



AGENDA

City Council July 13, 2021

Rick Otto
City Manager

Gary A. Sheatz
City Attorney

Pamela Coleman
City Clerk

4:00 PM Employee Recognition 4:15 PM Closed Session 6:00 PM Regular Session

City Council Chamber
300 E. Chapman Avenue
Orange, CA 92866

MARK A. MURPHY
Mayor

KIMBERLEE NICHOLS
Mayor pro tem

CHIP MONACO
Councilmember

ARIANNA BARRIOS
Councilmember, District 1

JON DUMITRU
Councilmember, District 2

KATHY TAVOULARIS
Councilmember, District 3

ANA GUTIERREZ
Councilmember, District 5

The City of Orange City Council welcomes you to this meeting and encourages your participation. Regular City Council meetings are held on the second Tuesday of each month at 6:00 p.m.

Agenda Information

The agenda contains a brief general description of each item to be considered. The City Council may take legislative action deemed appropriate with respect to the item and is not limited to the recommended action indicated in staff reports or the agenda. The agenda and supporting documentation is available after 4:00 p.m. on the Thursday prior to the Council meeting on the City's website at www.cityoforange.org, at the City Clerk's Office located at 300 E. Chapman Avenue, and at the Main Public Library located at 407 E. Chapman Avenue. Written materials relating to an item on the agenda that are provided to the City Council after agenda packet distribution and within 72 hours before it is to consider the item will be made available for public inspection in the City Clerk's Office during normal business hours; at the City Council meeting; and made available on the City's website.

Public Participation

Regular meetings are televised live on Spectrum Cable Channel 3 and AT&T U-verse Channel 99, and streamed live and on-demand on the City's website at www.cityoforange.org.

Pursuant to Government Code Section 54954.3, members of the public may address the City Council on any agenda item before or during Council's consideration of the item, and on any other matters within the City Council's jurisdiction by using any of the following methods:

1) In-Person

To speak on an item on the agenda, complete a speaker card indicating your name and address, and identifying the agenda item number or subject matter you wish to address. The card should be given to the City Clerk prior to the start of the meeting. General comments are received during the "Public Comments" section at the beginning of the Regular Session. No action may be taken on off-agenda items unless authorized by law. Public Comments are limited to three (3) minutes per speaker unless a different time limit is announced. It is requested that you state your name for the record, then proceed to address the City Council. All speakers shall observe civility, decorum, and good behavior.

(Continued on page 2)

2) Written Public Comments via email or eComment

Members of the public can submit their written comments electronically for City Council consideration by emailing them to CCpubliccomment@cityoforange.org with the subject line "Public Comment Item # (insert the item number relevant to the comment)" or "Public Comment Non-agenda Item" for general public comments. The public can also submit written comments on the City's eComment page. Please visit the City's website at www.cityoforange.org, click Current City Council Agenda, then click the eComment link for this meeting. To ensure distribution to the City Council prior to consideration of the agenda, we encourage the public to submit comments by 3:00 p.m. the day of the meeting. All public comments will be provided to the Council, posted on the City's website, and compiled as part of the record.

3) Public Comments via recorded voicemail message

Finally, the public can record their comments by calling (714) 744-2234 no later than 5:00 p.m. the day of the meeting. Recorded messages will not be played at the meeting, but will be provided to the Council and the caller's position will be summarized in the minutes.

In accordance with Ordinance No. 10-01, any person making personal, impertinent, slanderous or profane remarks or who becomes boisterous while addressing the Council shall be called to order by the Mayor. If such conduct continues, the Mayor may order the person barred from addressing the City Council further during that meeting, unless permission to continue is granted by a majority vote of the Council.

Please contact the City Clerk's Office at (714) 744-5500 with any questions.

ADA Requirements: In compliance with the Americans with Disabilities Act, if you need accommodations to participate in this meeting, please contact the City Clerk's office at (714) 744-5500. Notification at least 48 hours in advance of meeting will enable the City to make arrangements to assure accessibility to this meeting.

REMINDER: Please silence all electronic devices while City Council is in session.

4:00 PM EMPLOYEE RECOGNITION

1. ROLL CALL

2. EMPLOYEE SERVICE AWARDS

3. RECESS

City Council will recess to Closed Session.

4:15 PM CLOSED SESSION**1. ROLL CALL****2. PUBLIC COMMENTS**

At this time, members of the public may address the Council on any Closed Session items only. Public Comments are limited to three (3) minutes per speaker.

3. RECESS TO CLOSED SESSION

- a. Conference with Labor Negotiator pursuant to Government Code Section 54957.6:
City Negotiator: Rick Otto, City Manager
Employee Organization: Orange City Firefighters
- b. Conference with Legal Counsel – Existing litigation pursuant to Government Code Section 54956.9(a) & (d)(1).
 - 1) Case: George and Kalliopi Metsovas, et al. v. City of Orange
Orange County Superior Court Case No. 30-2020-01141543
 - 2) Case: Orange Park Association v. City of Orange
Orange County Superior Court Case No. 30-2019-01113830
 - 3) Case: Paula Acken, et al. v. City of Orange
Orange County Superior Court Case No. 30-2021-01207319
- c. Conference with Legal Counsel – Anticipated litigation pursuant to Government Code Section 54956.9(d)(2)-(4). (One case)
- d. Public Employee Appointment pursuant to Government Code Section 54957(b):
Title: City Manager
- e. Public Employee Performance Evaluation pursuant to Government Code Section 54957:
Title: City Attorney

4. REPORT ON CLOSED SESSION ACTIONS**5. ADJOURNMENT**

The City Council will adjourn to the 6:00 p.m. Regular Session in the Council Chamber.

6:00 PM REGULAR SESSION**1. OPENING****1.1 INVOCATION**

Pastor Jonathan Reider, Friends Church Orange

1.2 PLEDGE OF ALLEGIANCE

Councilmember Jon Dumitru

1.3 ROLL CALL**1.4 PRESENTATIONS/ ANNOUNCEMENTS/ INTRODUCTIONS**

Proclamation recognizing Police Chief Tom Kisela for 35 years of service

Proclamation recognizing Flags Over Orange

Memorial Adjournment in honor of Fred Whitaker, Sr.

2. PUBLIC COMMENTS

At this time, members of the public may address the Council on matters not listed on the agenda within the subject matter jurisdiction of the City Council, provided that NO action may be taken on off-agenda items unless authorized by law. Public Comments are limited to three (3) minutes per speaker.

3. CONSENT CALENDAR

All items on the Consent Calendar are considered routine and are enacted by one motion approving the recommended action listed on the Agenda. Any member of the City Council, staff or the public may request an item be removed from the Consent Calendar for discussion or separate action. Unless otherwise specified in the request to remove an item from the Consent Calendar, all items removed shall be considered immediately following action on the remaining items on the Consent Calendar.

3.1. Waive reading in full of all ordinances on the Agenda.**Recommended Action:**

Approve.

Attachments: [Staff Report](#)

3.2. Confirmation of warrant registers dated June 4, 10, 18, 24, and 30, 2021.**Recommended Action:**

Approve.

Attachments: [Staff Report](#)

3.3. Approval of meeting minutes of the City Council of the City of Orange for the June 8, 2021, Regular Meeting.

Recommended Action:

Approve minutes as presented.

Attachments: [Staff Report](#)
 [June 8, 2021, Regular Meeting minutes](#)

3.4. Agreement with Superion, LLC for continued maintenance of permit management software.

Recommended Action:

Approve agreement with Superion, LLC in the amount not to exceed \$34,346 in Fiscal Year 2021-2022 for maintenance of permitting software; and authorize the Mayor and City Clerk to execute on behalf of the City.

Attachments: [Staff Report](#)
 [Agreement with Superion, LLC](#)

3.5. First Amendment to License Agreement with the County of Orange for use of office space at Fire Station No. 7.

Recommended Action:

Approve the amendment to agreement with the County of Orange for use of office space at Fire Station No. 7; and authorize the Mayor and City Clerk to execute on behalf of the City.

Attachments: [Staff Report](#)
 [First Amendment with the County of Orange](#)

3.6. First Amendment to Amended and Restated North Net Joint Powers Training Agreement with Anaheim to amend the definition of Property to add approximately 21,500 square feet to the fire training center site.

Recommended Action:

Approve a First Amendment to Amended and Restated North Net Joint Powers Training Agreement; and authorize the Mayor and City Clerk to execute on behalf of the City.

Attachments: [Staff Report](#)
 [First Amendment to Amended and Restated North Net Joint Powers Training Agreement](#)

3.7. Agreement with Core BTS, Inc. for Microsoft Office 365 Migration.**Recommended Action:**

Approve the agreement with Core BTS, Inc. in the amount of \$129,220 for Microsoft Office 365 migration; and authorize the Mayor and City Clerk to execute on behalf of the City.

Attachments: [Staff Report](#)
 [Agreement with Core BTS](#)

3.8. Agreement with Siemens Industry, Inc. for implementation of security access control and video camera management for the new Fire Station 1 and Headquarters.**Recommended Action:**

1. Approve the agreement with Siemens Industry, Inc. in the total amount of \$185,204.40, representing an original bid amount of \$168,367.64, plus a 10% contingency of \$16,836.76, for implementation of security access control and video camera management; and authorize the Mayor and City Clerk to execute on behalf of the City.
2. Authorize the appropriation of \$185,204.40 from the Capital Bond Proceeds unreserved fund balance to expenditure account number 553.5011.56020.20400, Capital Bond Proceeds - Fire Station I

Attachments: [Staff Report](#)
 [Agreement with Siemens Industry, Inc.](#)

3.9. Historic Property Preservation Agreements (Mills Act Contracts) for ten qualified historic properties.**Recommended Action:**

Approve ten Mills Act Contracts between the City of Orange and the identified property owners for the preservation and rehabilitation of qualified historic properties, and authorize the Mayor and City Clerk to execute the contracts on behalf of the City.

Attachments: [Staff Report](#)
[Summary of Ten Mills Act Applications](#)
[Mills Act Contract MAC 376.0-21 with photograph](#)
[Mills Act Contract MAC 377.0-21 with photograph](#)
[Mills Act Contract MAC 379.0-21 with photograph](#)
[Mills Act Contract MAC 380.0-21 with photograph](#)
[Mills Act Contract MAC 381.0-21 with photograph](#)
[Mills Act Contract MAC 382.0-21 with photograph](#)
[Mills Act Contract MAC 383.0-21 with photograph](#)
[Mills Act Contract MAC 385.0-21 with photograph](#)
[Mills Act Contract MAC 386.0-21 with photograph](#)
[Mills Act Contract MAC 387.0-21 with photograph](#)

3.10. Appropriation of \$34,580 in designated grant funding received from the California Department of Resources Recycling and Recovery for the Beverage Container Recycling City Payment Program.

Recommended Action:

1. Accept into the City's revenue budget a \$34,580 grant from the California Department of Resources Recycling and Recovery into revenue account number 220.5022.45290.20487, Sanitation & Sewer - Beverage Container Program 20-21.
2. Authorize the appropriation of \$34,580 into the following expenditure account numbers Sanitation & Sewer - Beverage Container Program 20-21:

220.5022.51001.20487	Contractual Services	\$17,080
220.5022.53001.20487	Materials and Supplies	\$16,000
220.5022.50002.20487	Regular Salaries - Misc	\$ 1,500

Attachments: [Staff Report](#)

3.11. Acceptance and appropriation of \$459,659 in American Recovery Act Program funding for Meal Gap Services.

Recommended Action:

1. Accept into the City's revenue budget \$459,659 in American Recovery Act Program Funding from the County of Orange, into revenue account 550.7011.45150.30182, Reimbursable Capital Projects - Federal Grant Revenue.
2. Authorize the appropriation of \$22,983 to Reimbursable Capital Projects expenditure accounts 550.7011.56002.30182, Staff Time for CIP and \$436,676 to 550.7011.56510.30182, CIP Other Capital Outlay.
3. Authorize the City Manager, or his designee, to negotiate and execute all necessary documents to implement the Meal Gap Program.

Attachments: [Staff Report](#)
[Contract for Meal Gap Services](#)

3.12. Appropriation of \$40,104.20 in revenue from community partnership donations and user group sports field maintenance.

Recommended Action:

1. Accept into the City's revenue budget \$40,104.20 in community partnership donations and user group sports field maintenance into the following accounts in the General Fund:
\$20,000.00 100.7015.48390.20473 Donations-Special Events 2021 Season
\$20,104.20 100.7022.42480.00000 User Group Maintenance Fees
2. Authorize the appropriation of \$20,000 into expenditure account number 100.7015.51355.20473 - General Fund - Special Events 2021 Season
3. Authorize the appropriation of \$20,104.20 into expenditure account number 100.7022.51424.00000, General Fund - User Group Maintenance Fees

Attachments: [Staff Report](#)

3.13. Appropriation of \$53,576.37 in State of California Office of Emergency Services funding received.

Recommended Action:

1. Accept into the City's revenue budget \$53,576.37 in strike team reimbursement funds from the California Office of Emergency Services, into the following revenue account number for CAL EMA reimbursements: 100.3024.48212.40249 - Castle Fire.
2. Authorize the appropriation of \$53,576.37 into the following expenditure account number for Overtime-Safety: 100.3024.50221.40249 - Castle Fire.

Attachments: [Staff Report](#)

3.14. Appropriation of \$825,000 to Cannon Street Widening Project (30174).

Recommended Action:

1. Authorize the appropriation of \$206,250 from the TSIP unreserved fund balance to the expenditure account number 287.5011.56330.30174 (Cannon Street Widening).
2. Accept into the City's revenue budget a \$618,750 grant from Orange County Transportation Authority, into revenue account number 550.5011.45460.30174 (Cannon Street Widening).
3. Authorize the appropriation of \$618,750 from Reimbursable unreserved fund balance into 550.5011.56330.30174 (Cannon Street Widening).
4. Authorize staff to execute Letter Agreement No. 21 amending Agreement No. C-1-2777 with the Orange County Transportation Authority, Measure M2 Seven-Year Capital Improvement Program for fiscal year 2021-22 through 2027-28 to comply with Measure M2 eligibility criteria.

Attachments: [Staff Report](#)
[M2 CTFP Master Funding Agreement with OCTA](#)

- 3.15. Final Acceptance of Bid No. 190-51, Reservoir 2 External Cathodic Protection System Installation Project; and authorization to file Notice of Completion.**

Recommended Action:

Accept Reservoir 2 External Cathodic Protection System Installation Project as complete; and authorize staff to file Notice of Completion with the County Recorder.

Attachments: [Staff Report](#)
 [Notice of Completion and Acceptance](#)

- 3.16. Final Acceptance of Bid No. 20-21.24, Annual Concrete Replacement at Various Locations, Fiscal Year 2020-2021; and authorization to file Notice of Completion.**

Recommended Action:

Accept Annual Concrete Replacement at Various Locations Project, Fiscal Year 2020-2021 (SP-4150) as complete and authorize staff to file Notice of Completion with the County Recorder.

Attachments: [Staff Report](#)
 [Notice of Completion and Acceptance](#)

- 3.17. Final Acceptance of Bid No. 20-21.05, Landscape Renovation at Skylark Place and Canyon View Avenue; and authorization to file Notice of Completion.**

Recommended Action:

Accept Landscape Renovation at Skylark Place and Canyon View Avenue as complete and authorize staff to file Notice of Completion with the County Recorder.

Attachments: [Staff Report](#)
 [Notice of Completion and Acceptance](#)

- 3.18. Approval of plans and specifications for Reservoir 4 Exterior Cathodic Protection (CP) System Installation Project and authorization to advertise Bid No. 21-22.01.**

Recommended Action:

Approve the plans and specifications, and authorize advertising for bids.

Attachments: [Staff Report](#)
 [Location Map](#)

- 3.19. Approval of plans and specifications for Well 29 Drilling Project (W-709) and authorization to advertise Bid No. 21-22.04.**

Recommended Action:

Approve the plans and specifications and authorize advertising for bids.

Attachments: [Staff Report](#)
 [Location Map](#)

3.20. Claims for Damages.

Recommended Action:

Deny the following claims and refer to City Attorney and Claims Adjuster:

1. Michael Adam Spix
2. Sentinel Insurance Company, Ltd.
3. Arabella Reece
4. Asha Ezzati
5. Corey Schwarz

Attachments: [Staff Report](#)

3.21. Award of Contract to Pacific Polymers, Inc. doing business as American Foam Experts for Roof Coating at Taft Branch Library; Bid No. 20-21.23 (SP-4145).

Recommended Action:

Approve contract with Pacific Polymers, Inc. doing business as American Foam Experts in the amount of \$65,780, representing an original bid amount of \$57,200, plus a 15% contingency of \$8,580, for Roof Coating at Taft Branch Library; and authorize the Mayor and City Clerk to execute on behalf of the City.

Attachments: [Staff Report](#)
 [Bid Abstract](#)
 [Contract with American Foam Experts](#)

3.22. Second Amendment to Contract with Alfaro Communications Construction, Inc. for Chapman Avenue at Tustin Street Right Turn Lane Improvements.

Recommended Action:

Approve the Second Amendment to Contract with Alfaro Communications Construction, Inc. in the amount of \$20,623.80 for extra work; and authorize the Mayor and City Clerk to execute on behalf of the City.

Attachments: [Staff Report](#)
 [Second Amendment to Contract](#)

3.23. Second Amendment to Contract with Alfaro Communications Construction, Inc. for Tustin Street at Meats Avenue Right Turn Lane Improvements.

Recommended Action:

Approve the second amendment to contract with Alfaro Communications Construction, Inc. in the amount of \$45,000 for extra work; and authorize the Mayor and City Clerk to execute on behalf of the City.

Attachments: [Staff Report](#)
 [Second Amendment to Contract](#)

- 3.24. Second Reading and adoption of an Ordinance of the City Council of the City of Orange approving a Development Agreement with DCSG Three Thousand West, LLC for a hotel project on a site located at 3000 W Chapman Avenue. Ordinance No. 08-21.**

Recommended Action:

Adopt Ordinance No. 08-21.

Attachments: [Staff Report](#)
 [Ordinance No. 08-21](#)

- 3.25. Authorize purchase of print and audiovisual materials for the Orange Public Library from Baker & Taylor, Inc.**

Recommended Action:

1. Approve purchase order for print and audiovisual materials from Baker & Taylor, Inc. in the amount of \$115,000.
2. Authorize the City Manager to approve increases to the purchase order should the Library receive donations designated for the purchase of additional print and audiovisual materials.

Attachments: [Staff Report](#)

- 3.26. Authorize purchase of material and supplies for water maintenance operations from various vendors.**

Recommended Action:

Approve purchase orders for miscellaneous material and supplies for the following vendors and amounts: Yo Fire - \$150,000; C Wells Supply - \$150,000; United Waterworks - \$125,000; Ferguson - \$100,000; S&J Supply - \$100,000; and Armorcast - \$75,000, for a total not to exceed of \$700,000.

Attachments: [Staff Report](#)

- 3.27. Authorize purchase of one hundred twenty Bendix King handheld VHF radios and twenty one Bendix King mobile VHF radios from Cross Connections Mobile Communications.**

Recommended Action:

Approve the purchase of one hundred twenty Bendix King handheld VHF radios and twenty one Bendix King mobile VHF radios in an amount not to exceed \$300,000, from Cross Connections Mobile Communications, through National Association of State Procurement Officials (NASPO) Contract 06913.

Attachments: [Staff Report](#)
[Quotes from Cross Connections Mobile Communications](#)
[NASPO Contract 06913 Price List](#)
[State of California Participating Addendum Number 7-16-58-15](#)

- 3.28. Authorize purchase of fire station alerting system from US Digital Designs, Inc.**

Recommended Action:

Approve the purchase of the Phoenix G2 station alerting system in an amount not to exceed \$130,000, from US Digital Designs, Inc.; and authorize the Mayor and City Clerk to execute the purchase contract on behalf of the City.

Attachments: [Staff Report](#)
[USDD Fire Station Alerting System Purchase Contract](#)
[USDD New System Warranty](#)

- 3.29. Authorize purchase of Network Engineering Support Services from Sidepath, Inc.**

Recommended Action:

Approve the purchase of Network Engineering Support Services from Sidepath, Inc. for \$29,700.

Attachments: [Staff Report](#)
[Quote from Sidepath, Inc.](#)

- 3.30. Request to close the Orange Public Library & History Center and the El Modena and Taft Branch Libraries for various dates during September 2021 - January 2022.**

Recommended Action:

Approve closure of the Orange Public Library facilities to the public as described in the Staff Report.

Attachments: [Staff Report](#)

- 3.31. Grant of easement to AT&T California, located in the Grand Street parking lot, south of the Community Services building addressed as 230 E. Chapman Ave.**

Recommended Action:

Approve the granting of an easement to AT&T California, located in the Grand Street parking lot south of the Community Services building, addressed as 230 E. Chapman Ave; and authorize the Mayor and City Clerk to execute on behalf of the City.

Attachments: [Staff Report](#)
 [Easement Deed](#)
 [Location Map \(Exhibit "C"\)](#)

- 3.32. Extension of the existence of a local emergency declared by the City Manager/Director of Emergency Services in response to the COVID-19 (Coronavirus) Pandemic. Resolution No. 11342.**

Recommended Action:

Adopt Resolution No. 11342. A Resolution of the City Council of the City of Orange Confirming the Extension of the Existence of a Local Emergency Declared by the City Manager/Director of Emergency Services in Response to the COVID-19 (Coronavirus) Pandemic.

Attachments: [Staff Report](#)
 [Resolution No. 11342](#)

- 3.33. Request for Permit Parking on Mayfair Avenue between Grand and Shaffer Streets, and adoption of a revised master resolution of permit parking areas within the City of Orange. Resolution No. 11343.**

Recommended Action:

1. Approve permit parking on Mayfair Avenue between the above-referenced limits.
2. Adopt Resolution No. 11343. A Resolution of the City Council of the City of Orange rescinding Resolution No. 11216, and adopting a revised master resolution of permit parking areas within the City of Orange.

Attachments: [Staff Report](#)
 [June 11, 2021, CTC Staff Report and Petition](#)
 [July 24, 2001, City Council Report for Area A Permit Parking](#)
 [Resolution No. 11343](#)

- 3.34. Amend the Citywide Pay Schedule in accordance with the requirements of California Code of Regulations, Title 2, Section 570.5. Resolution No. 11338.**

Recommended Action:

Adopt Resolution No. 11338. A Resolution of the City Council of the City of Orange amending the Citywide Pay Schedule in accordance with the requirements of California Code of Regulations, Title 2, Section 570.5.

Attachments: [Staff Report](#)
 [Resolution No. 11338](#)

3.35. Rescind Resolution No. 11187 certifying the EIR for the Trails at Santiago Creek project. Resolution No. 11344.

Recommended Action:

Adopt Resolution No. 11344. A Resolution of the City Council of the City of Orange rescinding Resolution No. 11187, which certified and adopted Final Environmental Impact Report No. 1857-18 (SCH No. 2017031020), adopted Findings of Fact, a Statement of Overriding Consideration, a Mitigation Monitoring and Reporting Program, and imposed other project conditions for the Trails at Santiago Creek Project.

Attachments:

[Staff Report](#)

[Resolution No. 11344](#)

[Email from Milan REI X, LLC, requesting the City rescind Resolution No. 11187](#)

[Resolution No. 11187](#)

END OF CONSENT CALENDAR

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4. REPORTS FROM MAYOR MURPHY

5. REPORTS FROM COUNCILMEMBERS

5.1. Highlight Local Business (Gutierrez)

6. REPORTS FROM BOARDS, COMMITTEES, AND COMMISSIONS

6.1. Resignation of Doug Willits from the Planning Commission.

Recommended Action:

Accept the resignation of Doug Willits and direct the City Clerk to post a Notice of Vacancy per the Maddy Act.

6.2. Consider appointments to City Boards, Committees, and Commissions.

Recommended Action:

Confirm Mayor Murphy's recommendation(s) to be presented at the meeting.

7. ADMINISTRATIVE REPORTS

7.1. Orange Plaza Paseo.

Recommended Action:

Provide direction in relation to the closure of the Paseo by August 16, 2021, as well as provide direction related to long-term use of the Paseo for seasonal or permanent use.

Attachments: [Staff Report](#)

8. REPORTS FROM CITY MANAGER**9. LEGAL AFFAIRS**

- 9.1. Introduction and First Reading of three separate Ordinances relating to City Council reimbursement, City Council compensation, and health and welfare benefits for City Councilmembers.**

Recommended Action:

A separate motion to introduce and conduct First Reading of each ordinance is required.

