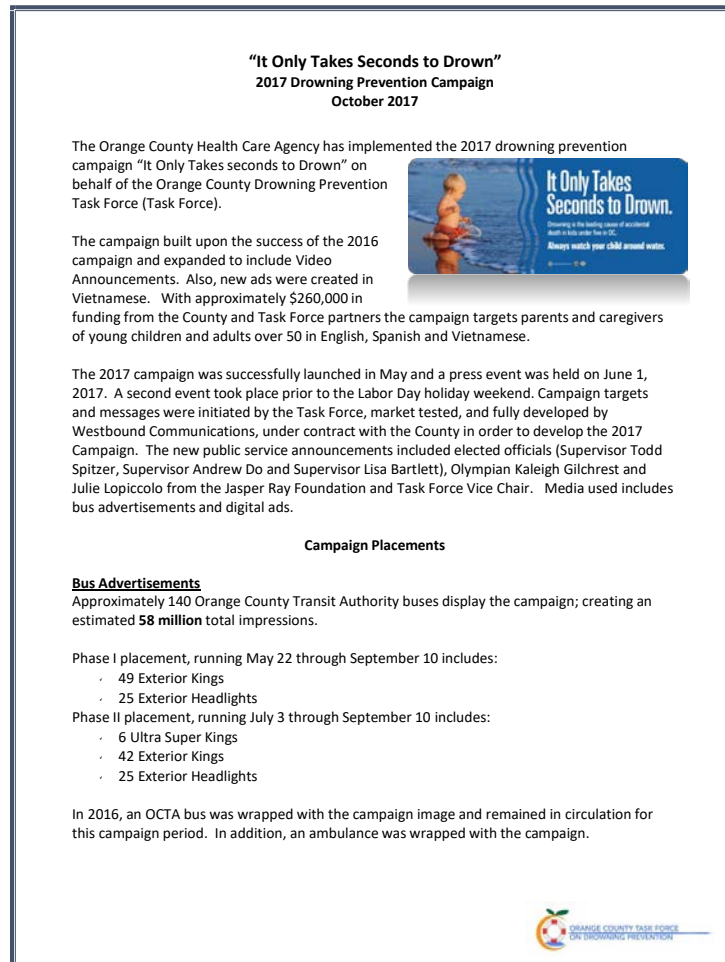
Posters and Standees
Eighty (80) 6'x3' stand up banners ("standees") were distributed to County buildings, swim schools and recreation centers. **Four hundred (400) posters** were distributed to community partners such as Head Start, Children's Hospital and Task Force members.





- **April 26, 2018 – Board of Directors Meeting.** The agenda item requested an appropriation from the General Fund in the amount of \$25,000. The OCFA also reported that the cities were once again sent a letter to encourage donations of \$5,000 or more. The item was approved with the following campaign updates:

Attachment



- **August 23, 2018 – Board of Directors Meeting.** The agenda item requested an appropriation from the General Fund in the amount of \$25,000. This item was approved. This was the last request made to the Board of Directors and letter writing campaigns requesting funds were curtailed.

Personnel Commitments and Costs to Date

- The Task Force effort was not a budget line item, evidenced by the previous Board agendas. The annual appropriation request for \$25,000 was the only monetary commitment. In the FY 2019/20 budget development we created a \$25,000 line item in Corporate Communications dedicated to the Drowning Prevention program.

- June 2015 through December 2018 – Communications Director Sandy Cooney has the primary responsibility of standing up the task force. He left the organization in January 2017. A Battalion Chief was assigned to the Communications section to manage public information and the Public Education team. Our involvement on the task force remained.
- A Fire Community Education Specialist (Educator) was assigned to the task force at the onset in 2015. Her commitment was approximately 20 percent of her time. Multi-media included one full time and one part time employee. Their commitment was sporadic but essentially met the task force needs for content and filming of PSAs.
- Chief Fennessy came onboard in April 2018. There was a reorganization that year that moved the Public Education unit to the Fire Marshal. The Fire Marshal's office evaluated all of the education programs for efficiencies and effectiveness. OCFA was serving as the administrators of the task force. It was time to consider the Orange County Health Care Agency to take the lead.
- Upon the arrival of Director Colleen Windsor in January 2019, she and Chief Lori Smith attended a few Task Force meetings, evaluated its strengths, weaknesses, our time and monetary commitments. We had received many concerns from our educator team about the roles they were expected to fill and that it was extremely time consuming. There were also concerns about our annual appropriation requests as well as letters of request to cities.
- With this information and the understanding that the task force had achieved funding goals, hired a third party vendor for design content and marketing deliverables and could stand independently as an Orange County Health Care Agency program, Chief Fennessy and Chief Smith spoke with then Director Al Murray on May 13, 2019 to discuss the issues and a plan to transition the task force board to the Orange County Health Care Agency.
- Prior to the formation of the task force, the OCFA was developing a robust drowning prevention program. Staff believed that between OCFA's efforts and those of various non-profit programs serving the drowning prevention mission that OCFA could better manage its various programs if we did not have a seat on the task force board. Staff has continued to attend the twice yearly meetings, as well as provide drowning data, and have allowed our OCFA website link on the Task Force website. OCFA no longer holds a seat on the board, manages the website, creates content or solicits funds. However, we do have a Captain that continues to attend the semi-annual task force meetings and lends support to projects. We continue to stand ready to provide data and partner where we can.

MINUTES ORANGE COUNTY FIRE AUTHORITY

Budget and Finance Committee Meeting

**August 12, 2015
12:00 Noon**

4. DISCUSSION CALENDAR

E. Start-Up Funds/Orange County Task Force on Drowning Prevention (F: 20.18)

Communications Director Sandy Cooney provided an overview of the Start-Up Funds/Orange County Task Force on Drowning Prevention.

On motion of Director Murray and second by Director Hernandez, the Committee voted unanimously by those present to continue the item to the next meeting of the Budget and Finance Committee and directed staff to provide additional information regarding the Task Force's intended use of the start-up funds.



Orange County Fire Authority
AGENDA STAFF REPORT

Budget and Finance Committee Meeting
August 12, 2015

Agenda Item No. 4E
Discussion Calendar

Start-Up Matching Funds/Orange County Task Force on Drowning Prevention

Contact(s) for Further Information

Sandy Cooney, Director

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714.573.6801

Communications and Public Affairs

Jim Ruane, Finance Manager/Auditor

jimruane@ocfa.org

714.573.6304

Business Services Department

Summary

This agenda item is submitted to request an appropriation of \$25,000 for start-up costs (including focus groups and market research) for the Orange County Task Force on Drowning Prevention. This amount will be matched by the Orange County Health Care Agency (or several county agencies) to reach the equivalent share of \$25,000. The total anticipated start-up cost is expected to be \$50,000.

Prior Board/Committee Action

Not Applicable.

Recommended Action(s)

Review the proposed agenda item and direct staff to place the item on the agenda for the Executive Committee meeting of August 20, 2015, with the Budget and Finance Committee's recommendation that the Executive Committee authorize the following:

1. Increase appropriations in the FY 2015/16 General Fund budget by \$25,000 for seed funding for the Orange County Drowning Prevention Task Force.
2. Authorize the Fire Chief, or his designee, to forward the funds to the appropriate agency that will be responsible for the program. This will be determined at a future date.
3. Direct staff, in collaboration with county agencies, to develop a plan for use of the funds for start-up expenses, to include market research and focus groups.

Impact to Cities/County

None.

Fiscal Impact

Appropriations in the FY 2015/16 General Fund budget will be increased by \$25,000.

Background

The Orange County Task Force on Drowning Prevention was created by OCFA leadership, with support from the OCFA Board of Directors Executive Committee, to identify and implement county-wide methods and strategies to reduce drowning incidents and fatalities. The 24-member panel includes the heads of county-wide public health, public safety, government, and non-profit organizations, parents of victims, and Olympic medal-winning swimmers.

The group is currently exploring ways to increase public awareness of drowning prevention that include; community and media outreach, consistent messaging in materials, and a unified approach on all county-wide drowning prevention efforts. Establishing multiple demographic focus groups and market research has been identified as a first step. This funding supports that process.

Attachment(s)

None

MINUTES ORANGE COUNTY FIRE AUTHORITY

Budget and Finance Committee Meeting

**September 9, 2015
12:00 Noon**

4. DISCUSSION CALENDAR

D. Start-Up Funds/Orange County Task Force on Drowning Prevention (F: 20.18)

Director of Communications and Public Affairs Sandy Cooney provided an overview of the Start-Up Funds/Orange County Task Force on Drowning Prevention.

On motion of Director Ta and second by Director Murray, the Committee voted unanimously by those present to direct staff to place the item on the agenda for the Board of Directors meeting of September 24, 2015, with the Budget and Finance Committee's recommendation that the Board authorize the following:

1. Increase appropriations in the FY 2015/16 General Fund budget not to exceed \$25,000 for seed funding for the Orange County Drowning Prevention Task Force contingent upon the contribution of funds from other agencies.
2. Direct staff, in collaboration with county agencies, to develop a plan for use of the funds for start-up expenses, to include market research and focus groups.

Director Murray left at this point (12:30 p.m.).



Orange County Fire Authority
AGENDA STAFF REPORT

Budget and Finance Committee Meeting
September 9, 2015

Agenda Item No. 4D
Discussion Calendar

Start-Up Funds/Orange County Task Force on Drowning Prevention

Contact(s) for Further Information

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Communications and Public Affairs

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Jim Ruane, Chief Financial Officer
OCFA Foundation

jimruane@ocfa.org

714.573.6304

Summary

This agenda item is submitted to request an appropriation not to exceed \$25,000 for start-up costs (including focus groups and market research) for the Orange County Task Force on Drowning Prevention

Prior Board/Committee Action

At its August 12, 2015, meeting, the Budget and Finance Committee continued the item to its next meeting and directed staff to provide additional information regarding the Task Force's intended use of the start-up funds.

RECOMMENDED ACTION(S)

Review the proposed agenda item and direct staff to place the item on the agenda for the Board of Directors meeting of September 24, 2015, with the Budget and Finance Committee's recommendation that the Board authorize the following:

1. Increase appropriations in the FY 2015/16 General Fund budget not to exceed \$25,000 for seed funding for the Orange County Drowning Prevention Task Force.
2. Direct staff, in collaboration with county agencies, to develop a plan for use of the funds for start-up expenses, to include market research and focus groups.

Impact to Cities/County

None.

Fiscal Impact

Appropriations in the FY 2015/16 General Fund budget will be increased by an amount not to exceed \$25,000.

Background

The Orange County Drowning Prevention Task Force leadership has met since the August 12, 2015, Budget and Finance Committee meeting. Recently, the Committee received a report on its facilitated task force meeting of August 3, 2015, reviewed a draft goals and objectives framework, and evaluated a quote for expected costs to facilitate focus groups recommended by the Task Force.

The initial quote for the focus groups is \$116,000. This is an estimate of costs; a contract will go out to bid at the appropriate time. The quote includes costs for focus groups representing the top five population groups within Orange County: English, Spanish, Vietnamese, Korean, and Chinese. The quote also includes three demographic groups within each population. It still is undetermined to what extent other Orange County agencies will contribute to these costs.

Notably, the cost to implement public awareness is minimal by comparison as an average cost to treat a permanently injured drowning patient is estimated to be \$52,429 per year, according to the National Institutes of Health, May 2012.

An evaluation of the focus group results and market research will be performed through in-kind services utilizing graduate students from a local university. This will reduce costs and involve an academic institution in partnership with the Task Force.

A working group comprised of staff from the Orange County Health Care Agency, the Orange County Sheriff's Department, Newport Beach Lifeguards, City of Tustin, Blue Buoy Swim School, the Jasper Ray Foundation, and the OCFA has also met to begin development and implementation of the goals and objectives framework.

The proposed project to create a countywide integrated media campaign has a delivery date of spring 2016. In order to complete the proposed work schedule and meet the established deadlines, funds should be appropriated this month.

The Orange County Task Force on Drowning Prevention was created by OCFA leadership, with support from the OCFA Executive Committee, to identify and implement countywide methods and strategies to reduce drowning incidents and fatalities. The twenty-four member panel includes representatives of public health, public safety, local government, non-profit organizations, parents of drowning victims, and Olympic medal-winning swimmers.

The group is currently exploring ways to increase public awareness of drowning prevention that include: community and media outreach, consistent messaging in materials, and a unified approach on all countywide drowning prevention efforts. Establishing multiple demographic focus groups and market research has been identified as a first step. This funding supports that process.

Attachment(s)

None.

MINUTES ORANGE COUNTY FIRE AUTHORITY

Board of Directors Regular Meeting

September 24, 2015
5:30 P.M.

5. DISCUSSION

B. Start-Up Funds/Orange County Task Force on Drowning Prevention (F: 20.18)

Communications Director Sandy Cooney presented the staff report and introduced Director Murray who provided an update on recent meetings held by the Task Force.

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

1. Increase appropriations in the FY 2015/16 General Fund budget not to exceed \$25,000 for seed funding for the Orange County Drowning Prevention Task Force.
2. Direct staff, in collaboration with county agencies, to develop a plan for use of the funds for start-up expenses, to include market research and focus groups.
3. The release of this seed funding is contingent upon the commitment of contributions by other agencies.



Orange County Fire Authority
AGENDA STAFF REPORT

Board of Directors Meeting
September 24, 2015

Agenda Item No. 5B
Discussion Calendar

Start-Up Funds/Orange County Task Force on Drowning Prevention

Contact(s) for Further Information

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714.573.6801

Jim Ruane, Chief Financial Officer
OCFA Foundation

jimruane@ocfa.org

714.573.6304

Summary

This agenda item is submitted to request an appropriation not to exceed \$25,000 for start-up costs (including focus groups and market research) for the Orange County Task Force on Drowning Prevention

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

At its August 12, 2015, meeting, the Budget and Finance Committee continued the item to its next meeting and directed staff to provide additional information regarding the Task Force's intended use of the start-up funds.

At its regular September 9, 2015, meeting, the Budget and Finance Committee reviewed and unanimously recommended approval of this item.

RECOMMENDED ACTION(S)

1. Increase appropriations in the FY 2015/16 General Fund budget not to exceed \$25,000 for seed funding for the Orange County Drowning Prevention Task Force.
2. Direct staff, in collaboration with county agencies, to develop a plan for use of the funds for start-up expenses, to include market research and focus groups.
3. The release of this seed funding is contingent upon the commitment of contributions by other agencies.

Impact to Cities/County

None.

Fiscal Impact

Appropriations in the FY 2015/16 General Fund budget will be increased by an amount not to exceed \$25,000.

Background

The Orange County Drowning Prevention Task Force leadership has met since the August 12, 2015, Budget and Finance Committee meeting. Recently, the Committee received a report on its facilitated task force meeting of August 3, 2015, reviewed a draft goals and objectives framework, and evaluated a quote for expected costs to facilitate focus groups recommended by the Task Force.

The initial quote for the focus groups is \$116,000. This is an estimate of costs; a contract will go out to bid at the appropriate time. The quote includes costs for focus groups representing the top five population groups within Orange County: English, Spanish, Vietnamese, Korean, and Chinese. The quote also includes three demographic groups within each population. It still is undetermined to what extent other Orange County agencies will contribute to these costs.

Notably, the cost to implement public awareness is minimal by comparison as an average cost to treat a permanently injured drowning patient is estimated to be \$52,429 per year, according to the National Institutes of Health, May 2012.

An evaluation of the focus group results and market research will be performed through in-kind services utilizing graduate students from a local university. This will reduce costs and involve an academic institution in partnership with the Task Force.

A working group comprised of staff from the Orange County Health Care Agency, the Orange County Sheriff's Department, Newport Beach Lifeguards, City of Tustin, Blue Buoy Swim School, the Jasper Ray Foundation, and the OCFA has also met to begin development and implementation of the goals and objectives framework.

The proposed project to create a countywide integrated media campaign has a delivery date of spring 2016. In order to complete the proposed work schedule and meet the established deadlines, funds should be appropriated this month.

The Orange County Task Force on Drowning Prevention was created by OCFA leadership, with support from the OCFA Executive Committee, to identify and implement countywide methods and strategies to reduce drowning incidents and fatalities. The twenty-four member panel includes representatives of public health, public safety, local government, non-profit organizations, parents of drowning victims, and Olympic medal-winning swimmers.

The group is currently exploring ways to increase public awareness of drowning prevention that include: community and media outreach, consistent messaging in materials, and a unified approach on all countywide drowning prevention efforts. Establishing multiple demographic focus groups and market research has been identified as a first step. This funding supports that process.

Attachment(s)

None.

MINUTES ORANGE COUNTY FIRE AUTHORITY

Board of Directors Regular Meeting

**May 25, 2017
6:00 P.M.**

3. CONSENT CALENDAR

B. Orange County Drowning Prevention Task Force (F: 20.18)

On motion of Director Murray and second by Vice Chair Sachs, the Board of Directors voted unanimously by those present to approve a budget adjustment in the General Fund (121) increasing appropriations in the amount of \$25,000 for funding of the Orange County Drowning Prevention Task Force.



Orange County Fire Authority
AGENDA STAFF REPORT

Board of Directors Meeting
May 25, 2017

Agenda Item No. 3B
Consent Calendar

Orange County Drowning Prevention Task Force

Contact(s) for Further Information

Jeff Bowman, Fire Chief	jeffbowman@ocfa.org	714.573.6010
Jay Barkman, Legislative Analyst Legislative Services	jaybarkman@ocfa.org	714.573.6048

Summary

This agenda item is submitted to request an appropriation in the amount of \$25,000 for the Orange County Drowning Prevention Task Force.

Prior Board/Committee Action

Budget and Finance Committee Recommendation: *APPROVE*

In 2015, the OCFA Board approved a start-up contribution to the Task Force of \$25,000.

At its regular May 10, 2017, meeting, the Budget and Finance Committee reviewed and unanimously recommended approval of this item.

RECOMMENDED ACTION(S)

Approve a budget adjustment in the General Fund (121) increasing appropriations in the amount of \$25,000 for funding of the Orange County Drowning Prevention Task Force.

Impact to Cities/County

None.

Fiscal Impact

Appropriations in the FY 2016/17 General Fund budget will be increased by \$25,000.

Background

The Orange County Drowning Prevention Task Force was created in 2015 by OCFA and County leadership to identify and implement countywide methods and strategies to reduce drowning incidents and fatalities. The Task Force has grown to include representatives from public safety, local government, non-profit organizations, parents of drowning victims, and Olympic medal-winning swimmers.

In 2015, Orange County Health Care Agency (HCA) conducted focus groups to determine appropriate messages and means for delivering them to the community. In 2016, with approximately \$225,000 in funding from the County and Task Force partners, including \$25,000 from OCFA, the campaign targeted parents and caregivers of young children and adults over the age of 50 in both English and Spanish.

OCFA Fire Chief Jeff Bowman is Chair of the Task Force's Finance Committee, and is seeking a contribution again this year of \$25,000 to fund the 2017 media and outreach campaign. In addition to OCFA's contribution, a letter was recently mailed to each OCFA Director encouraging a donation of \$5,000 or more on behalf of their city. The attached report lists entities and amounts contributed in 2016.

Orange County Supervisor Todd Spitzer is Chair of the Task Force's Public Safety Outreach Committee, which is developing the 2017 media and outreach strategy. Funds will continue to be used for regional bus advertisements; however, this year's public outreach will emphasize digital and social media targeted at key populations.

[Attachment\(s\)](#)

2016 Drowning Prevention Campaign

“It Only Takes Seconds to Drown” 2016 Drowning Prevention Campaign October 2016

The Orange County Health Care Agency has implemented the 2016 drowning prevention campaign “It Only Takes seconds to Drown” on behalf of the Orange County Drowning Prevention Task Force (Task Force).

With approximately \$225,000 in funding from the County and Task Force partners the campaign targets parents and caregivers of young children and adults over 50 in both English and Spanish.



The campaign was successfully launched in May and a pre-July 4th holiday weekend press event was held on June 29, 2016. A second event took place prior to the Labor Day holiday weekend. Campaign targets and messages were initiated by the Task Force, market tested, and fully developed by Westbound Communications, under contract with the County. Media used includes bus advertisements, posters and standees, direct mail pieces to public pool operators, digital ads and radio spots.

Campaign Placements

Bus Advertisements

Approximately 230 Orange County Transit Authority buses display the campaign; creating an estimated **35.9 million** total impressions.

Phase I placement, running May 2 through October 16 includes:

- 4 Ultra Super Kings
- 50 Taillights
- 100 Interiors

Phase II placement, running July 11 through October 2 includes:

- 25 Headlight Displays
- 50 King Size Displays

Digital Advertising- Parents and Caregivers

Brief text driven banner ads will be posted on websites visited by parents and caregivers. Ads will run July through October creating an estimated **2.1 million** impressions.

Posters and Standees

Eighty (80) 6'x3' stand up banners (“standees”) were distributed to County buildings, swim schools and recreation centers. **Four hundred (400) posters** were distributed to community partners such as Head Start, Children’s Hospital and Task Force members.

Mass Mailing and Water-Watcher Tags

A mailing is in process of development for over **4,000 operators of public pools** regulated by Environmental Health Services. The mailing will include a letter, a campaign poster with zip ties so it can be affixed to a pool gate and also water watcher tags. In addition, with additional funding from Supervisor Todd Spitzer **20,000 water watcher** tags are being purchased for distribution to the public at all Orange County Fire Authority fire stations. Water watcher tags will also be supplied for outreach events, and included in the public pool operator mailing.

Radio Public Service (PSA) Announcements

The Health Care Agency and Orange County Fire Authority are developing 30 second and 60 second PSA's to be placed with local radio stations.

Campaign Finances

Expenses and Support

Total expenses (committed to date) are \$284,462 and include:

Campaign Development and All Placements	\$ 237,188
Standees and Posters	\$ 8,161
Mailing	\$ 20,442
Water Watcher Tags	\$ 18,671

A total of **\$225,700 was raised from partners and matching funding from the County**. The Health Care Agency has funded the gap of \$58,762, in addition to its commitment to provide \$100,350 in matching funds. Donations are as follows:

Buena Park	\$ 5,000
Dana Point	\$ 5,000
Huntington Beach	\$ 5,000
Irvine	\$ 25,000
Laguna Hills	\$ 5,000
Lake Forest	\$ 5,000
Mission Viejo	\$ 5,000
Newport Beach	\$ 5,000
Orange County Fire Authority	\$ 25,000
Seal Beach	\$ 5,000
Stanton Kiwanis	\$ 350
Tustin	\$ 5,000
Yorba Linda	<u>\$ 5,000</u>
Total donations to be	\$ 100,350
HCA Matching	\$ 100,350
Supervisor Todd Spitzer	\$ 25,000

Evaluation

Formative Research

Formative research was developed in order to set direction for the campaign. Circumstances around drowning were reviewed based on Orange County data (i.e. pools vs. other bodies of water, pool fence, etc.) to identify the target populations. Best practices and recommendations for prevention were also identified such as those from the Centers for Disease Control and Prevention and also the American Academy of Pediatrics. Messages were developed and tested with the target populations through four focus groups (two for parents and caregivers, two for adults aged 50 and older) and surveys.

Impact to Date

MEDIA	PLACEMENTS	IMPACT
Busses	Phase I placement, running May 2 through October 16 includes: <ul style="list-style-type: none">• 4 Ultra Super Kings• 50 Taillights• 100 Interiors Phase II placement, running July 11 through October 2 includes: <ul style="list-style-type: none">• 25 Headlight Displays• 50 King Size Displays	Approximately 35.9 million impressions
Digital Media	July 1 through October 31	Through 9/30: <ul style="list-style-type: none">• 2,130,538 impressions• 3,190 clicks• Click through rate is .15, which is above the industry standard of .08.
Social Media Facebook Ads	June 30 through October 31	Through 10/17: <ul style="list-style-type: none">• 25,136 people reached• 1183 clicks
Stand Up Banners	Onsite displays at 80 locations including swim schools, community centers, County buildings. Also used in OCFA outreach. Banners were offered to all Cities that donated to the campaign.	
Drowning Prevention Campaign Mailing	Mailing to 4,104 OC public pools operators, which included campaign info., a water watcher tag and laminated campaign poster with zip ties for poolside display	
Posters	400 posters distributed to community based organizations, clinics, Orange County Fire Authority, County programs.	
Radio spots	30 second ads to air 8/22-10/16; 116 spots	1,042,700 impressions

MINUTES ORANGE COUNTY FIRE AUTHORITY

Board of Directors Regular Meeting

**April 26, 2018
6:00 P.M.**

3. CONSENT CALENDAR

C. Orange County Drowning Prevention Task Force (F: 20.18)

Staff requested this item be pulled to defer to a future Board of Directors meeting.

On motion of Director Ta and second by Director Johnson, the Board of Directors voted unanimously by those present to defer this item to a future Board of Directors meeting.



Orange County Fire Authority
AGENDA STAFF REPORT

Board of Directors Meeting
April 26, 2018

Agenda Item No. 3C
Consent Calendar

Orange County Drowning Prevention Task Force

Contact(s) for Further Information

Brian Fennessy, Fire Chief	brianfennessy@ocfa.org	714.573.6010
Jay Barkman, Legislative Analyst Legislative Services	jaybarkman@ocfa.org	714.573.6048

Summary

This agenda item is submitted to request an appropriation of \$25,000 for the Orange County Drowning Prevention Task Force.

Prior Board/Committee Action:

Since 2015, the OCFA Board has annually approved a contribution to the Task Force of \$25,000.

RECOMMENDED ACTION(S)

Increase appropriations in the FY 2017/18 General Fund budget of \$25,000 for funding of the Orange County Drowning Prevention Task Force.

Impact to Cities/County

None.

Fiscal Impact

Appropriations in the FY 2017/18 General Fund budget will be increased exceed \$25,000 in the Operations PIO and Media Relations section.

Background

The Orange County Drowning Prevention Task Force was created in 2015 by OCFA and County leadership to identify and implement countywide methods and strategies to reduce drowning incidents and fatalities. The Task Force has grown to include representatives from public safety, local government, non-profit organizations, parents of drowning victims, and Olympic medal-winning swimmers.

In 2015, Orange County Health Care Agency (OCHCA) conducted focus groups to determine appropriate messages and means for delivering them to the community. In 2017, with approximately \$260,000 in funding from the County and Task Force partners, including \$25,000 from OCFA, the campaign targeted parents and caregivers of young children and adults over the age of 50 in both English and Spanish.

OCFA Director Al Murray (Tustin) is Chair of the Task Force's Finance Committee, and on behalf of the Task Force is seeking a contribution of \$25,000 from the OCFA to fund the 2018 media and outreach campaign. A letter will be forthcoming to each OCFA Director encouraging a donation of \$5,000 or more on behalf of their city. The attached Campaign Summary lists entities and amounts contributed in 2017.

Orange County Supervisor/OCFA Director Todd Spitzer is Chair of the Task Force's Public Safety Outreach Committee, which is developing the 2018 media and outreach strategy. At its April 24, 2018, meeting, the County will consider an item authorizing the OCHCA to accept contributions. The OCHCA manages the contract for media advertising that will continue to be used for regional bus advertisements; however, this year's public outreach will also emphasize digital and social media targeted at key populations.

Attachment(s)

2017 Campaign Summary

“It Only Takes Seconds to Drown” 2017 Drowning Prevention Campaign October 2017

The Orange County Health Care Agency has implemented the 2017 drowning prevention campaign “It Only Takes seconds to Drown” on behalf of the Orange County Drowning Prevention Task Force (Task Force).



The campaign built upon the success of the 2016 campaign and expanded to include Video Announcements. Also, new ads were created in Vietnamese. With approximately \$260,000 in funding from the County and Task Force partners the campaign targets parents and caregivers of young children and adults over 50 in English, Spanish and Vietnamese.

The 2017 campaign was successfully launched in May and a press event was held on June 1, 2017. A second event took place prior to the Labor Day holiday weekend. Campaign targets and messages were initiated by the Task Force, market tested, and fully developed by Westbound Communications, under contract with the County in order to develop the 2017 Campaign. The new public service announcements included elected officials (Supervisor Todd Spitzer, Supervisor Andrew Do and Supervisor Lisa Bartlett), Olympian Kaleigh Gilchrest and Julie Lopiccolo from the Jasper Ray Foundation and Task Force Vice Chair. Media used includes bus advertisements and digital ads.

Campaign Placements

Bus Advertisements

Approximately 140 Orange County Transit Authority buses display the campaign; creating an estimated **58 million** total impressions.

Phase I placement, running May 22 through September 10 includes:

- 49 Exterior Kings
- 25 Exterior Headlights

Phase II placement, running July 3 through September 10 includes:

- 6 Ultra Super Kings
- 42 Exterior Kings
- 25 Exterior Headlights

In 2016, an OCTA bus was wrapped with the campaign image and remained in circulation for this campaign period. In addition, an ambulance was wrapped with the campaign.

Digital Advertising

Brief video announcements were posted on through digital media sources such as CBS Facebook and email. Ads for the parents and caregivers campaign ran from May 23 through September 4 creating an estimated **2.1 million** impressions.

With additional funding, a second flight of these announcements was purchased with more ads targeting parents and caregivers. Also, Pandora ads were placed to reach adults 50 and older. These digital placements ran from July 1 through September 4 and resulted in an additional **3.6 million** impressions.

Campaign Finances

Expenses and Support

Total expenses (committed to date) are \$256,591 and include:

Campaign Development and All Placements	\$ 251,307
Additional Facebook Ads	\$ 400
Outreach materials	\$ 4,884

A total of **\$260,000** was raised from partners and matching funding from the County.

Donations are as follows:

Buena Park	\$10,000
Cypress	\$5,000
Dana Point –	\$5,000
Garden Grove	\$5,000
Huntington Beach	\$5,000
Irvine	\$25,000
Laguna Hills	\$5,000
Laguna Niguel	\$5,000
Lake Forest	\$5,000
Mission Viejo	\$5,000
Newport Beach	\$5,000
OC Professional Firefighters	\$5,000
Orange County Fire Authority	\$25,000
San Clemente	\$5,000
Seal Beach	\$5,000
Tustin	\$5,000
Yorba Linda	\$5,000

Evaluation

Formative Research

Formative research was developed in 2016 in order to set direction for the campaign. Circumstances around drowning were reviewed based on Orange County data (i.e. pools vs. other bodies of water, pool fence, etc.) to identify the target populations. Best practices and recommendations for prevention were also identified such as those from the Centers for Disease Control and Prevention and also the American Academy of Pediatrics. Messages were developed and tested with the target populations through four focus groups (two for parents and caregivers, two for adults aged 50 and older) and surveys. In 2017, additional focus groups were held in Spanish and Vietnamese to determine which images and phrasing resonated with the target communities.

Impact to Date

MEDIA	PLACEMENTS	IMPACT
Busses	Phase I placement, running May 22 through September 10 includes: <ul style="list-style-type: none">• 49 Exterior Kings• 25 Exterior Headlights Phase II placement, running July 3 through September 10 includes: <ul style="list-style-type: none">• 6 Ultra Super Kings• 42 Exterior Kings• 25 Exterior Headlights	Approximately 58 million impressions
Digital Media	May 22 through September 4	<ul style="list-style-type: none">• 7,398,665 impressions• 24,690 clicks
Social Media Facebook Ads	July 11 through September 4	<ul style="list-style-type: none">• 68,552 people reached

MINUTES ORANGE COUNTY FIRE AUTHORITY

Board of Directors Regular Meeting

**August 23, 2018
6:00 P.M.**

3. CONSENT CALENDAR (Agenda Item No. 3B was pulled for separate consideration)

A. Orange County Drowning Prevention Task Force (F: 20.18)

On motion of Director Murray and second by Director Davies, the Board of Directors voted by those present to increase appropriations in the FY 2018/19 General Fund budget not to exceed \$25,000 for funding of the Orange County Drowning Prevention Task Force.

Director Brown was absent for the vote.



Orange County Fire Authority

Board of Directors Meeting
August 23, 2018

Agenda Item No. 3A
Consent Calendar

Orange County Drowning Prevention Task Force

Contact(s) for Further Information

Brian Fennessy, Fire Chief

brianfennessy@ocfa.org

714.573.6010

Jay Barkman, Legislative Analyst
Legislative Services

jaybarkman@ocfa.org

714.573.6048

Summary

This agenda item is submitted to request an appropriation not to exceed \$25,000 for the Orange County Drowning Prevention Task Force.

Prior Board/Committee Action

Since 2015, the OCFA Board has approved annually a contribution to the Task Force of \$25,000.

RECOMMENDED ACTION(S)

Increase appropriations in the FY 2018/19 General Fund budget in the amount of \$25,000 for funding of the Orange County Drowning Prevention Task Force.

Impact to Cities/County

None.

Fiscal Impact

Appropriations in the FY 2018/19 General Fund budget will be increased by an amount of \$25,000.

