



# ORANGE COUNTY FIRE AUTHORITY

## EXECUTIVE COMMITTEE

### Regular Meeting Agenda

**Thursday, March 28, 2024  
5:30 P.M.**

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

John O'Neill, Chair • Troy Bourne, Vice Chair  
Dave Shawver • Shelley Hasselbrink • Donald P. Wagner  
Noel Hatch • Mark Tettemer • Phil Bacerra • Vince Rossini  
Ex Officio Member - Dennis Wilberg, Mission Viejo

#### **NOTICE REGARDING PUBLIC ACCESS AND PARTICIPATION**

This meeting is open to the public. Committee members will participate in person. There are several alternative ways to make comments including:

**In Person Comments at Meeting:** Resolution No. 97-024 established rules of decorum for public meetings held by the Orange County Fire Authority. Resolution No. 97-024 is available from the Clerk of the Authority.

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

If you wish to speak, please complete a Speaker Form identifying which item(s) you wish to address. Please return the completed form to the Clerk of the Authority prior to item being considered. Speaker Forms are available at the entryway of meeting location.

**E-Comments:** Alternatively, you may email your written comments to [coa@ocfa.org](mailto:coa@ocfa.org). E-comments will be provided to the Committee members upon receipt and will be part of the meeting record as long as they are received during or before the Committee takes action on an item. Emails related to an item that are received after the item has been acted upon by the Committee will not be considered.

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 committee members 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 and [Board of Directors policy](#), if you need reasonable accommodations to participate in this meeting, please complete the [ADA Reasonable Accommodation Form](#) available on the Agency's website and email to [COA@ocfa.org](mailto:COA@ocfa.org), or you may contact the Clerk of the Authority at (714) 573-6040 during regular business hours to submit your request orally. Please notify us at least 48 hours prior to the meeting to enable the Authority to make reasonable arrangements to assure accessibility to the meeting.

**CALL TO ORDER** by Chair O'Neill

**INVOCATION** by OCFA Chaplain Devin Chase

**PLEDGE OF ALLEGIANCE** by Vice Chair Bourne

**ROLL CALL** by Clerk of the Authority

**REPORT(S)**

**A. Report from the Budget and Finance Committee**

**B. Report from the Legislative and Public Affairs Committee**

**PUBLIC COMMENTS**

**Please refer to instructions on how to submit a public comment on Page 1 of this Agenda.**

**1. PRESENTATION(S)**

None.

**2. CONSENT CALENDAR**

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

**A. Minutes for the Executive Committee Meeting**

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

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

Recommended Action:

Approve the Minutes for the February 22, 2024, Regular Meeting as submitted.

**B. Monthly Investment Reports**

Submitted by: Robert C. Cortez, Assistant Chief/Business Services Department and James Slobojan, Assistant Treasurer/ Treasury & Financial Planning

On March 13, 2024, the Budget and Finance Committee reviewed the proposed agenda item and directed staff to place the item on the Executive Committee agenda by a vote of 7-0 (Director Chun and Hasselbrink absent).

Recommended Action:

Receive and file the reports.

**C. State Lobbying Contract Increase Nielsen Merksamer Parrinello Gross and Leoni LLP**  
Submitted by: Robert C. Cortez, Assistant Chief/Business Services Department

Recommended Action:

Approve an increase to the contract with Nielsen Merksamer Parrinello Gross & Leoni LLP for an additional amount of \$5,596.00 for a total not to exceed \$105,376, for services rendered from February 2023 thru March 2024.

**D. Approval of Landing Zone License Agreement with South Orange County Community College District**

Submitted by: Tim Perkins, Assistant Chief/Field Operations South and Kyle Kuzma, Battalion Chief/Air Operations

Recommended Action:

Approve and authorize the Fire Chief or designee to execute a license agreement with South Orange County Community College District for the use of property for a temporary helicopter landing zone.

**E. Legislative Report**

Submitted by: Robert C. Cortez, Assistant Chief/Business Services Department

On March 20, 2024, the Legislative and Public Affairs Committee reviewed the proposed agenda item and directed staff to place the item on the Executive Committee agenda by a vote of 4-1 (Directors Duncan and Mallari absent and Director Wagner dissented).

Recommended Action:

Receive and file the Legislative Report and adopt the Legislative and Public Affairs Committee recommended bill positions, in alignment with the Board-adopted Legislative Platform.

**F. Site License for Vehicle Training at MCAS Tustin**

Submitted by: Rob Capobianco, Assistant Chief/EMS/Training and Promotions

Recommended Action:

Approve and authorize the Fire Chief to execute the attached, no-cost License For Use of Property at former MCAS Tustin for access for OCFA training purposes (License Number 24-005).

**3. DISCUSSION CALENDAR**

None.

**COMMITTEE MEMBER COMMENTS**

**ADJOURNMENT** – The next meeting will be a Regular Meeting of the Executive Committee on Thursday, April 25, 2024, at 5:30 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.

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Maria D. Huizar, CMC  
Clerk of the Authority

**FUTURE EC AGENDA ITEMS – THREE-MONTH OUTLOOK:**

- Monthly Investment Report
- Quarterly CIP Update
- 3<sup>rd</sup> Quarter Financial Newsletter
- 3<sup>rd</sup> Quarter Purchasing Report
- Award a contract to GE Tru-Choice for FireHawk Helicopter Engine Maintenance

**UPCOMING MEETINGS:**

Budget & Finance Committee  
Executive Committee  
Board of Directors

Wednesday, April 10, 2024, 12 noon  
Thursday, April 25, 2024, 5:30 p.m.  
Thursday, April 25, 2024, 6:00 p.m.

# **MINUTES ORANGE COUNTY FIRE AUTHORITY**

**Executive Committee Regular Meeting  
Thursday, February 22, 2024  
5:30 P.M.**

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

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## **CALL TO ORDER**

Chair O'Neill called the regular meeting of the Orange County Fire Authority Executive Committee to order at 5:33 p.m. on February 22, 2024.

## **INVOCATION**

The Invocation was led by Chaplain Kent Kraning.

## **PLEDGE OF ALLEGIANCE**

Director Tettemer led the assembly in the Pledge of Allegiance.

## **ROLL CALL**

**Present:** John O'Neill, Garden Grove, Chair  
Troy Bourne, San Juan Capistrano, Vice Chair  
Phil Bacerra, Santa Ana  
Shelley Hasselbrink, Los Alamitos  
Noel Hatch, Laguna Woods  
Vince Rossini, Villa Park  
Dave Shawver, Stanton  
Mark Tettemer, Lake Forest

**Absent:** Donald P. Wagner, County of Orange

## **Also present were:**

Fire Chief Brian Fennessy  
Deputy Chief TJ McGovern  
Assistant Chief Lori Smith  
Assistant Chief Jim Ruane  
Director of Communications Matt Olson  
Clerk of the Authority Maria Huizar

Deputy Chief Lori Zeller  
Assistant Chief Rob Capobianco  
Assistant Chief Robert Cortez  
Assistant Chief Stephanie Holloman  
General Counsel David Kendig

## REPORT

### **A. Report from the Budget and Finance Committee**

Budget and Finance Committee Chair Bourne reported at its February 14, 2024, meeting, the Committee reviewed and by a unanimous vote recommended forwarding the Second Quarter Financial Newsletter, Second Quarter Purchasing Report, and the Monthly Investment Reports to the Executive Committee to receive and file the reports. The Committee held its annual election of both the Chair and Vice Chair, electing Director Lumbard as Vice Chair of the Committee, and Director Bourne as Chair for the ensuing year.

### **B. Quarterly Capital Improvement Program (CIP) Update (File 15.04)**

Assistant Chief Ruane provided a quarterly report on the current status of the Capital Improvement Program.

## PUBLIC COMMENTS

None.

### **1. PRESENTATIONS**

None.

### **2. CONSENT CALENDAR**

On motion of Director Shawver and second by Director Rossini, approved 8-0 Agenda Item Nos. 2A-2H (Director Wagner absent).

#### **A. Minutes for the Executive Committee Meeting (FILE 12.02A2)**

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

Action: Approve the Minutes for the January 25, 2024, Regular Meeting as submitted.

#### **B. Second Quarter Financial Newsletter (FILE 15.07)**

Action: Receive and file the report.

#### **C. Second Quarter Purchasing Report (FILE 11.10H1)**

Action: Receive and file the report.

**D. Monthly Investment Reports (FILE 11.10D2)**

Action: Receive and file the reports.

**E. Contract Award for Professional & Confidential Counseling Services (FILE 18.10)**

Action: Approve and authorize the Purchasing Manager to enter into a Professional Services Agreement with The Counseling Team International for Professional and Confidential Counseling Services for an amount not to exceed \$200,000.

**F. Approval of Memorandum of Understanding Between the Orange County Fire Authority and the Consolidated Fire Protection District of Los Angeles County (FILE 18.09D)**

Action: Approve and authorize the Fire Chief to execute the Reimbursement Agreement by and between the Consolidated Fire Protection District of Los Angeles County and the Orange County Fire Authority for the use of Quick Reaction Force program assets.

**G. Award of Contract for Enterprise Phone System (FILE 19.08A1)**

Action: Approve and authorize the Purchasing Manager to award the contract to Presidio West for an Enterprise Phone System in the amount of \$1,810,415.09.

**H. Approval of Helopod License Agreement with Aliso Viejo Community Association (FILE 18.09G1)**

Action: Approve and authorize the Purchasing Manager to execute a license agreement with Aliso Viejo Community Association for the improvement and use of property for a helicopter water resupply station.

**3. DISCUSSION CALENDAR**

None.

**COMMITTEE MEMBER COMMENTS**

None.

**ADJOURNMENT** – Chair O’Neill adjourned the meeting at 5:42 p.m. The next meeting will be a Regular Meeting of the Executive Committee on Thursday, March 28, 2024, at 5:30 p.m.

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Maria D. Huizar, CMC  
Clerk of the Authority



**Orange County Fire Authority**  
**AGENDA STAFF REPORT**

**Executive Committee Meeting**  
**March 28, 2024**

**Agenda Item No. 2B**  
**Consent Calendar**

**Monthly Investment Reports**

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**Contact(s) for Further Information**

Robert C. Cortez, Assistant Chief  
Business Services Department

[robertcortez@ocfa.org](mailto:robertcortez@ocfa.org)

714.573.6012

James Slobojan, Assistant Treasurer  
Treasury & Financial Planning

[jamesslobojan@ocfa.org](mailto:jamesslobojan@ocfa.org)

714.573.6305

**Summary**

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

**Prior Board/Committee Action**

On March 13, 2024, the Budget and Finance Committee reviewed the proposed agenda item and directed staff to place the item on the Executive Committee agenda by a vote of 7-0 (Director Chun and Hasselbrink absent).

**RECOMMENDED ACTION(S)**

Receive and file the reports.

**Impact to Cities/County**

Not Applicable.

**Fiscal Impact**

Not Applicable.

**Background**

Attached is the final monthly investment report as of January 31, 2024. A preliminary investment report as of February 23, 2024, is also provided as the most complete report that was available at the time this agenda item was prepared.

**Attachment(s)**

Final Investment Report – January 2024/Preliminary Report – February 2024



# ***Orange County Fire Authority Monthly Investment Report***



***Final Report – January 2024***

***Preliminary Report – February 2024***



## ***Monthly Investment Report Table of Contents***

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***Orange County Fire Authority***

***Final Investment Report***

***January 31, 2024***



## **EXECUTIVE SUMMARY**

### ***Portfolio Activity & Earnings***

During the month of January 2024, the size of the portfolio decreased by \$17.9 million to approximately \$278 million. Receipts for the month totaled \$54.6 million, including property tax apportionment payments of \$13.3 million, Community Redevelopment pass thru payments of \$12 million, receipts from cash contract payments of approximately \$7.7 million, and various grant reimbursement payments and charges for current services of approximately \$21.6 million, including \$16 million from Southern California Edison for the Quick Reaction Force program. Total January cash outflows amounted to nearly \$75.1 million. Significant disbursements for the month included two biweekly payrolls and related benefits totaling approximately \$35.9 million and a \$32.9 million payment to OCERS for the prepayment of the FY 2024/25 employer contributions. The portfolio's balance is expected to decrease in January as expenditures are projected to exceed receipts. In January, the portfolio's yield to maturity (365-day equivalent) decreased by thirteen basis points to 3.99%. The effective rate of return increased by twenty-eight basis points to 3.97% for the month, while the average maturity of the portfolio remained unchanged at 51 days to maturity.

### ***Economic News***

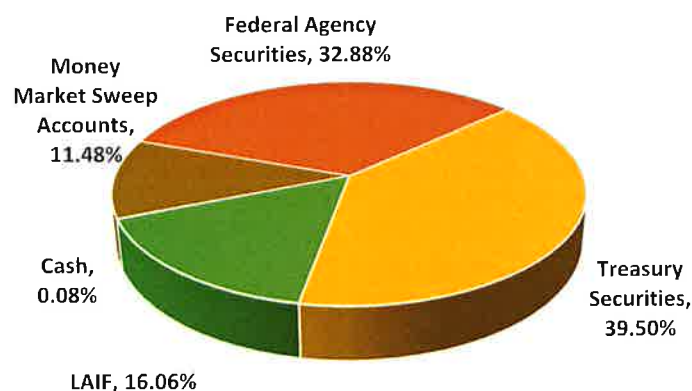
Nonfarm payroll employment increased 353,000 in January 2024, and the unemployment rate was unchanged at 3.7%. Job gains were widespread for the month with professional and business services leading the way, followed by health care, retail trade, government, and social assistance. Average hourly earnings rose 4.6% over a year ago. American consumer sentiment surged upwards in January, reaching its highest mark since December 2021. Mortgage rates declined in January and home-builder sentiment reached its highest level since September 2023. However, February opened with mortgage rates moving higher, and demand dipping while the housing market continued to see a supply and demand imbalance.

Retail sales decreased 0.8% in January while sales on a year over year basis were up 0.6%. Consumer spending decreases in January were led by drops in building materials and garden stores, miscellaneous store sales, and as gas prices dropped in January, sales also declined at gas stations. Increases were seen at restaurants and bars. The Consumer Price Index (CPI) increased 0.3% in January and 3.1% from a year ago. Much of the increase came from the rise in costs for shelter, vehicle insurance, and medical care. The Producer Price Index (PPI), which measures the prices paid by wholesalers, increased 0.3% in January. On a 12-month basis, PPI increased 0.9%. PPI is considered a forward-looking inflation measure as it tracks prices in the pipeline for goods and services that eventually reach consumers. The Federal Reserve met on January 31 and held rates steady at the target range of 5.25%-5.50%. The Fed will next meet on March 20, 2024.

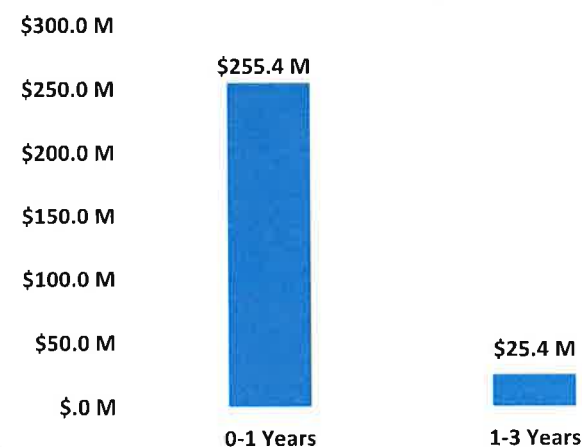


OCFA'S PORTFOLIO HAS AMPLE LIQUIDITY AND IS TRACKING ITS LAIF BENCHMARK AS OF JANUARY 31, 2024

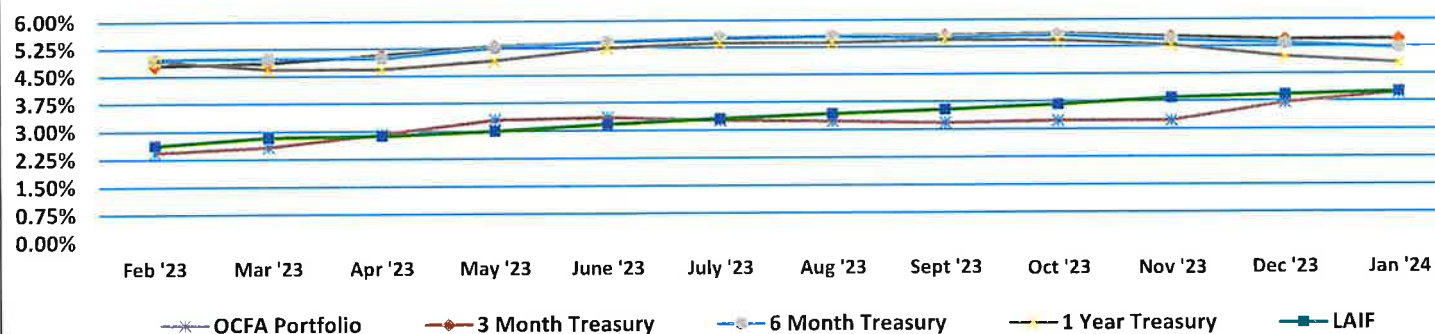
Market Value \$280,804,693



Aging Summary



12 Month Benchmarks





**BENCHMARK COMPARISON AS OF JANUARY 31, 2024**

*3 Month T-Bill: 5.45%*

*1 Year T-Bill: 4.79%*

*6 Month T-Bill: 5.21%*

*LAIF: 4.01%*

*OCFA Portfolio: 3.97%*

**PORTFOLIO SIZE, YIELD, & DURATION**

|                                    | <b><u>Current Month</u></b> | <b><u>Prior Month</u></b> | <b><u>Prior Year</u></b> |
|------------------------------------|-----------------------------|---------------------------|--------------------------|
| <i>Book Value</i>                  | \$278,181,670               | \$296,080,869             | \$228,239,936            |
| <i>Yield to Maturity (365 day)</i> | 3.99%                       | 4.12%                     | 2.44%                    |
| <i>Effective Rate of Return</i>    | 3.97%                       | 3.69%                     | 2.47%                    |
| <i>Days to Maturity</i>            | 51                          | 51                        | 29                       |



**ORANGE COUNTY FIRE AUTHORITY**  
**Portfolio Management**  
**Portfolio Summary**  
**January 31, 2024**

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

|                                  | Par<br>Value          | See Note 1 on page 10<br>Market<br>Value | See Note 2 on page 10<br>Book<br>Value | % of<br>Portfolio | Term       | Days to<br>Mat./Call | YTM/Call<br>360 Equiv. | YTM/Call<br>365 Equiv. |
|----------------------------------|-----------------------|--|--|-------------------|------------|----------------------|------------------------|------------------------|
| <b>Investments</b>               |                       |  |  |                   |            |                      |                        |                        |
| Money Mkt Mutual Funds/Cash      | 32,230,107.73         | 32,230,107.73                            | 32,230,107.73                          | 11.37             | 1          | 1                    | 5.026                  | 5.095                  |
| Federal Agency Coupon Securities | 67,450,000.00         | 64,864,694.00                            | 67,450,859.97                          | 23.79             | 1,384      | 48                   | 0.628                  | 0.637                  |
| Federal Agency Disc. -Amortizing | 28,000,000.00         | 27,466,740.00                            | 27,460,173.62                          | 9.69              | 257        | 137                  | 5.282                  | 5.355                  |
| Treasury Discounts -Amortizing   | 112,000,000.00        | 110,938,940.00                           | 110,955,905.71                         | 39.14             | 114        | 66                   | 5.296                  | 5.369                  |
| Local Agency Investment Funds    | 45,377,205.84         | 45,084,211.17                            | 45,377,205.84                          | 16.01             | 1          | 1                    | 3.957                  | 4.012                  |
|                                  | <b>285,057,313.57</b> | <b>280,584,692.90</b>                    | <b>283,474,252.87</b>                  | <b>100.00%</b>    | <b>399</b> | <b>51</b>            | <b>3.939</b>           | <b>3.993</b>           |


**Investments**

**Cash**

|   |                       |                       |                       |  |            |           |              |              |
|---|-----------------------|-----------------------|-----------------------|--|------------|-----------|--------------|--------------|
| Passbook/Checking<br>(not included in yield calculations) | 220,000.26            | 220,000.26            | 220,000.26            |  | 1          | 1         | 0.000        | 0.000        |
| <b>Total Cash and Investments</b>                         | <b>285,277,313.83</b> | <b>280,804,693.16</b> | <b>283,694,253.13</b> |  | <b>399</b> | <b>51</b> | <b>3.939</b> | <b>3.993</b> |

|                                 | January 31 Month Ending | Fiscal Year To Date   |
|---------------------------------|-------------------------|-----------------------|
| <b>Total Earnings</b>           |                         |                       |
| Current Year                    | 976,061.30              | 4,617,746.20          |
| <b>Average Daily Balance</b>    | <b>289,836,563.52</b>   | <b>224,094,367.12</b> |
| <b>Effective Rate of Return</b> | <b>3.97%</b>            | <b>3.50%</b>          |

"I certify that this investment report accurately reflects all pooled investments and is in compliance with the investment policy adopted by the Board of Directors to be effective on January 1, 2024. A copy of this policy is available from the Clerk of the Authority. Sufficient investment liquidity and anticipated revenues are available to meet budgeted expenditure requirements for the next thirty days and the next six months."

  
 Patricia Jakubik, Treasurer

2/2/24

**Cash and Investments with GASB 31 Adjustment:**

|   |                          |
|---|--------------------------|
| Book Value of Cash & Investments before GASB 31 (Above) | \$ 283,694,253.13        |
| GASB 31 Adjustment to Books (See Note 3 on page 10)     | \$ (5,512,582.65)        |
| <b>Total</b>  | <b>\$ 278,181,670.48</b> |



**ORANGE COUNTY FIRE AUTHORITY**  
**Portfolio Management**  
**Portfolio Details - Investments**  
**January 31, 2024**

| See Note 1 on page 10            |              |   |                    |                  |                | See Note 2 on page 10 |                |                |                           |                     |                  |
|----------------------------------|--------------|---|--------------------|------------------|----------------|-----------------------|----------------|----------------|---------------------------|---------------------|------------------|
| CUSIP                            | Investment # | Issuer  | Average<br>Balance | Purchase<br>Date | Par Value      | Market Value          | Book Value     | Stated<br>Rate | YTM/Call<br>365 Mat./Call | Days to<br>Maturity | Maturity<br>Date |
| Money Mkt Mutual Funds/Cash      |              |   |                    |                  |                |                       |                |                |                           |                     |                  |
| SYS1042                          | 1042         | US Bank - Treasury Obligations                |                    |                  | 20,041,821.56  | 20,041,821.56         | 20,041,821.56  | 5.190          | 5.190                     | 1                   |                  |
| SYS528                           | 528          | MUFG Treasury Obligations                     |                    | 07/01/2023       | 0.00           | 0.00                  | 0.00           | 4.620          | 4.620                     | 1                   |                  |
| SYS530                           | 530          | US Bancorp Sweep Account                      |                    |                  | 12,188,286.17  | 12,188,286.17         | 12,188,286.17  | 4.940          | 4.940                     | 1                   |                  |
| Subtotal and Average             |              |   | 31,894,345.25      |                  | 32,230,107.73  | 32,230,107.73         | 32,230,107.73  |                | 5.095                     | 1                   |                  |
| Federal Agency Coupon Securities |              |   |                    |                  |                |                       |                |                |                           |                     |                  |
| 3133EMWH1                        | 1030         | Federal Farm Credit Bank (Callable 2/21/2024) |                    | 04/22/2021       | 3,000,000.00   | 2,855,460.00          | 3,000,859.97   | 0.710          | 0.677                     | 20                  | 04/21/2025       |
| 3133EMXS6                        | 1032         | Federal Farm Credit Bank (Continuous Call)    |                    | 04/28/2021       | 12,000,000.00  | 11,439,480.00         | 12,000,000.00  | 0.720          | 0.720                     | 0                   | 04/28/2025       |
| 3130ALNY6                        | 1025         | Fed Home Loan Bank (Callable 03/30/2024)      |                    | 03/30/2021       | 8,000,000.00   | 7,766,160.00          | 8,000,000.00   | 0.550          | 0.550                     | 58                  | 09/30/2024       |
| 3130ALTJ3                        | 1029         | Fed Home Loan Bank                            |                    | 04/22/2021       | 9,435,000.00   | 9,348,952.80          | 9,435,000.00   | 0.375          | 0.375                     | 67                  | 04/08/2024       |
| 3130ALVR2                        | 1031         | Fed Home Loan Bank (Callable 4/23/2024)       |                    | 04/23/2021       | 11,015,000.00  | 10,663,401.20         | 11,015,000.00  | 0.520          | 0.520                     | 82                  | 10/23/2024       |
| 3130AM6P2                        | 1034         | Fed Home Loan Bank (Callable 4/29/2024)       |                    | 04/29/2021       | 12,000,000.00  | 11,156,280.00         | 12,000,000.00  | 1.000          | 1.000                     | 88                  | 04/29/2026       |
| 3130AM6H0                        | 1035         | Fed Home Loan Bank (Callable 5/11/2024)       |                    | 05/11/2021       | 12,000,000.00  | 11,634,960.00         | 12,000,000.00  | 0.550          | 0.550                     | 10                  | 10/11/2024       |
| Subtotal and Average             |              |   | 67,450,887.40      |                  | 67,450,000.00  | 64,864,694.00         | 67,450,859.97  |                | 0.637                     | 48                  |                  |
| Federal Agency Disc. -Amortizing |              |   |                    |                  |                |                       |                |                |                           |                     |                  |
| 313384XV6                        | 1095         | Fed Home Loan Bank                            |                    | 07/20/2023       | 14,000,000.00  | 13,753,600.00         | 13,747,375.83  | 5.115          | 5.447                     | 127                 | 06/07/2024       |
| 313384YS2                        | 1109         | Fed Home Loan Bank                            |                    | 12/21/2023       | 14,000,000.00  | 13,713,140.00         | 13,712,797.79  | 4.990          | 5.263                     | 148                 | 06/28/2024       |
| Subtotal and Average             |              |   | 28,691,270.80      |                  | 28,000,000.00  | 27,466,740.00         | 27,460,173.62  |                | 5.355                     | 137                 |                  |
| Treasury Discounts -Amortizing   |              |   |                    |                  |                |                       |                |                |                           |                     |                  |
| 912797GP6                        | 1099         | US Treasury Bill                              |                    | 11/09/2023       | 14,000,000.00  | 13,942,740.00         | 13,942,964.00  | 5.238          | 5.474                     | 28                  | 02/29/2024       |
| 912797HH3                        | 1100         | US Treasury Bill                              |                    | 11/30/2023       | 10,000,000.00  | 9,868,300.00          | 9,870,325.00   | 5.130          | 5.392                     | 91                  | 05/02/2024       |
| 912797FH5                        | 1101         | US Treasury Bill                              |                    | 11/30/2023       | 14,000,000.00  | 13,788,320.00         | 13,790,525.00  | 5.130          | 5.403                     | 105                 | 05/16/2024       |
| 912797GE1                        | 1105         | US Treasury Bill                              |                    | 12/21/2023       | 14,000,000.00  | 14,000,000.00         | 14,000,000.00  | 5.230          | 5.409                     | 0                   | 02/01/2024       |
| 912797GN1                        | 1106         | US Treasury Bill                              |                    | 12/21/2023       | 14,000,000.00  | 13,971,440.00         | 13,971,906.67  | 5.160          | 5.347                     | 14                  | 02/15/2024       |
| 912797JL2                        | 1107         | US Treasury Bill                              |                    | 12/21/2023       | 14,000,000.00  | 13,875,400.00         | 13,878,305.00  | 5.130          | 5.352                     | 61                  | 04/02/2024       |
| 912797HS9                        | 1108         | US Treasury Bill                              |                    | 12/21/2023       | 14,000,000.00  | 13,761,720.00         | 13,768,148.37  | 5.010          | 5.268                     | 119                 | 05/30/2024       |
| 912796CX5                        | 1110         | US Treasury Bill                              |                    | 01/11/2024       | 6,000,000.00   | 5,933,220.00          | 5,934,036.67   | 5.140          | 5.359                     | 77                  | 04/18/2024       |
| 912797HH3                        | 1111         | US Treasury Bill                              |                    | 01/11/2024       | 6,000,000.00   | 5,920,980.00          | 5,922,195.00   | 5.130          | 5.359                     | 91                  | 05/02/2024       |
| 912796Y45                        | 1112         | US Treasury Bill                              |                    | 01/17/2024       | 6,000,000.00   | 5,876,820.00          | 5,877,500.00   | 5.000          | 5.258                     | 147                 | 06/27/2024       |
| Subtotal and Average             |              |   | 121,221,880.64     |                  | 112,000,000.00 | 110,938,940.00        | 110,955,905.71 |                | 5.369                     | 66                  |                  |
| Local Agency Investment Funds    |              |   |                    |                  |                |                       |                |                |                           |                     |                  |
| SYS336                           | 336          | Local Agency Invstmt Fund                     |                    |                  | 45,377,205.84  | 45,084,211.17         | 45,377,205.84  | 4.012          | 4.012                     | 1                   |                  |
| Subtotal and Average             |              |   | 40,578,179.43      |                  | 45,377,205.84  | 45,084,211.17         | 45,377,205.84  |                | 4.012                     | 1                   |                  |



**ORANGE COUNTY FIRE AUTHORITY**  
**Portfolio Management**  
**Portfolio Details - Investments**  
**January 31, 2024**

| CUSIP                              | Investment # | Issuer         | Average<br>Balance | Par Value             | Market Value          | Book Value            | Stated<br>Rate        | YTM/C<br>365 Mat./Call | Days to   |
|------------------------------------|--------------|----------------|--------------------|-----------------------|-----------------------|-----------------------|-----------------------|------------------------|-----------|
| <b>Money Mkt Mutual Funds/Cash</b> |              |                |                    |                       |                       |                       |                       |                        |           |
| SYS10033                           | 10033        | Revolving Fund | 07/01/2023         | 20,000.00             | 20,000.00             | 20,000.00             | 0.000                 | 1                      |           |
| SYS4                               | 4            | Union Bank     | 07/01/2023         | 0.00                  | 0.00                  | 0.00                  | 0.000                 | 1                      |           |
| SYS5                               | 5            | US Bancorp     | 07/01/2023         | 200,000.26            | 200,000.26            | 200,000.26            | 0.000                 | 1                      |           |
| <b>Average Balance</b>             |              |                | <b>0.00</b>        |                       |                       |                       |                       | <b>1</b>               |           |
| <b>Total Cash and Investments</b>  |              |                |                    | <b>289,836,563.62</b> | <b>286,277,313.83</b> | <b>280,804,693.16</b> | <b>283,694,253.13</b> | <b>3.993</b>           | <b>51</b> |

Orange County Fire Authority  
In Service of Others!