1. Ordinance No. 09-21. An Ordinance of the City Council of the City of Orange amending Title 2 of the Orange Municipal Code adding Chapter 2.07, relating to City Council reimbursement for actual and necessary expenses incurred in the performance of their official duties.
2. Ordinance No. 10-21. An Ordinance of the City Council of the City of Orange amending Title 2, Chapter 2.08 of the Orange Municipal Code relating to City Council compensation.
3. Ordinance No. 11-21. An Ordinance of the City Council of the City of Orange amending Title 2 of the Orange Municipal Code by adding Chapter 2.09, relating to Health and Welfare Benefits for City Council Members.

Attachments: [Staff Report](#)
 [Ordinance No. 09-21](#)
 [Ordinance No. 10-21](#)
 [Ordinance No. 11-21](#)

10. PUBLIC HEARINGS

- 10.1. Public Hearing to consider Second Reading and adoption of an Ordinance adopting the 2021 Edition of the “Standard Specifications for Public Works Construction” (commonly referred to as the “Greenbook”) by reference. Ordinance No. 07-21.**

Recommended Action:

1. Conduct and close the Public Hearing; and
2. Adopt Ordinance No. 07-21. An Ordinance of the City Council of the City of Orange amending Chapter 12.02 of the Orange Municipal Code to adopt the 2021 Edition of the “Standard Specifications for Public Works Construction.”

Attachments: [Staff Report](#)
 [Ordinance No. 07-21](#)

- 10.2. Continued Public Hearing to consider approval of the Landscape Maintenance Assessment Districts 86-2 (Santiago Hills), and 15-1 (Santiago Hills Overlay) Final Engineer's Reports for Fiscal Year 2021-2022. Resolution No. 11329. (Continued from June 8, 2021).**

Recommended Action:

1. Adopt Resolution No. 11329. A Resolution of the City Council of the City of Orange approving the Engineer's Reports and providing for the annual assessment for Landscape Maintenance Districts 86-2 (Santiago Hills) and 15-1 (Santiago Hills Overlay).
2. Establish the assessment per single family detached unit per year for Fiscal Year 2021-2022 for Landscape Maintenance Districts 86-2 (Santiago Hills) and 15-1 (Santiago Hills Overlay) at \$369.44, and \$248.16, respectively.

Attachments:

[Staff Report](#)

[Resolution No. 11329](#)

[Final Engineer's Report for the Annual Levy LMD 86-2 FY 2021-22](#)

[Final Engineer's Report for the Annual Levy LMD 15-1 FY 2021-22](#)

- 10.3. Continued Public Hearing to consider Appeal No. 0555-21, Shannon Family Mortuary, 1005 E. Chapman Avenue. (Continued from June 8, 2021)**

Recommended Action:

The City Council shall consider the record and such additional evidence as may be offered and may affirm, reverse or modify, in whole or in part, the action that was appealed.

Attachments:

[Staff Report](#)

[Attachment 1 - Appeal Application](#)

[Attachment 2 - Vicinity Map](#)

[Attachment 3 - Site Plan and Floor Plan](#)

[Attachment 4 - Planning Commission Resolution No. PC 34-20](#)

[Attachment 5 - Staff Report and Minutes for the December 7, 2020 Meeting](#)

[Attachment 6 - Staff Report and Minutes from the February 1, 2021 Planning Commission Meeting](#)

[Attachment 7 - Staff Report and Minutes from the April 5, 2021 Planning Commission Meeting](#)

[Attachment 8 - Public Comment from All Hearings - Redacted](#)

[Attachment 8 - Public Comment from All Hearings](#)

[Attachment 9 - Email from Charles Link, Shannon Family Mortuary, dated May 3, 2021](#)

[Attachment 10 - July 7, 2021 Letter from Shannon Mortuary](#)

11. ADJOURNMENT

The next Regular City Council meeting will be held on Tuesday, August 10, 2021, at 6:00 p.m., in the Council Chamber, with Closed Session beginning at 5:00 p.m. if necessary.

I, Pamela Coleman, CMC, City Clerk for the City of Orange, do hereby declare, under penalty of perjury, that a full and correct copy of this agenda was posted pursuant to Government Code Section 54950 et. seq., at the following locations: Orange Civic Center kiosk and Orange City Clerk's Office at 300 E. Chapman Avenue, Orange Main Public Library, 407 E. Chapman Avenue, Police facility at 1107 North Batavia Street, and uploaded to the City's website www.cityoforange.org.

Date posted: July 8, 2021



Agenda Item

City Council

Item #: 3.1.

7/13/2021

File #: 21-0356

TO: Honorable Mayor and Members of the City Council

THRU: Rick Otto, City Manager

FROM: Pamela Coleman, City Clerk

1. SUBJECT

Waive reading in full of all ordinances on the Agenda.

2. SUMMARY

This item asks the City Council to waive the reading in full of all ordinances on the agenda (if any) and approve their reading by title only.

State law requires that all ordinances be read in full either at the time of the introduction or at the time of passage, unless a motion waiving further reading is adopted by a majority of the City Council (Gov. Code § 36934).

3. RECOMMENDED ACTION

Approve.

4. ATTACHMENTS

- None



Agenda Item

City Council

Item #: 3.1.

7/13/2021

File #: 21-0356

TO: Honorable Mayor and Members of the City Council

THRU: Rick Otto, City Manager

FROM: Pamela Coleman, City Clerk

1. SUBJECT

Waive reading in full of all ordinances on the Agenda.

2. SUMMARY

This item asks the City Council to waive the reading in full of all ordinances on the agenda (if any) and approve their reading by title only.

State law requires that all ordinances be read in full either at the time of the introduction or at the time of passage, unless a motion waiving further reading is adopted by a majority of the City Council (Gov. Code § 36934).

3. RECOMMENDED ACTION

Approve.

4. ATTACHMENTS

- None



Agenda Item

City Council

Item #: 3.2.

7/13/2021

File #: 21-0357

TO: Honorable Mayor and Members of the City Council

THRU: Rick Otto, City Manager

FROM: Will Kolbow, Assistant City Manager/Administrative Services Director

1. SUBJECT

Confirmation of warrant registers dated June 4, 10, 18, 24, and 30, 2021.

2. SUMMARY

The warrant writings for the above listed dates are on file in the Office of the City Clerk for Council reference.

3. RECOMMENDED ACTION

Approve.

4. ATTACHMENTS

- None



Agenda Item

City Council

Item #: 3.2.

7/13/2021

File #: 21-0357

TO: Honorable Mayor and Members of the City Council

THRU: Rick Otto, City Manager

FROM: Will Kolbow, Assistant City Manager/Administrative Services Director

1. SUBJECT

Confirmation of warrant registers dated June 4, 10, 18, 24, and 30, 2021.

2. SUMMARY

The warrant writings for the above listed dates are on file in the Office of the City Clerk for Council reference.

3. RECOMMENDED ACTION

Approve.

4. ATTACHMENTS

- None



Agenda Item

City Council

Item #: 3.3.

7/13/2021

File #: 21-0353

TO: Honorable Mayor and Members of the City Council

THRU: Rick Otto, City Manager

FROM: Pamela Coleman, City Clerk

1. SUBJECT

Approval of meeting minutes of the City Council of the City of Orange for the June 8, 2021, Regular Meeting.

2. SUMMARY

Submitted for your consideration and approval are the minutes of the above meeting(s).

3. RECOMMENDED ACTION

Approve minutes as presented.

4. ATTACHMENTS

- June 8, 2021, Regular Meeting minutes



Agenda Item

City Council

Item #: 3.3.

7/13/2021

File #: 21-0353

TO: Honorable Mayor and Members of the City Council

THRU: Rick Otto, City Manager

FROM: Pamela Coleman, City Clerk

1. SUBJECT

Approval of meeting minutes of the City Council of the City of Orange for the June 8, 2021, Regular Meeting.

2. SUMMARY

Submitted for your consideration and approval are the minutes of the above meeting(s).

3. RECOMMENDED ACTION

Approve minutes as presented.

4. ATTACHMENTS

- June 8, 2021, Regular Meeting minutes

MINUTES - DRAFT

City of Orange

City Council

June 08, 2021

The City Council of the City of Orange, California convened on Tuesday, June 8, 2021, at 4:30 p.m. in a Regular Meeting in the Council Chamber, 300 E. Chapman Avenue, Orange, California, and various teleconference locations.

4:30 PM CLOSED SESSION

1. ROLL CALL

Councilmember Gutierrez participated in Closed Session via teleconference.

Present: Nichols, Monaco, Barrios, Dumitru, Gutierrez, Tavoularis, and Murphy

Absent: None

2. PUBLIC COMMENTS

None

3. RECESS TO CLOSED SESSION

The City Council recessed to Closed Session at 4:37 p.m. with all Members present to discuss the following:

- a. Conference with Legal Counsel - Existing litigation pursuant to Government Code Section 54956.9(a) & (d)(1).
Case: Garcia v. Carlos Gutierrez, et al.
Orange County Superior Court Case No. 30-2020-01125092
- b. Conference with Labor Negotiator pursuant to Government Code Section 54957.6
City Negotiator: Rick Otto, City Manager
Employee Organizations: Orange City Firefighters, Orange Fire Management Association
- c. Public Employee Appointment pursuant to Government Code Section 54957(b)
Title: City Manager

4. REPORT ON CLOSED SESSION ACTIONS

None

5. ADJOURNMENT

Closed Session was adjourned at 5:50 p.m.

6:00 PM REGULAR SESSION**1. OPENING**

Mayor Murphy called the meeting to order at 6:04 p.m.

1.1 INVOCATION

Given by Pastor Pete Shambrook from Cedarhouse.

1.2 PLEDGE OF ALLEGIANCE

Led by Councilmember Arianna Barrios.

1.3 ROLL CALL

Councilmember Gutierrez participated in Regular Session via teleconference.

Present: Nichols, Monaco, Barrios, Dumitru, Gutierrez, Tavoularis, and Murphy

Absent: None

1.4 PRESENTATIONS/ ANNOUNCEMENTS/ INTRODUCTIONS

Mayor pro tem Nichols announced that the 3rd of July Celebration will be held on Saturday, July 3, 2021, at Grijalva Park. Mayor Murphy announced the Concerts in the Park series at the Hart Park Band shell will be held every Wednesday from 7:00 – 8:30 p.m., July 14 through August 11.

Recognition of Orange Elks Lodge Citizen of the Year Carole Walters.

Mayor Murphy announced that the appellant and applicant requested to continue Item 10.1 to the July 13, 2021 City Council meeting.

10.1. Continued Public Hearing to consider Appeal No. 0555-21, Shannon Family Mortuary, 1005 E. Chapman Avenue. (Continued from May 11, 2021)

A motion was made by Mayor pro tem Nichols, seconded by Councilmember Barrios, to continue Item 10.1 to the July 13, 2021, Regular City Council meeting. The motion carried by the following vote:

Ayes: Nichols, Monaco, Barrios, Gutierrez, Tavoularis, and Murphy

Noes: Dumitru

Absent: None

Mayor Murphy announced that staff requested to continue Item 10.3 to the July 13, 2021, City Council meeting. Mayor pro tem Nichols abstained due to a potential conflict with employment.

10.3. Public Hearing to consider approval of the Landscape Maintenance Assessment Districts 86-2 (Santiago Hills), and 15-1 (Santiago Hills Overlay) Final Engineer's Reports for Fiscal Year 2021-2022. Resolution No. 11329.

A motion was made by Councilmember Monaco, seconded by Councilmember Barrios, to continue Item 10.3 to the July 13, 2021, Regular City Council meeting.

The motion carried by the following vote:

Ayes: Monaco, Barrios, Dumitru, Gutierrez, Tavoularis, and Murphy
Noes: None
Absent: None
Abstain: Nichols

2. PUBLIC COMMENTS

Public Speakers

Heidi Dawson reported an issue she is having with a local business.

John Sullivan spoke regarding an issue he encountered with code enforcement.

Tim Smith thanked staff for the clean city parks.

Dr. Betty Valencia discussed the water quality at Eisenhower Park.

Christopher Graycen suggested naming the pocket park at the water well project in honor of historian Phil Brigandi.

Rebecca Metoyer requested a revision to the current neighborhood parking permit program to include multi-family residents that are three and four units.

Written Public Comment

Jane Kurtz emailed regarding alleged violations of the Brown Act.

3. CONSENT CALENDAR

All items on the Consent Calendar are considered routine and are enacted by one motion approving the recommended action listed on the Agenda. Any member of the City Council, staff or the public may request an item be removed from the Consent Calendar for discussion or separate action. Unless otherwise specified in the request to remove an item from the Consent Calendar, all items removed shall be considered immediately following action on the remaining items on the Consent Calendar.

3.1. Waive reading in full of all ordinances on the Agenda.

ACTION: Approved.

3.2. Confirmation of warrant registers dated May 7, 13, 21 and 27, 2021.

ACTION: Approved.

3.3. Approval of meeting minutes of the City Council of the City of Orange for the May 11, 2021, Regular Meeting.

ACTION: Approved minutes as presented.

3.4. Cooperative Agreement with Orange County Transportation Authority to receive Senior Mobility Program funding; and Transportation Services Agreement with Orange Elderly Services, Inc. for the administration and implementation of transportation services utilizing the Senior Mobility Program funding for Orange seniors.

ACTION: 1) Approved Cooperative Agreement with Orange County Transportation Authority to receive Measure M2 grant money for funding the Senior Mobility Program; 2) Approved Transportation Services Agreement with Orange Elderly Services, Inc. in the amount of the City's annual Measure M2 grant to provide transportation services

for Orange seniors; and 3) Authorized the Mayor and City Clerk to execute both agreements on behalf of the City.

3.5. Cooperative Agreement with the City of Villa Park for rehabilitation of Cannon Street from Serrano Avenue to Via Escola.

ACTION: Approved the cooperative agreement with the City of Villa Park and authorized the Mayor and City Clerk to execute on behalf of the City.

3.6. Second Amendment to Agreement for Steam Cleaning Services at various locations within the City of Orange with Common Area Maintenance Services, Inc. doing business as CAM Services.

ACTION: Approved the Second Amendment to agreement with CAM Services for Steam Cleaning Services at various locations for an amount not to exceed \$82,323; and authorized the Mayor and City Clerk to execute on behalf of the City.

3.7. Agreement with TriTech Software Systems dba Central Square for software upgrades and maintenance of the Police Department's Computer Aided Dispatch and Records Management System.

ACTION: Approved the agreement with TriTech Software Systems in an amount not to exceed \$112,647.04 for software upgrades and maintenance; and authorized the Mayor and City Clerk to execute on behalf of the City.

3.8. Agreement with Bureau Veritas North America, Inc. for Fire Department plan review services for Fiscal Year 2021-2022.

ACTION: Approved the agreement with Bureau Veritas North America, Inc., in an amount not to exceed \$50,000 for plan review services; and authorized the Mayor and City Clerk to execute on behalf of the City.

3.9. Agreement with Code Consulting Group, LLC for Fire Department plan review services for Fiscal Year 2021-2022.

ACTION: Approved the agreement with Code Consulting Group, LLC, in an amount not to exceed \$40,000 for plan review services; and authorized the Mayor and City Clerk to execute on behalf of the City.

3.10. Agreement with The Jungle Nursery, Inc. for weed abatement services for Fiscal Year 2021-2022.

ACTION: Approved agreement with The Jungle Nursery, Inc., in an amount not to exceed \$96,250 for weed abatement services; and authorized the Mayor and City Clerk to execute on behalf of the City.

3.11. Agreement with Lyons Security Services, Inc. for Old Towne West Metrolink Parking Structure security services.

ACTION: Approved the three-year agreement with Lyon Security Services, Inc. in an amount not to exceed \$40,000 annually, or \$120,000 total, for Old Towne West Metrolink Parking Structure security services; and authorized the Mayor and City Clerk to execute on behalf of the City.

3.12. Agreement with Sidepath, Inc. for Security Operations Center as a Service (SOCaaS) using Arctic Wolf.

ACTION: Approved the agreement with Sidepath, Inc. in the amount of \$358,995 for Security Operations Center as a Service (SOCaaS) using Arctic Wolf; and authorized the Mayor and City Clerk to execute on behalf of the City.

3.13. Agreement with Darren Doerschel for television and audio visual production support services.

ACTION: Approved the agreement with Darren Doerschel in the amount of \$34,500 for television and audio visual production support services; and authorized the Mayor and City Clerk to execute on behalf of the City.

3.14. Agreement with Truxyz Inc., doing business as Tows R Russ; Archie's Towing; and Southside Towing for Towing and Storage Services.

ACTION: 1) Approved the agreement with Tows R Russ, Archie's Towing, and Southside Towing and authorized the Mayor and City Clerk to execute on behalf of the City; and 2) Approved Fee Schedule for Contracted Tow Companies, effective July 1, 2021.

3.15. Appropriation of \$72,869.39 in designated Assembly Bill 109/Public Safety Realignment Act funding received from the County of Orange.

ACTION: 1) Accepted into the City's revenue budget a \$72,869.39 deposit from the County of Orange, into revenue account number 100.4031.45495.20159, Other Grant Revenue-Post Release Community Supervision; and 2) Authorized the appropriation of \$72,869.39 into expenditure account number 100.4031.50221.20159, Overtime - Post Release Community Supervision.

3.16. Appropriation of \$29,350 in revenue from community garden plot leases, user group sports field maintenance and renovation reimbursements, and community partnership donations.

ACTION: 1) Accepted into the City's revenue budget \$29,350 in community garden plot fees, user group maintenance reimbursements and community partnership donations into the following accounts:

\$330 100.7001.44210.20227 General Fund - Garden Plots

\$9,020 100.7022.42480.00000 General Fund - User Group Maintenance Fees

\$20,000 100.7015.48390.20473 Donations-Special Events 2021 Season

2) Authorized the appropriation of \$330 into expenditure account number 100.7001.51700.20227, General Fund - Garden Plots.

3) Authorized the appropriation of \$9,020 into expenditure account number 100.7022.51424.00000, General Fund - User Group Maintenance Fees.

4) Authorized the appropriation of \$20,000 into expenditure account number 100.7015.51355.20473 - Other Supplies Special Events 2021 Season.

5) Authorized the carryover of the remaining year-end balance in expenditure account 100.7015.51355.20473 to the Operating Budget for Fiscal Year 2021-2022.

3.17. Appropriation of \$7,500 in designated grant funding received from California Humanities, California Library Association, and California State Library.

ACTION: 1) Accepted into the City's revenue budget \$7,500 in grant funds from California Humanities, California Library Association, and California State Library into the following revenue account numbers in the General Fund:

\$5,000 100.2001.45495.30176 - Library Innovation Lab Grant

\$2,000 100.2001.45495.30121 - Lunch at the Library Grant

\$500 100.2001.45290.30120 - Día de los Niños/Libros Grant

2) Authorized the appropriation of \$7,500 in grant funds into the following expenditure account numbers in the General Fund:

\$5,000 100.2016.53340.30176 - Library Innovation Lab Grant

\$2,000 100.2016.53340.30121 - Lunch at the Library Grant

\$500 100.2017.53340.30120 - Día de los Niños/Libros Grant

3.18. Appropriation of \$654,308.90 in State of California Office of Emergency Services funding received.

ACTION: 1) Accepted into the City's revenue budget \$654,308.90 in strike team reimbursement funds from the California Office of Emergency Services, into the revenue account numbers for CAL EMA reimbursements; 2) Authorized the appropriation of \$579,801.95 into the expenditure account numbers for Overtime-Safety; 3) Authorized the appropriation of \$6,006.95 into the expenditure account numbers for Strike Team Expenditures; 4) Authorized the appropriation of \$68,500 into expenditure account number 100.3021.53940.20490, General Fund - CalOES Admin Recovery; and 5) Approved the purchase of Crew Boss wildland pants from LineGear Fire & Rescue Equipment in an amount not to exceed \$68,500.

3.19. Final Acceptance of Bid No. 20-21.26, CDBG FY 20-21 Hoover Neighborhood Street Rehabilitation; and authorization to file Notice of Completion.

ACTION: Accepted CDBG FY 20-21 Hoover Neighborhood Street Rehabilitation (SP-4142) as complete and authorized staff to file Notice of Completion with the County Recorder.

3.20. Approval of plans and specifications and authorization to advertise for bids for Chapman Avenue and Batavia Street Left-Turn Signal Modification Project, Highway Safety Improvement Program L-5073(090); Bid No. 20-21.11.

ACTION: Approved the plans and specifications and authorized advertising for bids for the Chapman Avenue and Batavia Street Left-Turn Signal Modification Project, Highway Safety Improvement Program L-5073(090); SP-4036.

3.21. Claims for Damages.

Note: Councilmembers Barrios, Dumitru, and Tavoularis abstained because they know one of the claimants.

ACTION: Denied the following claims and referred to City Attorney and Claims Adjuster:

1. Angel Bravo

2. Phyllis Schneider

3. Peter Schneider

4. Cheryl Ann Guerrero
5. Mark Evans
6. Debra Tillinghast
7. Mercury Insurance a/s/o Tino Martinez
8. Carlota Bautista
9. Sue Governo
10. Sarah Wakim

3.22. Award of Contract to Ultimate Maintenance Services, Inc. for Custodial Services for City Facilities; RFP 20-21.42.

ACTION: Approved contract with Ultimate Maintenance Services, Inc. in the amount of \$1,551,000 for the first three years for Custodial Services for City Facilities; and authorized the Mayor and City Clerk to execute on behalf of the City.

3.23. Award of contract to Outdoor Dimensions, LLC for the Park Monument Signage project.

ACTION: Approved contract with Outdoor Dimensions, LLC in the amount not to exceed \$380,655 for the Park Monument Signage project; and authorized the Mayor and City Clerk to execute on behalf of the City.

3.24. Award of Contract to American Asphalt South, Inc. for Annual Slurry Seal at Various Locations FY 2020-2021; Bid No.20-21.48.

ACTION: Awarded the contract to American Asphalt South, Inc. in the total amount of \$141,839.50, representing an original amount of \$128,945 plus a 10% contingency of \$12,894.50, for Annual Slurry Seal at Various Locations, Fiscal Year 2020-2021; and authorized the Mayor and City Clerk to execute on behalf of the City.

3.25. Award of Contract to R.J. Noble Company for Annual Pavement Maintenance at Various Locations, FY 2020-2021, Phase 2; Bid No. 20-21.51.

ACTION: Approved contract with R.J. Noble Company in the total amount of \$1,145,038.95, representing an original amount of \$1,040,944.50 plus a 10% contingency of \$104,094.45, for Annual Pavement Maintenance at Various Locations, Fiscal Year 2020-2021, Phase 2; and authorized the Mayor and City Clerk to execute on behalf of the City.

3.26. Award of Contract to California Professional Engineering, Inc. for Steel Streetlight Replacement, Fiscal Year 2020-2021; Bid No. 20-21.45.

ACTION: Approved the contract with California Professional Engineering, Inc. in the amount of \$392,739 for the Steel Streetlight Replacement project, Fiscal Year 2020-2021; and authorized the Mayor and City Clerk to execute on behalf of the City.

3.27. Approval of preliminary plans, and adoption of Mitigated Negative Declaration (MND) No. ENV 1867-19 for the Cannon and Serrano Intersection Modification Project (SP-4086).

Written Public Comment

Florice Hoffman submitted an eComment in support of the project.

ACTION: 1) Adopted Mitigated Negative Declaration No. 1867-19 and the associated Mitigation and Monitoring and Reporting Program; and 2) Approved preliminary project plans for the Cannon and Serrano Intersection Modification Project.

- 3.28. Second Reading and adoption of an Ordinance of the City Council of the City of Orange amending 3.04.060 of the Orange Municipal Code relating to the real property transfer tax rate. Ordinance No. 06-21.**

ACTION: Adopted Ordinance No. 06-21.

- 3.29. Second Reading and adoption of an Ordinance of the City Council of the City of Orange approving Zone Change No. 1298-19 to change the zoning of a 60,670 square foot site from Single-Family Residential to Public Institution on property located at 383 S. Batavia Street and 802 W. Culver Avenue. Ordinance No. 04-21.**

Item 3.29 was removed from the Consent Calendar for separate consideration

Public Speakers

Linda Duyette spoke in opposition of adopting the Ordinance.

Paula Acken spoke in opposition of adopting the Ordinance.