Background

The Orange County Drowning Prevention Task Force was created in 2015 by the OCFA and County leadership to identify and implement countywide methods and strategies to reduce drowning incidents and fatalities. The Task Force has grown to include representatives from public safety, local government, non-profit organizations, parents of drowning victims, and Olympic medal-winning swimmers.

In 2015, Orange County Health Care Agency conducted focus groups to determine appropriate messages and means for delivering them to the community. In 2017, with approximately \$260,000 in funding from the County and Task Force partners, including \$25,000 from OCFA, the campaign targeted parents and caregivers of young children and adults over the age of 50 in both English and Spanish.

OCFA Director Al Murray is Chair of the Task Force's Finance Committee, and on behalf of the Task Force is seeking a contribution of \$25,000 to fund the 2018 media and outreach campaign. A letter to each OCFA Director will be sent to each member agency encouraging a donation of \$5,000 or more on behalf of their city. The attached campaign summary lists entities and amounts contributed in 2017.

Orange County Supervisor Todd Spitzer is Chair of the Task Force's Public Safety Outreach Committee, which developed the 2018 media and outreach strategy. The County of Orange has authorized the Health Care Agency to implement that strategy and to accept contributions from other agencies. The County is matching funds raised by the Task Force. The Health Care Agency manages the contract for media advertising that will continue to be used for regional bus advertisements; however, this year's public outreach has also emphasized digital and social media targeted at key populations.

Attachment(s)

2017 Campaign Summary

“It Only Takes Seconds to Drown” 2017 Drowning Prevention Campaign October 2017

The Orange County Health Care Agency has implemented the 2017 drowning prevention campaign “It Only Takes seconds to Drown” on behalf of the Orange County Drowning Prevention Task Force (Task Force).

The campaign built upon the success of the 2016 campaign and expanded to include Video Announcements. Also, new ads were created in Vietnamese. With approximately \$260,000 in funding from the County and Task Force partners the campaign targets parents and caregivers of young children and adults over 50 in English, Spanish and Vietnamese.



The 2017 campaign was successfully launched in May and a press event was held on June 1, 2017. A second event took place prior to the Labor Day holiday weekend. Campaign targets and messages were initiated by the Task Force, market tested, and fully developed by Westbound Communications, under contract with the County in order to develop the 2017 Campaign. The new public service announcements included elected officials (Supervisor Todd Spitzer, Supervisor Andrew Do and Supervisor Lisa Bartlett), Olympian Kaleigh Gilchrest and Julie Lopiccolo from the Jasper Ray Foundation and Task Force Vice Chair. Media used includes bus advertisements and digital ads.

Campaign Placements

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In 2016, an OCTA bus was wrapped with the campaign image and remained in circulation for this campaign period. In addition, an ambulance was wrapped with the campaign.

Digital Advertising

Brief video announcements were posted on through digital media sources such as CBS Facebook and email. Ads for the parents and caregivers campaign ran from May 23 through September 4 creating an estimated **2.1 million** impressions.

With additional funding, a second flight of these announcements was purchased with more ads targeting parents and caregivers. Also, Pandora ads were placed to reach adults 50 and older. These digital placements ran from July 1 through September 4 and resulted in an additional **3.6 million** impressions.

Campaign Finances

Expenses and Support

Total expenses (committed to date) are \$256,591 and include:

Campaign Development and All Placements	\$ 251,307
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Mission Viejo	\$5,000
Newport Beach	\$5,000
OC Professional Firefighters	\$5,000
Orange County Fire Authority	\$25,000
San Clemente	\$5,000
Seal Beach	\$5,000
Tustin	\$5,000
Yorba Linda	\$5,000

Evaluation

Formative Research

Formative research was developed in 2016 in order to set direction for the campaign. Circumstances around drowning were reviewed based on Orange County data (i.e. pools vs. other bodies of water, pool fence, etc.) to identify the target populations. Best practices and recommendations for prevention were also identified such as those from the Centers for Disease Control and Prevention and also the American Academy of Pediatrics. Messages were developed and tested with the target populations through four focus groups (two for parents and caregivers, two for adults aged 50 and older) and surveys. In 2017, additional focus groups were held in Spanish and Vietnamese to determine which images and phrasing resonated with the target communities.

Impact to Date

MEDIA	PLACEMENTS	IMPACT
Busses	Phase I placement, running May 22 through September 10 includes: <ul style="list-style-type: none">• 49 Exterior Kings• 25 Exterior Headlights Phase II placement, running July 3 through September 10 includes: <ul style="list-style-type: none">• 6 Ultra Super Kings• 42 Exterior Kings• 25 Exterior Headlights	Approximately 58 million impressions
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Orange County Fire Authority **AGENDA STAFF REPORT**

**Board of Directors Meeting
April 22, 2021**

**Agenda Item No. 3B
Discussion Calendar**

Quick Reaction Force (QRF) Pilot Program

Contact(s) for Further Information

Brian Fennessy, Fire Chief

brianfennessy@ocfa.org

714.573.6010

Summary

This item is submitted for approval of the 180-day Quick Reaction Force (QRF) Pilot Program in collaboration with Southern California Edison (SCE), Coulson Aviation (USA), Inc. (CAI), and the Orange County Fire Authority to enhance regional aerial wildland fire response. The regional QRF Pilot Program will operate in conjunction with Los Angeles County Fire Department (LACoFD) and Ventura County Fire Department (VCFD), which will be available 24 hours a day, for daytime and nighttime firefighting. It is anticipated that the program will commence on June 15, 2021.

Prior Board/Committee Action

Budget and Finance Committee reviewed and approved the recommended action at their April 14, 2021, Regular meeting by a 7-0 vote (Directors Muller and Bourne absent).

RECOMMENDED ACTION(S)

1. Approve the Funding Agreement with Southern California Edison in a form substantially consistent with the attachment and approved by legal counsel to accept funding in the amount of \$7,725,000 to fund the Quick Reaction Force Pilot Program for 150-days and an additional \$1,545,000 for a 30-day program extension. Funds will cover the cost of the daily standby lease for one CH-47 Helitanker, daily standby lease for one S-76 Aerial Supervision aircraft, Air Tactical Group Supervisors, and standby lease for one mobile retardant plant to enhance the effectiveness of aerial responses to wildland fires.
2. Approve and authorize the Purchasing Manager to execute the Public Aircraft Lease and Service Agreement with Coulson Aviation (USA), Inc. in a form substantially consistent with the attachment and approved by legal counsel utilizing the sole source procurement provision in the Purchasing Ordinance for the provision of aircraft and other operational related services in an amount not to exceed \$8,710,000.
3. Approve and authorize the Purchasing Manager to enter into new Professional Services Agreements with Perimeter Solutions in a form substantially consistent with the attachment and approved by legal counsel utilizing the sole source procurement provision in the Purchasing Ordinance for the provision of a mobile fire retardant plant and related services in an amount not to exceed \$1,490,000.
4. Approve and authorize the Purchasing Manager to enter into new Professional Services Agreements with the Air Tactical Group Supervisors (ATGS') in a form substantially consistent with the attachment and approved by legal counsel at annual amounts not to exceed \$250,000 each with an aggregate program spending cap not to exceed \$720,000.

5. Approve and authorize a FY 2020/21 General Fund (121) budget adjustment to recognize funding from SCE for a revenue increase of \$9,270,000 and to increase appropriations by the same amount.
6. Approve the updated Cost Reimbursement Rate schedule to include the CH-47 Helitanker and S-76 Helitanker hourly flight rates, and mobile fire retardant plant rates to be effective June 15, 2021.
7. Adopt an exemption from the California Environmental Quality Act (CEQA) pursuant to Title 14, California Code of Regulations, Section 15301 (Existing Facilities) and direct staff to file a Notice of Exemption.

Impact to Cities/County

The QRF services will enhance regional aerial wildland fire response.

Fiscal Impact

Authorization of the Budget Adjustment will increase revenues and expenditures by \$9,270,000 in the FY 2020/21 budget. Funding for QRF services will come in the form of SCE funds and ABH reimbursements from other fire agencies requesting QRF services.

Background

Wildland fire remains the most significant threat to life and property in California. A risk assessment conducted by the California Department of Forestry and Fire Protection (CAL FIRE) concluded that an estimated 11 million residents, or the equivalent of 1 in 4 Californians, live in areas considered to be at high risk of a wildfire. Given the devastating and destructive wildfires of recent years, Governor Gavin Newsom, as well as fire agencies and utility companies throughout the state, have emphasized that wildfire mitigation and suppression are a top priority.

The combined residential population of Orange, Los Angeles, and Ventura Counties exceeds one-third of the entire state of California. Wildland fire spread during extreme fire weather conditions has exceeded all historical models. Though each of the aforementioned counties maintains wildland fire aerial suppression programs built around the helicopter platform with the intent to suppress 95% of wildland fires to 10 acres or less, large destructive fires still occur. The ability to rapidly deploy more robust ground and aerial fire suppression resources is an immediate and imperative need. As a regional fire agency, the OCFA plays a key role in wildfire mitigation and suppression in Southern California.

Given this designation, the OCFA has been presented with the opportunity to partner with Southern California Edison (SCE), Coulson Aviation (USA) Inc. (CAI), Perimeter Solutions and the Counties of Los Angeles and Ventura, on a new Pilot Program known as the Quick Reaction Force (QRF). This program will provide Very Large Helitanker, Aerial Supervision aircraft, and mobile fire retardant plant services that will benefit Orange County and the residents and businesses within the SCE service territory. When a wildland fire exceeds the suppression effort mounted during initial attack, the QRF Pilot Program will rapidly deploy additional reinforcement aircraft. This will have a significant impact in minimizing large fire spread.

Quick Reaction Force (QRF)

A QRF is a combination of aerial firefighting resources preassembled and organized to work together as a specialized unit twenty-four hours a day. The ability of the QRF to safely drop fire retardant both night and day from Very Large Helitankers (VLHT) and Large Helitankers (LHT) is an unprecedented capability for the wildland fire community. The QRF is organized and dispatched as a complete aviation suppression package with everything it needs to operate at full

capacity without having to rely on logistical support from the incident organization. It is comprised of:

- Multiple 3,000-gallon, CH-47, Very Large Helitankers (VLHT)
- One 1,000-gallon, Sikorsky S-61 Helitanker
- One night-vision-equipped Sikorsky S-76 Aerial Supervision aircraft with qualified and experienced Air Tactical Group Supervisor (ATGS) or Helicopter Coordinator (HLCO)
- Multiple mobile helicopters re-fueling tenders
- Portable retardant mixing plant

Unique Benefits of a Regional QRF

- Improves water and retardant delivery rates - The ability to work multiple CH-47 VLHT and other helitanker aircraft together dramatically improves water and retardant delivery rates and will create a significant and dynamic perimeter control synergy. Each VLHT is capable of delivering 3,000 gallons of water and fire retardant in a single drop, and, made possible with the SMART Delivery System Controller technology, adjust the flow rates to fine tune water/retardant delivery. No other aircraft in the world has the night and day agility and overall capability of (Coulson) CH-47 VLHT.
- New capability to drop large amounts of fire retardant at night - The QRF program aircraft are equipped to safely apply retardant at night after daylight when fixed-wing airtankers have discontinued operations. Dropping large amounts of fire retardant at night under the direct supervision of the QRF aerial supervision coordinator is a completely new capability and is the future of aerial firefighting. The 2021 fire season is the opportunity to pilot fire-retardant application at night.
- Faster retardant delivery - Portable retardant hover-fill dip tank(s) will be mobilized when the QRF is dispatched. The closer the refill tank can be positioned to the fire, the faster the turnaround time of each VLHT and retardant dropping helitanker. This will dramatically increase gallons delivered per hour. The portable retardant hover-fill dip tanks are a very important element of the QRF agility. Long and time-consuming flights to and from a distant fixed-wing retardant base will not be necessary as a result of mobile fire retardant plant use.

The components of the QRF will be strategically located throughout the three partner counties with Orange County's resources based at the Joint Forces Training Base (JFTB) in Los Alamitos. The QRF will operate within the defined fire threat areas of the SCE service territory as illustrated in the map (Attachment 6). Pending Board approval, the QRF Pilot Program will operate 24/7 for up to 180-days and begin on June 15, 2021.

About Coulson Aviation Inc.

Coulson is an industry leader in aerial firefighting and continues to push the boundaries of innovation with the CH-47 Very Large Helitankers. These aircraft are capable of dropping up to 3,000 gallons of water or fire retardant in a single pass. By comparison, the OCFA Bell 412EP helicopters are capable of dropping up to 375-gallons. The VLHT is equipped with Coulson's proprietary Retardant Aerial Delivery System (RADS) tank. The SMART Delivery System Controller technology in these systems will allow for automated target drops for night vision goggle firefighting operations and the pilots will have the capability to adjust water/retardant flow rates based on speed and altitude, providing ground crews the same options as fixed wing air

tankers. The VLHT has other unique capabilities such as night-vision, IFR navigation and hover filling making it the largest and most capable helitanker in the world.

About Perimeter Solutions

Perimeter Solutions is the largest global producer of fire-fighting chemicals with a broad product offering across fire retardant and firefighting foam applications. They are a key supplier of wildland fire fighting products and services to the USDA Forest Service, CAL FIRE and other large fire management agencies across the world. Perimeter Solutions is the only provider of US Forest Service approved long-term fire retardant (Phos-Chek 259-F) for fixed tank helicopter operation. Perimeter Solutions is the only full-service solutions provider with a fire safety office, equipment, personnel, and available long term retardant materials in the Orange County region that can be deployed within 2-3 hours from initial call.

Project Funding

SCE has agreed to provide \$9,270,000 in an effort to increase the effectiveness of aerial response to wildland fires and will cover the fixed costs of the CH-47 and S-76 Aerial Supervision Aircraft, along with the standby lease of one mobile retardant plant and ATGS/HLCO for up to 180 days. Agencies requesting QRF services will cover the variable costs via ABH cost reimbursement.

The table below details the funding and estimated spending caps for the QRF Pilot Program:

Program Funding:			
Funding Source	Description		Total
Southern California Edison	180-day Program Contribution (applicable to fixed costs)		\$9,270,000
Total Funding Sources:			\$9,270,000
Program Spending Caps:			
Contractor	Resource	Detail	Spending Cap
Coulson Aviation Inc.	CH-47 Helitanker	Stand-by Lease: \$32,000 a day x 180-days (fixed-cost)	\$5,760,000
		Flight time: \$8,000 per hour x 100 hours (variable cost)	\$800,000
	S-76 Aerial Supervision Aircraft	Stand-by Lease: \$10,000 a day x 180-days (fixed-cost)	\$1,800,000
		Flight time: \$3,500 per hour x 100 hours (variable cost)	\$350,000
Perimeter Solutions	Mobile Retardant Plant	\$5,500 a day x 180-days (fixed-cost)	\$990,000
		Freight costs, overtime, water tender, etc. (variable cost)	\$500,000
ATGS/HLCO	Air Tactical Group Supervisors/Helicopter Coordinator	\$2,000 a day per ATGS x 180-days. Two ATGS's per day (fixed-cost)	\$720,000
Total Spending Cap:			\$10,920,000

Resources Available to Other Fire Agencies Upon Request

The CH-47 VLHT and S-76 Aerial Supervision Aircraft hourly flight rates, and the mobile retardant plan variable cost rates are being added to the equipment cost reimbursement rate schedule (Attachment 7). This will serve as the basis for OCFA to seek cost reimbursement for services requested by other fire service agencies. OCFA would be responsible for the flight-time charges for OCFA's own use of the CH-47 and S-76 Aerial Supervision Aircraft resource and own use of the mobile retardant plan related variable costs.

California Environment Quality Act (CEQA) Exemptions

CEQA's Class 1, Existing Facilities Exemption, applies to the operation, repair, maintenance, permitting, leasing, licensing or minor alteration of existing public or private facilities, structures or topographical features involving negligible or no expansion of an existing or former use. (14 Cal. Code Regs., tit. 14, § 15301.) The Joint Forces Training Base in Los Alamitos (JFTB) is home to existing aerial facilities and operations. The MOU would result in OCFA's temporary storage and operation of a CH-47 Very Large Helitanker, S-76 coordination helicopter, and mobile fire retardant plant at the JFTB for up to 180 days. The CH-47 Very Large Helitanker was also stored and operated out of the JFTB, and supported by ATGS, for these purposes in 2019 and 2020. Notably, the CH-47 and S-76 helicopters will be made available to over 15 other counties in the Southern California region; therefore, these helicopters could also be fighting fires in those other counties during this time. Based on all of the foregoing, the MOU calls for the operation of existing public and private facilities with no or negligible expansion of an existing use and the Class 1 Exemption therefore applies.

Staff recommends approval of the stated recommended actions in order to begin the 180-day program on June 15, 2021.

Attachment(s)

1. Quick Reaction Force (QRF) Pilot Program White Paper
2. Funding Agreement with Southern California Edison
3. Public Aircraft Lease and Service Agreement with Coulson Aviation (USA), Inc. and Sole Source Form
4. Agreement with Parameter Solutions and Sole Source Form
5. Agreement with ATGS'
6. Southern California Edison Service Territory Map
7. Proposed Cost Reimbursement Rates – Equipment



Quick Reaction Force (QRF) Pilot Program

The combined residential population of Los Angeles, Orange, and Ventura Counties exceeds one-third of the entire state of California. Wildland fire spread during extreme fire weather conditions has exceeded all historical models. The need for a more rapid and a significant increase of ground and aerial fire suppression resources is both immediate and imperative.

Each of the aforementioned counties have developed their own wildland fire aerial suppression programs around the helicopter platform, with a goal of suppressing 95% of wildland fires to 10 acres or less, still large destructive fires are occurring. When a wildland fire exceeds the suppression capabilities of the initial attack organization, additional aircraft are needed to reinforce the attack. It is here that a rapid response by a Quick Reaction Force or QRF can have a significant impact containing large fire growth.

Quick Reaction Force – QRF

A QRF is a combination of aerial firefighting resources preassembled and organized to work together as a specialized unit twenty-four hours a day. The ability of the QRF to safely drop fire retardant both night and day from Very Large Helitankers (VLHT) and Large Helitankers (LHT) is an unprecedented capability for the wildland fire community.

The QRF is organized and dispatched as a complete aviation suppression package with everything it needs to operate at full capacity without having to rely on logistical support from the incident organization. It is comprised of:

- Multiple 3000-gallon, CH-47D, Very Large Helitankers (VLHT) *
- One 1000-gallon, Sikorsky S-61 Helitanker
- One night-vision-equipped Sikorsky S-76 Aerial Supervision aircraft with qualified and experienced Air Tactical Group Supervisor (ATGS) or Helicopter Coordinator (HLCO).
- Multiple mobile helicopter re-fueling tenders.
- Multiple portable retardant mixing plant(s). **
- Multiple Helicopter Managers (HEMG).

Unique benefits of a Regional QRF

- The ability to work multiple CH-47D VLHT and other helitanker aircraft together dramatically improves water and retardant delivery rates and will create a significant and dynamic perimeter control synergy. Each VLHT is capable of delivering 3000 gallons of water and fire retardant in a single drop, and, made possible with the SMART Delivery System Controller technology, adjust the flow rates to fine tune water/retardant delivery. No other aircraft in the world has the night and day agility and overall capability of (Coulson) CH-47D VLHT and S61 helitankers.

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- The knockdown power of multiple water/retardant night dropping VLHT and other night capable helitankers working together is a game-changer and a capability that has NEVER before been available to local, state, or national wildland fire agencies.
- Southern California Local Government agency aviation programs generally rely upon water dropping helicopters. As a rotary wing element, the QRF aircraft have ability to seamlessly integrate into ongoing operations.
- Decades of experience demonstrate that water dropped from a helicopter is usually good for checking the fire spread for a short period of time, between 5 and 30 minutes, then closely followed up with hand crews constructing control lines and ultimately hose lays to mop-up for final control.
- The number of hand crews available throughout the state system has declined over the last several years by over fifty percent, and the majority of federal agency hotshot crews are not available during the most critical time of fire season in Southern California. As a result, there is often a significant delay before enough hand crews are in place to construct fire control lines where helicopter water drops have slowed fire spread. Therefore, the use of long-term retardant by VLHT and other helitankers during the day and at night is critically important for slowing or stopping the spread of fire for much longer periods of time than water drops are capable and until hand crews arrive.
- The capability to drop large amounts of fire retardant at night under the direct supervision of the QRF aerial supervision coordinator is a completely new capability.
 - The application of fire retardant during the initial attack, extended attack, and multi-operational period phases of a wildland fire has largely been the exclusive domain of the fixed-wing airtanker industry. Fixed-wing aircraft operate only during daylight hours from established retardant bases which are at varying distances from the fire and where the aircraft must return to refill.
 - The application of fire retardant at night after the daylight only fixed-wing airtankers have discontinued operations has not previously existed and is the future of aerial firefighting. The QRF program aircraft are equipped and capable to safely apply retardant at night. The 2021 fire season is the opportunity to pilot fire-retardant application at night.
 - The application of retardant at night is made safer and is enhanced by way of the assigned QRF aerial supervisor, a trained helicopter coordinator (HLCO) or air tactical group supervisor (ATGS), operating in a smaller helicopter above the fire. The HLCO/ATGS coordinates the VLHT's and other helitanker perimeter control drops in collaboration with ground-based commanders. Also, using basic off-the-shelf technology, the supervising helicopter can use infra-red tracking to detect gaps in the



retardant line that need to be filled. Once identified, the HLCO targets those areas using an onboard laser to guide the VLHT's and helitanker drops.

- In many ways, experience has demonstrated that aerial firefighting at night is less complex than during day operations. There are fewer aircraft to see and avoid, less distraction from excessive radio traffic, and fire conditions often improve suppression opportunities due to lower temperatures and higher humidity.
- Portable retardant hover-fill dip tanks will be mobilized when the QRF is dispatched.
 - The VLHT's and helitankers will load/reload retardant from pre-staged portable retardant hover-fill dip tanks that have been quickly and easily set up in close proximity to the fire.
 - The closer the refill tank can be positioned to the fire, the faster the turnaround time of each VLHT and retardant dropping helitanker. This will dramatically increase gallons delivered per hour. The portable retardant hover-fill dip tanks are a very important element of the QRF agility.
 - Long and time-consuming flights to and from a distant fixed-wing retardant base will not be necessary as a result of mobile retardant plant use.

*VLHT – Very Large Helitanker

- Night-vision capability, VFR navigation and hover filling make the (Coulson) CH-47D the largest and only NVG equipped and staffed helitankers in the world.
- Equipped with Coulson's proprietary Retardant Aerial Delivery System (RADS-L) tank which can drop up to 3000 gallons of water or fire-retardant on a single pass. Another unique feature is the SMART Delivery System Controller technology which allows for precision automated drops during night vision goggle firefighting operations.
- Capable of operating in excess of two hours before refueling. Rapid-refuel capable which allows QRF to deliver more water/retardant than having to shut down to refuel.
- Maximum airspeed is 160 knots (significantly faster than any other existing helitanker).

**Portable Retardant Tanks

- Sending a portable retardant hover-fill dip tank to the fire at the time of dispatch is a unique component of the QRF.



- Having the ability to rapidly position a tank at a strategic location close to the fire reduces VLHT “load and return” time (hover fill to retardant application) which will significantly increase retardant delivery, potentially by tens of thousands of gallons a day, for each aircraft, including at night!
- More efficient than retardant dropping fixed-wing airtankers that have much longer “dash” time as they must return to a fixed airfield or airport, land, refill, takeoff, and fly back to the fire. The only way to increase the rate or amount of retardant application is to order additional airtankers which creates a significant increase in cost. The reality is during high operational tempo fire activity additional airtankers are very hard to obtain due to very high demand.

This is not a capability or technology of the future; this can be safely accomplished now.

Pilot program funding has been approved with a start date of June 15, 2021. QRF resources will be interagency approved and available to support Federal, State & Local Government incidents throughout the Southern California Edison service area.

**FUNDING AGREEMENT BY AND BETWEEN THE ORANGE COUNTY FIRE
AUTHORITY AND SOUTHERN CALIFORNIA EDISON COMPANY**

This Funding Agreement (“Agreement”) is by and between THE ORANGE COUNTY FIRE AUTHORITY, a California Joint Powers Authority (“OCFA”) and SOUTHERN CALIFORNIA EDISON COMPANY, a California corporation (“SCE”), and is effective on the last date when both Parties sign this Agreement (the “Effective Date”). OCFA and SCE may be referred to herein individually as a “Party” and collectively as the “Parties.”

RECITALS

WHEREAS, due to extreme weather associated with climate change, Southern California has experienced longer and more severe wildfire seasons;

WHEREAS, to increase the effectiveness of aerial response to wildfires, OCFA intends to enter into one hundred and fifty (150) day lease agreements (with the option to extend each lease for an additional 30 days) with Coulson Aviation (“Coulson”) for a CH47 helitanker and an S76 coordination helicopter, and with Perimeter Solutions (“Perimeter”) for one mobile fire retardant plant with a twelve-hour supply of retardant (such leased assets together, the “Fire Suppression Assets”);

WHEREAS, OCFA has requested that SCE provide funding of that part of the fixed lease costs relating to stand-by time for the Fire Suppression Assets (with OCFA funding that part of the fixed lease cost relating to flight time) and SCE has determined that the use of the Fire Suppression Assets offers significant benefits for wildfire suppression, protecting lives and property, including mitigating against damage to SCE’s transmission and distribution system, and increasing firefighter safety;

WHEREAS, the Parties intend that in operating the Fire Suppression Assets, OCFA will prioritize fire suppression activities in and throughout SCE’s service territory, unless in the professional judgment of OCFA management to do so in any specific instance would not maximize the benefits described above or as otherwise directed by the appropriate governmental authorities; and

WHEREAS, the Parties desire to enter into an Agreement that sets forth the terms and conditions pursuant to which SCE will contribute funds to OCFA for (1) the fixed lease costs relating to helicopter stand-by time, daily stand-by rate for one mobile fire retardant plant, and (2) Air Tactical Group Supervisor (ATGS)/Helicopter Coordinator (HLCO) staffing (“Stand-by Costs”) only while OCFA agrees to fund any and all flight time and operational costs in the Coulson and Perimeter lease agreements.

NOW THEREFORE, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. Funding.

Within seven business days of the Effective Date, SCE will electronically transfer a payment in the amount of seven million seven hundred twenty-five thousand dollars (\$7,725,000) (the “Initial Funding Amount”) to OCFA. OCFA will use this payment exclusively to fund the Stand-by Costs, including but not limited to the stand by portion of the lease agreements with Coulson and Perimeter, which leases must begin on June 15, 2021 and last for 150 days (the “Lease Period”), unless SCE exercises its option to extend the Lease Period to 180 days pursuant to Section 2, or a different lease period is agreed to by the Parties in writing. Under this Agreement, OCFA shall fund the “flight time” and operational portions of the Coulson and Perimeter lease agreements, which include any and all costs required to operate the Fire Suppression Assets. The Parties acknowledge that time is of the essence in performing their obligations under this Agreement. If, for any reason, OCFA does not enter into the leases by June 15, 2021, or such other date agreed to by the Parties in writing, then OCFA shall return the entire payment to SCE. SCE shall not be entitled to any refund of the payment for the Stand-by Costs in the event OCFA receives reimbursement from the State, Federal Government, or any other entity for use of the Fire Suppression Assets. Any remainder of the Initial Funding Amount or the Extension Amount (defined in Section 2) following the expiration of the Lease Period will be applied to any unreimbursed OCFA flight time and will not be returned to SCE.

2. Option to Extend the Lease Period.

SCE shall have the option, in SCE’s sole discretion, to extend the Lease Period by thirty (30) days to a total of 180 days (“Extension Option”) by providing notice to OCFA on or before the one hundred and twentieth (120th) day of the Lease Period indicating that SCE will exercise the Extension Option. Within seven business days of the notice exercising the Extension Option, SCE will electronically transfer a payment in the amount of one million five hundred and forty-five thousand dollars (\$1,545,000) (the “Extension Amount”) to OCFA. OCFA will use the Extension Amount exclusively to fund the Stand-by Costs during the extended Lease Period.

3. Roles and Responsibilities.

SCE will communicate with OCFA concerning fire weather forecasts and share information in SCE’s possession relevant to the prepositioning or tasking of the Fire Suppression Assets; provided, SCE makes no representation or warranty as to the accuracy or completeness of such forecasts and information in connection with this Agreement. SCE understands and acknowledges that OCFA can and does rely on other sources of data, forecasts and information when making decisions concerning prepositioning or tasking of the Fire Suppression Assets, and that such decisions are made in the sole discretion of OCFA. SCE shall provide the Initial Funding Amount, and if applicable the Extension Amount, to defray the Stand-by Costs payable by OCFA to Coulson and Perimeter under the lease agreements, and for Air Tactical Group Supervisor (ATGS)/Helicopter Coordinator (HLCO) staffing.

Notwithstanding the foregoing, SCE shall have no role in directing the operation or use of the helicopters and shall not be a party to the lease agreements with Coulson and Perimeter. As between SCE and OCFA, OCFA is solely responsible for the safe and lawful operation and use of the Fire Suppression Assets, including all decisions regarding deployment, maintenance, basing and positioning, pilot readiness, and ground support, and OCFA shall be solely responsible for compliance with the terms and conditions of the lease and all payments thereunder.

4. Data Collection.

OCFA will provide the data and information that SCE requires to allow SCE to (1) evaluate the effectiveness of the Fire Suppression Assets in suppressing wildfires, protecting lives and property, and increasing firefighter safety, and (2) respond to information requests from, or make regulatory filings and reports to, the California Public Utilities Commission (“CPUC”) and other regulators or governmental departments or agencies. Such data shall include, but not be limited to, the following: (a) aircraft utilization rate (flight time conducting suppression missions vs. standby hours), (b) gallons of water or retardant dropped and number of drops per fire, (c) number and location of wildfires attacked, and (d) whether and to what extent the Fire Suppression Assets are utilized outside of SCE’s service territory. OCFA shall submit the foregoing data in a GIS shapefile to SCE on a monthly basis on the tenth (10th) day of each calendar month beginning on July 10, 2021 through the Lease Period and within five (5) days of SCE’s written request therefore at any other time during the Lease Period.

5. Indemnification.

To the maximum extent permitted by law, OCFA shall indemnify, defend, and hold harmless SCE, and its respective successors, assigns, affiliates, subsidiaries, parent companies, officers, directors, agents, and employees, from and against any and all expenses, claims, losses, damages, liabilities or actions in respect thereof (including reasonable attorneys’ fees and reasonably allocated cost of in-house counsel) to the extent arising from or related to the lease(s), or operation or use of the Fire Suppression Assets.

6. Authority to Contract.

Each Party represents and warrants that it has the authority to contract or otherwise commit to perform the obligations herein.

7. Relationship of the Parties.

Nothing in this Agreement is intended to, or shall be deemed to, establish any partnership or joint venture between the Parties, constitute any Party to be the agent of another Party, nor authorize any Party to make or enter into any commitments for or on behalf of another Party.

8. Public Announcements.

Neither Party may issue any press release regarding the Agreement unless (1) the press release is issued jointly by the Parties, or (2) prior to the release, the Party proposing to make the announcement furnishes the other Parties with a copy of the press release and obtains the other Parties' written approval; provided, however, that if such press release is required to comply with applicable laws, including the California Public Records Act and the Ralph M. Brown Act, legal proceedings, or the rules and regulations of any court or stock exchange having jurisdiction over a Party, then the Parties shall work in good faith to develop a mutually acceptable announcement.

9. Term and Survival.

This Agreement shall be effective as of the Effective Date through the date that all obligations of the Parties hereto with respect to this Agreement have been satisfied (the "Term"), except that the Parties shall continue to be bound by the provisions of this Agreement which by their nature survive such completion or termination, including Section 5 ("Indemnification").

10. Written Notices.

All notices, requests, demands, and determinations under the Agreement (other than routine operational communications), shall be in writing and shall be deemed duly given: (1) when delivered by hand, (2) one day after being given to an express courier with a reliable system for tracking delivery, (3) when sent by confirmed facsimile or electronic mail with a copy sent by another means specified in this Section, or (4) three days after the day of mailing, when mailed by United States mail, registered or certified mail, return receipt requested, postage prepaid, and as addressed as specified below:

If to OCFA, addressed to:

Brian Fennessy
Fire Chief
1 Fire Authority Road
Irvine, CA 92602

Fax: (714) 368-8800
Email: brianfennessy@ocfa.org

With a Copy to:

David Kendig
c/o Woodruff, Spradlin & Smart
555 Anton Boulevard, Suite 1200
Costa Mesa, CA 92626

Fax: (714) 415-1183

If to SCE, address to:

Don Daigler
Southern California Edison Company
2244 Walnut Grove Ave.
Rosemead, CA 91770

Email: Donald.Daigler@sce.com

Email: dkendig@wss-law.com

11. Assignment.

No Party shall assign this Agreement or any part or interest thereof, without the prior written consent of the other Parties, and any assignment without such consent shall be void and of no effect.