**ORANGE COUNTY FIRE AUTHORITY**  
**Aging Report**  
**By Maturity Date**  
**As of February 1, 2024**

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

|                 |                     |                             |                |            | Maturity<br>Par Value | Percent<br>of Portfolio | Current<br>Book Value | Current<br>Market Value |
|-----------------|---------------------|-----------------------------|----------------|------------|-----------------------|-------------------------|-----------------------|-------------------------|
| Aging Interval: | 0 days              | ( 02/01/2024 - 02/01/2024 ) | 8 Maturities   | 0 Payments | 91,827,313.83         | 32.60%                  | 91,827,313.83         | 91,534,319.16           |
| Aging Interval: | 1 - 30 days         | ( 02/02/2024 - 03/02/2024 ) | 2 Maturities   | 0 Payments | 28,000,000.00         | 9.94%                   | 27,914,870.67         | 27,914,180.00           |
| Aging Interval: | 31 - 60 days        | ( 03/03/2024 - 04/01/2024 ) | 0 Maturities   | 0 Payments | 0.00                  | 0.00%                   | 0.00                  | 0.00                    |
| Aging Interval: | 61 - 90 days        | ( 04/02/2024 - 05/01/2024 ) | 3 Maturities   | 0 Payments | 29,435,000.00         | 10.38%                  | 29,247,341.67         | 29,167,572.80           |
| Aging Interval: | 91 - 120 days       | ( 05/02/2024 - 05/31/2024 ) | 4 Maturities   | 0 Payments | 44,000,000.00         | 15.43%                  | 43,361,193.37         | 43,339,320.00           |
| Aging Interval: | 121 - 365 days      | ( 06/01/2024 - 01/31/2025 ) | 6 Maturities   | 0 Payments | 66,016,000.00         | 22.58%                  | 64,352,673.62         | 63,408,081.20           |
| Aging Interval: | 366 - 1095 days     | ( 02/01/2025 - 01/31/2027 ) | 3 Maturities   | 0 Payments | 27,000,000.00         | 9.06%                   | 27,000,869.97         | 26,461,220.00           |
| Aging Interval: | 1096 days and after | ( 02/01/2027 - )            | 0 Maturities   | 0 Payments | 0.00                  | 0.00%                   | 0.00                  | 0.00                    |
| Total for       |                     |                             | 26 Investments | 0 Payments |                       | 100.00                  | 283,694,263.13        | 280,804,693.16          |



**NOTES TO PORTFOLIO MANAGEMENT REPORT**

- Note 1: Market value of the LAIF investment is calculated using a fair value factor provided by LAIF. The U.S. Bank Corporate Trust and Custody Department provides market values of the remaining investments.
- Note 2: Book value reflects the cost or amortized cost before the GASB 31 accounting adjustment.
- Note 3: GASB 31 requires governmental entities to report investments at fair value in the financial statements and to reflect the corresponding unrealized gains/ (losses) as a component of investment income. The GASB 31 adjustment is recorded only at fiscal year-end. Fluctuations in the marketplace have little effect on our long-term investment yield because it is our policy to hold investments to maturity. However, adjusting to market values as required by GAAP resulted in a decrease in recorded interest earnings of \$5,512,582.65. The adjustment for June 30, 2023, includes a decrease of \$612,970.63 to the LAIF investment and a decrease of \$4,899,612.02 to the remaining investments.
- Note 4: The Federated Treasury Obligations money market mutual fund functions as the Authority's sweep account. Funds are transferred to and from the sweep account to/from OCFA's checking account in order to maintain a target balance of \$1,000,000 in checking. Since this transfer occurs at the beginning of each banking day, the checking account sometimes reflects a negative balance at the close of the banking day. The negative closing balance is not considered an overdraft since funds are available in the money market mutual fund. The purpose of the sweep arrangement is to provide sufficient liquidity to cover outstanding checks yet allow that liquidity to be invested while payment of the outstanding checks is pending.



### ***Local Agency Investment Fund (LAIF)***

As of January 31, 2024, OCFA has \$45,377,205.84 invested in LAIF. The fair value of OCFA's LAIF investment is calculated using a participant fair value factor provided by LAIF on a quarterly basis. The fair value factor as of January 31, 2024 is .993543131. When applied to OCFA's LAIF investment, the fair value is \$45,084,211.17 or \$292,994.67 below cost. Although the fair value of the LAIF investment is lower than cost, OCFA can withdraw the actual amount invested at any time.

LAIF is included in the State Treasurer's Pooled Money Investment Account (PMIA) for investment purposes. The PMIA market valuation on January 31, 2024 is included on the following page.



**State of California**  
**Pooled Money Investment Account**  
**Market Valuation**  
**1/31/2024**

| Description                 | Carrying Cost Plus           |        | Fair Value                   | Accrued Interest         |
|-----------------------------|------------------------------|--------|------------------------------|--------------------------|
|                             | Accrued Interest             | Purch. |                              |                          |
| United States Treasury:     |                              |        |                              |                          |
| Bills                       | \$ 29,367,637,177.93         |        | \$ 29,746,267,500.00         | NA                       |
| Notes                       | \$ 68,276,645,745.76         |        | \$ 67,500,136,000.00         | \$ 415,432,964.50        |
| Federal Agency:             |                              |        |                              |                          |
| SBA                         | \$ 270,714,210.78            |        | \$ 270,529,128.36            | \$ 1,311,522.42          |
| MBS-REMICs                  | \$ 2,112,857.95              |        | \$ 2,081,896.18              | \$ 9,257.45              |
| Debentures                  | \$ 8,483,252,104.13          |        | \$ 8,416,872,600.00          | \$ 75,957,014.20         |
| Debentures FR               | \$ -                         |        | \$ -                         | \$ -                     |
| Debentures CL               | \$ 650,000,000.00            |        | \$ 638,906,500.00            | \$ 4,456,111.50          |
| Discount Notes              | \$ 25,131,550,958.30         |        | \$ 25,469,401,000.00         | NA                       |
| Supranational Debentures    | \$ 2,819,512,700.14          |        | \$ 2,788,653,300.00          | \$ 22,478,612.60         |
| Supranational Debentures FR | \$ -                         |        | \$ -                         | \$ -                     |
| CDs and YCDs FR             | \$ -                         |        | \$ -                         | \$ -                     |
| Bank Notes                  |                              |        |                              |                          |
| CDs and YCDs                | \$ 14,900,000,000.00         |        | \$ 14,906,763,784.05         | \$ 205,689,986.08        |
| Commercial Paper            | \$ 9,797,910,569.35          |        | \$ 9,924,275,555.56          | NA                       |
| Corporate:                  |                              |        |                              |                          |
| Bonds FR                    | \$ -                         |        | \$ -                         | \$ -                     |
| Bonds                       | \$ 621,664,002.54            |        | \$ 607,310,760.00            | \$ 4,602,340.63          |
| Repurchase Agreements       | \$ -                         |        | \$ -                         | \$ -                     |
| Reverse Repurchase          | \$ -                         |        | \$ -                         | \$ -                     |
| Time Deposits               | \$ 5,188,000,000.00          |        | \$ 5,188,000,000.00          | NA                       |
| PMIA & GF Loans             | \$ 325,717,000.00            |        | \$ 325,717,000.00            | NA                       |
| <b>TOTAL</b>                | <b>\$ 165,834,717,326.88</b> |        | <b>\$ 165,784,915,024.15</b> | <b>\$ 729,937,809.38</b> |

Fair Value Including Accrued Interest \$ 166,514,852,833.53

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



***Orange County Fire Authority***

***Preliminary Investment Report***

***February 16, 2024***



**ORANGE COUNTY FIRE AUTHORITY**  
**Portfolio Management**  
**Portfolio Summary**  
**February 16, 2024**

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

|   |                       | See Note 1 on page 19 | See Note 2 on page 19 |                |            |                   |                     |                     |
|---|-----------------------|-----------------------|-----------------------|----------------|------------|-------------------|---------------------|---------------------|
| Investments   | Par Value             | Market Value          | Book Value            | % of Portfolio | Term       | Days to Mat./Call | YTM/Call 360 Equiv. | YTM/Call 365 Equiv. |
| Money Mkt Mutual Funds/Cash                               | 30,976,209.48         | 30,976,209.48         | 30,976,209.48         | 12.17          | 1          | 1                 | 5.068               | 5.139               |
| Federal Agency Coupon Securities                          | 67,450,000.00         | 64,791,219.85         | 67,450,828.70         | 26.50          | 1,384      | 53                | 0.628               | 0.637               |
| Federal Agency Disc. -Amortizing                          | 28,000,000.00         | 27,509,300.00         | 27,523,049.18         | 10.81          | 257        | 121               | 5.282               | 5.355               |
| Treasury Discounts -Amortizing                            | 84,000,000.00         | 83,194,000.00         | 83,175,124.37         | 32.68          | 135        | 69                | 5.293               | 5.366               |
| Local Agency Investment Funds                             | 45,377,205.84         | 45,084,211.17         | 45,377,205.84         | 17.83          | 1          | 1                 | 3.957               | 4.012               |
|   | <b>255,803,415.32</b> | <b>251,554,940.50</b> | <b>254,502,417.57</b> | <b>100.00%</b> | <b>439</b> | <b>50</b>         | <b>3.790</b>        | <b>3.842</b>        |
| <b>Investments</b>  |                       |                       |                       |                |            |                   |                     |                     |
| <b>Cash</b>   |                       |                       |                       |                |            |                   |                     |                     |
| Passbook/Checking<br>(not included in yield calculations) | 770,467.52            | 770,467.52            | 770,467.52            |                | 1          | 1                 | 0.000               | 0.000               |
| <b>Total Cash and Investments</b>                         | <b>256,573,882.84</b> | <b>252,325,408.02</b> | <b>255,272,885.09</b> |                | <b>439</b> | <b>50</b>         | <b>3.790</b>        | <b>3.842</b>        |

| Total Earnings                  | February 16 Month Ending | Fiscal Year To Date   |
|---------------------------------|--------------------------|-----------------------|
| Current Year                    | 453,330.28               | 5,071,076.48          |
| <b>Average Daily Balance</b>    | <b>269,019,221.60</b>    | <b>227,206,045.35</b> |
| <b>Effective Rate of Return</b> | <b>3.84%</b>             | <b>3.53%</b>          |

"I certify that this investment report accurately reflects all pooled investments and is in compliance with the investment policy adopted by the Board of Directors to be effective on January 1, 2024. A copy of this policy is available from the Clerk of the Authority. Sufficient investment liquidity and anticipated revenues are available to meet budgeted expenditure requirements for the next thirty days and the next six months."

Patricia Jakubiak, Treasurer

**Cash and Investments with GASB 31 Adjustment:**

|   |                          |
|---|--------------------------|
| Book Value of Cash & Investments before GASB 31 (Above) | \$ 255,272,885.09        |
| GASB 31 Adjustment to Books (See Note 3 on page 19)     | \$ (5,512,582.65)        |
| <b>Total</b>  | <b>\$ 249,760,302.44</b> |



**ORANGE COUNTY FIRE AUTHORITY**  
**Portfolio Management**  
**Portfolio Details - Investments**  
**February 16, 2024**

|                                  |              |   |                    |                  | See Note 1 on page 19 | See Note 2 on page 19 |               |                |                           |                             |
|----------------------------------|--------------|---|--------------------|------------------|-----------------------|-----------------------|---------------|----------------|---------------------------|-----------------------------|
| CUSIP                            | Investment # | Issuer  | Average<br>Balance | Purchase<br>Date | Par Value             | Market Value          | Book Value    | Stated<br>Rate | YTM/Call<br>365 Mat./Call | Days to<br>Maturity<br>Date |
| Money Mkt Mutual Funds/Cash      |              |   |                    |                  |                       |                       |               |                |                           |                             |
| SYS1042                          | 1042         | US Bank - Treasury Obligations                |                    |                  | 24,604,181.03         | 24,604,181.03         | 24,604,181.03 | 5.190          | 5.190                     | 1                           |
| SYS528                           | 528          | MUFG Treasury Obligations                     |                    | 07/01/2023       | 0.00                  | 0.00                  | 0.00          | 4.620          | 4.620                     | 1                           |
| SYS530                           | 530          | US Bancorp Sweep Account                      |                    |                  | 6,372,028.45          | 6,372,028.45          | 6,372,028.45  | 4.940          | 4.940                     | 1                           |
| Subtotal and Average             |              |   | 33,373,474.69      |                  | 30,976,209.48         | 30,976,209.48         | 30,976,209.48 |                | 5.139                     | 1                           |
| Federal Agency Coupon Securities |              |   |                    |                  |                       |                       |               |                |                           |                             |
| 3133EMWH1                        | 1030         | Federal Farm Credit Bank (Callable 2/21/2024) |                    | 04/22/2021       | 3,000,000.00          | 2,849,670.00          | 3,000,828.70  | 0.710          | 0.677                     | 4 04/21/2025                |
| 3133EMXS6                        | 1032         | Federal Farm Credit Bank (Continuous Call)    |                    | 04/28/2021       | 12,000,000.00         | 11,414,880.00         | 12,000,000.00 | 0.720          | 0.720                     | 13 04/28/2025               |
| 3130ALNY6                        | 1025         | Fed Home Loan Bank (Callable 03/30/2024)      |                    | 03/30/2021       | 8,000,000.00          | 7,771,840.00          | 8,000,000.00  | 0.550          | 0.550                     | 42 09/30/2024               |
| 3130ALTJ3                        | 1029         | Fed Home Loan Bank                            |                    | 04/22/2021       | 9,435,000.00          | 9,373,672.50          | 9,435,000.00  | 0.375          | 0.375                     | 51 04/08/2024               |
| 3130ALVR2                        | 1031         | Fed Home Loan Bank (Callable 4/23/2024)       |                    | 04/23/2021       | 11,015,000.00         | 10,667,917.35         | 11,015,000.00 | 0.520          | 0.520                     | 66 10/23/2024               |
| 3130AM6P2                        | 1034         | Fed Home Loan Bank (Callable 4/29/2024)       |                    | 04/29/2021       | 12,000,000.00         | 11,071,920.00         | 12,000,000.00 | 1.000          | 1.000                     | 72 04/29/2026               |
| 3130AM6H0                        | 1035         | Fed Home Loan Bank (Callable 5/11/2024)       |                    | 05/11/2021       | 12,000,000.00         | 11,641,320.00         | 12,000,000.00 | 0.550          | 0.550                     | 84 10/11/2024               |
| Subtotal and Average             |              |   | 67,450,843.36      |                  | 67,450,000.00         | 64,791,219.85         | 67,450,828.70 |                | 0.637                     | 53                          |
| Federal Agency Disc. -Amortizing |              |   |                    |                  |                       |                       |               |                |                           |                             |
| 313384XV6                        | 1095         | Fed Home Loan Bank                            |                    | 07/20/2023       | 14,000,000.00         | 13,775,720.00         | 13,779,202.50 | 5.115          | 5.447                     | 111 06/07/2024              |
| 313384YS2                        | 1109         | Fed Home Loan Bank                            |                    | 12/21/2023       | 14,000,000.00         | 13,733,580.00         | 13,743,846.68 | 4.990          | 5.263                     | 132 06/28/2024              |
| Subtotal and Average             |              |   | 27,493,576.26      |                  | 28,000,000.00         | 27,509,300.00         | 27,523,049.18 |                | 5.355                     | 121                         |
| Treasury Discounts -Amortizing   |              |   |                    |                  |                       |                       |               |                |                           |                             |
| 912797GP6                        | 1099         | US Treasury Bill                              |                    | 11/09/2023       | 14,000,000.00         | 13,981,660.00         | 13,975,556.00 | 5.238          | 5.474                     | 12 02/29/2024               |
| 912797HH3                        | 1100         | US Treasury Bill                              |                    | 11/30/2023       | 10,000,000.00         | 9,895,500.00          | 9,893,125.00  | 5.130          | 5.392                     | 75 05/02/2024               |
| 912797FH5                        | 1101         | US Treasury Bill                              |                    | 11/30/2023       | 14,000,000.00         | 13,825,560.00         | 13,822,445.00 | 5.130          | 5.403                     | 89 05/16/2024               |
| 912797JL2                        | 1107         | US Treasury Bill                              |                    | 12/21/2023       | 14,000,000.00         | 13,914,180.00         | 13,910,225.00 | 5.130          | 5.352                     | 45 04/02/2024               |
| 912797HS9                        | 1108         | US Treasury Bill                              |                    | 12/21/2023       | 14,000,000.00         | 13,799,940.00         | 13,799,321.70 | 5.010          | 5.268                     | 103 05/30/2024              |
| 912796CX5                        | 1110         | US Treasury Bill                              |                    | 01/11/2024       | 6,000,000.00          | 5,949,180.00          | 5,947,743.34  | 5.140          | 5.359                     | 61 04/18/2024               |
| 912797HH3                        | 1111         | US Treasury Bill                              |                    | 01/11/2024       | 6,000,000.00          | 5,937,300.00          | 5,935,875.00  | 5.130          | 5.359                     | 75 05/02/2024               |
| 912796Y45                        | 1112         | US Treasury Bill                              |                    | 01/17/2024       | 6,000,000.00          | 5,890,680.00          | 5,890,833.33  | 5.000          | 5.258                     | 131 06/27/2024              |
| Subtotal and Average             |              |   | 95,324,121.45      |                  | 84,000,000.00         | 83,194,000.00         | 83,175,124.37 |                | 5.366                     | 69                          |
| Local Agency Investment Funds    |              |   |                    |                  |                       |                       |               |                |                           |                             |
| SYS336                           | 336          | Local Agency Invstmt Fund                     |                    |                  | 45,377,205.84         | 45,084,211.17         | 45,377,205.84 | 4.012          | 4.012                     | 1                           |
| Subtotal and Average             |              |   | 45,377,205.84      |                  | 45,377,205.84         | 45,084,211.17         | 45,377,205.84 |                | 4.012                     | 1                           |

**ORANGE COUNTY FIRE AUTHORITY**  
**Portfolio Management**  
**Portfolio Details - Cash**  
**February 16, 2024**

| CUSIP                              | Investment # | Issuer                 | Average<br>Balance    | Purchase<br>Date | Par Value             | Market Value          | Book Value            | Stated<br>Rate | YTM/C<br>365 | Days to<br>Mat./Call |
|------------------------------------|--------------|------------------------|-----------------------|------------------|-----------------------|-----------------------|-----------------------|----------------|--------------|----------------------|
| <b>Money Mkt Mutual Funds/Cash</b> |              |                        |                       |                  |                       |                       |                       |                |              |                      |
| SYS10033                           | 10033        | Revolving Fund         |                       | 07/01/2023       | 20,000.00             | 20,000.00             | 20,000.00             |                | 0.000        | 1                    |
| SYS4                               | 4            | Union Bank             |                       | 07/01/2023       | 0.00                  | 0.00                  | 0.00                  |                | 0.000        | 1                    |
| SYS5                               | 5            | US Bancorp             |                       | 07/01/2023       | 750,467.52            | 750,467.52            | 750,467.52            |                | 0.000        | 1                    |
|                                    |              | <b>Average Balance</b> | <b>0.00</b>           |                  |                       |                       |                       |                |              | <b>1</b>             |
| <b>Total Cash and Investments</b>  |              |                        | <b>269,019,221.60</b> |                  | <b>266,573,882.84</b> | <b>262,325,408.02</b> | <b>265,272,886.09</b> |                | <b>3.842</b> | <b>60</b>            |

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**ORANGE COUNTY FIRE AUTHORITY**  
**Aging Report**  
**By Maturity Date**  
**As of February 17, 2024**

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

|                                     |                             |                |            | Maturity<br>Par Value | Percent<br>of Portfolio | Current<br>Book Value | Current<br>Market Value |
|-------------------------------------|-----------------------------|----------------|------------|-----------------------|-------------------------|-----------------------|-------------------------|
| Aging Interval: 0 days              | ( 02/17/2024 - 02/17/2024 ) | 7 Maturities   | 0 Payments | 77,123,882.84         | 30.45%                  | 77,123,882.84         | 76,830,888.17           |
| Aging Interval: 1 - 30 days         | ( 02/18/2024 - 03/18/2024 ) | 1 Maturities   | 0 Payments | 14,000,000.00         | 5.54%                   | 13,975,556.00         | 13,981,660.00           |
| Aging Interval: 31 - 60 days        | ( 03/19/2024 - 04/17/2024 ) | 2 Maturities   | 0 Payments | 23,435,000.00         | 9.23%                   | 23,345,225.00         | 23,287,862.50           |
| Aging Interval: 61 - 90 days        | ( 04/18/2024 - 05/17/2024 ) | 4 Maturities   | 0 Payments | 36,000,000.00         | 14.11%                  | 35,599,188.34         | 35,607,540.00           |
| Aging Interval: 91 - 120 days       | ( 05/18/2024 - 06/16/2024 ) | 2 Maturities   | 0 Payments | 28,000,000.00         | 10.93%                  | 27,578,524.20         | 27,575,660.00           |
| Aging Interval: 121 - 365 days      | ( 06/17/2024 - 02/16/2025 ) | 5 Maturities   | 0 Payments | 51,015,000.00         | 19.70%                  | 50,649,680.01         | 49,705,337.35           |
| Aging Interval: 366 - 1095 days     | ( 02/17/2025 - 02/16/2027 ) | 3 Maturities   | 0 Payments | 27,000,000.00         | 10.04%                  | 27,000,828.70         | 26,336,470.00           |
| Aging Interval: 1096 days and after | ( 02/17/2027 - )            | 0 Maturities   | 0 Payments | 0.00                  | 0.00%                   | 0.00                  | 0.00                    |
| Total for                           |                             | 24 Investments | 0 Payments |                       | 100.00                  | 255,272,885.09        | 252,325,408.02          |



**NOTES TO PORTFOLIO MANAGEMENT REPORT**

- Note 1: Market value of the LAIF investment is calculated using a fair value factor provided by LAIF. The U.S. Bank Corporate Trust and Custody Department provides market values of the remaining investments.
- Note 2: Book value reflects the cost or amortized cost before the GASB 31 accounting adjustment.
- Note 3: GASB 31 requires governmental entities to report investments at fair value in the financial statements and to reflect the corresponding unrealized gains/ (losses) as a component of investment income. The GASB 31 adjustment is recorded only at fiscal year-end. The adjustment for June 30, 2023 includes a decrease of \$612,970.63 to the LAIF investment and a decrease of \$4,899,612.02 to the remaining investments.
- Note 4: The Federated Treasury Obligations money market mutual fund functions as the Authority's sweep account. Funds are transferred to and from the sweep account to/from OCFA's checking account in order to maintain a target balance of \$1,000,000 in checking. Since this transfer occurs at the beginning of each banking day, the checking account sometimes reflects a negative balance at the close of the banking day. The negative closing balance is not considered an overdraft since funds are available in the money market mutual fund. The purpose of the sweep arrangement is to provide sufficient liquidity to cover outstanding checks yet allow that liquidity to be invested while payment of the outstanding checks is pending.

## GLOSSARY

### INVESTMENT TERMS

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

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

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

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

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

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

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

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

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

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

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

**Local Agency Investment Fund (LAIF).** A California State Treasury fund which local agencies may use to deposit funds for investment and for reinvestment with a maximum of \$75 million for any agency (*excluding bond funds, which have no maximum*). It offers high liquidity because

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

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

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

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

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

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

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

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

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

**Yield.** Rate of return on a bond.

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

### ECONOMIC TERMS

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

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

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

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

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

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

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

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

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

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

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





**Orange County Fire Authority**  
**AGENDA STAFF REPORT**

**Executive Committee Meeting**  
**March 28, 2024**

**Agenda Item No. 2C**  
**Consent Calendar**

**State Lobbying Contract Increase**  
**Nielsen Merksamer Parrinello Gross and Leoni LLP**

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**Contact(s) for Further Information**

Robert C. Cortez, Assistant Chief  
Business Services Department

[robertcortez@ocfa.org](mailto:robertcortez@ocfa.org)

714.573.6012

**Summary**

This agenda item is submitted for approval to increase the contract for state lobbying services with Nielsen Merksamer Parrinello Gross & Leoni LLP for an additional amount of \$5,596.00 for additional services provided in relation to the passage of SB475 in 2023.

**Prior Board/Committee Action**

None.

**RECOMMENDED ACTION(S)**

Approve an increase to the contract with Nielsen Merksamer Parrinello Gross & Leoni LLP for an additional amount of \$5,596.00 for a total not to exceed \$105,376, for services rendered from February 2023 thru March 2024.

**Impact to Cities/County**

None.

**Fiscal Impact**

Funding for this contract is included in the existing FY2023/24 Legislative Services Budget.

Increased Cost Funded by Structural Fire Fund: \$0

Increased Cost Funded by Cash Contract Cities: \$0

**Background**

Nielsen Merksamer Parrinello Gross & Leoni LLP was selected as the #1 ranked firm following RFP JA2481 issued on 12/9/2020 with a start date of April 2021, for a three-year term with two one-year optional renewal periods. In 2023, OCFA staff requested additional legislative services as we pursued legislation that would lead to the construction of a new fire station in Laguna Woods with the passage of SB475. Additional scope of services were anticipated to be completed by September 2023. However, services were necessary through October 2023, which necessitates an increase to the contract that exceeds Management Authority thresholds and requires Executive Committee approval.

**Attachment**

None



**Orange County Fire Authority**  
**AGENDA STAFF REPORT**

**Executive Committee Meeting**  
**March 28, 2024**

**Agenda Item No. 2D**  
**Consent Calendar**

**Approval of Landing Zone License Agreement with  
South Orange County Community College District**

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**Contact(s) for Further Information**

Tim Perkins, Assistant Chief  
Field Operations South

[timperkins@ocfa.org](mailto:timperkins@ocfa.org)

949.702.3868

Kyle Kuzma, Battalion Chief  
Air Operations

[kylekuzma@ocfa.org](mailto:kylekuzma@ocfa.org)

949.468.8021

**Summary**

This agenda item is submitted for Executive Committee approval and authorization of a License Agreement for use of a Temporary Landing Zone at Saddleback College for OCFA helicopters on emergency incidents.

**Prior Board/Committee Action(s)**

None.

**RECOMMENDED ACTION(S)**

Approve and authorize the Fire Chief or designee to execute a license agreement with South Orange County Community College District for the use of property for a temporary helicopter landing zone.

**Impact to Cities/County**

None.

**Fiscal Impact**

None.

**Background**

The purpose of this agreement is to permit access, and provide a location for OCFA helicopters to land temporarily when needed for emergency incidents. OCFA and Saddleback College have identified two locations on campus that will be suitable and safe to land OCFA helicopters in coordination with Saddleback College Police Department.

The License shall be in effect for a period of five (5) years beginning April 1<sup>st</sup>, 2024, and terminating on April 1<sup>st</sup>, 2029. Either Party may terminate the Agreement at any time and without cause by giving ten (10) days written notice to the other Party of such termination and specifying the effective date thereof. The agreement includes language indemnifying the Licensor from all claims, losses or other liability arising out of the use of or access to the property.

**Attachment**

License Agreement – South Orange County Community College District

**ORANGE COUNTY FIRE AUTHORITY  
LICENSE AGREEMENT**

1) This License Agreement is entered into on April 1<sup>st</sup>, 2024 by and between South Orange County Community College District, hereafter referred to as “Licensor”, and Orange County Fire Authority, hereafter referred to as “Licensee” or “OCFA”. Licensor and Licensee are also referred to collectively as the “Parties,” and individually as “Party.”

2) Licensor is the owner of certain real property located at 28000 Marguerite Parkway, Mission Viejo, California 92692 (hereafter referred to as “the Property”).

3) Licensor grants to Licensee a license (hereafter referred to as “the License”) to utilize sites on the Property as identified on Exhibit “A” as Temporary Landing Zones for Licensee’s helicopters during emergency incidents at Saddleback College as follows:

- a) Site No. 1 (Primary): Throwing field located on the Southwestern side of the Property. Adherence to OCFA helicopter standard operating procedures and Federal Aviation Regulations shall apply throughout all operations. Minimum dimensions for takeoff and landing operations include a 110’ “safety circle” referenced from the center of the helicopter touchdown point. Final determination will be made by the OCFA Chief Fire Pilot and will be reassessed upon each subsequent landing by the acting Pilot in Command.
- b) Site No. 2 (Alternate): Parking lot 10 located on the Northwestern side of the Property. Adherence to OCFA helicopter standard operating procedures and Federal Aviation Regulations shall apply throughout all operations. Minimum dimensions for takeoff and landing operations include a 110’ “safety circle” referenced from the center of the helicopter touchdown point. Final determination will be made by the OCFA Chief Fire Pilot and will be reassessed upon each subsequent landing by the acting Pilot in Command.
- c) Licensee will perform an operational assessment of the two above-described sites to determine suitability for future use in helicopter operations. This will include but not be limited to: Reconnaissance, low level operations, out of ground effect hover operations, takeoff, and landing. Moreover, the Pilot in Command may perform any additional maneuvers he/she deems necessary to ensure a continuance of safe operations. If

operational assessment is approved and site is deemed feasible OCFA helicopters will be permitted to land at the designated location when necessary, during emergency incidents.

4) Notification Requirement: In preparation of the Licensed site to support the activities identified within this License Agreement, the Licensee shall provide no less than 15 minutes notice to the Licensors. (During emergency medical helicopter operations, OCFA shall make all reasonable attempts to provide prior notification).

5) Right to Deny Use: The Licensors retain the sole discretion to deny and/or not support the activities identified in this License Agreement on a per occurrence basis.

6) This License is personal to the Licensee and shall not be assigned. Any attempt to assign the License shall automatically terminate it. No legal title or leasehold interest in the Property is created or vested in Licensee by the grant of this License.

7) This License shall be in effect for a period of five (5) years beginning April 1<sup>st</sup>, 2024 and terminating on April 1<sup>st</sup>, 2029. Either Party may terminate the Agreement at any time and without cause by giving ten (10) days written notice to the other Party of such termination and specifying the effective date thereof.

8) On or before the termination date of this License pursuant to paragraph 7, Licensee shall remove all of Licensee's personal property from the Property and shall surrender possession of the Property to Licensors in the good order and repair to the satisfaction of Licensors, normal wear and tear excepted.

9) Hold Harmless and Indemnification: To the fullest extent permitted by law, the Licensee shall defend (with counsel of Licensors's choosing), indemnify, and hold harmless the Licensors, its Board of Trustees, officers, agents, employees, representatives, and volunteers (collectively "Indemnified Parties") from any and all claims, demands, causes of action, costs, expenses, liabilities, losses, in law or equity, property damage, personal injury, damages or injuries/illnesses (including COVID-19) of any kind, including wrongful death, in any manner arising out of,

pertaining to, or incident to any alleged acts, equipment failure and/or malfunction, faulty installation, errors or omissions, negligence, recklessness or willful misconduct of Licensee, its officials, officers, agents, employees, representatives, subcontractor, or volunteers, in connection with the performance or non-performance of all Acts and/or Services identified in this Agreement or obligations hereunder, including without limitation the payment of all consequential damages, expert witness fees, attorney's fees, and other related costs and expenses. This hold harmless and indemnification includes, but is not limited to, compensatory damages, regulatory fines, penalties, and extra-contractual liability. In no event shall the Licensor, its Board of Trustees, officers, agents, employees, representatives, and/or volunteers be liable for any loss of Licensee's business, revenues, or profits, or special, consequential, incidental, indirect or punitive damages of any nature, even if the Licensor its Board of Trustees, officers, agents, employees, representatives, and/or volunteers have been advised in advance of the possibility of such damages.

- a) Licensee's obligation to indemnify the Licensor, its Board of Trustees, officers, agents, employees, representatives, and/or volunteers shall not be restricted to insurance proceeds, if any, received by the Licensor, its Board of Trustees, officers, agents, employees, representatives, and/or volunteers.
- b) The Parties understand and agree that this shall be the sole indemnity, as defined by California Civil Code § 2772, governing this Agreement. Any other indemnity that may be attached to this Agreement as an Exhibit shall be void and unenforceable between the Parties.
- c) Neither termination of this Agreement nor completion of the acts to be performed under this Agreement shall release Licensee from its obligations to indemnify as to any claims or causes of action asserted so long as the event(s) upon which such claim or cause of action is predicated shall have occurred prior to the effective date of termination or completion.

10) Minimum Insurance Requirements: The Licensee shall maintain in full force and effect throughout the term of this Agreement the following policies of insurance with no less than the limits set forth herein. Licensor may adjust Licensee's required minimum coverage limits set forth herein at the commencement of a renewal term by providing Licensee written notice.

- a) A.M. Best Financial Rating. Policies of insurance required herein shall be issued by insurers with an A.M. Best financial rating of A:VII or better. This requirement may be

waived if the Licensee provides evidence that they are self-insured.

- b) Admitted Carrier(s). Policies of insurance shall be afforded by insurers who are admitted - licensed to transact business in the State of California.
- c) Workers' Compensation and Employer's Liability. In accordance with the laws of the State of California, Licensee shall purchase and maintain Workers' Compensation insurance with statutory limits and Employer's Liability coverage with not less than One Million Dollars (\$1,000,000) for Each Accident, One Million Dollars (\$1,000,000) for Disease - Each Employee, and One Million Dollars (\$1,000,000) for Disease - Policy Limit.
- d) Commercial General Liability. Insurance with limits of not less than Fifty Million Dollars (\$50,000,000) per occurrence to cover losses including, but not limited to blanket contractual, broad form property damage, products & completed operations, personal injury, and wrongful death.
- e) Automobile Liability. Insurance with combined single limits of not less than One Million Dollars (\$1,000,000) to cover losses involving Symbol 1, "Any Auto".
- f) Additional Insured Endorsement. Licensee shall issue Licensor an endorsement naming Licensor, its Board of Trustees, officers, agents, employees, representatives, invitees, and volunteers as Additional Insureds to Licensee's Commercial General Liability, Automobile Liability insurance policies.
- g) Primary and Non-Contributory Endorsement. Licensee's insurance coverage and limits shall be primary and any of the Licensor's insurance coverage and limits shall be non-contributory.
- h) Waiver of Subrogation Endorsements. Licensee shall issue Licensor an endorsement waiving all rights of subrogation against the Licensor, its Board of Trustees, officers, agents, employees, representatives, invitees, and volunteers with respect to Licensee's Commercial General Liability, Automobile Liability, Workers' Compensation, insurance policies.
- i) No Cancellation or Material Modification. Policies of insurance and accompanying endorsements required by this Agreement shall not be cancelled or materially modified, except upon thirty (30) days' advance written notice to Licensor. The Licensee's insurer(s) shall provide written notice of cancellation or material modification to the Licensor.