ACTION: A motion was made by Mayor pro tem Nichols, seconded by Councilmember Monaco, to adopt Ordinance No. 04-21. The motion carried by the following vote:

Ayes: Nichols, Monaco, Dumitru, Gutierrez, Tavoularis, and Murphy

Noes: Barrios

Absent: None

- 3.30. Authorize purchase of Winchester Law Enforcement Ammunition from Dooley Enterprises, Inc. as a sole source vendor.**

ACTION: Approved the sole source purchase of Winchester Law Enforcement Ammunition from Dooley Enterprises, Inc. in an amount not to exceed \$88,000.

- 3.31. Authorize purchase of ballistic vests from U.S. Armor Corporation.**

ACTION: Approved the purchase of ballistic vests from U.S. Armor Corporation in an amount not to exceed \$32,000.

- 3.32. Authorize purchase of Police Department uniforms and duty gear from Galls, LLC.**

ACTION: Approved the purchase of Police Department uniforms and duty gear from Galls, LLC in an amount not to exceed \$70,000.

- 3.33. Authorize purchase of safety gear and associated equipment from Allstar Fire Equipment for Fiscal Year 2021-2022.**

ACTION: Approved the purchase of firefighter turnout safety gear and equipment from Allstar Fire Equipment in an amount not to exceed \$50,000 for Fiscal Year 2020-2021.

- 3.34. Authorize purchase of medical supplies from Life-Assist, Inc.**

ACTION: Approved the purchase of medical supplies and medications from Life-Assist, Inc. in an amount not to exceed \$227,000 for Fiscal Year 2021-2022.

3.35. Authorize purchase of Fire Department uniforms and accessories from LineGear Fire & Rescue Equipment.

ACTION: Approved the purchase of Fire Department uniforms and accessories from LineGear Fire & Rescue Equipment in an amount not to exceed \$150,000 for Fiscal Year 2021-2022.

3.36. Authorize purchase of turnout safety gear and associated equipment from LN Curtis & Sons for Fiscal Year 2021-2022.

ACTION: Approved the purchase of firefighter turnout safety gear and equipment from LN Curtis & Sons in an amount of \$110,000 for Fiscal Year 2021-2022.

3.37. Authorize purchase of two Multi-Story Immediately Dangerous to Life and Health (IDLH) Training Props at North Net Training Center by way of cost share between the City of Anaheim and Orange.

ACTION: Approved the purchase of two Multi-Story IDLH Training Props in the amount of \$69,897.18 (cost share), from Advanced Fire Control, through a competitive bid process.

3.38. Dirt hauling permit for Snyder Langston on behalf of St. Joseph Hospital of Orange.

Item 3.38 was removed from the Consent Calendar for separate consideration by Councilmember Gutierrez.

Addressing Council inquiries, Michael Calkin, representative for Snyder Langston, stated that demolition was scheduled to begin in July; and described the notification process, which will include mailers and neighborhood meetings. Public Works Director Chris Cash explained a traffic study was done indicating minimal traffic impacts to the neighborhood.

ACTION: A motion was made by Councilmember Gutierrez, seconded by Councilmember Barrios, to approve the hauling permit with conditions delineated herein and amended construction hours of 8:30 a.m. to 4:30 p.m. with direction to staff to adjust hours as necessary; and authorize staff to issue the permit and extend duration if necessary. The motion carried by the following vote:

Ayes: Nichols, Monaco, Barrios, Dumitru, Gutierrez, Tavoularis, and Murphy

Noes: None

Absent: None

3.39. Status and Update of the Circulation Element and Mitigation Fee Program for the Measure M (M2) Program. Resolution No. 11331.

ACTION: 1) Adopted Resolution No. 11331. A Resolution of the City Council of the City of Orange concerning the status and update of the circulation element and mitigation fee program for the Measure M (M2) Program. 2) Authorized staff to submit M2 eligibility documentation to the Orange County Transportation Authority.

3.40. A Resolution of the City Council of the City of Orange relating to Salary Tables for Orange City Firefighters, Inc. Local 2384 of the International Association of Fire Fighters, AFL-CIO. Resolution No. 11333.

ACTION: Adopted Resolution No. 11333. A Resolution of the City Council of the City of Orange amending Resolution No. 11274 and approving the Salary Tables for the Orange City Firefighters, Inc. Local 2384 of the International Association of Fire Fighters, AFL-CIO.

3.41. Annual review and approval of the Statement of Investment Policy (SIP) for Fiscal Year 2021-22. Resolution No. 11340.

Written Public Comment

Janice Brownfield emailed encouraging Council to divest from securities related to fossil fuel companies and switch to green investments that drive low-carbon jobs.

ACTION: Adopted Resolution No. 11340. A Resolution of the City Council of the City of Orange approving and adopting a Statement of Investment Policy for Fiscal Year 2021-22.

Approval of the Consent Calendar

Items 3.29 and 3.38 were removed from the Consent Calendar and heard separately. Councilmember Barrios, Councilmember Dumitru, and Councilmember Tavoularis abstained on Item 3.21. All other items on the Consent Calendar were approved as recommended.

A motion was made by Mayor pro tem Nichols, seconded by Councilmember Dumitru, to approve the Consent Calendar as recommended. The motion carried by the following vote:

Ayes: Nichols, Monaco, Barrios, Dumitru, Gutierrez, Tavoularis, and Murphy

Noes: None

Absent: None

END OF CONSENT CALENDAR

* * * * *

4. REPORTS FROM MAYOR MURPHY

None

5. REPORTS FROM COUNCILMEMBERS

5.1. Highlight Local Business (Gutierrez)

Councilmember Gutierrez highlighted the following two local businesses: Laurie Ann's Music School and Community Foundation of Orange.

5.2. Library/Multi-generational Center at Grijalva Park (Nichols)

Mayor pro tem Nichols requested to continue this item to the July, 13, 2021, Regular City Council meeting.

5.3. Orange Plaza Paseo (Barrios)

Councilmember Barrios requested a special meeting be held on June 22 to discuss the Orange Plaza Paseo. The item will be placed on the July 13 City Council agenda to allow time for the State to issue final health guidelines and restrictions, if any.

5.4. Pride Flag (Barrios)Public Speakers

The following spoke in support of raising the Pride flag at City Hall: Carrie Lundell, Zac Graycen, Dr. Betty Valencia, Christopher Graycen, Caroline Alatorre, and Rev. Nancy Brink.

Written Public Comments

The following submitted written comments in support of raising the Pride flag at City Hall: Anna Orlov Faris (and in support of a proclamation), Mackenzie Crigger, Kathleen Gillmore, Mallory Moose, Stacy Leighton (and in support of a proclamation), Tessa Retterath Jones, Tina Arias Miller (and in support of a proclamation), Bethany, Bill Jacobs, Amanda Wortman, Veronique Barth, Phil Bowman, anonymous, Meagan Varona, Claudine Jaenichen, Joe Graziani, Marie Bury, Daniel McGreevy, Anya Pitre, State Senator Dave Min, Rebecca Albarran, Cassandra Douglas, Priya Bhat-Patel, Danett Abbott-Wicker, Florice Hoffman, Jessica Almos, Rebecca Lang, Shayna Lathus, Bobby Vega, Gabriel Orea, Raylene Martinez, and Kristin Erickson.

April Alvarez submitted an email raising concerns with elected officials advocating or making policies for a particular group or social movement.

During discussion, Council concurred to schedule consideration of adopting an administrative policy for flying flags at City Hall and City facilities on a future meeting agenda.

5.5. Proclamation recognizing Pride Month and the diversity of Orange. (Tavoularis)Public Speakers

Christopher Graycen and Dr. Betty Valencia spoke in support of a proclamation.

Written Public Comment

State Senator Dave Min submitted a letter in support of a proclamation.

Councilmember Tavoularis read the draft proposed proclamation. It was Council consensus to receive input from the community and then finalize the proclamation with the full Council signature block.

5.6. Planning Commission (Barrios)

Councilmember Barrios would like Council to revisit expanding the Planning Commission to seven members with district representation.

6. REPORTS FROM BOARDS, COMMITTEES, AND COMMISSIONS

6.1. Consider appointments to City Boards, Committees, and Commissions.

Mayor Murphy announced that he will be considering appointments to current vacancies for the next two to three months. He has been interviewing qualified applicants, and will continue to do so until all vacancies have been filled. He made the following recommendations for appointments:

CDBG

- o Kim Le
- o Connie Benson
- o Jonathan St. Clair

Traffic Commission

- o A.J. Ricci

Investment Advisory Committee

- o Mark Mittman

Park Planning & Community Events Commission

- o Eva Perez
- o Chrissy Vaughn
- o Adam Litwin
- o Eugene Fields

Council discussed filling all of the vacancies by August including the Park Planning & Community Events Commission. Although it was Council direction to fill the Park Commission with representatives from each district, applications from each district have not been received. Once the Commission is established, Council can focus on recruiting applicants from missing districts as opportunities arise.

A motion was made by Mayor Murphy, seconded by Councilmember Monaco, to appoint the following applicants:

CDBG

- o Kim Le
- o Connie Benson
- o Jonathan St. Clair

Traffic Commission

- o A.J. Ricci

Investment Advisory Committee

- o Mark Mittman

Park Planning & Community Events Commission

- o Eva Perez
- o Chrissy Vaughn
- o Adam Litwin
- o Eugene Fields

The motion carried by the following vote:

Ayes: Nichols, Monaco, Barrios, Dumitru, Gutierrez, Tavoularis, and Murphy

Noes: None

Absent: None

7. ADMINISTRATIVE REPORTS

7.1. Appeal by Diana Klett Smith for waiver of impact fees on proposed Accessory Dwelling Unit at 785 N. California Street.

Public Works Director Chris Cash provided the staff report.

Public Speakers

Diana Klett, appellant, spoke in support of approving the request to waive park and library impact fees.

Lisa Marchi spoke in support of approving the request to waive park and library impact fees.

During discussion, Council expressed their empathy to the appellant's challenges, and explained how the City must remain consistent and equitable in the way fees are imposed.

A motion was made by Mayor Murphy, seconded by Councilmember Monaco, to deny the request to waive park and library impact fees for a proposed 1,000 square foot Accessory Dwelling Unit at 785 N. California Street. The motion carried by the following vote:

Ayes: Nichols, Monaco, Dumitru, Gutierrez, and Murphy

Noes: Barrios, and Tavoularis

Absent: None

7.2. A Resolution of the City Council of the City of Orange relating to the classification, compensation, and terms of employment of Executive Management and Senior Management employees. Resolution No. 11332.

A motion was made by Mayor pro tem Nichols, seconded by Councilmember Dumitru, to adopt Resolution No. 11332. The motion carried by the following vote:

Ayes: Nichols, Monaco, Barrios, Dumitru, Gutierrez, Tavoularis, and Murphy

Noes: None

Absent: None

Resolution No. 11332. A Resolution of the City Council of the City of Orange relating to the classification, compensation, and terms of employment of Executive Management and Senior Management employees and repealing Resolution No. 11306 and all amendments thereto.

7.3. Extension of the existence of a local emergency declared by the City Manager/Director of Emergency Services in response to the COVID-19 (Coronavirus) Pandemic. Resolution No. 11339.

City Manager Otto provided a brief staff report explaining the need for the continuance of the local emergency order.

A motion was made by Mayor pro tem Nichols, seconded by Councilmember Monaco to adopt Resolution No. 11339.

During discussion Councilmember Barrios requested an amendment to the Resolution extending the existence of a local emergency through the next Council meeting instead of 60 days. Mayor pro tem Nichols and Councilmember Monaco accepted the amendment.

A motion was made by Mayor pro tem Nichols, seconded by Councilmember Monaco, to adopt amended Resolution No. 11339 extending the existence of a local emergency through the next Council meeting, unless extended or terminated sooner by the City Council. The motion carried by the following vote:

Ayes: Nichols, Monaco, Barrios, Dumitru, Gutierrez, Tavoularis, and Murphy

Noes: None

Absent: None

Resolution No. 11339. A Resolution of the City Council of the City of Orange Confirming the Extension of the Existence of a Local Emergency Declared by the City Manager/Director of Emergency Services in Response to the COVID-19 (Coronavirus) Pandemic.

8. REPORTS FROM CITY MANAGER

City Manager Otto announced his retirement in October 2021.

9. LEGAL AFFAIRS

9.1. Introduction and First Reading of an Ordinance adopting the 2021 Edition of the "Standard Specifications for Public Works Construction" (commonly referred to as the "Greenbook") by reference. Ordinance No. 07-21.

A motion was made by Councilmember Monaco, seconded by Councilmember Dumitru, to: 1) Introduce and conduct First Reading of Ordinance No. 07-21; and 2) Set July 13, 2021, at 6:00 P.M. as the date and time for a Public Hearing to consider the Second Reading and adoption of Ordinance 07-21. The motion carried by the following vote:

Ayes: Nichols, Monaco, Barrios, Dumitru, Gutierrez, Tavoularis, and Murphy

Noes: None

Absent: None

Ordinance No. 07-21. An Ordinance of the City Council of the City of Orange Amending Chapter 12.02 of the Orange Municipal Code to Adopt the 2021 Edition of the "Standard Specifications for Public Works Construction."

10. PUBLIC HEARINGS

10.1. Continued Public Hearing to consider Appeal No. 0555-21, Shannon Family Mortuary, 1005 E. Chapman Avenue. (Continued from May 11, 2021)

Item 10.1 was previously re-ordered to be heard before Public Comment and continued to July 13, 2021.

10.2. Public Hearing to consider approval of the Landscape Maintenance District 94-1 (Sycamore Crossing) Final Engineer's Report for Fiscal Year 2021-22. Resolution No. 11330.

Mayor Murphy opened the Public Hearing at 9:33 p.m.

City Clerk Coleman reported no protests were received.

There being no speakers, Mayor Murphy closed the Public Hearing at 9:34 p.m.

A motion was made by Councilmember Barrios, seconded by Mayor pro tem Nichols, to: 1) Adopt Resolution No. 11330; and 2) Establish the assessment for Fiscal Year 2021-2022 for Landscape Maintenance Assessment District 94-1 at \$293.08 per single family unit per year. The motion carried by the following vote:

Ayes: Nichols, Monaco, Barrios, Dumitru, Gutierrez, Tavoularis, and Murphy

Noes: None

Absent: None

Resolution No. 11330. A Resolution of the City Council of the City of Orange approving the Engineer's Report and providing for the annual assessment for Landscape Maintenance District 94-1 (Sycamore Crossing).

10.3. Public Hearing to consider approval of the Landscape Maintenance Assessment Districts 86-2 (Santiago Hills), and 15-1 (Santiago Hills Overlay) Final Engineer's Reports for Fiscal Year 2021-2022. Resolution No. 11329.

Item 10.3 was previously re-ordered to be heard before Public Comment and continued to July 13, 2021.

Written Public Comments

Jess Barber emailed opposing the use of pesticides.

Kimberly DeLehman emailed in support of the assessment, but in opposition of the use of herbicides and pesticides.

10.4. Proposed Fiscal Year 2021-2022 City of Orange Budget and Five-Year Capital Improvement Program.

City Manager Otto introduced the item; and Assistant City Manager/Administrative Services Director Will Kolbow presented the staff report utilizing a PowerPoint presentation. He updated Council on the American Rescue Plan allocation and the intended use of the funds, and provided an overview of the General Fund revenues and expenditures. He also summarized the proposed fee changes.

For Fiscal Year 2020-2021

A motion was made by Mayor Murphy, seconded by Councilmember Dumitru, to:

1) Accept into the City's revenue budget \$27,749,752 in funds from the American Rescue Plan.

2) Authorize the appropriation of \$27,749,752 into the following expenditure account numbers for salaries and benefits:

\$10,616,859	101.3099.50002.00000
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\$17,133,093	101.4099.50002.00000
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3) Approve a budget transfer of \$430,000 from the City Trf: NW& SW 2003 Exempt Fund unreserved fund balance to the City Trf: Merged 2008 Exempt Fund unreserved fund balance.

The motion carried by the following vote:

Ayes: Nichols, Monaco, Barrios, Dumitru, Gutierrez, Tavoularis, and Murphy

Noes: None

Absent: None

For Fiscal Year 2021-2022

10.4. Proposed Fiscal Year 2021-2022 City of Orange Budget and Five-Year Capital Improvement Program.

A motion was made by Mayor Murphy, seconded by Mayor pro tem Nichols, to adopt Resolution No. 11334. A Resolution of the City Council of the City of Orange adopting said City's Budget for the Fiscal Year 2021-22 and relating to transfers of funds between and within appropriations, transfers between funds, and additional appropriations. The motion carried by the following vote:

Ayes: Nichols, Monaco, Barrios, Dumitru, Gutierrez, Tavoularis, and Murphy

Noes: None

Absent: None

A motion was made by Councilmember Dumitru, seconded by Mayor pro tem Nichols, to adopt Resolution No. 11335. A Resolution of the City Council of the City of Orange adopting the appropriations limit of \$200,945,256 for the Fiscal Year 2021-22. The motion carried by the following vote:

Ayes: Nichols, Monaco, Barrios, Dumitru, Gutierrez, Tavoularis, and Murphy

Noes: None

Absent: None

A motion was made by Councilmember Tavoularis, seconded by Councilmember Monaco, making a finding that the portion of the Fiscal year 2021-2022 Budget subject to the Gann Appropriations limit is \$105,384,300, and therefore within the limit. The motion carried by the following vote:

Ayes: Nichols, Monaco, Barrios, Dumitru, Gutierrez, Tavoularis, and Murphy

Noes: None

Absent: None

A motion was made by Councilmember Monaco, seconded by Councilmember Dumitru, to adopt Resolution No. 11336. A Resolution of the City Council of the City of Orange amending the Master Schedule of Fees and Charges for various services and the rental of rooms and equipment. The motion carried by the following vote:

Ayes: Nichols, Monaco, Barrios, Dumitru, Gutierrez, Tavoularis, and Murphy

Noes: None

Absent: None

A motion was made by Councilmember Gutierrez, seconded by Mayor Murphy, to adopt Resolution No. 11337. A Resolution of the City Council of the City of Orange to approve and authorize staff to submit to the Orange County Transportation Authority the Measure M2 Seven-Year Capital Improvement Program for Fiscal Year 2021-22 through 2027-28 to comply with Measure M2 eligibility criteria.

The motion carried by the following vote:

Ayes: Nichols, Monaco, Barrios, Dumitru, Gutierrez, Tavoularis, and Murphy

Noes: None

Absent: None

A motion was made by Mayor pro tem Nichols, seconded by Councilmember Monaco, to adopt Resolution No. 11341. A Resolution of the City Council of the City of Orange amending Resolution No. 11277 between the City of Orange and the City of Orange Police Association. The motion carried by the following vote:

Ayes: Nichols, Monaco, Barrios, Dumitru, Gutierrez, Tavoularis, and Murphy

Noes: None

Absent: None

10.5. Public Hearing to consider approval of amended 2019 Action Plan to appropriate \$1,108,070 in Community Development Block Grant funds from the Coronavirus Aid, Relief, and Economic Security Act for the Homeless Outreach Program.

City Manager Otto introduced the item and Senior Assistant to the City Manager Aaron Schulze provided a brief staff report outlining the Homeless Outreach Program.

Mayor Murphy opened the Public Hearing at 10:15 p.m.; there being no speakers, Mayor Murphy closed the Public Hearing at 10:15 p.m.

A motion was made by Councilmember Monaco, seconded by Mayor pro tem Nichols, to:

1) Approve the amended 2019 Action Plan to allow for the allocation of \$1,108,070 in Community Development Block Grant funds from the Coronavirus Aid, Relief, and Economic Security Act to the Homeless Outreach Program.

2) Accept into the City's revenue budget \$1,108,070 in Community Development Block Grant funds from the U.S. Department of Housing and Urban Development, into revenue account number 310.0000.45120.30180 Community Development Block Grant - CARES Grants - Homeless Outreach Program.

3) Authorize the carryover of the remaining Community Development Block Grant funds under the Coronavirus Aid, Relief, and Economic Security Act to Fiscal Year 2021-2022.

4) Authorize the City Manager or his designee to execute Memoranda of Understanding with city departments and all related documents.

The motion carried by the following vote:

Ayes: Nichols, Monaco, Barrios, Dumitru, Gutierrez, Tavoularis, and Murphy

Noes: None

Absent: None

10.6. Public Hearing to consider Introduction and First Reading of proposed Ordinance No. 08-21 approving a Development Agreement with DCSG Three Thousand West, LLC, and First Amendment to Participation Agreement with DCSG Development, LLC for a Marriott Hotel project.

Mayor Murphy opened the Public Hearing at 10:20 p.m.

Public Speaker

Jonah Breslau spoke in opposition.

Mayor Murphy closed the Public Hearing at 10:28 p.m.

A motion was made by Councilmember Dumitru, seconded by Councilmember Monaco, to:

1) Introduce and conduct First Reading of Ordinance No. 08-21. An Ordinance of the City Council of the City of Orange Approving a Development Agreement with DCSG Three Thousand West, LLC for a Hotel Project on a Site Located at 3000 W. Chapman Avenue, and authorize the Mayor and City Clerk to execute the agreement on behalf of the City. 2) Approve the First Amendment to Participation Agreement by and between DCSG Development, LLC and the City of Orange; and authorize the Mayor and City Clerk to execute the agreement on behalf of the City.

The motion carried by the following vote:

Ayes: Nichols, Monaco, Barrios, Dumitru, Gutierrez, Tavoularis, and Murphy

Noes: None

Absent: None

11. ADJOURNMENT:

There being no further business, the meeting was adjourned at 10:30 p.m.

The next Regular City Council meeting will be held on Tuesday, July 13, 2021, at 6:00 p.m., in the Council Chamber, with Closed Session beginning at 5:00 p.m. if necessary.

PAMELA COLEMAN
CITY CLERK

MARK A. MURPHY
MAYOR



Agenda Item

City Council

Item #: 3.4.

7/13/2021

File #: 21-0267

TO: Honorable Mayor and Members of the City Council

THRU: Rick Otto, City Manager

FROM: Christopher Cash, Public Works Director

1. SUBJECT

Agreement with Superior, LLC for continued maintenance of permit management software.

2. SUMMARY

The Agreement with Superior, LLC will maintain the current permitting system while the City acquires a more comprehensive, fully integrated land use and permitting software.

3. RECOMMENDED ACTION

Approve agreement with Superior, LLC in the amount not to exceed \$34,346 in Fiscal Year 2021-2022 for maintenance of permitting software; and authorize the Mayor and City Clerk to execute on behalf of the City.

4. FISCAL IMPACT

The total expenditure for this agreement for Fiscal Year 2021-2022 (FY 22) is \$34,346 and will be funded through the Building Records Management Fund (110).

5. STRATEGIC PLAN GOALS

Goal 4: Provide outstanding public service

c: Enhance technology to improve public accessibility to information and services.

6. DISCUSSION AND BACKGROUND

The City currently uses Superior, LLC's (Superior) Trakit software for the management and tracking of permit information. The system was acquired over ten years ago and needed improvements include full integration with other City systems, online payments, and detailed fee collection reports. With the current decentralized information storage, users must access multiple systems and certain transactions, such as payments, must be conducted in person.

In FY 22, the City will start the process to procure a new comprehensive and fully integrated land use tracking and permitting software solution that will have the capability of meeting current and future business needs. In the interim, the maintenance of the current software is needed so as to not cause a disruption to our users and customers. Staff estimates the maintenance contract with Superior will be utilized for a maximum of three years, to cover the time needed for procurement and implementation.

The Agreement is for maintenance services for one year, with automatic renewal in subsequent

years, and the option to cancel with three months of advanced written notice. Subsequent years are subject to an annual 5% increase with funding dependent on City Council approval of the annual budget. If funds are not approved, the agreement can be terminated.

7. ATTACHMENTS

- Agreement with Superion, LLC



Agenda Item

City Council

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7/13/2021

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7. ATTACHMENTS

- Agreement with Superion, LLC

CentralSquare Support and Maintenance Agreement

This CentralSquare Support and Maintenance Agreement (the "**Agreement**"), effective as of the latest date shown on the signature block below (the "**Effective Date**"), is entered into between **Superior, LLC**, a CentralSquare Technologies Company, with its principal place of business in Lake Mary, FL ("**CentralSquare**") and the **City of Orange, California** ("**Customer**"), together with CentralSquare, the "**Parties**", and each, a "**Party**".