12. Governing Law.

This Agreement shall be interpreted, governed, and construed under the laws of the State of California as if executed and to be performed wholly within the State of California.

13. Entire Agreement.

This Agreement contains the entire agreement and understanding between and among the Parties and merges and supersedes all prior agreements, representations and discussions pertaining to the subject matter of this Agreement. This Agreement is intended to be a final expression of the agreement of the Parties and except to the extent expressly referenced herein, is an integrated agreement within the meaning of Section 1856 of the California Code of Civil Procedure (the Parole Evidence Rule). There are no contemporaneous separate written or oral agreements between the Parties in any way related to the subject matter of this Agreement. No subsequent agreement, waiver, modification, representation or promise with respect to the subject matter of the Agreement made by the Parties hereto, or by or to any employee, officer, agent or representative of any Party shall be of any effect unless it is in writing and executed by the Parties hereto.

14. Counterparts and Electronic Signatures.

This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which together shall be deemed to be one and the same instrument. Documents executed, scanned and transmitted electronically and electronic signatures shall be deemed original signatures for purposes of the Agreement and all matters related thereto, with such scanned and electronic signatures having the same legal effect as original signatures.

[Signatures on Following Page]

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their duly authorized representatives.

“OCFA”

ORANGE COUNTY FIRE AUTHORITY

Date:_____

By:_____

Brian Fennessy
Fire Chief

ATTEST:

Maria D. Huizar
Clerk of the Authority

“SCE”

**SOUTHERN CALIFORNIA EDISON
COMPANY**

Date:_____

By:_____

Name _____

Title _____

PUBLIC AIRCRAFT LEASE AND SERVICE AGREEMENT

THIS PUBLIC AIRCRAFT LEASE AND SERVICE AGREEMENT (“Public Aircraft Agreement”) is made this 22nd day of April 2021

BETWEEN:

COULSON AVIATION (USA) INC., a limited liability company organized under the laws of the State of Oregon (“CAI”); and

ORANGE COUNTY FIRE AUTHORITY, a joint powers agency created pursuant to the California Joint Exercise of Powers Act (Gov’t Code §§ 6500 *et seq.*) (“OCFA”).

WHEREAS:

- (A) OCFA wishes to lease the Aircraft and obtain services for operation of OCFA’s Governmental Functions, all as described in detail herein;
- (B) CAI wishes to lease and supply such Aircraft and services to OCFA and operate the Aircraft for OCFA in OCFA’s Governmental Functions, all as described in detail herein; and
- (C) The Aircraft shall be considered Public Aircraft when performing any of the operations contemplated by this Public Aircraft Agreement;

NOW, THEREFORE, in consideration of the mutual covenants herein contained, together with other good and valuable consideration, and intending to be legally bound hereby, the parties agree as follows:

1. DEFINITIONS.

1.1 In this Lease the following words and expressions have, except where the context otherwise requires, the meanings set forth below:

“The Aircraft” means the aircraft identified in Appendix 3 Compensation in Table 1 Aircraft;

“Aircraft Flight Hour Payment” means the rates per flight hour including fuel as identified in Appendix 3 Compensation.

“Crew” means a night vision goggles certified flight crew, and a full maintenance crew, to operate and maintain Aircraft, and a night vision goggles certified flight crew and a full maintenance crew;

“Commencement Date” means the earlier of the 15th June 2021 and the date upon which the FAA Public Aircraft Declaration is received by CAI and submitted to the FAA;

“Daily Rental” means the rates as identified in Appendix 3 Compensation which shall include in addition to leases of the Aircraft, an 10,000 USG fuel truck, 53 foot spares trailer and driver, and a mobile support base (Prevost Bus);

“Day Operations” means the provision of services from 6am to 6pm on a daily basis;

“Event of Default” shall have the meaning prescribed in clause 11.2;

“FAA” means the United States Federal Aviation Administration;

“FAA Public Aircraft Policy” means the policy of the FAA with regard to defining Public Aircraft contained in the FAA Notice of Policy Regarding Civil Aircraft Operators Providing Contract Support to Government Entities (Public Aircraft Operations) published on March 23, 2011 in the Federal Register, FAA Advisory Circular No. 00-1B, and such additional or successor documents regarding FAA’s policy regarding Public Aircraft;

“Flight Hour Payment” means Aircraft Flight Hour Payments due.

“Governmental Functions” means as such term is defined in Section 40125 of Title 49 of the United States Code, an activity undertaken by a government, such as intelligence missions, firefighting, or biological or geological resource management;

“Insurance Schedule” means those insurance terms and amounts described in Appendix 1 attached hereto.

“Night Operations” means the provision of services from 6pm to 6am on a daily basis;

“Owner(s)” means the registered and beneficial owner of each Aircraft.

“Public Aircraft” shall have the meaning as such term is defined in Section 40102(a)(41) of Title 49 of the United States Code as aircraft exclusively leased for at least 90 continuous days by the government of a State, the District of Columbia, or a territory or possession of the United States or a political subdivision of one of these governments, except as provided in Section 40125(b) of Title 49 of the United States Code, which excludes aircraft used for commercial purposes or to carry an individual other than a crewmember or a qualified non-crewmember.

“Public Aircraft Declaration” means a written declaration (from the contracting officer of OCFA or higher-level official) of public aircraft status for all flights of the Aircraft under this Public Aircraft Agreement substantially in the form of Appendix 2 attached hereto;

“Qualified Non-Crewmember” means an individual, other than a member of the crew, aboard an aircraft whose presence is required to perform, or is associated with the performance of, a governmental function as described in Section 40125 of Title 49 of the United States Code.

“Taxes” means any taxes, levies, imposts, duties, charges, fees, deductions, withholdings, restrictions or conditions now or hereafter imposed by any governmental or taxing authority;

“Term” means a period of one hundred fifty (150) calendar days from the Commencement Date, except as may be extended at the sole discretion of OCFA for an additional thirty (30) days (“Extension Option”). To exercise its Extension Option, OCFA must provide written notice to CAI on or before the one hundred and thirty fifth (135th) day of the Term.

“Total Daily Rental Payment” means the total daily standby cost for all Aircraft and equipment as identified in Appendix 3 Compensation, Section 1.2.

2. AGREEMENT TO LEASE

Subject to, and in accordance with, the terms and conditions of this Public Aircraft Agreement, CAI agrees to lease the Aircraft to OCFA and OCFA agrees to take the Aircraft on lease from CAI for the Term.

3. LEASE AND DELIVERY

3.1 Delivery and Acceptance

OCFA has determined that the Aircraft is suitable for OCFA’s intended use, and OCFA has inspected the same and accepts the same for purposes of this Public Aircraft Agreement.

3.2 OCFA SELECTION OF AIRCRAFT

OCFA REPRESENTS AND WARRANTS TO CAI THAT OCFA HAS USED ITS OWN JUDGMENT IN SELECTING THE AIRCRAFT AND HAS DONE SO BASED ON THEIR SIZE, DESIGN, TYPE AND PERFORMANCE AND THAT OCFA HAS NOT RELIED ON ANY ADVICE OF CAI IN MAKING SUCH SELECTION.

3.3 Title

Title to the Aircraft will be and will at all times remain vested and registered in Owners. OCFA will have no right, title or interest in the Aircraft except as provided in this Public Aircraft Agreement. OCFA will not assert any lien or encumbrance against the Aircraft, nor permit any other party, claiming by through, on behalf of, or because of any action of OCFA to do so.

3.3 Term

The Aircraft shall be exclusively leased to OCFA from the execution of this Public Aircraft Agreement to the end of the Term, unless earlier terminated as provided herein.

4. PUBLIC AIRCRAFT

4.1 Status of Operations as Public Aircraft Operations

The Aircraft shall be operated under this Public Aircraft Agreement as Public Aircraft. The Aircraft shall only be used during the Term for Governmental Functions and all persons carried on board the Aircraft shall be either a crewmember or a Qualified Non-Crewmember.

4.2 Public Aircraft Determination

OCFA shall provide CAI with the Public Aircraft Declaration and otherwise cooperate with CAI in providing any additional documentation or declarations as may be requested by the FAA or such other government agency whether Federal or State with jurisdiction over the operations contemplated in this Public Aircraft Agreement. Upon receipt of the Public Aircraft Declaration signed by OCFA, CAI shall, in advance of any operation of any flight under this Public Aircraft Agreement, notify the FAA Flight Standards District Office having oversight of the operations under this Public Aircraft Agreement that it has contracted with OCFA to conduct eligible public aircraft operations, and submit the Public Aircraft Declaration. Notwithstanding any other provision herein, CAI shall not and shall not be required to perform any operations under this Public Aircraft Agreement prior to receipt by CAI of the Public Aircraft Declaration and submission of the same to the FAA.

5. CREW AND PILOT REQUIREMENTS

5.1 Crew Operation

The Aircraft will be exclusively operated and maintained by the Crew arranged and supplied by CAI. OCFA shall provide ground crews for remote operations of the Aircraft.

5.2 Pilot Requirements

CAI shall provide two (2) pilots and one (1) Flight Engineer for operation by the Aircraft during Day Operations, and two (2) pilots and one (1) Flight Engineer for the Aircraft during Night Operations. All pilots for Day Operations shall be United States Forest Service or CAL FIRE carded pilots.

All pilots for Night Operations shall be FAA certified for Night Vision Goggles flying and United States Forest Service or CAL FIRE carded pilots.

5.3 Mechanic Requirements

CAI shall provide four (4) mechanics for operation by the Aircraft during Day Operations and four (4) mechanics for operations of the Aircraft during Night Operations.

5.4 Ground Crew Requirements

CAI shall provide sufficient ground crew to drive and deploy the mobile support base (Prevost Bus). CAI shall provide ground crew to operate the fuel truck and spares trailer for the aircraft during both Day and Night Operations.

6. SCOPE OF WORK AND FLIGHTS

6.1 Flight Missions

Operations of the Aircraft shall be available for both Day and Night Operations. All operations shall be conducted in support of and as part of OCFA's Governmental Functions

related to firefighting, and shall be in accordance with operating rules applicable to all aircraft in the National Airspace System. Notwithstanding any other provision herein, CAI provided pilots shall exercise fully authority as pilot-in-command over each flight and shall have no obligation to perform any mission on behalf of OCFA, which, in the sole discretion of the CAI provided pilots, is beyond the scope of such pilots' abilities, certification, or authorization; or would unreasonably endanger such pilot or the Aircraft; or would be in contravention of any applicable law or any flight operation protocol. No such action of any pilot provided by CAI shall create or support any liability of CAI for loss, injury, damage or delay to OCFA.

6.2 Aircraft Maintenance and Airworthiness

The Aircraft shall be maintained exclusively by the mechanics provided by CAI and shall be maintained in conformance with each Aircraft's FAA approved maintenance manual. OCFA will not make or authorize any improvement, change, addition or alteration to either Aircraft without the express consent and agreement of CAI. All repairs, parts, replacements, mechanisms and devices added to the Aircraft during the Term shall immediately, without further act, become part of the Aircraft and subject to the ownership of Owners free and clear of any lien, encumbrance, or interest of OCFA or any party, claiming by through, on behalf of, or because of any action of OCFA.

6.3 Base of Operations

OCFA will provide storage and other facilities as the base of operation at Los Alamitos Joint Forces Training Base in Orange County, sufficient for purposes of the scope of work contemplated by this Public Aircraft Agreement and shall provide CAI with access and permissions at such base of operation for the performance of the contemplated scope of work.

7. RENTAL PAYMENTS AND EXPENSES

7.1 Rental Payments

CAI shall invoice OCFA for Total Daily Rental Payment on a weekly basis, which shall begin accruing on the Commencement Date and continue through the end of the Term.

OCFA shall pay the invoice (in full and without any deduction or withholding in respect of set-off, counterclaim, duties, taxes or other charges) within fourteen (14) days of receipt of invoice via ACH as follows:

Coulson Aviation (USA) Inc
Wells Fargo Bank, 1900 Southwest 5th Avenue, Portland, Oregon 97201
Routing Number: 123006800
Account Number: 0503999583

7.2 Operating Expenses

CAI shall invoice OCFA for Flight Hour Payments on a weekly basis.

OCFA shall pay the invoice (in full and without any deduction or withholding in respect of set-off, counterclaim, duties, taxes or other charges) within fourteen (14) of receipt of invoice via ACH as follows:

Coulson Aviation (USA) Inc
Wells Fargo Bank, 1900 Southwest 5th Avenue, Portland, Oregon 97201
Routing Number: 123006800
Account Number: 0503999583

7.3 Late Payments

Any late payment shall bear per diem interest from the due date, until the date paid at an annual rate of 10%. Payment of interest shall not excuse or cure any default.

7.4 Taxes

All payments, including specifically the Rental Payments made by OCFA hereunder, shall be made free and clear of, and without deduction for Taxes. OCFA shall be solely responsible for the payment of any Taxes imposed on the lease and services provided under this Public Aircraft Agreement. OCFA shall indemnify and hold harmless CAI from and against all taxes payable by them at any time in respect of this Public Aircraft Agreement in respect of any transaction contemplated by this Public Aircraft Agreement; provided that in no event shall OCFA be responsible for Taxes that are imposed on the net income, profit, gains, capital or net worth of CAI, or Taxes arising out of or solely attributable to the fraud, willful misconduct, or reckless disregard (with knowledge of the probable consequences) of CAI.

8. INSURANCE, INDEMNIFICATION, AND WAIVER

8.1 Insurance

(a) CAI shall maintain at all times, naming OCFA and the Owner(s) as additional insureds, during the Term (i) public liability insurance (including, but not limited to, aviation liability) against liability to third parties, including passengers and crew on the Aircraft, for personal injury and death and damage to property for a minimum amount and terms set out in the Insurance Schedule for each and every occurrence, and (ii) appropriate insurance against loss of, or damage to, the Aircraft hull for an amount reflecting reasonable replacement value of the Aircraft as provided in the Insurance Schedule.

(b) Each party shall be responsible for providing workers' compensation insurance and unemployment insurance for its employees and crew members provided by it for performance of this Public Aircraft Agreement as required by applicable laws

8.2 Indemnification

(a) OCFA agrees to indemnify, protect, save, defend and keep harmless CAI and CAI's directors, shareholders, members, beneficiaries, officers, employees, agents, attorneys-in-fact, lawyers, affiliates, successors and any permitted assigns (collectively, the "indemnified Parties") on, a net after-tax basis, from and against any and all liabilities, obligations, losses, damages, penalties, claims, actions, suits, demands, costs, expenses and disbursements (including, without limitation, reasonable legal fees and expenses) of any kind and nature whatsoever (collectively, the "Claims"), which may be imposed on, incurred by, or asserted against, any of CAI's Indemnified Parties, whether or not any of CAI's Indemnified Parties shall also be indemnified as to any such matters by any other

person, party or entity of any kind whatsoever, in any way relating to or arising out of any breach, action, inaction, misrepresentation, or direction by OCFA related to the performance or support of the operations contemplated herein that results in any Claim(s) against one of CAI's indemnified Parties; provided that OCFA shall have no obligation to indemnify any of CAI's Indemnified Party in respect of any Claims to the extent that such Claim is suffered or incurred as a direct consequence of the fraud, willful misconduct or reckless disregard of such Indemnified Party. Notwithstanding anything to the contrary contained in the foregoing, any other section of this Public Aircraft Agreement or otherwise, the indemnification agreements, obligations and liabilities of any kind whatsoever of such party set forth or provided in this Section 8.2 Shall survive the expiration or termination of this Public Aircraft Agreement for any reason whatsoever.

(b) CAI agrees to indemnify, protect, save, defend and keep harmless OCFA and OCFA's Indemnified Parties on, a net after-tax basis, from and against any and all Claims, which may be imposed on, incurred by, or asserted against, any of OCFA's Indemnified Parties, whether or not any of OCFA's indemnified Parties shall also be indemnified as to any such matters by any other person, party or entity of any kind whatsoever, in any way relating to or arising out of any breach, action, inaction, misrepresentation, or direction by CAI related to the performance or support of the operations contemplated herein that results in any Claim(s) against one of OCFA's Indemnified Party; provided that CAI shall have no obligation to indemnify any of OCFA's Indemnified Party in respect of any Claims to the extent that such Claim is suffered or incurred as a direct consequence of the fraud, willful misconduct or reckless disregard of such Indemnified Party. Notwithstanding anything to the contrary contained in the foregoing, any other section of this Public Aircraft Agreement or otherwise, the indemnification agreements, obligations and liabilities of any kind whatsoever of such party set forth or provided in this Section 8.2 shall survive the expiration or termination of this Public Aircraft Agreement for any reason whatsoever.

9. MUTUAL REPRESENTATIONS

CAI and OCFA represent to each other:

- (i) The execution, delivery and performance of this Public Aircraft Agreement has been duly authorized by all necessary corporate or government action of such party and do not require the approval or consent of or notice to any trustee or holders of any indebtedness or obligations of such party (except as has already been obtained);
- (ii) This Public Aircraft Agreement has been duly executed and delivered by an officer of such party authorized to execute and deliver such documents on behalf of such party; and
- (iii) This Public Aircraft Agreement and covenants of such party contained herein and therein constitute or will, upon execution, constitute legal, valid and binding obligations of such party, enforceable against such party in accordance with its terms subject to applicable bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium and similar laws affecting creditors' rights generally and by the application of equitable principles by courts of competent jurisdiction, sitting at law or in equity.

10. NOTIFICATION

Any notice given by one party to the other in connection with this Agreement shall be in writing and shall be sent by email, telefax, courier, overnight delivery, certified mail, to the addresses listed below or to such other addresses as either party may specify to the other in writing from time to time:

<p>If to OCFA, addressed to:</p> <p>Brian Fennessy Fire Chief 1 Fire Authority Road Irvine, CA 92602</p> <p>Fax: (714) 368-8800 Email: brianfennessy@ocfa.org</p> <p>With a Copy to:</p> <p>David Kendig c/o Woodruff, Spradlin & Smart 555 Anton Boulevard, Suite 1200 Costa Mesa, CA 92626</p> <p>Fax: (714) 415-1183 Email: dkendig@wss-law.com</p>	<p>If to CAI, address to:</p> <p>Wayne Coulson President & CEO 4890 Cherry Creek Road Port Alberni, BC Canada V9Y 8E9</p> <p>Fax: (250) 723-7766 Email: wayne.coulson@coulsongroup.com</p>
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Notices shall be deemed effective when delivered or when proof of delivery is obtained (in the case of email, when the sender receives a read receipt from the addressee), or if earlier and whether or not received, three (3) days after such notice is deposited in the United States mail postage pre-paid as certified mail to the party as set forth above.

11. TERMINATION AND DEFAULT

11.1 Default

The following shall constitute an Event of Default:

- (i) a failure to make any payment when due hereunder within three (3) calendar days of when such payment is due;
- (ii) party's admission in writing of inability to pay its debts generally as they come due or a general assignment for the benefit of its creditors, or admission of insolvency;
- (iii) any declaration, representation, warranty or statement made or deemed to be made by a party in connection with this Public Aircraft Agreement is or proves to have been incorrect when made or becomes incorrect during the Term; or
- (iv) any material breach by a party of its obligations or performance under this Public Aircraft Agreement.

11.2 Remedies

In an Event of Default, the non-defaulting party may immediately terminate this Public Aircraft Agreement upon sending notification to the other party, and/or seek any and all such remedies and rights as may be available to such party at law or equity.

12. MISCELLANEOUS

12.1 Binding Effect

This Public Aircraft Agreement shall be binding upon and shall inure to the benefit of the parties and their respective heirs, executors, administrators, successors, legal representatives and assigns provided that this provision shall not be construed as permitting assignment or substitution except as otherwise provided herein.

12.2 Execution

Delivery of an executed counterpart of a signature page of this Agreement by email or any other digital or electronic means shall be effective as delivery of a manually executed counterpart of this Public Aircraft Agreement.

12.3 Severability

In the event that any condition, covenant or other provision herein contained is held to be invalid or void by any court of competent jurisdiction, the same shall be deemed severable from the remainder of this Lease and shall in no way affect any other covenant or condition herein contained. If such condition, covenant or other provision shall be deemed invalid due to its scope or breadth, such provision shall be deemed valid to the extent of the scope or breadth permitted by law.

12.4 Clauses, Appendices And Schedules

References in this Public Aircraft Agreement to clauses, appendices, or schedules are, unless otherwise specified, references to clauses of and appendices and schedules to this Public Aircraft Agreement and together the clauses, appendices and schedules shall together constitute this Public Aircraft Agreement.

12.5 Assignment

No assignment, transfer or charge may be made by any party of all or any of its rights in respect of this Public Aircraft Agreement without the prior written consent of the other.

12.6 GOVERNING LAW

THIS PUBLIC AIRCRAFT AGREEMENT SHALL, IN ALL RESPECTS, INCLUDING ALL MATTERS OF CONSTRUCTION, VALIDITY AND PERFORMANCE, BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF CALIFORNIA APPLICABLE TO CONTRACTS ENTERED INTO IN THE STATE OF CALIFORNIA BY RESIDENTS OF SUCH STATE AND TO BE PERFORMED ENTIRELY WITHIN SUCH STATE. LEGAL ACTIONS CONCERNING ANY DISPUTE, CLAIM OR MATTER ARISING OUT OF OR IN RELATION TO THIS PUBLIC AIRCRAFT AGREEMENT SHALL BE INSTITUTED IN THE SUPERIOR COURT OF THE COUNTY OF ORANGE, STATE OF

CALIFORNIA, OR ANY OTHER APPROPRIATE COURT IN SUCH COUNTY, AND
CAI COVENANTS AND AGREES TO SUBMIT TO THE PERSONAL JURISDICTION
OF SUCH COURT IN THE EVENT OF SUCH ACTION.

IN WITNESS WHEREOF, CAI and OCFA have each caused this Public Aircraft Agreement to
be duly executed and delivered by each of CAI and OCFA on the date first above written.

COULSON AVIATION (USA) INC.



Name: Wayne Coulson
Title: President and CEO

ORANGE COUNTY FIRE AUTHORITY

Name:
Title:

Insurance Schedule

Appendix 1

[on OCFA letterhead]

[insert date]

COULSON AVIATION (USA) INC.

Attn:

Re: Public Aircraft Declaration

Dear Mr. _____:

As you know, the **ORANGE COUNTY FIRE AUTHORITY (OCFA)**, a joint powers agency created pursuant to the California Joint Exercise of Powers Act (Gov't Code §§ 6500 et seq.) and comprised of 24 member agencies, each of which are a political subdivision of the State of California, entered into a contract (Public Aircraft Agreement) dated September 24, 2020 with **COULSON AVIATION (USA) INC. (CAI)** under which CAI will exclusively lease the [*describe aircraft*] to OCFA and provide the exclusive services of such aircraft for a governmental function such as intelligence missions, firefighting, or biological or geological resource management of OCFA during the term of such Public Aircraft Agreement, which is ninety (90) calendar days. We hereby declare that under Title 49 of the United States Code and in accordance with FAA Notice of Policy Regarding Civil Aircraft Operators Providing Contract Support to Government Entities (Public Aircraft Operations) published on March 23, 2011 in the Federal Register, and FAA Advisory Circular No. 00-1B, the governmental functions and the operations contemplated by the Public Aircraft Agreement qualify as Public Aircraft Operations (PAO). As such, we acknowledge that we have to provide this declaration to that effect, which CAI in turn shall provide to the FAA, prior to commencement of operations under the Public Aircraft Agreement. Below is information in support of this declaration, which is intended to apply to all flights operated by CAI pursuant to the Public Aircraft Agreement.

Name of civil operator (the contracted operator): Coulson Aviation (USA) Inc.**Aircraft type(s) to be used for the PAO:** [*describe aircraft*]**Name of aircraft owner(s):** [*reference registered owner of Aircraft*]**Aircraft registration number(s):** [*registration marks*]**Date of contract:****Date of proposed first flight as a PAO:****Date contract terminates:****Name of the government entity declaring public aircraft status (the government entity contracting for aircraft services):** ORANGE COUNTY FIRE AUTHORITY**Name, title, and contact information for the government official making the declaration of PAO status:**

Nature of operations (include enough detail to demonstrate that the flights are for a governmental function under the statute): The Aircraft will be dedicated exclusively during the 90-day term of the Public Aircraft Agreement to providing intelligence missions, firefighting, biological or geological resource management within the boundaries of the Orange County Fire Authority and Southern California Edison service territory.

Should there be any questions or if additional information is needed, please feel free to contact me.

Sincerely,

[insert signatory and title]

Compensation

1. Daily Rental: the following are Aircraft, equipment and associated rates, are provided by CAI to OCFA for the duration of the Public Aircraft Agreement.

- 1.1 Aircraft Daily Rental Rate

- I. One 1) CH-47D Very Large Helitanker (VLHT) & support (fuel truck, bus, etc.)
 - a) Daily standby rate (24-hours): \$32,000 USD
- II. One (1) S76 NVG capable helicopter coordinator platform & support (fuel, etc.)
 - a) Daily standby rate (24-hours): \$10,000 USD

- 1.2 Total Daily Rental Payment: The Totally Daily Rental Payment for the Term of the Public Aircraft Agreement is \$42,000 USD per day. The Total Daily Rental Payment includes all Aircraft Daily Rental Rates as identified in section 1.1.

- 2 Aircraft Flight Hour Payment: the total cost per hour for Aircraft Flight Hour Payment is
 - I. For the CH-47D \$8,000 per hour, (Agency Responsibility). The cost of which includes fuel.
 - II. For the S76 NVG \$3,500 per hour, (Agency Responsibility). The cost of which includes fuel.

Table 1 Aircraft

Aircraft Make & Model	FAA Registration Number	Manufacture Number	Rate with Pilot	Standby Rate
Boeing CH-47D	N42CU	91-00270	\$8,000	\$32,000
Sikorsky S-76	N76CG	760355	\$3,500	\$10,000

OCFA Sole Source Request Form

The Purchasing Ordinance of the Orange County Fire Authority requires competitive bids and proposals for service and commodity contracts. A sole source is defined as 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. The using department requesting a sole source shall provide written clear and convincing evidence to support a sole source determination, meaning that only one source exists to fulfill the requirements. This form is to be submitted with the purchase requisition to Purchasing with any sole source requests.

SECTION I - INSTRUCTIONS

1. Written justification on this form will be completed by the requesting department and submitted with the purchase requisition.
2. The request must be approved by the section manager and assistant chief prior to submitting the request to the purchasing manager.
3. All sole source forms must be submitted to the Purchasing Manager for approval. Based on the new ordinance the Fire Chief is not required to approve the sole source form. The sole source request may be submitted to Assistant Chief of Business Services by the Purchasing Manager for concurrence as required.
4. All sole source contracts exceeding \$50,000 annually require Executive Committee approval. In this case, the sole source request form must be submitted to the Executive Committee as an attachment to the staff report.
5. The approved sole source justification form will be included in the contract file.

SECTION II – REQUEST INFORMATION

Department/Section: Special Operations	Requested By: Vincent Carpino	Date: 4/7/2021
Recommended Vendor: Coulson Aviation (USA) Inc.	Vendor Contact: Curtis Bruner	Vendor's E-mail Address: curtis.bruner@coulsonaircrane.com
Vendor Address: 610 SW Alder Street, Suite 910, Portland, Oregon 97205		Vendor's Telephone #: (250) 724-7664
Type of Contract: <input checked="" type="checkbox"/> One-time <input type="checkbox"/> Multi-Year <input type="checkbox"/> Renewal <input type="checkbox"/> Amendment <input type="checkbox"/> Increase	Contract Term (Dates): June 15, 2021 - December 12, 2021	Contract Amount: \$8,710,000
If the contract type is a Renewal, Amendment or Increase, please provide previous contract information with this request (PO, BO, previous approval date, Chief approval or EC approval, and dollar amount).		Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

SECTION III – JUSTIFICATION

1. Provide a detailed description of the product or service requested. Describe what it is. Attach additional sheet if necessary.

Coulson Aviation (USA) Inc. (CAI) provides Night Aerial Firefighting Performance-Based services which utilize state-of-the-art technology in multiple types of firefighting aircraft that will be utilized in the multi-county Quick Reaction Force (QRF) program. The program fills the void left when fixed-wing air tankers retire for the night. The QRF aircraft are able to drop water or fire retardant at night.

2. Please state why the recommended vendor is the only one capable of providing the required services and/or commodities. Provide a summary of findings (research and analysis) including any supporting documentation which validates your recommendation (e.g., attach a manufacturer's letter verifying patented design and direct sale with no distributors) and demonstrates the sole source nature of this request. Attach additional sheet if necessary.

Coulson is the only commercial NVG Helitanker company with aircraft equipped to hover fill from open water sources and portable dip tanks at night. Coulson also possesses a sufficient number of aircraft and experienced pilots to form the QRF and operate as one cohesive package throughout the counties of Orange, Los Angeles and Ventura. Coulson will

SECTION III – JUSTIFICATION (continued)

provide two CH-47D Very Large Helitankers, one Sikorsky S-61 Helitanker, and one night-vision equipped Sikorsky S-76 Aerial Supervision aircraft for the regional QRF program. One CH-47D and the S-76 will be based in Orange County; all aircraft will respond as one unit when requested. See attached sole source letter.

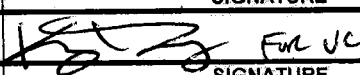
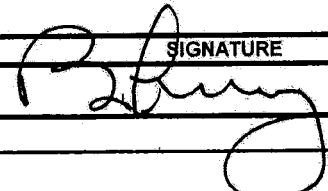
- 3. Pricing - What efforts were made to get the best pricing (e.g., did you simply request a quote, negotiate with the vendor, did the vendor provide a discount)? Please provide the quote with your sole source request.**

The pricing includes 24/7 availability for up to 180 days. This contract is a result of collaboration between Coulson Aviation, SCE, OCFA, Los Angeles and Ventura counties in an effort to bring services and funding together for the benefit of the residents of Orange County and the partner counties to protect in the event of a wildfire during fire season. SCE is providing funding for the daily fixed standby costs.



- 4. Will this purchase obligate the OCFA to future purchases (maintenance, licensing or continuing needs)? (If yes, please explain how and what the future costs will be.)**

The QRF services are intended to have a duration of 150 days, with the option to extend for 30 additional days at the discretion of SCE. The procurement will be reexamined at the conclusion of the 180 day period, should the services continue beyond the initial 180-days.

Sole Source Request Submitted by:

REQUESTORS NAME	SIGNATURE	DATE
Vincent Carpino	 FUL JC	4/7/21
DIVISION CHIEF/SECTION MANAGER NAME	SIGNATURE	DATE
ASSISTANT CHIEF NAME	SIGNATURE	DATE
Brian Fennessy		4/7/21

Purchasing Manager's Comments:

PURCHASING MANAGER'S APPROVAL	DATE
	4/7/21
ASSISTANT CHIEF BUSINESS SERVICES CONCURRENCE	DATE
	4/7/21

Executive Committee Approval Required ☐ Yes ☐ No Sole Source over \$50,000

Executive Committee Approved: ☐ Yes ☐ No Date approved _____

Coulson Aviation (USA) Inc

655 South Rock Blvd,
Reno, Nevada 89502

COULSON AVIATION

April 5, 2021

FOR: Sara Kennedy
Purchasing Manager
Orange County Fire Authority

FROM: Curtis Bruner
Contract Specialist
Coulson Group

SUBJECT: HC-130HRDS Required Design Criteria and Design Load Conditions.

The Quick Reaction Force (QRF) is underpinned by a Sole Source provider of the aerial firefighting capability providing the latest and smartest Helitanker system and Aerial Intelligence technology to provide a single force operating 7/24. Coulson is the only commercial NVG Helitanker company in the world.

The QRF is unique and likewise the capability is a one of a kind being a world first and the only innovation and technology system providing a day and night integrated single force. Coulson is the only commercial aircraft available at night to do hover fill from open water sources and portable dip tanks, additionally Coulson is the only nighttime NVG Helco platform with IR sensors in the world.

Coulson employs expert pilots who are instructors for USFS and NAFA courses who have developed extensive experience operating with local and federal governments and proven history fighting fires at night in California, Chile and Australia.

The individual elements of the QRF have been previously contracted and successfully operated in the LA Basin providing the underpinning knowledge of the capabilities that form the QRF.

Sincere Regards,

Curtis Bruner
Contract Specialist
Coulson Group

**ORANGE COUNTY FIRE AUTHORITY
PROFESSIONAL SERVICES AGREEMENT**

THIS AGREEMENT FOR PROFESSIONAL SERVICES ("Agreement") is made and entered into this 22nd day of April, 2021 by and between the Orange County Fire Authority, a public agency, hereinafter referred to as "OCFA", and Perimeter Solutions LP, hereinafter referred to as "Firm". OCFA and Firm are sometimes individually referred to herein as a "Party" and collectively as the "Parties".