- j) Certificate(s) of Insurance and Endorsement(s). Certificate(s) and endorsements evidencing the required coverages and limits set forth herein shall be provided to the Licensor prior to or upon Licensee's execution of this Agreement. Any endorsements limiting coverage shall be stricken. No Services shall commence by Licensee until the required certificate(s) of insurance and endorsement(s) have been furnished to the Licensor. Should Licensee's insurance expire during the term of this Agreement, renewal certificate(s) of insurance and endorsement(s) shall be provided prior to the expiration of the policies or within 10 days of expiration.
- k) The Licensor's obligation to collect the required certificate(s) and endorsement(s) and/or the Licensee's failure to furnish such documents and/or purchase and maintain coverage and limits as stipulated above shall not be deemed a waiver of this provision at any time. Furthermore, the Licensee's failure to purchase and maintain the insurance coverage and limits for the term as identified above and/or to comply with any provisions in this section shall be deemed a breach of contract.
- l) Should any of the insurance policies contain either a deductible or self-insured retention, the Licensee shall be responsible to pay that deductible or self-insured retention and the Licensor shall not be responsible to pay these costs. Notwithstanding the above, and this shall in no way alleviate Licensee's responsibility to pay such deductible or retention, nor limit, alter or amend the requirements that Licensee shall to the fullest allowable by law, indemnify, defend, and hold harmless the Licensor, Licensee shall ensure that all policies shall recognize the erosion of the retention or deductible from other sources.
- m) The Licensor reserves all rights, including the right to require a lower retention than presented by the Licensor. If such lower retention cannot be obtained in the market, then the Licensor reserves the rights to inspect any and all financial statements of the Licensee, and require further financial guarantees or assurances if any information calls into question the Licensee's ability to pay.
- n) Acceptance of any certificate of insurance or endorsement shall in no way limit any indemnity, hold harmless or defense obligation, nor specifically shall it limit any liability, or obligation.
- o) No Limitation on Liability: Such insurance as required herein shall not be deemed to limit Licensor's liability relating to performance under this Agreement. Licensor

reserves the right to require complete certified copies of all said policies at any time. The procuring of insurance shall not be construed as a limitation on liability or as full performance of the indemnification and hold harmless provisions of this Agreement. Licensors understand and agree that, notwithstanding any insurance, Licensors' obligation to defend, indemnify, and hold Licensors, its trustees, officials, agents, volunteers, and employees harmless hereunder is for the full and total amount of any damage, injuries, loss, expense, costs, or liabilities caused by or in any manner connected with or attributed to any act or omission of Licensors, Licensors Personnel/Guests, or the operations conducted by Licensors, or the Licensors' use, misuse, or neglect of the Facility. Furthermore, Licensee shall be responsible for the full replacement value of any damages to Licensors' property.

11) This Agreement constitutes the entire agreement between Licensors and Licensee relating to the License. Any prior agreements, promises, negotiations, or representations not expressly set forth in this Agreement are of no force and effect. Any amendment to this Agreement shall be of no force and effect unless it is in writing and signed by Licensors and Licensee.

*[SIGNATURE PAGE TO FOLLOW]*



IN WITNESS WHEREOF, this Agreement has been executed by and on behalf of the Parties, the day and year signed below.

***LICENSOR***

\_\_\_\_\_  
*Signature* Date: \_\_\_\_\_

\_\_\_\_\_  
Name (Please print) Telephone Number

***LICENSEE***

\_\_\_\_\_  
*Signature* Date: \_\_\_\_\_

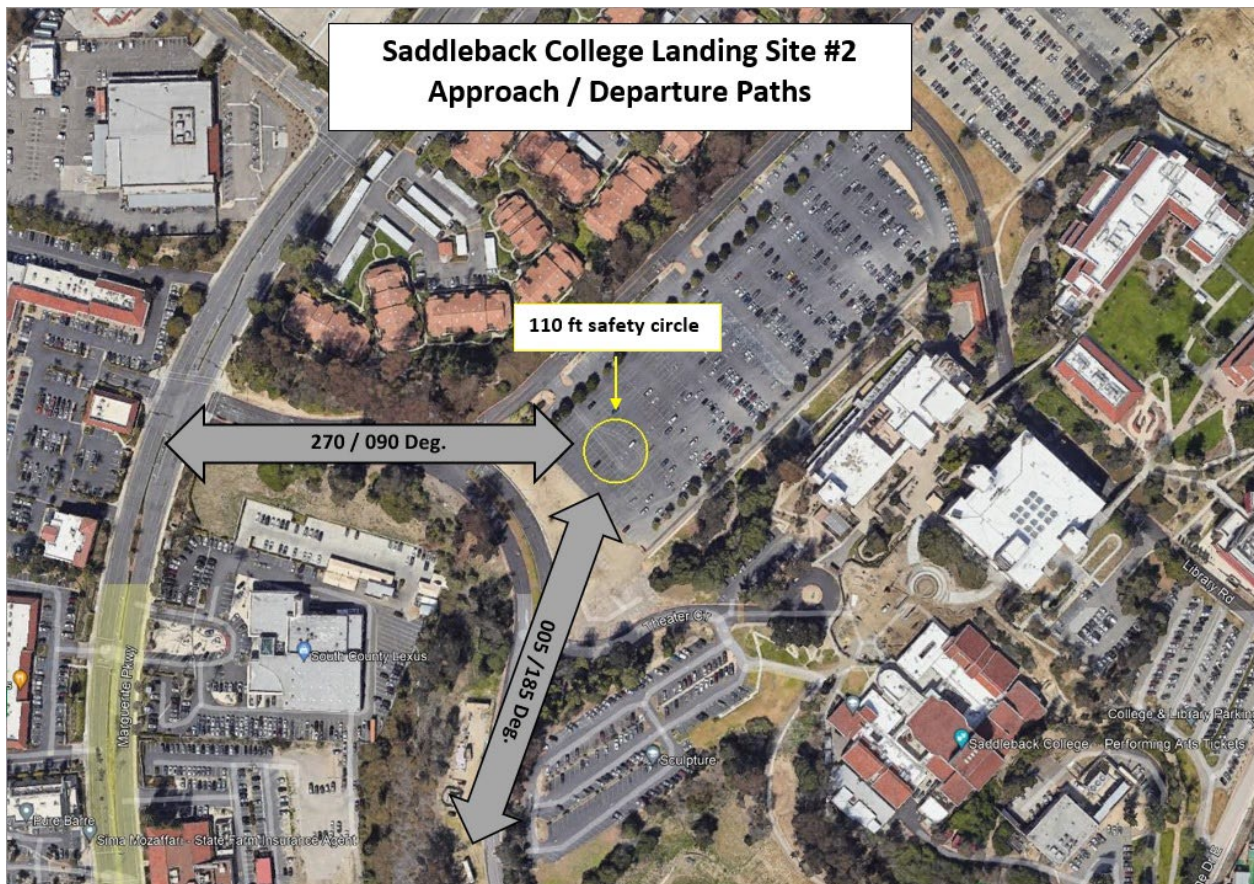
Brian Fennessy, Fire Chief  
Name (Please print) 714 573-6024  
Telephone Number

***OCFA CONTACT (Person initiating this Agreement)***

Kyle Kuzma/Battalion Chief Air Operations  
Name/Title (Please print) 01/29/2024  
Date

OCFA Station 41 3900 Artesia Ave. Fullerton, CA 92833  
Work Location 949-468-8021  
Telephone Number

**Exhibit “A”**







## Orange County Fire Authority **AGENDA STAFF REPORT**

**Executive Committee Meeting  
March 28, 2024**

**Agenda Item No. 2E  
Consent Calendar**

### **Legislative Report**

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#### **Contact(s) for Further Information**

Robert C. Cortez, Assistant Chief  
Business Services Department

[robertcortez@ocfa.org](mailto:robertcortez@ocfa.org)

714.573.6012

#### **Summary**

This item is submitted to inform the Committee of legislation that staff has identified for tracking, and in some cases, for adopted positions.

#### **Prior Board/Committee Action**

On March 20, 2024, the Legislative and Public Affairs Committee reviewed the proposed agenda item and directed staff to place the item on the Executive Committee agenda by a vote of 4-1 (Directors Duncan and Mallari absent and Director Wagner dissented). The Committee also requested staff to obtain Fact Sheets for those bills in which staff is recommending positions, and to ensure that the descriptions in the State Bill Matrix are updated for recent changes. Staff is working with the State lobbyist to gather the requested Fact Sheets and updated descriptions. We will distribute any supplemental information that is available prior to the March 28 meeting.

#### **RECOMMENDED ACTION(S)**

Receive and file the Legislative Report and adopt the Legislative and Public Affairs Committee recommended bill positions, in alignment with the Board-adopted Legislative Platform.

#### **Impact to Cities/County**

Not Applicable.

#### **Fiscal Impact**

Not Applicable.

#### **Background**

The attached Legislative Report provides an update on the State's budget deficit and other relevant legislative and budgetary activity taking place at the State and Federal level. Additionally, the report provides a matrix of bills that are of interest to the OCFA with recommended bill positions based on Executive Management and State lobbyist review. Staff and our lobbyists provided an oral report and solicited input and direction from the Legislative and Public Affairs Committee.

Regarding the 2024 State bill matrix with recommendations (Attachment 2), a recommended position of "support or oppose", once adopted, may result in a letter to the author. Bills identified with a recommendation to "monitor," will be tracked for additional amendments or analysis that may help clarify impacts. As bills are amended, staff will return to the Legislative and Public Affairs Committee for further discussion and direction.

#### **Attachment(s)**

1. State Lobbyist Report
2. 2024 State Bill Matrix with Recommendations
3. Federal Lobbyist Report

**ATTORNEY WORK PRODUCT**  
**PRIVILEGED & CONFIDENTIAL**

Attachment 1

**TO:** Robert C. Cortez  
Assistant Chief, Business Services  
Orange County Fire Authority (OCFA)

**FROM:** John Moffatt  
Geoff Neill

**DATE:** March 13, 2024

**RE:** 2024 Legislative Report

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**State Budget Deficit**

After the Legislative Analyst's Office estimated that the state would be facing a \$68 billion revenue shortfall, as reported to this committee in December, the Governor in January announced his Administration's estimate that the deficit would only be \$58 billion. January tax revenues promptly fell short of expectations, and the LAO's new deficit estimate is \$73 billion. The LAO also detailed \$15.6 billion of one-time and temporary spending that could be pulled back or reduced, including several wildfire-related programs. The Governor will have a chance to update his estimate when he releases his revised budget proposals in May.

To deal with the shortfall, the Governor in January proposed some cuts (\$11.9 billion), many delays (\$7.2 billion), and using some of the state's reserves (\$18.8 billion).

Among the categories of cuts are \$1.2 billion to various housing programs and \$350 million of legislative requests. The \$3.8 billion of additional MCO Tax support for Medi-Cal is categorized as "internal borrowing." Also of interest from the budget proposal, CAL FIRE continues to pursue changing

R. Cortez  
March 13, 2024  
Page 2 of 2

*ATTORNEY-CLIENT COMMUNICATION  
PRIVILEGED & CONFIDENTIAL*

from a 72-hour workweek to a 66-hour work week over five years beginning this coming November.

The Senate this week has landed on a plan for early action on the budget, some of which if passed and signed could help the state achieve some extra savings, and all of which gives them and the Governor a smaller deficit to solve for this summer. Their plan reportedly includes:

- Cuts to programs - \$3.4 billion
- Deferrals - \$3 billion
- Rainy Day Fund - \$12.2 billion
- MCO Tax borrowing - \$3.8 billion
- Greenhouse Gas Reduction Fund shifts and cuts - \$2.3 billion
- Energy funding cuts/delay - \$2 billion
- UC and CSU deferral - \$500 million
- Cut to school facilities - \$500 million
- Cut to early education programs - \$500 million
- State payroll delay from June 30 to July 1 - \$1.6 billion

### **2024 Bills**

Around two thousand bills have been introduced since the 2024 legislative session began. A matrix of bills of interest to OCFA along with recommendations for positions are provided as a separate attachment.



Revised 3/25/2024

# OCFA 2024 State Bill Matrix

The OCFA identified over 80 bills for review since the state bill introduction deadline of February 16, 2024. A substantial number of these bills express “intent” language meaning that the full potential impact cannot be determined. Following is a list of bills identified by staff for official positions and bills we are monitoring due to the subject matter and therefore bringing awareness to the committee.

| Category                      | Bill    | Author        | Title   | Summary   | Position |
|-------------------------------|---------|---------------|---|---|----------|
| EMS                           | AB 1792 | Rodriguez     | Emergency Medical Services: Protective Equipment        | Requires the Emergency Medical Services Authority to develop standards, on or before January 1, 2027, for personal protective equipment for ambulance personnel and to update the standards on or before January 1, 2032, and every 5 years thereafter.   | Monitor  |
| EMS                           | AB 2002 | Sanchez       | Vehicles: Public Safety: Blue Envelope Program          | Requires the Department of Motor Vehicles, in consultation with relevant stakeholders, to develop a Blue Envelope Program.  | Monitor  |
| EMS                           | AB 2225 | Rodriguez     | Discovery: Emergency Medical Services Review Committees | Extends an exemption from discovery as evidence the proceedings and records of specified organized committees of health care professionals and review committees having the responsibility of evaluation and improvement of the quality of care, for purposes of civil proceedings only, to the proceedings and records of emergency medical services organized committees and review committees.   | Support  |
| Operations & Community Safety | AB 2344 | Petrie-Norris | Fire Prevention: Grant Programs: Reporting              | Requires the Wildfire and Forest Resilience Task Force, on or before July 1, 2025, and annually thereafter, to compile and post on its internet website specified information regarding identified state and federal grant programs relating to fire prevention and resilience.   | Support  |
| EMS                           | AB 2348 | Rodriguez     | Emergency Medical Services                              | Requires the Emergency Medical Services Authority to develop planning and implementation guidelines for response times. Requires the authority to develop a statewide standard methodology for calculation and reporting by a local EMS agency (LEMSA) of response time. Requires the authority to ensure the guidelines include a list of specified standardized terminology for a LEMSAs to use when granting exemptions or when modifying original response time data. | Support  |
| Operations & Community Safety | AB 2384 | Wilson        | Public swimming Pools: Emergency Telephones.            | Requires a person or entity that owns or maintains a public swimming pool, as defined, to ensure that there is an operating telephone on or adjacent to the pool deck, available for emergency use, at all times.   | Support  |

|                               |         |                  |   |  |         |
|-------------------------------|---------|------------------|---|--|---------|
| Operations & Community Safety | AB 2594 | Emerg. Mgmt Cmte | Emergency Services: Mutual Aid: Gap Analysis            | Requires the Office of Emergency Services to prepare a gap analysis of the state's mutual aid systems on a biennial basis, beginning on January 1, 2025. Requires the office to prepare and submit to specified legislative committees a report on a gap analysis in accordance with the bill no later than February 1, 2025, and biennially thereafter by February 1 of subsequent odd-numbered years.  | Monitor |
| Operations & Community Safety | AB 2727 | Emerg. Mgmt Cmte | Office of Emergency Services: Maritime Firefighting     | Establishes the Maritime Firefighting Mutual Aid Program within OES for the purpose of enhancing maritime firefighting capabilities of local fire departments. Requires, upon appropriation by the Legislature, OES to conduct an all-risk maritime response capabilities assessment, as specified, and acquire and provide fire boats to local fire departments, as specified, and require the local fire departments to utilize the fire boats to enhance local, regional, and mutual aid response capabilities. | Monitor |
| Operations & Community Safety | AB 2858 | Dahle M          | California Emergency Services Act: Emergency Plan       | Requires the Office of Emergency Services to update the State Emergency Plan every 4 years after the update required on or before a specified date.  | Monitor |
| Operations & Community Safety | AB 3062 | Bauer-Kahan      | Fire Protection Districts: Electrical Corporations      | Authorizes a fire protection district to require an electrical corporation or local publicly owned electric utility to notify the district at least 24 hours before performing scheduled, nonemergency hot work, deploying a safety and infrastructure protection team, or performing a prescribed or controlled burn within the district's jurisdiction, except as provided. Subjects an electrical corporation that fails to provide that notice to a civil penalty of \$500.                                    | Monitor |
| Operations & Community Safety | AB 3065 | Garcia E         | Fireworks: Retail Sales                                 | Authorizes the retail sale of certified safe and sane fireworks from 9 a.m. on a specified date to midnight of a specified date of the following year pursuant to a license issued by the State Fire Marshal, if authorized by a charter city, city, county, or city and county ordinance or resolution that may also restrict the hours of use of those fireworks.  | Monitor |
| Operations & Community Safety | AB 3150 | Quirk-Silva      | Fire safety: Fire Hazard Severity Zones                 | Requires the State Fire Marshal to provide an opportunity for the public to review and comment on the fire hazard severity zone maps before the State Fire Marshal submits them to the local agency. Requires the State Fire Marshal to develop a process to allow for the petition for a review and potential redesignation of large areas that have undergone a significant change in conditions that would likely result in a decrease in fire hazard based on substantial evidence.                            | Monitor |
| Operations & Community Safety | SB 1066 | Blakespear       | Hazardous waste: marine flares: producer responsibility | Creates a producer responsibility program for marine flares. Defines covered product to mean a pyrotechnic device that produces a brilliant light or a plume of colorful smoke as a visual distress signal on marine vessels to attract attention and pinpoint a boater's location in an emergency.  | Support |

|                                   |         |             |   |  |         |
|-----------------------------------|---------|-------------|---|--|---------|
| Administration<br>– Business Svs. | AB 2095 | Maienschein | Publication: Newspapers<br>of General Circulation             | Requires a person or other specified entity that is legally required to publish a notice in a newspaper of general circulation or other newspaper to publish that notice in a manner that ensures it appears in the newspaper's print publication, on the newspaper's internet website or electronic newspaper available on the internet, and on a statewide internet website maintained as a repository for notices by a majority of California newspapers of general circulation.    | Monitor |
| Administration<br>- HR            | AB 2153 | Lowenthal   | California Public Records<br>Act: Public Agency<br>Employees  | Requires each agency, upon receipt of a request for a copy of, or the inspection of, any personnel, medical, or similar records of a public agency employee or any record that would disclose a public agency employee's personal identity in connection with the performance of that employee's work duties, to promptly and prior to the release of the records, provide written notice of the request to that public agency employee.   | Monitor |
| Administration<br>– Business Svs. | AB 2283 | Pacheco     | Public Records:<br>Employee Personnel<br>Records: Notice      | Requires a public agency that receives a request for the personnel records of one of the public agency's employees to provide written notice, as prescribed, to the employee within 48 hours of receipt of the request if specified conditions are met.  | Monitor |
| Administration<br>– Business Svs. | AB 2302 | Addis       | Open Meetings: Local<br>Agencies:<br>Teleconferences          | Relates to existing law which imposes prescribed restrictions on remote participation by a member of a legislative body of a local agency under alternative teleconferencing provisions. Revises the limits, instead prohibiting such participation for more than a specified number of meetings per year, based on how frequently the legislative body regularly meets.   | Monitor |
| Administration<br>- HR            | AB 2421 | Low         | Employer-Employee<br>Relations: Confidential<br>Communication | Prohibits a local public agency employer, a state employer, a public school employer, a higher education employer, or the district from questioning any employee or employee representative regarding communications made in confidence between an employee and an employee representative in connection with representation relating to any matter within the scope of the recognized employee organization's representation.   | Monitor |
| Administration<br>– HR            | AB 2538 | Grayson     | Department of Forestry<br>and Fire Protection                 | Permits the Director of Forestry and Fire Protection to authorize firefighters hired as permanent intermittent employees to serve for longer than 9 months in a consecutive 12-month period to confront emergency fire conditions and personnel shortages.   | Monitor |
| Administration<br>– Business Svs. | AB 2579 | Quirk-Silva | Property Tax Revenue<br>Allocations: County of<br>Orange      | Requires the auditor of the County of Orange to increase the total amount of ad valorem property tax revenue that is otherwise required to be allocated to the county by the county equity amount, and to commensurately decrease the amount of ad valorem property tax revenue that is otherwise required to be allocated to the county Educational Revenue Augmentation Fund and, if necessary, the amount of those revenues otherwise required to be allocated to school districts. | Support |



|   |                   |                    |  |   |                    |
|---|-------------------|--------------------|--|---|--------------------|
| Administration – Business Svs.            | AB 2631           | Fong M             | Local Agencies: Ethics Training                                    | Requires the Fair Political Practices Commission, in consultation with the Attorney General, to create, maintain, and make available to local agency officials an ethics training course, as specified.   | Monitor            |
| Administration – Business Svs.            | AB 2660           | Emerg. Mgmt Cmte   | Office of Emergency Services: Federal Grant Funding                | Requires the Office of Emergency Services (OES), to the extent permitted by federal law, to provide to local operational areas and urban areas the maximum local share of federal grant funding administered by the office from specified federal grant programs relating to emergency management and homeland security.  | Monitor            |
| Administration – Business Svs.            | AB 2715           | Boerner            | Ralph M. Brown Act: Closed Session                                 | Authorizes a closed session of a legislative body of a local agency to consider or evaluate matters related to cybersecurity, as specified, provided that any action taken on those matters is done in open session.  | Monitor            |
| <del>Administration – Business Svs.</del> | <del>SB 908</del> | <del>Cortese</del> | <del>Public Records: Legislative Records: Electronic Message</del> | <del>Prohibits an elected or appointed official or employee of a public agency from creating or sending a public record using a nonofficial electronic messaging system unless the official or employee sends a copy of the public record to an official electronic messaging system. This bill has been amended to an entirely different subject matter.</del>   | <del>Monitor</del> |
| Administration - HR                       | SB 1090           | Durazo             | Unemployment Insurance: Disability, Paid Family Leave              | Requires, for purposes of unemployment compensation disability benefits, the issuance of the initial payment for those benefits within 14 days of receipt of the claimant's properly completed first disability claim or as soon as eligibility begins, whichever is later.   | Monitor            |
| Administration - HR                       | SB 1116           | Portantino         | Unemployment Insurance: Trade Disputes: Eligibility                | Restores unemployment insurance eligibility after the first 2 weeks for an employee who left work because of a trade dispute.   | Monitor            |
| Administration – Business Svs.            | SB 1325           | Durazo             | Public contracts: Best Value Procurement                           | Authorizes a state or local agency to award contracts through a "best value" procurement method.  | Support            |
| Administration - HR                       | SB 1346           | Durazo             | Workers Compensation: Aggregate Disability Payment                 | Authorizes temporary disability benefits if a denial of treatment requested by a treating physician is subsequently overturned by independent medical review. Prohibits the temporary disability from exceeding the time from the date of the treatment denial through the date of the independent medical review determination overturning the treatment denial. | Monitor            |
| Administration - HR                       | SB 1434           | Durazo             | Unemployment Insurance Benefit and Contribution                    | Changes the amount of remuneration that is excluded from the definition of wages as specified relative to unemployment insurance benefits. Requires an annual cost of living increase in benefits.  | Monitor            |



## OCFA 2024 State Bill Matrix – Bill Status as of March 25, 2024

| Category                      | Bill    | Author        | Title   | Summary   | Position | Status   |
|-------------------------------|---------|---------------|---|---|----------|--|
| EMS                           | AB 2225 | Rodriguez     | Discovery: Emergency Medical Services Review Committees | Extends an exemption from discovery as evidence the proceedings and records of specified organized committees of health care professionals and review committees having the responsibility of evaluation and improvement of the quality of care, for purposes of civil proceedings only, to the proceedings and records of emergency medical services organized committees and review committees.   | Support  | Assembly Floor.<br><br>Passed Assembly Judiciary Committee 12-0.   |
| Operations & Community Safety | AB 2344 | Petrie-Norris | Fire Prevention: Grant Programs: Reporting              | Requires the Wildfire and Forest Resilience Task Force, on or before July 1, 2025, and annually thereafter, to compile and post on its internet website specified information regarding identified state and federal grant programs relating to fire prevention and resilience.   | Support  | Awaiting hearing in Assembly Appropriations Committee.<br><br>Passed Assembly Natural Resources 11-0.      |
| EMS                           | AB 2348 | Rodriguez     | Emergency Medical Services                              | Requires the Emergency Medical Services Authority to develop planning and implementation guidelines for response times. Requires the authority to develop a statewide standard methodology for calculation and reporting by a local EMS agency (LEMSA) of response time. Requires the authority to ensure the guidelines include a list of specified standardized terminology for a LEMSAs to use when granting exemptions or when modifying original response time data. | Support  | Awaiting hearing. Referred to Assembly Emergency Management Committee and Assembly Health Committee.       |
| Operations & Community Safety | AB 2384 | Wilson        | Public swimming Pools: Emergency Telephones.            | Requires a person or entity that owns or maintains a public swimming pool, as defined, to ensure that there is an operating telephone on or adjacent to the pool deck, available for emergency use, at all times.   | Support  | Awaiting hearing. Referred to Assembly Health Committee.   |
| Operations & Community Safety | SB 1066 | Blakespear    | Hazardous waste: marine flares: producer responsibility | Creates a producer responsibility program for marine flares. Defines covered product to mean a pyrotechnic device that produces a brilliant light or a plume of colorful smoke as a visual distress signal on marine vessels to attract attention and pinpoint a boater's location in an emergency.   | Support  | April 3 hearing in Senate Environmental Quality Committee. Awaiting hearing in Senate Judiciary Committee. |

|                                      |         |             |  |  |         |  |
|--------------------------------------|---------|-------------|--|--|---------|--|
| Administration<br>– Business<br>Svs. | AB 2579 | Quirk-Silva | Property Tax Revenue<br>Allocations: County of<br>Orange | Requires the auditor of the County of Orange to increase the total amount of ad valorem property tax revenue that is otherwise required to be allocated to the county by the county equity amount, and to commensurately decrease the amount of ad valorem property tax revenue that is otherwise required to be allocated to the county Educational Revenue Augmentation Fund and, if necessary, the amount of those revenues otherwise required to be allocated to school districts. | Support | Awaiting hearing in<br>Assembly Local<br>Government Committee.   |
| Administration<br>– Business<br>Svs. | SB 1325 | Durazo      | Public contracts: Best<br>Value Procurement              | Authorizes a state or local agency to award contracts through a "best value" procurement method.   | Support | April 9 hearing in Senate<br>Governmental<br>Organization Committee.<br>Awaiting hearing in Senate<br>Local Government<br>Committee. |

AMENDED IN ASSEMBLY MARCH 14, 2024

CALIFORNIA LEGISLATURE—2023–24 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2225**

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**Introduced by Assembly Member Rodriguez**

February 7, 2024

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An act to amend Section 1157 of the Evidence Code, relating to evidence.

LEGISLATIVE COUNSEL’S DIGEST

AB 2225, as amended, Rodriguez. Discovery: ~~emergency medical services~~ *prehospital emergency medical care person or personnel* review committees.

Existing law exempts from discovery as evidence the proceedings and records of specified organized committees of health care professionals and review committees having the responsibility of evaluation and improvement of the quality of care.

This bill would extend this exemption, for purposes of civil proceedings only, to the proceedings and records of ~~emergency medical services~~ *prehospital emergency medical care person or personnel* organized committees and review committees, as described above.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

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

- 1 SECTION 1. Section 1157 of the Evidence Code is amended
- 2 to read:
- 3 1157. (a) Neither the proceedings nor the records of organized
- 4 committees of medical, medical-dental, podiatric, registered

1 dietitian, psychological, marriage and family therapist, licensed  
2 clinical social worker, professional clinical counselor, pharmacist,  
3 *prehospital emergency medical care person or personnel*, or  
4 veterinary staffs, ~~or emergency medical services in hospitals~~, or  
5 of a peer review body, as defined in Section 805 of the Business  
6 and Professions Code, having the responsibility of evaluation and  
7 improvement of the quality of care rendered in the hospital, or for  
8 that peer review body, or medical or dental review or dental  
9 hygienist review or chiropractic review or podiatric review or  
10 registered dietitian review or pharmacist review or veterinary  
11 review or acupuncturist review or licensed midwife review ~~or~~  
12 ~~emergency medical services review~~ *or prehospital emergency*  
13 *medical care person or personnel review* committees of local  
14 medical, dental, dental hygienist, podiatric, dietetic, pharmacist,  
15 veterinary, acupuncture, chiropractic, ~~or emergency medical~~  
16 ~~services~~ *prehospital emergency medical care person or personnel*  
17 societies, marriage and family therapist, licensed clinical social  
18 worker, professional clinical counselor, or psychological review  
19 committees of state or local marriage and family therapist, state  
20 or local licensed clinical social worker, state or local licensed  
21 professional clinical counselor, or state or local psychological  
22 associations or societies or licensed midwife associations or  
23 societies having the responsibility of evaluation and improvement  
24 of the quality of care, shall be subject to discovery.

25 (b) Except as hereinafter provided, a person in attendance at a  
26 meeting of any of the committees described in subdivision (a) shall  
27 not be required to testify as to what transpired at that meeting.

28 (c) The prohibition relating to discovery or testimony does not  
29 apply to the statements made by a person in attendance at a meeting  
30 of any of the committees described in subdivision (a) if that person  
31 is a party to an action or proceeding the subject matter of which  
32 was reviewed at that meeting, to a person requesting hospital staff  
33 privileges, or in an action against an insurance carrier alleging bad  
34 faith by the carrier in refusing to accept a settlement offer within  
35 the policy limits.

36 (d) The prohibitions in this section do not apply to medical,  
37 dental, dental hygienist, podiatric, dietetic, psychological, marriage  
38 and family therapist, licensed clinical social worker, professional  
39 clinical counselor, pharmacist, veterinary, acupuncture, midwifery,  
40 chiropractic, ~~or emergency medical services~~ *prehospital emergency*

1 *medical care person or personnel* society committees that exceed  
2 10 percent of the membership of the society, nor to any of those  
3 committees if a person serves upon the committee when his or her  
4 own conduct or practice is being reviewed.

5 (e) The amendments made to this section by Chapter 1081 of  
6 the Statutes of 1983, or at the 1985 portion of the 1985–86 Regular  
7 Session of the Legislature, at the 1990 portion of the 1989–90  
8 Regular Session of the Legislature, at the 2000 portion of the  
9 1999–2000 Regular Session of the Legislature, at the 2011 portion  
10 of the 2011–12 Regular Session of the Legislature, at the 2015  
11 portion of the 2015–16 Regular Session of the Legislature, or at  
12 the 2024 portion of the 2023–24 Regular Session of the Legislature,  
13 do not exclude the discovery or use of relevant evidence in a  
14 criminal action.

15 (f) *For purposes of this section, “prehospital emergency medical*  
16 *care person or personnel” has the same meaning as defined in*  
17 *paragraph (1) of subdivision (a) of Section 1797.188 of the Health*  
18 *and Safety Code.*



ASSEMBLY MEMBER

**Freddie Rodriguez**

DISTRICT 53

## FACT SHEET



### **Assembly Bill 2225 (Rodriguez)** **Exemption from Discovery: Peer Review Committees** *As Introduced on 2/7/2024*

#### **Summary**

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AB 2225 would make emergency medical services' (EMS) records from a peer review committee exempt from the discovery process in litigation.

#### **Background**

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EMS professionals deliver healthcare under challenging conditions. This care is provided around the clock, regardless of a patient's ability to pay or legal status. Delivering this care involves the complex coordination of paramedics, emergency medical technicians, physicians, nurses, call takers, dispatchers, and others. Like all healthcare providers, EMS professionals are committed to evaluating and improving the quality of care they deliver.

Multiple professions utilize peer review committees to evaluate the performance of licensed medical professionals, enhance the quality of medical care, and, if necessary, decide on a medical professional's continued practice rights. These medical peer review bodies are required to report disciplinary actions, including denials of staff privileges or employment, to their respective licensing boards.