WHEREAS, CentralSquare licenses and gives access to certain software applications ("**Solutions**") to its customers and also provides maintenance, support, migration, installation and other professional services; and

WHEREAS, Customer desires to license and/or gain access to certain Solutions and receive professional services described herein, and CentralSquare desires to grant and provide Customer license and access to such offerings as well as to support them with professional services, subject to the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants, terms, and conditions set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, by the signatures of their duly authorized representative below, the Parties intending to be legally bound, agree to all of the following provisions and exhibits of this Agreement:

1. Solution: TRAKiT

2. Term.

- 2.1. Initial Term. The Initial Term of this Agreement commences as of the Effective Date and will continue in effect for one (1) year from such date unless terminated earlier pursuant to any of the Agreement's express provisions (the "**Initial Term**").
- 2.2. Renewal Term. This Agreement will automatically renew for additional successive one (1) year terms unless earlier terminated pursuant to any of the Agreement's provisions (a "**Renewal Term**" and, collectively, with the Initial Term, the "**Term**").
- 2.3. Non-Renewal. Either party may elect to end renewal of the Agreement by issuing a notice of non-renewal, in writing, to the other party ninety (90) days prior to the expiration of the current term.

3. Fees. In consideration of the rights and services granted by CentralSquare to Customer under this Agreement, Customer shall make payments to CentralSquare pursuant to the amounts and payment terms outlined in Exhibit 1 (the "**Project Cost Summary**").

4. Definitions. Capitalized terms not otherwise defined in this Agreement have the meanings set forth below:

- 4.1. "**Action**" means any claim, action, cause of action, demand, lawsuit, arbitration, inquiry, audit, notice of violation, proceeding, litigation, citation, summons, subpoena, or investigation of any nature, civil, criminal, administrative, regulatory or other, whether at law, in equity, or otherwise.
- 4.2. "**Affiliate**" of a Person means any other Person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such Person.
- 4.3. "**Authorized User**" means Customer's employees, consultants, contractors, and agents who are authorized by Customer to access and use the Solutions under the rights granted to Customer pursuant to this Agreement, and for whom access to the Solutions has been purchased.
- 4.4. "**Baseline**" means the version of a Solution updated to the particular time in question through CentralSquare's warranty services and maintenance, but without any other modification whatsoever.
- 4.5. "**Component System**" means any one of the Solutions identified in Exhibit 1, including all copies of Source Code, Object Code and all related specifications, Documentation, technical information, and all corrections, modifications, additions, development work, improvements and enhancements to and all Intellectual Property Rights for such Component System.
- 4.6. "**Customer Data**" means information, data, and content, in any form or medium, collected, downloaded, or otherwise received, directly or indirectly from Customer, an Authorized User or end-users by or through the Solutions, provided the data is not personally identifiable and not identifiable to Customer.
- 4.7. "**Custom Modification**" means a change that CentralSquare has made at Customer's request to any Component System in accordance with a CentralSquare -generated specification, but without any other changes whatsoever by any Person.

- 4.8. **"Customer Systems"** means the Customer's information technology infrastructure, including computers, software, hardware, databases, electronic systems (including database management systems), and networks, whether operated by Customer or through the use of third-party services.
- 4.9. **"Defect"** means a material deviation between the Baseline Solution and its Documentation, for which Defect Customer has given CentralSquare enough information to enable CentralSquare to replicate the deviation on a computer configuration that is both comparable to the Customer Systems and that is under CentralSquare's control. Further, with regard to each Custom Modification, Defect means a material deviation between the Custom Modification and the CentralSquare generated specification and documentation for such Custom Modification, and for which Defect Customer has given CentralSquare enough information to enable CentralSquare to replicate the deviation on a computer configuration that is both comparable to the Customer Systems and that is under CentralSquare's control.
- 4.10. **"Documentation"** means any manuals, instructions, or other documents or materials that CentralSquare provides or makes available to Customer in any form or medium and which describe the functionality, components, features, or requirements of the Solutions, including any aspect of the installation, configuration, integration, operation, use, support, or maintenance thereof.
- 4.11. **"Enhancements"** means general release (as opposed to custom) changes to a Baseline Component System or Custom Modification which increase the functionality of the Baseline Component System or Custom Modification in question.
- 4.12. **"Harmful Code"** means any software, hardware, device or other technology, including any virus, worm, malware, or other malicious computer code, the purpose or effect of which is to (a) permit unauthorized access to, or to destroy, disrupt, disable, distort, or otherwise harm or impede any (i) computer, software, firmware, hardware, system, or network; or (ii) any application or function of any of the foregoing or the security, integrity, confidentiality, or use of any data Processed thereby; or (b) prevent Customer or any Authorized User from accessing or using the Solutions as intended by this Agreement.
- 4.13. **"Intellectual Property Rights"** means any and all registered and unregistered rights granted, applied for, or otherwise now or hereafter in existence under or related to any patent, copyright, trademark, trade secret, database protection, or other intellectual property rights laws, and all similar or equivalent rights or forms of protection, in any part of the world.
- 4.14. **"Maintenance"** means optimization, error correction, modifications, and updates to CentralSquare Systems to correct any known Defects and improve performance. Maintenance will be provided for each Component System, the hours and details of which are described in Exhibit 2 (**"Support Standards"**).
- 4.15. **"New Releases"** means new editions of a Baseline Component System or Custom Modification.
- 4.16. **"Person"** means an individual, corporation, partnership, joint venture, limited liability entity, governmental authority, unincorporated organization, trust, association, or other entity.
- 4.17. **"Personal Information"** means any information that does or can identify a specific individual or by or from which a specific individual may be identified, contacted, or located. Personal Information includes all "nonpublic personal information" as defined under the Gramm-Leach-Bliley Act, "protected health information" as defined under the Health and Insurance Portability and Accountability Act of 1996, "Personal Data" as defined in the EU General Data Protection Regulation (GDPR 2018), "Personal Information" as defined under the Children's Online Privacy Protection Act of 1998, and all rules and regulations issued under any of the foregoing.
- 4.18. **"Professional Services"** means installation, implementation, development work, training or consulting services including custom modification programming, support relating to custom modifications, on-site support services, assistance with data transfers, system restarts and reinstallations provided by CentralSquare.
- 4.19. **"Representatives"** means, with respect to a Party, that Party's employees, officers, directors, agents, subcontractors, and legal advisors.
- 4.20. **"CentralSquare Personnel"** means all individuals involved in the performance of Support Services and Professional Services as employees, agents, Subcontractors or independent contractors of CentralSquare.
- 4.21. **"Solutions"** means the Component Systems, Documentation, Custom Modifications, development work, CentralSquare Systems and any and all other information, data, documents, materials, works, and other content, devices, methods, processes, hardware, software, technologies and inventions, including any deliverables, technical or functional descriptions, requirements, plans, or reports, provided or used by

CentralSquare or any Subcontractor in connection with Professional Services or Support Services rendered under this Agreement.

- 4.22. **"CentralSquare Systems"** means the information technology infrastructure used by or on behalf of CentralSquare to deliver Solutions, including all computers, software, hardware, databases, electronic systems (including database management systems), and networks, whether operated directly by CentralSquare or through the use of third-party services.
- 4.23. **"Support Services"** means Maintenance, Enhancements, implementation of New Releases, and general support efforts to respond to incidents reported by Customer in accordance with the detailed Support Standards outlined in Exhibit 2.
- 4.24. **"Third-Party Materials"** means materials and information, in any form or medium, including any software, documents, data, content, specifications, products, related services, equipment, or components of or relating to the Solutions that are not proprietary to CentralSquare.

5. Use Restrictions. Customer shall not, and shall not permit any other Person to, access or use the Solutions except as expressly permitted by this Agreement. For purposes of clarity and without limiting the generality of the foregoing, Customer shall not, except as this Agreement expressly permits:

- 5.1. copy, modify, or create derivative works or improvements of the Solutions, or rent, lease, lend, sell, sublicense, assign, distribute, publish, transfer, or otherwise make available any Solutions to any Person, including on or in connection with the internet or any time-sharing, service bureau, software as a service, cloud, or other technology or service;
- 5.2. reverse engineer, disassemble, decompile, decode, adapt, or otherwise attempt to derive or gain access to the source code of the Solutions, in whole or in part;
- 5.3. bypass or breach any security device or protection used by Solutions or access or use the Solutions other than by an Authorized User through the use of his or her own then valid access;
- 5.4. input, upload, transmit, or otherwise provide to or through the CentralSquare Systems, any information or materials that are unlawful or injurious, or contain, transmit, or activate any Harmful Code;
- 5.5. damage, destroy, disrupt, disable, impair, interfere with, or otherwise impede or harm in any manner the CentralSquare Systems, or CentralSquare's provision of services to any third-party, in whole or in part;
- 5.6. remove, delete, alter, or obscure any trademarks, Specifications, Documentation, warranties, or disclaimers, or any copyright, trademark, patent, or other intellectual property or proprietary rights notices from any Documentation or Solutions, including any copy thereof;
- 5.7. access or use the Solutions in any manner or for any purpose that infringes, misappropriates, or otherwise violates any Intellectual Property Right or other right of any third-party, or that violates any applicable law;
- 5.8. access or use the Solutions for purposes of competitive analysis of the Solutions, the development, provision, or use of a competing software service or product or any other purpose that is to CentralSquare's detriment or commercial disadvantage or otherwise access or use the Solutions beyond the scope of the authorization granted under this Section.

6. Customer Obligations.

- 6.1. **Customer Systems and Cooperation.** Customer shall at all times during the Term: (a) set up, maintain, and operate in good repair all Customer Systems on or through which the Solutions are accessed or used; (b) provide CentralSquare Personnel with such access to Customer's premises and Customer Systems as is necessary for CentralSquare to perform the Support Services in accordance with the Support Standards and Specifications; and (c) provide all cooperation as CentralSquare may reasonably request to enable CentralSquare to exercise its rights and perform its obligations under and in connection with this Agreement.
- 6.2. **Effect of Customer Failure or Delay.** CentralSquare is not responsible or liable for any delay or failure of performance caused in whole or in part by Customer's delay in performing, or failure to perform, any of its obligations under this Agreement.
- 6.3. **Corrective Action and Notice.** If Customer becomes aware of any actual or threatened activity prohibited by Section 5, Customer shall, and shall cause its Authorized Users to, immediately: (a) take all reasonable and lawful measures within their respective control that are necessary to stop the activity or threatened activity and to mitigate its effects (including, where applicable, by discontinuing and preventing any unauthorized access to the Solutions and permanently erasing from their systems and destroying any

data to which any of them gained unauthorized access); and (b) notify CentralSquare of any such actual or threatened activity.

7. Professional Services.

- 7.1. Compliance with Customer Policies. While CentralSquare Personnel are performing services at Customer's site, CentralSquare will ensure that such personnel comply with Customer's reasonable security procedures and site policies that are generally applicable to Customer's other suppliers providing similar services and that have been provided to CentralSquare in writing or in advance. Customer shall promptly reimburse CentralSquare for any out-of-pocket costs incurred in complying with such procedures and policies.
- 7.2. Contributed Material. In the process of CentralSquare's performing Professional Services, Customer may, from time to time, provide CentralSquare with designs, plans, or specifications, improvements, works or other material for inclusion in, or making modifications to, the Solutions, the Documentation or any other deliverables ("**Contributed Material**"). Customer grants to CentralSquare a nonexclusive, irrevocable, perpetual, transferable right, without the payment of any royalties or other compensation of any kind and without the right of attribution, for CentralSquare, CentralSquare's Affiliates and CentralSquare's licensees to make, use, sell and create derivative works of the Contributed Material.

8. Confidentiality.

- 8.1. Confidential Information. Each Party possesses certain non-public proprietary information, which has economic value and is protected with reasonable safeguards to maintain its secrecy ("**Confidential Information**"). Confidential Information may include, but is not limited to any financial data, business and other plans, specifications, equipment designs, electronic configurations, design information, product architecture algorithms, quality assurance plans, inventions (whether or not the subject of pending patent applications), ideas, discoveries, formulae, models, requirements, standards, trade and manufacturing secrets, drawings, samples, devices, demonstrations, technical information, as well as any and all intellectual and industrial property rights contained therein or in relation thereto. CentralSquare shall own the copyrights, trade secrets, patent rights and other proprietary rights in and may use without restriction knowledge, information, ideas, methods, know-how, and copyrightable expression learned or acquired. Confidential Information will be disclosed either: (i) in writing and conspicuously marked with a restrictive legend identifying it as being a Party's Confidential Information; or (ii) orally or visually and identified at the time of disclosure as Confidential Information and subsequently confirmed in writing by the disclosing Party within fifteen (15) days after such disclosure specifically identifying that portion of information that is Confidential Information. Customer shall not sell, transfer, publish, disclose or otherwise make available any portion of the Software or its associated documentation to others. Customer shall use its reasonable best efforts to cooperate with and assist CentralSquare in identifying and preventing any unauthorized use, copying or disclosure of the Software or any portion thereof or any of the algorithms or logic contained therein or any other deliverables.
- 8.2. Compelled Disclosures. If the either Party or any of its Representatives is compelled by applicable law to disclose any Confidential Information then, to the extent permitted by law, that Party shall: (i) promptly, and prior to such disclosure, notify the other Party in writing of such requirement so that it can seek a protective order or other remedy or waive its rights herein; and (ii) provide reasonable assistance to the Disclosing Party in opposing such disclosure or seeking a protective order or other limitations on disclosure. If the Disclosing Party waives compliance or, after providing the notice and assistance required under this Section, the Receiving Party remains required by law to disclose any Confidential Information, the Receiving Party shall disclose only that portion of the Confidential Information that the Receiving Party is legally required to disclose.
- 8.3. Upon expiration or termination of this Agreement, or upon demand by CentralSquare, Customer shall (i) return to CentralSquare all copies of CentralSquare's Confidential Information in Customer's possession or under CentralSquare's control; or (ii) destroy all copies of CentralSquare's Confidential Information in Customer's possession and so certify such destruction to CentralSquare in writing. Notwithstanding the foregoing, Customer may retain data or records in electronic form containing Confidential Information for the purposes of backup, recovery, contingency planning, or business continuity planning, so long as such data or records, to the extent not permanently deleted or overwritten in the ordinary course of business, are not accessible in the ordinary course of business and are not accessed except as required by Customer only for backup, recovery, contingency planning, or business continuity purposes.

9. Security.

- 9.1. CentralSquare will implement commercially reasonable administrative, technical and physical safeguards designed to ensure the security and confidentiality of Customer Data, protect against any anticipated threats or hazards to the security or integrity of Customer Data, and protect against unauthorized access or use of Customer Data. CentralSquare will review and test such safeguards on no less than an annual basis.
- 9.2. Customer shall maintain, in connection with the operation or use of the Solutions, adequate technical and procedural access controls and system security requirements and devices, necessary for data privacy, confidentiality, integrity, authorization, authentication and non-repudiation and virus detection and eradication.
- 9.3. To the extent that Authorized Users are permitted to have access to the Solutions, Customer shall maintain agreements with such Authorized Users that adequately protect the confidentiality and Intellectual Property Rights of CentralSquare in the Solutions and Documentation, and disclaim any liability or responsibility of CentralSquare with respect to such Authorized Users.

10. Personal Data. If CentralSquare processes or otherwise has access to any personal data or personal information on Customer's behalf when performing CentralSquare's obligations under this Agreement, then:

- 10.1. Customer shall be the data controller (where "**data controller**" means an entity which alone or jointly with others determines purposes for which and the manner in which any personal data are, or are to be, processed) and CentralSquare shall be a data processor (where "**data processor**" means an entity which processes the data only on behalf of the data controller and not for any purposes of its own); and
- 10.2. Customer shall ensure that it has obtained all necessary consents and it is entitled to transfer the relevant personal data or personal information to CentralSquare so that CentralSquare may lawfully use, process and transfer the personal data and personal information in accordance with this Agreement on Customer's behalf, which may include CentralSquare processing and transferring the relevant personal data or personal information outside the country where Customer and the Authorized Users are located in order for CentralSquare to provide the Solutions and perform its other obligations under this Agreement; and
- 10.3. CentralSquare shall process personal data and information only in accordance with lawful and reasonable instructions given by Customer and as set out in and in accordance with the terms of this Agreement; and
- 10.4. Each Party shall take appropriate technical and organizational measures against unauthorized or unlawful processing of the personal data and personal information or its accidental loss, destruction or damage so that, having regard to the state of technological development and the cost of implementing any measures, the measures taken ensure a level of security appropriate to the harm that might result from such unauthorized or unlawful processing or accidental loss, destruction or damage in relation to the personal data and personal information and the nature of the personal data and personal information being protected. If necessary, the parties will cooperate to document these measures taken.

11. Representations and Warranties.

- 11.1. **LIMITED WARRANTY.** CentralSquare warrants that it owns or otherwise has the rights in the Software and has the right to license the Software as described in this Agreement. CentralSquare further warrants and represents that the CentralSquare Software does not contain any "back door," "time bomb," "Trojan horse," "worm," "drop dead device" or other program routine or hardware device inserted and intended by CentralSquare to provide a means of unauthorized access to, or a means of disabling or erasing any computer program or data, or otherwise disabling the CentralSquare Software. Nothing herein shall be deemed to constitute a warranty against viruses. The provisions of this section and its subsections below, shall constitute the agreement of the Parties with respect to viruses. Customer's sole remedy with respect to the foregoing warranty shall be to receive an Update to the CentralSquare Software that does not contain any of the above-described routines or devices.
- 11.2. **DISCLAIMER OF WARRANTY. EXCEPT FOR THE EXPRESS LIMITED WARRANTY SET FORTH ABOVE, CENTRALSQUARE MAKES NO WARRANTIES WHATSOEVER, EXPRESSED OR IMPLIED, WITH REGARD TO THE SOLUTIONS, PROFESSIONAL SERVICES, SUPPORT SERVICES, AND/OR ANY OTHER MATTER RELATING TO THIS AGREEMENT, AND CENTRALSQUARE DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHER, INCLUDING ALL WARRANTIES ARISING FROM COURSE OF DEALING, USAGE OR TRADE PRACTICE, AND SPECIFICALLY DISCLAIMS IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT. FURTHER, CENTRALSQUARE EXPRESSLY DOES NOT WARRANT THAT A SOLUTION, ANY CUSTOM MODIFICATION OR ANY IMPROVEMENTS WILL BE USABLE BY**

CUSTOMER IF THE SOLUTION OR CUSTOM MODIFICATION HAS BEEN MODIFIED BY ANYONE OTHER THAN CENTRALSQUARE PERSONNEL, OR WILL BE ERROR FREE, WILL OPERATE WITHOUT INTERRUPTION OR WILL BE COMPATIBLE WITH ANY HARDWARE OR SOFTWARE TO THE EXTENT EXPRESSLY SET FORTH IN THE DOCUMENTATION. ALL THIRD-PARTY MATERIALS ARE PROVIDED "AS-IS" AND ANY REPRESENTATION OR WARRANTY OF OR CONCERNING ANY OF THEM IS STRICTLY BETWEEN CUSTOMER AND THE THIRD-PARTY OWNER. THIS AGREEMENT DOES NOT AMEND, OR MODIFY CENTRALSQUARE'S WARRANTY UNDER ANY AGREEMENT OR ANY CONDITIONS, LIMITATIONS, OR RESTRICTIONS THEREOF.

- 12. Notices.** All notices and other communications required or permitted under this Agreement must be in writing and will be deemed given when delivered personally, sent by United States registered or certified mail, return receipt requested; transmitted by facsimile or email confirmed by United States first class mail, or sent by overnight courier. Notices must be sent to a Party at its address shown below, or to such other place as the Party may subsequently designate in writing for its receipt of notices by the other Party.

If to
CentralSquare : **CentralSquare**
 1000 Business Center Dr.
 Lake Mary, FL 32746
 Phone: 407-304-3235 email: info@CentralSquare.com
 Attention: Senior Counsel / Contracts Department

If to Customer: **City of Orange, CA**
 300 E. Chapman Ave.
 Orange, CA 92866
 Phone: 714-744-5546 email: ccash@cityoforange.org
 Attention: Public Works Director

- 13. Force Majeure.** Neither Party shall be responsible for failure to fulfill its obligations hereunder or liable for damages resulting from delay in performance as a result of war, fire, strike, riot or insurrection, natural disaster, delay of carriers, governmental order or regulation, complete or partial shutdown of plant, unavailability of Equipment, software, or services from suppliers, default of a subcontractor or vendor to the Party if such default arises out of causes beyond the reasonable control of such subcontractor or vendor, the acts or omissions of the other Party, or its officers, directors, employees, agents, contractors, or elected officials, and/or other occurrences beyond the Party's reasonable control ("Excusable Delay" hereunder). In the event of such Excusable Delay, performance shall be extended on a day for day basis or as otherwise reasonably necessary to compensate for such delay.

14. Indemnification.

- 14.1. CentralSquare Indemnification. CentralSquare shall indemnify, defend, and hold harmless Customer from any and all claims, lawsuits or liability, including attorneys' fees and costs, allegedly arising out of, in connection with, or incident to any loss, damage or injury to persons or property or arising solely from a wrongful or negligent act, error or omission of CentralSquare, its employees, agents, contractors, or any subcontractor as a result of CentralSquare's or any subcontractor's performance pursuant to this Agreement; however, CentralSquare shall not be required to indemnify Customer for any claims or actions caused to the extent of the negligence or wrongful act of Customer, its employees, agents, or contractors. Notwithstanding anything to the contrary in the foregoing, if a claim, lawsuit or liability results from or is contributed to by the actions or omissions of Customer, or its employees, agents or contractors, CentralSquare's obligations under this provision shall be reduced to the extent of such actions or omissions based upon the principle of comparative fault.
- 14.2. Customer Indemnification. Customer shall indemnify, defend, and hold harmless CentralSquare from any and all claims, lawsuits or liability, including attorneys' fees and costs, allegedly arising out of, in connection with, or incident to any loss, damage or injury to persons or property or arising solely from a wrongful or negligent act, error or omission of Customer, its employees, agents, contractors, or any subcontractor as a result of Customer's or any subcontractor's performance pursuant to this Agreement; however, Customer shall not be required to indemnify CentralSquare for any claims or actions caused to the extent of the negligence or wrongful act of CentralSquare, its employees, agents, or contractors. Notwithstanding anything to the contrary in the foregoing, if a claim, lawsuit or liability results from or is contributed to by the actions or omissions of CentralSquare, or its employees, agents or contractors, Customer's obligations under this provision shall be reduced to the extent of such actions or omissions based upon the principle of comparative fault.

14.3. Sole Remedy. THIS SECTION SETS FORTH CUSTOMER'S SOLE REMEDIES AND CENTRALSQUARE'S SOLE LIABILITY AND OBLIGATION FOR ANY ACTUAL, THREATENED, OR ALLEGED CLAIMS THAT THE SERVICES AND SOLUTIONS OR ANY SUBJECT MATTER OF THIS AGREEMENT INFRINGES, MISAPPROPRIATES, OR OTHERWISE VIOLATES ANY INTELLECTUAL PROPERTY RIGHTS OF ANY THIRD-PARTY.

15. Termination. This Agreement may be terminated:

- 15.1. For cause by either Party, effective on written notice to the other Party, if the other Party materially breaches this Agreement and: (i) is incapable of cure; or (ii) being capable of cure, allows the breach to remain uncured thirty (30) days after the non-breaching Party provides the breaching Party with written notice of such breach.
- 15.2. For lack of payment by written notice to Customer, if Customer's failure to pay amounts due under this Agreement has continued more than ninety (90) days after delivery of written notice of non-payment.

16. Effect of Termination or Expiration. On the expiration or earlier termination of this Agreement:

- 16.1. Each Party shall continue to hold such Confidential Information in confidence pursuant to Section 8; and
- 16.2. Each Party shall pay to the other all amounts accrued prior to and through the date of termination of this Agreement.

17. Assignment. Neither this Agreement nor any rights or obligations hereunder shall be assigned or otherwise transferred by either Party without the prior written consent of the other Party, which consent will not be unreasonably withheld; provided however, that in the event of a merger or acquisition of all or substantially all of CentralSquare's assets, CentralSquare may assign this Agreement to an entity ready, willing and able to perform CentralSquare's executory obligations hereunder, as evidenced by an express written assumption of the obligations hereunder by the assignee.

18. Dispute Resolution. Any dispute, controversy or claim arising out of or relating to this Agreement, including the breach, termination, or validity thereof, shall be resolved by final and binding arbitration.