RECITALS

WHEREAS, OCFA requires the services of a qualified firm to provide mobile retardant base services, hereinafter referred to as "Project"; and

WHEREAS, Firm has submitted to OCFA a proposal dated March 11, 2021, incorporated herein by this reference ("Proposal"); and

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

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

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

AGREEMENT

1. PROFESSIONAL SERVICES

1.1 Scope of Services

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

1.2 Compliance with Law

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

1.3 Licenses and Permits

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

1.4 Familiarity with Work

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

1.5 Care of Work

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

1.6 Additional Services

Firm shall perform services in addition to those specified in the Scope of Services when directed to do so in writing by the OCFA Purchasing Manager, provided that Firm shall not be required to perform any additional services without compensation. Any additional compensation not exceeding one-hundred thousand dollars (\$100,000) annually must be approved in writing by the OCFA Purchasing Manager. Any greater increase must be approved in writing by the Executive Committee of the OCFA Board of Directors.

2. TIME FOR COMPLETION

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

3. COMPENSATION OF FIRM

3.1 Compensation of Firm

For the Services rendered pursuant to this Agreement, Firm shall be compensated and reimbursed per the Scope of Work, attached hereto as Exhibit "A".

3.2 Method of Payment

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

3.3 Changes

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

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

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

3.4 Appropriations

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

4. PERFORMANCE SCHEDULE

4.1 Time of Essence

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

4.2 Schedule of Performance

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

4.3 Force Majeure

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

4.4 Term

This Agreement shall continue in full force and effect during the period from June 15 through November 15, 2021 ("Initial Term"), except as may be extended at the sole discretion of OCFA for an additional thirty (30) days ("Extension Option"), and unless earlier terminated in accordance with Sections 8.5 or 8.6 of this Agreement. To exercise its Extension Option, OCFA must provide written notice to Firm on or before August 27, 2021.

5. COORDINATION OF WORK

5.1 Representative of Firm

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

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

5.2 Contract Officer

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

5.3 Prohibition Against Subcontracting or Assignment

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

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

5.3.2.1 Withholding Payment for Non-Authorized Subcontractors. OCFA shall have the right to withhold payment from Firm for Services performed by any subcontractor or subconsultant performing Services but not authorized in writing by OCFA, or regarding which the insurance or other requirements under this Agreement have not been satisfied.

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

5.4 Independent Contractor

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

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

5.4.3 No OCFA benefits shall be available to Firm, its officers, employees, or agents, in connection with the performance of any Work or Services under this Agreement. Except for professional fees paid to Firm as provided for in this

Agreement, OCFA shall not pay salaries, wages, or other compensation to Firm for the performance of any Work or Services under this Agreement. OCFA shall not be liable for compensation or indemnification to Firm, its officers, employees, or agents, for injury or sickness arising out of performing any Work or Services hereunder. If for any reason any court or governmental agency determines that the OCFA has financial obligations, other than pursuant to Section 2 herein, of any nature relating to salary, taxes, or benefits of Firm's officers, employees, representatives, agents, or subconsultants or subcontractors, Firm shall defend, indemnify, and hold harmless OCFA from and against all such financial obligations.

5.6 Employee Retirement System Eligibility Indemnification

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

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

6. INSURANCE AND INDEMNIFICATION

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

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

6.2.1 Omitted

6.2.2 Commercial General Liability Insurance. Firm shall obtain and maintain, in full force and effect throughout the term of this Agreement, Insurance Services Office (ISO) Form CG 00 01 covering CGL on an "occurrence" basis, including property damage, bodily injury and personal & advertising injury with limits no less than one million dollars (\$1,000,000.00) per occurrence and two million dollars (\$2,000,000.00) aggregate. If a general aggregate limit applies, the general aggregate limit shall be no less than two million dollars (\$2,000,000.00). Coverage for products and completed operations is required with limits no less than two million dollars (\$2,000,000.00) aggregate. CGL insurance shall be provided on an occurrence-based coverage form; a "claims made" CGL policy is not acceptable. Firm shall maintain CGL insurance with per-claim, aggregate and products and operations completed limits no lower than the minimum CGL coverage limits set forth above. Defense costs shall be paid in addition to the limits. The policy shall contain no endorsements or provisions limiting coverage for any of the following: (1) contractual liability; (2) cross liability exclusion for claims or suits by one insured against another; or (3) any other exclusion contrary to this Agreement.

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

6.2.4 Workers' Compensation Insurance. Firm shall obtain and maintain, in full force and effect throughout the term of this Agreement, a policy of Workers' Compensation Insurance with limits no less than one million dollars (\$1,000,000.00), and in compliance with all other statutory requirements applicable in the State of California. Firm hereby waives on its own behalf, and shall obtain an endorsement from its workers' compensation insurer waiving on the insurance company's behalf, all rights of subrogation against the OCFA, its board members, officials, officers, employees, agents and volunteers.

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

6.2.4.2 Firm and each of its subconsultants and subcontractors shall also maintain, in full force and effect throughout the term of this

Agreement, Employer's Liability Insurance with limits of at least one million dollars (\$1,000,000.00) per injury or illness.

6.2.5 Pollution Liability. Firm shall provide pollution liability coverage that includes, but is not limited to, the coverage limits and coverage provisions outlined below. Coverage must be included for bodily injury and property damage, including coverage for loss of use and diminution in property value, and for resultant clean- up costs, arising out of the or resulting from: (i) any Services performed under this Agreement, including (ii) any storage or transportation, including the loading or unloading of, hazardous wastes, hazardous materials, or contaminants. The required coverage limits shall be the greater of the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the Named Insured, including applicable Umbrella or Excess Limits, or the following: \$1,000,000 per occurrence or claim, and \$1,000,000 aggregate. Coverage may be written on a claims-made form. If coverage is on a claims- made basis, the coverage must be maintained for at least 3 years after all Services performed under this Agreement are complete, and additional claims-made coverage requirements apply as described below. The policy(ies) shall also contain or be endorsed to contain a provision that coverage shall apply on a primary and noncontributory basis to OCFA before OCFA's own primary insurance or self-insurance shall be called upon to protect it as a Named Insured. A severability of interests provision must apply for all the additional insureds, ensuring that Firm's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the insurer's limits of liability.

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

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

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

6.4.1 CGL, Auto and Pollution Liability Endorsements.

The policy or policies of insurance required by this Agreement for CGL, Automobile and Pollution Liability Insurance shall be endorsed as follows:

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

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

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

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

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

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

6.5 Deductibles and Self-Insured Retentions. Any deductible or self-insured retention must be approved in writing by the OCFA in advance. The decision

whether to approve or withhold approval of a deductible or self-insured retention shall be made by the OCFA in the OCFA's sole and absolute discretion. (Firm may request pre-approval from OCFA of a deductible or self-insured retention prior to submitting Firm's Proposal). OCFA acknowledges that the Firm is subject to a \$250,000 deductible under its General Liability and Pollution Liability policies.

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

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

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

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

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

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

of insurance showing that the required insurance has been reinstated or has been provided through another insurance company or companies meeting all requirements of this Agreement.

6.8 Requirements Not Limiting. Requirement of specific coverage or minimum limits contained in this section are not intended as a limitation on coverage, limits, or other requirements, or a waiver of any coverage normally provided by any insurance. The insurance obligations under this Agreement shall be: (1) all the insurance coverage and/or limits carried by or available to Firm; or (2) the minimum insurance coverage requirements and/or limits shown in this Agreement; whichever is greater. Any insurance proceeds in excess of or broader than the minimum required coverage and/or minimum required limits, which are applicable to a given loss, shall be available to the OCFA. No representation is made that the minimum insurance requirements of this Agreement are sufficient to cover the obligations of Firm under this Agreement. Nothing in this section shall be construed as limiting in any way the indemnification provision contained in this Agreement, or the extent to which Consultant may be held responsible for losses of any type or amount.

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

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

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

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

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

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

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

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

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

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

6.12 Indemnification.

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

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

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

7. RECORDS AND REPORTS

7.1 Reports

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

7.2 Records

Firm shall keep such books and records as shall be necessary to properly perform the Services required by this Agreement and upon 72-hours advance notice, enable the Contract Officer to evaluate the performance of such Services for the purpose of compliance with the terms and conditions included in this Agreement. Except as provided in Section 7.5, the Contract Officer shall have full and free access to such books and records, including the right to inspect, copy, audit and make records and transcripts from such records.

7.3 Omitted

7.4 Release of Documents

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

7.5 Confidential Materials

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

8. ENFORCEMENT OF AGREEMENT

8.1 California Law

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

8.2 Waiver

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

8.3 Rights and Remedies are Cumulative

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

8.4 Legal Action

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

8.5 Termination Prior to Expiration of Term

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

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

8.6 Termination for Default of Firm

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

8.7 Attorneys' Fees

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

9. OCFA OFFICERS AND EMPLOYEES; NON-DISCRIMINATION

9.1 Non-Liability of OCFA Officers and Employees

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

9.2 Covenant Against Discrimination

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

10. MISCELLANEOUS PROVISIONS

10.1 Confidentiality

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

10.2 Notice

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

Orange County Fire Authority
Attention: Sara Kennedy
1 Fire Authority Road
Irvine, CA 92602

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

To Firm:

Nori Yokozuka, General Counsel
8000 Maryland Ave, Suite 350
Clayton, MO 63105

10.2 Integrated Agreement

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

10.3 Amendment

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

10.4 Severability

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

clauses, paragraphs, or sections of this Agreement, which shall be interpreted to carry out the intent of the parties hereunder.

10.5 Corporate Authority

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

[Signatures on Following Page]

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

“OCFA”

ORANGE COUNTY FIRE AUTHORITY

Date:_____

By:_____

Sara Kennedy, CPPB
Purchasing Manager

“FIRM”

PERIMETER SOLUTIONS LP

Date:_____

By:_____

[Name]
[Title]

Date:_____

By:_____

[Name]
[Title]

EXHIBIT "A"
Scope of Services to be Provided

Orange County Fire Authority OCFA-001: MRB-H Equipment & Product Proposal

**Mobile Retardant Base – Helicopter (MRB-H) Operation
Dispatched within 2-3 hours from initial order, Operational in ~6 hours**

Contract Period: 6/15 – 12/15

Start Date: 6/15/2021, can cancel on 11/15 if given at least 7-day advance notice

Purpose:

Perimeter Solutions to provide the proper equipment, retardant product, and personnel to support mobile night refilling (which may extend into the day) for fixed-tank helicopters with “QPL” approved long-term retardant.

Scope:

Orange County Fire Authority (OCFA) has requested Perimeter Solutions to provide a proposal for equipment and USFS “QPL” (USFS official qualified products list) approved long-term retardant to support 2 CH-46 & 1 S-61 aircraft as needed. Perimeter Solutions will provide all equipment for mixing, and delivery of fire retardant into aircraft for night operations potentially extending into the next day. Exact response times are based on ordering time, location, and fire congested area logistics.

Perimeter Solutions Capabilities:

- Perimeter Solutions is the only company with US Forest Service approved long term fire retardant (Phos-Chek 259-F) for fixed tank helicopter operation (**Ref. Appendix A**)
- Perimeter Solutions is the only company with a Fire Safety office, equipment, personnel, and available long term retardant materials in the Orange County region that can be deployed, within 2-3 hours from initial call.
- Perimeter Solutions will provide dedicated equipment and personnel to this operation for the projected 180-day contract period

Items to be provided by Perimeter Solutions based on response time:

- Mobile Retardant Base for Helicopters (MRB-H) dedicated for designated contract period with capabilities of mixing 18,000 gal per hour or 90,000 per 8-hour operating period
- 259-Fx long term fire retardant; USFS Qualified Product List “QPL” approved for fixed tank helicopter
- Mix Master and 3 crew persons to support full service retardant operation
- All labor, travel, equipment and product freight to meet the above requirements.

Operational Requirements Provided by Orange County Fire Authority:

Solutions That Save.

PERIMETER SOLUTIONS - Fire Safety Group U.S.

10667 Jersey Blvd.
Rancho Cucamonga, CA 91730
Tel: +1 909 581 3400

1520 Brookfield Avenue
Green Bay, WI 54313
Tel: +1 920 593 9445

perimeter-solutions.com



- OCFA must order by Noon for same-day setup (operational by ~6pm) with roughly 1:1 delay for hours after
- OCFA must provide pre-designated area large enough to allow safe accessibility and operations of heavy equipment. (ex. Size of a Football field).
- OCFF to provide water source with a minimum rate of 350+ Gallons per Minute (GPM) to the MRB within 800'. Any distance beyond 800' will be Agency's responsibility to provide hose and added pumps if necessary. This may include providing water from: water tenders, pressurized source or, drafting source (lake,pond,stream etc).
- The MRB designated site must be at least 300 feet from any waterway, including seasonal lakes or streams, if water is present.
- Mixed retardant is deemed "sold" to acting Agency, the Agency will work with Perimeter Solutions for effective use or relocation of mixed product at their expense.

Pricing:

- Nightly Rate \$5,500 per 12hr night shift for the Contract Period, plus actual freight costs per location and return to point of origin.
- \$1500 per hour (overtime) after 12hr shift, up to a maximum of \$11,000/day if extended or if 24hr operations in a location begins. Contract cycle of 6/15 – 12/15 will be charged at the night operating rate plus overtime or full daily rates as utilized.
- *Water Tender Rate: \$1,800 per 12hr shift (As requested) by ordering Agency.
- Product Cost: based on 2021 U.S.F.S. FOB Origin Price List

Thank you for allowing us to submit this proposal. We look forward to executing an agreement and working with you throughout the 2021 wildfire season.

Wesley J. Bolsen

Wes Bolsen
 Director, Wildfire Prevention and Protection
 Perimeter Solutions
 March 10, 2021
Wes.Bolsen@perimeter-solutions.com

PERIMETER SOLUTIONS - Fire Safety Group U.S.

10667 Jersey Blvd.
 Rancho Cucamonga, CA 91730
 Tel: +1 909 581 3400

phos-chek.com

1520 Brookfield Avenue
 Green Bay, WI 54313
 Tel: +1 920 593 9445

solbergfoam.com

perimeter-solutions.com



APPENDIX A



US Forest Service

Washington Office

Fire & Aviation Management

November 5th, 2020

Long-Term Retardant for Wildland Fire Management

Qualified by US Forest Service in Accordance with Forest Service Specification 5100-304d

These products are evaluated, qualified, and approved for use only at the specified mix ratio with the indicated application equipment.

Consult individual agencies for specific policies relating to long-term retardant use.

Definition: Retardants contain salts that decrease fire intensity and slow advance of the fire, even after the water they contain evaporates.

Chemical	Mix Ratio (Pounds concentrate per gallon water)	Qualified Applications ¹				Ground Applied
		Fixed-Wing		Helicopter		
		Multi Engine	SEATS	Fixed-Tank	Bucket	
Dry Concentrate - Gum-thickened; Permanent or Temporary Base						
Phos-Chek MVP-Fx	0.96 lb/gal	●	●	-	●	●
Phos-Chek MVP-F	0.95 lb/gal	●	●	-	●	●
Fortress FR-100	1.68 lb/gal	Δ	Δ	-	Δ	Δ
Dry Concentrate - Gum-thickened; Temporary Base						
Phos-Chek 259-Fx	1.01 lb/gal	●	●	●	●	●
Wet Concentrate - Gum-thickened; Permanent or Temporary Base						
Phos-Chek LC-95A-R	5.5:1	●	●	-	●	●
Phos-Chek LC-95A-Fx	5.5:1	●	●	-	●	●
Phos-Chek LC-95A-F	5.5:1	●	●	-	●	●
Phos-Chek LCE20-Fx	5.2:1	●	●	-	●	●
Wet Concentrate - Gum-thickened; Temporary Base						
Phos-Chek LC-95-W	5.5:1	●	●	-	●	●
Pretreatment, Non Storable ²						
Phos-Chek LC-95-W	5.5:1	-	-	-	●	●
Phos-Chek LC-95A-Fx	5.5:1	-	-	-	●	●
1 – Qualification Notes						
● Fully Qualified – Product complies with all requirements of a formal specification.						
○ Conditionally Qualified – Product complies with all requirements in the specification for laboratory evaluation; a field evaluation is required for full qualification.						
Δ Interim Qualified – Product complies with all interim requirements in Appendix A of the specification; final results and a field evaluation is required for full qualification.						
- Not qualified for this application.						
2 – Pretreatment category has not been evaluated for durability and weathering.						

PERIMETER SOLUTIONS - Fire Safety Group U.S.

10667 Jersey Blvd.
Rancho Cucamonga, CA 91730
Tel: +1 909 581 3400

phos-chek.com

1520 Brookfield Avenue
Green Bay, WI 54313
Tel: +1 920 593 9445

solbergfoam.com

perimeter-solutions.com

OCFA Sole Source Request Form

The Purchasing Ordinance of the Orange County Fire Authority requires competitive bids and proposals for service and commodity contracts. A sole source is defined as 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. The using department requesting a sole source shall provide written clear and convincing evidence to support a sole source determination, meaning that only one source exists to fulfill the requirements. This form is to be submitted with the purchase requisition to Purchasing with any sole source requests.

SECTION I - INSTRUCTIONS

1. Written justification on this form will be completed by the requesting department and submitted with the purchase requisition.
2. The request must be approved by the section manager and assistant chief prior to submitting the request to the purchasing manager.
3. All sole source forms must be submitted to the Purchasing Manager for approval. Based on the new ordinance the Fire Chief is not required to approve the sole source form. The sole source request may be submitted to Assistant Chief of Business Services by the Purchasing Manager for concurrence as required.
4. All sole source contracts exceeding \$50,000 annually require Executive Committee approval. In this case, the sole source request form must be submitted to the Executive Committee as an attachment to the staff report.
5. The approved sole source justification form will be included in the contract file.

SECTION II – REQUEST INFORMATION

Department/Section: Special Operations	Requested By: Vincent Carpino	Date: 4/7/2021
Recommended Vendor: Perimeter Solutions LP	Vendor Contact: Wes Bolsen	Vendor's E-mail Address: wes.bolsen@perimeter-solutions.com
Vendor Address: 8000 Maryland Ave, Ste. 350, Clavton, MO 63105		Vendor's Telephone #: (650) 387-9962
Type of Contract: <input checked="" type="checkbox"/> One-time <input type="checkbox"/> Multi-Year <input type="checkbox"/> Renewal <input type="checkbox"/> Amendment <input type="checkbox"/> Increase	Contract Term (Dates): June 15, 2021 - December 12, 2021	
Contract Amount: \$1,490,000		
If the contract type is a Renewal, Amendment or Increase, please provide previous contract information with this request (PO, BO, previous approval date, Chief approval or EC approval, and dollar amount).		Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

SECTION III – JUSTIFICATION

1. Provide a detailed description of the product or service requested. Describe what it is. *Attach additional sheet if necessary.*

Perimeter Solutions provides long-term fire retardant and a mobile retardant mixing plant that will be available to respond with the Quick Reaction Force (QRF) program. The retardant will be mobilized with the aircraft as requested and will enable the helitanker and very large helitankers to hover-fill retardant for night drops.

2. Please state why the recommended vendor is the only one capable of providing the required services and/or commodities. Provide a summary of findings (research and analysis) including any supporting documentation which validates your recommendation (e.g., attach a manufacturer's letter verifying patented design and direct sale with no distributors) and demonstrates the sole source nature of this request. *Attach additional sheet if necessary.*

Perimeter Solutions is the manufacturer and sole distributor for Phos-Chek 259. This product is the only retardant that is approved by the United States Forest Service to be dropped by fixed-tank aircraft such as those used for the QRF pilot. Cal FIRE also relies on the Federal list for the Federal Environmental Impact Statements and state CEQA environmental approvals for the application of long-

SECTION III – JUSTIFICATION (continued)

term retardants. Perimeter Solutions is the only company with the mobile equipment and knowledge required to safely mix the retardant for use on the incident. Cal FIRE and the USFS also utilize these services, realizing a great benefit from having the dip site closer to the incident than the air base is typically situated. See attached sole source letter.


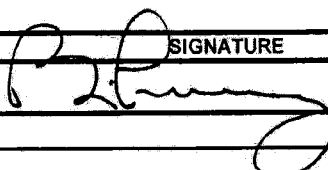
3. **Pricing - What efforts were made to get the best pricing (e.g., did you simply request a quote, negotiate with the vendor, did the vendor provide a discount)? Please provide the quote with your sole source request.**

Pricing for the retardant is based on the USFS contract and is set at a fixed rate per gallon. Reimbursement will be requested from incidents for actual gallons of retardant used. The fixed cost to have the equipment and personnel standing by to respond are included in the funding provided by SCE. Any additional costs will be reimbursed by the incident.



4. **Will this purchase obligate the OCFA to future purchases (maintenance, licensing or continuing needs)? (If yes, please explain how and what the future costs will be.)**

The products and services provided by Perimeter Solutions are a part of the QRF program, which is intended to have a duration of 150 days, with the option to extend for 30 additional days at the discretion of SCE. The procurement will be reexamined at the conclusion of the 180-day period should the services continue beyond the initial 180 days.

Sole Source Request Submitted by:

REQUESTORS NAME	SIGNATURE	DATE
Vincent Carpino	 For VC	4/7/21
DIVISION CHIEF/SECTION MANAGER NAME	SIGNATURE	DATE
ASSISTANT CHIEF NAME	SIGNATURE	DATE
Brian Fennessy		7/7/21

Purchasing Manager's Comments:

PURCHASING MANAGER'S APPROVAL	DATE
	4/7/21
ASSISTANT CHIEF BUSINESS SERVICES CONCURRENCE	DATE
	4/7/21

Executive Committee Approval Required ☐ Yes ☐ No Sole Source over \$50,000

Executive Committee Approved: ☐ Yes ☐ No Date approved _____



Confirmation Letter on Perimeter Solutions, LP as only seller of:
Phos Chek 259-Fx for Fixed-Tank Helicopter Application

March 31, 2021

This letter is to confirm that Perimeter Solutions LP is the sole manufacturer of the Phos Chek 259-Fx product and can only be purchased from our company.

In addition, the United States Forest Service has only qualified a single product that can be applied from fixed tank helicopters in the United States on federal lands. This list is known as the Qualified Products List (QPL). "The QPL" is what CAL FIRE also utilizes in their reliance on the Federal EIS and state CEQA environmental approvals for the application of Long-Term Retardants.

The QPL Process is detailed in "Forest Service Specification FS 5100-304d" and provides the specific requirements for qualifying long-term retardants.

In Figure A below, it shows the sole listing of Phos Chek 259-Fx for fixed helicopter application of long-term retardant. This figure can be found on the United States Forest Service website at: https://www.fs.fed.us/rm/fire/wfcs/documents/2020-1105_qpl_ret.pdf

If you have further questions about this sole-source long-term retardant product for fixed-tank helicopter application, we would be happy to answer them.

Sincerely,

Wesley J. Bolsen

Wes Bolsen
Director, Wildfire Prevention and Protection
Perimeter Solutions
Cell: 650-387-9962
Wes.Bolsen@perimeter-solutions.com

Solutions That Save.

PERIMETER SOLUTIONS - Fire Safety Group U.S.

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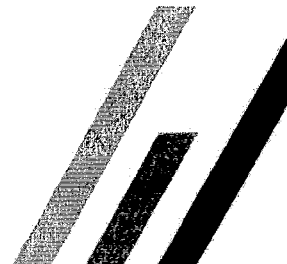


Figure A: USFS Qualified Products List (QPL) for application on federal lands

US Forest Service

Washington Office

Fire & Aviation Management

November 5th, 2020

Long-Term Retardant for Wildland Fire Management

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Pretreatment, Non Storable²						
Phos-Chek LC-95-W	5.5:1	-	-	-	•	•
Phos-Chek LC-95A-Fx	5.5:1	-	-	-	•	•

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PERIMETER SOLUTIONS - Fire Safety Group U.S.

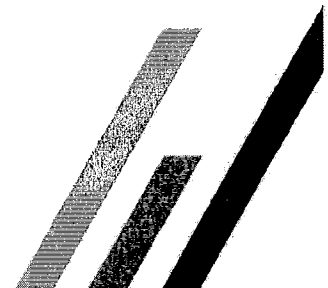
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**ORANGE COUNTY FIRE AUTHORITY
PROFESSIONAL SERVICES AGREEMENT**

THIS AGREEMENT FOR PROFESSIONAL SERVICES ("Agreement") is made and entered into this ____ day of _____, 20__ by and between the Orange County Fire Authority, a joint powers agency created pursuant to the California Joint Exercise of Powers Act (Gov't Code §§ 6500 *et seq.*) ("OCFA"), and _____, an individual ("Contractor"). OCFA and Contractor are sometimes individually referred to herein as a "Party" and collectively as the "Parties".

RECITALS

WHEREAS, OCFA requires the services of a qualified Contractor to provide Air Tactical Group Supervisor services in support of incident goals and objectives, hereinafter referred to as "Project"; and

WHEREAS, Contractor is fully qualified and certified to provide the necessary services for the Project and desires to provide such services; and

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

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

AGREEMENT

1. PROFESSIONAL SERVICES

1.1 Scope of Services

In compliance with all terms and conditions of this Agreement, Contractor shall provide those services specified in the Scope of Services, attached hereto as Exhibit "A", which includes by reference and by addendum any amendments, addendums, change orders, or modifications mutually agreed upon by the parties hereto ("Services" or "Work"). Contractor warrants that all Services shall be performed in a competent, professional and satisfactory manner in accordance with all standards prevalent in the same profession in the State of California. Contractor represents and warrants that he/she possesses a sufficient skill and experience to perform the Services. All Services shall be completed to the reasonable satisfaction of the OCFA. In the event of any inconsistency between the terms contained in the Scope of Services, and/or the terms set forth in the main body of this Agreement, the terms set forth in the main body of this Agreement and then the Scope of Services shall govern, in that order.

1.2 Compliance with Law

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

1.3 Licenses and Permits

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

1.4 Familiarity with Work

By executing this Agreement, Contractor warrants that he/she (a) has thoroughly investigated and considered the Work to be performed, (b) has carefully considered how the Work should be performed, and (c) fully understands the facilities, difficulties and restrictions attending performance of the Work under this Agreement.

1.5 Care of Work

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

1.6 Additional Services

Contractor shall perform services in addition to those specified in the Scope of Services when directed to do so in writing by the OCFA Purchasing Manager, provided that Contractor shall not be required to perform any additional services without compensation. Any additional compensation not exceeding fifteen percent (15%) of the agreement amount must be approved in writing by the OCFA Purchasing Manager. Any greater increase must be approved in writing by the Executive Committee of the OCFA Board of Directors.

2. TIME FOR COMPLETION

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

3. COMPENSATION OF CONTRACTOR

3.1 Compensation of Contractor

For the Services rendered pursuant to this Agreement, Contractor shall be compensated and reimbursed, in accordance with the pricing set forth in the Scope of Services (Exhibit "A") in an amount not to exceed Two Hundred Fifty Thousand Dollars (\$250,000).

3.2 Method of Payment

The Contractor shall invoice OCFA twice a month, the 1st and 16th, for the previous 15 day period. The Contractor shall submit to OCFA in the form approved by OCFA's Finance Manager, an invoice for Services rendered prior to the date of the invoice. OCFA shall pay Contractor for all expenses stated thereon which are approved by OCFA consistent with this Agreement, within fifteen (15) days of receipt of Contractor's invoice.

3.3 Changes

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

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

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

3.4 Appropriations

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

4. PERFORMANCE SCHEDULE

4.1 Time of Essence

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

4.2 Schedule of Performance

All Services rendered pursuant to this Agreement shall be performed within the time periods prescribed in the Scope of Services (Exhibit "A"). The extension of any time period specified in Exhibit "A" must be approved in writing by the Contract Officer.

4.3 Force Majeure

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

4.4 Term

This Agreement shall continue in full force and effect for one year (initial term) unless earlier terminated in accordance with Sections 8.5 or 8.6 of this Agreement. The contract may be renewed up to two (2) additional one-year terms upon mutual written agreement between OCFA and the Contractor.

5. COORDINATION OF WORK

5.1 [Reserved]

5.2 Contract Officer

The Primary Contract Officer shall be _____, Division Chief – _____, and the Secondary Contract Officer shall be Brian Fennessy, Fire Chief, unless otherwise designated in writing by OCFA. It shall be the Contractor's responsibility to keep the Contract Officer fully informed of the progress of the performance of the Services and Contractor shall refer any decisions that must be made by OCFA to the Contract Officer. Unless otherwise specified herein, any approval of OCFA required hereunder shall mean the approval of the Contract Officer.

5.3 Prohibition Against Subcontracting or Assignment

5.3.1 No Subcontracting Without Prior Approval. The experience, knowledge, capability and reputation of the Contractor were a substantial

inducement for OCFA to enter into this Agreement. Therefore, Contractor shall not contract with any other individual or entity to perform in whole or in part the Services required hereunder.

5.4 Independent Contractor

5.4.1 The legal relationship between the Parties is that of an independent contractor, and nothing herein shall be deemed to make Contractor, an OCFA employee. During the performance of this Agreement, Contractor shall act in an independent capacity and shall not act as an OCFA officer or employee. Contractor will determine the means, methods and details of performing the Services subject to the requirements of this Agreement. Neither OCFA nor any of its officials, officers, employees, agents or volunteers shall have control over the conduct of Contractor, except as set forth in this Agreement. Contractor, shall not maintain a permanent office or fixed business location at OCFA's offices. OCFA shall not in any way or for any purpose be deemed to be a partner of Contractor in its business or otherwise a joint venturer or a member of any joint enterprise with Contractor.

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

5.4.3 No OCFA benefits shall be available to Contractor in connection with the performance of any Work or Services under this Agreement. Except for professional fees paid to Contractor as provided for in this Agreement, OCFA shall not pay salaries, wages, or other compensation to Contractor for the performance of any Work or Services under this Agreement. OCFA shall not be liable for compensation or indemnification to Contractor for injury or sickness arising out of performing any Work or Services hereunder.

5.6 Employee Retirement System Eligibility Indemnification

5.6.1 [Reserved]

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

6. INSURANCE AND INDEMNIFICATION

6.1 Compliance with Insurance Requirements. Contractor shall obtain, maintain, and keep in full force and effect during the term of this Agreement, at its

sole cost and expense, and in a form and content satisfactory to OCFA, all insurance required under this section. Contractor shall not commence any Services under this Agreement unless and until it has provided evidence satisfactory to OCFA that it has secured all insurance required under this section. If Contractor's existing insurance policies do not meet the insurance requirements set forth herein, Contractor agrees to amend, supplement or endorse the policies to meet all requirements herein.

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

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

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

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

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

be obtained, and written evidence of the policy shall be immediately provided to OCFA, to ensure PLI coverage during the entire course of performing the Services.

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

6.2.2 Automobile Liability Insurance. Contractor shall maintain, in full force and effect throughout the term of this Agreement, a policy of personal Automobile liability insurance in compliance with all statutory requirements applicable in the State of California.

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

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

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

6.4.1 [Reserved]

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

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

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

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

6.6 [Reserved]

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

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

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

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

been provided through another insurance company or companies meeting all requirements of this Agreement.

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

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

6.10 [Reserved]

6.11 Other Insurance Requirements. The following terms and conditions shall apply to the insurance policies required of Contractor pursuant to this Agreement:

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

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

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

6.11.4 Certificates of insurance will not be accepted in lieu of required endorsements, and submittal of certificates without required endorsements may delay the Project. It is Contractor's obligation to ensure timely compliance with all insurance submittal requirements as provided herein and Contractor agrees to reimburse

OCFA for any losses resulting from its failure to timely comply with the requirements of this Agreement.

6.11.5 [Reserved]

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

7. RECORDS AND REPORTS

7.1 Reports

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

7.2 Records

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

7.3 Ownership of Documents

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

7.4 Release of Documents

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

7.5 Confidential Materials

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

8. ENFORCEMENT OF AGREEMENT

8.1 California Law

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

8.2 Waiver

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

8.3 Rights and Remedies are Cumulative

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

8.4 Legal Action

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

8.5 Termination Prior to Expiration of Term

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

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

8.6 Termination for Default of Contractor

[Reserved]

8.7 Attorneys' Fees

[Reserved]

9. OCFA OFFICERS AND EMPLOYEES; NON-DISCRIMINATION

9.1 Non-Liability of OCFA Officers and Employees

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

9.2 Covenant Against Discrimination

Contractor covenants that, by and for itself, its heirs, executors, assigns, and all persons claiming under or through them, that there shall be no discrimination or segregation in the performance of or in connection with this Agreement regarding any person or group of persons on account of race, color, creed, religion, sex, marital status, national origin, or ancestry.