Recognizing the critical role of an effective peer review process in ensuring patient safety and quality of care, the Legislature has exempted fourteen professions and their medical peer review records from standard discovery and evidence admissibility rules in litigation.

The underlying policy rationale for this exemption and for not compelling peer review participants' testimony is to foster maximum openness in evaluating medical professionals. It is crucial for professionals to discuss all aspects of a patient's care freely, without fearing that

these discussions could contribute to legal actions against that care.

However, EMS professionals currently lack the assurance that their peer review discussions will remain confidential and not be used against them in damage claims. As a result, some EMS agencies in California have had to rely on external entities, such as hospitals, to conduct their quality assurance (QA) activities or oversee them. This reliance could compromise prehospital care oversight quality by distancing it from those most acquainted with its delivery, thereby threatening the core principle of peer review: evaluation by one's peers.

This lack in legal protection poses a risk to public health by undermining the confidence in performing protected peer review QA, which is safeguarded in other healthcare settings.

#### **This Legislation**

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AB 2225 would exempt records from EMS's peer review committees from the discovery process during litigation.

#### **Support**

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Fire Districts of California (Co-Sponsor)  
California Fire Chiefs Association (Co-Sponsor)

#### **Contact**

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Byron Briones, Legislative Aide  
Assemblymember Freddie Rodriguez  
Phone: (916) 319 - 2053  
[Byron.Briones@asm.ca.gov](mailto:Byron.Briones@asm.ca.gov)

Date of Hearing: March 19, 2024

ASSEMBLY COMMITTEE ON JUDICIARY  
Ash Kalra, Chair  
AB 2225 Rodriguez – As Amended March 14, 2024

PROPOSED CONSENT

**SUBJECT:** DISCOVERY: PREHOSPITAL EMERGENCY MEDICAL CARE PERSON OR PERSONNEL REVIEW COMMITTEES

**KEY ISSUE:** SHOULD PEER REVIEW RECORDS OF PREHOSPITAL EMERGENCY MEDICAL CARE PERSON OR PERSONNEL BE EXEMPT FROM DISCOVERY IN THE SAME MANNER THAT PEER REVIEW RECORDS OF OTHER MEDICAL PROFESSIONALS ARE CURRENTLY EXEMPT?

**SYNOPSIS**

*This non-controversial bill would add prehospital emergency medical care person or personnel (EMS professionals) to the list of medical professionals whose peer review records are exempt from discovery under the Evidence Code. The rationale for exempting medical peer review records from discovery requests is to encourage maximum candor in the evaluation of medical professionals. Peer review ensures that professionals candidly discuss all facets of patient care without the fear that such discussions might be used in legal actions against them. This allows peers to learn from possible errors, leading to public benefit through improved patient outcomes and safety. Multiple medical professions utilize the peer review committee system. The Business and Professions Code requires the creation of peer review committees to assess the performance of licensed physicians and improved medical care quality, among other things. The B&P Code outlines a comprehensive and fair process for peer-review that emphasizes transparency, fairness, and due process. The Legislature has recognized the importance of a robust peer review process in safeguarding patient safety and enhancing the quality of care by exempting 14 professions' peer review records from discovery under the Evidence Code. The exemption does not, as a general rule, apply to the statements of any person who is a party to an action pertaining to the subject matter of the peer review. This measure is co-sponsored by California Fire Chiefs Association and the Fire Districts of California. It is supported by the Emergency Medical Services Administrators' Association of California, the California Chapter of the National Association of EMS Physicians, and California Professional Firefighters. There is no known opposition.*

**SUMMARY:** Adds “prehospital emergency medical care person or personnel” to the existing list of medical professionals whose peer review proceedings and records are exempt from civil discovery and required testimony.

**EXISTING LAW:**

- 1) Exempts from civil discovery requests the proceedings and records of committees of medical, medical-dental, podiatric, registered dietitian, psychological, marriage and family therapist, licensed clinical social worker, professional clinical counselor, pharmacist, or veterinary staffs in hospitals, or of a peer review body having the responsibility of evaluation and improvement of the quality of care rendered in the hospital, or for any medical, dental,



dental hygienist, podiatric, dietetic, pharmacist, veterinary, acupuncture, or chiropractic societies, marriage and family therapist, licensed clinical social worker, professional clinical counselor, or psychological review committees, as specified. Specifies that any person in attendance at a meeting of any of these organized committees shall not be required to testify as to what transpired at that meeting. (Evidence Code Section 1157 (a)-(b).)

- 2) Specifies that the prohibition against discovery and testimony as to peer review records and proceedings does not apply to the statements of a person at a peer review meeting if that person is a party to an action or proceeding, the subject matter of which was reviewed at the meeting, or to a person requesting staff privileges, or in an action against an insurance carrier alleging bad faith by the carrier in refusing to accept a settlement offer within the policy limits. (Evidence Code Section 1157 (c).)
- 3) Specifies that the prohibition against discovery and testimony does not apply to medical, dental, dental hygienist, podiatric, dietetic, psychological, marriage and family therapist, licensed clinical social worker, professional clinical counselor, pharmacist, veterinary, acupuncture, midwifery, or chiropractic society committees that exceed 10 percent of the membership of the society, nor to any of those committees if any person serves upon the committee when his or her own conduct or practice is being reviewed. (Evidence Code Section 1157 (d).)
- 4) Defines “peer review,” for purposes of the healing arts, to mean a process by which a peer review body reviews basic qualifications, staff privileges, employment, medical outcomes, or professional conduct of medical professionals in order to make recommendations for quality improvement or education; determine whether a medical professional may continue to practice, or determine the parameters of that practice; assess and improve the quality of care rendered in a health care facility, clinic, or other setting providing medical services; or to engage in other activities, as specified. Requires the medical chief of staff, executive officer, medical director or other administrator of a peer review body to file a report with the appropriate licensing board, as specified. (Business and Professions Code Section 805.)
- 5) Defines “prehospital emergency medical care person or personnel” as an authorized registered nurse or mobile intensive care nurse, emergency medical technician-I, emergency medical technician-II, emergency medical technician-paramedic, lifeguard, firefighter, or peace officer, as defined, or a physician and surgeon who provides prehospital emergency medical care or rescue services. (Health and Safety Code Section 1797.188.)

**FISCAL EFFECT:** As currently in print this bill is keyed non-fiscal.

**COMMENTS:** Existing law provides for the establishment of peer review committees in order to evaluate the performance of licensed medical professionals, assess and improve the quality of medical care, and, if necessary, determine whether a medical professional may continue to practice. Medical peer review bodies must submit reports to their appropriate licensing boards whenever taking disciplinary action, including the denial of staff privileges or employment to a medical professional.

Because an effective peer review process is essential to patient safety and quality of care, the Legislature has exempted medical peer review records from the usual rules governing the discovery and admissibility of evidence in litigation. Section 1157 of the Evidence Code, in particular, expressly exempts from discovery the peer review proceedings and records of many

different medical professionals: doctors, dentists, podiatrists, dieticians, psychologists, marriage and family therapists, clinical social workers, veterinarians, chiropractors, pharmacists, and acupuncturists, among others. Section 1157 also specifies that any person in attendance at a meeting of any of these organized committees cannot be required to testify as to what transpired at that meeting. The policy rationale for exempting medical peer review records and not compelling testimony from peer review participants is to encourage maximum candor in the evaluation of medical professionals. However, prehospital emergency medical care person or personnel, more commonly known as EMS professionals, are notably absent from the list of medical professionals who currently are covered by Section 1157. The author explains how his personal experience informed his decision to bring this measure adding EMS professionals to the list:

With over 30 years in emergency medical services (EMS), I know firsthand the challenges of providing high-quality emergency response and care. Our commitment extends around the clock, serving every patient regardless of their ability to pay or legal status. This mission requires intricate coordination among paramedics, emergency medical technicians, physicians, nurses, dispatchers, and other healthcare professionals.

Like all healthcare providers, EMS professionals are dedicated to continuously evaluating and enhancing the quality of care we provide. To safeguard public health and ensure the delivery of high-quality care, various medical professionals, including physicians and chiropractors, have established peer review committees that provide feedback and report disciplinary actions.

Recognizing the importance of candid discussions in these committees, the Legislature has exempted the peer review records of fourteen professions from standard discovery and evidence admissibility in litigation. Unfortunately, EMS is not listed among these exemptions provided to other healthcare professionals involved with the evaluation and improvement of the quality of care provided to patients.

Granting EMS peer review committee records the same protection from the discovery process would allow EMS professionals to candidly discuss their performance without fear of legal action being taken against them. AB 2225 would improve public health outcomes and allow EMS professionals to serve patients more effectively wherever and whenever they are needed.

The author further explains how existing law – which does not protect EMS professionals' peer review committee records from discovery – might compromise their quality of care:

EMS professionals currently face the vulnerability of their peer review discussions being exposed and potentially used against them in legal claims for damages. Consequently, some EMS agencies in California have been forced to delegate their Quality Assurance (QA) activities to external entities, such as hospitals, for supervision. This delegation could compromise prehospital care oversight quality by removing it from the direct purview of those most familiar with its nuances, undermining the fundamental tenet of peer review: evaluation by one's peers.

**ARGUMENTS IN SUPPORT:** The co-sponsors of this measure, the California Fire Chiefs Association (CalChiefs) and the Fire Districts Association of California (FDAC), write in support of the bill:

EMS professionals provide healthcare in a variety of challenging environments, including homes, offices, jails, streets, and remote areas across California. They offer around-the-clock care to everyone. This process requires intricate coordination among paramedics, emergency medical technicians, physicians, nurses, and dispatchers. Committed to excellence, EMS professionals continuously strive to evaluate and enhance the quality of care they deliver.

Multiple professions already utilize the peer review committee system. Acknowledging the vital importance of a robust peer review process in safeguarding patient safety and enhancing the quality of care, the Legislature has shielded fourteen professions by excluding their medical peer review records from standard discovery processes and rules of evidence admissibility in litigation as specified in § 1157 of the Evidence Code. This exemption, along with the policy against compelling testimony from peer review participants, aims to foster maximum openness in evaluating medical professionals. It ensures that professionals can candidly discuss all facets of patient care without the fear that such discussions might be used in legal actions against them. This allows peers to learn from possible errors, leading to public benefit through improved patient outcomes and safety.

EMS professionals currently face the vulnerability of their peer review discussions being exposed and potentially used against them in legal claims for damages. Consequently, some EMS agencies in California have been forced to delegate their Quality Assurance (QA) activities to external entities, such as hospitals, for supervision. This delegation could compromise prehospital care oversight quality by removing it from the direct purview of those most familiar with its nuances, undermining the fundamental tenet of peer review: evaluation by one's peers.

The California Chapter of the National Association of EMS Physicians also supports AB 2225:

AB 2225 would extend, for purposes of civil proceedings only, the exemption from discovery as evidence the proceedings and records of specified emergency medical services (EMS) organized committees and review committees. As already recognized by the legislature for other health care professionals and review committees pursuant to California Evidence Code Section 1157, the ability of EMS professionals/organizations to perform these organized review processes in a manner exempt from civil evidence discovery is necessary to enable the honest and frank discussions that are essential to our ongoing patient safety and quality improvement activities.

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

California Fire Chiefs Association (co-sponsor)  
California Professional Firefighters  
Emergency Medical Services Administrators' Association of California (EMSAAC)  
EMS Medical Directors' Association of California (EMDAC)  
Fire Districts Association of California (co-sponsor)  
National Association of EMS Physicians

### **Opposition**

None on file

**Analysis Prepared by:** Shiran Zohar / JUD. / (916) 319-2334

**ASSEMBLY BILL**

**No. 2344**

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**Introduced by Assembly Member Petrie-Norris**

February 12, 2024

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An act to add Section 4772 to the Public Resources Code, relating to fire prevention.

LEGISLATIVE COUNSEL'S DIGEST

AB 2344, as introduced, Petrie-Norris. Fire prevention: grant programs: reporting.

Existing law requires the Wildfire and Forest Resilience Task Force to develop a comprehensive implementation strategy to track and ensure the achievement of the goals and key actions identified in the state's "Wildfire and Forest Resilience Action Plan" issued by the task force in January 2021. Existing law requires the task force to submit, as part of the implementation strategy, a report to the appropriate policy and budget committees of the Legislature on progress made in achieving the goals and key actions identified in the state's action plan, on state expenditures made to implement these key actions, and on additional resources and policy changes needed to achieve these goals and key actions, as provided.

This bill would require the task force, on or before July 1, 2025, and annually thereafter, to compile and post on its internet website specified information regarding identified state and federal grant programs relating to fire prevention and resilience, as provided.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

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

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

3     (a) Wildfires have been increasing in frequency and severity in  
4 California, resulting in loss of life and damage to public health,  
5 property, infrastructure, and ecosystems.

6     (b) More than 2,000,000 California households, approximately  
7 one in four residential structures in California, are located within  
8 or in wildfire movement proximity of “high” or “very high” fire  
9 hazard severity zones identified on maps drawn by the Department  
10 of Forestry and Fire Protection.

11     (c) In response to longer and more intense wildfire seasons, the  
12 State of California has developed a comprehensive approach to  
13 wildfire-related disaster preparedness, mitigation, and resilience.  
14 The California Wildfire and Forest Resilience Action Plan lays  
15 out a detailed framework and associated implementation strategy  
16 and expenditure plan for establishing healthy and resilient forests  
17 and communities that can withstand and adapt to wildfire, drought,  
18 and climate change.

19     (d) The state has invested nearly \$3,000,000,000 since the 2019  
20 Budget Act into programs and projects to improve forest health  
21 and resilience, create fuel breaks, harden homes and communities,  
22 and build resilient lifeline infrastructure to withstand wildfire  
23 disasters when they do occur.

24     (e) The State of California administers multiple state and federal  
25 wildfire and forest resilience grant programs with the goal of  
26 preventing catastrophic wildfire.

27     (f) Reducing the risk of catastrophic wildfire requires immense  
28 coordination between all levels of government, communities, and  
29 stakeholders as well as information and data sharing to maximize  
30 and leverage the whole of the multipronged wildfire and forest  
31 resilience response.

32     SEC. 2. Section 4772 is added to the Public Resources Code,  
33 immediately following Section 4771, to read:

34     4772. (a) For purposes of this section, “program” means any  
35 of the following programs:

36     (1) The forestry assistance program established pursuant to  
37 Section 4792.

1 (2) The comprehensive wildfire mitigation program established  
2 pursuant to Section 8654.4 of the Government Code.

3 (3) The local assistance grant program for fire prevention and  
4 home hardening education activities established pursuant to Section  
5 4124.5.

6 (4) The department's grant programs not otherwise identified  
7 in paragraphs (1) to (3), inclusive, including, but not limited to,  
8 those grant programs related to wildfire prevention, forest health,  
9 forest legacy, urban and community forestry, forest health research,  
10 forest improvement, wildfire resilience, workforce and business  
11 development, and volunteer fire capacity.

12 (5) The federal Building Resilient Infrastructure and  
13 Communities program.

14 (6) The federal Hazard Mitigation Grant Program.

15 (7) The federal Fire Management Assistance Grant Program.

16 (8) The federal Community Wildfire Defense Grant program.

17 (9) Any other relevant publicly funded grant program  
18 administered in California to benefit forest health and resilience,  
19 harden homes and communities, or prevent and mitigate wildfires,  
20 if information on the program is readily available.

21 (b) On or before July 1, 2025, and every July 1 thereafter, the  
22 task force shall compile and post on its internet website all of the  
23 following information for each program, for each fiscal year in  
24 which the Legislature appropriated program funding or program  
25 projects occurred in the state, as applicable:

26 (1) The amount of funding allocated from the program.

27 (2) The list of recipients and subrecipients that received an  
28 allocation from the program, including the location of the project.

29 (3) The amount of funding that has been encumbered by each  
30 recipient.

31 (4) A brief description of the project, including the location,  
32 current status, and the proposed schedule for the project's  
33 completion.

34 (5) A brief description of the anticipated benefits of the project,  
35 which may include benefits for fire prevention and mitigation,  
36 habitat, forest resiliency, climate resiliency, public safety, or  
37 protection of important natural resources, including water quality  
38 and water supply.



## **Assembly Bill 2344**

### **Increasing Transparency and Accountability in California's Wildfire and Forest Resilience Investments**

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#### **SUMMARY**

AB 2344 will provide state policymakers, local communities, and other essential stakeholders with comprehensive data and information on state and federal investments into wildfire and forest resilience programs. With more transparency and accountability, stakeholders, communities, and policy-makers can better ensure that taxpayer dollars are used effectively toward reducing the main drivers of catastrophic wildfires and improve the resilience of increasingly vulnerable communities. As the state faces a multibillion-dollar budget deficit, ensuring limited resources are maximized is even more critical.

#### **BACKGROUND**

California has invested significant time and resources developing and implementing a comprehensive approach to wildfire related disaster preparedness, mitigation, and resilience. The California Wildfire and Forest Resilience Action Plan (Action Plan) lays out a detailed framework and associated implementation strategy and expenditure plan for establishing healthy and resilient forests and communities that can withstand and adapt to wildfire, drought, and climate change.

Implementation of the Action Plan requires coordination amongst state agencies and departments, the State Legislature, hundreds of stakeholders, and communities across California. The California Wildfire and Forest Resilience Task Force (Task Force) has oversight and coordination responsibility to ensure the Action Plan is implemented.

Implementation of the Action Plan also requires significant fiscal resources to undertake projects to improve forest health and resilience, create fuel

breaks, harden homes and communities, and build resilient lifeline infrastructure to withstand wildfire disasters when they do occur. Since FY 2020-21, the State has appropriated approximately \$2.8 billion for programs to support the State's wildfire and forest resilience goals and objectives.

#### **NEED FOR THE BILL**

While wildfire and forest resilience projects have been and continue to be awarded to communities throughout the state, the data is reported piecemeal across various state agencies, departments, boards, and offices. Further, the reporting is not adequate to understand that status of projects and programs and how the investments are making a collective difference in communities. Understanding the status of current programs is vital information in order to target and maximize additional investments in fire prone areas.

#### **SOLUTION**

Assembly Bill 2344 requires the Wildfire and Forest Resilience Task Force to make available on its existing internet website basic data and information already collected by state agencies to the public on wildfire and forest resilience programs, projects, and expenditures.

#### **SUPPORT**

BuildStrong California (Sponsor)

#### **CONTACT**

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Utilities and Energy Committee  
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Date of Hearing: March 19, 2024

**ASSEMBLY COMMITTEE ON NATURAL RESOURCES**

Isaac G. Bryan, Chair

AB 2344 (Petrie-Norris) – As Introduced February 12, 2024

**SUBJECT:** Fire prevention: grant programs: reporting.

**SUMMARY:** Requires the Wildfire and Forest Resilience Task Force (Task Force), on or before July 1, 2025, and annually thereafter, to compile and post on its internet website specified information regarding identified state and federal grant programs relating to fire prevention and resilience, as provided.

**EXISTING LAW:**

- 1) Requires the Task Force to develop a comprehensive implementation strategy to track and ensure the achievement of the goals and key actions identified in the state’s “Wildfire and Forest Resilience Action Plan” issued by the Task Force in January 2021. (Public Resources Code (PRC) 4771)
- 2) Requires the Task Force to submit, as part of the implementation strategy, a report to the appropriate policy and budget committees of the Legislature on progress made in achieving the goals and key actions identified in the state’s action plan, on state expenditures made to implement these key actions, and on additional resources and policy changes needed to achieve these goals and key action. (PRC 4771 (e)(1))
- 3) Authorizes the Department of Forestry and Fire Protection (CAL FIRE) to administer the forestry assistance program to provide loans to encourage forest resource improvements and otherwise facilitate good forest land management through a program of financial, technical, and educational assistance, as well as through applied research. (PRC 4792)
- 4) Requires the Governor’s Office of Emergency Services (CalOES) to enter into a joint powers agreement with CAL FIRE to develop and administer a comprehensive wildfire mitigation program to encourage cost-effective structure hardening and retrofitting that creates fire-resistant homes, businesses, and public buildings, and facilitate vegetation management, the creation and maintenance of defensible space, and other fuel modification activities that provide neighborhood or communitywide benefits against wildfire. (Government Code 8654.4)
- 5) Requires CAL FIRE to establish a local assistance grant program for fire prevention and home hardening education activities in California. (PRC 4124.5)
- 6) Establishes the Federal Emergency Management Agency (FEMA) pursuant to President Carter’s Executive Order 12127, effective April 1, 1979, to provide clear direction for emergency management and disaster response and recovery.
- 7) Establishes the federal Building Resilient Infrastructure and Communities program to support states, local communities, tribes and territories as they undertake hazard mitigation projects, reducing the risks they face from disasters and natural hazards. (42 United States Code (U.S.C.) 203)



- 8) Establishes the federal Hazard Mitigation Grant Program to provide grants to communities during federal disasters. (42 U.S.C. 5133)
- 9) Establishes the federal Fire Management Assistance Grant Program to provide grant assistance to assist in reimbursement for equipment, supplies, and personnel to any state, tribal, or local government for the mitigation, management, and control of any declared fire on public or private forest land or grassland that threatens such destruction as would constitute a major disaster. (42 U.S.C. 5187)

**THIS BILL:**

- 1) Defines “Program” as any of the following programs:
  - a) The Forestry Assistance Program;
  - b) The Comprehensive Wildfire Mitigation Program;
  - c) The local assistance grant program for fire prevention and home hardening education activities;
  - d) CAL FIRE’s grant programs related to wildfire prevention, forest health, forest legacy, urban and community forestry, forest health research, forest improvement, wildfire resilience, workforce and business development, and volunteer fire capacity;
  - e) The federal Building Resilient Infrastructure and Communities program;
  - f) The federal Hazard Mitigation Grant Program;
  - g) The federal Fire Management Assistance Grant Program;
  - h) The federal Community Wildfire Defense Grant program; and,
  - i) Any other relevant publicly funded grant program administered in California to benefit forest health and resilience, harden homes and communities, or prevent and mitigate wildfires, if information on the program is readily available.
- 2) Requires, on or before July 1, 2025, and every July 1 thereafter, the Task Force to compile and post on its internet website all of the following information for each program, for each fiscal year in which the Legislature appropriated program funding or program projects occurred in the state, as applicable:
  - a) The amount of funding allocated from the program;
  - b) The list of recipients and subrecipients that received an allocation from the program, including the location of the project;
  - c) The amount of funding that has been encumbered by each recipient;
  - d) A brief description of the project, including the location, current status, and the proposed schedule for the project’s completion; and,

- e) A brief description of the anticipated benefits of the project, which may include benefits for fire prevention and mitigation, habitat, forest resiliency, climate resiliency, public safety, or protection of important natural resources, including water quality and water supply.

**FISCAL EFFECT:** Unknown

**COMMENTS:**

**1) Author's statement:**

Implementation of California's Wildfire and Forest Resilience Action Plan requires significant fiscal resources to undertake projects to improve forest health and resilience, create fuel breaks, harden homes and communities, and build resilient lifeline infrastructure to withstand wildfire disasters when they occur. Since FY 2020-21, the State has appropriated approximately \$2.8 billion for programs to support the State's wildfire and forest resilience goals and objectives. While wildfire and forest resilience projects have been and continue to be awarded to communities throughout the state, the data is reported piecemeal across various state agencies, departments, boards, and offices. Further, the reporting is not adequate to understand the status of projects and programs and how the investments are making a collective difference in communities. Understanding the status of current programs is vital information in order to target and maximize additional investments in fire-prone areas.

- 2) Wildfire prevention.** Wildfires have been growing in size, duration, and destructivity over the past 20 years. Growing wildfire risk is due to accumulating fuels, a warming climate, and expanding development in the wildland-urban interface. The 2020 fire season broke numerous records. Five of California's six largest fires in modern history burned at the same time, destroying thousands of buildings, forcing hundreds of thousands of people to flee their homes, and exposing millions of residents to dangerously unhealthy air. Managing forest health and efforts to restrict fire spread is vital to wildfire prevention.

The 2021 and 2022 Budget Acts committed \$2.8 billion over four years to continue strengthening forest and wildfire resilience statewide. The Governor's proposed 2024/2025 budget maintains \$2.7 billion of these investments over five years. This bill finds and declares that the state has invested nearly \$3 billion since the 2019 Budget Act into programs and projects to improve forest health and resilience, create fuel breaks, harden homes and communities, and build resilient lifeline infrastructure to withstand wildfire disasters when they do occur.

- 3) California Wildfire and Forest Resilience Task Force.** The Task Force is a collaborative effort to align federal, state, local, public and private, and tribal entities together to support projects tailored for regional fire prevention needs.

The Task Force's *January 2021 California Wildfire and Forest Resilience Action Plan* (Action Plan) is the initial five-year plan for implementing the Agreement for Shared Stewardship of California's Forest and Rangelands (Shared Stewardship Agreement) with the United States Forest Service (USFS), coordinating the state's forestry efforts with other federal, local, tribal, regional, and private organizations. The Action Plan details goals to

treat 500,000 acres annually by 2025 through the Shared Stewardship Agreement; to underscore building resilience in threatened communities through adaptive strategies, such as hardening homes, buildings, and infrastructure, and increasing defensible space and fuel breaks; forest thinning and prescribed fire; and, move innovation in monitoring and research.

The Action Plan aligns with the investments in the state budget to combat wildfire risk and improve the health of forested landscapes. In 2021, the state dramatically scaled wildfire resilience investments from \$200 million to \$1.5 billion, forcing greater efficiency in putting resources into projects. That funding launched more than 552 wildfire resilience projects in less than a year. By speeding up and increasing the scale of wildfire resilience activities from home-hardening to fuel breaks to reforestation, these investments are giving California a fighting chance to match the scale and frequency of the wildfire crisis. Information on the funding by project is detailed on the Natural Resources Agency's Wildfire Resilience Program webpage. Further, the Task Force's expenditure plan<sup>1</sup> identifies the breakdown of the funding across the various wildfire prevention programs, including those included in this bill.

- 4) **Fire prevention financing programs.** This bill requires the Task Force to compile and post information on legislative appropriations for the following programs. It is important to note that these programs are not an exhaustive list of programs appropriating taxpayer dollars for forest health and wildfire prevention in California.
- Forestry assistance program. Under this program, CAL FIRE works with private landowners, particularly smaller nonindustrial landowners, to upgrade the management of their lands, and improve both the productivity of the land and the degree of protection and enhancement of the forest resource system as a whole.
  - Comprehensive wildfire mitigation program. Enacted pursuant to AB 38 (Wood), Chapter 391, Statutes of 2019, this program requires the Natural Resources Agency, in consultation with the Office of the State Fire Marshal and the Task Force, to review the regional capacity of each county that contains a very high fire hazard severity zone to improve forest health, fire resilience, and safety. Cal OES can enter into a joint powers agreement with CAL FIRE to administer a comprehensive wildfire mitigation and assistance program to encourage cost-effective structure hardening and facilitate vegetation management.
  - Wildfire Prevention Grants. CAL FIRE provides grants for local projects in and near fire threatened communities that focus on increasing the protection of people, structures, and communities. Qualified activities include hazardous fuels reduction, wildfire prevention planning and wildfire prevention education with an emphasis on improving public health and safety while reducing greenhouse gas emissions. CAL FIRE considers the wildfire hazards and risk of an area, the geographic balance of projects, and whether the project is complementary to other wildfire prevention or forest health activities when awarding grants.
  - Local assistance grant program. This program is fire prevention and home hardening education activities. Groups eligible for grants include local agencies, resource conservation districts, fire safe councils, the California Conservation Corps, certified

community conservation corps, University of California Cooperative Extension, CaliforniaVolunteers, Native American tribes, and qualified nonprofit organizations.

- Federal Building Resilient Infrastructure and Communities (BRIC). This grant program provides funds annually for hazard mitigation planning and projects to reduce risk of damage before a disaster. Funding is available in federal funding for eligible FEMA BRIC projects and project scoping activities.
- Federal Hazard Mitigation Grant Program (HGMP). FEMA provides hazard mitigation funding assistance for eligible mitigation measures that reduce disaster losses. "Hazard mitigation" is any sustainable action that reduces or eliminates long-term risk to people and property from future disasters. The funds are administered by Cal OES.
- Federal Fire Management Assistance Grant Program (FMAG). Administered by FEMA, grants are available to states, local, and tribal governments, for the mitigation, management, and control of fires on publicly or privately owned forests or grasslands, which threaten such destruction as would constitute a major disaster.

5) **Keeping tabs on how the money is spent.** The Pew Charitable Trusts November 2022 report, *Wildfires: Burning Through State Budgets*, made the following recommendations for policymakers who are tasked with managing the growing risks and spending associated with wildfire:

- States should evaluate and strengthen current budgeting practices to account for growing risk. By comparing actual spending versus expected spending, assessing the threat of future fires, and implementing other tools, states can more accurately understand how much to budget for wildfire management, including mitigation.
- States should explore opportunities to better track and share data on wildfire spending. Wildfire spending data should be made more accessible, transparent, and comprehensive across all levels of government, which could improve intergovernmental coordination and provide policymakers with evidence to more strategically allocate resources.

The author argues that understanding the status of current programs is vital information to target existing and future investments. Data is also needed to understand the impacts previous investments achieved and to make program modifications in improved outcomes, to the extent possible.

Grant reporting is currently required for all of the aforementioned grant programs, but that information is siloed by program and by agency, and there is not a place where all spending on wildfire prevention activities can be tracked by project type or geographic implementation.

6) **Tracking state funding.** With a \$38 billion (and growing) budget shortfall, and multi-billion dollar deficits in the foreseeable future, tracking taxpayer dollars to ensure they are spent as efficiently and effectively as possible is both pragmatic and responsible. In addition, with the impacts of climate change exacerbating drought and increasing unpredictability in weather patterns, tracking the efficacy of investments in forest health and fire risk prevention will be an ongoing priority.

In 2017, the Legislature approved SB 1 (Beall), Chapter 5, Statutes of 2017, also known as the Road Repair and Accountability Act of 2017, which provided funding for local jurisdictions to fix and maintain roads and bridges through transportation related taxes and fees. SB 1 requires the California Transportation Commission (CTC) to track the performance of all SB 1 funded programs under its purview and report to the public how well recipients of SB 1 funds are delivering on promises made to the taxpayers. As a result, CTC has tracked \$17.36 billion in gas tax expenditures across more than 9,000 transportation projects. CTC's website tracking the expenditures includes details on the project name, implementing agency, project description, cost, fund type, project status, federal and state districts, geography, and date when the project info was updated.

The CTC's ability to detail information for more than \$17 billion provides a model for the Task Force to map the state's \$2.7+ billion investments in wildfire prevention.

- 7) **This bill.** AB 2344 requires the Task Force to create and maintain a comprehensive data portal, including a searchable data base of projects by city, county, and legislative district, on wildfire and forest resilience programs, projects, and expenditures.

The author's intent is to help the state fully understand how California's investments are influencing the state's overall wildfire risk, where resources have been directed, what the outcomes have been, and where resources need to be directed in future budgets and programs. The sheer magnitude of investments needed to increase the pace and scale of wildfire and forest resilience activities requires an accurate understanding of where investments have been made and where needs remain.

In May 2022, the Task Force announced the Forest & Wildland Stewardship Interagency Tracking System on its website to report on the status of wildfire and forest resilience projects. The goal is to provide transparency and accountability for state and federal land management efforts toward the acreage targets stated in the Agreement for Shared Stewardship and other documents, including strategy documents created by the Task Force. Data will be collected on the project, the treatment, and the activity. The expected product is a spatial database that can provide both summary information on statewide activity and geographic information system (GIS) maps capable of showing local implementation, for use by policymakers, land managers, scientists, and the public.

That effort would grease the skids to implement this bill, should it be enacted, and build a system for tracking wildfire prevention investments much like the one for SB 1 funds.

- 8) **Related legislation.** AB 788 (Petrie-Norris, 2023) would have required the Task Force to make available on its existing internet website basic data and information already collected by state agencies to the public on wildfire and forest resilience programs, projects, and expenditures. This bill was held in the Senate Appropriations Committee.