- 18.1. Exclusive Dispute Resolution Mechanism. The Parties agree to resolve any dispute, controversy, or claim arising out of or relating to this Agreement (each, a "Dispute"), exclusively under the provisions of this Section. Either Party may seek interim or provisional relief in any court of competent jurisdiction if necessary, to protect the rights or property of that Party pending the appointment of the arbitrator or pending the arbitrator's determination of the merits of the dispute.
- 18.2. Good Faith Negotiations. The Parties agree to send written notice to the other Party of any Dispute ("Dispute Notice"). After the other Party receives the Dispute Notice, the parties agree to undertake good faith negotiation between themselves to resolve the Dispute. Each Party shall be responsible for its associated travel costs. The parties agree to attend no fewer than three negotiation sessions attended Vice Presidents of each Party (or employees of equivalent or superior position).
- 18.3. Escalation to Mediation. If the Parties cannot resolve any Dispute during the good faith negotiations either Party must initiate mediation under Section 18.4.
- 18.4. Mediation. Subject to Sections 18.2 and 18.3, the Parties may escalate a Dispute to a mutually agreed to mediator. Parties agree to act in good faith in selecting a neutral mediator and in scheduling the mediation proceedings. The parties agree to use commercially reasonable efforts in participating in the mediation. The parties agree the mediator's fees and expenses, and the mediator's costs incidental to the mediation will be shared equally between the parties. The parties shall bear their own fees, expenses, and costs.
- 18.5. Confidential Mediation. The Parties further agree all written or oral offers, promises, conduct, and statements made in the course of the mediation are confidential, privileged, and inadmissible for any purpose in any litigation, arbitration or other proceeding involving the Parties. However, evidence that is otherwise admissible or discoverable shall not be rendered inadmissible or non-discoverable as a result of its use in the mediation.
- 18.6. Litigation or Arbitration as a Final Resort. If the Parties cannot resolve a Dispute through mediation, then once an impasse is issued by the mediator either Party must commence binding arbitration in accordance with the provisions of 18.7 and 18.8.
- 18.7. Arbitration. The Parties agree that any dispute, controversy, or claim arising out of or related to a Dispute unable to be resolved by mediation, shall be governed by the Federal Arbitration Act (FAA) and submitted to and decided by binding arbitration to be held in California. Parties agree to hold the deliberations in such arbitration confidential.

18.8. **Arbitration Procedure.** The Parties agree arbitration must be commenced by delivering a notice of arbitration to the other Party. The Notice must set out the nature of the claim(s), and the relief requested. Within thirty (30) days of the receipt of the notice, the receiving Party shall deliver an answer, any counterclaim(s), and relief requested. Arbitration shall be heard by a single arbitrator. Each Party shall pay its own costs of arbitration. The Parties shall confer in good faith to attempt to agree upon a suitable arbitrator, and if unable to do so, they will select an arbitrator from the American Arbitration Association's employment arbitration panel for the area. The arbitrator shall decide the procedures in the arbitration after consultation with the Parties. The arbitrator will have the power to grant any provisional or final remedy or relief it deems appropriate, including conservatory measures and an award of attorneys' fees. The decision of the arbitrator shall be final and binding upon the Parties hereto. The Parties agree that judgment may be entered upon the award by any court having jurisdiction.

19. **Waiver/Severability.** The failure of any Party to enforce any of the provisions hereof will not be construed to be a waiver of the right of such Party thereafter to enforce such provisions. If any provision of this Agreement is found to be unenforceable, that provision will be enforced to the maximum extent possible, and the validity, legality and enforceability of the remaining provisions will not in any way be affected or impaired thereby.

20. **LIABILITY.** NOTWITHSTANDING ANY PROVISION WITHIN THIS AGREEMENT TO THE CONTRARY, AND REGARDLESS OF THE NUMBER OF LOSSES, WHETHER IN CONTRACT, EQUITY, STATUTE, TORT, NEGLIGENCE, OR OTHERWISE:

20.1. NEITHER PARTY SHALL HAVE LIABILITY TO THE OTHER PARTY FOR ANY SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE, EXEMPLARY, LIQUIDATED, OR CONSEQUENTIAL DAMAGES OF ANY KIND, AND NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR LOSSES OF PROFIT, REVENUE, INCOME, BUSINESS, ANTICIPATED SAVINGS, DATA, REPUTATION, AND MORE GENERALLY, ANY LOSSES OF AN ECONOMIC OR FINANCIAL NATURE, REGARDLESS OF WHETHER SUCH LOSSES MAY BE DEEMED AS CONSEQUENTIAL OR ARISING DIRECTLY AND NATURALLY FROM THE INCIDENT GIVING RISE TO THE CLAIM, AND REGARDLESS OF WHETHER SUCH LOSSES ARE FORESEEABLE OR WHETHER EITHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSSES; AND

20.2. CENTRALSQUARE'S TOTAL LIABILITY ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT SHALL NOT EXCEED THE AMOUNT(S) ACTUALLY PAID BY CUSTOMER TO CENTRALSQUARE HEREUNDER FOR THE LAST TWELVE MONTHS.

21. **Third-Party Materials.** CentralSquare may from time to time, in its discretion engage third parties to perform services, provide software, or provide equipment. Customer acknowledges and agrees CentralSquare provides front-line support services for third parties, but these third parties assume all responsibility and liability in connection with the third-party software, equipment, or related services. CentralSquare is not authorized to make any representations or warranties that are binding upon the third-party or to engage in any other acts that are binding upon the third-party, excepting specifically that CentralSquare is authorized to represent third-party fees in the Agreement and to accept payment of such amounts from Customer on behalf of the third-party for as long as such third-party authorizes CentralSquare to do so. As a condition precedent to installing or accessing any third-party Materials, Customer may be required to execute a click-through, shrink-wrap End User License Agreement (EULA) or similar agreement provided by the Third-Party Materials provider. All third-party materials are provided "as-is" and any representation or warranty concerning them is strictly between Customer and the third-party.

22. **Entire Agreement.** This Agreement, and any Exhibits specifically incorporated therein by reference, constitutes the entire agreement between the Parties with respect to the subject matter. These documents supersede and merge all previous and contemporaneous proposals of sale, communications, representations, understandings and agreements, whether oral or written, between the Parties with respect to the subject hereof. This Agreement may not be modified except by a writing subscribed to by authorized representatives of both Parties.

23. **No Third-Party Beneficiaries.** This Agreement is for the sole benefit of the Parties and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer on any other person any legal or equitable right, benefit, or remedy of any nature under or by reason of this Agreement.

24. **Counterparts.** This Agreement may be executed in several counterparts, each of which when so executed shall be deemed to be an original, and such counterparts shall constitute one and the same instrument. This Amendment shall be considered properly executed by a Party if executed by that Party and transmitted by facsimile or other electronic means including, without limitation, DocuSign, Tagged Image Format Files (TIFF), or Portable Document Format (PDF).

25. Material Adverse Change. If any Law, Regulatory Approval, applicable standard, process, OEM requirement is changed or comes into force after the Effective Date, including but not limited to PCI standards (collectively, a “Material Adverse Change”), which is not explicitly addressed within this Agreement and results in *significant extra* costs for either Party in relation to the performance of this Agreement, both Parties shall promptly meet, discuss in good faith, and agree upon reducing the technical, operational, and/or commercial impact of such Material Adverse Change.

26. Cooperative Purchases. This Agreement may be used by other government agencies. CentralSquare has agreed to offer similar services to other agencies under the same terms and conditions as stated herein except that the compensation may be negotiated between CentralSquare and other agencies based on the specific revenue expectations, agency reimbursed costs, and other agency requirements. The Customer will in no way whatsoever incur any liability in relation to specifications, delivery, payment, or any other aspect of purchases by such agencies.

27. Order of Precedence.

27.1. In the event of any conflict or inconsistency between this Agreement, the Exhibits, or any purchase order, then the following priority shall prevail:

27.1.1. The main body of this Agreement and any associated amendments or change orders.

27.1.2. The attached Exhibits to this Agreement.

27.1.3. Purchase Orders placed with CentralSquare in accordance with this Agreement.

Customer’s purchase terms and conditions or CentralSquare’s sales terms and conditions are not applicable and shall have no force and effect, whether referenced or not in any document in relation to this Agreement.

27.2. Incorporated Exhibits to this Agreement:

Exhibit 1 – Project Cost Summary

Exhibit 2 - Maintenance & Support Standards

CentralSquare Technologies, LLC	City of Orange, CA
1000 Business Center Dr. Lake Mary, FL 32746	300 East Chapman Avenue Orange, CA 92866
By:	By:
Print Name:	Print Name: Mark A. Murphy
Print Title:	Print Title: Mayor, City of Orange
Date Signed:	Date Signed:

ATTEST:

By:

Print Name: Pamela Coleman

Print Title: City Clerk

APPROVED AS TO FORM:

By:

Print Name: Mary E. Binning

Print Title: Senior Assistant City Attorney

EXHIBIT 1
Project Cost Summary

PRODUCT NAME	QUANTITY	UNIT PRICE	TOTAL
TRAKIT Community Development Core Annual Maintenance Fee	1	USD	0.00 USD
LandTRAK Annual Maintenance Fee	1	USD	0.00 USD
TRAKIT End User License Annual Maintenance Fee	1	28,676.03 USD	28,676.03 USD
eTRAKIT Citizen Portal Annual Maintenance Fee	1	1,726.03 USD	1,726.03 USD
iTRAKIT Suite Annual Maintenance Fee	1	3,943.72 USD	3,943.72 USD
PermitTRAK Annual Maintenance Fee	1	USD	0.00 USD
ProjectTRAK Annual Maintenance Fee	1	USD	0.00 USD
CodeTRAK Annual Maintenance Fee	1	USD	0.00 USD
Renewal Order Total:			34,345.78 USD

PAYMENT TERMS:

- a. Annual Support & Maintenance Fee are due on July 1, 2021 in the amounts shown above. The Annual Support & Maintenance Fees for any Renewal Terms shall be due on the Anniversary of July 1 and shall be subject to an annual increase of 5%.

Note: Pricing for Professional Services is a good faith estimate based on the information available to CentralSquare at the time of execution of this Agreement. The total amount that Customer may pay for these services can vary based on the actual number of hours required to complete the services. If required, additional services will be provided on a time and materials basis at hourly rates equal to CentralSquare's then-current list price rates for the services at issue.

EXHIBIT 2

Support Standards

I. Support Hours: Hours During Which CentralSquare's Telephone Support Will be Available to Customer in Connection with the Provision of Maintenance: Unless otherwise noted in the Order as to Support Type, support hours are Monday through Friday, 8:00 A.M. to 5:00 P.M. Customer's Local Time within the continental United States, excluding holidays ("5x9").

II. Targeted Response Times.

"Notification" means a communication to CentralSquare's help desk by means of: (i) CentralSquare's web helpline; or (ii) the placement of a telephone call.

III. Support Terms.

Beginning on the Execution Date and continuing for twelve (12) months thereafter ("**Initial Support Term**"), CentralSquare shall provide the ongoing Support Services described herein for the corresponding Fees outlined in Exhibit 1. Upon expiration of the Initial Support Term, ongoing Support Services shall automatically renew, with customer paying for additional annual support periods, each a ("**Renewal Support Term**"). This renewal will continue until termination of this Agreement provided that, CentralSquare shall not give notice of termination if it would be effective prior to a period equal to two times the Agreement's Initial Support Term.

With respect to CentralSquare's support obligations, CentralSquare will use diligent, commercially reasonable efforts to respond to Notifications from Customer relating to the Solution identified in the Order in accordance with the following guidelines with the time period to be measured beginning with the first applicable CentralSquare "Telephone Support" hour occurring after CentralSquare's receipt of the Notification:

Priority	Description	Response Goal	Resolution Goal
Urgent 1	A support issue shall be considered Urgent when it produces a Total System Failure; meaning the Solution is not performing a process that has caused a complete work stoppage.	Within 60 minutes of the issue being reported and a resolution planned within 24 hours.	Although resolution times vary depending on the exact issue and customer environment, CentralSquare has a stated goal to resolve an urgent issue within 24 hours or provide a resolution plan with urgent issues within 24 hours of being reported.
Critical 2	A support issue shall be considered Critical when a critical failure in operations occurs; meaning CentralSquare's Solution is not performing a critical process and prevents the continuation of basic operations. Critical problems do not have a workaround. This classification does not apply to intermittent problems.	Within two hours of the issue being reported and a resolution planned within five (5) days.	
Non-Critical 3	A support issue shall be considered Non-Critical when a non-critical failure in operations occurs; meaning the Solution is not performing non-critical processes, but the system is still usable for its intended purpose or there is a workaround.	Within four hours of the issue being reported.	A resolution plan will detail the steps necessary to understand and possibly resolve the issue.
Minor 4	A support issue will be considered Minor when the issue causes minor disruptions in the way tasks are performed, but does not affect workflow or operations. This may include cosmetic issues, general questions, and how to use certain features of the system.	Within 24 hours of the issue being reported.	

Response timing is measured from the moment a Case number is created. As used herein a "Case number" is created when a) CentralSquare's support representative has been directly contacted by Customer either by phone, in person, or

Note: Pricing for Professional Services is a good faith estimate based on the information available to CentralSquare at the time of execution of this Agreement. The total amount that Customer may pay for these services can vary based on the actual number of hours required to complete the services. If required, additional services will be provided on a time and materials basis at hourly rates equal to CentralSquare's then-current list price rates for the services at issue.

through CentralSquare's online support portal, and b) when CentralSquare's support representative assigns a case number and conveys that case number to the Customer. Customer must provide remote access to its facility using a CentralSquare approved remote access Customer so that CentralSquare can perform the support obligations and/or services under this Agreement; and will provide appropriate security access and accounts for CentralSquare staff and each session participant



Agenda Item

City Council

Item #: 3.5.

7/13/2021

File #: 21-0358

TO: Honorable Mayor and Members of the City Council

THRU: Rick Otto, City Manager

FROM: Dan Adams, Chief of Police

1. SUBJECT

First Amendment to License Agreement with the County of Orange for use of office space at Fire Station No. 7.

2. SUMMARY

In 2016, the City and the County of Orange entered into a five-year license agreement to allow the Orange County Intelligence Assessment Center to occupy vacant office space on the second floor of Fire Station No. 7. This amendment extends the original contract term for one additional year, through October 19, 2022.

3. RECOMMENDED ACTION

Approve the amendment to agreement with the County of Orange for use of office space at Fire Station No. 7; and authorize the Mayor and City Clerk to execute on behalf of the City.

4. FISCAL IMPACT

None.

5. STRATEGIC PLAN GOALS

Goal 1: Provide for a safe community

a: Provide staffing and resources to deliver services that ensure public safety.

6. DISCUSSION AND BACKGROUND

In 2002, the Orange County Board of Supervisors approved the creation of the Terrorist Early Warning Group (TEWG) in response to the terrorist attacks of September 11, 2001. In 2003, the Orange Police Department assigned a sergeant to oversee Homeland Security efforts within the City of Orange and to act as a formal liaison with the TEWG. As more agencies throughout the County became involved, the Orange County Intelligence Assessment Center (OCIAAC) was formed.

OCIAAC was originally housed at the County facility at Loma Ridge; however, this location soon became too small and lacked the technological needs of the unit. As the nearby Orange City Fire Station No. 7 had vacant office space on the second floor (originally designed as a police substation to support future Santiago Hills II expansion), the County inquired about relocating OCIAAC to that location. In 2011, the City and County entered into a five year license agreement to allow OCIAAC to occupy the then vacant office space. In October 2016, both parties entered into a new license

agreement to allow the County to continue its use of the office space through October 19, 2021. It was agreed that there would be no cost to lease the office space as the City benefitted by having this unit in Orange as it provides additional law enforcement resources. The license agreement has the County reimbursing the City all operating costs for the utilities used as well as all tenant improvements.

The City and County now desire to amend original license agreement to extend the contract term for use of the facility through October 19, 2022. The renewal is being processed for a one year term as the County intends to relocate the OCIAC operation into another building currently in build out. At the conclusion of the lease, the office space will revert back to a multi-purpose facility operated by the Police Department for training, conferences, and community functions.

7. ATTACHMENTS

- First Amendment with the County of Orange



Agenda Item

City Council

Item #: 3.5.

7/13/2021

File #: 21-0358

TO: Honorable Mayor and Members of the City Council

THRU: Rick Otto, City Manager

FROM: Dan Adams, Chief of Police

1. SUBJECT

First Amendment to License Agreement with the County of Orange for use of the east-end police substation facility.

2. SUMMARY

In 2016, the City and the County of Orange entered into a five-year license agreement to allow the Orange County Intelligence Assessment Center to occupy vacant office space on the second floor of Fire Station No. 7. This amendment extends the original contract term for one additional year, through October 19, 2022.

3. RECOMMENDED ACTION

Approve the amendment to agreement with the County of Orange for use of office space at Fire Station No. 7; and authorize the Mayor and City Clerk to execute on behalf of the City.

4. FISCAL IMPACT

None.

5. STRATEGIC PLAN GOALS

Goal 1: Provide for a safe community

a: Provide staffing and resources to deliver services that ensure public safety.

6. DISCUSSION AND BACKGROUND

In 2002, the Orange County Board of Supervisors approved the creation of the Terrorist Early Warning Group (TEWG) in response to the terrorist attacks of September 11, 2001. In 2003, the Orange Police Department assigned a sergeant to oversee Homeland Security efforts within the City of Orange and to act as a formal liaison with the TEWG. As more agencies throughout the County became involved, the Orange County Intelligence Assessment Center (OCIAAC) was formed.

OCIAAC was originally housed at the County facility at Loma Ridge; however, this location soon became too small and lacked the technological needs of the unit. As the nearby Orange City Fire Station No. 7 had vacant office space on the second floor (originally designed as a police substation to support future Santiago Hills II expansion), the County inquired about relocating OCIAAC to that location. In 2011, the City and County entered into a five year license agreement to allow OCIAAC to occupy the then vacant office space. In October 2016, both parties entered into a new license

agreement to allow the County to continue its use of the office space through October 19, 2021. It was agreed that there would be no cost to lease the office space as the City benefitted by having this unit in Orange as it provides additional law enforcement resources. The license agreement has the County reimbursing the City all operating costs for the utilities used as well as all tenant improvements.

The City and County now desire to amend original license agreement to extend the contract term for use of the facility through October 19, 2022. The renewal is being processed for a one year term as the County intends to relocate the OCIAC operation into another building currently in build out. At the conclusion of the lease, the office space will revert back to a multi-purpose facility operated by the Police Department for training, conferences, and community functions.

7. ATTACHMENTS

- First Amendment with the County of Orange



GA 1227-100-2
City of Orange / OCIAC
8501 & 8521 East Fort Road
Orange, CA 92869

FIRST AMENDMENT TO LICENSE

THIS FIRST AMENDMENT TO LICENSE AGREEMENT (hereinafter referred to as “**First Amendment**”) is made _____ 2021, (“**Effective Date**”) by and between CITY OF ORANGE, a California municipal corporation (hereinafter referred to as “**City**”) and the COUNTY OF ORANGE, a political subdivision of the State of California (hereinafter referred to as “**County**”) without regard to number and gender. The City and County may individually be referred to herein as a “**Party**,” or collectively as the “**Parties**.”

RECITALS

I. The City owns the fire/police station located at 8501 and 8525 East Fort Road, in the city of Orange.

II. Pursuant to a five-year license agreement, City Agreement #5807, dated October 20, 2011 and subsequent First Amendment to License dated July 16, 2013, the County has been occupying space at the City’s police substation located at 8525 East Fort Road, in the City of Orange (“**Substation**”) for the purpose of furthering the mission and objectives set forth in the Memorandum of Agreement Among Public Agencies Participating in the Orange County Intelligence Assessment Center (“**MOA**”) between the Parties.

III. On October 20, 2016, the Parties entered into a new license (“**License**”) to allow the County to continue its use of the Substation which furthers the mission and objectives of the MOA, enhances the public health and safety of the residents and businesses in the City and throughout the County.

IV. The Parties agree to amend the License to extend the Term for one (1) additional year.

NOW THEREFORE, in consideration of the Recitals above, which are incorporated herein by this reference, the Parties do hereby agree to amend the License as of the Effective Date first written above as follows:

A. Section 2.2 is hereby deleted from the License in its entirety and the following Section is substituted:

“**SECTION 2.2. Term.** The term of the License commenced on October 20, 2016 and shall expire on October 19, 2022 (“**Term**”), unless sooner terminated pursuant to the terms of this License.”

B. Wherever a conflict in the terms or conditions of this First Amendment and the License exists, the terms or conditions in this First Amendment shall prevail. In all other respects, the terms and conditions of the License not specifically changed by this First Amendment, shall remain in full force and effect.

IN WITNESS WHEREOF, the Parties have executed this Agreement the day and year first above written.

APPROVED AS TO FORM:

OFFICE OF COUNTY COUNSEL
ORANGE COUNTY, CALIFORNIA

By: _____
Deputy

CITY

CITY OF ORANGE

By: _____
Mark A. Murphy, Mayor

ATTEST

By: _____
Pamela Coleman, City Clerk

APPROVED AS TO FORM

By: _____
Gary A. Sheatz, City Attorney

COUNTY

COUNTY OF ORANGE

By: _____
Thomas A. Miller, Chief Real Estate Officer
County Executive Office
Per GC § 25350.51, Resolution No. 20-016 of the Board
of Supervisors

Date: _____



Agenda Item

City Council

Item #: 3.6.

7/13/2021

File #: 21-0364

TO: Honorable Mayor and Members of the City Council

THRU: Rick Otto, City Manager

FROM: Gary A. Sheatz, City Attorney

1. SUBJECT

First Amendment to Amended and Restated North Net Joint Powers Training Agreement with Anaheim to amend the definition of Property to add approximately 21,500 square feet to the fire training center site.

2. SUMMARY

The First Amendment to the Agreement adds the newly acquired property to the eastern boundary of the training center property that is owned by the JPA. It also provides a formula for the division of proceeds, commensurate with the funding percentages Anaheim and Orange contribute on an annual basis, in the event the training center site is ever sold.

3. RECOMMENDED ACTION

Approve a First Amendment to Amended and Restated North Net Joint Powers Training Agreement; and authorize the Mayor and City Clerk to execute on behalf of the City.

4. FISCAL IMPACT

None. The purchase of the additional property was funded through the North Net Joint Powers General Fund.

5. STRATEGIC PLAN GOALS

Goal 2: Be a fiscally healthy community

- a. Expend fiscal resources responsibly.
- b. Effectively manage and develop City assets.

6. DISCUSSION AND BACKGROUND

In 1976 the cities of Anaheim, Garden Grove and Orange formed the North Net Joint Powers Authority (North Net) to provide fire training to their respective fire departments in a cost-effective and cooperative manner. Garden Grove withdrew from North Net in 2019 when it contracted out its fire services to the Orange County Fire Authority leaving Anaheim and Orange as the sole members of North Net. The North Net facility is located at 2400 E. Orangewood Avenue in the City of Anaheim.

Pursuant to an agreement between Anaheim and North Net, Anaheim purchased approximately 21,500 square feet of surplus property belonging to the Orange County Flood Control District which property borders the eastern boundary of the training center site (the "District Parcel"). Pursuant to

the agreement, North Net reimbursed Anaheim the \$30,000 it paid to the Flood Control District for the District Parcel. In exchange, Anaheim agreed that the District Parcel would be added to the fire training center site for use by North Net, and North Net would acquire a tenancy interest in the District Parcel similar to the tenancy interest it has on the current fire training site. Anaheim is the underlying fee owner of the current fire training site and will remain the underlying fee owner of the District Parcel.

The First Amendment would add the District Parcel to the definition of Property as same is defined in the Joint Powers Authority (JPA). Upon the District Parcel being added, North Net has plans to expand the training center site onto the District Parcel to enhance fire training for both the Anaheim and Orange Fire Departments, as well as for third-party users that sometimes rent North Net facilities for fire training purposes. The First Amendment also provides a formula for the division of proceeds attributable to the District Parcel in the event the training center site is ever sold. 64.51% of the proceeds would go to Anaheim and 35.49% of the proceeds would go to Orange, which matches the funding percentages the two cities contribute to North Net on an annual basis. Those proceeds attributable to the sale of the remaining training center site would be divided in accordance with the existing formula in the JPA.

A portion of the District Parcel is within the jurisdiction limits of the City of Orange. Anaheim and Orange are undertaking efforts with LAFCO to process a boundary change so that the District Parcel will be wholly within Anaheim. Should that be successful, Anaheim would process a lot line adjustment to add the District Parcel to the training center site. The North Net Board, consisting of Councilmember Steven Faessel of Anaheim and Councilmember Jon Dumitru of Orange, authorized bringing forward this First Amendment, which must be approved by both the Anaheim and Orange city councils.