10. MISCELLANEOUS PROVISIONS

10.1 Confidentiality

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

10.2 Notice

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

Orange County Fire Authority
Attention: Sara Kennedy
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 Contractor:

Name
Address

10.2 Integrated Agreement

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

10.3 Amendment

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

10.4 Severability

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

10.5 Corporate Authority

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

[Signatures on Following Page]

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

“OCFA”

ORANGE COUNTY FIRE AUTHORITY

Date:_____

By:_____
Sara Kennedy, CPPB
Purchasing Manager

“CONTRACTOR”

CONTRACTOR NAME

Date:_____

By:_____
Name
Title

EXHIBIT “A” Scope of Services

A1. Air Tactical Group Supervisor (ATGS) Position

A1.1 Position Overview

A1.1.1 As described in the “Standards for Aerial Supervision”, as published by the National Wildfire Coordinating Group, “The ATGS coordinates incident airspace and manages incident air traffic. The ATGS is an airborne firefighter who coordinates, assigns, and evaluates the use of aerial resources in support of incident objectives. The ATGS is the link between ground personnel and incident aircraft. The ATGS must collaborate with ground personnel to develop and implement tactical and logistical missions on an incident. The ATGS must be proactive in communicating current and expected fire and weather conditions. The ATGS must provide candid feedback regarding the effectiveness of aviation operations and overall progress toward meeting incident objectives. The ATGS must also work with dispatch staff to coordinate the ordering, assignment, and release of incident aircraft in accordance with the needs of fire management and incident command personnel.

A1.1.2 On Initial Attack (IA) incidents (Type 4 and 5), the ATGS will size up, prioritize, and coordinate the response of aerial and ground resources until a qualified Incident Commander (IC) arrives. On complex incidents (Type 1, 2, or 3), the ATGS will coordinate and prioritize the use of aircraft between several divisions or groups while maintaining communications with operations personnel and aircraft bases (fixed- or rotor-wing).

A1.1.3 In the Incident Command System (ICS), the ATGS works for the IC on initial attack and the Operations Section Chief (OSC), Air Operations Branch Director, or operational designee on extended attack. The ATGS supervises the Leadplane Pilot (LPIL), Aerial Supervision Module (ASM), and the Helicopter Coordinator (HLCO) positions when activated. The ATGS may operate from an airplane or helicopter.

In the event the ATGS is utilized in an Aerial Supervision position subordinate to the ATGS position, HLCO (Helicopter Coordinator) or AITS (ASM Air Tactical Supervisor) the ATGS will perform those job duties as described in the current NWCG “SAS” (National Wildfire Coordinating Group “Standards for Aerial Supervision”).

A1.2 Position Requirements

At a minimum, ATGS must possess previously held fire chief officer status and possess and maintain wildland Incident Qualifications and Certification System (IQCS) qualifications for the position of Division Supervisor and/or Air Tactical Group Supervisor.

A.2 ATGS Responsibilities

A2.1 Incident Response

A2.1.1 The ATGS will respond as part of the aircrew with the aircraft to wildland and all-hazards incidents. The ATGS will perform the duties described above and contained within the “Standards for Aerial Supervision”, as published by the National Wildfire Coordinating Group, in coordination with the Primary or Secondary Contract Officer and/or third parties providing air operations services, as directed by OCFA. The ATGS must be available at the site of the aircraft.

A2.1.2 The ATGS will provide wildland fire subject matter expertise for pre-attack, initial attack, and extended attack functions. Pre-attack services include evaluation of staffing, familiarization with maps, identification of potential cooperators, and other readiness activities.

A2.1.3 As delegated by OCFA, the ATGS will ensure day to day contract compliance on assigned aircraft and is responsible for communicating any discrepancies or recommendations to the Primary and/or Secondary Contract Officer.

A2.2 Communications

A2.2.1 As required by OCFA, the ATGS may serve as the primary point-of-contract (POC) with the OCFA Emergency Command Center for daily status and dispatching to initial attack response.

A2.2.2 The ATGS is responsible for developing and delivering pre and post incident briefings and After Action Reviews (AAR) for the air crews. Pre-incident briefings may include weather updates, incident status, pending orders, and other information as may be necessary to ensure all crew members required to deploy are able to.

A2.2.3 The ATGS is responsible for inter cockpit Crew Resource Management (CRM) with OCFA and third party provider crews, as applicable, for the purpose of fostering cohesive team function during the execution of incident objectives.

A2.3 Deliverables for IAA Aircraft

The ATSG will assist with the development of Incident Awareness and Assessment (IAA) deliverables for fire incidents. Deliverables may include maps, files for the Geographic Information Systems section, and infrared video, which will be provided to the incident. The ATSG will ensure the deliverables meet the specifications of what is required by the incident.

A2.4 Training

As requested by OCFA, provide informal and formal National Wildfire Coordinating Group (NWCG) wildland fire instruction. Informal training will be delivered during the course of the daily shift. Formal, classroom-style training will be scheduled and delivered outside the standard shift schedule.

A2.5 Schedules

A2.5.1 Daily Shift. The daily shift is twelve (12) hours, and will be coordinated through the Primary or Secondary Contract Officer.

A2.5.2 Aerial Firefighting Programs. Contractor services will be utilized in various aerial firefighting programs, which may operate from multiple locations including, but not limited to, the Joint Forces Training Base in Los Alamitos, California, and/or other locations throughout California. Program operations may include a requirement for twelve (12) or twenty-four (24) hour availability. Multiple programs may be in place simultaneously. The ATGS must be available on site at the designated base of operations, or other location as directed, for the duration of the daily shift.

A2.5.3 Staffing Coordination. The ATGS is responsible for coordinating all contract aircrew availability to ensure staffing is sufficient to meet the respective daily twelve (12) hour or twenty-four (24) hour availability requirements. The ATGS must communicate schedules and proposed changes to schedules to the Primary or Secondary Contract Officer.

A3. Compensation

A3.1 Daily Rate

A3.1.1 Standard Shift. The daily rate for the standard twelve (12) hour shift is \$2,000 and includes, but is not limited to, all staffing coordination activities, ATGS duties, informal training provided during the shift, formal training, and full day support for additional services as requested by OCFA. Contractor is responsible for travel to and from the work location, food, and lodging. Hours worked totaling less than the daily rate will be compensated at one twelfth (1/12) the daily rate at one hundred sixty-six dollars (\$166) per hour.

A3.1.2 Holdover (Extended Staffing). In the event that holdover beyond the standard shift is required due to incident activity, services provided in excess of twelve (12) hours will be charged at one hundred sixty-six dollars (\$166) per hour.

Southern California Edison Service Territory Map



ORANGE COUNTY FIRE AUTHORITY
COST REIMBURSEMENT RATES
EQUIPMENT
EFFECTIVE June 15, 2021

DRAFT

DESCRIPTION	2020/21 RATE	SOURCE	Hourly / Daily
HELITANKER CH-47	\$8,000.00	OCFA CONTRACTOR	Hourly
HELICOPTER SIKORSKY S-76	\$3,500.00	OCFA CONTRACTOR	Hourly
MOBILE RETARDANT PLANT - OT*	\$1,500.00*	OCFA CONTRACTOR	Hourly*
WATER TENDER (Perimeter Solutions)	\$1,800.00	OCFA CONTRACTOR	12-Hour Shift
MOBILE FIRE RETARDANT - PRODUCT**	Actual Cost**	OCFA CONTRACTOR	**
FREIGHT (Perimeter Solutions)***	Actual Cost***	OCFA CONTRACTOR	***

* \$1,500 per hour (overtime) after 12hr shift, up to maximum of \$11,000/day if extended or if 24hr operations in a location begins. Contract cycle of 6/15-12/15 will be charged at the night operating rate plus overtime or full day rates as utilized.

** Based on 2021 U.S.F.S. FOB Origin Price List.

*** Based on location and return to point of origin.



Orange County Fire Authority
AGENDA STAFF REPORT

Board of Directors Meeting
April 22, 2021

Agenda Item No. 3C
Discussion Calendar

Fiscal Year 2019/20 Backfill/Overtime and Calendar Year 2020 Total
Earnings/Compensation Analysis

Contact(s) for Further Information

Robert C. Cortez, Assistant Chief robertcortez@ocfa.org 714.573.6012
Business Services Department

Julie Nemes, Finance Manager/Auditor julienemes@ocfa.org 714.573.6304
Business Services Department

Summary

This annual agenda item is submitted to provide an overview and analysis of the Fiscal Year 2019/20 backfill and overtime earnings along with employee total compensation for Calendar Year 2020, and to reaffirm current direction regarding filling permanent and temporary vacancies.

Prior Board/Committee Action

Budget and Finance Committee reviewed and approved the recommended action at their April 14, 2021, Regular meeting by a 5-0 vote (Directors Muller, Bourne, Hasselbrink and Tettemer absent).

RECOMMENDED ACTION(S)

1. Direct staff to continue pursuing reductions in overtime by filling permanent vacancies as quickly as possible after the positions become vacant.
2. Authorize staff to temporarily exceed the number of authorized firefighter positions on the Master Position Control to maximize the number of firefighters hired into each academy, pending attrition/promotions that occur during and following academy graduations.
3. Direct staff to continue using overtime to fill temporary vacancies rather than hiring additional personnel, recognizing this as a cost-effective practice for temporary needs.

Impact to Cities/County

Not Applicable.

Fiscal Impact

Backfill/overtime costs are included in the annual budget.

Background

See extended background.

Attachment(s)

1. 2020 Average Overtime Shifts Compared to 2019 (Safety/Firefighter Ranks)
2. 2020 Average Overtime Shifts Compared to 2019 (Non-Safety/Dispatchers)
3. Frequently Asked Questions & Responses
4. Fiscal Year 2019/20 Backfill/Overtime & Calendar Year 2020 Total Earnings/Compensation Analysis (PowerPoint Slides)

Background

The OCFA's General Fund budget (excluding Fund 12110 – CIP) consists primarily of labor costs, with approximately 87.9% of final Fiscal Year (FY) 2019/20 expenditures allocated to salaries and employee benefits. For FY 2019/20, final backfill/overtime expenditures were \$66,919,982 or 17.0% of total salary and employee benefit costs (compared to a very similar level of 17.5% in FY 2018/19). The primary factors driving OCFA's backfill/overtime costs are:

- OCFA's Constant Staffing Policy - \$52.4M
- Major Emergency Incident Response - \$7.0M
- Training Requirements - \$3.9M
- Discretionary - \$3.6M

Backfill and overtime costs can either be non-discretionary or discretionary, as explained in the following paragraphs.

Constant Staffing Backfill/Overtime (Non-Discretionary)

The OCFA maintains constant staffing levels, which means that every day, all authorized Operations post-positions are staffed. Constant staffing enables delivery of emergency services 24-hours per day, 7-days per week. A post-position is a seat on a fire or Emergency Medical Services (EMS) response unit (including engines, trucks, and paramedic vehicles) that must be filled to meet the staffing requirements of that unit.

- Backfill occurs when there is a vacancy in a position that requires constant staffing and another employee works overtime to fill the vacancy. Examples include:
 - Positions temporarily vacant, due to personnel on leave (sick, vacation, jury duty, military leave, bereavement, workers' compensation, etc.)
 - Positions temporarily vacant due to COVID-19 protocols (sick, exposure, etc.)
 - Positions vacant as a result of retirements, promotions, or the addition of new positions to staff a new station or convert Basic Life Support engines to Advance Life Support engines, pending recruitments to fill the positions
 - Positions temporarily vacant, due to personnel responding to major in/out-of-county emergency incidents
- Overtime is used for work performed above and beyond the constant staffing requirements. Examples include strike teams, overhead assignments, or emergency incidents, either in- or out-of-county, and mandatory training classes that occur on a day other than the employee's regularly assigned shift.

Major Emergency Incident Response (Non-Discretionary)

Another form of non-discretionary overtime incurred by OCFA is for major emergency incident response. OCFA responds to emergency incidents at the request of surrounding fire agencies (Mutual Aid), California Department of Forestry (CAL FIRE), Cleveland National Forest Service (CNF), and the California Office of Emergency Services (Cal OES). Backfill/overtime costs for responding to major emergency incidents in FY 2019/20 totaled \$7.0 million and represented approximately 10.5% of total backfill/overtime expenditures. Approximately 75-100% of these emergency related incident response costs are reimbursable.

Starting in March 2020, OCFA was impacted by the COVID-19 Pandemic and incurred significant non-discretionary overtime for the COVID-19 response, which is included in the major emergency incident response figure referenced above. For FY 2019/20, OCFA submitted an overtime

reimbursement claim of \$3.6 million to the Federal Emergency Management Agency (FEMA) for the COVID-19 incident response. This claim is currently under review by FEMA.

Backfill/Overtime costs for constant staffing and major emergency incident response are considered non-discretionary and represent 88.9% of FY 2019/20 Backfill/Overtime costs.

Training Requirements (Discretionary & Non-Discretionary)

OCFA incurs additional backfill/overtime costs related to various training requirements for suppression personnel. Examples include mandatory training requirements for federal, state, and local programs including Urban Search and Rescue (US&R), Airport Rescue Firefighting (ARFF), Weapons of Mass Destruction (WMD), and Incident Command (IC). Additionally, the OCFA historically incurs overtime and backfill costs to provide training academies for new and/or promoted dispatchers, firefighters, engineers, captains, battalion chiefs, and reserve firefighters. Backfill/overtime costs as a result of training activities in FY 2019/20 totaled \$3.9 million and represented 5.8% of the total backfill/overtime expenditures.

Backfill/Overtime/Discretionary

For FY 2019/20, total discretionary backfill/overtime was \$3.6 million or 5.3% and is attributable to the following:

- Employees staffing special events, participating on project teams, and Fire Explorer Program activities
- Information systems including the Geographic Information System (GIS), automotive, communications services, and fire prevention personnel requested to work outside their normal work schedule

Regular vs. Overtime Analysis

Similar to prior years, backfill/overtime continues to be approximately 27% more cost effective than hiring a full-time benefited employee for filling temporary vacancies such as those that occur when employees are off on sick-leave or when employees are responding to out-of-county incidents. That said, it is **not** OCFA's intent to use overtime as a cost-savings measure when positions are vacant due to retirements/promotions. Instead, OCFA seeks to fill those vacant positions as quickly as possible through new recruit academies and promotional academies. For CY 2020, the estimated cost savings to OCFA by using overtime rather than full-time employees to fill vacancies was \$23 million.

Filling Vacant Positions

To help reduce the number of vacancies that are open pending hiring and promotions, OCFA has conducted, and plans to conduct, the following academies:

Academies in FY 2020/21

2 Firefighter Academies
1 Fire Apparatus Engineer Academy
1 Fire Captain Academy
2 Battalion Chief Academies

Academies planned for FY 2021/22

2 Firefighter Academies
1 Fire Apparatus Engineer Academy
1 Fire Captain Academy
1 Battalion Chief Academy

We have reached nearly full staffing at the firefighter rank immediately following Firefighter Academy 50 and 51's graduations. Currently, we are conducting Firefighter Academy 52 and Firefighter Academy 53 will begin in August 2021. Firefighter vacancies have continued to accumulate quickly as we promote firefighters into the engineer and captain ranks, and also

experience retirement activity among all ranks. As a result, staff is seeking continued Board authorization for the hiring of approximately 50 firefighters per academy for all academies during the next two fiscal years (FY 2020/21 and 21/22), due to attrition/promotions that will occur during and following academy graduations. This may result in total firefighter positions temporarily exceeding total permanent authorized firefighter positions pending promotions and retirements/other separations.

Backfill/Overtime Monitoring & Analysis

OCFA finance staff prepares monthly reports to track and monitor backfill/overtime activity. Reports are provided internally to management to show expenditures by section and by cause (reason) so that Operations and support departments can monitor and, if required, adjust activities as needed in their respective areas.

The OCFA also has policies, procedures, and systems in place that monitor and report overtime usage. Due to the long fire season and the COVID-19 Pandemic, combined with open positions, vacancies, promotions, and retirements during CY 2020, the OCFA was required to utilize backfill and overtime to fulfill these needs. Although backfill and overtime usage was still required, the need to **force-hire** employees to work extended hours beyond what they voluntarily desired to work was significantly reduced compared to CY 2019 (Attachments 1 and 2). As stated earlier, the OCFA has aggressively been conducting various academies to help reduce the distribution of overtime and impact on employees. OCFA staff has also been working with the Orange County Professional Firefighters Association, Local 3631, to enhance existing policies and make modifications to the Staffing System to reduce the amount of forced overtime. These combined efforts have resulted in an overall reduction in forced overtime prior to the COVID-19 Pandemic.

As discussed in this report, the majority of backfill/overtime incurred by OCFA is non-discretionary and emergency response activity is generally 75-100% reimbursable. The small portion of overtime considered discretionary (5.4% of total backfill/overtime expenditures) is carefully managed and closely monitored.

Total Employee Compensation Reporting

Effective in CY 2018, employers were required to only report the normal employer paid retirement costs and not report the Unfunded Actuarial Accrued Liability (UAAL) as part of an individual employee's compensation. Currently, the UAAL comprises 47-61% of the employer retirement costs, which is an elevated level beyond what is required due to OCFA's accelerated pension paydown plan.

Compensation Cost Transparency

Annual employee compensation costs are posted and readily available on the OCFA website dating back to CY 2009. Since 2012, the format of the report includes all earnings segregated by base salary, overtime, unused leave payouts, and other/special pay. Employer paid retirement and benefits are also included in the employee compensation report. This year's report will be posted to the OCFA website and submitted to the State Controller on or before April 30, 2021, in compliance with the due date.

OVERTIME QUARTERLY UPDATE

Dec 2020

AVERAGE OVERTIME SHIFTS

Forced Overtime

Voluntary Overtime

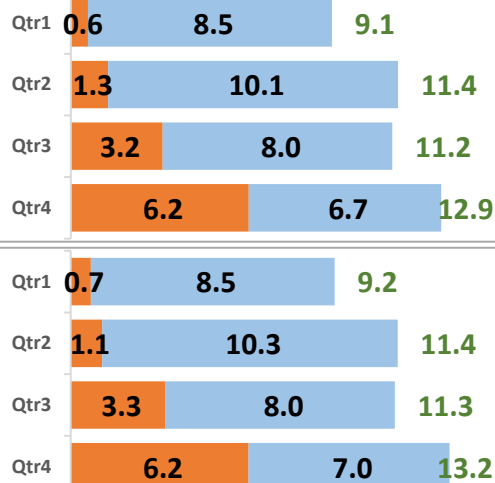
Total Overtime



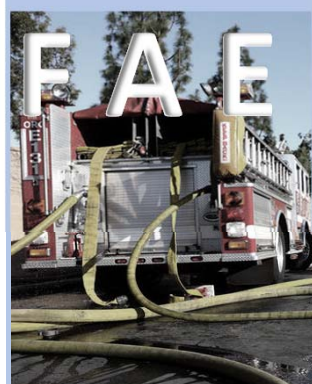
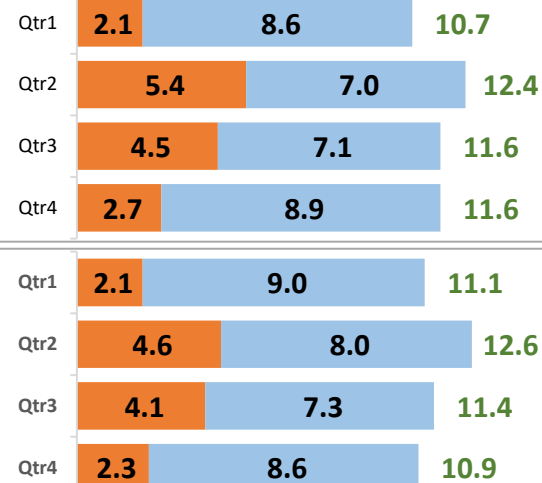
PM/FC

FC

2020

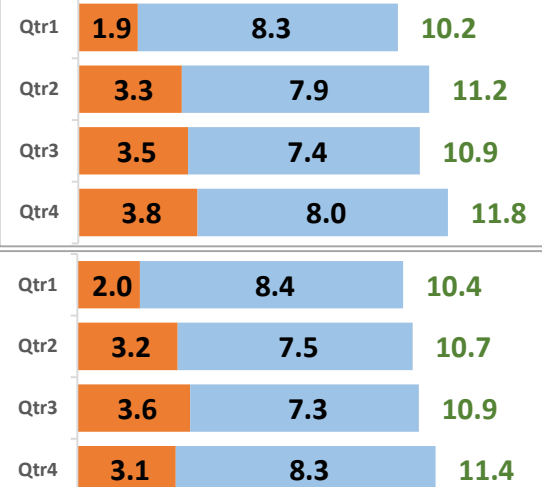
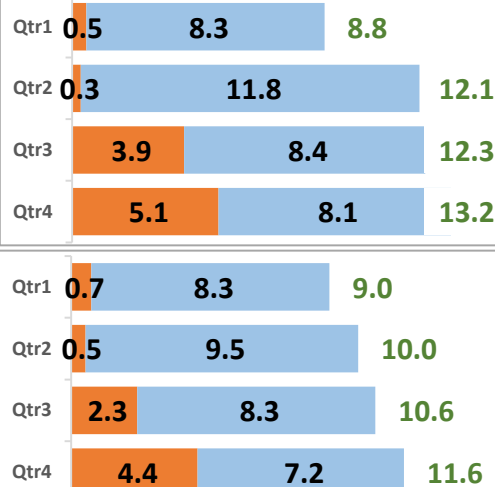


2019



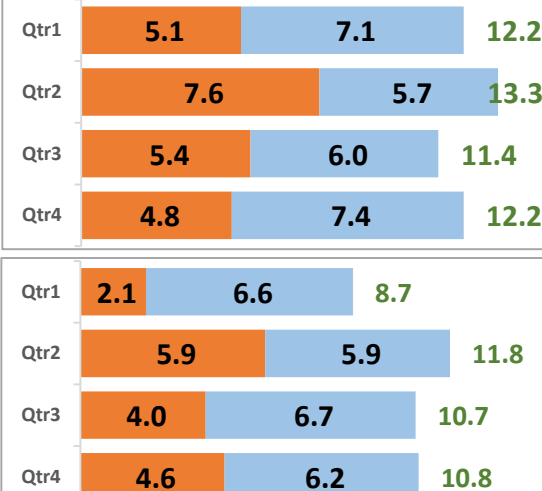
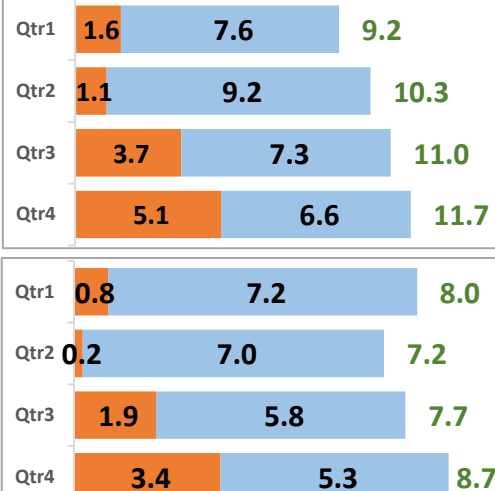
PM/FAE

FAE



PM/FF

FF



Forced and Voluntary Overtime include shifts of 14+ hours worked only.

Averages are calculated using number of Overtime shifts (14+ hours) divided by the number of employees working 9+ shifts for the quarter.

Rank indicates the individual working the overtime; does not indicate the position worked.

In work-down situations, the OT is counted to the individual in rank.

Beginning April 2020, the reporting period is realigned to cover actual days of the month (previously based on rolling 29 day periods).

EMERGENCY COMMAND CENTER

OVERTIME UPDATE

Dec 2020

AVERAGE
OVERTIME SHIFTS

Fire Communications Dispatcher

MONTHLY

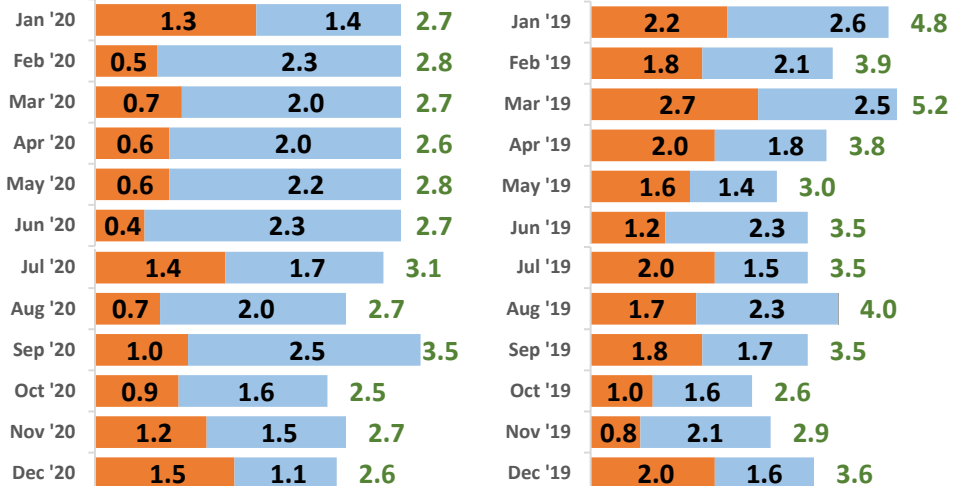
Forced Overtime

Voluntary Overtime

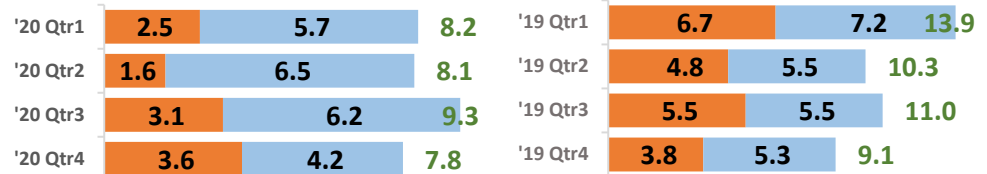
Total Overtime

2020

2019

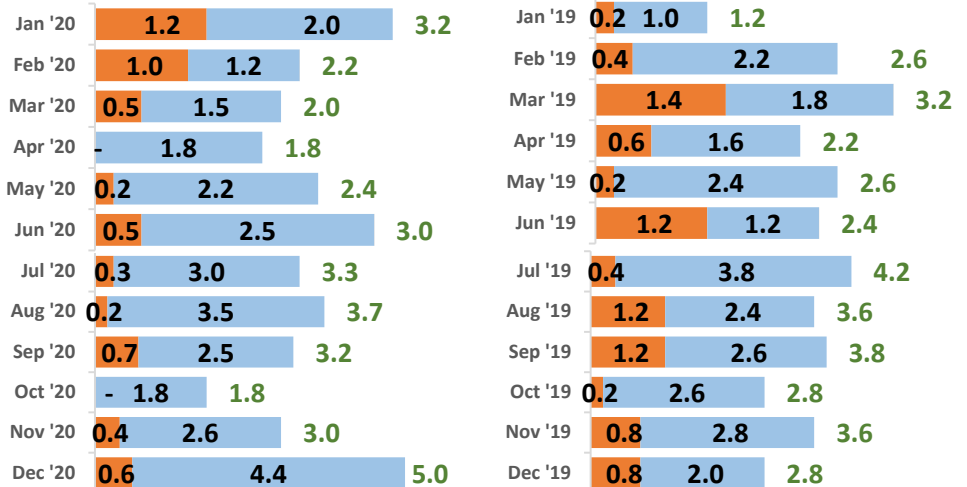


QUARTERLY

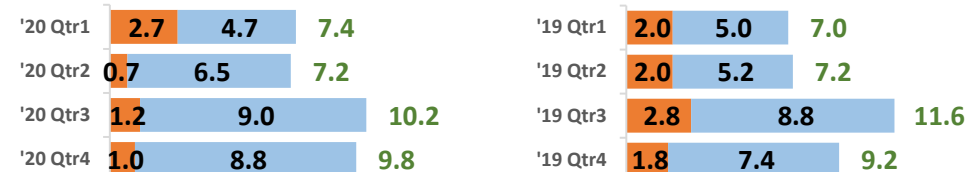


Fire Communications Supervisor

MONTHLY



QUARTERLY



Beginning April 2020, the reporting period is realigned to cover actual days of the month (prev. based on rolling 29 day periods).

FY 2019/20 BACKFILL/OVERTIME ANALYSIS FREQUENTLY ASKED QUESTIONS

1. What is a firefighter's standard work schedule?

Firefighters assigned to suppression positions work 24-hour shifts which equate to a 56-hour average work week or 2,912 hours per year. When firefighters are assigned to staff positions on a 40-hour work week, they average 2,080 regular hours per year.

2. What does "maintaining constant staffing levels" mean? What is the difference between backfill and overtime?

This means that every day, all authorized Operations post-positions are staffed. A post-position is a seat on a fire or Emergency Medical System (EMS) response unit (including engines, trucks and paramedic vans) that must be filled to meet the staffing requirement of that unit. Backfill occurs when there is a vacancy in a position that requires constant staffing and an employee either volunteers or is forced to work to fill the vacancy. Overtime is also used for hours worked above and beyond the constant staffing requirements. Examples of overtime include strike teams, overhead assignments to emergency incidents, either in- or out-of-county, and mandatory training classes that occur on days other than the employee's regularly assigned shift.

3. Because OCFA's backfill/overtime budget is significant, does that mean we are understaffed?

OCFA's backfill/overtime budget is significant, due to the reasons outlined in #2 above. Due to retirements and promotions, there are positions that remain temporarily unfilled, pending graduation of new recruits from Firefighter Academies, and pending completion of promotional academies. For FY 2019/20, vacant positions across all ranks reached a high of 155 which required constant staffing on an overtime/backfill basis. Recent and planned academies along with promotional exams are expected to continue reducing the number of vacancies and open positions.

4. How many continuous hours may a firefighter work?

Currently, the maximum number of continuous hours (regular and backfill/overtime) an employee may work is 120. The Assistant Chief of Operations may suspend the 120-hour rule to ensure sufficient incident response capability and adequate station coverage. Employees enter their availability to work into the OCFA's Staffing System. The system hires employees based upon the premise of an equal distribution of overtime and agreed upon hiring list procedures. Personnel assigned to out-of-county strike teams or to overhead positions are often deployed for periods of 14-21 days. When assigned to these extended incidents, employees work within established work/rest cycles.

5. Is the OCFA concerned about employee fatigue as the result of the continuous work hour rules?

The OCFA recognizes employee fatigue is a factor that impacts employee performance. Severe fatigue may increase the dangers inherent in the performance of emergency operations. The OCFA takes steps to protect employees from these dangers and ensures that firefighters are trained, equipped and supervised to work as safely as possible. There is an additional emphasis on employee health and wellness provided through the WEFIT (Wellness) Program. Supervisors have the means by which to ensure employees are either adequately rested or relieved of duty where appropriate. Firefighters on extended incidents adhere to specified work/rest cycles.