## REGISTERED SUPPORT / OPPOSITION:

### Support

None on file

**Opposition**

None on file

**Analysis Prepared by:** Paige Brokaw / NAT. RES. /

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<sup>i</sup> [Expenditure Plan – California Wildfire & Forest Resilience \(wildfiretaskforce.org\)](http://wildfiretaskforce.org)

**ASSEMBLY BILL**

**No. 2348**

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**Introduced by Assembly Member Rodriguez**

February 12, 2024

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An act to amend Sections 1797.103, 1797.120, 1797.225, and 1797.254 of, and to add Sections 1797.235 and 1797.255 to, the Health and Safety Code, relating to emergency medical services.

LEGISLATIVE COUNSEL'S DIGEST

AB 2348, as introduced, Rodriguez. Emergency medical services.

Existing law, the Emergency Medical Services System and the Prehospital Emergency Medical Care Personnel Act, governs local emergency medical services (EMS) systems. The act establishes the Emergency Medical Services Authority (authority), which is responsible for the coordination and integration of all emergency medical services. Existing law authorizes each county to develop an emergency medical services program and requires a county that does so to designate a local EMS agency (LEMSA). Existing law makes a violation of the act or regulations adopted pursuant to the act punishable as a misdemeanor.

Existing law requires the authority to develop planning and implementation guidelines for emergency medical services systems that address specified components, including the assessment of hospital and critical care centers and data collection and evaluation.

This bill would require the authority to develop planning and implementation guidelines for response times. This bill would require the authority to develop a statewide standard methodology for calculation and reporting by a LEMSAs of response time. The bill would require the authority to ensure the guidelines include a list of specified standardized terminology for a LEMSAs to use when granting

exemptions or when modifying original response time data for public and contractual reporting of 911 response time. The bill would require a LEMSA to report contracted provider response times to the authority in a data dispatch form, as specified. The bill would require a noncontracted ambulance provider to report response times to the LEMSA that has jurisdiction over the provider. The bill would require the LEMSA to post contracted and noncontracted provider response times monthly on the LEMSA's internet website in specified formats.

Existing law authorizes a LEMSA to adopt policies and procedures for calculating and reporting ambulance patient offload times.

This bill would make adoption of those policies and procedures mandatory.

Existing law requires a LEMSA to annually submit an EMS plan for the EMS area to the authority according to systems, standards, and guidelines established by the authority.

This bill would require a LEMSA to include in an EMS plan the LEMSA's annual budget, a list of administrative exemptions and a list of administrative modifications relating to response time that were approved by the LEMSA, and any exemptions granted by the LEMSA in the previous calendar year. The bill would require a LEMSA to make its plan accessible on its internet website, and would require the authority to make each EMS plan submitted to the authority accessible on the authority's internet website, as specified. The bill would require a LEMSA to use the above-described standardized terminology developed by the authority to the extent possible.

Because the bill would create new requirements within the act, thereby expanding the scope of an existing crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

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

- 1 SECTION 1. Section 1797.103 of the Health and Safety Code
- 2 is amended to read:



1 1797.103. The authority shall develop planning and  
2 implementation guidelines for emergency medical services systems  
3 which address the following components:

- 4 (a) Manpower and training.
- 5 (b) Communications.
- 6 (c) Transportation.
- 7 (d) Assessment of hospitals and critical care centers.
- 8 (e) System organization and management.
- 9 (f) Data collection and evaluation.
- 10 (g) Public information and education.
- 11 (h) Disaster response.
- 12 (i) *Response times.*

13 SEC. 2. Section 1797.120 of the Health and Safety Code is  
14 amended to read:

15 1797.120. (a) The authority shall develop, using input from  
16 stakeholders, including, but not limited to, hospitals, local EMS  
17 agencies, and public and private EMS providers, and, after approval  
18 by the commission pursuant to Section 1799.50, adopt a statewide  
19 standard methodology for the calculation and reporting by a local  
20 EMS agency of *contract ambulance response time and ambulance*  
21 *patient offload time.*

22 (b) *The standard statewide methodology developed and adopted*  
23 *by the authority under this section shall use a fractal reporting*  
24 *format report that includes, at a minimum, a 90th percentile*  
25 *benchmark.*

26 ~~(b)~~

27 (c) For the purposes of this section, “ambulance patient offload  
28 time” ~~is defined as means~~ the interval between the arrival of an  
29 ambulance patient at an emergency department and the time that  
30 the patient is transferred to an emergency department gurney, bed,  
31 chair, or other acceptable location and the emergency department  
32 assumes responsibility for care of the patient.

33 (d) *For purposes of this division, “response time” means the*  
34 *interval between the point in time when the address or location is*  
35 *received by the responding EMS provider’s dispatch center and*  
36 *the point in time that the transporting ambulance unit arrives at*  
37 *the provided address or location.*

38 (e) *The authority shall ensure the EMS system planning and*  
39 *implementation guidelines for response times comply with all of*  
40 *the following requirements:*

1 (1) The guidelines shall include a list of standardized  
2 terminology for local emergency medical services agencies to use  
3 when granting exemptions or when modifying original response  
4 time data for public and contractual reporting of 911 response  
5 time. The list of standardized terminology shall include the  
6 following terms and definitions:

7 (A) “Cancelled calls” means an EMS response in which the  
8 responding unit is notified and begins the response, but the  
9 response is terminated prior to responding to the EMS unit arrival  
10 on scene using predefined objective criteria.

11 (B) “Do not count” means an EMS response generated within  
12 the computer-aided dispatch (CAD) incident data that, upon  
13 review, does not satisfy the criteria for an EMS response that is  
14 subject to compliance monitoring using predefined objective  
15 criteria.

16 (C) “Exemption” means an EMS response where the incident  
17 data is administratively excluded from the CAD data used to  
18 calculate response interval compliance using predefined objective  
19 criteria.

20 (D) “Time correction” means an EMS response where defined  
21 points in time in the CAD incident data are administratively  
22 modified from the original CAD incident data using predefined  
23 objective criteria.

24 (2) The list of standardized terminology described in paragraph  
25 (1) shall include common reasons for granting exemptions from  
26 911 response times in the various emergency medical services  
27 areas of the state.

28 SEC. 3. Section 1797.225 of the Health and Safety Code is  
29 amended to read:

30 1797.225. (a) A local EMS agency ~~may~~ shall adopt policies  
31 and procedures for calculating and reporting ambulance patient  
32 offload time, as defined in subdivision ~~(b)~~ (c) of Section 1797.120.

33 (b) A local EMS agency that adopts policies and procedures for  
34 calculating and reporting ambulance patient offload time pursuant  
35 to subdivision (a) shall do all of the following:

36 (1) Use the statewide standard methodology for calculating and  
37 reporting ambulance patient offload time developed by the  
38 authority pursuant to Section 1797.120.

1 (2) Establish criteria for the reporting of, and quality assurance  
2 followup for, a nonstandard patient offload time, as defined in  
3 subdivision (c).

4 (c) (1) For the purposes of this section, a “nonstandard patient  
5 offload time” means that the ambulance patient offload time for a  
6 patient exceeds a period of time designated in the criteria  
7 established by the local EMS agency pursuant to paragraph (2) of  
8 subdivision (b).

9 (2) “Nonstandard patient offload time” does not include  
10 instances ~~in which~~ *when* the ambulance patient offload time  
11 exceeds the period set by the local EMS agency due to acts of God,  
12 natural disasters, or manmade disasters.

13 SEC. 4. Section 1797.235 is added to the Health and Safety  
14 Code, to read:

15 1797.235. (a) A local EMS agency shall adopt policies and  
16 procedures for calculating and reporting of contract ambulance  
17 response times, as defined in subdivision (d) of Section 1797.120.

18 (b) (1) A local EMS agency shall use the statewide standard  
19 methodology for calculating and reporting response interval  
20 performance developed by the authority pursuant to subdivision  
21 (a) of Section 1797.120.

22 (2) When establishing response time compliance requirements,  
23 the local EMS agency shall weigh the risk to the safety of the  
24 responding crew and public against the severity of the medical  
25 emergency when determining what level of response and time  
26 allotment to require from a contracted provider of emergency  
27 ambulance transport services.

28 (c) Local EMS agency response times reporting shall include  
29 data from all contracted providers operating under Section  
30 1797.224 where the annual transport volume of all emergency  
31 ambulance transports within an exclusive operating area exceeds  
32 10,000 transports per calendar year within their jurisdiction.

33 (d) A local EMS agency shall report contracted provider  
34 response times to the authority in a data dispatch form that is  
35 consistent with the California Emergency Medical Services  
36 Information System (CEMSIS) and the National Emergency  
37 Medical Services Information System (NEMSIS) standards, as  
38 specified by the authority, including with the following:

39 (1) The point in time that the public safety agency dispatch  
40 center receives the EMS call.

1 (2) The point in time that the EMS provider's dispatch center  
2 that is responsible for directly dispatching the ambulance unit  
3 receives EMS caller data from a public agency dispatch center.

4 (3) The point in time that the responding ambulance unit is  
5 notified of EMS caller data by dispatch.

6 (4) The point in time that the ambulance unit is en route.

7 (5) The point in time that the ambulance unit arrives on scene.

8 (e) (1) A local EMS agency shall make response times publicly  
9 available monthly on the local EMS agency internet website both  
10 in raw form and on a 90th percentile fractal compliance scale. For  
11 purposes of this subdivision, "raw form" means the response time  
12 prior to administrative exemptions or modification.

13 (2) The local EMS agency shall include on the local EMS  
14 agency's internet website the response times provided to the local  
15 EMS agency by noncontracted ambulance providers pursuant to  
16 subdivision (g).

17 (f) For purposes of this section, "EMS caller data" means the  
18 address or location of the emergency.

19 (g) A noncontracted ambulance provider shall report response  
20 times to the local EMS agency that has jurisdiction over the  
21 provider in the manner described in subdivision (d).

22 (h) This section does not apply to calls not originating in the  
23 911 system.

24 (i) This section does not prohibit the local EMS agency from  
25 reporting response interval compliance from contracted providers  
26 that do not satisfy the requirements described in subdivision (c).

27 (j) This section does not prohibit local EMS agencies from  
28 granting exemptions that do not use the terminology established  
29 by the authority when the reason for granting the exemption does  
30 not meet the definition of a term established by the authority.

31 (k) This section does not prohibit a local EMS agency, when  
32 utilizing standardized terminology to grant exemptions from 911  
33 response times, from including additional information or rationales  
34 when granting exemptions.

35 SEC. 5. Section 1797.254 of the Health and Safety Code is  
36 amended to read:

37 1797.254. (a) Local EMS agencies shall annually submit an  
38 emergency medical services plan *that includes the local EMS*  
39 *agency's annual budget* for the EMS area to the authority,

1 according to EMS Systems, Standards, and Guidelines established  
2 by the authority.

3 *(b) The authority shall approve or request changes to the*  
4 *proposed plans within 90 calendar days of receipt.*

5 *(c) (1) A local EMS agency shall make the plan accessible on*  
6 *the agency's internet website within 30 calendar days of approval*  
7 *by the authority.*

8 *(2) The authority shall make each local EMS agency plan*  
9 *submitted to the authority accessible on the authority's internet*  
10 *website within 30 calendar days of approval by the authority.*

11 SEC. 6. Section 1797.255 is added to the Health and Safety  
12 Code, to read:

13 1797.255. (a) Each local EMS agency shall include in the  
14 annual EMS plan required by Section 1797.254 all of the following:

15 (1) The list of administrative exemptions approved by the local  
16 EMS agency, if any, relating to 911 response time performance  
17 standards.

18 (2) The list of administrative modifications relating to reported  
19 response time performance standards approved by the local EMS  
20 agency, if any.

21 (3) Any exemptions from meeting 911 response times granted  
22 by the local EMS agency in the previous calendar year.

23 (b) For purposes of subdivision (a), when standardized  
24 terminology for exemptions is established by the authority pursuant  
25 to Section 1797.120, local EMS agencies shall utilize those  
26 standardized terms to the extent possible.

27 (c) This section does not prohibit a local EMS agency from  
28 granting exemptions that do not use the terminology established  
29 by the authority when the reason for granting the exemption does  
30 not meet the definition of a term established by the authority.

31 (d) This section does not prohibit a local EMS agency, when  
32 utilizing standardized terminology to grant exemptions from 911  
33 response times, from including additional information or rationales  
34 when granting exemptions.

35 SEC. 7. No reimbursement is required by this act pursuant to  
36 Section 6 of Article XIII B of the California Constitution because  
37 the only costs that may be incurred by a local agency or school  
38 district will be incurred because this act creates a new crime or  
39 infraction, eliminates a crime or infraction, or changes the penalty  
40 for a crime or infraction, within the meaning of Section 17556 of

- 1 the Government Code, or changes the definition of a crime within
- 2 the meaning of Section 6 of Article XIII B of the California
- 3 Constitution.

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ASSEMBLY MEMBER  
**Freddie Rodriguez**  
DISTRICT 53

## FACT SHEET



### **Assembly Bill 2348 (Rodriguez)**

#### **LEMSA Transparency**

*Introduced February 12, 2024*

#### **Summary**

AB 2348 would require the California Emergency Medical Services Authority (EMSA) and Local Emergency Medical Services Agencies (LEMSAs) to engage in a number of planning and reporting actions to increase transparency and improve emergency response.

#### **Background**

LEMSAs are responsible for planning, coordinating, and improving local emergency and medical response systems. LEMSAs primarily work to organize prehospital services. Their plans provide policies for system organization and management, staffing and training, communication, response and transportation for emergency services, facilities and critical care, data collection and system evaluation, public information and education, disaster medical response, and more.

By requiring LEMSAs and EMSA to post approved plans on their websites, we can increase transparency for policymakers, stakeholders, and residents who want to see how emergency management officials are planning for response and care. Additionally, requiring ambulance providers to report publically and to EMSA their 911 response times, and having LEMSAs make public their budgets and exemptions for not meeting 911 response time standards, we can see what may be hindering emergency response, either in planning, response, or simply unpredictable circumstances.

This transparency will help EMSA better guide LEMSAs in their annual plans and requiring EMSA to respond to annual plans within 90 days ensures LEMSAs operate on up-to-date plans.

#### **This Legislation**

AB 2348 would

- Add response times to the guidelines that EMSA must develop for LEMSAs to plan and implement.
- Require LEMSAs to consider the safety of responding EMS professionals when setting response time standards.
- Require EMSA to develop a standardize list of exemptions given to providers for failing to meet 911 response times.
- Require all ambulance providers to report their raw 911 response times both publically and to EMSA.
- Require LEMSAs to include in their annual plans their budget and a list of 911 response time exemptions.
- Require EMSA to respond to annual plans submitted by LEMSAs within 90 days.
- Require both EMSA and LEMSAs to post approved annual plans on their websites within 30 days of approval.

#### **Support**

#### **Contact Information**

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**ASSEMBLY BILL**

**No. 2384**

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**Introduced by Assembly Member Wilson**

February 12, 2024

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An act to add Section 116064.3 to the Health and Safety Code, relating to public health.

LEGISLATIVE COUNSEL'S DIGEST

AB 2384, as introduced, Wilson. Public swimming pools: emergency telephones.

Existing law requires the State Department of Public Health to adopt and enforce regulations relating to public swimming pools. Existing law provides various building and safety standards for public swimming pools, as defined. Existing law requires that every person or entity operating or maintaining a public swimming pool do so in a sanitary, healthful, and safe manner. Existing law requires county health officers to enforce department regulations and authorizes a county health officer or any department inspector to enter the premises of a public swimming pool and investigate for violations, as specified. A violation of these provisions is a misdemeanor.

This bill would require a person or entity that owns or maintains a public swimming pool, as defined, to ensure that there is an operating telephone on or adjacent to the pool deck, available for emergency use, at all times. By expanding the definition of a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.



This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

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

1     SECTION 1. Section 116064.3 is added to the Health and  
2     Safety Code, to read:  
3     116064.3. A person or entity that owns or maintains a public  
4     swimming pool, as defined in Section 116049 or 116049.1, shall  
5     ensure that there is an operating telephone on or adjacent to the  
6     pool deck, available for emergency use, at all times.  
7     SEC. 2. No reimbursement is required by this act pursuant to  
8     Section 6 of Article XIII B of the California Constitution because  
9     the only costs that may be incurred by a local agency or school  
10    district will be incurred because this act creates a new crime or  
11    infraction, eliminates a crime or infraction, or changes the penalty  
12    for a crime or infraction, within the meaning of Section 17556 of  
13    the Government Code, or changes the definition of a crime within  
14    the meaning of Section 6 of Article XIII B of the California  
15    Constitution.



## AB 2384: Emergency Telephones at Pools

### Summary

AB 2384 would add a new section to the Health and Safety Education Code to require public swimming pools to have emergency telephones on site.

The emergency telephone would be distinguishable from regular landlines by color, signage, and location and which provides direct communication to emergency services and/or emergency call centers with the capability of dispatching directly into EMS services near the pool site.

### Background

Emergency telephones and other safeguards are not required at public pools. Counter-intuitive safety rules apply to public swimming pools located in parks, apartments, and other settings that are not in private homes.

### Problem

California regulations only require emergency telephones at a public pool if a lifeguard is on duty. However, no emergency telephone is required if there is no lifeguard on duty. Having a lifeguard on duty is not required for most public swimming pools.<sup>1</sup>

It should not be a surprise that most public swimming pools do not have lifeguards since that is the cheaper option and the common choice.

Unfortunately, this also means pool phones are not required. Essentially, when there isn't a lifeguard required to be at the pool, then there is no requirement to have an emergency telephone either.

It makes more sense to always have a telephone available, especially if there is no lifeguard. This way there is some safety measure available at the pool that could be lifesaving.

### Solution

Emergency telephones can be used for more than drowning injuries. These uses include children who have been locked out of their home, domestic disputes, burglary, auto theft, to report a fire, and a myriad of medical emergencies that can occur.

These uses support the need for emergency phones not only near and around pool areas, but also in strategic external areas property-wide. For pool phones, this also highlights the need for a monitored emergency phone year-round and not just in pool season, because this emergency outdoor phone has many uses.

### Staff Contact

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<sup>1</sup> Lifeguard services are only required for public swimming pools where a direct fee is charged. Otherwise, signage indicating

lifeguard services are not provided complies with California Health and Safety Code § 116045(a).

**Introduced by Senator Blakespear**

February 12, 2024

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An act to add Chapter 6 (commencing with Section 25000) to Division 20 of the Health and Safety Code, relating to hazardous waste.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 1066, as introduced, Blakespear. Hazardous waste: marine flares: producer responsibility.

(1) Under existing law, as part of the hazardous waste control laws, the Department of Toxic Substances Control (DTSC) generally regulates the management and handling of hazardous waste and hazardous materials.

This bill would create a producer responsibility program for marine flares. The bill would define “covered product” to mean a pyrotechnic device that produces a brilliant light or a plume of colorful smoke as a visual distress signal on marine vessels to attract attention and pinpoint a boater’s location in an emergency. The bill would require a producer of a covered product to register with a product responsibility organization, which would be required to develop and implement a producer responsibility plan for the collection, transportation, and the safe and proper management of covered products. The bill would require DTSC to adopt regulations to implement the act with an effective date no earlier than January 1, 2027.

This bill would require, within 9 months of the effective date of the regulations, a PRO to prepare and submit a product responsibility plan to DTSC. The bill would require the plan to include specified elements, including a funding mechanism that provides sufficient funding to carry out the plan. The bill would require, within 90 days of receipt of the plan, DTSC to approve, approve in part, or disapprove the plan, as

provided. The bill would require a PRO to resubmit a plan if its plan is not fully approved.

This bill would require a PRO to implement its plan within 90 days of approval. The bill would require the plan to be fully funded in a manner that equitably distributes the plan's costs among participant producers that reflects sales volumes and the cost to manage the covered products that a producer produces.

This bill would require the PRO to prepare and submit to DTSC and make publicly available an annual report describing the activities carried out pursuant to the plan. The bill would require the PRO to retain specified documents, annually audit its accounting books, and make documents available to DTSC for review, as specified. The bill would require all reports and records provided to DTSC pursuant to the act to be provided under the penalty of perjury. By expanding the scope of a crime, the bill would impose a state-mandated local program.

The bill would require a participant producer, through the PRO, to pay DTSC, on an unspecified schedule, an annual administrative charge, as determined by DTSC. The bill would require the charge be set at an amount that is adequate to cover DTSC's full costs of administering and enforcing the act. The bill would provide for the imposition of administrative civil penalties upon any person who violates the act. The bill would establish the Marine Flare Recovery Fund in the State Treasury and would require the administrative charges collected by DTSC to be deposited into that account for expenditure by DTSC, upon appropriation by the Legislature, to cover DTSC's cost to implement and enforce the act. The bill would also establish the Marine Flare Recovery Penalty Account in the Marie Flare Recovery Fund and would require that the civil penalties collected by DTSC pursuant to the act be deposited in that account, for expenditure by DTSC, upon appropriation by the Legislature, on activities related to the collection, reuse, and safe and proper management of covered products, grants for related purposes, and the administration and enforcement of the act.

(2) Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

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

SECTION 1. Chapter 6 (commencing with Section 25000) is added to Division 20 of the Health and Safety Code, to read:

CHAPTER 6. MARINE FLARES

Article 1. Purpose and General Provisions

25000. (a) This chapter shall be known, and may be cited, as the Marine Flare Producer Responsibility Act of 2024.

(b) The purpose of this chapter is to provide for the safe and proper management of pyrotechnic marine flares, which pose significant threats to health and safety and may cause significant and costly damage to the environment when managed improperly.

25001. Except as provided in Section 25014, the department shall adopt, amend, or repeal, in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), regulations to implement this chapter. The department shall not adopt regulations pursuant to this section with an effective date earlier than January 1, 2027.

Article 2. Definitions

25005. For purposes of this chapter, the following definitions apply:

(a) (1) "Approved plan" means a producer responsibility plan that has been approved by the department pursuant to Section 25020 and that has not been revoked by the department pursuant to Section 25052.

1 (2) A conditionally approved plan is an approved plan, except  
2 as used in Section 25020.

3 (3) A partially approved plan is not an approved plan.

4 (b) “Brand” means a trademark, including both a registered  
5 trademark and an unregistered trademark, a logo, a name, a symbol,  
6 a word, an identifier, or a traceable mark that identifies a covered  
7 product and identifies the owner or licensee of the brand.

8 (c) “Collection site” means a permanent or temporary location  
9 where a covered product is collected and prepared for transport in  
10 accordance with the requirements of this chapter.

11 (d) “Consumer” means a person who owns a covered product  
12 and includes the ultimate purchaser, owner, or lessee of a covered  
13 product, who is not, as to that covered product, the distributor,  
14 importer, producer, recycler, retailer, or stewardship organization.

15 (e) “Contact information” means name, physical address,  
16 mailing address, email address, and telephone number.

17 (f) “Covered product” means a pyrotechnic device that produces  
18 a brilliant light or a plume of colorful smoke as a visual distress  
19 signal on marine vessels to attract attention and pinpoint a boater’s  
20 location in an emergency.

21 (g) “Department” means the Department of Toxic Substances  
22 Control.

23 (h) “Distributor” means a person that has a contractual  
24 relationship with one or more producers to market and sell covered  
25 products to retailers.

26 (i) “Importer” means either of the following:

27 (1) A person qualifying as an importer of record for purposes  
28 of Section 1484(a)(2)(B) of Title 19 of the United States Code  
29 regarding the import of a covered product that is sold, distributed  
30 for sale, or offered for sale in or into the state that was  
31 manufactured or assembled by a company outside of the United  
32 States.

33 (2) A person importing into the state for sale, distributing for  
34 sale, or offering for sale in the state a covered product that was  
35 manufactured or assembled by a company physically located  
36 outside of the state.

37 (j) (1) “Producer” means a person who manufactures a covered  
38 product and who sells, offers for sale, or distributes a covered  
39 product into the state under the person’s own name or brand.

1 (2) If there is no person in the state who is the producer for  
2 purposes of paragraph (1), the producer of the covered product is  
3 the owner or licensee of a brand under which the covered product  
4 is sold or distributed into the state. For purposes of this subdivision,  
5 an exclusive licensee is a person holding the exclusive right to use  
6 a brand in the state in connection with the manufacture, sale, or  
7 distribution for sale in or into the state of the covered product.

8 (3) If there is no person in the state who is the producer for  
9 purposes of paragraph (1) or (2), the producer of the covered  
10 product is the person that imports the covered product into the  
11 state for sale, distribution, or installation.

12 (4) If there is no person in the state who is the producer for  
13 purpose of paragraph (1), (2), or (3), the producer of the covered  
14 product is the distributor, retailer, dealer, or wholesaler who sells  
15 the product in or into the state.

16 (5) For purposes of this chapter, the sale of a covered product  
17 shall be deemed to occur in the state if the covered product is  
18 delivered to the consumer in the state.

19 (k) “Producer responsibility organization” or “PRO” means an  
20 organization that is exempt from taxation under Section 501(c)(3)  
21 of the federal Internal Revenue Code of 1986 that is appointed by  
22 one or more producers to act as an agent on behalf of all producers  
23 to design, submit, and administer a producer responsibility plan  
24 pursuant to this chapter.

25 (l) “Producer responsibility plan” or “plan” means the plan  
26 developed by a PRO for the collection, transportation, and the safe  
27 and proper management of covered products pursuant to Article  
28 4 (commencing with Section 25020) and submitted to the  
29 department for approval pursuant to Section 25020.

30 (m) “Retailer” means a person who sells or offers for sale a  
31 covered product in or into the state to a person through any means,  
32 including, but not limited to, sales outlets, catalogs, the telephone,  
33 the internet, or any electronic means.

34 (n) “Stewardship program” means a program established by a  
35 program operator pursuant to this chapter for free at drop off,  
36 convenient, and safe collection, transportation, and proper  
37 management of covered products.

1 Article 3. Producer Responsibility Organization

2  
3 25010. (a) All producers shall register with a single PRO to  
4 develop and implement a plan on behalf of all producers. Subject  
5 to subdivision (c) of Section 25013 and Section 25055, there shall  
6 be only one PRO.

7 (b) No later than 30 days after the effective date of the  
8 regulations described in Section 25001, a producer shall notify the  
9 department electronically that the producer has registered with the  
10 PRO to develop and implement a plan on its behalf and to identify  
11 the PRO.

12 (c) A producer shall register with the PRO in accordance with  
13 the procedures and requirements established by the PRO.

14 (d) A producer shall not sell, offer for sale, import, or distribute  
15 a covered product in the state unless all the following are met:

16 (1) The producer has registered with the PRO.

17 (2) The covered product is accounted for in the plan.

18 (3) The department has approved the PRO's plan.

19 (e) A producer shall provide notice of its intent to comply with  
20 the requirements of this chapter to all persons through which it  
21 sells, distributes, imports, or offers for sale a covered product in  
22 or into the state. A producer shall provide this notice no later than  
23 180 days after the effective date of this chapter.

24 (f) If an entity does not meet the definition of producer and is  
25 not subject to this chapter but, at any point, meets the definition  
26 of a producer, that entity shall be deemed a producer and shall  
27 register with the PRO and otherwise comply with the requirements  
28 of this chapter before beginning to sell, offer for sale, import, or  
29 distribute covered products in the state.

30 25011. (a) No later than 30 days after the effective date of the  
31 regulations described in Section 25001, a producer shall provide  
32 to the department, in a form and manner established by the  
33 department, the following:

34 (1) The producer's contact information.

35 (2) A list of covered products and brands of covered products  
36 that the producer sells, distributes for sale, imports for sale, or  
37 offers for sale in or into the state.

38 (b) A producer shall provide to the department updates to the  
39 information described in subdivision (a) on or before January 15



1 of each year, within 30 days of changes to the information, and  
2 upon the department's request.

3 25012. A PRO shall notify the department within 30 calendar  
4 days of any of the following:

5 (a) The end of a three-month period in which the PRO  
6 unsuccessfully attempted to obtain a fee, records, or information  
7 from a producer registered with the PRO.

8 (b) The date that a producer no longer participates in the PRO's  
9 approved plan.

10 (c) Any instance of noncompliance by a participant producer.

11 25013. (a) A PRO shall demonstrate in its plan that it has  
12 adequate financial responsibility and financial controls in place,  
13 including fraud prevention measures and an audit schedule, to  
14 ensure proper management of funds.

15 (b) The activities of the PRO shall be limited to carrying out  
16 the requirements of this chapter.

17 (c) In the event that the department determines that the PRO no  
18 longer meets the requirements of this chapter or fails to implement  
19 or administer an approved plan in a manner that effectuates the  
20 purposes of this chapter, the department may revoke its approval  
21 of the plan and may approve an alternative plan submitted by  
22 another PRO pursuant to Section 25055.

23 25014. (a) The department shall establish performance  
24 standards for the PRO.

25 (b) Performance standards categories shall include, but not be  
26 limited to, collection of the covered product.

27 (c) The performance standards shall specify dates for  
28 compliance.

29 (d) The department may adjust performance standards and  
30 compliance dates based on information included in the plan and  
31 annual reports, other information provided by the PRO, department  
32 waste characterization studies, economic information, and any  
33 other relevant information.

34 (e) Performance standards published by the department pursuant  
35 to this subdivision shall not be subject to the requirements of  
36 Chapter 3.5 (commencing with Section 11340) of Part 1 of Division  
37 3 of Title 2 of the Government Code.

38 (f) The PRO shall meet the performance standards described in  
39 subdivision (a).

40 25015. The PRO shall implement its approved plan.

## Article 4. Producer Responsibility Plans

25020. (a) Within nine months of the effective date of the regulations described in Section 25001, a PRO shall develop and submit a proposed plan to the department, in a form and manner determined by the department.

(b) The department shall review the plan for compliance with this chapter. Within 90 calendar days of receipt of the plan from the PRO, the department shall respond with an approval, disapproval, conditional approval, request for additional information, or timeline for a decision on approval or disapproval.

(c) The department shall approve, approve in part, or deny a proposed plan after providing a 30-day public comment period.

(d) If the department approves a proposed plan, a revised plan, or a conditionally approved plan, then the department shall notify the PRO of the approval. The PRO shall implement the approved plan within 90 days of receipt of the notice of approval, or as otherwise agreed to by the department.

(e) If the department conditionally approves the plan, then the department shall explain, in writing, how the plan or parts of the plan does not comply with this chapter, and the PRO shall ensure the conditions are met and resubmit a revised plan within 12 months.

(f) If the department disapproves the plan, the department shall explain, in writing, how the plan does not comply with this chapter, and the PRO shall resubmit a plan to the department. If the department finds that the plan resubmitted by the PRO does not comply with the requirements of this chapter, the PRO shall not be deemed in compliance with this chapter until the organization submits a plan that the department finds complies with the requirements of this chapter.

(g) An approved plan shall be public record published on the department's internet website, except that financial, production, or sales data reported by the PRO to the department for purposes of the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code) and shall not be open to public inspection. The department may release financial or sales data in summary form only so the information cannot be attributable to a specific entity.

25021. A plan shall do all of the following:

1 (a) (1) Be developed to accept and manage all covered products  
2 at the end of their useful life. An expiration date on a covered  
3 product shall be determinative of its useful life.

4 (2) A plan shall include all covered products and shall not  
5 exclude covered products on the basis that the covered products  
6 are not from a producer registered with the PRO.

7 (b) Include the contact information of each producer registered  
8 with the PRO and covered by the plan.

9 (c) Demonstrate how the PRO will comply with Section 25030,  
10 including a five-year budget that demonstrates how the PRO will  
11 comply with subdivision (b) of Section 25030.

12 (d) Describe how collection sites will be managed, including  
13 all of the following:

14 (1) How the PRO will provide a free and convenient collection  
15 system for covered products, which shall include permanent  
16 collections sites and may include temporary collections sites.

17 (2) A description of how the PRO will provide to the collection  
18 sites, at no cost to consumers or other entities involved in the  
19 collection, the appropriate training, signage, safety guidance,  
20 educational materials, and any other items or information necessary  
21 for the safe collection and temporary storage of covered materials.

22 (3) An explanation of the process by which the PRO will provide  
23 for the transport of covered products from the collection sites.

24 (4) A list of all proposed rules, conditions, and requirements  
25 for collection sites and recyclers.

26 (5) A list of all proposed rules, conditions, and requirements  
27 for collection sites and recyclers, including a template proposed  
28 agreement for each of those types of entities as applicable.

29 (e) Describe how the PRO will meet performance standards  
30 with associated metrics, and the dates by which the performance  
31 standards will be achieved for the performance standards categories  
32 identified in Section 25014.