Once executed the Amended JPA would be recorded and notices thereof provided to the Secretary of State and Orange County's Local Agency Formation Commission as required by the Joint Powers Act, Government Code sections 6500 et seq.

7. ATTACHMENTS

- First Amendment to Amended and Restated North Net Joint Powers Training Agreement.



Agenda Item

City Council

Item #: 3.6.

7/13/2021

File #: 21-0364

TO: Honorable Mayor and Members of the City Council

THRU: Rick Otto, City Manager

FROM: Gary A. Sheatz, City Attorney

1. SUBJECT

First Amendment to Amended and Restated North Net Joint Powers Training Agreement with Anaheim to amend the definition of Property to add approximately 21,500 square feet to the fire training center site.

2. SUMMARY

The First Amendment to the Agreement adds the newly acquired property to the eastern boundary of the training center property that is owned by the JPA. It also provides a formula for the division of proceeds, commensurate with the funding percentages Anaheim and Orange contribute on an annual basis, in the event the training center site is ever sold.

3. RECOMMENDED ACTION

Approve a First Amendment to Amended and Restated North Net Joint Powers Training Agreement; and authorize the Mayor and City Clerk to execute on behalf of the City.

4. FISCAL IMPACT

None. The purchase of the additional property was funded through the North Net Joint Powers General Fund.

5. STRATEGIC PLAN GOALS

Goal 2: Be a fiscally healthy community

- a. Expend fiscal resources responsibly.
- b. Effectively manage and develop City assets.

6. DISCUSSION AND BACKGROUND

In 1976 the cities of Anaheim, Garden Grove and Orange formed the North Net Joint Powers Authority (North Net) to provide fire training to their respective fire departments in a cost-effective and cooperative manner. Garden Grove withdrew from North Net in 2019 when it contracted out its fire services to the Orange County Fire Authority leaving Anaheim and Orange as the sole members of North Net. The North Net facility is located at 2400 E. Orangewood Avenue in the City of Anaheim.

Pursuant to an agreement between Anaheim and North Net, Anaheim purchased approximately 21,500 square feet of surplus property belonging to the Orange County Flood Control District which property borders the eastern boundary of the training center site (the "District Parcel"). Pursuant to

the agreement, North Net reimbursed Anaheim the \$30,000 it paid to the Flood Control District for the District Parcel. In exchange, Anaheim agreed that the District Parcel would be added to the fire training center site for use by North Net, and North Net would acquire a tenancy interest in the District Parcel similar to the tenancy interest it has on the current fire training site. Anaheim is the underlying fee owner of the current fire training site and will remain the underlying fee owner of the District Parcel.

The First Amendment would add the District Parcel to the definition of Property as same is defined in the Joint Powers Authority (JPA). Upon the District Parcel being added, North Net has plans to expand the training center site onto the District Parcel to enhance fire training for both the Anaheim and Orange Fire Departments, as well as for third-party users that sometimes rent North Net facilities for fire training purposes. The First Amendment also provides a formula for the division of proceeds attributable to the District Parcel in the event the training center site is ever sold. 64.51% of the proceeds would go to Anaheim and 35.49% of the proceeds would go to Orange, which matches the funding percentages the two cities contribute to North Net on an annual basis. Those proceeds attributable to the sale of the remaining training center site would be divided in accordance with the existing formula in the JPA.

A portion of the District Parcel is within the jurisdiction limits of the City of Orange. Anaheim and Orange are undertaking efforts with LAFCO to process a boundary change so that the District Parcel will be wholly within Anaheim. Should that be successful, Anaheim would process a lot line adjustment to add the District Parcel to the training center site. The North Net Board, consisting of Councilmember Steven Faessel of Anaheim and Councilmember Jon Dumitru of Orange, authorized bringing forward this First Amendment, which must be approved by both the Anaheim and Orange city councils.

Once executed the Amended JPA would be recorded and notices thereof provided to the Secretary of State and Orange County's Local Agency Formation Commission as required by the Joint Powers Act, Government Code sections 6500 et seq.

7. ATTACHMENTS

- First Amendment to Amended and Restated North Net Joint Powers Training Agreement.

FIRST AMENDMENT TO AMENDED AND RESTATED NORTH NET JOINT POWERS TRAINING AGREEMENT

This First Amendment to Amended and Restated North Net Joint Powers Agreement (hereafter, "First Amendment") is dated for identification purposes July 30, 2021 and is by and between the City of Anaheim, a charter city, and the City of Orange, a municipal corporation (collectively, the "Parties").

RECITALS

A. The Parties entered into the Amended and Restated North Net Joint Powers Agreement dated October 22, 2019 (hereafter, the "JPA ") to form the North Net Fire Training Authority (the "Authority").

B. Pursuant to the JPA, the Authority has developed a fire training center over certain property located at 2400 E. Orangewood Avenue, Anaheim ("Authority Property").

C. The Authority Property is legally described and depicted on a map attached to the JPA.

D. Pursuant to an agreement with the City of Anaheim, Anaheim purchased approximately 21,500 square feet of property owned by the Orange County Flood Control District (the "District Parcel") which is adjacent to the eastern boundary of the Authority Property.

E. As a condition subsequent to that purchase, the Authority agreed to process an amendment to the JPA to include the District Parcel as a part of the Authority Property and to provide for the relative fair shares the Parties would receive if the District Parcel was ever sold.

E. The District Parcel will allow the Authority to expand its fire training services and as such, the Parties desire to amend the JPA to add the District Parcel to the definition of "Property" as same is defined in Section 1.9 of the JPA.

Now, therefore, the Parties agree as follows:

Section 1. **Defined Terms.** Except as otherwise defined herein, all capitalized terms used herein shall have the meanings set forth for such terms in the JPA.

Section 2. **Property.** Section 1.9 of the JPA shall be amended to include the District Property in the definition of Property. The District Property is described in the legal description and depicted in the map attached hereto as Exhibit 1.

Section 3. **Distribution of Property.** Section 9.2.C of the JPA is amended to provide a second paragraph as follows:

“Notwithstanding the above paragraph, upon the sale of the Property, the proceeds for that portion of the Property which constitute the District Parcel, as District Parcel is defined in the First Amendment to the Amended and Restated North Net Joint Powers Agreement dated July __, 2021, shall be distributed 64.51% to Anaheim and 35.49% to Orange. Such percentages represent the relative shares each city contributed for the acquisition of the District Parcel and which acquisition occurred after Garden Grove withdrew from the Authority. The calculation for the District Parcel shares shall be as follows: (square footage of the District Parcel ÷ square footage of the Property) x sales price of the Property = Sales Price of District Parcel. Anaheim shall receive 64.51% of the Sales Price of the District Parcel and Orange shall receive 35.49% of the Sales Price of the District Parcel. The balance of the sales price of the Property shall be distributed between Anaheim, Garden Grove and Orange in accordance with the paragraph above.”

Section 4. **Effective Date.** This First Amendment shall become effective upon the date that it has been executed by both parties.

Section 5. **Integration.** This First Amendment amends, as set forth herein, the JPA and, except as specifically amended hereby, the JPA shall remain in full force and effect. To the extent that there is any conflict or inconsistency between the terms and provisions of this First Amendment and the terms and provisions of the JPA, the terms and provisions of this First Amendment shall control and govern the rights and obligations of the Parties.

[Remainder of page intentionally left blank; signatures on next page]

IN WITNESS WHEREOF, the Parties have caused this First Amendment to be executed by their duly authorized officers as of the date first stated above.

Dated: _____

CITY OF ANAHEIM

By: _____
Harry Sidhu, Mayor

ATTEST:

APPROVED AS TO FORM:
ROBERT FABELA, CITY ATTORNEY

By: _____
Theresa Bass, City Clerk
City of Anaheim

By: _____
Bryn M. Morley, Deputy City Attorney

Dated: _____

CITY OF ORANGE

By: _____
Mark A. Murphy, Mayor

ATTEST:

APPROVED AS TO FORM:

By: _____
Pamela Coleman, City Clerk
City of Orange

By: _____
Gary A. Sheatz, City Attorney

EXHIBIT 1

DISTRICT PARCEL LEGAL DESCRIPTION AND MAPS

Exhibit A

DESCRIPTION:

THE FOLLOWING DESCRIBED REAL PROPERTY IN THE CITY OF ANAHEIM, COUNTY OF ORANGE, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

THAT PORTION OF THE LAND ALLOTTED TO ALFRED B. CHAPMAN, AS DESCRIBED IN THE FINAL DECREE OF PARTITION OF THE RANCHO SANTIAGO DE SANTA ANA, WHICH WAS ENTERED SEPTEMBER 12, 1868 IN BOOK "B", PAGE 410 JUDGEMENTS OF THE DISTRICT COURT OF THE 17TH JUDICIAL DISTRICT IN AND FOR LOS ANGELES COUNTY, CALIFORNIA, BOUNDED AS FOLLOWS:

SOUTHEASTERLY BY THE NORTHWESTERLY LINE OF THE LAND DESCRIBED IN THE DEED TO THE ORANGE COUNTY FLOOD CONTROL DISTRICT, RECORDED FEBRUARY 2, 1962 IN BOOK 5996, PAGE 539 OF OFFICIAL RECORDS OF ORANGE COUNTY, CALIFORNIA.

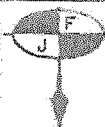
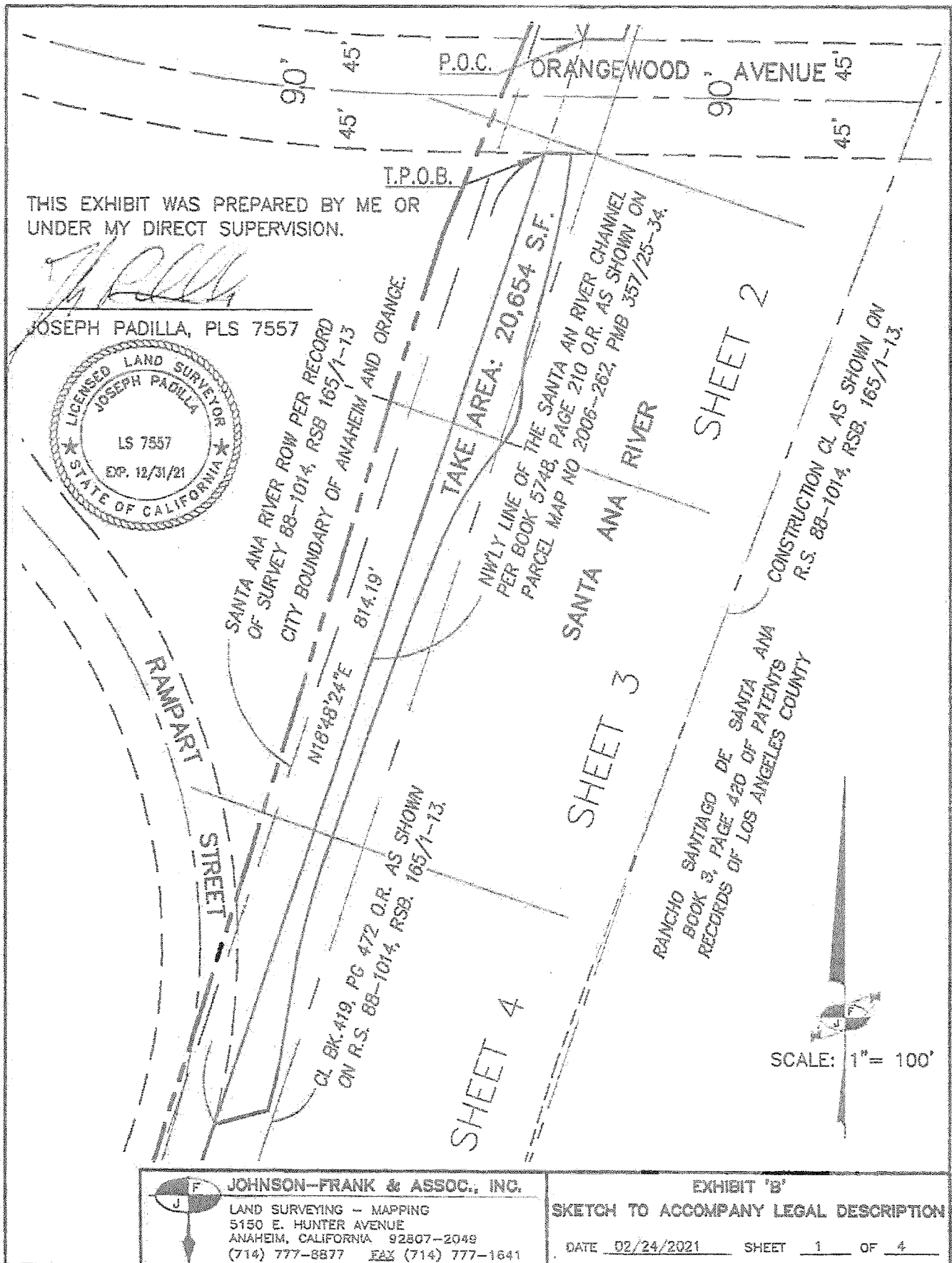
SOUTHWESTERLY AND WESTERLY BY THE NORTHEASTERLY AND EASTERLY LINE OF THE LAND DESCRIBED IN RESOLUTION NO. 72R-228 OF THE CITY COUNCIL OF THE CITY OF ANAHEIM, A CERTIFIED COPY OF WHICH WAS RECORDED JUNE 19, 1972 IN BOOK 10180, PAGE 325 OF SAID OFFICIAL RECORDS AND IN PARCEL 2 OF RESOLUTION NO. 78R-174 OF THE CITY COUNCIL OF THE CITY OF ANAHEIM, A CERTIFIED COPY OF WHICH WAS RECORDED APRIL 11, 1978 IN BOOK 12630, PAGE 1296 OF SAID OFFICIAL RECORDS; AND

NORTHERLY BY THE SOUTHERLY LINE OF THE LAND DESCRIBED IN DEED TO THE COUNTY OF ORANGE RECORDED NOVEMBER 26, 1965 IN BOOK 7752, PAGE 153 OF SAID OFFICIAL RECORDS AND THE SOUTHERLY LINE OF THE LAND DESCRIBED IN PARCEL 1 OF RESOLUTION NO. 78R-174 OF THE CITY COUNCIL OF THE CITY OF ANAHEIM, A CERTIFIED COPY OF WHICH WAS RECORDED APRIL 11, 1978 IN BOOK 12630, PAGE 1296 OF SAID OFFICIAL RECORDS.

EXCEPTING THEREFROM ALL OIL, GAS, ASPHALTUM AND OTHER HYDROCARBON SUBSTANCES AND WATER, OTHER THAN SANTA ANA VALLEY IRRIGATION COMPANY'S WATER FROM ON OR UNDER A PORTION OF SAID LAND, AS RESERVED BY MARY M. PARKER, A WIDOW, IN A DEED RECORDED JUNE 26, 1943 IN BOOK 1194, PAGE 466 OF OFFICIAL RECORDS.

ALSO EXCEPTING THEREFROM THOSE PORTIONS OF PARCELS 1 AND 2, LYING EASTERLY OF THE WESTERLY LINE OF THE LAND DEEDED TO THE ORANGE COUNTY FLOOD CONTROL DISTRICT, BY DEED RECORDED FEBRUARY 2, 1962 IN BOOK 5996, PAGE 539 OF OFFICIAL RECORDS.

APN: 232-011-19, 232-011-13



JOHNSON-FRANK & ASSOC., INC.
LAND SURVEYING - MAPPING
5150 E. HUNTER AVENUE
ANAHEIM, CALIFORNIA 92807-2049
(714) 777-8877 FAX (714) 777-1641

EXHIBIT 'B'
SKETCH TO ACCOMPANY LEGAL DESCRIPTION
DATE 02/24/2021 SHEET 1 OF 4

JSR_2017093.DWG
00000_TAKEDWG

PARCEL 2
PARCEL MAP NO. 2006-262
P.M.B. 357/25-34

P.O.C.

ORANGEWOOD AVENUE

T.P.O.B.

SCALE: 1"=40'

CITY OF ANAHEIM

SANTA ANA RIVER ROW PER RECORD
OF SURVEY 88-1014, RSB 165/1-13

CITY OF ORANGE

NWLY LINE OF THE SANTA AN RIVER
CHANNEL PER BOOK 5748, PAGE 210 O.R.

N18°48'24"E 814.19'

RANCHO SANTIAGO DE SANTA ANA
BOOK 3, PAGE 420 OF PATENTS
RECORDS OF LOS ANGELES COUNTY

SANTA ANA RIVER

N89°11'06"W
21.10'

S08°02'05"W
38.81'

N77°59'49"W
(RAD)

R=1360.50'
L=112.15'
Δ=4°43'23"

N73°16'26"W
PRC(RAD)

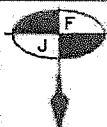
R=148.00'
L=43.71'
Δ=16°55'23"

N89°48'11"E
PRC(RAD)

R=57.50'
L=40.83'
Δ=40°41'02"

N49°30'47"W
(RAD)

SEE SHEET 3



JOHNSON-FRANK & ASSOC., INC.

LAND SURVEYING - MAPPING
5150 E. HUNTER AVENUE
ANAHEIM, CALIFORNIA 92807-2049
(714) 777-8877 FAX (714) 777-1641

EXHIBIT 'B'

SKETCH TO ACCOMPANY LEGAL DESCRIPTION

DATE 02/24/2021 SHEET 2 OF 4

JLF_2017093.00008A
OCFCD_TAKE.DWG

SEE SHEET 2

SANTA ANA RIVER ROW PER RECORD
OF SURVEY 88-1014, RSB 165/1-13

CITY OF ANAHEIM

CITY OF ORANGE

NWLY LINE OF THE SANTA AN RIVER CHANNEL PER BOOK 5748, PAGE
210 O.R. AS SHOWN ON PARCEL MAP NO 2006-262, PMB 357/25-34.

N18°48'24"E 814.19'

R=6622.50'

L=183.46'

Δ=1°35'14"

41.51'

R=276.00'

L=107.66'

Δ=22°21'00"

N70°46'14"W
(RAD)

N69°11'00"W
(RAD)

N21°08'56"E

N70°23'57"W
(RAD)

N48°02'57"W
(RAD)

SCALE: 1"=40'

RANCHO SANTIAGO DE SANTA ANA
BOOK 3, PAGE 420 OF PATENTS
RECORDS OF LOS ANGELES COUNTY

SANTA ANA RIVER

SEE SHEET 4



JOHNSON-FRANK & ASSOC., INC.

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(714) 777-8877 FAX (714) 777-1641

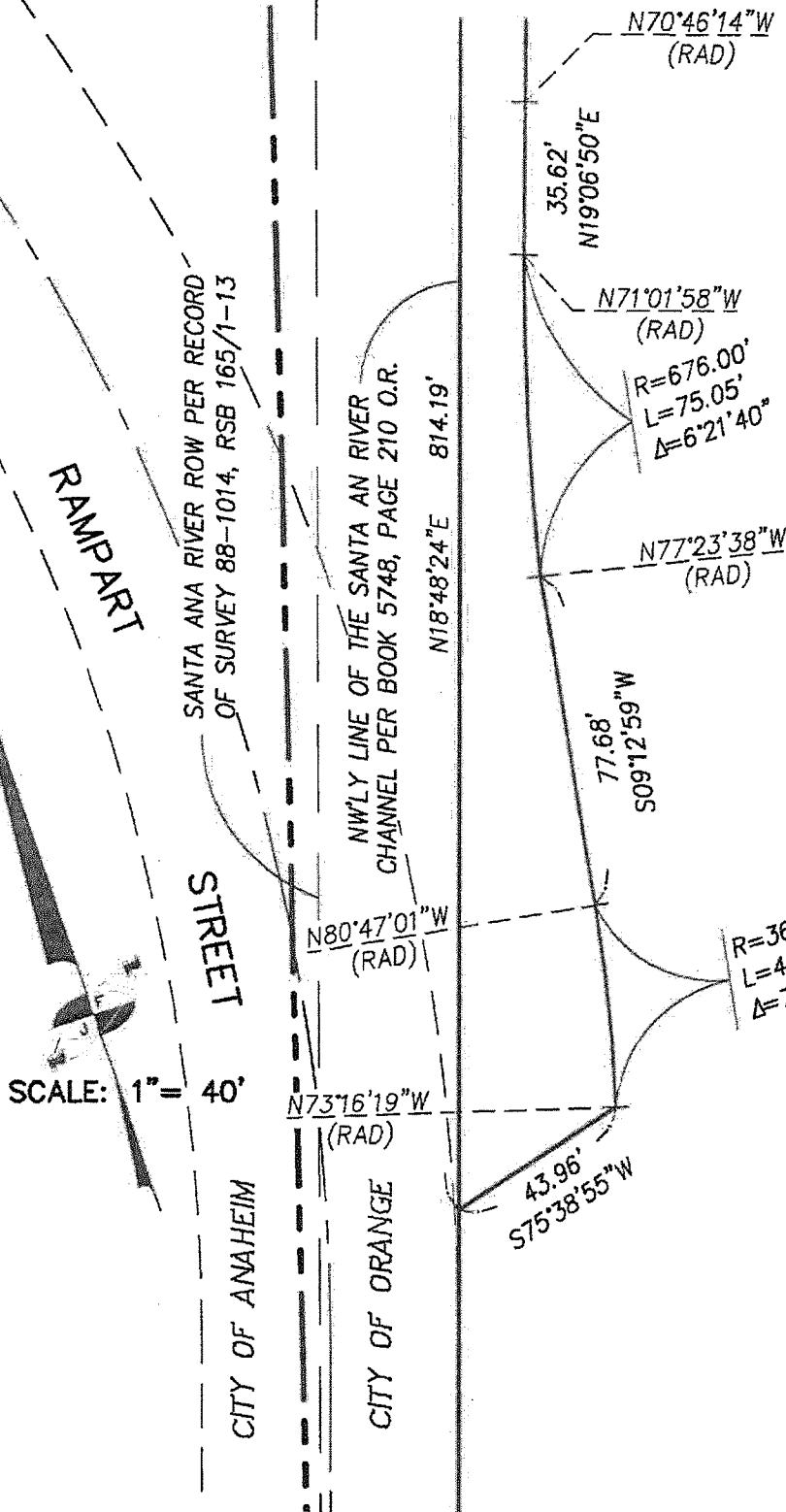
EXHIBIT 'B'

SKETCH TO ACCOMPANY LEGAL DESCRIPTION

DATE 02/24/2021 SHEET 3 OF 4

JNL 2017093.00008A
OCFCD_TAKE.DWG

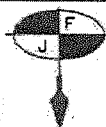
SEE SHEET 3



SCALE: 1" = 40'

RANCHO SANTIAGO DE SANTA ANA
BOOK 3, PAGE 420 OF PATENTS
RECORDS OF LOS ANGELES COUNTY

SANTA ANA RIVER



JOHNSON-FRANK & ASSOC., INC.

LAND SURVEYING - MAPPING
5150 E. HUNTER AVENUE
ANAHEIM, CALIFORNIA 92807-2049
(714) 777-8877 FAX (714) 777-1641

EXHIBIT 'B'

SKETCH TO ACCOMPANY LEGAL DESCRIPTION

DATE 02/24/2021 SHEET 4 OF 4

JNE_2017093.00006A
OCFCD_TAKEDWG



Agenda Item

City Council

Item #: 3.7.

7/13/2021

File #: 21-0370

TO: Honorable Mayor and Members of the City Council

THRU: Rick Otto, City Manager

FROM: Will Kolbow, Assistant City Manager/Administrative Services Director

1. SUBJECT

Agreement with Core BTS, Inc. for Microsoft Office 365 Migration.

2. SUMMARY

IT staff is recommending the City migrate its two on premise Exchange messaging services to an Office 365 Exchange Online tenant. In addition, this project will add a self-service password reset portal, and add Multi-Factor Authentication for all VPN connections, bringing services up to current Microsoft standards while greatly improving the security posture for any external connections.

3. RECOMMENDED ACTION

Approve the agreement with Core BTS, Inc. in the amount of \$129,220 for Microsoft Office 365 migration; and authorize the Mayor and City Clerk to execute on behalf of the City.

4. FISCAL IMPACT

The total expenditure for this agreement is \$129,220 and will be funded in Mobile Device Management Platform (20292) through Computer Replacement (790).