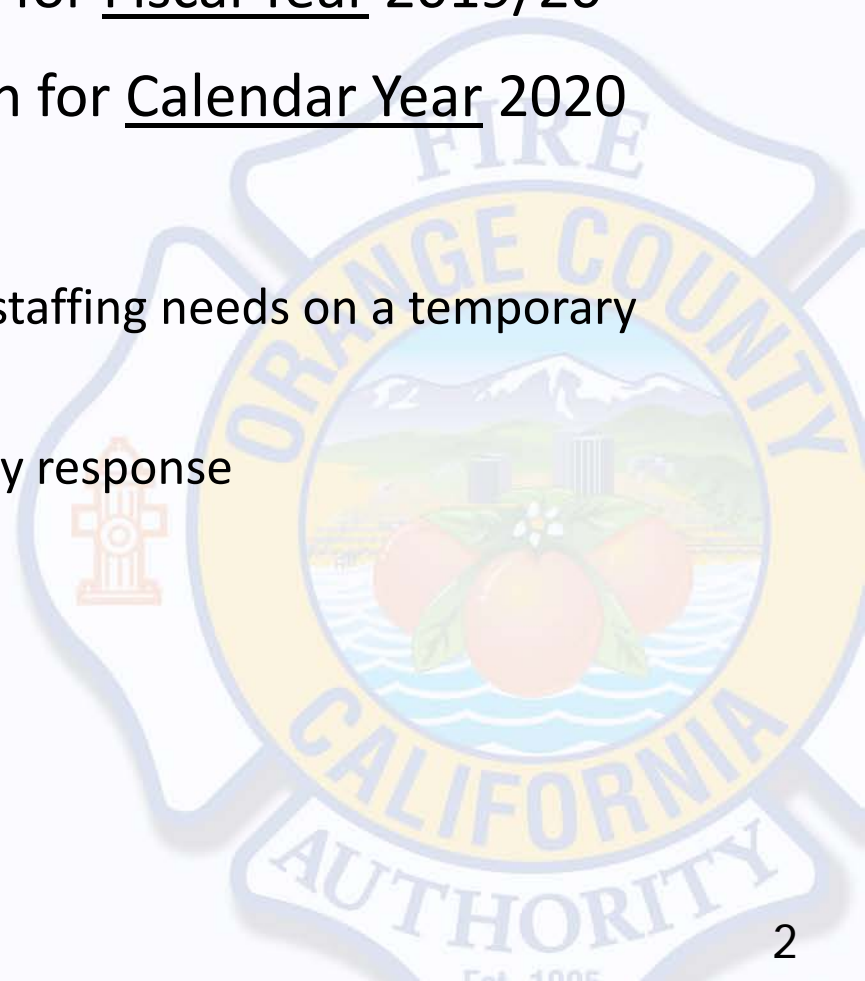
Fiscal Year 2019/20 Backfill/Overtime & Calendar Year 2020 Total Earnings/Compensation Analysis

Board of Directors Meeting
April 22, 2021



Agenda

- Backfill and overtime earnings for Fiscal Year 2019/20
- Detail employee compensation for Calendar Year 2020
- Backfill/overtime:
 - Cost effective option to meeting staffing needs on a temporary basis
 - Provides for consistent emergency response
- Recommendations



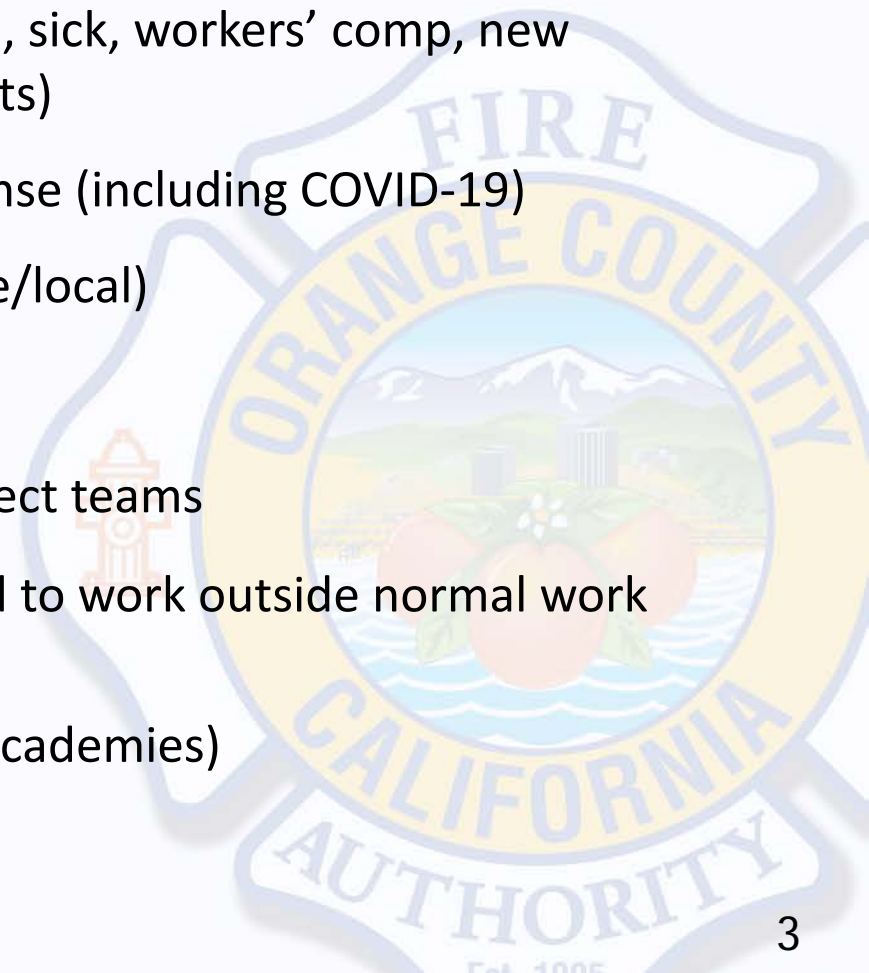
Fiscal Year 2019/20 Backfill/Overtime Categories

- Non-Discretionary Categories:

- Constant Staffing Policy (vacation, sick, workers' comp, new positions, promotions, retirements)
- Major emergency incident response (including COVID-19)
- Training (mandatory federal/state/local)

- Discretionary Categories:

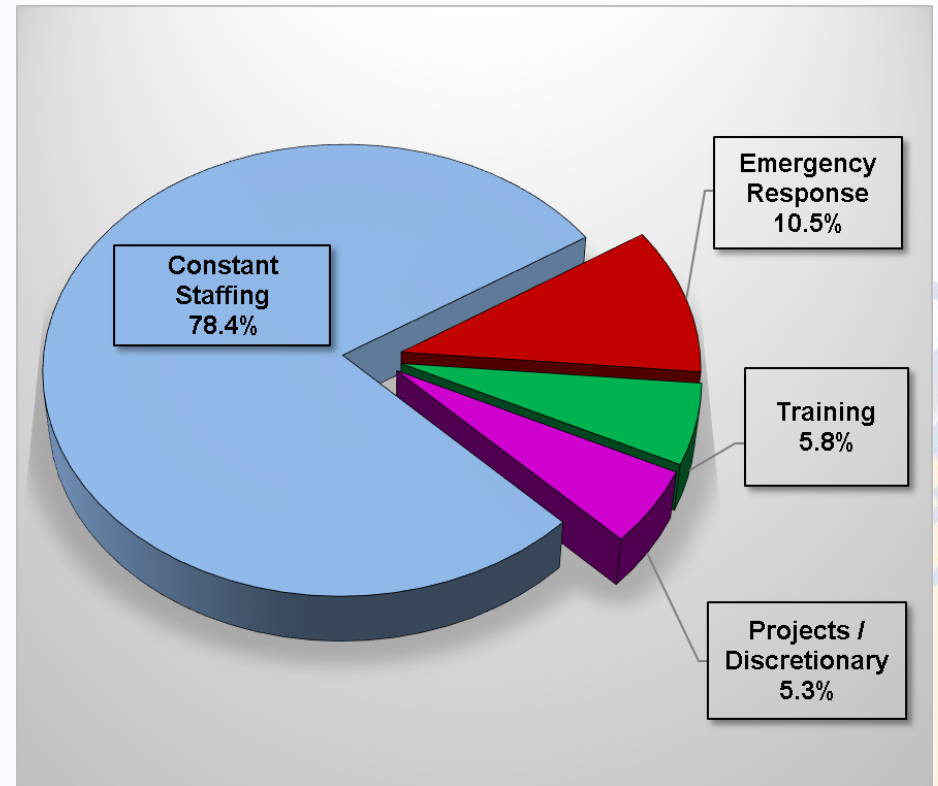
- Special events/assignments, project teams
- Department personnel requested to work outside normal work schedules
- Training (new hire/promotional academies)



Fiscal Year 2019/20 Backfill/Overtime by Category

Categories of Backfill/OT	FY 2019/20 (in millions)
Constant Staffing (ND)	\$52.4
Emergency Response* (ND) - includes \$3.6M COVID-19 FEMA Claim	\$7.0
Training (Discretionary & Non-Discretionary)	\$3.9
Projects/Discretionary	\$3.6
FY 2019/20 Total	\$66.9

ND: Non-Discretionary



* Emergency response overtime is generally 75-100% reimbursable

Overtime Cost Effectiveness

Firefighter Position Example

Hourly Rate Regular Full-Time	Top Step Regular Rate	Top Step OT Rate	Mid Step Regular Rate	Mid Step OT Rate
<u>Salaries:</u>				
Base Hourly Rate	\$32.97	\$49.46	\$28.74	\$43.12
Other Pays (Holiday, Educ. Inc., EMT)	\$8.35		\$8.35	
Total Salaries	\$41.32	\$49.46	\$37.09	\$43.12
<u>Benefits:</u>				
Retirement	\$20.99		\$18.85	
Workers' Compensation/Medicare	\$1.75	\$2.05	\$1.69	\$1.96
Health Insurance	\$8.66		\$8.66	
Total Benefits	\$31.40	\$2.05	\$29.20	\$1.96
Total Hourly Salaries & Benefits	\$72.72	\$51.51	\$66.29	\$45.08

\$ Difference	\$21.21	\$21.21
% Difference	29.17%	32.00%

For a firefighter position, it is approximately 30% more cost effective to use overtime to backfill temporary firefighter vacancies compared to hiring a regular full-time firefighter to fill floating temporary vacancies

Calendar Year 2019/20 Regular vs. Overtime Analysis

Firefighter Ranks Estimated Cost Savings

	Actual Overtime Hours Worked	FTE Equivalent	Estimated * FTE Cost	Estimated * Overtime Cost	Estimated * Cost Savings by Utilizing Backfill/Overtime
Fire Captain	325,282	111.7	\$30,089,701	\$22,042,039	\$8,047,662
Engineer	265,668	91.2	\$20,742,088	\$15,490,199	\$5,251,889
Firefighter	445,162	152.9	\$32,255,408	\$22,892,585	\$9,362,823
		355.8	\$83,087,197	\$60,424,823	\$22,662,374

The estimated \$22.7 million savings is a direct result of utilizing overtime/backfill rather than full-time employees at a blended savings of 27%

***** *Utilizes estimated hourly rates for top step within a classification (blended savings of 30% at mid step hourly rates).*

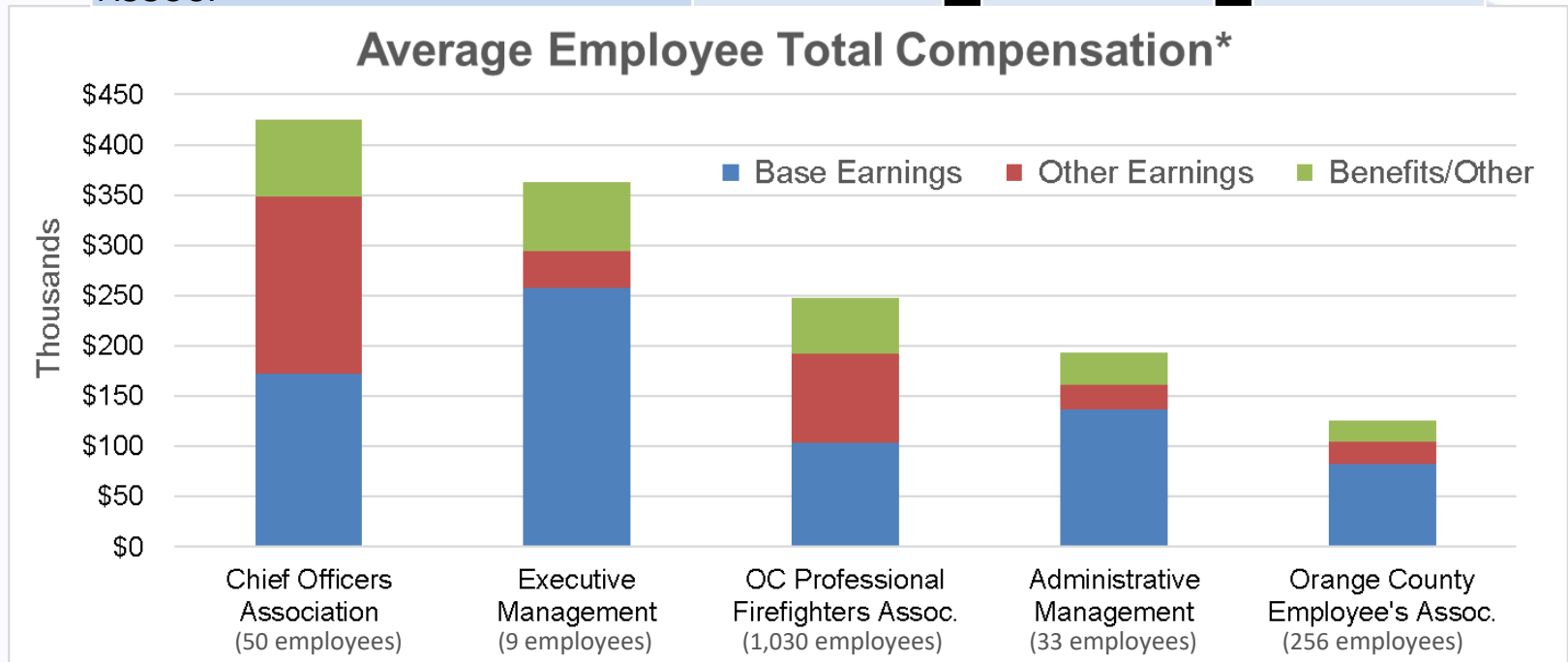
Firefighter Ranks Earnings Analysis



* Excludes benefits

Calendar Year 2020 Total Employee Compensation

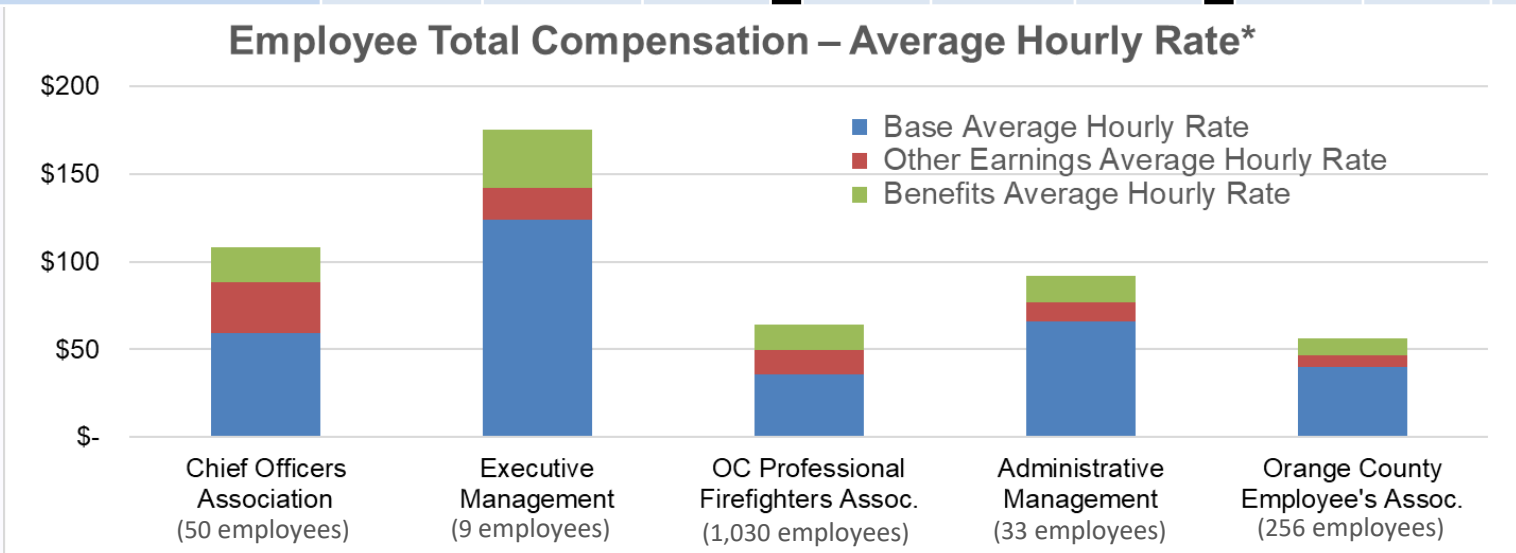
Bargaining Group	Average Base Earnings	Average Total Earnings	Average Total Compensation
CHIEF OFFICERS ASSOCIATION	\$171,688	\$348,769	\$425,385
EXECUTIVE MANAGEMENT	\$257,328	\$294,534	\$363,363
OC PROFESSIONAL FIREFIGHTERS ASSOCIATION	\$103,846	\$191,701	\$247,001
ADMINISTRATIVE MANAGEMENT	\$136,647	\$161,158	\$193,485
ORANGE COUNTY EMPLOYEE'S ASSOC.	\$82,709	\$104,007	\$126,078



* Employees working a minimum of 2,000 hours for safety and 1,430 for non-safety (approx. 70% of regularly scheduled hours)

Calendar Year 2020 Total Compensation – Average Hourly Rate

Bargaining Group	BASE EARNINGS			TOTAL EARNINGS			TOTAL COMPENSATION		
	Average Base Earnings	Regularly Scheduled Hours	Average Hourly Rate	Average Total Earnings	Average Hours Worked	Average Hourly Rate	Average Total Compensation	Average Hours Worked	Average Hourly Rate
CHIEF OFFICERS ASSOCIATION	\$171,688	2,912	\$58.96	\$348,769	3,938	\$88.57	\$425,385	3,938	\$108.02
EXECUTIVE MANAGEMENT	\$257,328	2,080	\$123.72	\$294,534	2,080	\$141.60	\$363,363	2,080	\$174.69
OC PROFESSIONAL FIREFIGHTERS ASSOCIATION	\$103,846	2,912	\$35.66	\$191,701	3,855	\$49.73	\$247,001	3,855	\$64.07
ADMINISTRATIVE MANAGEMENT	\$136,647	2,080	\$65.70	\$161,158	2,106	\$76.52	\$193,485	2,106	\$91.87
ORANGE COUNTY EMPLOYEE'S ASSOC.	\$82,709	2,080	\$39.76	\$104,007	2,241	\$46.41	\$126,078	2,241	\$56.26



* Employees working a minimum of 2,000 hours for safety and 1,430 for non-safety (approx. 70% of regularly scheduled hours)

Calendar Year 2020 Top 10 Employees: Compensation Pensionable vs. Non-Pensionable Costs

		=	+			
	Title/Assignment	Total Compensation	Compensation Pensionable	Compensation Non-Pensionable*	Employer Paid Pension (Non-Pensionable)	Employer Paid Health (Non-Pensionable)
1	Fire Division Chief	\$593,254	\$236,935	\$356,319	\$67,084	\$22,942
2	Fire Battalion Chief	\$561,279	\$203,499	\$357,780	\$57,820	\$22,529
3	Fire Battalion Chief	\$557,681	\$203,954	\$353,727	\$57,095	\$22,696
4	Fire Battalion Chief	\$547,133	\$205,615	\$341,518	\$58,637	\$22,577
5	Fire Division Chief	\$536,015	\$219,951	\$316,064	\$63,523	\$22,655
6	Fire Captain	\$530,555	\$170,030	\$360,525	\$45,973	\$25,242
7	Fire Battalion Chief	\$529,958	\$212,558	\$317,400	\$59,909	\$20,700
8	Fire Division Chief	\$529,115	\$230,054	\$299,061	\$65,518	\$17,560
9	Fire Battalion Chief	\$506,252	\$182,086	\$324,166	\$53,550	\$15,087
10	Fire Division Chief	\$502,926	\$232,154	\$270,772	\$65,842	\$22,949

*

Compensation Non-Pensionable includes overtime, non-pensionable specialty pays, employer paid pension, and employer paid health.

Calendar Year 2020 Top 10 Employees: Compensation Average Hourly Rate

	Title/Assignment	Total Compensation*	Base Hours	Backfill/ Overtime Hours	Total Hours	Average Hourly Fully Burdened Rate
1	Fire Division Chief	\$593,254	2,080	1,697	3,777	\$157.09
2	Fire Battalion Chief	\$561,279	2,912	2,664	5,576	\$100.66
3	Fire Battalion Chief	\$557,681	2,080	2,037	4,117	\$135.46
4	Fire Battalion Chief	\$547,133	2,272	2,064	4,336	\$126.18
5	Fire Division Chief	\$536,015	2,368	1,691	4,059	\$132.06
6	Fire Captain	\$530,555	2,880	3,994	6,874	\$77.18
7	Fire Battalion Chief	\$529,958	2,112	1,758	3,870	\$136.93
8	Fire Division Chief	\$529,115	2,080	1,358	3,438	\$153.90
9	Fire Battalion Chief	\$506,252	2,912	2,551	5,463	\$92.67
10	Fire Division Chief	\$502,926	2,080	1,114	3,194	\$157.46

* Includes all employer paid benefits

Calendar Year 2020 Top 10 Employees: Hours by Backfill/Overtime*

	Title/ Assignment	Base Hours Worked	Backfill for Constant Staffing	Overtime for Emergency Incidents (1)	Overtime to Attend Training	Other (2)	Total Hours
1	Fire Division Chief	2,080	-	1,544	-	153	3,777
2	Fire Battalion Chief	2,912	1,799	373	231	261	5,576
3	Fire Battalion Chief	2,080	172	1,811	54	-	4,117
4	Fire Battalion Chief	2,272	958	971	135	-	4,336
5	Fire Division Chief	2,368	193	1,413	-	85	4,059
6	Fire Captain	2,880	1,894	1,714	279	107	6,874
7	Fire Battalion Chief	2,112	956	485	107	210	3,870
8	Fire Division Chief	2,080	-	1,319	-	39	3,438
9	Fire Battalion Chief	2,912	2,034	242	224	51	5,463
10	Fire Division Chief	2,080	-	1,089	-	25	3,194

* Per Cause Code

(1) Reimbursable

(2) Special Activities, Other Discretionary/Non-Discretionary, Administrative

Summary

- Approximately 89% of the backfill/overtime costs are non-discretionary (78% constant staffing and 11% emergency activity)
- OCFA staff has conducted and anticipates the following academies over the next two fiscal years:

<u>FY 2020/21</u>	<u>FY 2021/22</u>
2 Firefighter Academies	2 Firefighter Academies
1 Fire Apparatus Engineer Academy	1 Fire Apparatus Engineer Academy
1 Fire Captain Academy	1 Fire Captain Academy
2 Battalion Chief Academies	1 Battalion Chief Academy

- When backfill/overtime is required, it is approximately 30% more cost effective than hiring a full-time benefited firefighter employee for filling temporary vacancies

Recommended Action

Review the proposed agenda item and:

1. Direct staff to continue pursuing reductions in overtime by filling permanent vacancies as quickly as possible after the positions become vacant.
2. Authorize staff to temporarily exceed the number of authorized firefighter positions on the Master Position Control to maximize the number of firefighters hired into each academy, pending attrition/promotions that occur following academy graduations.
3. Direct staff to continue using overtime to fill temporary vacancies rather than hiring additional personnel, recognizing this as a cost-effective practice for temporary needs.

Questions/Comments?





Orange County Fire Authority
AGENDA STAFF REPORT

Board of Directors Meeting
April 22, 2021

Agenda Item No. 3D
Discussion Calendar

Proposed Updates to Public Works Procurement Procedures

Contact(s) for Further Information

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714.573.6641

Summary

This agenda item is submitted to present the proposed updates to public works project related solicitation forms and contracts to incorporate more robust pre-qualification procedures into OCFA's solicitations.

Prior Board/Committee Action

On April 14, 2021, the Budget and Finance Committee reviewed the Update on Public Works Procurement Procedures to Incorporate Best Practices item and after extensive discussion, recommended by a 6-0 vote (Directors Muller, Bourne and Sachs absent), to direct staff to place the item on the agenda for the Board of Directors meeting of April 22, 2021, with the following recommendations:

- Approve the recommendation to modify the threshold for the "Two Solicitation" pre-qualification process to \$1,000,000 and
- Recommended that staff incorporate the specific responses to the issues raised at the prior Board meeting regarding the vetting of contractors, so that it is clear these areas are being addressed in future review of contractors.

RECOMMENDED ACTION(S)

Affirm that the proposed process for pre-qualifying contractors in connection with OCFA's Public Works solicitations meets the Board of Directors expectations for public projects.

Impact to Cities/County

Not Applicable.

Fiscal Impact

Not Applicable.

Background

At the November 19, 2020 meeting of the OCFA Board of Directors, the Board rejected all bids for the Electrical Improvement and Fire Training Prop Replacement portions of the Drill Grounds

Improvement public works project.¹ In addition, the Board directed staff to conduct a pre-qualification process followed by a new invitation for bids.

In an effort to ensure proper execution of the Board's directive, staff conducted a survey of public works procurement policies from several Orange County cities. Since OCFA has not conducted this type of separate pre-qualification step in past projects, the survey was intended to provide examples that staff could replicate from other agencies utilizing industry best practices and also ensure that future public works solicitations issued by OCFA will align with common practice within Orange County. The survey highlighted that while some agencies conduct a two-step pre-qualification process for specialized, complex projects typically valued over five million dollars, most cities do not; rather, they conduct a one-step pre-qualification process whereby a contractor's statement of qualifications is submitted at the same time as their bid pricing for the project at hand. When the agencies do conduct a two-step pre-qualification, the Request for Statements of Qualifications (RFSQ) process and scoring closely mirror the model questionnaire that is published by the California Labor Commissioner.

In alignment with those agencies surveyed, and then modified to incorporate the direction provided by the Board of Directors and Budget & Finance Committee, staff is proposing to use the Public Works solicitation processes below for all future standard delivery (design-bid-build) construction solicitations:

Pre-Qualification Process for Projects Less than \$1,000,000 – One Solicitation	
<u>Solicitation</u>	<u>Purpose</u>
Invitation for Bid	One Solicitation issued to pre-qualify contractors and then to hire the contractor who will build the project. Contractor must provide evidence in their submittal that they meet the OCFA's pre-qualification standards prior to the contractor's bid being considered. <i>Per CA PCC 22034 (projects up to \$200,000) and CA PCC 22032 (projects over \$200,000)</i>
	Those contractors who pass this pre-qualification review will then proceed in the process for further evaluation of the contractor's bids.
	Plans, specifications, and contract award are brought to the Board of Directors for adoption and approval if value exceeds \$200,000.
Pre-Qualification Process for Projects Greater than \$1,000,000 – Two Solicitations	
<u>Solicitation</u>	<u>Purpose</u>
Request For Statement of Qualifications	The first solicitation will be issued to pre-qualify construction contractors to be eligible to submit a bid to build the project. <i>Per CA PCC 20101</i>
Invitation for Bid	The second solicitation will then be issued only to those contractors who were pre-qualified in the first solicitation. The IFB will be used to hire the contractor who will build the project. <i>Per CA PCC 22032</i>
	Plans, specifications, and contract award are brought to the Board of Directors for adoption and approval.

¹ "Public works" in general refers to construction, alteration, demolition, installation, or repair work done under contract and paid in whole or in part out of public funds. Public works contracting is subject to the requirements in the California Public Contract Code.

In modifying the project thresholds specified above, with \$1,000,000 being the threshold for projects that would utilize the “one solicitation” method, the Budget & Finance Committee requested information about what type of projects and project values the OCFA has in its Capital Improvement Program (CIP), to aid in determining how many projects would fall under/over this value. Staff found the following projects would fall into the category of over \$1,000,000:

- RFOTC Training Grounds Expansion and Upgrade
- Fire Station Construction Projects (5 stations over the next 5 years)
- Fire Station 41 (Air Operations) Hangar Renovations

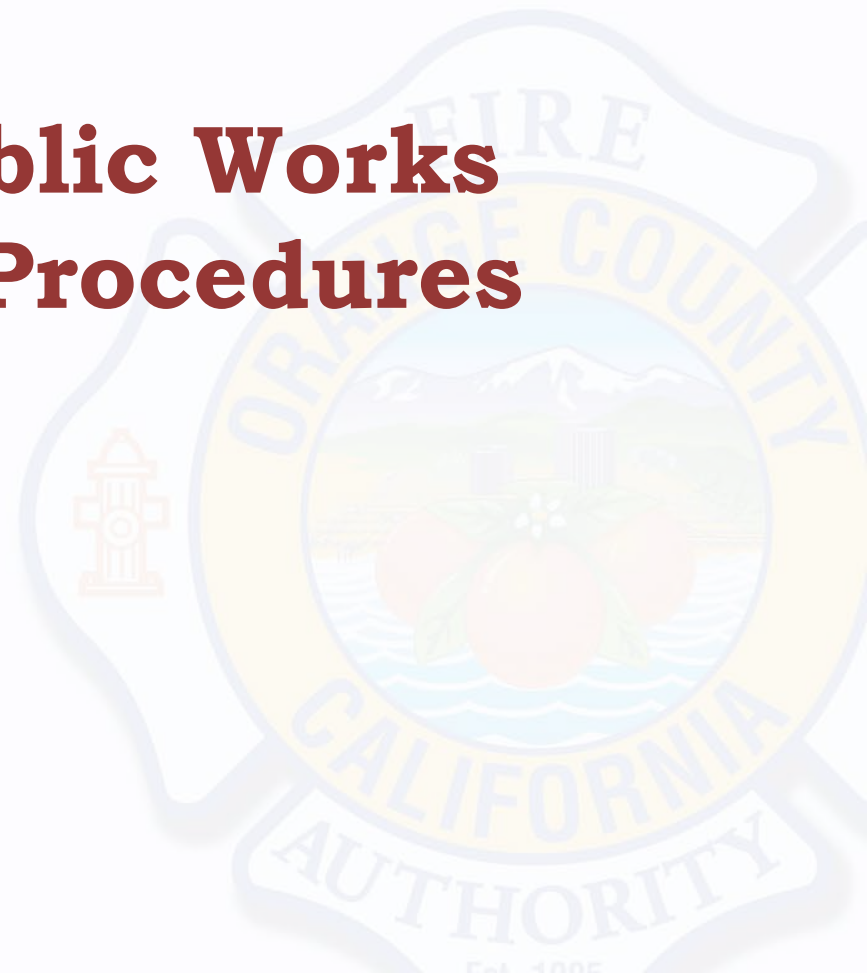
All other public works projects in the CIP are much smaller facility improvement projects which would still be vetted through the pre-qualification process, but would be done using the “one solicitation” method.

Staff, in conjunction with legal counsel, is finalizing updates to the OCFA’s public works solicitation and contract forms to incorporate best practices. These additions include a more robust questionnaire that will be used to pre-qualify and determine a Contractor’s responsibility prior to consideration of the bid, revised bid pricing sheets that allow for greater in-depth analysis of a contractor’s pricing, and standardized reference checks. The results of the pre-qualification processes, reference checks and bid pricing analysis will be provided to the Board in the agenda staff report for each project brought forth for approval.

Attachment(s)

1. PowerPoint Presentation
2. Public Works Contractor Pre-Qualification One-Solicitation Process – Proposed Updates
3. Public Works Contractor Pre-Qualification Two Solicitation Process - Labor Commissioner Model Questionnaire

Update on Public Works Procurement Procedures



Prior Board Direction

- In November 2020, the Board of Directors:
 - Rejected all bids for a public works project to improve the RFOTC Training Grounds, and
 - Directed staff to conduct a pre-qualification process for this project, followed by a new invitation for bids
 - Return to the Board of Directors for award of contract following completion of the two solicitations

Prior Board Direction

- Since November, staff has:
 - Combined what was previously two smaller phases of the Training Grounds project into one larger project
 - Revised bid documents for the Training Grounds, including (1) the pre-qualification process and (2) invitation for bids
 - Conducted a survey of OCFA member agencies to enable staff to replicate current practices being used by our cities
 - Presented proposed project thresholds to the B&FC to distinguish when pre-qualification would be completed in one solicitation vs. two solicitations (under/over \$5M)

Pre-Qualification Procedures Proposed to B&FC

One Solicitation *(projects under \$5M):*

Bidder submits statements of experience and pre-qualification responses ***at the same time*** as they submit their pricing.

Two Solicitations *(projects over \$5M):*

Bidders submit statements of their experience and pre-qualification responses ***before the bid is released***. Only those Contractors who score high enough on the Pre-Qual receive the Invitation to Bid and are permitted to submit pricing.

B&FC Direction

- At the April 14, 2021 meeting, the B&FC directed staff to:
 - Reduce the recommended project threshold of \$5M to \$1M for distinguishing when projects would be bid through one solicitation vs. two solicitations
 - Incorporate responses to Board concerns from the November 2020 meeting, into the Board presentation for April so it's clear these areas are being addressed in future vetting of contractors

Summary of Board Concerns

Contractor Reputation

- Labor compliance, safety record, previous disqualifications, civil wage penalties, convictions, etc.