33 (f) Describe the process by which collected covered products  
34 will be handled and managed following collection, including all  
35 of the following:

36 (1) A description of how covered products will be handled and  
37 managed according to the waste management practices specified  
38 in Section 40051 of the Public Resources Code, including a  
39 description of how the PRO will use the best available management  
40 technologies.

1 (2) A description of the annual assessment the PRO will conduct  
2 and the metrics it will use to determine how collection, sorting,  
3 transportation, and management outcomes aligned with projections.

4 (3) A description of how the PRO will achieve an equitable and  
5 circular system that improves the collection, processing, and  
6 management operations for covered products, including, but not  
7 limited to, pilot programs to test new processes, methods, or  
8 equipment.

9 (g) Include a contingency plan in the event the plan expires or  
10 is revoked. The contingency plan shall guarantee that all the  
11 contracts, financial data, and any other necessary authority and  
12 assets to operate the program shall vest in a trustee approved by  
13 the department. The trustee shall operate the most recently  
14 approved plan, subject to the direction of the department, until the  
15 time a new plan is approved. Upon plan expiration or revocation  
16 of the plan, the balance of the PRO's operating reserves collected  
17 shall be transferred to the control of the trustee within five calendar  
18 days. All documents, digital records, contracts, and files related  
19 to the operation of the plan shall be transferred to the control of  
20 the trustee within five calendar days.

21 25022. A plan shall include a section describing a  
22 comprehensive statewide education and outreach program designed  
23 to educate consumers and promote participation in the program  
24 offered by the PRO. The comprehensive statewide education and  
25 outreach program shall do all of the following:

26 (a) Promote the safe and proper management of covered  
27 products and shall not promote the disposal of covered products  
28 in a manner inconsistent with the services offered by the plan.

29 (b) Include information for consumers on how to avoid improper  
30 disposal of covered products.

31 (c) Include a description of the education and outreach efforts  
32 to various audiences, including, but not limited to, consumers to  
33 promote their participation in achieving the purposes of the plan.  
34 These education and outreach materials shall include, but not be  
35 limited to, all of the following:

36 (1) An internet website that publicizes the entire process for  
37 collection, including collection location sites in addition to any  
38 other information necessary to consumers for the safe collection  
39 and handling of covered products.

1 (2) Signage at point of sale and in marinas that is prominently  
2 displayed and easily visible.

3 (3) All signage and material required for collection sites by the  
4 PRO, and the method by which the collection sites can access  
5 replacement materials at no cost to the collection site.

6 (4) Promotional materials, activities, or both that explain the  
7 purpose of the PRO and the means by which it is managing covered  
8 products.

9 (5) A description of strategies, goals, and metrics the PRO will  
10 use to annually assess and evaluate the efficacy of the  
11 comprehensive statewide education and outreach program.

12 25023. (a) The PRO shall review its approved plan at least  
13 every five years and determine whether revisions are necessary.

14 (b) If the PRO determines that revisions to its approved plan  
15 are necessary, the PRO shall submit to the department a revised  
16 plan for review and approval using the procedures set forth in  
17 Section 25020. The PRO shall submit the revised plan to the  
18 department pursuant to this subdivision at least 12 months before  
19 the review deadline outlined in subdivision (a). The revised plan  
20 shall include a cover letter that summarizes the revisions to the  
21 plan.

22 (c) If the PRO determines that no revisions to the plan are  
23 necessary, the PRO shall send a letter to the department, 12 months  
24 before the review deadline outlined in subdivision (a) explaining  
25 that the PRO has reviewed the plan and determined that no  
26 revisions are needed. The department may, after hearing public  
27 input, disapprove the PRO's determination within 30 days of  
28 receipt of the letter if the department concludes that the PRO cannot  
29 implement the objectives of this chapter without revising the plan.  
30 In the event the department disapproves the PRO's determination,  
31 the department may indicate to the PRO which sections, at  
32 minimum, of the plan need revision, and the PRO shall submit to  
33 the department a revised plan, or plan sections, for review and  
34 approval, following the procedures set forth in Section 25020. The  
35 PRO shall submit the revised plan pursuant to this subdivision  
36 within 60 days of receipt of the department's disapproval.

37 (d) The department may consult with or submit the revised plan  
38 to another state agency or department if the department determines  
39 it is necessary for making its determination. The duration of time

1 the department takes for this consultation is not included in the  
2 time allotted to the department for review pursuant to this section.

3  
4 Article 5. Financial Provisions  
5

6 25030. The PRO shall do all of the following:

7 (a) Establish a method for fully funding its plan in a manner  
8 that equitably distributes the plan's costs among participating  
9 producers that reflects sales volumes and the cost to manage the  
10 covered products the producer produces.

11 (b) (1) Operate on a budget that establishes a funding level  
12 sufficient to operate the PRO in a prudent and responsible manner.  
13 The budget shall demonstrate how the PRO's estimated revenues  
14 cover all the PRO's budgeted costs for each cost category.  
15 Budgeted costs shall include, but not be limited to, administrative  
16 costs, capital costs, and a reserve.

17 (2) Administrative costs shall include the department's actual  
18 and reasonable regulatory costs, which include full personnel costs,  
19 to implement and enforce this chapter, as the criteria for all costs  
20 are defined in the regulations described in Section 25001. For  
21 purposes of this paragraph, PRO implementation begins once the  
22 department approves the PRO's plan, except the department's  
23 costs shall include actual regulatory development costs and other  
24 startup costs incurred prior to plan submittal and approval.

25 (3) The reserve shall include funds to operate the PRO should  
26 there be unexpected events, losses of income, or large unbudgeted  
27 expenses. It shall also protect the infrastructure the PRO relies on  
28 in its plan during any lapse in producer participation during the  
29 life of the program. The reserve cost category shall include a  
30 reserve level amount description justifying the reserve level amount  
31 indicated. The PRO shall maintain reserve funds sufficient to  
32 operate the plan for not less than six months. In the event that a  
33 new PRO is approved by the department, the PRO shall establish  
34 its reserve and maintain the required reserve fund balance by the  
35 end of the second year of plan operation. In the event the PRO's  
36 plan expires or is revoked, the reserve balance shall be transferred  
37 to a successor PRO or a trustee pursuant to the portion of the plan  
38 described in subdivision (g) of Section 25021.

1 (c) On a schedule determined by the department, pay the  
2 department fees to cover the department's reasonable regulatory  
3 cost as described in Section 25032.

4 (d) Establish a process by which the financial activities of the  
5 PRO that are related to implementation of the plan will be subject  
6 to an independent audit consistent with generally accepted  
7 accounting principles (GAAP) and pursuant to Section 25042.  
8 Written certification by an authorized representative of the PRO  
9 that, at the time of submission to the department, all aspects of the  
10 plan are in compliance with all applicable state and federal laws  
11 and regulations.

12 25031. Each producer shall, through the PRO, pay all  
13 administrative and operation costs associated with establishing  
14 and implementing the PRO's approved plan, including the cost of  
15 collection, transportation, and the safe and proper management of  
16 covered products.

17 25032. (a) Within four months of the effective date of the  
18 regulations described in Section 25001, the department shall notify  
19 the PRO of the estimated regulatory costs and the criteria for the  
20 costs specified in the regulations. Those costs shall include the  
21 costs associated with developing the regulations and other  
22 department activities that occur before plan submittal and approval,  
23 including, but not limited to, full personnel costs related to  
24 implementing and enforcing this chapter. The costs shall not exceed  
25 the department's reasonable regulatory costs to implement and  
26 enforce this chapter.

27 (b) The department shall deposit all moneys received from the  
28 PRO pursuant to this section into the Marine Flare Recovery Fund,  
29 which is hereby established in the State Treasury.

30 (c) Upon appropriation by the Legislature, moneys in the Marine  
31 Flare Recovery Fund shall be expended by the department to  
32 implement and enforce this chapter, as well as to reimburse any  
33 standing loans made from other funds used to finance regulation  
34 development, and startup costs of the department's activities  
35 pursuant to this chapter.

36 (d) The moneys in the Marine Flare Recovery Fund shall only  
37 be expended for purposes described in subdivision (c).

38 25033. (a) (1) A PRO, as part of its plan, shall set up a trust  
39 fund or an escrow account, into which it shall deposit all  
40 unexpended funds and ongoing consumer assessments, for use in

1 accordance with this section in the event that the plan terminates  
2 or is revoked.

3 (2) For purposes of this subdivision, “unexpended funds” means  
4 assessment moneys in the PRO’s accounts that the PRO is not  
5 already obligated to pay pursuant to a contract, claim, or similar  
6 mechanism.

7 (b) If a plan terminates or is revoked, the trustee or escrow agent  
8 of a trust fund or escrow account set up pursuant to subdivision  
9 (a) shall do both of the following, starting within 30 days:

10 (1) Accept payments directly from producers into the trust fund  
11 or escrow account that would have been made to the PRO prior to  
12 the plan’s termination or revocation.

13 (2) Make payments from the trust fund or escrow account as  
14 the department shall direct, in writing, to implement the most  
15 recently approved plan.

16 (c) If a new plan has not been approved by the department within  
17 one year after termination or revocation, the department may make  
18 modifications to the previously approved plan, as it deems  
19 necessary, and continue to direct payments from the trust fund or  
20 escrow account in accordance with paragraph (2) of subdivision  
21 (b) to implement the modified plan.

22 (d) A trustee or escrow agent in possession of assessment funds  
23 shall, as directed by the department, transfer those funds to a  
24 successor PRO with an approved plan.

#### 25 26 Article 6. Records, Audits, and Reports

27  
28 25040. (a) The PRO shall keep board minutes, books, and  
29 records that clearly reflect the activities and transactions of the  
30 PRO. Each producer or PRO with an approved plan shall maintain  
31 all records relating to the approved plan for a period of not less  
32 than five years.

33 (b) The department may audit the PRO annually.

34 (c) The failure of the PRO, a producer, or their respective agent  
35 who holds records to produce documents or data that is requested  
36 by the department, required to be collected or generated to carry  
37 out operation of the plan in the form and manner determined by  
38 the department as part of a department audit, or review of a  
39 third-party audit, shall constitute a violation of this chapter.



1 25041. (a) A producer, PRO, manufacturer, distributor, retailer,  
2 dealer, or importer shall do both of the following:

3 (1) Upon request, provide the department with reasonable and  
4 timely access, as determined by the department, to its facilities  
5 and operations, as necessary to determine compliance with this  
6 chapter.

7 (2) Upon request, within 14 days, provide the department with  
8 relevant records, as determined by the department, necessary to  
9 determine compliance with this chapter.

10 (b) All reports and records provided to the department pursuant  
11 to this chapter shall be provided under penalty of perjury.

12 (c) The department may impose administrative civil penalties  
13 pursuant to Article 7 (commencing with Section 25050) on a  
14 producer, PRO, manufacturer, distributor, retailer, dealer, or  
15 importer that fails to provide the department with the access  
16 required pursuant to this section.

17 25042. (a) The PRO shall retain an independent public  
18 accountant, certified in the United States, to annually audit the  
19 accounting books of the PRO. The department shall review the  
20 independent certified public accountant audit for compliance with  
21 this chapter and consistency with the PRO's approved plan and  
22 the annual report required by Section 25043. After the department  
23 conducts its own audit, the department shall notify the PRO of any  
24 conduct or practice that does not comply with this chapter or of  
25 any inconsistencies identified in the audit. The PRO may obtain  
26 copies of the department's audit, including proprietary information  
27 contained in the department's audit, upon request. The producer  
28 or PRO may withhold from disclosure confidential proprietary  
29 information to the extent allowed under Section 1040 of the  
30 Evidence Code and the California Public Records Act (Division  
31 10 (commencing with Section 7920.000) of Title 1 of the  
32 Government Code). The items submitted to the department as part  
33 of the independent audit shall include:

34 (1) Financial statements audited in accordance with generally  
35 accepted accounting principles (GAAP).

36 (2) An audit of the PRO's compliance with this chapter.

37 (3) An audit of the PRO's adherence to, execution of, and  
38 consistency with its approved plan.

39 (b) The PRO shall include the independent audit in its annual  
40 report submitted to the department pursuant to Section 25043

1 commencing within 18 months of plan approval by the department.  
2 The department shall review the audit for compliance with this  
3 chapter and consistency with the PRO's approved plan.

4 25043. On or before January 1 of each year, the PRO shall  
5 submit to the department, and make publicly available, an annual  
6 report, in a format prescribed by the department, that includes, at  
7 minimum, all of the following information for the preceding  
8 calendar year, unless otherwise specified:

9 (a) The PRO's costs, according to the cost categories established  
10 in the plan, and revenues.

11 (b) A summary of any anticipated changes to allocations in cost  
12 categories for the next calendar year.

13 (c) Any changes to the distribution of costs to the producers  
14 registered with the PRO.

15 (d) The names and updated contact information for the producers  
16 registered with the PRO.

17 (e) An estimate of the quantity of covered products sold in or  
18 into the state by the producers registered with the PRO, as  
19 determined by the best available commercial data.

20 (f) The number of collection sites, listed by name, location, and  
21 type, from which the covered products were picked up.

22 (g) The total number of covered products collected.

23 (h) The number of covered products picked up from each  
24 collection site.

25 (i) A complete accounting of the ultimate disposition of all  
26 covered products collected by the PRO, including the total weight  
27 of materials that were disposed of.

28 (j) Metrics and a description of the progress towards attaining  
29 the performance standards included in the approved plan.

30 (k) An evaluation of the effectiveness of methods and processes  
31 used to achieve the performance goals of the program.

32 (l) A description of methods used to collect, transport, and  
33 manage covered products by the PRO, including a description of  
34 all of the following:

35 (1) How the PRO handled and managed covered products  
36 according to the waste hierarchy as defined in Section 40051 of  
37 the Public Resources Code.

38 (2) Results of the PRO's assessment of the efficacy of the  
39 collection and transportation process pursuant to subdivision (f)  
40 of Section 25021.

1 (m) A description of how the PRO improved the convenience  
2 of collection and improved processing operations for covered  
3 products, including, but not limited to, pilot programs to test new  
4 processes, methods, or equipment.

5 (n) A summary of the public education used to promote  
6 consumer knowledge of the program, including the PRO's  
7 evaluation of the efficacy of the comprehensive statewide education  
8 and outreach program pursuant to Section 25022.

9 (o) Recommendations for any future proposed substantial  
10 changes to the program that may submitted for the department's  
11 approval pursuant to Section 25020, if applicable.

12 (p) Any other information required by regulations adopted  
13 pursuant to Section 25001.

14 25044. (a) No later than 90 days of receipt of an annual report,  
15 the department shall start a 30-day public comment period  
16 regarding an annual report.

17 (b) No later than 120 days after receipt of an annual report, and  
18 after completion of the public comment period required by  
19 subdivision (a), the department shall notify the PRO if the annual  
20 report is compliant or noncompliant.

21 (c) If the department determines that the annual report is  
22 noncompliant due to failure to meet the requirements of this  
23 chapter, the department may require the resubmittal of the annual  
24 report and take enforcement action.

25 (d) The department may consult with or submit the annual report  
26 to a state agency or department if it determines it is necessary for  
27 making a determination of compliance or noncompliance of an  
28 annual report. The duration of time the department takes for this  
29 consultation shall not be included in the time allotted to the  
30 department for review pursuant to subdivision (a).

31  
32 Article 7. Enforcement  
33

34 25050. A retailer, dealer, importer, or distributor shall not sell,  
35 distribute, offer for sale, or import a covered product in or into the  
36 state unless the producer of the covered product is listed as a  
37 compliant producer pursuant to Section 25051 or received a  
38 certification letter described in subdivision (e) of Section 25051.

39 25051. (a) Within 12 months of the effective date of the  
40 regulations described in Section 25001, and on or before July 1 of

1 each year thereafter, the department shall publish on the  
2 department's internet website, a list of the names of producers that  
3 are compliant with this chapter. The department shall list, as  
4 appropriate, the reported brands of covered products for each  
5 producer.

6 (b) A retailer, importer, or distributor shall monitor the  
7 department's internet website to determine if a producer, brand,  
8 or covered product is in compliance with this chapter for that brand.

9 (c) Notwithstanding any other provision of this chapter, upon  
10 identification of a producer that is not registered with the PRO  
11 with an approved plan, the department shall issue a notice of  
12 noncompliance to the producer.

13 (d) If the department determines a producer is not in compliance  
14 with this chapter, the department shall remove the producer, along  
15 with its brands of covered products, from the compliance list.

16 (e) A producer that is not listed on the department's internet  
17 website pursuant to subdivision (b) that demonstrates compliance  
18 with this chapter before the next list is posted by the department  
19 may either be added to the internet website or be provided a  
20 certification letter from the department stating that the producer  
21 of a covered product is in compliance with this chapter.

22 25052. (a) A civil penalty up to the following amounts may  
23 be administratively imposed by the department on any person who  
24 is in violation of any provision of this chapter:

25 (1) Ten thousand dollars (\$10,000) per day.

26 (2) Fifty thousand dollars (\$50,000) per day if the violation is  
27 intentional or knowing.

28 (b) In assessing or reviewing the amount of a civil penalty  
29 imposed pursuant to subdivision (a) or (b) for a violation of this  
30 chapter, the department or the court shall consider all of the  
31 following:

32 (1) The nature and extent of the violation.

33 (2) The number and severity of the violation or violations.

34 (3) The economic effect of the penalty on the violator.

35 (4) Whether the violation took good faith measures to comply  
36 with this chapter and the period of time over which these measures  
37 were taken.

38 (5) The willfulness of the violators misconduct.

39 (6) The deterrent effect that the imposition of the penalty would  
40 have on both the violator and the regulated community.

1 (7) Any other factor that justice may require.

2 (c) Upon written finding that a PRO, producer, importer,  
3 distributor, or any other party regulated has not met a material  
4 requirement of this chapter, in addition to any other penalties  
5 authorized under this chapter, the department may take one or both  
6 of the following actions to ensure compliance with the requirements  
7 of this chapter, after affording the PRO, producer, importer,  
8 distributor, or any other party regulated, an opportunity to respond  
9 to or rebut the finding:

10 (1) Revoke the PRO's plan approval or require the PRO to  
11 resubmit the plan or plan section.

12 (2) Require additional reporting relating to compliance with the  
13 material requirements of this chapter that were not met.

14 (d) The department shall deposit all penalties collected pursuant  
15 to this section into the Marine Flare Recovery Penalty Account,  
16 which is hereby created in the Marine Flare Recovery Fund. Upon  
17 appropriation by the Legislature, moneys in the Marine Flare  
18 Recovery Penalty Account shall be available for expenditure by  
19 the department on activities related to the collection, reuse, and  
20 safe and proper management of covered products, grants for related  
21 purposes, and the administration and enforcement of this chapter.

22 (e) The Administrative Adjudication Bill of Rights as set forth  
23 in Article 6 (commencing with Section 11425.10) of Chapter 4.5  
24 of Part 1 of Division 3 of Title 2 of the Government Code, applies  
25 to hearings conducted under this chapter and mandates minimum  
26 due process.

27 25053. (a) After the time for judicial review under Section  
28 11523 of the Government Code has expired, the department may  
29 apply to the small claims court or superior court, depending on the  
30 jurisdictional amount and any other remedy sought, in the county  
31 where the penalties, restitution, or other remedy was imposed by  
32 the department, for a judgment to collect any unpaid civil penalties  
33 or restitution or to enforce any other remedy provided by this  
34 chapter. The application, which shall include a certified copy of  
35 the final agency order or decision, shall constitute a sufficient  
36 showing to warrant the issuance of the judgment. The court clerk  
37 shall enter the judgment immediately in conformity with the  
38 application. The judgment so entered shall have the same force  
39 and effect as and shall be subject to all the provisions of law  
40 relating to a judgment in a civil action and may be enforced in the

1 same manner as any other judgment of the court. The court shall  
2 make enforcement of the judgment a priority.

3 (b) If, in the judgment of the Director of Toxic Substances  
4 Control, a person has engaged in or is about to engage in an act,  
5 practice, or omission that constitutes, or will constitute, a violation  
6 of this chapter, the Attorney General may, at the request of the  
7 director, bring an action in the superior court for an order enjoining  
8 the act, practice, or omission. The order may require remedial  
9 measures and direct compliance with this chapter. Upon a showing  
10 by the director that the person has engaged in or is about to engage  
11 in that act, practice, or omission, the superior court may issue a  
12 permanent or temporary injunction, restraining order, or other  
13 order, as appropriate.

14 (c) An action brought by the Attorney General pursuant to this  
15 section shall have precedence in respect to the order of trial over  
16 all other civil actions not brought by or on behalf of the state,  
17 except actions regarding probate bonds.

18 25054. A producer shall not be subject to penalties pursuant  
19 to this article for noncompliance with subdivision (d) of Section  
20 25010 until two years from the effective date of the regulations  
21 described in Section 25001.

22 25055. (a) A PRO that violates this chapter three or more times  
23 shall be ineligible to act as an agent on behalf of a manufacturer  
24 to design, submit, and administer a plan pursuant to this chapter.

25 (b) If a PRO becomes ineligible pursuant to subdivision (a) to  
26 operate as a PRO under this chapter, the successor provisions in  
27 subdivisions (b), (c), and (d) of Section 25033 shall apply.

## 28 Article 8. Antitrust Immunity

29  
30  
31 25060. (a) Except as provided in subdivision (b), an action  
32 that is taken by a producer or producer responsibility organization,  
33 is not a violation of the Cartwright Act (Chapter 2 (commencing  
34 with Section 16700) of Part 2 of Division 7 of the Business and  
35 Professions Code), the Unfair Practices Act (Chapter 4  
36 (commencing with Section 17000) of Part 2 of Division 7 of the  
37 Business and Professions Code), or the Unfair Competition Law  
38 (Chapter 5 (commencing with Section 17200) of Part 2 of Division  
39 7 of the Business and Professions Code) to the extent the producer

1 or producer responsibility organization, is exercising authority  
2 pursuant to this chapter.

3 (b) Subdivision (a) applies to all of the following actions taken  
4 by the PRO:

5 (1) The creation, implementation, or management of a plan  
6 approved or conditionally approved by the department pursuant  
7 to this chapter and the determination of the types or quantities of  
8 covered products recycled or otherwise managed pursuant to a  
9 plan.

10 (2) The determination of the cost and structure of an approved  
11 plan.

12 (3) The establishment, administration, collection, or  
13 disbursement of a charge associated with funding the  
14 implementation of this chapter.

15 (c) Subdivision (a) does not apply to an agreement that does  
16 any of the following:

17 (1) Fixes a price of or for covered products.

18 (2) Fixes the output or production of covered products.

19 (3) Restricts the geographic area in which, or customers to  
20 whom, covered products will be sold.

21 SEC. 2. The Legislature finds and declares that Section 1 of  
22 this act, which adds Section 25020 to the Health and Safety Code,  
23 imposes a limitation on the public's right of access to the meetings  
24 of public bodies or the writings of public officials and agencies  
25 within the meaning of Section 3 of Article I of the California  
26 Constitution. Pursuant to that constitutional provision, the  
27 Legislature makes the following findings to demonstrate the interest  
28 protected by this limitation and the need for protecting that interest:

29 In order to ensure the effective hazardous waste management  
30 of, and viable markets for, marine flares, it is necessary to protect  
31 the proprietary information of producers, retailers, wholesalers,  
32 and solid waste enterprises by keeping confidential the financial,  
33 production, and sales data reported by those entities under Section  
34 1 of this act.

35 SEC. 3. No reimbursement is required by this act pursuant to  
36 Section 6 of Article XIII B of the California Constitution because  
37 the only costs that may be incurred by a local agency or school  
38 district will be incurred because this act creates a new crime or  
39 infraction, eliminates a crime or infraction, or changes the penalty  
40 for a crime or infraction, within the meaning of Section 17556 of

- 1 the Government Code, or changes the definition of a crime within
- 2 the meaning of Section 6 of Article XIII B of the California
- 3 Constitution.

O





## **SB 1066: Marine Flare Producer Responsibility Act**

to accept flares, leaving boaters with few options.

### PURPOSE

SB 1066 will require producers of marine flares to fund and operate a convenient collection system to manage expired or unwanted flares, which are toxic and explosive, to ensure they are properly disposed of and don't pollute the water or environment.

### BACKGROUND

Federal law requires boats operating in coastal waters or bodies of water directly connected to coastal waters to be equipped with distress signals. Boaters most often meet this provision of the law by carrying three in-service flares approved for daytime *and* nighttime use. [According](#) to the U.S. Coast Guard (USCG) regulations, the average shelf life for flares is between 36 and 42 months from the manufacture date, requiring boaters to replace them approximately every three years.

The California Department of Toxic Substances Control (DTSC) and the Environmental Protection Agency (EPA), classify flares that will no longer be used for their intended purpose as hazardous waste, due to their being toxic, reactive and ignitable. Flares must be transported as explosives then disposed of at a facility permitted to manage explosives, making their end-of-life (EOL) management extremely costly. Due to excessive cost, many household hazardous waste (HHW) facilities refuse

### PROBLEM

Pyrotechnic marine flares have historically been what boaters use to meet the federal requirement to carry U.S. Coast Guard (USCG) approved visual distress signals in case of emergencies. However, these flares contain toxic metals and pollutants that render them hazardous, reactive and explosive waste at EOL.

[According](#) to the California State Parks Division of Boating and Waterways, an estimated 174,000 outdated flares are generated each year by recreational vessels in the state. However, a lack of convenient disposal options has created a significant EOL management problem, with many HHW facilities unable to accept them due to their not having the permits or proper equipment to safely handle explosives and the exorbitant costs to properly manage them.

Currently, there are no permitted facilities in California that can accept, treat, and/or dispose of non-military explosives waste streams. Collected flares must be packaged properly, transported by a licensed hazardous waste authorized driver and stored in a Class 4 magazine prior to shipment, according to the Bureau of Alcohol, Tobacco, Firearms and Explosives. It then must be shipped out-of-state to Missouri,

where the only facility still accepting high-hazard flares in the U.S. is located.

[According](#) to Zero Waste Sonoma, in 2023 it cost an estimated \$185 to properly dispose of one unwanted marine flare, when partnering with nearby jurisdictions to help share the cost of transportation. Without partnership, that cost is an estimated \$493 per flare. The same flares can be purchased new for approximately \$13 each.

Boaters in coastal communities across California are frustrated by the lack of disposal options for flares, with some stockpiling them or illegally disposing of them in trash or waterways. Flares contain toxic chemicals such as perchlorate, which is recognized as a water and health pollutant that can impact our waterways and impair thyroid function.

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## SOLUTION

SB 1066 will require producers to create an Extended Producer Responsibility (EPR) program to establish a free and convenient statewide collection program for the proper disposal of marine flares.

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## SUPPORT

National Stewardship Action Council (cosponsor)  
Zero Waste Sonoma (cosponsor)  
San Rafael Fire Department

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## STAFF CONTACT

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**ASSEMBLY BILL**

**No. 2579**

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**Introduced by Assembly Member Quirk-Silva**

February 14, 2024

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An act to add Section 97.80 to the Revenue and Taxation Code, relating to local government finance.

LEGISLATIVE COUNSEL'S DIGEST

AB 2579, as introduced, Quirk-Silva. Property tax revenue allocations: County of Orange: county equity amount.

Existing property tax law requires the county auditor, in each fiscal year, to allocate property tax revenue to local jurisdictions in accordance with specified formulas and procedures, and generally requires that each jurisdiction be allocated an amount equal to the total of the amount of revenue allocated to that jurisdiction in the prior fiscal year, subject to certain modifications, and that jurisdiction's portion of the annual tax increment, as defined. Existing property tax law also reduces the amounts of ad valorem property tax revenue that would otherwise be annually allocated to the county, cities, and special districts pursuant to these general allocation requirements by requiring, for purposes of determining property tax revenue allocations in each county for the 1992–93 and 1993–94 fiscal years, that the amounts of property tax revenue deemed allocated in the prior fiscal year to the county, cities, and special districts be reduced in accordance with certain formulas. Existing property tax law requires that the revenues not allocated to the county, cities, and special districts as a result of these reductions be transferred to the Educational Revenue Augmentation Fund in that county for allocation to school districts, community college districts, and the county office of education.

This bill, for the 2025–26 fiscal year and each fiscal year thereafter, would require the auditor of the County of Orange to increase the total amount of ad valorem property tax revenue that is otherwise required to be allocated to the county by the county equity amount, as defined, and to commensurately decrease the amount of ad valorem property tax revenue that is otherwise required to be allocated to the county Educational Revenue Augmentation Fund and, if necessary, the amount of those revenues otherwise required to be allocated to school districts.

By imposing new duties upon local officials in the allocation of ad valorem property tax revenues, this bill would impose a state-mandated local program.

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

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

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

- 1 SECTION 1. Section 97.80 is added to the Revenue and
- 2 Taxation Code, to read:
- 3 97.80. (a) Notwithstanding any other law, for the 2025–26
- 4 fiscal year, and for each fiscal year thereafter, the auditor of the
- 5 County of Orange shall do both of the following:
- 6 (1) Increase the total amount of ad valorem property tax revenue
- 7 that is otherwise required to be allocated to the county by the
- 8 county equity amount.
- 9 (2) (A) Decrease the total amount of ad valorem property tax
- 10 revenue that is otherwise required to be allocated to the county
- 11 Educational Revenue Augmentation Fund by the county equity
- 12 amount.
- 13 (B) If, for any fiscal year, there is not enough ad valorem
- 14 property tax revenue that is otherwise required to be allocated to
- 15 a county Educational Revenue Augmentation Fund for the auditor

1 to complete the allocation reduction required by subparagraph (A),  
2 the auditor shall additionally reduce the total amount of ad valorem  
3 property tax revenue that is otherwise required to be allocated to  
4 all school districts in the county for that fiscal year by an amount  
5 equal to the difference between the county equity amount and the  
6 amount of ad valorem property tax revenue that is otherwise  
7 required to be allocated to the county Educational Revenue  
8 Augmentation Fund for that fiscal year. This reduction for each  
9 school district in the county shall be the percentage share of the  
10 total reduction that is equal to the proportion that the total amount  
11 of ad valorem property tax revenue that is otherwise required to  
12 be allocated to the school district bears to the total amount of ad  
13 valorem property tax revenue that is otherwise required to be  
14 allocated to all school districts in a county. For purposes of this  
15 subparagraph, “school districts” do not include any districts that  
16 are excess tax school entities, as defined in Section 95.

17 (C) Any reduction in the amount of ad valorem property tax  
18 revenues deposited in the county Educational Revenue  
19 Augmentation Fund as a result of subparagraph (A) shall be applied  
20 exclusively to reduce the amounts that are allocated from that fund  
21 to school districts and county offices of education, and shall not  
22 be applied to reduce the amounts of ad valorem property tax  
23 revenues that are otherwise required to be allocated from that fund  
24 to community college districts.

25 (b) For purposes of this section, the following definitions shall  
26 apply:

27 (1) “County equity amount” shall mean the following:

28 (A) For the 2025–26 fiscal year, 1 percent of the total amount  
29 of property tax revenue otherwise required to be allocated to the  
30 county Educational Revenue Augmentation Fund.

31 (B) For the 2026–27 fiscal year, and each fiscal year thereafter,  
32 the sum of the following amounts:

33 (i) The county equity amount for the prior fiscal year.

34 (ii) The product of the two following amounts:

35 (I) The amount described in subparagraph (A).

36 (II) The percentage change from the prior fiscal year to the  
37 current fiscal year in gross taxable assessed valuation within the  
38 jurisdiction of the County of Orange, as reflected in the equalized  
39 assessment roll for those fiscal years.

(iii) If the county property tax threshold amount is less than 12 percent of countywide ad valorem property tax revenues and the percentage change from the prior fiscal year to the current fiscal year in gross taxable assessed valuation within the jurisdiction of the County of Orange, as reflected in the equalized assessment roll for those fiscal years, is greater than 3 percent, then the product of the following amounts:

(I) The total amount of property tax revenue otherwise required to be allocated to the county Educational Revenue Augmentation Fund.

(II) The percentage change from the prior fiscal year to the current fiscal year in gross taxable assessed valuation within the jurisdiction of the County of Orange, as reflected in the equalized assessment roll for those fiscal years, minus 3 percent.

(2) “County property tax threshold amount” equals the sum of the following amounts:

(A) The County of Orange’s allocation of countywide ad valorem property tax revenues which are not subject to Section 6503.1 of the Government Code.