5. STRATEGIC PLAN GOALS

Goal 4: Provide outstanding public service.

c: Enhance technology to improve public accessibility to information and services.

6. DISCUSSION AND BACKGROUND

The messaging systems (Microsoft Exchange) for both Civic Center and Orange PD have reached end of support with Microsoft and are in need of upgrading. Microsoft now provides the ability for customers to migrate their messaging workloads to a Microsoft hosted datacenter. This will allow the City to remain on a current messaging system and also provide greater resiliency. Part of this project will be to combine the two separate Exchange environments into one unified messaging system to provide a single global address list and sharing of free/busy time between the Civic Center and Orange PD.

Adding a self-service password reset portal will allow all end users to reset their passwords should their account become locked or if they have forgotten their password, without waiting for IT support. The addition of multi-factor authentication (MFA) for all VPN connections will significantly improve our security posture by requiring an additional source of verification before allowing access to the

network from outside connections. IT staff has selected Core BTS to be their partner in completing this migration. As part of our Microsoft Enterprise Agreement approved in March 2021, the City is able to spend “FastTrack” credits with gold level partners that have been authorized by Microsoft. The Microsoft FastTrack Partner Program is a benefit for remote guidance and support provided by Microsoft for customers with eligible cloud licenses in specific project use-cases. Core BTS has 16 Microsoft Gold Competencies and has a proven record of accomplishment in enterprise consulting, cloud platform migration, custom application development, managed services, user adoption and change management.

7. ATTACHMENTS

- Agreement with Core BTS



Agenda Item

City Council

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7/13/2021

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7. ATTACHMENTS

- Agreement with Core BTS

PROFESSIONAL SERVICES AGREEMENT
[Exchange Online Migration Consulting Services]

THIS PROFESSIONAL SERVICES AGREEMENT (the “Agreement”) is made at Orange, California, on this ____ day of _____, 2021 (the “Effective Date”) by and between the CITY OF ORANGE, a municipal corporation (“City”), and CORE BTS, INC., a Delaware corporation (“Contractor”), who agree as follows:

1. Services. Subject to the terms and conditions set forth in this Agreement, Contractor shall provide to the reasonable satisfaction of City the services set forth in Exhibit “A,” which is attached hereto and incorporated herein by reference. As a material inducement to City to enter into this Agreement, Contractor represents and warrants that it has thoroughly investigated and considered the scope of services and fully understands the difficulties and restrictions in performing the work. The services which are the subject of this Agreement are not in the usual course of City’s business and City relies on Contractor’s representation that it is independently engaged in the business of providing such services and is experienced in performing the work. Contractor shall perform all services in a manner reasonably satisfactory to City and in a manner in conformance with the standards of quality normally observed by an entity providing such services to a municipal agency. All services provided shall conform to all federal, state and local laws, rules and regulations and to the best professional standards and practices. The terms and conditions set forth in this Agreement shall control over any terms and conditions in Exhibit "A" to the contrary.

Steven Scardina, Information Technology Manager (“City’s Project Manager”), shall be the person to whom Contractor will report for the performance of services hereunder. It is understood that Contractor’s performance hereunder shall be under the supervision of City’s Project Manager (or designee), that Contractor shall coordinate its services hereunder with City’s Project Manager to the extent required by City’s Project Manager, and that all performances required hereunder by Contractor shall be performed to the satisfaction of City’s Project Manager and the City Manager.

2. Compensation and Fees.

a. Contractor's total compensation for all services performed under this Agreement, shall not exceed ONE HUNDRED TWENTY-NINE THOUSAND TWO HUNDRED TWENTY DOLLARS and 00/100 (\$129,220.00) without the prior written authorization of City.

b. The above compensation shall include all costs, including, but not limited to, all clerical, administrative, overhead, insurance, reproduction, telephone, travel, auto rental, subsistence and all related expenses.

3. Payment.

a. As scheduled services are completed, Contractor shall submit to City an invoice for the services completed, authorized expenses and authorized extra work actually performed or incurred.

b. All such invoices shall state the basis for the amount invoiced, including services completed, the number of hours spent and any extra work performed.

c. City will pay Contractor the amount invoiced within thirty (30) days after the approval of the invoice.

d. Payment shall constitute payment in full for all services, authorized costs and authorized extra work covered by that invoice.

4. **Change Orders.** No payment for extra services caused by a change in the scope or complexity of work, or for any other reason, shall be made unless and until such extra services and a price therefor have been previously authorized in writing and approved by City as an amendment to this Agreement. City's Project Manager is authorized to approve a reduction in the services to be performed and compensation therefor. All amendments shall set forth the changes of work, extension of time, and/or adjustment of the compensation to be paid by City to Contractor and shall be signed by the City's Project Manager, City Manager or City Council, as applicable.

5. **Licenses.** Contractor represents that it and any subcontractors it may engage, possess any and all licenses which are required under state or federal law to perform the work contemplated by this Agreement and that Contractor and its subcontractors shall maintain all appropriate licenses, including a City of Orange business license, at its cost, during the performance of this Agreement.

6. **Independent Contractor.** At all times during the term of this Agreement, Contractor shall be an independent contractor and not an employee of City. City shall have the right to control Contractor only insofar as the result of Contractor's services rendered pursuant to this Agreement. City shall not have the right to control the means by which Contractor accomplishes services rendered pursuant to this Agreement. Contractor shall, at its sole cost and expense, furnish all facilities, materials and equipment which may be required for furnishing services pursuant to this Agreement. Contractor shall be solely responsible for, and shall indemnify, defend and save City harmless from all matters relating to the payment of its subcontractors, agents and employees, including compliance with social security withholding and all other wages, salaries, benefits, taxes, exactions, and regulations of any nature whatsoever. Contractor acknowledges that it and any subcontractors, agents or employees employed by Contractor shall not, under any circumstances, be considered employees of City, and that they shall not be entitled to any of the benefits or rights afforded employees of City, including, but not limited to, sick leave, vacation leave, holiday pay, Public Employees Retirement System benefits, or health, life, dental, long-term disability or workers' compensation insurance benefits.

7. **Contractor Not Agent.** Except as City may specify in writing, Contractor shall have no authority, express or implied, to act on behalf of City in any capacity whatsoever as an agent. Contractor shall have no authority, express or implied, to bind City to any obligation whatsoever.

8. **Designated Persons.** Only those qualified persons authorized by City's Project Manager, or as designated in Exhibit "A," shall perform work provided for under this Agreement. It is understood by the parties that clerical and other nonprofessional work may be performed by persons other than those designated.

9. **Assignment or Subcontracting.** No assignment or subcontracting by Contractor of any part of this Agreement or of funds to be received under this Agreement shall be of any force or effect unless the assignment has the prior written approval of City. City may terminate this Agreement rather than accept any proposed assignment or subcontracting. Such assignment or subcontracting may be approved by the City Manager or his/her designee.

10. **Time of Completion.** Except as otherwise specified in Exhibit "A," Contractor shall commence the work provided for in this Agreement within five (5) days of the Effective Date of this Agreement and diligently prosecute completion of the work in accordance with the time period set forth in Exhibit "A" hereto or as otherwise agreed to by and between the representatives of the parties.

11. **Time Is of the Essence.** Time is of the essence in this Agreement. Contractor shall do all things necessary and incidental to the prosecution of Contractor's work.

12. **Reserved.**

13. **Delays and Extensions of Time.** Contractor's sole remedy for delays outside its control, other than those delays caused by City, shall be an extension of time. No matter what the cause of the delay, Contractor must document any delay and request an extension of time in writing at the time of the delay to the satisfaction of City. Any extensions granted shall be limited to the length of the delay outside Contractor's control. If Contractor believes that delays caused by City will cause it to incur additional costs, it must specify, in writing, why the delay has caused additional costs to be incurred and the exact amount of such cost at the time the delay occurs. No additional costs can be paid that exceed the not to exceed amount stated in Section 2.a, above, absent a written amendment to this Agreement.

14. **Products of Contractor.** The documents, studies, evaluations, assessments, reports, plans, citations, materials, manuals, technical data, logs, files, designs and other products produced or provided by Contractor for this Agreement shall become the property of City upon receipt. Contractor shall deliver all such products to City prior to payment for same. City may use, reuse or otherwise utilize such products without restriction.

15. **Equal Employment Opportunity.** During the performance of this Agreement, Contractor agrees as follows:

a. Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, mental or physical disability, or any other basis prohibited by applicable law. Contractor shall ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, national origin, mental or physical disability, or any other basis prohibited by applicable law.

Such actions 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. Contractor agrees to post in conspicuous places, available to employees and applicants for employment, a notice setting forth provisions of this non-discrimination clause.

b. Contractor shall, in all solicitations and advertisements for employees placed by, or on behalf of Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin, mental or physical disability, or any other basis prohibited by applicable law.

c. Contractor shall cause the foregoing paragraphs (a) and (b) to be inserted in all subcontracts for any work covered by this Agreement, provided that the foregoing provisions shall not apply to subcontracts for standard commercial supplies or raw materials.

16. Conflicts of Interest. Contractor agrees that it shall not make, participate in the making, or in any way attempt to use its position as a consultant to influence any decision of City in which Contractor knows or has reason to know that Contractor, its officers, partners, or employees have a financial interest as defined in Section 87103 of the Government Code.

17. Indemnity.

a. To the fullest extent permitted by law, Contractor agrees to indemnify, defend and hold City, its City Council and each member thereof, and the officers, officials, agents and employees of City (collectively the “Indemnitees”) entirely harmless from all liability arising out of:

(1) Any and all claims under workers’ compensation acts and other employee benefit acts with respect to Contractor’s employees or its subcontractor’s employees arising out of Contractor’s work under this Agreement, including any and all claims under any law pertaining to Contractor or its employees’ status as an independent contractor and any and all claims under Labor Code section 1720 related to the payment of prevailing wages for public works projects; and

(2) Any claim, loss, injury to or death of persons or damage to property caused by any act, neglect, default, or omission other than a professional act or omission of Contractor, or person, firm or corporation employed by Contractor, either directly or by independent contract, including all damages due to loss or theft sustained by any person, firm or corporation including the Indemnitees, or any of them, arising out of, or in any way connected with the work or services which are the subject of this Agreement, including injury or damage either on or off City’s property; but not for any loss, injury, death or damage caused by the active negligence or willful misconduct of City. Contractor, at its own expense, cost and risk, shall indemnify any and all claims, actions, suits or other proceedings that may be brought or instituted against the Indemnitees on any such claim or liability covered by this subparagraph, and shall pay or satisfy any judgment that may be rendered against the Indemnitees, or any of them, in any action, suit or other proceedings as a result of coverage under this subparagraph.

b. To the fullest extent permitted by law, and as limited by California Civil Code 2782.8, Contractor agrees to indemnify and hold Indemnitees harmless from all liability arising out of any claim, loss, injury to or death of persons or damage to property to the extent caused by its negligent professional act or omission in the performance of professional services pursuant to this Agreement.

c. Except for the Indemnitees, the indemnifications provided in this Agreement shall not be construed to extend any third party indemnification rights of any kind to any person or entity which is not a signatory to this Agreement.

d. The indemnities set forth in this section shall survive any closing, rescission, or termination of this Agreement, and shall continue to be binding and in full force and effect in perpetuity with respect to Contractor and its successors.

18. Insurance.

a. Contractor shall carry workers' compensation insurance as required by law for the protection of its employees during the progress of the work. Contractor understands that it is an independent contractor and not entitled to any workers' compensation benefits under any City program.

b. Contractor shall maintain during the life of this Agreement the following minimum amount of comprehensive general liability insurance or commercial general liability insurance: the greater of (1) One Million Dollars (\$1,000,000) per occurrence; or (2) all the insurance coverage and/or limits carried by or available to Contractor. Said insurance shall cover bodily injury, death and property damage and be written on an occurrence basis.

c. Reserved.

d. Any insurance proceeds in excess of or broader than the minimum required coverage and/or minimum required limits which are applicable to a given loss shall be available to City. No representation is made that the minimum insurance requirements of this Agreement are sufficient to cover the obligations of Contractor under this Agreement.

e. Each policy of general liability shall provide that City, its officers, officials, agents, and employees are declared to be additional insureds under the terms of the policy, but only with respect to the work performed by Contractor under this Agreement. A policy endorsement to that effect shall be provided to City along with the certificate of insurance. In lieu of an endorsement, City will accept a copy of the policy(ies) which evidences that City is an additional insured as a contracting party. The minimum coverage required by Subsection 18.b and c, above, shall apply to City as an additional insured. Any umbrella liability insurance that is provided as part of the general liability minimums set forth herein shall be maintained for the duration of the Agreement.

f. Contractor shall maintain during the life of this Agreement professional liability insurance covering errors and omissions arising out of the performance of this Agreement with a minimum limit of One Million Dollars (\$1,000,000) per claim. Contractor agrees to keep such policy in force and effect for at least five (5) years from the date of completion of this Agreement.

g. The insurance policies maintained by Contractor shall be primary insurance and no insurance held or owned by City shall be called upon to cover any loss under the policy. Contractor will determine its own needs in procurement of insurance to cover liabilities other than as stated above.

h. Before Contractor performs any work or prepares or delivers any materials, Contractor shall furnish certificates of insurance and endorsements, as required by City, evidencing the aforementioned minimum insurance coverages on forms acceptable to City, which shall provide that the insurance in force will not be canceled or allowed to lapse without at least ten (10) days' prior written notice to City.

i. Except for professional liability insurance coverage that may be required by this Agreement, all insurance maintained by Contractor shall be issued by companies admitted to conduct the pertinent line of insurance business in California and having a rating of Grade A or better and Class VII or better by the latest edition of Best Key Rating Guide. In the case of professional liability insurance coverage, such coverage shall be issued by companies either licensed or admitted to conduct business in California so long as such insurer possesses the aforementioned Best rating.

j. Contractor shall immediately notify City if any required insurance lapses or is otherwise modified and cease performance of this Agreement unless otherwise directed by City. In such a case, City may procure insurance or self-insure the risk and charge Contractor for such costs and any and all damages resulting therefrom, by way of set-off from any sums owed Contractor.

k. Contractor agrees that in the event of loss due to any of the perils for which it has agreed to provide insurance, Contractor shall look solely to its insurance for recovery. Contractor hereby grants to City, on behalf of any insurer providing insurance to either Contractor or City with respect to the services of Contractor herein, a waiver of any right to subrogation which any such insurer may acquire against City by virtue of the payment of any loss under such insurance.

l. Contractor shall include all subcontractors, if any, as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor to City for review and approval. All coverages for subcontractors shall be subject to all of the requirements stated herein.

19. Termination. City may for any reason terminate this Agreement by giving Contractor not less than five (5) days' written notice of intent to terminate. Upon receipt of such notice, Contractor shall immediately cease work, unless the notice from City provides otherwise.

Upon the termination of this Agreement, City shall pay Contractor for services satisfactorily provided and all allowable reimbursements incurred to the date of termination in compliance with this Agreement, unless termination by City shall be for cause, in which event City may withhold any disputed compensation. City shall not be liable for any claim of lost profits.

20. Maintenance and Inspection of Records. In accordance with generally accepted accounting principles, Contractor and its subcontractors shall maintain reasonably full and complete books, documents, papers, accounting records, and other information (collectively, the “records”) pertaining to the costs of and completion of services performed under this Agreement. City and its authorized representatives shall have access to and the right to audit and reproduce any of Contractor's records regarding the services provided under this Agreement. Contractor shall maintain all such records for a period of at least three (3) years after termination or completion of this Agreement. Contractor agrees to make available all such records for inspection or audit at its offices during normal business hours and upon three (3) days’ notice from City, and copies thereof shall be furnished if requested.

21. Compliance with all Laws/Immigration Laws.

a. Contractor shall be knowledgeable of and comply with all local, state and federal laws which may apply to the performance of this Agreement.

b. If the work provided for in this Agreement constitutes a “public works,” as that term is defined in Section 1720 of the California Labor Code, for which prevailing wages must be paid, to the extent Contractor’s employees will perform any work that falls within any of the classifications for which the Department of Labor Relations of the State of California promulgates prevailing wage determinations, Contractor hereby agrees that it, and any subcontractor under it, shall pay not less than the specified prevailing rates of wages to all such workers. The general prevailing wage determinations for crafts can be located on the website of the Department of Industrial Relations (www.dir.ca.gov/DLSR). Additionally, to perform work under this Contract, Contractor must meet all State registration requirements and criteria, including project compliance monitoring.

c. Contractor represents and warrants that it:

(1) Has complied and shall at all times during the term of this Agreement comply, in all respects, with all immigration laws, regulations, statutes, rules, codes, and orders, including, without limitation, the Immigration Reform and Control Act of 1986 (IRCA); and

(2) Has not and will not knowingly employ any individual to perform services under this Agreement who is ineligible to work in the United States or under the terms of this Agreement; and

(3) Has properly maintained, and shall at all times during the term of this Agreement properly maintain, all related employment documentation records including,

without limitation, the completion and maintenance of the Form I-9 for each of Contractor's employees; and

(4) Has responded, and shall at all times during the term of this Agreement respond, in a timely fashion to any government inspection requests relating to immigration law compliance and/or Form I-9 compliance and/or worksite enforcement by the Department of Homeland Security, the Department of Labor, or the Social Security Administration.

d. Contractor shall require all subcontractors or subconsultants to make the same representations and warranties as set forth in Subsection 21.c.

e. Contractor shall, upon request of City, provide a list of all employees working under this Agreement and shall provide, to the reasonable satisfaction of City, verification that all such employees are eligible to work in the United States. All costs associated with such verification shall be borne by Contractor. Once such request has been made, Contractor may not change employees working under this Agreement without written notice to City, accompanied by the verification required herein for such employees.

f. Contractor shall require all subcontractors or sub-consultants to make the same verification as set forth in Subsection 21.e.

g. If Contractor or subcontractor knowingly employs an employee providing work under this Agreement who is not authorized to work in the United States, and/or fails to follow federal laws to determine the status of such employee, that shall constitute a material breach of this Agreement and may be cause for immediate termination of this Agreement by City.

h. Contractor agrees to indemnify and hold City, its officers, officials, agents and employees harmless for, of and from any loss, including but not limited to fines, penalties and corrective measures City may sustain by reason of Contractor's failure to comply with said laws, rules and regulations in connection with the performance of this Agreement.

22. Governing Law and Venue. This Agreement shall be construed in accordance with and governed by the laws of the State of California and Contractor agrees to submit to the jurisdiction of California courts. Venue for any dispute arising under this Agreement shall be in Orange County, California.

23. Integration. This Agreement constitutes the entire agreement of the parties. No other agreement, oral or written, pertaining to the work to be performed under this Agreement shall be of any force or effect unless it is in writing and signed by both parties. Any work performed which is inconsistent with or in violation of the provisions of this Agreement shall not be compensated.

24. Notice. Except as otherwise provided herein, all notices required under this Agreement shall be in writing and delivered personally, by e-mail, or by first class U.S. mail, postage prepaid, to each party at the address listed below. Either party may change the notice

address by notifying the other party in writing. Notices shall be deemed received upon receipt of same or within three (3) days of deposit in the U.S. Mail, whichever is earlier. Notices sent by e-mail shall be deemed received on the date of the e-mail transmission.

“CONTRACTOR”

Core BTS, Inc.
5875 Castle Creek Parkway N Drive, Suite 320
Indianapolis, IN 46250
Attn.: Matthew Rice

Telephone: 818-942-2036
E-Mail: matthew.rice@corebts.com

“CITY”

City of Orange
300 E. Chapman Avenue
Orange, CA 92866-1591
Attn.: Steven Scardina

Telephone: 714-744-2283
E-Mail: sscardina@cityoforange.org

25. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Signatures transmitted via facsimile and electronic mail shall have the same effect as original signatures.

[Remainder of page intentionally left blank; signatures on next page]

IN WITNESS of this Agreement, the parties have entered into this Agreement as of the year and day first above written.

“CONTRACTOR”

CORE BTS, INC., a Delaware corporation

*By: _____
Printed Name: _____
Title: _____

*By: _____
Printed Name: _____
Title: _____

“CITY”

CITY OF ORANGE, a municipal corporation

By: _____
Mark A. Murphy, Mayor

ATTEST:

Pamela Coleman, City Clerk

APPROVED AS TO FORM:

Mary E. Binning
Senior Assistant City Attorney

***NOTE:** City requires the following signature(s) on behalf of the Contractor:
-- (1) the Chairman of the Board, the President or a Vice-President, AND (2) the Secretary, the Chief Financial Officer, the Treasurer, an Assistant Secretary or an Assistant Treasurer. If only one corporate officer exists or one corporate officer holds more than one corporate office, please so indicate. OR
-- The corporate officer named in a corporate resolution as authorized to enter into this Agreement. A copy of the corporate resolution, certified by the Secretary close in time to the execution of the Agreement, must be provided to City.

EXHIBIT “A”

SCOPE OF SERVICES

[Beneath this sheet.]

Exchange to Exchange Online Migration

Statement of Work

Prepared for
City of Orange

Thursday, April 15, 2021
Version 1.0

Prepared by
Core BTS, Inc.
<http://www.corebts.com>

Kyle Natoli
Senior Consultant
kyle.natoli@corebts.com



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This document is provided to City of Orange ("Client") solely in support of a proposal for services ("Proposal") for the Exchange to Exchange Online Migration project ("Project").

This document contains proprietary information owned by Core BTS, Inc. ("Core BTS") and should be regarded as confidential. This document, any attachments and summaries, related information, and all copies of same remain the confidential property of Core BTS and shall be returned to Core BTS upon request.

These materials and the information contained herein are not to be duplicated or used, in whole or in part, for any purpose other than Client use to evaluate this Proposal.

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1 Project Scope

City of Orange is looking to modernize their messaging solution by moving their end-of-support Exchange 2010-based On-premises organization to Office 365 Exchange Online and take advantage of Microsoft's latest Enterprise Mobility + Security ("EMS") offerings to secure access to their identities and data in Microsoft 365. They would also like to unify both their Exchange organizations to fix free / busy and organization sharing challenges between their two (2) messaging environments by moving to Exchange Online under one Office 365 tenant as a means to fix these productivity issues. City of Orange has requested an Exchange-to-Exchange Online Migration project with rollouts of Azure Active Directory ("Azure AD") Conditional Access, Self-Service Password Reset ("SSPR"), and Multi-Factor Authentication ("MFA") for their organization to assist with governance requirements.

Upon conclusion of this initiative, City of Orange envisions that all identified technological assets will be fully integrated and to have the following completed:

- Migration of up to 860 users from two separate on-premises Exchange 2010 organizations to one Office 365 Exchange Online tenant
- Unification of both Exchange On-premises organizations in Exchange Online for free / busy and global address book
- Rollout of Azure AD MFA, SSPR, and Conditional Access policies for 860 users to support security and access requirements of the business for all in-scope City of Orange users
- Transition from Okta federation with Azure AD to Azure AD Connect Password Hash Synchronization to simplify authentication
- Migration of Public Folders to Exchange Online
- Decommissioning of four (4) Exchange 2010 servers (two (2) in each environment) upon conclusion of all mailbox migrations

2 Project Work Estimate and Timeline

The overall project will require 10 weeks of effort to perform the following:

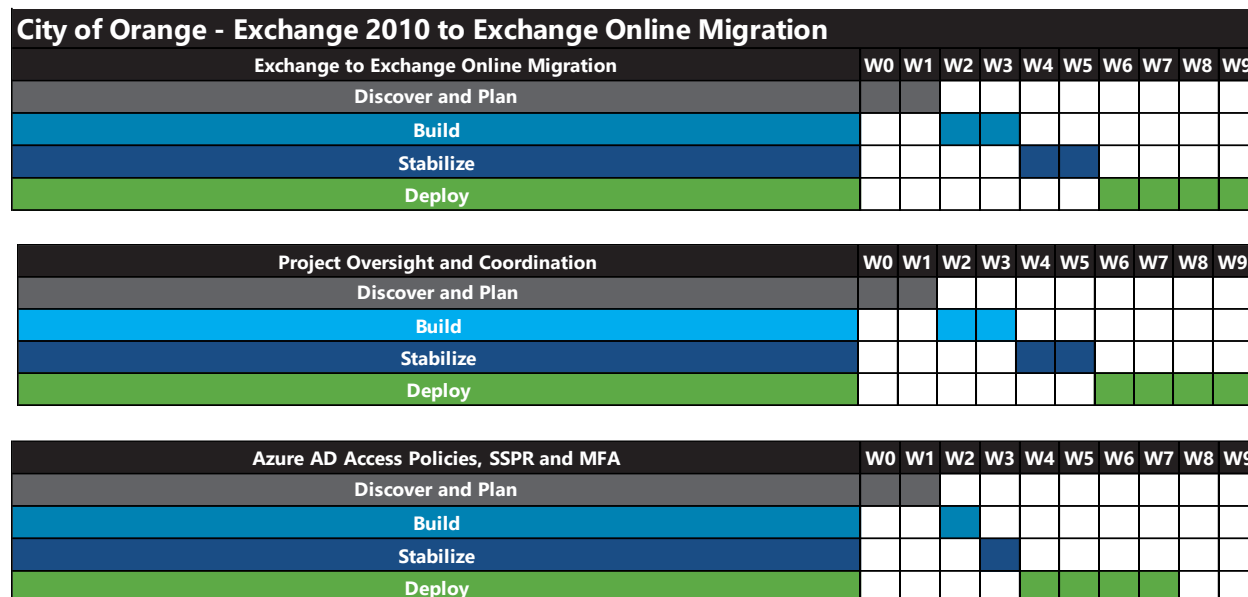


Figure 1: Project Timeline Estimate

3 Operations Framework

Our Operations Framework leverages years of expertise to deliver reliable IT solutions and services to our clients. Our Operations Framework will assist City of Orange by building an experience-based solution approach that not only provides technical guidance and best practices but also helps focus the project with meaningful relevance to the business and operational efficiency during delivery.