Contractor Capability To Perform Work

- References, performance bond, claims, contract termination, completion of similar work

Presentation Of Findings In Agenda Packet

- Price discrepancies between bids, comparison to engineer's estimate, evidence that contractor has been thoroughly vetted

Addressing Board Concerns for Contractor Vetting via Pre-Qualification Process

Contractor Reputation		
Areas to Address	One Solicitation	Two Solicitations
Labor Compliance	✓	✓
Safety Record	✓	✓
Previous Disqualifications	✓	✓
Civil Wage Penalties & Convictions	✓	✓
Contractor Ability to Perform Task at Hand		
Reference Checks	✓	✓
Performance Bond	✓	✓
Prior Claims	✓	✓
Prior Contract Termination	✓	✓
Completion of Similar Work	✓	✓
Reasonable Pricing	✓	✓

Addressing Board Concerns for Contractor Vetting via Pre-Qualification Process

Presentation of Findings – Inclusion of Additional Detail in Staff Report	
Comparison of Bid Price to Engineer Est.	✓
Bid Tabulation	✓
Summary of the Reference Check Results	✓
Past Experience & Current Public Projects	✓

Addressing Board Concerns for Contractor Vetting via Pre-Qualification Process

- Staff has incorporated robust pre-qualification processes into both methods, whether it be one solicitation/under \$1M, or two solicitations/over \$1M:
 - Both require responses/supporting evidence to questions from:
 - ✓ Department of Industrial Relations (DIR) Labor Commissioner's Model Questionnaire
 - ✓ OCFA member city practices (Rancho Santa Margarita, Garden Grove, Tustin, Yorba Linda, Buena Park, Stanton)
 - Both require bidders to “pass” pre-qualification phase of solicitation before their proposal pricing will be evaluated

Survey Results

- Number of Agencies Surveyed: **24**
- Number of Agencies that Responded: **20**
- Number of Agencies that Pre-Qualify via Two-Solicitation Process (*depends on value*): **6**
- Number of Agencies that Pre-Qualify via One-Solicitation Process (*depends on value*): **19**
- Value of Most Recent Two-Solicitation Pre-Qualification Projects: **\$3.2M to \$40M**

Pre-Qualification Procedures Proposed to Board of Directors

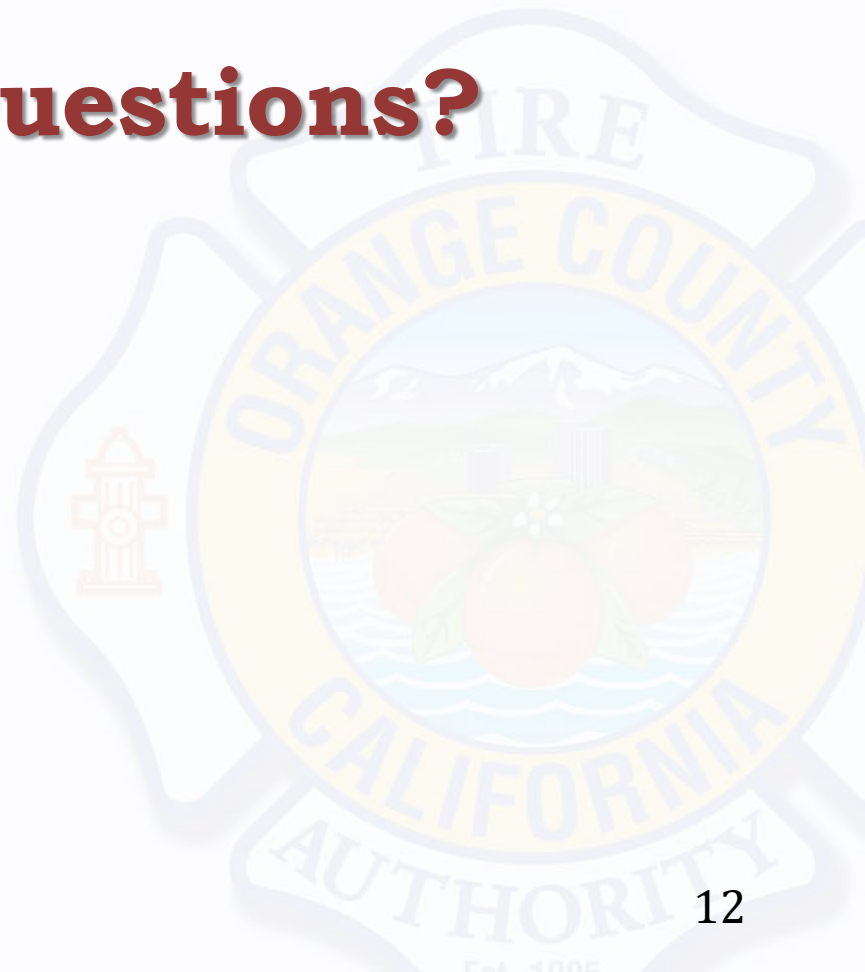
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Bidder submits statements of experience and pre-qualification responses ***at the same time*** as they submit their pricing.

Two Solicitations *(projects over \$1M):*

Bidders submit statements of their experience and pre-qualification responses ***before the bid is released***. Only those Contractors who score high enough on the Pre-Qual receive the Invitation to Bid and are permitted to submit pricing.

Comments/Questions?



Public Works Contractor Pre-Qualification

One Solicitation Process – Proposed Updates

Based upon the concerns raised at the November 2020 Board of Directors Meeting regarding the vetting of contractors, the following information will be requested of Contractors submitting bids in response to all future OCFA Public Works Invitation for Bids (*Pre-Qualification with One Solicitation*):

A. Contractor Reputation: Labor Compliance, Safety Record, Previous Disqualification, Civil Wage Penalties, Convictions

- Provide the dates of any voluntary or involuntary bankruptcy judgments against any principal having an interest in this proposal.
- For each violation of labor law determined by any Federal, State or local agency to have been committed by the Bidder or any principal having an interest in this proposal, identify any measures that have been imposed by, or agreed upon with, the Federal, State or local agency as punishment for past violations or to prevent future violations.
- State the title and date, and attach a copy of, each written threat, bid depository, claim, lawsuit, discipline or other written action by the Contractor State License Board against the Bidder or any principal having an interest in this proposal.
- Has the Bidder or any principal having an interest in this proposal been disqualified from bidding on, or from finishing, any other public works project in the past 8 years? If so, for each such disqualification, identify: who was disqualified; which public agency disqualified; the date of the disqualification; the alleged basis for the disqualification

B. Contractor Capability to Perform Work: Reference Checks, Surety Information, Prior Claims, Completion of Similar Work, Reasonable Pricing, Ability to Complete Project, Prior Contract Termination

- Submit the following information for three public agencies for which the Bidder has performed similar work within the past three (3) years:
 - Agency Name
 - Address
 - Contact Name and Title
 - Telephone Number
 - Email Address
 - Project Name
 - Project Value
 - Description of Scope of Work
- References will be asked the following information:
 - Did the Contractor perform the work as agreed?
 - Did the Contractor perform the work within the allocated time frame?
 - Were you satisfied with the Contractor's performance
 - Would you recommend the Contractor for a future contract?
 - Did you have easy accessibility to the Contractor?
- Designation of Sureties: Bidder will be required to submit the names, addresses and phone numbers for all brokers and sureties from whom Bidder intends to procure insurance and bonds

- State the title and date, and attach a copy of, each written threat, bid depository, claim, lawsuit, discipline or other written action by the Contractor State License Board against the Bidder or any principal having an interest in this proposal.
- Identify the following information about each claim asserted against the Bidder or any principal having an interest in this proposal relating to industrial safety within the past eight (8) years: name of the agency/entity asserting the claim; the date of the claim; the date of the alleged violation giving rise to the claim; the claim number, if any. Attach a copy of the claim.
- Please submit an attachment detailing the following information about all current projects:
 - Project Name
 - Description of Bidder's Work
 - Completion Date
 - Project Cost
- Bid Pricing will be requested as both a lump sum, along with subtotals for the following categories:
 - Category I: Labor
 - Category II: Permanent & Non-Permanent Materials/Supplies
 - Category III: Equipment
 - Category IV: Overhead & Indirect Costs
 - Category V: Profit
 - Category VI: Permits/Fees
- Certification of Site Examination: Bidder will be required to certify that the Bidder is fully informed of the conditions relating to the project and the employment of labor thereon
- Project Approach and Timeline: Bidder will be required to submit a rough construction schedule and a rough schedule of values, which will become the basis for the Approved Construction Schedule and Approved Schedule of Values. Bidder is also required to submit a narrative explaining the rough documents, including project phases and major project milestones. This narrative will aid in determining whether the Bidder is truly knowledgeable of and capable of completing the tasks at hand.
- Has the Bidder or any principal having an interest in this proposal: (a) filed (voluntarily or involuntarily) for bankruptcy protection; (b) been sued or arbitrated a dispute; been involved in a contract termination involving a public works project; or (c) failed to complete work required by a construction contract? If so, provide detailed information.

C. Presentation of Findings in Agenda Packet: Additional areas to address include the type and quality of information included with the agenda staff reports:

- Price Discrepancies Between Bidders and Determination that Pricing is Reasonable
 - A bid tabulation providing the lump sum total and a comparison of the individual cost categories between bidders will be included
- Comparison of Low Bid to Engineer's Estimate
 - This will be included in the bid tabulation provided
- Findings of Contractor Vetting
 - A summary of the reference checks and the Bidder's prior and current contracts will be included

**PUBLIC WORKS
PRE-QUALIFICATION
OF CONTRACTORS**

**LABOR COMMISSIONER'S
MODEL QUESTIONNAIRE**

MARCH 2019



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INTRODUCTION AND OVERVIEW OF THE 1999 LAW AND ITS APPLICATION

I. IMPORTANT PROVISIONS OF THE 1999 LAW

In 1999, the Legislature enacted a law that allows many public agencies to require licensed contractors that wish to bid for public works jobs to “pre-qualify” for the right to bid on a specific public works project, or on a public works project undertaken by a public agency during a specified period of time. Public Contract Code section 20101 has the relevant provisions; it was enacted as part of Assembly Bill 574.

The law applies to all cities, counties, and special districts but does not apply to K-12 school districts (which have similar authority to create pre-qualification procedures, described in Public Contract Code section 20111.5, which was enacted in 1997).¹

The law does not require any public agency to adopt a pre-qualification system. Instead, it authorizes every public agency to adopt a pre-qualification system, and describes certain requirements that must be met (described below), if a public agency chooses to adopt such a system.

In fact, the 1999 law allows a public agency to establish two different kinds of pre-qualification procedures for public works projects. The law allows a public agency to establish a pre-qualification procedure linked to a single project (Section 20101[d]). Or, the public agency may adopt a procedure by which a contractor may qualify to bid on projects which are put out for bid by that agency for a period of one year after the date of initial pre-qualification. (Section 20101[c]).

The law requires every public agency that creates either kind of pre-qualification procedure to:

- (1) use a “standardized questionnaire and financial statement in a form specified by the public entity”(Section 20101[a]);
- (2) adopt and apply a uniform system of rating bidders on objective criteria, on the basis of the completed questionnaires and financial statements (Section 20101[b]);
- (3) create an appeal procedure, by which a contractor that is denied pre-qualification may seek a reversal of that determination. (Section 20101[d]).

II. ROLE OF THE DEPARTMENT OF INDUSTRIAL RELATIONS AND THE LABOR COMMISSIONER

Assembly Bill 574 required the Department of Industrial Relations (DIR) to “develop model guidelines for rating bidders, and draft the standardized questionnaire.” It required DIR to “consult with affected public agencies, cities and counties, the construction industry, the surety industry, and other interested parties.”

From January through October 2000, DIR held a series of meetings in Sacramento with representatives of public agencies and other interested parties. Each meeting was attended by more

¹ Community College Districts also have specific authority to carry out pre-qualification procedures, in Public Contract Code section 20651.5, enacted in 1998. Community College Districts may also be covered by AB 574, since they are not specifically exempted.

than 25 representatives of interested parties. All told, more than 60 people participated in at least one such meeting, and most representatives participated in more than one. Contractors, public agencies both large and small, and associations of each were well represented throughout the series of meetings. DIR's initial draft of a questionnaire was revised after each meeting, and each revised draft was discussed at the next meeting, leading to additional revisions. Eventually, there was widespread consensus that the model questionnaire offered a system of rating bidders based on objective criteria, and a useful and appropriate series of questions. In addition, DIR, in compliance with the 1999 legislation, created model guidelines for rating bidders.

Throughout 2016 and part of 2017 the Labor Commissioner held a series of meetings with key stakeholders, representatives of public agencies, unions, contractors, and other interested parties in order to update and enhance the model questionnaire and rating system. The Labor Commissioner engaged with many representatives of the construction industry through individual meetings with stakeholders and public agency representatives, as well as by attending public agency pre-bid meetings and conferences of industry associations attended by over 100 people. The updated model questionnaire and rating system included in this packet was revised to offer a more effective system of rating bidders based on the input provided during these meetings.

III. AN OVERVIEW OF THE DOCUMENTS IN THIS PACKAGE

Included in this package are:

1. Instructions for awarding bodies
2. A model questionnaire to be sent to contractors. The questionnaire includes spaces for answers to be provided by the contractors, with the forms to be returned to the public agency.² As required by the legislation, the information provided to the public agency by the contractors, other than the names, addresses and contractor license numbers of the contractors applying – is to be kept confidential.
3. A model scoring system, for rating the answers given by the contractors and by the references. Note: the documents provided here by DIR are designed to collect the information that a public agency will need to carry out a pre-qualification procedure, and the DIR has proposed a rating system. Each public agency, however, is free to devise its own “uniform system of rating prospective bidders . . . based on objective criteria.” For example, each public agency may determine its own scoring system and its own passing scores for different portions of the questionnaire and some may choose to implement a uniform rating system for the Project References interview questions.
4. A model series of questions to be used by representatives of the public agency when interviewing persons who are identified by contractors as their “references” (in Section E of the questionnaire) – owners of projects that have been completed by each contractor in the recent past.

²The documents included in this package can be found at the Department of Industrial Relations website at www.dir.ca.gov/prequal.htm.

5. Two alternative forms: model announcements of pre-qualification procedures. Each is a summary and explanation of the pre-qualification procedure, prepared primarily for licensed contractors, although available for the general public as well. There are two slightly different versions of this document: one explains the pre-qualification procedure linked to a single project,³ while the other explains the procedure of pre qualification valid for one year.
6. A list of sources of information that may be used by a public agency to verify the accuracy of many of the answers given by the contractors to the questions on the questionnaire.⁴

IV. APPEAL PROCEDURE

Section 20101(d) requires every public agency that requires prospective bidders to pre-qualify pursuant to this law to establish “a process that will allow prospective bidders to dispute their proposed pre-qualification rating prior to the closing time for receipt of bids.” The appeal process must include written notification by the public agency of the basis for the prospective bidder’s disqualification “and any supporting evidence that has been received from others or adduced as a result of an investigation by the public entity.” (section 20101[d][1]). “The prospective bidder must be given an opportunity to rebut any evidence used as a basis for disqualification and to present evidence to the public entity as to why the prospective bidder should be found qualified.” (section 20101[d][2]). The law does not describe the appeal procedure in any additional detail; each public agency is free to adopt its own procedures, as long as the statutory requirements are met. As an example, while Section C of the model questionnaire includes thirteen “Essential Criteria Questions,” a public agency may choose to allow contractors to appeal a disqualification based solely on an answer to a question in Section C.

DIR has devised two different schedules for appeal procedures. One schedule would be used in a system for pre-qualification for a single project. The sequence of steps in this appeal procedure are scheduled to allow for an appeal decision at least four business days prior to the submission for bids for the single project. The other schedule for an appeal is applicable to a system in which prospective bidders seek pre-qualification valid for one year, without a link to

³ The explanation included in this document assumes that the pre-qualification procedure is taking place after the RFP or project announcement is published. A public agency may choose, instead, to have the pre-qualification procedure start and end prior to the solicitation of bids for the specific project. If that is the case, the public agency would have to modify the document offered here to explain the sequence of events.

⁴ **A CAUTIONARY NOTE:** The information that will be given to public agencies by contractors seeking pre-qualification is provided under oath, with the understanding that the intentional providing of false information is, in itself, grounds for disqualification, and may result in disqualification from bidding on any public works project, registering as a Public Works Contractor with the Department of Industrial Relations, and may be grounds for termination of a public works contract. We expect that the information given should be and will be accepted at face value in most instances. Our list of sources of information available to the public is provided for use where a public agency reviewing the answers given in a questionnaire has specific reason to believe that one or more answers should be verified in this manner.

the bidding on a specific project. These two appeal sequences are described in the explanation to contractors (the two documents referred to in paragraph 5, above).

Each public agency should be certain that it distributes to licensed contractors only the description that is appropriate for the pre-qualification procedures that are in use.

There are a number of laws and court decisions that affect the nature of an appeal hearing provided by a public agency. Each public agency should consult its own attorneys for advice in this area.

V. APPLICATION OF THE PUBLIC RECORDS ACT

AB 574 provides that “The questionnaires and financial statements shall not be public records and shall not be open to public inspection; however, records of the names of contractors applying for pre-qualification status shall be public records subject to disclosure” under the Public Records Act. (Section 20101[a]). The model questionnaire forms provided by DIR indicate that the cover page of each questionnaire is a public record, and that all other pages of the questionnaire are not public records.

VI. WHAT ARE THE LAW’S PROVISIONS REGARDING PRE-QUALIFICATION OF SUBCONTRACTORS

Public agencies are not required to pre-qualify subcontractors, nor are public agencies prohibited from doing so. Section 20101(f) says:

Nothing in this section shall preclude the awarding agency from pre-qualifying or disqualifying a subcontractor. The disqualification by an awarding agency does not disqualify an otherwise pre-qualified [general] contractor.

INSTRUCTIONS FOR AWARDING BODIES

INSTRUCTIONS FOR AWARDING BODIES

Contractors who wish to be pre-qualified must submit a completed pre-qualification questionnaire to the awarding body for review. Contractors are required to provide any additional information and/or documentation as instructed on the questionnaire. The Model Pre-qualification Questionnaire can be found on pages 10 to 27.

A Contractor will be automatically pre-qualified if the responses submitted to all questions in Sections C and D do not raise concerns. A Contractor that does not automatically pre-qualify by “passing” Sections C and D is subject to additional scrutiny. If additional scrutiny is required, the awarding body will review and evaluate the required supporting documentation and use a numerical scorecard to determine whether the Contractor is pre-qualified as described below.

SECTION C. ESSENTIAL CRITERIA QUESTIONS

Contractor is immediately disqualified if:

- Any answer to questions 1 through 6 is “NO”
- Any answer to questions 7 through 13 is “YES”

If the Contractor is not immediately disqualified based on its answers to the questions in Section C, the awarding body may assume that the Contractor has passed this pre-qualification section. However, the awarding body may require additional information be submitted to verify the accuracy of the responses provided on the Questionnaire.

SECTION D. PRE-QUALIFICATION CRITERIA QUESTIONS

Contractors are required to answer questions 1 through 21 and must provide additional information to the awarding body for any questions where the answer is not “0”. The awarding body will then use this information to calculate a score for Section D in order to determine eligibility for pre-qualification.

All questions in which the Contractor’s response is not “0” are scored. If all of the Contractor’s responses to questions 1 through 21 are “0” the awarding body may assume that the Contractor has passed this pre-qualification section. However, the awarding body may require additional information from the Contractor to verify the accuracy of the responses provided.

If the answer to any of questions 1 through 21 is not “0”, additional scrutiny is required and the awarding body will analyze the issues using the following two factors:

1. Whether the incident was a good faith mistake and, if so, the error was promptly and voluntarily corrected when brought to the attention of the Contractor or Subcontractor.

AND

2. Whether the Contractor or Subcontractor has a prior history or several incidents of the issue are reported.

The Contractor is required to provide additional documentation for all answers which are not “0”. The awarding body will review the additional documents to calculate a final score between 1 and 5 using the above criteria for each question.

The first factor requires the awarding body to assign a score based on the culpability of the Contractor. A score of 1 is assigned where the incident is clearly the result of a good-faith mistake and a score of 5 is assigned where the incident is clearly an overtly willful action for which the Contractor is culpable. The second factor requires the awarding body to assign a score based on the prior history of the issue being reported. A score of 1 is assigned where only a single incident exists, a score of 2 is assigned where two incidents exist, etc. up to a score of 5 assigned where five or more incidents of that kind exist.

Certain questions in Section D are weighted two times as much as others based on the severity of the actions and level of a Contractor’s control over those actions. These questions are given additional weight because they involve significant concerns as to whether a Contractor should be pre-qualified. Also, scores were given additional weight based on a Contractor’s level of control over those issues. For example, prevailing wage violations committed by a subcontractor receive less weight than a violation by the Contractor. These questions are scored as follows: If the first factor receives a score of 5 and the second factor receives a score of 4, the total score for a “Red Flag” question would be 18. The calculation can be seen as follows: $((5+4) \times 2 = 18)$. The following questions are assigned additional weight as explained above: 1 through 3, 5 through 6, 8, 10 through 12, 15 through 18, and 20.

The awarding body may use the Scoring Worksheet on page 27 (also provided separately in excel format), to calculate the Contractor’s overall weighted score for Section D. **A contractor pre-qualifies only if the overall score is 35 or less, and is disqualified if the overall score is greater than 35.**

SECTION E. PROJECT REFERENCES

Section E is not scored, but allows the awarding body to collect information about a Contractor’s six most recent public works projects. The information is meant to assist the awarding body to conduct the interviews of the managers of projects previously completed (that is, the people who supervised the projects for the project owners) by the Contractor wishing to pre-qualify. This may also provide the awarding body to verify answers provided in sections C and D.

LABOR COMMISSIONER'S MODEL PRE-QUALIFICATION QUESTIONNAIRE

CONTRACTOR PRE-QUALIFICATION QUESTIONNAIRE

A. CONTRACTOR INFORMATION

(All Questions Must Be Answered)

Firm Name (as it appears on CSLB license): _____

Firm Type (Select one): ☐ Corporation ☐ LLC ☐ Partnership ☐ Sole Proprietorship ☐ Joint Venture

Contact Person/Title: _____

(List Owner(s) if Firm is a Sole Proprietorship or Partnership)

Local Address (P.O. Box is not acceptable):

Address 1: _____

Address 2: _____

City: _____

Zip: _____

Office Telephone: _____

Contact Mobile: _____

Fax Number: _____

E-mail Address: _____

List all California construction or other professional license numbers, classifications and expiration dates held by your firm:

License Number	Classification	Expiration Date

List your firm's DIR Public Works Contractor (PWCR) Registration Number(s):

PWCR Number	Entity Name	Expiration Date

If any of your firm's license(s) are held in the name of a corporation, limited liability company, or partnership, list below the names of the qualifying individual(s) listed on the CSLB records who meet(s) the experience and examination requirements for each license.

License Number	Qualifying Individual	Expiration Date

B. CURRENT ORGANIZATION AND STRUCTURE

Complete the section below for the appropriate type of firm:

For Firms That Are Corporations:

- 1a. Date incorporated: _____
- 1b. Under the laws of what state: _____
- 1c. Provide all the following information for each person who is either (a) an officer of the corporation (president, vice president, secretary, treasurer), or (b) the owner of at least ten percent of the corporation's stock:

Name	Position	Years with Firm	% Ownership

- 1d. Identify every construction firm that any person listed above has been associated with (as owner, general partner, limited partner or officer) at any time during the last five years.
NOTE: For this question, "owner" and "partner" refer to ownership of ten percent or more of the business, or ten percent or more of its stock, if the business is a corporation.

Person's Name	Construction Firm	Date of Person's Participation with Firm

For Firms That Are Limited Liability Companies (LLC):

- 1a. Date Article of Organization filed: _____
- 1b. Under the laws of what state: _____
- 1c. Provide all the following information for all members of the LLC:

Name	Position	Years with Firm	% Ownership

- 1d. Identify every construction firm that any person listed above has been associated with (as owner, general partner, limited partner or officer) at any time during the last five years.
NOTE: For this question, “owner” and “partner” refer to ownership of ten percent or more of the business, or ten percent or more of its stock, if the business is a corporation.

Person's Name	Construction Firm	Date of Person's Participation with Firm

For Firms That Are Partnerships:

- 1a. Date incorporated: _____
 1b. Under the laws of what state: _____
 1c. Provide all the following information for each partner who owns ten percent or more of the firm.

Name	Position	Years with Firm	% Ownership

- 1d. Identify every construction firm that any person listed above has been associated with (as owner, general partner, limited partner or officer) at any time during the last five years.
NOTE: For this question, “owner” and “partner” refer to ownership of ten percent or more of the business, or ten percent or more of its stock, if the business is a corporation.

Person's Name	Construction Firm	Date of Person's Participation with Firm

For Firms That Are Sole Proprietorships:

- 1a. Date of commencement of business _____
- 1b. Identify every construction firm that the business owner has been associated with (as owner, general partner, limited partner or officer) at any time during the last five years.

NOTE: For this question, “owner” and “partner” refer to ownership of ten percent or more of the business, or ten percent or more of its stock, if the business is a corporation.

Person’s Name	Construction Firm	Date of Person’s Participation with Firm

For Firms That Intend to Make a Bid as Part of a Joint Venture:

- 1a. Date of commencement of joint venture: _____
- 1b. Provide all the following information for each firm that is a member of the joint venture that expects to bid on one or more projects

Name of Construction Firm	% Ownership

Note: Explain on a separate sheet. Provide all other pertinent information required in the sections above, for each Corporation, LLC, Partnership, or Sole-Proprietorship that is a part of the Joint Venture.

FOR ALL FIRMS:

2. At any time during the past five years, has your firm shared office space, warehouse space, yard, plant or shop facilities, staff, equipment, telecommunications or other assets with any other construction firm? (If yes, identify and explain below.)

Construction Firm	Description of Sharing Agreement	Location of Facilities

3. State your firm's gross revenues for each of the last three fiscal years:
 Current year (\$): _____
 Previous year (\$): _____
 Year prior to previous year (\$): _____

4. How many years has your firm been in business in California as a contractor under your present business name and license number? _____

5. Bonding Capacity – Provide documentation from your surety identifying the following:
 Name of Bonding Company/Surety: _____
 Name of Surety Agent: _____
 Address: _____
 Telephone number: _____

6. If your firm was required to pay a premium of more than one percent for a performance and payment bond on any project(s) on which your firm worked at any time during the last three years, state the percentage that your firm was required to pay. You may provide an explanation for a percentage rate higher than one percent, if you wish to do so.

7. List all other sureties (name and full address) that have written bonds for your firm during the last five years, including the dates on which they were issued:

Name	Address	Date

8. How often do you require documented safety meetings to be held for construction employees and field supervisors during the course of a project? _____

9. List your firm's Experience Modification Rate (EMR) (California workers' compensation insurance) for each of the past three premium years:
 Current year rate: _____
 Previous year rate: _____
 Year prior to previous year rate: _____

10. Does your firm regularly utilize a third party consultant to review labor compliance documents of subcontractors on a public works project? ☐ Yes ☐ No

11. Provide the name, address and telephone number of the apprenticeship program (approved by the California Apprenticeship Council) from whom you intend to request the dispatch of apprentices to employ on any public works project awarded by [*Public Entity*].

Name	Address	Phone

12. Provide the name, address and telephone number of the apprenticeship program (approved by the California Apprenticeship Council) from whom you have requested and/or employed apprentices in the past three years.

Name	Address	Phone

13. If your firm operates its own State-approved apprenticeship program:

- Identify the craft or crafts in which your firm provided apprenticeship training in the past year;
- State the year in which each such apprenticeship program was approved and attach evidence of the most recent California Apprenticeship Council approval(s);
- For each craft, list the number apprentices employed by your firm and the number of individuals that completed apprenticeships while employed by your firm during the last three years.

Craft	Year	No. Apprentices	No. Completed

14. Has your firm changed names or license number in the past five years? ☐ Yes ☐ No
(If yes, explain on a separate sheet, including the reason for the change.)
15. Has there been any change in ownership of your firm at any time during the last five years? ☐ Yes ☐ No
(If yes, explain on a separate sheet.)

NOTE: A corporation whose shares are publicly traded is NOT required to answer this question.

16. Is your firm a subsidiary, parent, holding company or affiliate of another construction firm? ☐ Yes ☐ No
(If yes, explain on a separate sheet.)

NOTE: Include information about other firms if one firm owns 50 percent or more of another, or if an owner, partner, or officer of your firm holds a similar position in another firm.

17. Has any owner, partner and/or officer of your firm operated or been connected to a construction firm under any other name in the last five years not listed in Section A or Section B above at any time in the past five years? ☐ Yes ☐ No

(If yes, provide the person's name, construction firm name, and dates of participation.)

Name	Construction Firm	Dates of Participation

C. ESSENTIAL CRITERIA QUESTIONS

		Circle Answer	
1.	Does your firm possess a valid and current California Contractor's or other professional license as required by law for the project or projects for which it intends to submit a bid?	Yes	No
2.	Is your firm registered with DIR as a Public Works Contractor for the current fiscal year?	Yes	No
3.	Does your firm have a liability insurance policy with a policy limit of at least \$1,000,000 per occurrence and \$2,000,000 aggregate?	Yes	No
4.	Does your firm have current workers' compensation insurance policy as required by the Labor Code or is your firm legally self-insured pursuant to Labor Code section 3700 et. seq.?	Yes	No
5.	Have you attached your firm's latest copy of reviewed or audited financial statements with accompanying notes and supplemental information? *	Yes	No
NOTE: Financial statements that are not either reviewed or audited are not acceptable. A letter verifying availability of a line of credit may also be attached; however, it will be considered as supplemental information only, and is not a substitute for the required financial statements.			
6.	Have you attached a notarized statement from an admitted surety insurer (approved by the California Department of Insurance) authorized to issue bonds in the State of California, which states that: (a) your current bonding capacity is sufficient for the project for which you seek pre-qualification if you are seeking pre-qualification for a single project; or valid for a year if you are seeking pre-qualification valid for a year; and (b) your current available bonding capacity? **	Yes	No
NOTE: Notarized statement must be from the surety company, not an agent or broker.			
7.	Has your contractor's or other professional license been revoked at any time in the last five years?	Yes	No
8.	Has a surety firm completed a contract on your behalf, or paid for completion because your firm was in default and/or terminated by the project owner within the last five years?	Yes	No

		Circle Answer	
9.	Is your firm, any of its officers, supervisors, managers, or any firm or individual identified above in Section A and/or Section B, ineligible to bid on or be awarded a public works contract, or perform as a subcontractor on a public works contract, pursuant to Labor Code section 1777.1, Labor Code section 1777.7, or any other federal, state, county, municipal or other local law providing for the debarment of contractors from public works?	Yes	No
10.	Has your firm, any of its officers, supervisors, managers, or any firm or individual identified above in Section A and/or Section B been convicted of a crime involving the awarding of a contract of a government construction project, the bidding or performance of a government contract, antitrust statutes, racketeering statutes, safety and health regulations, environmental laws, laws banning workplace discrimination, laws governing wages, hours or labor standards, or laws involving fraud, theft, or any other act of dishonesty?	Yes	No
11.	Is your firm currently the debtor in a bankruptcy case? (If yes, attach a copy of the bankruptcy petition showing the case number and date on which the petition was filed.)	Yes	No
12.	Has your firm, any of its officers, supervisors, managers, or any firm or individual identified above in Section A and/or Section B ever been terminated from a public works contract, including but not limited to termination based on any misconduct, such as failure to comply with contractual, statutory, or other legal obligations from any public construction project?	Yes	No
13.	Does your firm, any of its officers, supervisors, managers, or any firm or individual identified above in Section A and/or Section B currently have any delinquent liability to an employee, the state, or any awarding body for any assessment of back wages or related damages, interest, fines or penalties pursuant to any final judgment, order, or determination by any court or any federal, state, or local administrative agency, including a confirmed arbitration award?	Yes	No

* Public Contract Code section 20101(e) exempts from this requirement a contractor who has qualified as a small business pursuant to Government Code section 14837(d)(1), if the bid is "no more than 25 percent of the qualifying amount provided in section 14837(d)(1)." As of January 1, 2001, the qualifying amount is \$10 million, and 25 percent of that amount, therefore, is \$2.5 million.

** An additional notarized statement from the surety may be requested by [Public Entity] at the time of submission of a

bid, if this pre-qualification questionnaire is submitted more than 60 days prior to submission of the bid.

D. PRE-QUALIFICATION CRITERIA QUESTIONS

Prior History

Circle Answer

1. How many times has your firm, or any of its officers, supervisors, or managers, declared bankruptcy at any time during the last five years? **0 1 2 3 4 5+**

(This question refers only to a bankruptcy action that was not described in your answer to Question 11 in Section C. If yes, attach a copy of the bankruptcy petition showing the case number and the date on which the petition was filed, a copy of the Bankruptcy Court's discharge order or any other document that concluded the case if no discharge order was issued.)

2. How many times has your firm, or any of its officers, supervisors, or managers, had an injunction, judgment, order, or lien entered against it for outstanding taxes assessed or fines, penalties and/or unpaid employee wages at any time in the last five years? **0 1 2 3 4 5+**

(Explain on a separate sheet. Provide details, including the name of the government agency, caption, date, case or docket number, and disposition. Be sure to note any judgments or liens that have not been fully satisfied.)

3. How many times in the past five years, has your firm, or any of its officers, supervisors, or managers, been a party in any civil litigation or administrative proceeding alleging violation of any of the following: contract antitrust statutes, racketeering statutes, safety and health regulations, environmental laws, laws banning workplace discrimination, laws governing wages, hours or labor standards, or laws involving fraud, theft, or any other act of dishonesty? **0 1 2 3 4 5+**

(Explain on a separate sheet. Provide details including the nature of the claims and defenses, caption, date, case or docket number, name of the court or agency before which the case is pending or which it was heard, and current status.)

4. How many times in the past five years, has your firm, or any of its officers, supervisors, or managers, been a party in any civil litigation or administrative proceeding alleging a violation by a subcontractor hired by your firm of any of the following: contract antitrust statutes, racketeering statutes, safety and health regulations, environmental laws, laws banning workplace discrimination, laws governing wages, hours or labor standards, or laws involving fraud, theft, or any other act of dishonesty? **0 1 2 3 4 5+**

(Explain on a separate sheet. Provide details including the nature of the claims and defenses, caption, date, case or docket number, name of the court or agency before which the case is pending or which it was heard, and current status.)