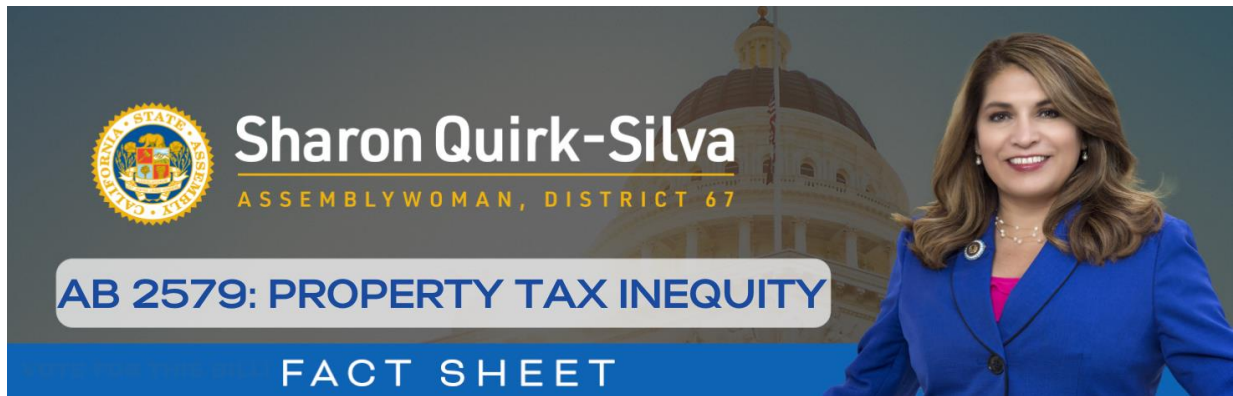
(B) The county equity amount for the prior year.

(c) For the 2021–22 fiscal year and each fiscal year thereafter, ad valorem property tax revenue allocations made pursuant to Sections 96.1 and 96.5, or any successor to either of those provisions, shall not incorporate the allocation adjustments made by this section.

SEC. 2. The Legislature finds and declares that a special statute is necessary and that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique inequities experienced from fiscal year to fiscal year by the County of Orange that, of all the counties in the state, was allocated the lowest percentage of countywide ad valorem property tax revenues as determined by the State Board of Equalization for the 2021—22 fiscal year.

SEC. 3. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

O



## SUMMARY

[AB 2579](#) provides Orange County with property tax revenues equivalent to the property tax revenues of other counties in the state. This bill increases Orange County's share of ad valorem property taxes over time to a maximum of 12% by shifting property taxes from the Educational Revenue Augmentation Fund (ERAF) to the County.

## BACKGROUND

Orange County currently receives the lowest percentage of property tax of any county in California, about five cents on the dollar. This discrepancy occurs because the formula for distributing local property taxes has not changed since the allocation system, commonly referred to as AB 8, was first implemented in 1979. Compared to the 17% average received by the 15 largest counties in California, Orange County receives 12% less.

Following the implementation of Proposition 13 in 1978, which capped the ad valorem property tax rate on real property at 1%, the Legislature restructured the allocation of property tax revenues. AB 8, as previously mentioned, gave counties their historic proportional shares of property taxes based on what they were spending before Prop 13 passed; this proportional share of property tax remains in current law.

Since the passage of the historic property tax measures, the allocation of property tax revenues has not correlated with local government responsibilities. In addition, these funding inequities for counties was exacerbated by the ERAF property tax shifts of 1992 and 1993.

Since the property tax allocation was locked in, Orange County's population has nearly doubled, and service needs have drastically increased in the wake

of the COVID-19 pandemic. Despite contributing more, Orange County receives disproportionately less compared to other counties, leaving them at a disadvantage in meeting the needs of their vulnerable populations. The Citizen's Guide to the Fiscal Year 2023-24 for the County of Orange notes that property taxes are the largest and most important source of General Purpose Revenue (GPR) to the County. As of March 2023, property taxes accounted for almost 95% of all GPR. Unfortunately, Orange County receives the lowest property tax revenue allocation share (5%) of all 58 Counties in the state.<sup>1</sup>

This structural inequity places county residents at a disadvantage, particularly those who rely on the county for critical services. If the county received a fair share of property tax that correlated with local government service responsibilities, it could allocate more resources toward homeless services, crisis treatment, public safety, and addressing the needs of at-risk youth, veterans, and senior citizens.

## SOLUTION

AB 2579 provides a gradual solution to Orange County's property tax inequity incrementally increasing the county's share of property tax revenues until it reaches 12 percent. This increase is implemented selectively during years when assessed property value grows by more than 3 percent in order to phase in this bill. Once the county's share achieves this proportion, it remains fixed at 12 percent.

## SUPPORT

County of Orange

## CONTACT

[Christopher.Aguilera@asm.ca.gov](mailto:Christopher.Aguilera@asm.ca.gov)  
(916) 319-2067

<sup>1</sup> [https://issuu.com/ocgov/docs/2023-24\\_citizensguidetobudget\\_-\\_final](https://issuu.com/ocgov/docs/2023-24_citizensguidetobudget_-_final)

**Introduced by Senator Durazo**

February 16, 2024

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An act to add Section 2004 to the Public Contract Code, relating to public contracts.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 1325, as introduced, Durazo. Public contracts: best value procurement: equipment.

Existing law imposes requirements on, and authorizes procedures for, public contracting for equipment and services, among other things, by local and state agencies. Existing law authorizes certain procurements to be facilitated through a lowest responsible bidder requirement.

This bill would authorize a state or local agency, as defined, to award contracts through a best value procurement method, as describe, for the purchase of equipment with a base value of \$250,000 or more. The bill would require the agency to adopt and publish procedures and guidelines for evaluating the qualifications of the bidders to ensure the best value selections are conducted in a fair and impartial manner, as described. The bill would authorize the procedures and guidelines to include the adoption of a high road jobs plan policy that evaluates bidders' high road jobs plan commitments as part of the overall score for the public contract, as specified.

This bill would require the solicitation document to include certain information and would direct the agency to use a scoring method based on price and the factors described in the solicitation document, as specified. The bill would require the agency to let any contract for these projects to the selected bidder that represents the best value or reject all bids.



Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

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

1 SECTION 1. Section 2004 is added to the Public Contract  
2 Code, to read:  
3 2004. (a) Notwithstanding any law requiring a state or local  
4 agency to award contracts to the lowest responsible bidder, a state  
5 or local agency may use the best value procurement method for  
6 the purchase of equipment with a base value of two hundred fifty  
7 thousand dollars (\$250,000) or more, in accordance the following:  
8 (1) To use the procurement method described in this subdivision,  
9 the state or local agency shall adopt and publish procedures and  
10 guidelines for evaluating the qualifications of bidders that ensure  
11 the best value selections are conducted in a fair and impartial  
12 manner. These procedures and guidelines may include, but are not  
13 limited to, the adoption of a high road jobs plan policy.  
14 (2) In addition to disclosure of the minimum requirements for  
15 qualification, the solicitation document shall specify what criteria,  
16 in addition to price, shall be given a weighted value. The state or  
17 local agency shall use a scoring method based on those factors and  
18 price in determining the successful bid. Any evaluation and scoring  
19 method shall ensure substantial weight is given to the contract  
20 price.  
21 (3) The state or local agency shall let any contract for a project  
22 pursuant to this section to the selected bidder that represents the  
23 best value or shall reject all bids.  
24 (b) For purposes of this section, the following definitions apply:  
25 (1) “Best value procurement” means a process by which a  
26 contract award is determined by objective criteria related to price,  
27 quality, and other qualifications, including, but not limited to, the  
28 following:  
29 (A) Product performance, productivity, and safety standards.  
30 (B) The supplier’s ability to perform the contract requirements.  
31 (C) Environmental benefits, including the reduction of  
32 greenhouse gas emissions.  
33 (D) Community benefits, including the bidder’s participation  
34 in or commitments to a community benefits agreement, targeted  
35 hiring program, or high road training program.

1 (E) Job quality benefits, as determined by a high road jobs plan  
2 policy.

3 (2) “Community benefits agreement” means a legally binding  
4 contract between a private entity and a partner entity that details  
5 specific, measurable, and enforceable commitments to a specified  
6 community. The partner entity shall be a public entity, nonprofit,  
7 or labor organization whose purpose aligns with the purported goal  
8 of the community benefits agreement.

9 (3) “High road jobs plan” means a component of an application  
10 submitted by applicants for public contracts where bidders are  
11 required to state, at a minimum, all of the following:

12 (A) The minimum number of full-time equivalent jobs that will  
13 be retained and created if awarded the contract.

14 (B) The minimum wage and benefit amounts by job  
15 classification for nonsupervisory workers on the contract.

16 (C) The minimum number of jobs that will be specifically  
17 retained and created for individuals facing barriers to employment  
18 if awarded the contract.

19 (D) Detailed information regarding any targeted hiring programs,  
20 community benefits agreements, high road training programs, or  
21 registered apprenticeship programs.

22 (E) A statement that all workers are properly classified pursuant  
23 to Section 2775 of the Labor Code and an acknowledgment that  
24 knowingly submitting false information is a violation of Article 9  
25 (commencing with Section 12650) of Chapter 6 of Part 2 of  
26 Division 3 of Title 2 of the Government Code.

27 (4) “High road jobs plan policy” means a policy by which a  
28 state or local agency evaluates bidders’ high road jobs plan  
29 commitments as part of the overall score for the public contract,  
30 and incorporates these commitments into the selected applicant’s  
31 final contract as a material term.

32 (5) “High road training program” means a program that provides  
33 comprehensive, equitable, and standardized training to a diverse  
34 set of participants, including, but not limited to, the following:

35 (A) A program that includes a standardized curriculum resulting  
36 in an industry-recognized credential, that includes measurable  
37 goals, regular reporting, and accountability standards to assess  
38 program effectiveness.

39 (B) Wages and stipends for program participants, including  
40 assistance with tuition, supplies, and materials.

1 (C) Pay increases tied to new skills gained and trainings  
2 completed.

3 (D) Formalized agreements with a public entity, nonprofit, or  
4 labor organization to support the training program, whose purpose  
5 aligns with the program's goals.

6 (6) "Local agency" means a city, whether general law or  
7 chartered, county, or city and county, school district, or other  
8 district. For purposes of this paragraph, "district" means an agency  
9 of the state formed for the local performance of governmental or  
10 proprietary functions within limited boundaries.

11 (7) "State agency" means any department, division, board,  
12 bureau, commission, or agency of the executive branch of  
13 government in the state.

14 (8) "Targeted hiring program" means a program that meets all  
15 of the following conditions:

16 (A) Meaningful outreach and recruitment activities and  
17 measurable hiring goals specifically targeted to individuals facing  
18 barriers to employment or displaced workers.

19 (B) Hiring practices developed to provide fair access to and  
20 support the hiring of individuals facing barriers to employment.

21 (C) Collaboration with community groups or public entities to  
22 directly support skill and career development for individuals facing  
23 barriers to employment, as well as provide wraparound services  
24 as needed by particular communities, such as transportation  
25 assistance or childcare vouchers.



# SENATOR MARIA ELENA DURAZO

## LEGISLATIVE FACTSHEET

### Best Value Procurement

*Senate Bill 1325*

#### **Summary**

SB 1325 maximizes the benefits of public investments by empowering agencies to use best value procurement for public purchases. Best value procurement is a comprehensive policy framework that empowers government entities to consider important factors, such as community and environmental benefits, when determining successful bidders. This procurement model has successfully created good jobs and strengthened communities in California.

#### **Background**

Best value procurement differs from other procurement models, such as the commonly used "Lowest Responsible Bidder" framework, by allowing factors like environmental and community benefits—in addition to price—to be evaluated and scored within the bid process. By adopting best value procurement, local and state agencies can amplify the impact of public dollars to create good jobs and advance racial, gender, and climate equity.

This type of procurement has a successful track record: LA Metro's Manufacturing Careers Policy (a best value procurement policy) has created good jobs for workers and communities. Metro utilized an earlier version of the MCP to award an electric bus contract to BYD, creating hundreds of high-quality jobs at their Lancaster, California facility.

#### **Problem**

With California set to receive tens of billions of dollars from the federal government in the coming years, we have a once-in-a-generation opportunity to use these funds not just to build out our critical infrastructure needs, but also to raise job standards across the state.

Without policy interventions—like best value procurement—that incentivize companies to raise standards, many of the jobs created by federal funding within critical industries like clean technology manufacturing will lead Californians to poverty wages.

The current system of awarding public contracts to the lowest responsible bidder inherently rewards bad actors. When contractors are selected based on price and quality alone, they are incentivized to cut labor costs to offer more competitive bids. Allowing this to continue would be a major missed opportunity to entrench high quality job creation into the way our state does business.

State and local agencies face a confusing patchwork of best value procurement authorization within state code. Some agencies have explicit permission to utilize best value procurement while others do not, and some have authorization but only under specific circumstances. This ad hoc contracting authority, which is often done in very different sections of state code, makes it difficult for agencies to understand if they have authority to adopt best value procurement models.

#### **Solution**

The first step to incorporate high quality job standards is to ensure that agencies have the clear guidance they need to amplify the impact of state and federal investments.

Most local agencies and school districts are currently bound to a singular type of purchasing or are unclear on if they are authorized to choose between methods.

SB 1325 creates authorizing statutes for Best Value Procurement to empower cities, states, and public agencies to use our public dollars to create quality products and good jobs while advancing racial, gender, and climate equity.

**Support**

Jobs to Move America

**Contact**

Bethany Renfree, Legislative Director

[Bethany.Renfree@sen.ca.gov](mailto:Bethany.Renfree@sen.ca.gov)

## Orange County Fire Authority March 2024 Report

### Congress

#### Congress Close to Finalizing FY 2024 Appropriations

As February came to a close, Congress avoided yet another potential partial government shutdown by passing its fourth Continuing Resolution (CR), H.R. 7463, to extend the “laddered” funding deadlines currently in place. Under this legislation, the first funding deadline was extended from March 1st to March 8th, and the second funding deadline was extended from March 8th to March 22nd. The first funding deadline extends funding for 6 of the 12 appropriations bills: Transportation-HUD, Energy-Water, Agriculture, Commerce-Justice-Science, Interior-Environment and Military Construction-VA.

While Congress struggled with finalizing a topline spending number, setting individual allocations for each bill and negotiating numerous policy provisions, the end is in sight for these six bills as they have now been finalized.

On March 3, 2024, the Appropriations Committee unveiled the text of the six-bill fiscal year FY 2024 "[minibus](#)" that is slated to be considered by the House and Senate this week and to President Biden’s desk before midnight on March 8. The House passed this minibus package on Wednesday, March 6 by a vote of 339-85.

Of note, this first minibus continues the additional pay authority for federal firefighting workforce, protects its current staffing levels. It also fully funds essential wildfire preparedness and suppression efforts by providing \$4.045 billion for wildfire suppression, of which \$2.65 billion is provided to the Wildfire Suppression Operations Reserve Fund. The Reserve Fund provides the Forest Service and the Department of the Interior an assured amount of funding to be used when major fire activity requires expenditures exceeding regular base suppression operations funding. This funding level—in addition to carryover balances—will meet projected needs for fiscal year 2024 wildfires.

The remaining six appropriations bills do face additional hurdles given unresolved issues over border policy, and foreign aid funding to name a few. This second minibus will fund several of the programs that benefit OCFA – including funding for Assistance to Firefighter Grants (AFG), SAFER Grants and the Urban Search & Rescue program. These programs are funded through the Homeland Security Appropriations bill. There is an also effort to reauthorize AFG & SAFER grants programs in the minibus as they are set to expire in just a few months.

Given the end is in sight for FY 2024, Congress is slowly beginning its FY 2025 appropriations process. We expect the pace for FY25 requests will speed up greatly once the first six bills are passed.

### House Committees Hold Hearings on EV Fires & First Responder Risks

- During the month of February, two Congressional Committees held hearings to examine the dangers posed by lithium-ion batteries.
- On February 15, the House Homeland Security Subcommittee on Emergency Management and Technology held a [hearing](#) on the fire hazards posed by lithium-ion batteries. U.S. Fire Administrator Lori Moore-Merrell and John S. Butler, President of the International Association of Fire Chiefs (IAFC), testified.
- On February 29, the House Science, Space, & Technology Committee's Subcommittee on Investigations & Oversight held a [hearing](#) examining the dangers of EV Fires on First Responders. San Bernadino County Fire Chief Dan Munsey testified on behalf of the IAFC, and Dr. Judy Jeevarajan, Vice President and Executive Director of the Electrochemical Safety Research Institute at UL Research Institutes, also testified. During the hearing, Subcommittee Chair Jay Obernolte (R-CA) asserted that the federal government has been deficient in providing guidance and resources to firefighters and first responders in dealing with battery fires.

### House Passes Firefighter Cancer Registry Reauthorization Act of 2023

- During the week of March 4, the House voted and passed the Firefighter Cancer Registry Reauthorization Act of 2023 ([H.R. 3821](#)). The bill authorizes the National Firefighter Cancer Registry to receive \$5.5 million annually from FY 2024 – 2028.
- The National Firefighter Cancer Registry was created to better track firefighters' cancer diagnoses and understand the connection between cancer and firefighter duties. The International Association of Fire Chiefs and the International Association of Fire Fighters both support the measure.
- The bill had bipartisan support in the House, and its Senate companion ([S. 2119](#)) has support from Democrats and Republicans as well.

### **Administration**

#### FEMA Releases SAFER Notice of Funding Opportunity

- On March 4, the Federal Emergency Management Agency (FEMA) released two notices of funding opportunities for the FY 2023 Fire Prevention and Safety Grants and Staffing for Adequate Fire and Emergency Response (SAFER) Grants. Both grants close on April 12, 2024.
- The [SAFER Program](#) will allocate \$360 million to assist fire departments with hiring activities, including recruiting and retaining volunteer firefighters. This year's round of SAFER funding does not include a cost match.

- [Fire Prevention and Safety Grants](#) will distribute \$36 million for fire prevention programs and firefighter health and safety research. The five project categories under the fire prevention and safety activities are:
  - Community Risk Reduction;
  - Wildfire Risk Reduction;
  - Code Enforcement/Awareness;
  - Fire & Arson Investigation; and
  - National/State/Regional Programs and Projects

#### EPA Finalizes Amendments to Risk Management Program to Protect At-Risk Communities from Chemical Accidents

- On March 1, EPA announced finalized amendments to its Risk Management Program to include even more protective safety provisions to protect local communities from chemical accidents. This final rule, known as the Safer Communities by Chemical Accident Prevention Rule, includes improvements to chemical process safety to assist in planning, preparation, and response to accidents.
- The rule also includes provisions for increasing public awareness of chemical hazards at regulated sources. The rule also requires regulated facilities to perform safer technologies and alternative analyses and implement reliable safeguard measures as appropriate [here](#).





Revised 3/25/24

## Orange County Fire Authority **AGENDA STAFF REPORT**

Executive Committee Meeting  
March 28, 2024

Agenda Item No. 2F  
Consent Calendar

### **Site License for Vehicle Training at MCAS Tustin**

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#### **Contact(s) for Further Information**

Rob Capobianco, Assistant Chief  
EMS/Training and Promotions

[robcapobianco@ocfa.org](mailto:robcapobianco@ocfa.org)

714.573.6008

#### **Summary**

This agenda item is submitted to request approval of a proposed License For Use of Property at former Marine Corps Air Station, Tustin. This license will authorize for the Orange County Fire Authority to access a portion of the concrete tarmac property at the former Marine Corps Station - for driver training activities. The OCFA will set up a driving cone course to be used for training during the Fire Apparatus Engineer Academy from April 8 – 29, 2024.

#### **Prior Board/Committee Action**

Not Applicable.

#### **RECOMMENDED ACTION(S)**

Approve and authorize the Fire Chief to execute the attached, no-cost License For Use of Property at former MCAS Tustin for access for OCFA training purposes (License Number 24-005).

#### **Impact to Cities/County**

Not Applicable.

#### **Fiscal Impact**

Not Applicable. The proposed license is no-cost.

#### **Background**

The Operations Training and Promotions Division is responsible for employee development throughout their careers. Based on an occupational needs assessment, the section analyzes current and predicted vacancies as well as the required needs and minimum qualifications of the employees for promotion. Based upon these numbers, the section organizes and coordinates the required classes needed in the development of each employee in preparation for promotion. Additionally, the section utilizes state and federal standards to develop an application and testing process for each rank. This ultimately concludes with an evaluative academy that results in high quality, promotable employees of each rank.

The promotion to the rank of Fire Apparatus Engineer (FAE) requires the successful completion of an academy. The FAE Academy is a competitive promotional academy lasting 8 weeks with a minimum of 320 hours of instruction and practice. To get into the academy, candidates must have scored 80% or better on written and oral evaluations encompassing department policy, standard operating procedures, DMV policy, pump theory, and hydraulics. Additionally, candidates must have also attended a 24-hour FAE Development Series covering pre-trip, driving, water supply, pump

theory, hydraulics and more.

During the first three weeks of the FAE academy, each candidate must perform a minimum of three hours on a cone course and three hours of a driving course per week. Additionally, when candidates aren't driving, they are practicing and being taught other FAE skills. During the third week, each candidate is tested on the cone course for 30 minutes and on the driving course for one hour. The skills performed here establish the baseline to allow drivers and cadre to feel confident in applying the other FAE functions and to build on the comprehensive training.

After the initial three weeks, FAEs are pushed even harder, with more driving, pumping and aerial spotting scenarios. Each will spend a week practicing driving our aerial apparatus including the Tractor Drawn Aerials or TDA's. They will then spend another week driving offroad, utilizing Type 1, Type 3, Type 6 engines, and water tenders. All this training relies on the baseline skills developed during the first three weeks of driving on the controlled environment of a cone course.

Securing an adequately sized area to accommodate a 3-week cone course for such diverse, large vehicles has become a challenge for the Authority. Up to this point, OCFA has been fortunate to be able to partner with the City of Irvine for use of undeveloped areas on the Great Park. Knowing access to the existing training site at the Great Park was going to end at some point due to plans for development, the Training section has been exploring other options.

The giant concrete pad on the Tustin Hanger property is an excellent location that is close to the RFOTC and large enough to accommodate these training needs. This site is not open to the public, and will allow us to leave the cone course set up for the duration of the academy.

The proposed License For Use of Property is offered by the City at no-cost, but the form of license required by the Navy and the City requires OCFA to provide evidence of insurance and to indemnify the City and the Navy in the event of any claims related to the training activities. Pursuant to existing Board policy, because the proposed indemnification is not a mutual indemnification, the proposed License requires Board or Executive Committee approval. For all the reasons above, staff recommends approval of the attached no-cost License.

#### **Attachment(s)**

1. License For Use of Property At Former MCAS Tustin (24-005)
2. License General Provisions

|  |   |   |   |  |
|--|---|---|---|--|
| <b>LICENSE FOR USE OF PROPERTY AT FORMER MCAS TUSTIN</b><br><input type="checkbox"/> <b>WITHIN CITY OF TUSTIN DEED AREA</b> <input checked="" type="checkbox"/> <b>WITHIN NAVY LICENSED PARCEL 18</b><br><input type="checkbox"/> <b>WITHIN NAVY-LEASED LIFOC AREA</b>   |   |   | <b>LICENSE NUMBER</b><br><br><span style="font-size: 24pt;"><b>24-005</b></span>                  |  |
| <b>THIS LICENSE TO USE FORMER MARINE CORPS AIR STATION (MCAS) TUSTIN PROPERTY HEREIN DESCRIBED IS ISSUED BY THE CITY OF TUSTIN, AS THE PROPERTY'S DEED HOLDER OR AS LESSEE OF THE DEPARTMENT OF THE NAVY FOR THE PROPERTY WITHIN THE LEASED LIFOC AREA TO THE LICENSEE NAMED BELOW FOR THE PURPOSE HEREIN SPECIFIED UPON THE TERMS AND CONDITIONS SET FORTH BELOW, BY THE EXECUTION HEREOF THE LICENSEE AGREES TO COMPLY WITH ALL SUCH TERMS, CONDITIONS AND GENERAL PROVISIONS.</b> |   |   |   |  |
| <b>1. PROPOSED ACTIVITY</b><br>Training on Parcel 18 concrete tarmac.  |   | <b>2. DATES COVERED</b> (inclusive)<br>April 8-11, 15-18 and 25-29, 2024<br><br>*Unless otherwise specified in Section 11.2           |   |  |
| <b>3. DESCRIPTION OF PROPERTY</b><br>Concrete tarmac portion of APN 430-284-01 (portion of Reuse Parcel 18) as depicted in Exhibit A.  |   |   |   |  |
| <b>4. PURPOSE OF LICENSE</b><br>Authorize OCFA to access the Reuse Parcel 18 concrete tarmac property for fire training activities.  |   |   |   |  |
| <b>5. LICENSOR</b><br>City of Tustin<br>300 Centennial Way<br>Tustin, CA 92780   |   | <b>5a. AUTHORIZED REPRESENTATIVE</b><br>Nicole Bernard, Acting City Manager<br>300 Centennial Way, Tustin, CA 92780<br>(714) 573-3012 |   |  |
| <b>6. LICENSEE</b><br>Orange County Fire Authority<br>1 Fire Authority Road<br>Irvine, CA 92602  |   | <b>6a. AUTHORIZED REPRESENTATIVE</b><br>Name, Title<br>Phone:<br>Email:   |   |  |
| <b>7. CASH PAYMENT BY LICENSEE</b> (Payable in advance)  |   |   |   |  |
| <b>a. AMOUNT</b><br><br>N/A  | <b>b. FREQUENCY PAYMENTS DUE</b><br>Prior to Start Date | <b>c. FIRST DUE DATE</b><br><br>N/A   | <b>d. TO:</b><br>City of Tustin, Attn: Finance Department<br>300 Centennial Way, Tustin, CA 92780 |  |
| <b>e. LATE CHARGE</b> (if late 5 business days after due, 10% of overdue amount)   |   |   |   |  |
| <b>8. DEPOSIT FOR UTILITIES, SERVICES. EQUIPMENT</b> (Payable in advance)  |   |   |   |  |
| <b>a. AMOUNT</b><br><br>N/A  | <b>b. FREQUENCY PAYMENTS DUE</b><br>N/A                 | <b>c. FIRST DUE DATE</b><br><br>N/A   | <b>d. TO:</b><br><br>N/A  |  |
| <b>9. SECURITY DEPOSIT – N/A</b>   |   |   |   |  |
| <b>10. INSURANCE REQUIRED AT EXPENSE OF LICENSEE</b>   |   |   |   |  |
| <b>TYPE</b>  |   | <b>MINIMUM AMOUNT</b>   | <b>DEDUCTIBLE/OTHER PROVISIONS</b>  |  |
| a. BROAD FORM COMPREHENSIVE, PUBLIC LIABILITY AND PROPERTY DAMAGE, FIRE AND EXTENDED COVERAGE  |   | \$2,000,000 for each occurrence   | SEE SECTION 11.   |  |
| b. WORKER'S COMPENSATION   |   | Per State Law   | SEE SECTION 11.   |  |
| <b>11. GENERAL PROVISIONS</b> (attached)<br>SEE ALSO SPECIAL PROVISIONS (SECTION 12), LEASE IN FURTHERANCE OF CONVEYANCE (LIFOC) AND QUITCLAIM DEED EXHIBIT C. IN THE EVENT OF ANY CONFLICT WITH THE GENERAL PROVISIONS OR SPECIAL PROVISIONS OF THIS LICENSE, THE LIFOC OR THE QUITCLAIM DEED, AS APPROPRIATE, SHALL PREVAIL AND OVERRIDE THE GENERAL AND SPECIAL PROVISIONS.   |   |   |   |  |
| <b>12. EXECUTION OF LICENSE</b>  |   |   |   |  |
| <b>FOR</b>   | <b>NAME, POSITION AND TITLE</b>                         | <b>SIGNATURE</b>  | <b>DATE</b>   |  |
| <b>APPROVED AS TO FORM</b>   | DAVID E. KENDIG<br>City Attorney                        |   |   |  |
| <b>CITY OF TUSTIN (LICENSOR)</b>   | JERRY CRAIG<br>Deputy Director of Economic Development  |   |   |  |
| <b>CITY OF TUSTIN (LICENSOR)</b>   | NICOLE BERNARD<br>Acting City Manager                   |   |   |  |
| <b>LICENSEE (Authorized by Board resolution)</b>   | NAME<br>Title   |   |   |  |

## 11. GENERAL PROVISIONS

- 11.1 The City of Tustin ("Licensor") hereby grants to the "Licensee" identified in item 6 of the "License For Use of Property at Former MCAS Tustin" ("License"), this temporary exclusive license to use the facilities described in Section 3 of this License and depicted on Exhibit A hereto (the "License Area").
- 11.2 This License shall commence at 7:00 AM PST on the first date noted on the cover sheet and shall continue until 7:00 PM PST on the final date.
- 11.3 The use of the License Area shall be limited to the purposes specified in Section 4 of the License. The License Area includes only a portion of the concrete tarmac as depicted in Exhibit A. Licensor or other licensees may be making other uses of the remainder of the tarmac and the surrounding property, which other uses may include, but not be limited to, parking, other commercial uses, commercial, non-profit, civic or other meetings or functions, or filming or related purposes. Licensor will endeavor to provide Licensee 72 hours' notice before such other uses commence when it is feasible to do so.
- 11.3.1 In the event that the tarmac (outside of the License Area) is used for filming or similar uses by another licensee (a "Filming Licensee"), it may be necessary to have intermittent brief periods of silence. If a use will require such intermittent periods of silence, Licensor, Licensee and the Filming Licensee will coordinate a system of communication of such silent periods upon request, and Licensee agrees to cooperate in accomplishing such intermittent periods of silence at no cost or liability to Licensor, except that for every six (6) hours of work lost by Licensee as a result of the periods of silence, an additional one-half (1/2) day will be added to the Finish Date at no additional cost to Licensee.
- 11.3.2 Prior to conducting any public relations or political events or tours, Licensee shall obtain written approval of the event from Licensor, which approval shall be at Licensor's discretion.
- 11.4 Licensee understands that the License Area is part of a former U.S. Naval installation, and agrees that it is licensing said License Area in an "as is, where is" condition, in its present condition and without liability to Licensor, without any representation, promise, agreement or warranty on the part of the Licensor regarding such condition and state of repair needed for Licensee's use or occupancy. The Licensee further acknowledges that the Licensor shall not be liable for any latent or patent defects in the License Area. Licensee agrees that it has inspected, or caused to be inspected, the License Area and determined that the License Area is suitable for the Licensee's intended use and occupancy. Licensor agrees to make the License Area open and available for inspection prior to the execution of this License, as long as the insurance required under Section 11.7 is provided in advance of such inspection.
- 11.5 This License shall be neither assignable nor transferable by the Licensee. Licensee shall not, without Licensor's prior written consent: (i) assign, convey, mortgage, pledge, encumber or otherwise transfer (whether voluntarily or otherwise) this License; or (ii) allow any transfer

of or any lien upon Licensee's interest by operation of law; or (iii) sublet the License Area or facilities or any part thereof; or (iv) permit the use or occupancy of the License Area or any part thereof by anyone other than Licensee, its officers, employees, agents, servants, guests, invitees, volunteers, contractors of Licensee, and subleasees. Notwithstanding the foregoing, Licensee shall have the right to assign, transfer, or license Licensee's rights in the recordings and/or Licensee's production, in whole or in part, at any time, to any person or entity.

- 11.6 No material additions to, alterations or improvements ("Improvement(s)") of the License Area shall be made by the Licensee without the prior written consent of the Licensor in each and every instance, including the Department of the Navy and the Licensor as it pertains to the respective properties, as applicable. If, and only if, Licensor consents in writing to Improvement(s), Licensee shall be required to secure all required approvals from all governmental agencies, including but not limited to the City of Tustin Community Development Department, and Public Works Department, prior to commencing such Improvement(s). In the event that Licensee desires to make Improvement(s) Licensee shall first submit to Licensor a written description of the proposed work, and if Licensor requires, plans and specifications relating thereto, and shall obtain Licensor's written approval prior to commencing such work. Any digging or subsurface activities of any kind on the License Area shall also require prior written approval from the Licensor and Department of the Navy, and if applicable, a Grading Permit from the City's Building Division.

11.7 Insurance and Indemnification:

11.7.1 Licensee shall provide, and cause each of its contractor(s) and subcontractors (if any) to provide, and maintain at its own expense during the term of this License the following insurance covering all activities proposed and any operations under this License. Such insurance shall be provided with insurers authorized to do insurance business in the State of California, with a rating of at least Am VII or better or A-, X (if offered by a surplus line carrier) according to the latest Best's Key Rating Guide, except that the City will accept Workers Compensation Insurance rated B-VIII or better or from the State Compensation Fund. Evidence of such insurance in the form of Certificates and Insurer Endorsements shall be delivered to City prior to commencing work. The Insurer Endorsements (or a copy of the policy binder, if applicable) shall provide that (1) said insurance shall not be cancelled, except if the insurer provides Licensor thirty (30) days written notice of any cancellation or termination of insurance; (2) commercial general (or aviation) liability and automotive insurance shall be primary to and not contributing with any other insurance maintained by City, and shall name "the City of Tustin, the Department of the Navy and the Successor Agency to the Tustin Community Redevelopment Agency and their respective officers and employees" (collectively "City Insured Parties"), as additional insureds, and shall provide that all losses shall be payable notwithstanding any act or failure to act or negligence of City, or any other person; (3) shall contain a provision that the insurer waives any right of subrogation against the City Insured Parties which may arise by reason of any payments made under a policy; and (4) if Licensee is self-insured for Workers Compensation, Licensee shall submit to City a copy of its certification of self-

insurance. All insurance shall be maintained on an occurrence basis and shall include the following:

1. Commercial General (or Aviation) Liability. Commercial General (or Aviation) Liability and property damage insurance, contractual, broad form property damage, and bodily injury or death, with a combined single limit of not less than \$1,000,000 per occurrence with respect to personal injury or death, and \$1,000,000 per occurrence with respect to property damage, and if written with an aggregate, the aggregate shall be double the per occurrence limit.
2. Automobile Liability. Automobile Liability Insurance with coverage insurance written on a per occurrence basis with limits of at least \$1,000,000 combined limit for each occurrence covering bodily injury 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.
3. Workers' Compensation Insurance. To the extent that Licensee has employees, workers' compensation insurance in an amount and form meeting all applicable requirements of the California Labor Code, covering all employees of Licensee and all risks to such persons.
4. Verification of Coverage. The insurer endorsements required herein are to be signed by a person authorized by that insurer to bind coverage on its behalf. All endorsements are to be received and approved by Licensor.
5. Failure by Licensee to procure or maintain all required insurance shall constitute an Event of Default, upon which Licensor may immediately terminate this License. Licensee's operations shall be subject to suspension by Licensor during any period Licensee fails to maintain any required insurance in full force and effect. The existence or non-existence of insurance shall not in any way affect or reduce the obligations of the Licensee to defend and indemnify Licensor or any other indemnified party under Section 11.7.2, or any other indemnification provision in this License.

11.7.2 Licensee shall defend, indemnify, and save harmless Licensor (the City of Tustin), the U.S. Department of the Navy, and the Successor Agency to the Tustin Community Redevelopment Agency and their agents and employees, officers and managers from, and shall pay all costs, expenses and reasonable attorney's fees for all proceedings in connection with any and all third-party claims and demands, actions, proceedings, losses, liens, costs and judgments of any kind and nature whatsoever, including expenses incurred in defending against legal actions, for death or injury to persons or damage to property and for civil fines and penalties to the extent related to the activity during the dates listed in Section 2 , its officers, employees, agents,

servants, guests, invitees, volunteers, contractors, or subleasees, including the following:

- a. Any operation conducted upon or any use or occupation of the License Area by Licensee, its officers, agents, or employees under or pursuant to the provisions of this License or otherwise, except to the extent such claim, demand, action, etc., is caused by the sole negligence or willful misconduct of Licensor;
- b. Any act, omission, or negligence of Licensee its officers, agents, or employees;
- c. The loss of, or damage to any property of Licensee by theft or otherwise;
- d. Any failure of Licensee, its officers, agents, or employees to comply with the terms or conditions of this License, or any applicable federal, state, regional or municipal law, ordinance, rule or regulation related to the use or occupancy of the License Area.

11.7.3 Notification of Hazardous Substances. Licensee acknowledges and understands that the License Area may have been used in the past for military or industrial purposes and that hazardous substances may have been released on and beneath said property. In the Department of the Navy's license of the License Area to the City of Tustin, the Navy provided notice in the Finding of Suitability to Lease for Carve-Out Areas 5, 6, 7, 8, 9, 10, and 11 (see Exhibit C of this License), that certain hazardous substances may have been stored for one year or more, released or disposed of on the License Area. The type and quantity of such hazardous substances, the time at which such storage, release or disposal took place, to the extent such information is available, and a description of the remediation action taken, if any is contained in Exhibit C. **The Licensee acknowledges and agrees that they have reviewed Exhibit C and all environmental restrictions, covenants and restrictions which shall be binding on any Licensee activities on the License Area.** Licensor acknowledges that Licensee is not responsible for any Licensor-initiated storage, release, or disposal within the License Area. Pursuant to Exhibit C, Licensee acknowledges that the Federal Government has the right to access the License Area in any case in which a response or corrective action is found necessary on the License Area or such access is necessary to carry out a response action or corrective action on adjoining property. This Federal Government action may require the Licensor to require that the Licensee to vacate the License Area for such period of time, and to such extent, as the Federal Government may determine in good faith is necessary to abate the danger. Neither the City of Tustin nor the Federal Government shall be liable for the exercise of this authority. The right to enter shall include the right to conduct tests, investigations and surveys, including where necessary drilling, test-pitting, boring and other similar activities. Such right shall also include the right to construct, operate, maintain or undertake any other response or corrective action as required or necessary, including, but not limited to monitoring wells, pumping wells, treatment facilities and the installation of associated utilities.

11.7.4 Licensee acknowledges that Licensor's rights to the property arise solely under the license between Licensor and the United States of America executed October 5, 2022 (Navy License). Notwithstanding any provisions of this License, Licensee hereby agree as follows: (1) Licensee shall be bound by and perform all of the terms and conditions to be performed by Licensor under the Navy License to the extent applicable to the License Area and/or Licensee's occupancy under this License; (2) Licensee shall comply with all covenants and conditions of the Navy License respecting Licensor's use and occupancy of the License Area; (3) Licensee shall not intentionally do or permit anything to be done in or on the License Area which will cause the occurrence of a default by Licensor under the Navy License; (4) Licensee shall defend, indemnify and hold Licensor harmless from and against any third-party cost, claim, liability, loss or damage to the extent directly occurring by reason of Licensee's breach or default of this License, including, without limitation, the cost of cure, loss of the Navy License, and any attorneys' fees and disbursements incurred in connection with the foregoing; (5) if the Navy License expires or is terminated for any reason, including without limitation, any default by the Licensor or United States of America thereunder, or the United States of America's election to exercise any right to terminate, then this License shall thereupon terminate, without any liability to Licensor (unless such expiration or termination is caused by a material default of Licensor under the Navy License), as if such date were the scheduled expiration date of the term. Licensor shall take all reasonable actions to keep the Navy License in full force and effect during the term of this License. Notwithstanding the preceding sentence, Licensor shall not be required to initiate any legal action. In the event of any conflict in the rights of Licensee under this License and the rights of Licensor under the Navy License, the terms and covenants of the Navy License shall control. Licensor confirms that it is authorized under the Navy License to sublease the License Area for the Licensee's proposed activity. A link to a copy of the Navy License is included with Exhibit C.

## 11.8 Damage and Destruction; Release:

11.8.1 In the event of damage or loss to any improvements situated on the License Area caused by the negligent acts or omissions of Licensee, Licensee shall take all appropriate steps to erect necessary structures to preclude unauthorized access to the License Area and otherwise mitigate hazardous and unsafe conditions within the License Area caused by the damage and destruction. In the event that damage and destruction to the License Area caused by the negligent acts or omissions of Licensee render the License Area unusable for their intended purposes, this License shall terminate in accordance with applicable provisions herein by written notice to Licensor. In such event, Licensee shall be responsible for removing its property from the License Area including all hazardous materials it brought to the License Area, and for reporting, containing, removing and cleaning up any land, air and water pollution resulting from the damage and destruction which is attributable to Licensee's use of the License Area. Such responsibilities will be carried out by Licensee in a timely manner with due consideration for human health and safety and the protection of the environment.



## 11.8.2 Release

11.8.2.1 Notwithstanding anything to the contrary in this Section 11, Licensee acknowledges that Licensor has agreed not to require that Licensee provide and maintain property insurance for the License Area. In consideration therefor, Licensee, on behalf of itself, its members, principals, officers, elected officials beneficiaries, trustees, shareholders, partners, heirs, personal representatives, invitees, contractors, subcontractors, successors and assigns (collectively, the “Releasing Parties”), as the case may be, hereby waives the right to recover from and fully and irrevocably releases the City of Tustin and the Successor Agency to the Tustin Community Redevelopment Agency and their respective officers, elected officials, employees, consultants, agents, representatives and contractors (collectively, the “Released Parties”), from and against any and all liabilities, claims, demands, damages, losses, claimed or anticipated profits, expenses, disbursements, professionals’ or consultants’ fees and expenses, obligations, fines, penalties, actions, causes of action, suits and costs, known or unknown, matured or unmatured, including, without limitation, reasonable attorneys’ fees and costs and expenses of litigation, of every kind and nature (collectively, “Claims”) that each of the Releasing Parties may now have or hereafter acquire arising from or related to the damage or destruction of any improvements located on the License Area, excepting from the foregoing release only those Claims which arise from the willful misconduct or sole negligence of a Released Party. This release includes Claims of which the Releasing Parties and all of the Released Parties are presently unaware or which the Releasing Parties and any of the Released Parties do not presently suspect to exist which, if known by the Releasing Parties, would materially affect the Releasing Parties’ decision to release the Released Parties. The Releasing Parties specifically waive the protection of California Civil Code Section 1542, which provides as follows:

“A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED THIS SETTLEMENT WITH THE DEBTOR.”

In this connection and to the extent permitted by law, the Releasing Parties realize and acknowledge that factual matters now unknown to it may have given or may hereafter give rise to Claims or controversies which are presently unknown, unanticipated and unsuspected, and the Releasing Parties further agree that the waivers and releases herein have been negotiated and agreed upon in light of that realization and that the Releasing Parties nevertheless hereby intend to release, discharge and acquit the Released Parties from any such unknown Claims to the extent that such

unknown Claims are not known, anticipated or suspected by any Released Parties or caused by the sole negligence or willful conduct of any one or more Released Parties.

LICENSEE HAS AGREED TO ENTER INTO THIS LICENSE AND HAS GIVEN THE RELEASED PARTIES MATERIAL CONCESSIONS REGARDING THIS TRANSACTION IN EXCHANGE FOR THE RELEASED PARTIES AGREEING TO THE PROVISIONS OF THIS SECTION 11.8.2.1 BY INITIALING BELOW, LICENSEE ACKNOWLEDGES THAT (A) IT HAS READ AND FULLY UNDERSTANDS THE PROVISIONS OF THIS SECTION 11.8.2.1, (B) IT HAS HAD THE CHANCE TO ASK QUESTIONS OF ITS COUNSEL ABOUT ITS MEANING AND SIGNIFICANCE, AND (C) IT HAS ACCEPTED AND AGREED TO THE TERMS SET FORTH IN THIS SECTION 11.8.2.1.

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LICENSEE

11.8.2.2 Notwithstanding anything to the contrary in this Section 11, Licensee acknowledges that Licensor has agreed not to require that Licensee provide and maintain property insurance for the License Area. In consideration therefor, Licensee, on behalf of itself, its members, principals, officers, elected officials beneficiaries, trustees, shareholders, partners, heirs, personal representatives, invitees, contractors, subcontractors, successors and assigns (collectively, the "Releasing Parties"), as the case may be, hereby waives the right to recover from and fully and irrevocably releases the US Department of the Navy and their respective officers, employees, consultants, agents, representatives and contractors (collectively, the "Released Parties"), from and against any and all liabilities, claims, demands, damages, losses, claimed or anticipated profits, expenses, disbursements, professionals' or consultants' fees and expenses, obligations, fines, penalties, actions, causes of action, suits and costs, known or unknown, matured or unmatured, including, without limitation, attorneys' fees and costs and expenses of litigation, of every kind and nature (collectively, "Claims") that each of the Releasing Parties may now have or hereafter acquire arising from or related to the damage or destruction of any improvements located on the License Area excepting from the foregoing release only those Claims which arise from the willful misconduct or sole negligence of a Released Party. This release includes Claims of which the Releasing Parties and each of the Released Parties are presently unaware or which neither the Releasing Parties nor any of the Released Parties presently suspect to exist which, if known by the Releasing Parties, would materially affect the Releasing Parties' decision to release the Released Parties. The Releasing Parties specifically waive the protection of California Civil Code Section 1542, which provides as follows:

“A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED THIS SETTLEMENT WITH THE DEBTOR.”

In this connection and to the extent permitted by law, the Releasing Parties realize and acknowledge that factual matters now unknown to it may have given or may hereafter give rise to Claims or controversies which are presently unknown, unanticipated and unsuspected, and the Releasing Parties further agree that the waivers and releases herein have been negotiated and agreed upon in light of that realization and that the Releasing Parties nevertheless hereby intend to release, discharge and acquit the Released Parties from any such unknown Claims to the extent that such unknown Claims are not known, anticipated or suspected by any Released Parties or caused by the sole negligence or willful conduct of any one or more Released Parties.

LICENSEE HAS AGREED TO ENTER INTO THIS LICENSE AND HAS GIVEN THE RELEASED PARTIES MATERIAL CONCESSIONS REGARDING THIS TRANSACTION IN EXCHANGE FOR THE RELEASED PARTIES AGREEING TO THE PROVISIONS OF THIS SECTION 11.8.2.2 BY INITIALING BELOW, LICENSEE ACKNOWLEDGES THAT (A) IT HAS READ AND FULLY UNDERSTANDS THE PROVISIONS OF THIS SECTION 11.8.2.2, (B) IT HAS HAD THE CHANCE TO ASK QUESTIONS OF ITS COUNSEL ABOUT ITS MEANING AND SIGNIFICANCE, AND (C) IT HAS ACCEPTED AND AGREED TO THE TERMS SET FORTH IN THIS SECTION 11.8.2.2.

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LICENSEE

- 11.9 Licensee will at all times during the use of the License Area promptly observe and comply, at its sole cost and expense, with the provisions of all applicable Federal, State, and local laws, regulations, and standards concerning environmental quality and pollution control and abatement, with respect to its use of the License Area. Licensee covenants that it will not improperly generate, use, or store hazardous substances or hazardous waste on the License Area. Licensee shall promptly notify the City of Tustin and supply copies of any notices, reports, correspondence, and submissions made by Licensee to any Federal, State, or local authority, or received by Licensee from said authority, concerning environmental matters or hazardous substances or hazardous waste on, about, or pertaining to the License Area. Licensee shall defend, indemnify and hold harmless the City of Tustin from and against all third-party claims, liabilities, losses, damages and costs, foreseen or unforeseen, which the City of Tustin may incur by reason of Licensee's action or non-action with regard to obligations

under this paragraph, and this provision shall survive the expiration or termination of the License.

- a. Licensee shall at a minimum maintain, keep and restore the License Area to the same condition as originally provided by the Licensor at its sole cost and expense, reasonable wear and tear expected.
- b. Licensee shall not make or permit to be made any use of the License Area or any part thereof (i) which would violate any of the covenants, agreements, terms, provisions, and conditions of this License; or (ii) which would directly or indirectly violate any federal, state or local law, ordinance, rule or governmental regulation; or (iii) which will suffer or permit the License Area or any part thereof to be used in any manner or permit anything to be brought onto or kept thereon which, in the reasonable judgment of Licensor, shall in any way impair or tend to impair the character, reputation or appearance of the License Area or which will impair or interfere with or tend to impair or interfere with any of the services performed by Licensor.
- c. Licensee shall not display, inscribe, print, maintain or affix on any place in or about the License Area any sign, notice, legend, direction, figure or advertisement, except as may be approved by Licensor in writing.
- d. Licensee shall comply with all laws, enactments, rules, ordinances and regulations of all governmental authorities relating or applicable to Licensee's occupancy of the License Area governing use of the License Area. Licensee shall obtain all permits and licenses required by the City of Tustin and shall pay all required fees.

#### 11.10 Discrimination and Equal Opportunity.

11.10.1 The Licensee covenants and agrees for itself and for every person claiming by, through or under Licensee, that (a) it shall not discriminate against any employee or applicant for employment on any basis prohibited by law and (b) it has received, read, understands and agrees to be bound with respect to the entirety of the License and License Area and by the non-discrimination covenant contained in the Navy License which states as follows:

***“Non-Discrimination.** In connection with the performance of work under this License, the Licensee (City of Tustin) agrees not to discriminate against any employee or applicant for employment because of race, religion, color, sex, sexual orientation, gender identity, or national origin. Non-discrimination shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Licensee*

*agrees to post in conspicuous places available for employees and applicants for employment, notices to be provided by the Licensor setting forth the provisions of the nondiscrimination clause. The Licensee further agrees to insert the foregoing provision in all subcontracts for work under this License, except subcontracts for standard commercial supplies or raw materials.*

The Licensee shall provide equal opportunity in all employment practices.

- 11.11 In addition to access required under other provisions of this License, the Licensor and the Department of Navy and their representatives shall be allowed access to the License Area at all times throughout the term of this License and as further shown on Exhibit A, for any purpose without prior written notice to the Licensee. The Licensee shall ensure that the Licensor has a current roster of on-call personnel and their phone numbers, including an up-to-date 24-hour contact person and phone number. Licensee shall have no claim on account of any entries against the City of Tustin, Department of the Navy, or any officer, agent, employee, contractor or subcontractor thereof.
- 11.12 Violation of any requirement listed in Section 11 or any of the Special Provisions identified in Section 12 shall, at Licensor's sole option, be grounds for immediate termination of the License, at no cost or liability to the Licensor; provided, however, where such any such violation does not constitute an immediate threat to health and safety and is capable of being promptly rectified, Licensor shall provide Licensee with written notice of any such violation, if any, and a reasonable opportunity to cure the same prior to any termination of the License by Licensor.
- 11.13 Upon expiration, termination, or surrender of this License (except in the event of damage or destruction under Section 11.8.1), to the extent directed by the Licensor, the Licensee shall remove all temporary facilities made or installed on the License Area, and restore the License Area to the same or as good condition as existed on the date of entry under this License, reasonable wear and tear expected.
- 11.14 The location of the proposed use shall substantially conform to Exhibit A and Section 3 of License (Description of Property). Any modifications will need to be provided and approved in writing by the signatory of the Licensor, or their designee and will then be incorporated into the License Agreement by written amendment.
- 11.15 The Licensee shall comply with all requirements of the Occupational Safety and Health Administration.
- 11.16 Trash disposal shall comply with CR&R Incorporated and City of Tustin standards.
- 11.17 All requirements of the City's Noise Ordinance (Chapter 6 of the Tustin City Code) shall be met at all times. Licensee shall provide Licensor with the cell phone number of one or more individuals, at least one of whom will be located on the premises at all times that operations are occurring, and each of whom shall have authority to take corrective measures

to ensure compliance with the noise ordinance in the event that Licensor receives complaints regarding noise from others.

- 11.18 The Licensee may not access, nor permit any of its officers, employees, agents, servants, guests, invitees, volunteers, contractors, or subleasees to access any areas other than the License Area described in Section 3 of this License, and depicted on Exhibit A hereto.
- 11.19 The Licensee shall ensure controlled access to the License Area is maintained via the Parcel 18 Gate near the intersection of Armstrong Avenue and Victory Road as identified in the Special Provisions and in Exhibit A. **The Parcel 18 Gate shall be the Licensee's sole authorized access to the License Area and Licensee will be responsible for ensuring that no unauthorized persons or vehicles access the License Area and overall Tustin Legacy property.** The Licensee shall check in with Security or have an individual posted at the gate at all times while gate is in use. The general public, members of the media, etc. are not permitted access without receiving prior written permission from the Licensor. Access to any other areas or buildings other than the License Area is expressly prohibited unless prior written authorization has been granted by Licensor.

BY INITIALING BELOW, LICENSEE ACKNOWLEDGES THAT (A) IT HAS READ AND FULLY UNDERSTANDS THE PROVISIONS OF THIS SECTION 11.19, (B) IT HAS HAD THE CHANCE TO ASK QUESTIONS OF ITS COUNSEL ABOUT ITS MEANING AND SIGNIFICANCE, AND (C) IT HAS ACCEPTED AND AGREED TO THE TERMS SET FORTH IN THIS SECTION 11.19.

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LICENSEE

- 11.20 Except for ingress and egress, the Licensee must keep the Parcel 18 Gate and adjacent roadways free and clear at all times. The Licensee is responsible for securing the site; including keeping all doors and gates closed and locked during hours when use of the site is not permitted.
- 11.21 Licensor is not responsible for providing security services for the Licensee, the Licensee's equipment or property, or the site during the license period.
- 11.22 WAIVER OF CLAIMS.

11.22.1 As a material part of the consideration to be rendered to Licensor for this License, Licensee hereby waives any and all claims or causes of action against the City of Tustin and the Successor Agency to the Tustin Community Redevelopment Agency and their respective officers, agents, or employees which it may now or hereafter have for damages to, loss of, or theft of Licensee's vehicles or other property anywhere in, about, or on the Former Marine Corps Air Station (MCAS) Tustin property, including, but not limited to, the License Area, from any cause whatsoever, unless such damage, loss, or theft results from the sole

negligence, gross negligence or willful misconduct of the City of Tustin or the Successor Agency to the Tustin Community Redevelopment Agency or their officers, agents, or employees.

11.22.2 As a material part of the consideration to be rendered to Licensor for this License, Licensee hereby waives any and all claims or causes of action against the US Department of the Navy and their respective officers, agents, or employees which it may now or hereafter have for damages to, loss of, or theft of Licensee's vehicles or other property anywhere in, about, or on the Former Marine Corps Air Station (MCAS) Tustin property, including, but not limited to, the License Area, from any cause whatsoever.

- 11.23 BAILEE DISCLAIMER. Licensee acknowledges and agrees that Licensor has granted its permission for use of the License Area only for the purposes and in accordance with the provisions of this License. By entering into this License, Licensor is not agreeing in any manner to accept obligations or responsibility for the safekeeping of the vehicles or other property of Licensee or of Licensee's agents, contractors, officers, employees or invitees. This License is not a contract for bailment or deposit of goods for safekeeping and Licensor in no manner whatsoever purports to be a bailee.
- 11.24 The interim use shall be discontinued and the License Area cleared of all debris, and stored items upon termination of the original and any written approved extension of the term of this License as may be granted by the Licensor, which in any event shall not be later than one (1) day following termination of this Agreement by the Finish Date and Time per Section 11.2. The License Area shall be returned to the same condition as existed prior to commencement of this License to the satisfaction of the Licensor.

#### PUBLIC WORKS

- 11.25 The Licensee shall not alter the existing drainage patterns or drainage facilities serving the License Area without the permission of the Licensor and City Engineer.
- 11.26 This development shall comply with all provisions of the City of Tustin Water Quality Ordinance and all Federal, State, and Regional Water Quality Control Board rules and regulations, including keeping the licensed site, and public roadways, including but not limited to Armstrong Avenue, clear of any dirt or mud tracked out of the parking area.

#### COMMUNITY DEVELOPMENT

- 11.27 Any and all subcontractors of Licensee must have all required permits, licenses, approvals insurance etc. for proposed activities from the appropriate entities. Example: drone usage.

## **12. SPECIAL PROVISIONS**

### **Use:**

12.1 Intentionally omitted.

12.2 Licensee shall defend, indemnify and hold the City of Tustin and Department of the Navy and their employees, officers, managers, agents and contractors (collectively the "Indemnified Parties") harmless from any costs, expenses, liabilities, fines or penalties resulting from discharges, emissions, spills, storage, or disposal of toxic, hazardous or solid waste substances or pollutants or contaminants arising from occupancy, use or operations, or any other action, by Licensee, Licensee's employees, contractors, subcontractors, or any person or entity associated with the Licensee giving rise to liability, civil or criminal, or any other action by Licensee giving rise to responsibility under federal, state, or local environmental laws, or to any claim or assertion thereof (collectively referred to herein as "Covered Claims"). Licensee's obligations hereunder shall apply whenever an Indemnified Party incurs costs, liabilities, or defense costs directly or indirectly resulting from a Covered Claim. This provision shall survive the expiration or termination of this License. Environmental contamination in existence at the License Area prior to the term of this License and the continued migration of existing environmental contamination shall not be construed as a discharge, spill, release, emission, storage, or disposal by the Licensee, except to the extent that the Licensee's use, occupancy or operations aggravate, accelerate, or otherwise exacerbate the migration.

12.3 The Licenser will not be responsible for any lost, stolen or damaged property of Licensee or Licensee's employees, contractors, subcontractors, or any person or entity associated with the Licensee.

12.4 No utilities or services will be provided.

12.5 No smoking or alcohol consumption is permitted anywhere on or within the License Area.

12.6 The License Area may become unusable due to rain or other types or precipitation. Licenser reserves the right to restrict access to the License Area under certain weather conditions.

12.7 Any driving within the License Area is limited to 30 MPH. K-rail or similar protective measures must be put in place for any activities over that speed limit.

### **Access:**

12.8 Activities will be coordinated with Licenser's Representative.

12.9 Licensee and Licenser will jointly inspect the License Area prior to (within 5 days prior to the Start Date) and following Licensee's use of the License Area, noting in writing, all existing damage and trash, if any. Licensee shall notify the Licenser 48 hours in advance of License termination and departure to arrange for a site walk-through for inspection purposes. Licenser agrees to submit to Licensee a detailed list in writing, within fifteen (15) days of the Licensee vacating the License Area, of all claimed damages to the License Area for which Licensee is



allegedly responsible. Licensor shall permit Licensee's representatives to inspect such damage. In the event that any damage to the License Area is caused by Licensee, Licensee's employees, contractors, subcontractors, or any person or entity associated with the Licensee, Licensee agrees to pay for and/or perform all necessary repairs.

12.10 Licensee acknowledges that the License Area contains areas where environmental issues are known to exist (for example, lead based paint, asbestos, mold, etc.) and to the best of Licensor's knowledge, those areas are locked and posted accordingly. As a result, and for the safety of Licensee and its employees and other invitees, **access to any locked or posted area is prohibited at all times.**

**Environmental:**

12.11 Licensee shall not use or access groundwater, and shall not disturb or cause to disturb groundwater monitoring wells and equipment. The existing above- and below-ground remediation and monitoring equipment is owned by the Department of the Navy. The Licensee shall be responsible to repair to the satisfaction of the Department of the Navy any damage associated with this equipment caused by Licensee, which are primarily located along the north, south, and east side of the hangar as depicted in Exhibit A.

12.12 Licensee shall not conduct any subsurface excavation, digging, drilling or other disturbance of the surface without the prior written approval of Licensor and/or Department of the Navy. In the event the Licensor authorizes any subsurface work, the Licensee acknowledges that it is solely responsible to determine the location of all utilities and subsurface structures that may pose any danger to themselves or others. In addition to releasing the Licensor for any and all liability for subsurface utilities and structures, the undersigned hereby agrees to indemnify, defend and hold harmless the City of Tustin, its Directors, Officers, Agents, Employees, Engineers and Consultants from any and all claims, judgments, costs and demands which arise out of or are in any way related to the operations of the undersigned, including but not limited to any excavation, drilling or other underground or subsurface work which the undersigned or its contractors, subcontractors or others perform at MCAS-Tustin.

12.13 Licensee is prohibited from storing, treating or disposing of any toxic or hazardous materials, including any materials that are explosive, flammable or pyrotechnic in nature without obtaining prior written authorization from the Licensor (which approval shall not be unreasonably withheld) and any other applicable approval authority (Department of the Navy, Orange County Fire Authority, etc.).

12.14 Licensor's rights under this License specifically include the right for Licensor officials to inspect upon reasonable notice the License Area for compliance with environmental, safety and occupational health laws and regulations, whether or not Licensor is responsible for enforcing them. Such inspections shall not interfere with Licensee's activities unless immediate entry is required for safety or security reasons or in the event of an emergency. Such inspections are without prejudice to the right of duly constituted enforcement officials to make such inspections. Licensor normally will give Licensee (24) hours prior notice of its intention to enter premises unless it determines the entry is required for safety, environmental, operations or security purposes.

Licensee shall have no claim on account of any entries against the City of Tustin, Department of the Navy, or any officer, agent, employee, contractor or subcontractor thereof.

## EXHIBIT A

### Description of License Area

Concrete tarmac portion of APN 430-284-01 (portion of Reuse Parcel 18)

Attachment 1: Access and License Area

Attachment 2: Description of Activities

## EXHIBIT B

### Certificate of Insurance and Insurer Endorsements

## EXHIBIT C

“License between Licensor and the United States  
of America, dated October 5, 2022”

*[Licensor has made the document available for viewing at*  
*[https://tustinca-](https://tustinca-my.sharepoint.com/:b:/g/personal/kpiguee_tustinca_org/EXNX7PwrKMVGn_XdwzCO_ZwBFs0Ob3KeGGnsa9-i78JlwA?e=BtDe6l)*  
*[my.sharepoint.com/:b:/g/personal/kpiguee\\_tustinca\\_org/EXNX7PwrKMVGn\\_XdwzCO\\_ZwBFs0](https://tustinca-my.sharepoint.com/:b:/g/personal/kpiguee_tustinca_org/EXNb03VHp9Dt19I51OM0sIB806kZh06kWbkHdsspZkQ0g?e=RhA9I6)*  
*[Ob3KeGGnsa9-i78JlwA?e=BtDe6l](https://tustinca-my.sharepoint.com/:b:/g/personal/kpiguee_tustinca_org/EXNb03VHp9Dt19I51OM0sIB806kZh06kWbkHdsspZkQ0g?e=RhA9I6) and [https://tustinca-](https://tustinca-my.sharepoint.com/:b:/g/personal/kpiguee_tustinca_org/EXNb03VHp9Dt19I51OM0sIB806kZh06kWbkHdsspZkQ0g?e=RhA9I6)*  
*[my.sharepoint.com/:b:/g/personal/kpiguee\\_tustinca\\_org/EXNb03VHp9Dt19I51OM0sIB806kZh0](https://tustinca-my.sharepoint.com/:b:/g/personal/kpiguee_tustinca_org/EXNb03VHp9Dt19I51OM0sIB806kZh06kWbkHdsspZkQ0g?e=RhA9I6)*  
*[6kWbkHdsspZkQ0g?e=RhA9I6](https://tustinca-my.sharepoint.com/:b:/g/personal/kpiguee_tustinca_org/EXNb03VHp9Dt19I51OM0sIB806kZh06kWbkHdsspZkQ0g?e=RhA9I6) due to its large size.]*

and

“Finding of Suitability to Lease Parcel 18”

*[Licensor has made the document available for viewing at*  
*[https://tustincagcc-](https://tustincagcc-my.sharepoint.com/:b:/g/personal/kpiguee_tustinca_org/EUpd_0LjlidGiwMA9J37gZoBLbaDmwV5ERq_m5EzTgK4rQ?e=yJG6co)*  
*[my.sharepoint.com/:b:/g/personal/kpiguee\\_tustinca\\_org/EUpd\\_0LjlidGiwMA9J37gZoBLbaDmw](https://tustincagcc-my.sharepoint.com/:b:/g/personal/kpiguee_tustinca_org/EUpd_0LjlidGiwMA9J37gZoBLbaDmwV5ERq_m5EzTgK4rQ?e=yJG6co)*  
*[V5ERq\\_m5EzTgK4rQ?e=yJG6co](https://tustincagcc-my.sharepoint.com/:b:/g/personal/kpiguee_tustinca_org/EUpd_0LjlidGiwMA9J37gZoBLbaDmwV5ERq_m5EzTgK4rQ?e=yJG6co) due to its large size.]*

**License 24-005**

Parcel 18 Tarmac Area  
License Area and Access Plan  
OCFA Training

Parcel 18 Gate  
(code 7457 or check  
in with security)

Armstrong Ave

Victory Rd

License Area

**License 23-007**

Exhibit A Attachment 1

**Legend**

License Area  
G - Generator