Circle Answer

5. How many times in the past five years, has your firm, or any of its officers, supervisors, or managers, paid any amount, fine or otherwise, regardless of characterization, to settle any of the allegations listed in Questions 3 and 4 above, whether with or without an admission of responsibility or liability? **0 1 2 3 4 5+**
- (Explain on a separate sheet. Provide details, including the caption, date, case or docket number, and name of the court or agency before which the case was brought.)
6. How many times has your firm, or any of its officers, supervisors, or managers, been debarred, suspended, disqualified, denied a classification rating or pre-qualification or otherwise been declared not responsible to or prevented from bidding or performing work on any public works contract or subcontract in the last five years? **0 1 2 3 4 5+**
- (Explain on a separate sheet. State whether the firm involved was the firm applying for pre-qualification here or another firm. Identify by name of the company, name of the person within your firm who was associated with that company, date, owner of the project, project name and information, basis for the action, and case or docket number.)
7. How many times in the last five years has your firm been assessed and paid liquidated damages after completion of a project under a construction contract with either a public or private owner? **0 1 2 3 4 5+**
- (Explain on a separate sheet. Identify all such projects by owner, owner's address, date of completion of the project, amount of liquidated damages assessed and all other information necessary to fully explain the assessment of liquidated damages.)
8. How many times during the past five years, has any surety company made any payments on your firm's behalf as a result of a default, to satisfy any claims made against a performance or payment bond issued on your firm's behalf, in connection with a construction project, either public or private? **0 1 2 3 4 5+**
- (Explain on a separate sheet. Identify the amount of each such claim, name and telephone number of the claimant, date of claim, grounds for claim, present status of claim, date of resolution of such claim if resolved, method by which claim was resolved if resolved, nature of resolution and amount, if any, at which claim was resolved.)
9. How many times in the last five years has any insurance carrier, for any form of insurance, refused to renew an insurance policy for your firm? **0 1 2 3 4 5+**
- (Explain on a separate sheet. Name the insurance carrier, form of insurance, and year of refusal.)

10. How many times during the last five years, has your firm been denied bond coverage by a surety company, or has there been a period of time when your firm had no surety bond in place during a public works construction project when one was required? **0 1 2 3 4 5+**

(Explain on a separate sheet. Indicate the date when your firm was denied coverage, name of the company or companies which denied coverage, and the time period during which you had no surety bond in place.)

Criminal Matters and Civil Suits

Circle Answer

11. How many times has your firm, or any of its officers, supervisors, or managers, ever been convicted of a crime involving any federal, state, or local law related to construction? **0 1 2 3 4 5+**

(Explain on a separate sheet. Identify who was involved, name of the public agency, date of conviction, and grounds for conviction.)

12. How many times has your firm, or any of its officers, supervisors, or managers, ever been found liable in a civil suit or convicted of a federal or state crime of fraud, theft, or involving any other act of dishonesty, such as making any false claim or material misrepresentations? **0 1 2 3 4 5+**

(Explain on a separate sheet. Identify the person or persons convicted or found liable, court [the county if a state court, the district or location if federal court], year, and conduct involved.)

NOTE: The following two questions refer only to disputes between your firm and the owner of a project. You need not include information about disputes between your firm and a supplier, another contractor, or subcontractor. You need not include information about "pass-through" disputes in which the actual dispute is between a sub-contractor and a project owner. Also, you may omit reference to all disputes involving amounts of less than \$50,000.

13. How many times in the last five years has any claim against your firm concerning your firm's work on a construction project been filed in court or arbitration? **0 1 2 3 4 5+**

(Explain on a separate sheet. Identify the claim(s) by providing the project name, date of the claim, name of the claimant, a brief description of the nature of the claim, the court in which the case was filed and a brief description of the status of the claim [e.g. "pending" or, if resolved, a brief description of the resolution].)

14. How many times in the last five years has your firm made any claim against a project owner concerning work on a project or payment for a contract and filed that claim in court or arbitration? **0 1 2 3 4 5+**

(Explain on a separate sheet. Identify the claim(s) by providing the project name, date of the claim, name of the entity (or entities) against whom the claim was filed, a brief description of the nature of the claim, the court in which the case was filed and a brief description of the status of the claim [e.g. "pending" or if resolved, a brief description of the resolution].)

Occupational Health and Safety Compliance

Circle Answer

15. How many times in the last five years has CalOSHA cited and assessed penalties against your firm for any “serious,” “willful” or “repeat” violation(s) or the federal Occupational Safety and Health Administration cited and assessed penalties against your firm for violation(s) of safety or health regulations? **0 1 2 3 4 5+**

NOTE: If you have filed an appeal of a citation, and the Occupational Safety and Health Appeals Board has not yet ruled on your appeal, you need not include information about it.

16. How many times in the last five years has the EPA or any Air Quality Management District or any Regional Water Quality Control Board cited and assessed penalties against either your firm or the owner of a project on which your firm was the contractor? **0 1 2 3 4 5+**

(Explain on a separate sheet describing each citation.)

NOTE: If you have filed an appeal of a citation and the Appeals Board has not yet ruled on your appeal, or if there is a court appeal pending, you need not include information about the citation.

17. How many times within the last five years has there ever been a period when your firm had employees but was without workers’ compensation insurance or state-approved self-insurance? **0 1 2 3 4 5+**

(Explain the reason for each absence of workers’ compensation insurance on a separate sheet. If “None,” please provide a statement by your current workers’ compensation insurance carrier that verifies periods of workers’ compensation insurance coverage for the last five years. If your firm has been in the construction business for less than five years, provide a statement by your workers’ compensation insurance carrier verifying continuous workers’ compensation insurance coverage for the period that your firm has been in the construction business.)

Prevailing Wage and Apprenticeship Compliance

18. How many times during the last five years, has your firm been required to pay back wages and/or penalties related to **state or federal** prevailing wage laws for work performed by **your firm**? **0 1 2 3 4 5+**

(Explain on a separate sheet. Describe the nature of each violation and identify the name of the project, date of its completion, public agency for which it was constructed, number of employees underpaid, and amount(s) of back wages and penalties your firm was required to pay.)

NOTE: Question 18 refers only to the violation of prevailing wage laws by your firm, not to violations by a subcontractor.

Circle Answer

19. How many times during the last five years, has your firm or any subcontractors hired by your firm been required to pay back wages and/or penalties related to state or federal prevailing wage laws for work performed by a subcontractor?

0 1 2 3 4 5+

(Explain on a separate sheet. Identify the subcontractor's business name and CSLB license number, describe the nature of each violation, and identify the name of the project, date of its completion, public agency for which it was constructed, number of employees underpaid, and amount(s) of back wages and penalties your firm was required to pay.)

NOTE: This question refers only to the violation of prevailing wage laws by subcontractors, not to violations by your firm.

20. How many times during the last five years, has your firm paid any penalties related to any provision of California apprenticeship laws or regulations, or the laws pertaining to use of apprentices on public works projects, including Labor Code sections 1777.5 and 1777.7?

0 1 2 3 4 5+

(Explain on a separate sheet. Provide the date(s) of such findings, case number(s), and attach copies of the Department's final decision(s).)

21. How many times during the last five years, has any subcontractor hired by your firm paid any penalties related to any provision of California apprenticeship laws or regulations, or the laws pertaining to use of apprentices on public works projects, including Labor Code sections 1777.5 and 1777.7?

0 1 2 3 4 5+

(Explain on a separate sheet. Provide the date(s) of such findings, case number(s), and attach copies of the Department's final decision(s).)



NOTE: Omissions, misrepresentations and any failure to disclose associations with other firms or any prior history of alleged violations may lead to loss of your eligibility to register as a Public Works Contractor, disqualification of bids, and/or grounds for termination of a contract.



E. PROJECT REFERENCES

Provide information about the firm's six most recently completed public works projects and its three largest completed private projects within the last three years. Names and references must be current and verifiable. Use separate sheets of paper that contain all of the following information*:

For General Contractors: Only list projects your firm performed as the general contractor.

For Subcontractors: Only list projects your firm performed as the prime contractor if a single trade job or as a subcontractor on a multiple trade contract. For multiple trade contracts, indicate the general contractor's name and contact information.

Project Name: _____

Location: _____

Owner: _____

Owner Contact (name and current phone number): _____

Architect or Engineering Firm: _____

Architect or Engineer Contact
(name and current phone number): _____

Construction Manager (name and current phone number): _____

Inspector of Record (name and current phone number): _____

Description of Project, Scope of Work Performed:

Total Value of Construction
(including change orders): _____

Date Construction Commenced: _____

Original Contractual Completion Deadline: _____

Adjusted Completion Deadline Based on
Time Extensions Granted by Owner: _____

Actual Date of Completion: _____

General Contractor's Project Manager (lead contact in office), if applicable: _____

General Contractor's Superintendent (lead contact on project site), if applicable: _____

* You may also provide information about other projects that you have completed that are similar to the project(s) for which you expect to bid using the same format.

F. CERTIFICATION

Questionnaires submitted by corporations must be signed with the legal name of the corporation, followed by the name of the state of incorporation and by the signature and designation of the chairman of the board, president or any vice president, and then followed by a second signature by the secretary, assistant secretary, the chief financial officer or assistant treasurer. All persons signing must be authorized to bind the corporation in the matter. The name of each person signing shall also be typed or printed below the signature. Satisfactory evidence of the authority of each officer signing on behalf of a corporation shall be furnished.

Questionnaires submitted by partnerships must furnish the full name of all partners and must be signed in the partnership name by a general partner with authority to bind the partnership in such matters, followed by the signature and designation of the person signing. The name of the person signing shall also be typed or printed below the signature.

Each person signing below makes the following representations under penalty of perjury:

The submitter of the foregoing answers to the questionnaire has read the same and the matters stated therein are true to the best of his or her own personal knowledge. This information is provided for the purpose of qualifying to bid on the Project, and any individual, company or other agency named herein is hereby authorized to supply the awarding body with any information necessary to verify the prospective bidder's statements. By signing below, the submitter and the named contractor hereby grant permission to the [Public Entity] to contact any or all of the above listed persons or entities to confirm facts or otherwise investigate the above facts and issues.

The submitter understands that any statement which is proven to be false shall be grounds for immediate disqualification from bidding on the Project. The submitter whose signature appears below represents and warrants that he or she has authority to bind the named contractor.

I, _____ (Name), the undersigned, am the _____
(Title), with the authority to act for and on behalf of _____
(Contractor Entity Name), declare under penalty of perjury under the laws of the State of California that the foregoing information provided in this Pre-qualification Questionnaire is true, full, and correct.

I understand that making a false statement may result in disqualification from bidding on any public works project, registering as a Public Works Contractor with the Department of Industrial Relations, and may be grounds for termination of a public works contract.

Executed on this: _____ day of _____ at _____.
(Date) (Month / Year) (City / State)

Name of Contractor Representative: _____

Signature of Contractor Representative: _____

SCORING WORKSHEET

Section D. PRE-QUALIFICATION CRITERIA QUESTIONS AND SCORING

Question Number	Factor #1 - Points	Factor #2 - Points	Multiplying Factor	Total Points
1			x2	
2			x2	
3			x2	
4			x1	
5			x2	
6			x2	
7			1	
8			x2	
9			x1	
10			x2	
11			x2	
12			x2	
13			x1	
14			x1	
15			x2	
16			x2	
17			x2	
18			x2	
19			x1	
20			x2	
21			x1	
Total			=	

Factor #1: Whether the incident was a good faith mistake and, if so, the error was promptly and voluntarily corrected when brought to the attention of the Contractor or Subcontractor.

Factor #2: Whether the Contractor or Subcontractor has a prior history or several incidents are reported.

Questions Type:

14 Red Flag Questions (x2)

7 Non-Red Flag Questions (x1)

Notes: The awarding body will review additional documents provided by the Contractor in response to the questions in Section D to calculate a final score using the two factors listed above. A score on a scale of 1 to 5 is assigned to each factor.

Factor #1: A score of 1 is assigned where the incident is clearly the result of a good-faith mistake, and a score of 5 is assigned where the incident is clearly an overtly willful action for which the Contractor is culpable.

Factor #2: A score of 1 is assigned where only a single incident exists, and a score of 5 is assigned where five or more incidents of that kind are reported.

A contractor is PRE-QUALIFIED if the total score above is: 35 points or LESS.

A contractor is DISQUALIFIED if the total score above is: GREATER THAN 35 points.

MODEL INTERVIEW QUESTIONS

MODEL INTERVIEW QUESTIONS

The following questions are optional and may be used by the public agency to interview individuals identified as “project references” in Section E of the questionnaire.

1. Give a brief description of the project.
2. Are there any outstanding stop notices, liens, or claims by the contractor that are currently unresolved on contracts for which notices of completion were recorded more than 120 days ago? (1 point for each is deducted from overall score; maximum amount to be deducted is 5 points)
3. Did the contractor provide adequate personnel?
4. Did the contractor provide adequate supervision?
5. Was there adequate equipment provided on the job?
6. Was the contractor timely in providing reports and other paperwork, including change order paperwork and scheduling updates?
7. Did the contractor adhere to the approved project schedule?
8. Was the project completed on time?
9. Did the contractor timely submit reasonable cost and time estimates to perform change order work?
10. How well did the contractor perform work after a change order was issued, and how well did the contractor integrate the change order work into the existing work?
11. How well did the contractor perform in the area of turning in Operation & Maintenance manuals, completing as-built drawings, providing required training and taking care of warranty items?
12. Given the nature of the project, were there an unusually high number of claims or unusual difficulty in resolving them?
13. Did the contractor make timely payments to either subcontractors or suppliers?
14. How would you rate the quality of the work overall?

**REQUEST FOR
PRE-QUALIFICATION OF
BIDDERS COMMENCING
WITH FORTHCOMING
PUBLIC WORK BID**

**REQUEST FOR PRE-QUALIFICATION OF BIDDERS COMMENCING
WITH FORTHCOMING PUBLIC WORK BID
[Pre-qualification procedure begun at the same time as RFP]**

Notice is hereby given that [Public Entity] has determined that all bidders on [Name of specific project] to be undertaken by the [Public Entity] must be pre-qualified prior to submitting a bid on that project. It is mandatory that all Contractors who intend to submit a bid, fully complete the pre-qualification questionnaire, provide all materials requested herein, and be approved by [Public Entity] to be on the final qualified bidders list. No bid will be accepted from a Contractor that has failed to comply with these requirements. If two or more business entities submit a bid as part of a Joint Venture, or expect to submit a bid as part of a Joint Venture, each entity within the Joint Venture must be separately qualified to bid. The last date to submit a fully completed questionnaire is mm/dd/yy. [35 days prior to the bid closing date]. Contractors are encouraged to submit pre-qualification applications as soon as possible, so that they may be notified of omissions of information to be remedied or of their pre-qualification status well in advance of the bid advertisement for this project.

Answers to questions contained in the attached questionnaire, information about current bonding capacity, notarized statement from surety, and the most recent reviewed or audited financial statements, with accompanying notes and supplemental information, are required. [Public Entity] will use these documents as the basis of rating Contractors in respect to the size and scope of contracts upon which each Contractor is qualified to bid. [Public Entity] reserves the right to check other sources available. [Public Entity's] decision will be based on objective evaluation criteria.

[Public Entity] reserves the right to adjust, increase, limit, suspend or rescind the pre-qualification rating based on subsequently learned information. Contractors whose rating changes sufficient to disqualify them will be notified, and given an opportunity for a hearing consistent with the hearing procedures described below for appealing a pre-qualification rating.

While it is the intent of the pre-qualification questionnaire and documents required therewith to assist [Public Entity] in determining bidder responsibility prior to bid and to aid [Public Entity] in selecting the lowest responsible bidder, neither the fact of pre-qualification, nor any pre-qualification rating, will preclude [Public Entity] from a post-bid consideration and determination of whether a bidder has the quality, fitness, capacity and experience to satisfactorily perform the proposed work, and has demonstrated the requisite trustworthiness.

The pre-qualification applications should be submitted under seal and marked "CONFIDENTIAL" to _____[address].

The pre-qualification applications (questionnaire answers and financial statements) submitted by Contractors are not public records and are not open to public inspection. All information provided will be kept confidential to the extent permitted by law. However, the contents may be disclosed to third parties for purpose of verification, or investigation of substantial allegations, or in the appeal hearing. State law requires that the names of contractors applying for pre-qualification status shall be public records subject to disclosure, and the first page of the questionnaire will be used for that purpose.

Each questionnaire must be signed under penalty of perjury in the manner designated at the end of the form, by an individual who has the legal authority to bind the Contractor on whose behalf that person is signing. If any information provided by a Contractor becomes inaccurate, the Contractor must immediately notify [Public Entity] and provide updated accurate information in writing, under penalty of perjury.

[Public Entity] reserves the right to waive minor irregularities and omissions in the information contained in the pre-qualification application submitted, to make all final determinations, and to determine at any time that the pre-qualification procedures will not be applied to a specific future public works project.

Contractors may submit pre-qualification applications during regular working hours on any day that the offices of [Public Entity] are open. Contractors who submit a complete pre-qualification application will be notified of their qualification status no later than ten (10) business days after submission of the information.

[Public Entity] may refuse to grant pre-qualification where the requested information and materials are not provided, or not provided by mm/dd/yy [date specified in first paragraph – 35 days before bid closing]. There is no appeal from a refusal for an incomplete or late application, but re-application for a later project is permitted. The closing time for bids will not be changed in order to accommodate supplementation of incomplete submissions, or late submissions.

Where a timely and completed application results in a rating below that necessary to pre-qualify, an appeal can be made. An appeal is begun by the Contractor delivering notice to [Public Entity] of its appeal of the decision with respect to its pre-qualification rating, no later than ten (10) business days prior to the closing time for the receipt of bids for this public works project. Without a timely appeal, the Contractor waives any and all rights to challenge the decision of [Public Entity], whether by administrative process, judicial process or any other legal process or proceeding.

If the Contractor gives the required notice of appeal and requests a hearing, the hearing shall be conducted so that it is concluded no later than five business days after [Public Entity's] receipt of the notice of appeal, and no later than five business days prior to the last date for the receipt of bids on the project. The hearing shall be an informal process conducted by a panel to whom the [governing body of Public Entity] has delegated responsibility to hear such appeals (the "Appeals Panel"). At or prior to the hearing, the Contractor will be advised of the basis for [Public Entity's] pre-qualification determination. The Contractor will be given the opportunity to present information and present reasons in opposition to the rating. Within one day after the conclusion of the hearing, the Appeals Panel will render its decision. It is the intention of [Public Entity] that the date for the submission and opening of bids will not be delayed or postponed to allow for completion of an appeal process.

Note: A contractor may be found not pre-qualified for bidding on a specific public works contract to be let by [Public Entity], or on all contracts to be let by [Public Entity] until the contractor meets [Public Entity's] requirements. In addition, a contractor may be found not pre-qualified for either:

- (1) Omission of requested information or
- (2) Falsification of information

* * * * *

NOTICE: To contractors who are using subcontractors for this job, please be advised that [Public Entity] **may** require, as to subcontractors, one of the following:

☐ The qualification of subcontractors in the following crafts or trades, following acceptance of your bid, but before the award is made:

☐ Pre-qualification of all subcontractors.

☐ Pre-qualification of subcontractors in certain crafts.

☐ Post-bid qualification review.

**ANNOUNCEMENT OF
PRE-QUALIFICATION
PROCEDURES AND OPEN
DATES FOR ANNUAL
PRE-QUALIFICATION**

ANNOUNCEMENT OF PRE-QUALIFICATION PROCEDURES AND OPEN DATES FOR ANNUAL PRE-QUALIFICATION

Notice is hereby given that on [Date], [Public Entity] determined that all bidders on public works to be undertaken by the [Public Entity] must be pre-qualified prior to submitting bids for public works. It is mandatory that all licensed contractors who intend to submit bids fully complete the pre-qualification questionnaire, provide all materials requested herein, and be approved by [Public Entity] to be on the final bidders list. No bid will be accepted from a Contractor that has failed to comply with these requirements. If two or more business entities submit a bid on a project as a Joint Venture, or expect to submit a bid as part of a Joint Venture, each entity within the Joint Venture must be separately qualified to bid.

Pre-qualification applications may be submitted four times each year: (1) from January 1 through January 10; (2) from April 1 through April 10; (3) from July 1 through July 10; and (4) from October 1 through October 10. Contractors who submit a complete pre-qualification application will be notified by first class mail of their qualification status, such notice to be mailed no later than fifteen business days after submission of the information.

Answers to questions contained in the attached questionnaire, information about current bonding capacity on an aggregate and per project limit, notarized statement from surety, and the most recent reviewed or audited financial statements, with accompanying notes and supplemental information, are required. [Public Entity] will use these documents as the basis of rating Contractors in respect to the size and scope of contracts upon which each Contractor is qualified to bid. [Public Entity] reserves the right to check other sources available. [Public Entity's] decision will be based on objective evaluation criteria.

Pre-qualification approval will remain valid for one (1) calendar year from the date of notice of qualification, except that [Public Entity] reserves the right during that calendar year to adjust, increase, limit, suspend or rescind the pre-qualification ratings based on subsequently learned information and after giving notice of the proposed action to the Contractor and an opportunity for a hearing consistent with the hearing procedures described below for appealing a pre-qualification determination.

While it is the intent of the pre-qualification questionnaire and documents required therewith to assist [Public Entity] in determining bidder responsibility prior to the submission of bids and to aid [Public Entity] in selecting the lowest responsible bidder, neither the fact of pre-qualification, nor any pre-qualification rating, will preclude [Public Entity] from a post-bid consideration and determination on a specific project of whether a bidder has the quality, fitness, capacity and experience to satisfactorily perform the proposed work, and has demonstrated the requisite trustworthiness. Contractors are encouraged to submit pre-qualification applications as soon as possible, so that they may be notified of pre-qualification status well in advance of upcoming projects.

The pre-qualification applications should be submitted under seal and marked "CONFIDENTIAL" to _____[address].

The pre-qualification applications (questionnaire answers and financial statements) submitted by Contractors are not public records and are not open to public inspection. All information provided

will be kept confidential to the extent permitted by law, although the contents may be disclosed to third parties for the purpose of verification, investigation of substantial allegations, and in the process of an appeal hearing. State law requires that the names of contractors applying for pre-qualification status shall be public records subject to disclosure, and the first page of the questionnaire will be used for that purpose.

Each questionnaire must be signed under penalty of perjury in the manner designated at the end of the form, by an individual who has the legal authority to bind the Contractor on whose behalf that person is signing. If any information provided by a Contractor becomes inaccurate, the Contractor must immediately notify [Public Entity] and provide updated accurate information in writing, under penalty of perjury.

[Public Entity] reserves the right to waive minor irregularities and omissions in the information contained in the pre-qualification application submitted, to make all final determinations, and to determine at any time that the pre-qualification procedures will not be applied to a future public works project.

A contractor who has submitted a completed application, and who receives a rating of “not qualified” from [Public Entity] may appeal that determination. There is no appeal from a finding that a contractor is not pre-qualified because of a failure to submit required information, but re-application during one of the designated time periods is permitted. A contractor may appeal [Public Entity’s] decision with respect to its request for pre-qualification, and request a hearing, by giving notice to [Public Entity] no later than ten business days after receipt of notice of its qualification status. Unless a Contractor files a timely appeal, the Contractor waives any and all rights to challenge the qualification decision of [Public Entity], whether by administrative process, judicial process or any other legal process or proceeding.

If the Contractor gives the required notice of appeal and requests a hearing, the hearing shall be conducted so that it is concluded no later than ten business days after [Public Entity’s] receipt of its Notice of Appeal. The hearing so provided shall be an informal process conducted by a panel to whom the [governing body of Public Entity] has delegated responsibility to hear such appeals (the “Appeals Panel”). At or prior to the hearing, the Contractor will be advised of the basis for [Public Entity’s] pre-qualification determination. The Contractor will be given the opportunity to present information and present reasons in opposition to the pre-qualification determination. At the conclusion of the hearing or no later than one day after completion of the hearing, the Appeals Panel will render its decision. The date for submission and opening of bids for a specific project will not be delayed or postponed to allow for completion of an appeal process.

Note: A contractor may be found not pre-qualified for bidding on a specific public works contract to be let by [Public Entity], or on all contracts to be let by [Public Entity] until the contractor meets [Public Entity’s] requirements. In addition, a contractor may be found not pre-qualified for either:

- (1) Omission of requested information or
- (2) Falsification of information

* * * * *

NOTICE: To contractors who are using subcontractors for this job, please be advised that [Public Entity] **may** require, as to subcontractors, one of the following:

- ☐ The qualification of subcontractors in the following crafts or trades, following acceptance of your bid, but before the award is made:

- ☐ Pre-qualification of all subcontractors.
- ☐ Pre-qualification of subcontractors in certain crafts.
- ☐ Post-bid qualification review.

SOURCES FOR VERIFICATION OF INFORMATION GIVEN BY CONTRACTORS

SOURCES FOR VERIFICATION OF INFORMATION GIVEN BY CONTRACTORS

A CAUTIONARY NOTE: *The information that will be given to public agencies by contractors seeking pre-qualification is provided under oath, with the understanding that the intentional providing of false information is, in itself, grounds for disqualification, and may result in disqualification from bidding on any public works project, registering as a Public Works Contractor with the Department of Industrial Relations, and may be grounds for termination of a public works contract. We expect that the information given should be and will be accepted at face value in most instances. Our list of sources of information available to the public is provided for use where a public agency reviewing the answers given in a questionnaire has specific reason to believe that one or more answers should be verified in this manner.*

DIR - Public Works Contractor Registration Information

Information on a contractor's DIR Public Works Contractor Registration can be found online. The following link may be used to verify a contractor's current registration: <https://efiling.dir.ca.gov/PWCR/Search>.

Contractor License(s) Information

Names and addresses of licensed contractors, information about the type of license(s) issued and the dates when licenses were issued (and certain other information), are available from the Contractors' State Licensing Board (CSLB), 9821 Business Park Drive, Sacramento, CA 95827. Telephone number 800-321-2752. The CSLB web site for public information is: www.cslb.ca.gov.

Workers' Compensation Insurance Information

Every workers' compensation insurance carrier issues to each of its insured businesses a Certificate of Insurance. The contractor should be willing to provide a copy upon request.

Each contractor's Experience Modification Rate for the year should be stated in a letter to the contractor from the contractor's workers' compensation insurance carrier.

Some large companies are legally self-insured for workers' compensation, with the consent and authorization of the Department of Industrial Relations. The names of companies that are legally self-insured are available from the Department's Office of Self-Insurance Plans, Workers' Compensation, 11050 Olson Drive, Suite 230, Rancho Cordova, CA 95670; (916) 464-7000. The Office of Self-Insurance Plans web site for public information is: www.dir.ca.gov/osip/

The names of each business's current and recent workers' compensation insurance carriers are available from the Workers' Compensation Insurance Reporting Bureau (WCIRB), 1221

Broadway, Suite 900, Oakland, CA 94612, telephone (888) 229-2472. WCIRB is not a public agency but it provides information to the public. It will provide the names of the current and recent workers' compensation insurance carriers of every employer in California, in response to a written request, for a fee of \$8 for every year for which you seek information. WCIRB's web site for public information is: www.wcirb.com.

Surety or Insurance Carrier Information

The California Department of Insurance will verify whether a surety or an insurance carrier is "admitted" to issue insurance policies within the State. The Department has a "Hot-Line" number 800-927-4357, and a website from which the information is available: www.insurance.ca.gov. The Department of Insurance headquarters is located on 300 Capitol Mall, Suite 1700, Sacramento, CA 95814.

Debarred and Disqualified Public Works Contractor Information

Information on the identities of contractors that have been debarred and disqualified from working on public works contracts is available from the California Labor Commissioner, Division of Labor Standards Enforcement, 1515 Clay Street, Suite 401, Oakland, CA 94612. A list of debarred contractors can be found using the following link: <https://www.dir.ca.gov/dlse/debar.html>

Secretary of State Business Entity Information

The California Secretary of State has certain current and historical information about all corporations that operate in California: dates of incorporation, articles of incorporation, the name of the original incorporators, the names of the corporate officers (who are not necessarily the corporate stockholders) and an agent for service of process for the corporation. This information is available from the Secretary of State upon written request. (Secretary of State, Business Programs Division, 1500 11th Street, Sacramento, CA 95814. Telephone (916) 653-6814 or (916) 657-5448). Public information from the California Secretary of States is available at their website: www.sos.ca.gov. The Secretary of State does not ordinarily have a listing of the names of initial stockholders or current stockholders, and that information is generally not available in any public record.

County Clerks Business Entity Information

Every business, including a partnership, that operates under a "fictitious name" (for example, "Ajax Sheet Metal Contractors" or "Smith Brothers Electrical Contractors") is required to file with the County Clerk in the county in which its home office is located a "Fictitious Business Name" statement. This statement will indicate the owner of the business, if the business is a sole proprietorship, and the names of partners, if the business is a partnership. The information is available to the public from the County Clerk Office upon request. Requests should be made to the County in which the business is operating. It may be necessary to submit such a request in writing.

Bankruptcy Information

Bankruptcy petitions, which include the name of the person or business that is seeking protection from the Bankruptcy Court, are available for public inspection at the office of the Clerk of each Bankruptcy Court (which are federal courts). In California, Bankruptcy Courts are located in Sacramento, Modesto, Fresno, San Francisco, Oakland, San Jose, Los Angeles, Santa Ana, Riverside, and San Diego. Most documents filed in court in bankruptcy proceedings are available for public inspection, at the Bankruptcy Court clerk's office. Some information on bankruptcy filings may also be available from commercial enterprises that collect and sell information from public records. In addition some information about bankruptcy cases filed August 1990 and later is available on-line through the "PACER" (Public Access to Court Electronic Records) system. To obtain information from PACER, you must register with the system, and pay a fee for the materials obtained. Call 1-800-676-6856 or you may register online at <http://pacer.psc.uscourts.gov/>.

State Civil and Criminal Case Information

Each court keeps records of every civil suit filed in that county, and of the judgments issued after trials. However, the exact terms of pre-trial settlements are generally not recorded in court files. Documents related to disputes submitted to arbitration are generally not available for public inspection. Public agencies, however, are required to disclose the terms of such settlements, when documents are requested under the California Public Records Act.

Criminal convictions are a matter of public record. Each website has an index of its own criminal case records at <http://www.courts.ca.gov/>. In addition, a few data collection businesses have collected criminal conviction information from public records throughout the state, and the collected information about particular individuals or businesses is available for sale from these private businesses.

Federal Civil and Criminal Case Information

Information about federal criminal cases (filed August 1991 and later) and civil cases (filed August 1990 and later) is available on-line through the "PACER" (Public Access to Court Electronic Records) system. To obtain information from PACER, you must register with the system, and pay a fee for the materials obtained. Call 1-800-676-6856 or register online at <http://pacer.psc.uscourts.gov/>.

Industrial Safety and Health Laws Compliance Information

Information about citations issued by both the federal Occupational Safety and Health Administration and the California Division of Occupational Safety and Health (Cal OSHA) are available on a website maintained by federal OSHA, <http://www.osha.gov>. At that web site, click on "Data." On the Data page, click on "Statistics and Inspection Data." Next, click on "Establishment Search." When the next screen appears, enter the name of the contractor (entity) about whom you seek information in the "Establishment" window. Click on California in the "State" window. In the "Inspection Date" window, enter the date range in which you would like to request information. Then click the submit button.

Prevailing Wage Compliance Information

Information about recent prevailing wage law violations is available from the California Labor Commissioner, Division of Labor Standards Enforcement, 1515 Clay Street, Suite 401, Oakland, CA 94612, telephone (844) 522-6734. Requests may also be sent by email to: Publicworks@dir.ca.gov. Additional public information can be found at their website: www.dir.ca.gov/dlse.

Air Quality or Water Quality Board Citation Information

Information about citations issued by the California Air Resources Board is available from that agency under the Public Records Act. Their address is 1001 "I" Street Sacramento, CA 95814, or Post Office Box 2815, Sacramento, 95812. In addition, Regional Air Quality Management Districts and Regional Water Quality Control Boards throughout the state may issue citations for violation of air quality or water quality standards. Consult the appropriate board in your area for information about how to gather appropriate information. For other information they can be reached at by phone at (800) 242-4450 or by email: helpline@arb.ca.gov. Additional public information can be found at their website: ww2.arb.ca.gov.

Apprenticeship Programs and Compliance Information

Information about state-approved apprenticeship programs can be obtained from the Division of Apprenticeship Standards, 1515 Clay St, 3rd floor, Room 301, Oakland, CA 94612, telephone (415) 703-4920 or email: DAS@dir.ca.gov. A database of all state-approved apprenticeship programs can be obtained at the following link: <https://www.dir.ca.gov/databases/das/aigstart.asp>.

Information about violations of state apprenticeship laws is available from the California Labor Commissioner, Division of Labor Standards Enforcement, 1515 Clay Street, Suite 401, Oakland, CA 94612, telephone (844) 522-6734. Requests may also be sent by email to: Publicworks@dir.ca.gov. Additional public information can be found at their website: www.dir.ca.gov/dlse.