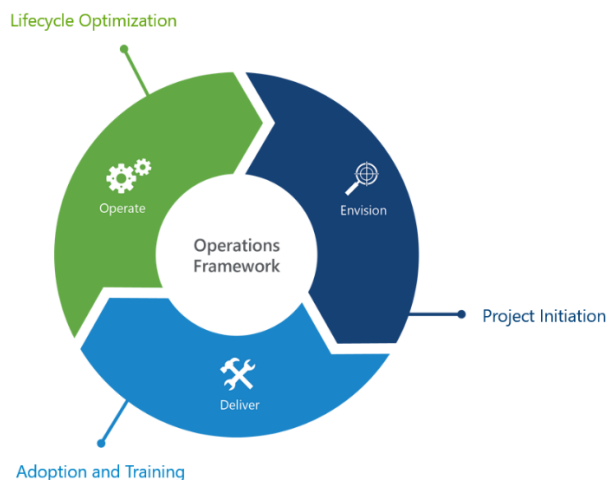


Figure 2: Operations Framework

3.1 Envision

Envision provides guidance on strategic and tactical methods to determine the overall alignment between IT and the business needs. This phase leverages high-level discovery or whiteboard sessions involving IT leaders from the client-side as well as line of business executives, stakeholders, and solution leaders. These sessions delve into the client's technical needs along with strategic discussions to ensure all facets of the project have been reviewed and considered. These whiteboard sessions are led by our senior architects who have many years of experience in delivering complex solutions. These organic conversations help all stakeholders understand the challenges in detail, and to come up with a technical solution.

In addition to the technical solution components, a focus of discussion also includes Adoption and Change Management ("ACM"). ACM for the client operations team and end users is an integral part of any solution, and no solution can be complete without it. To ensure this is covered during the whiteboard sessions, experts are brought in to discuss change management, end user training, communication methodologies, and high-level rollout plans to ensure alignment with the technical solution and business needs.

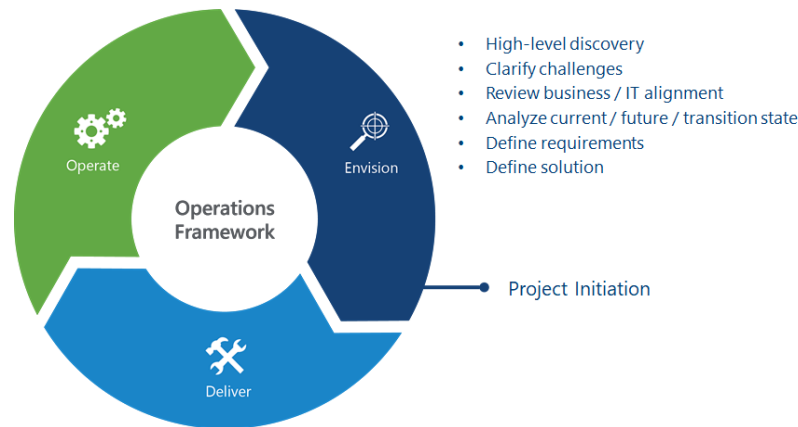


Figure 3: Operations Framework – Envision

3.2 Deliver

During Deliver, Core BTS leverages a strong project model with the following Deliver phases: Discover and Plan, Build, Stabilize, and Deploy. Additionally, Adoption and Training components are included throughout each of the phases.

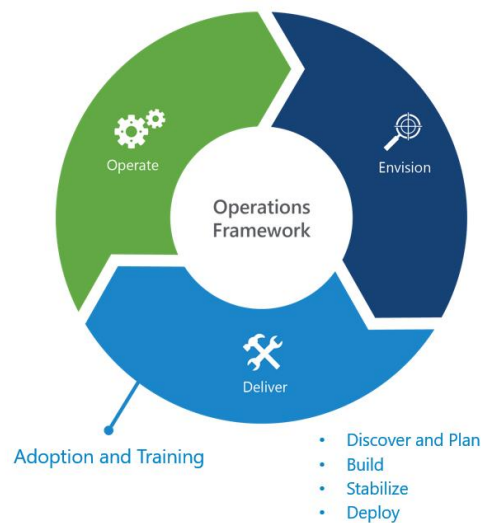


Figure 4: Operations Framework – Deliver

Our SOW typically begins with this phase to indicate the solutions we intend to deliver for the client based on their business objectives and goals. The project is considered complete at the end of the Deploy phase.

3.2.1 Discover and Plan

The project efforts will initiate with a comprehensive set of workshops and discovery sessions designed to establish the structure of the project team, discover the core business and technical requirements of the project, and distill a conceptual solution set and design that will provide the preliminary focus for the project. The discovery during this phase is detailed and thorough, with deeper dive under the hood for a complete understanding of the current environment. This phase of the project will ultimately transform the disconnected pieces of the project into a comprehensive, integrated program.

The Discover and Plan phase is focused on getting the holistic view of the current environment and driving the evolution of the conceptual design to a more concrete and precise functional design – including the technical components and discrete logistics (work plans, cost estimates, and schedules) required to optimize the platform.

Our project and engagement managers will work hand-in-hand with the technical team to lay out a project plan based on the discovery findings. This plan is reviewed with the client team to make sure that the path aligns with the client's organizational vision.

The evaluation of operational readiness for resources will occur during this phase to include sessions with the key stakeholders to assess preparedness, determine gaps, and plan for successful implementation.

3.2.2 Build

The Build phase involves architecting the solution based on information uncovered in the Discovery and Plan phase. Our architects create a design that encompasses the future state of the environment and various agreed upon configuration items. Alignment in this phase is critical for future deployment success.

The primary purpose of the Build phase is to optimize the conceptual design into fully engineered and automated solutions, where possible, to create the most efficient and effective deployment methods. All key elements of the technical solution stack and deployment processes are carefully engineered and validated in this phase.

Our project and readiness managers will work with the technical team and the client teams to create the communications and transitional material necessary for effective solution deployment. Additionally, operations teams are engaged to validate readiness for the start of the Stabilize phase.

3.2.3 Stabilize

Upon successful completion of the functional and technical testing of the new process, procedures, utilities, and applications, the environment will be ready for a production pilot, or the Stabilize phase. The production pilot will solidify the process and procedures prior to the enterprise deployment.

Proper testing typically involves validating user experience during the transition and ensuring alignment of communication and transitional materials. Next, validating the process is effective and all the inter-dependencies are addressed, concluding with velocity testing to ensure the deploy plan is supportable by the operations teams.

3.2.4 Deploy

The final phase of the project, the Deploy phase, will commence after the validated process, procedures, utilities, and applications have been released to production and baseline performance expectations have been verified. All new processes and procedures will be positioned to support users with minimal impact to the business. Any governance or operational challenges the organization may encounter as part of their on-going support of the implemented solution will be discussed throughout this phase.

The Deploy phase also involves providing the admin training to the Client technical team members so that the team is empowered to take on administrative aspects of the solution after the current project is completed. The training is a very important component of the project that gives the client technical team the knowledge on the tools and the expertise needed for them to manage.

This phase concludes with a project closeout meeting with key stakeholders to obtain final approval.

3.3 Operate

Operate typically includes performing incident and problem management for all our implemented solutions. Depending on the defined support terms in the Operate phase of this SOW, we will also monitor and maintain the implemented technologies associated with this project, ensuring ongoing success of the solution.

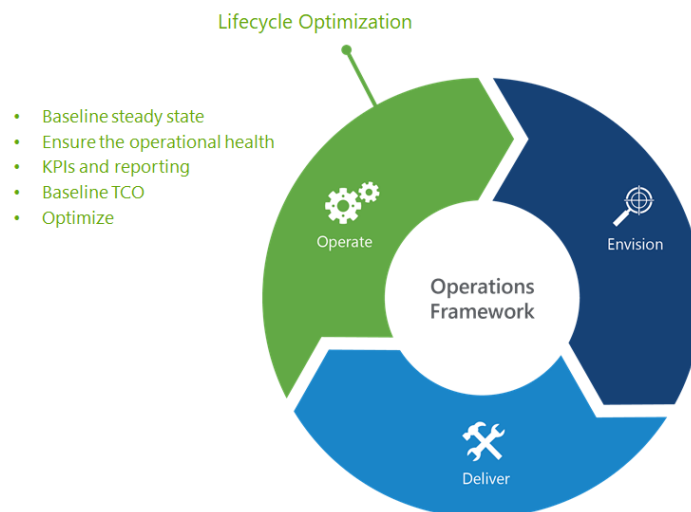


Figure 5: Operations Framework – Operate

Additionally, our managed services team assists in evaluating the total cost of ownership to uncover improvement opportunities and facilitate roadmap planning for operational efficiency.

4 Deliver

During Deliver, Core BTS will provide consultants to deliver best practice, technical guidance, and execution for the implemented technologies and solutions described in this section.

4.1 Project Oversight and Coordination

- Project logistics and planning
 - Project initiation activities
 - Oversight of resources and budget management
 - Schedule meetings to drive business requirements gathering and additional discovery
 - Create and maintain project materials and stakeholder communications:
 - Budget and timeline
 - RAID log
 - Weekly status reports
 - Review current change control standards and policy, manage changes as needed within those constraints

4.1.1 Workstream Assumptions

Assumptions made surrounding these workstream's work efforts include:

1. Project Management activities listed in this workstream will be sequenced to align with the various workstream timelines throughout the course of the project.
2. City of Orange will ensure attendance to status calls and provide decision management for the duration of the engagement.
3. City of Orange will provide project team members and other resources that are necessary to adhere to the project timeline.

4.1.2 Workstream Timeline

This workstream is projected to require 10 weeks of effort to perform the following:

Project Oversight and Coordination	W0	W1	W2	W3	W4	W5	W6	W7	W8	W9
Discover and Plan										
Project Initiation and Logistics										
Coordinate and schedule project kickoff										
Review current change control standards, policies, and timing, validate fits within project timeline										
Provide requests for accounts and access to the environments for all appropriate team members, as needed per scope of work										
Request necessary hardware for all project team members										
Facilitate logistics for travel and establish travel schedule for the team, if required for the project										
Schedule meetings to drive business requirements and discovery sessions										
Project Management										
Conduct project kickoff, reviewing project scope with the entire client team										
Validate accounts and access is appropriate for work effort and scope										
Create and maintain project materials (status reports, RAID log, budget, and timeline)										
Coordination, management, and communication of project activities and budget										
Build										
Create and maintain project materials (status reports, RAID log, budget, and timeline)										
Oversight of timely completion of project tasks and timelines										
Management and communication of project activities and budget										
Stabilize										
Create and maintain project materials (status reports, RAID log, budget, and timeline)										
Oversight of timely completion of project tasks and timelines										
Management and communication of project activities and budget										
Deploy										
Create and maintain project materials (status reports, RAID log, budget, and timeline)										
Oversight of timely completion of project tasks and timelines										
Management and communication of project activities and budget										
Conduct a completion meeting										

Figure 6: Project Oversight and Coordination Timeline

4.2 Messaging Workstream

The key goals of this workstream include design, deployment and migration to Exchange Online. Toward this end, Core BTS will design and configure the Exchange Online environment and migrate both Exchange On-premises organizations of up to 860 mailboxes to one unified Exchange Online tenant.

4.2.1 Discover and Plan Phase

The Discover and Plan phase of this workstream will establish the foundation for the remainder of the project. This phase will solidify the plan for the remaining efforts and bring together the various aspects of this workstream into a cohesive vision and solution.

High-level tasks that may be performed during this phase for this workstream include:

- Define business and functional requirements
 - Prepare requirements to support the required functionality
 - Identify priorities for each of the requirements
- Discover Business and technical requirements

- Technical workshops
 - Discover and plan AD environment
 - Discover and plan Exchange Hybrid environment
 - Discover and plan Office 365 environment
 - Discover current Azure AD Connect and authentication environment
 - Discover and plan related applications as able
 - Discovery and plan public folder action
- Mailbox migration process
 - Discuss encrypted items, permissions, etc.
 - Discuss mailbox migration options and Exchange Hybrid requirements

Deliverables

This phase will be complete when Core BTS has completed all objectives and documents listed below and they have been reviewed with the City of Orange Program Manager.

Phase Objectives

- Discovery and planning for Exchange Online environment
- Discovery and planning for Exchange multi-forest On-premises Hybrid environment

Phase Documents

#	Document Name	Revision	Document Content
1	Exchange Design	Initial	<ul style="list-style-type: none"> • Executive Summary • Current State Review • Target State Architectural Model • High-level Roadmap
2	Migration Schedule	Initial	<ul style="list-style-type: none"> • Migration List • Migration Schedule

Table 1: Messaging Workstream Discover and Plan Documents

4.2.2 Build Phase

The Build phase of this workstream primarily involves developing the solutions and content required for go-live. During this phase, all key elements of the technical solution and deployment process must be carefully engineered and validated.

High-level tasks that may be performed during this phase for this workstream include:

- Validate AD for both Exchange forests
 - Validate UserPrincipalName desired format
 - Validate Global Address List desired display name format
 - Validate Active Directory Forest Trusts
- Validate Licensing Requirements
 - Validate the quantity of required Office 365 licenses
- Exchange to Exchange Online Identity integration
 - Support updates for AD Attribute Standardization
 - Support updates for Unified Global Address List
 - Support updates for Active Directory Domain Services ("AD DS") configuration and remediation
 - Validate Azure AD Connect configuration and support identity automation
- Validate Groups: Dynamic, Distribution and Security

- Develop process to migrate Distribution Lists and mail-enabled security groups per design
- Validate Office 365
 - Validate mail flow and firewall port access between Exchange and Office 365
 - Validate outbound proxy access between clients and all Microsoft 365 services
 - Validate required DNS entries for all SMTP namespaces and related services
 - Validate required Exchange certificates for multi-forest Hybrid configuration
 - Configure tenant data loss prevention (“DLP”), mail transport rules, and threat detection per design (antispam, antimalware, allowed / blocked senders)
 - Configure Exchange Online Protection to replace Barracuda per design
- Exchange Hybrid Management and SMTP Relay
 - Prepare and existing AD forests (up to 2) for Exchange per design
 - Install and configure Exchange Hybrid management and SMTP relay environment for primary AD forest per design
 - Install and configure Exchange Hybrid management and SMTP relay environment for secondary AD forest per design
 - Validate mail flow, Exchange certificate, and firewall access per design
 - Configure retention policies, archiving, journaling, and litigation hold per design
- Core Functionality Testing
 - Define core functionality requirements and success criteria
 - Define the test matrix to validate the core functionality
 - Perform required tests to populate the test matrix
- Validate Exchange Online mobile device policies
 - Configure Intune Mobile Application Management (“MAM”) policies for Android and iOS per Design (up to two (2) MAM policies) to support Exchange mobile governance requirements
 - Validate primary Exchange Online mobile access process
- Validate Public Folders
 - Develop process to transition public folders per design
- Advise application owners as needed
- Create five (5) test accounts in each Exchange organization for functionality testing and including mail flow and migration
- Overall migration process automation and validation of migration lists

Deliverables

This phase will be complete when Core BTS has completed all objectives and documents listed below and they have been reviewed with the City of Orange Program Manager.

Phase Objectives

- Build and test the multi-forest Exchange Hybrid environment per design

Phase Documents

#	Document Name	Revision	Document Content
1	Defined list of users to be migrated and Migration Schedule	Final	<ul style="list-style-type: none"> • Finalized migration list and schedule

#	Document Name	Revision	Document Content
2	Test matrix results	Initial	<ul style="list-style-type: none"> Environmental test results for Exchange Hybrid configuration
3	Test migrations report	Final	<ul style="list-style-type: none"> Migration testing results and statistics

Table 2: Messaging Workstream Build Phase Documents

4.2.3 Stabilize Phase

The Stabilize phase of this workstream involves testing the technologies configured during the Build phase and performing any necessary reconfiguration based on testing feedback. The goal of the Stabilize phase is to ensure that all implemented technologies are operating to specification and ready to support the Deploy phase activities.

High-level tasks that may be performed during this phase for this workstream include:

- Pilot Readiness
 - Review client software readiness for users in pilot
 - Set user expectations for data migration process
 - Provide mobile device reconfiguration instructions
- Pilot mailbox migrations (up to 90 users)
- User acceptance testing
 - Gather user provided feedback and comments
 - Adjust migration process engineering and validation steps
- Update functional specifications, design, and as-built documentation as needed
- Finalize Migration logistics / implementation plan

Deliverables

This phase will be complete when Core BTS has completed all objectives and documents listed below and they have been reviewed with the City of Orange Program Manager.

Phase Objectives

- Validate migration readiness and procedures with a pilot migration of 90 mailboxes

Phase Documents

#	Document Name	Revision	Document Content
1	Pilot migrations report	Final	<ul style="list-style-type: none"> Migration results and statistics for pilot migrations

Table 3: Messaging Workstream Stabilize Phase Documents

4.2.4 Deploy Phase

The Deploy phase of this workstream involves implementing the technologies built and tested in the previous phases. The goal of the Deploy phase is to successfully execute the plans and solutions created throughout this workstream with minimal impact to the business.

High-level tasks that may be performed during this phase for this workstream include:

- Refine migration approach based on pilot results

- Migration preparation
- Migration of up to 860 mailboxes (430 per week for two (2) weeks)
- Provide up to one (1) week post-migration support
- Decommission Legacy Exchange 2010 environment per design (up to four (4) servers)
- Update functional specifications, design, and as-build documentation as needed
- Facilitate Project closeout presentation
 - Review lessons learned
 - Closeout project records
 - Obtain final project acceptance

Deliverables

This phase will be complete when Core BTS has completed all objectives and documents listed below and they have been reviewed with the City of Orange Program Manager.

Phase Objectives

- 860 mailboxes migrated to Exchange Online
- Public folders migrated to Exchange Online (up to ~5GB)
- Decommission on-premises Exchange 2010 servers per design, where possible
- Finalize Exchange 2016 Hybrid Management servers for Exchange Online object management and SMTP relay per design

Phase Documents

#	Document Name	Revision	Document Content
1	Mailbox Migrations report	Final	<ul style="list-style-type: none"> • Migration results and statistics for migrations
2	Exchange As-built Design	Final	<ul style="list-style-type: none"> • Final Exchange design guide and as-build guide

Table 4: Messaging Workstream Deploy Phase Documents

4.2.5 Workstream Entry Criteria

City of Orange will implement the following prior to project kickoff:

1. Service accounts created for Exchange Hybrid Configuration that have Organization Management rights in Exchange On-premises and Exchange Administrator rights in Exchange Online
2. Named account with Global Administrator rights

4.2.6 Workstream Assumptions

Assumptions made surrounding these workstream's work efforts include:

1. City of Orange has approximately 860 mailboxes to migrate.
2. City of Orange has deployed a Microsoft 365 tenant and currently consuming
3. City of Orange already has Azure AD Connect in place and in a supported state to synchronize all identities (from both AD forests) for mailbox migrations.
4. City of Orange has one of the following two Exchange public certificate requirements needed to set up the multi-forest Exchange Hybrid:
 - a. Different Common Name between both Exchange certificates
 - b. Different Issuer between both Exchange certificates

5. There is an AD Forest trust established between both forests to support the multi-forest Exchange hybrid deployment to one Exchange Online tenant.
6. City of Orange has an adequate number of Microsoft 365 E3 licenses to support the migration and this will be completed by end of Plan Phase to begin Build activities.
7. Barracuda will be removed from inbound mail and Exchange Online Protection will be stood up to facilitate message hygiene.
8. City of Orange is expected to publish Exchange Web Services and mail flow external DNS records to the Internet in order to support the Exchange Hybrid configuration.
9. City of Orange is on an AD Domain and Forest Functional level that supports the introduction of Exchange 2016 servers and extending the Exchange schema in both Active Directory forests.
10. City of Orange has Veeam as their Exchange backup solution and run regular backups nightly for their Exchange mailboxes.
11. Any configuration changes required for the web proxy will be the responsibility of City of Orange. Core BTS will provide guidance and recommendations on changes as needed.
12. City of Orange is on the latest cumulative updates and packs for all Exchange 2010 Servers in their environment.
13. GAL Sync tools are not required to support free / busy and address book unification prior to concluding all mailbox migrations. Users are expected to be unified under one address list upon migration to Exchange Online.
14. Full free / busy functionality between both City of Orange and City of Orange Police Exchange organizations will only be available for users that have been migrated to Office 365 Exchange Online; users that have not been migrated will not have this functionality until they are migrated. Cross-premises free / busy will work as intended between Office 365 and Exchange on-premises.
15. There is no hardware load balancer in the environment to manage Exchange Client Access and mail flow traffic.
16. Up to two (2) Exchange 2016 Hybrid servers will be deployed, one in each Exchange organization, to support the Hybrid configuration enablement.
17. City of Orange will be responsible for drafting communications to all end users regarding the migration changes for messaging and identity workstreams. Core BTS will assist with technical guidance and details as needed.
18. A multi-forest Exchange Hybrid Deployment will be configured to migrate both Exchange organizations to a single Exchange Online tenant.
19. Public Folders will be migrated to shared mailboxes and repurposed as such to decommission public folders.
20. There is up to 5GB of Public Folder data needed to be migrated.
21. Mailboxes that have migrated may require their mobile devices to be reconfigured. City of Orange is responsible for assisting end users through that process. Core BTS will assist by providing the required information as needed.
22. City of Orange has the required network infrastructure to support remote access, including firewalls and reverse proxies, and will be responsible for configuring such infrastructure.
23. City of Orange will be responsible for any upgrades to the Office / Outlook client software on the users' desktops. Any Office / Outlook client upgrade activity will be completed before the Stabilize phase of the project begins.
24. City of Orange application owners are responsible for testing and reconfiguring their applications to integrate with Exchange Online.
25. City of Orange is expected to publish DNS entries and firewall rules for the Client Access namespaces to configure the Exchange Hybrid for inbound mail flow and mailbox migrations via Autodiscover.

26. The Exchange Classic Hybrid topology will be configured in each Exchange organization.
27. Up to four (4) Exchange 2010 servers will be decommissioned after migrations are completed.
28. The Exchange 2016 Servers will be licensed as Hybrid coexistence edition. No mailboxes are expected to be hosted on these servers per Microsoft's agreement.
29. City of Orange has the required hardware resources to deploy additional Exchange Servers to support the migration.
30. Areas out of scope for this engagement include:
 - a. Ongoing deployments of any technology beyond the final week of the engagement
 - a. Deployment, configuration, or, migration of any Office 365 workload including, but not limited to, Microsoft Teams, SharePoint Online, OneDrive for Business, Yammer, Stream, Intune, Project Server, Sway, Power BI, Power Automate, Power Apps, Planner, Bookings
 - b. Remediation or roadmaps of existing infrastructure for subsequent strategic initiatives
 - c. Discovery, ingestion, or elimination of PSTs

4.2.7 Workstream Timeline

This workstream is projected to require 10 weeks of effort to perform the following:

City of Orange - Exchange 2010 to Exchange Online Migration																				
Exchange to Exchange Online Migration											W0	W1	W2	W3	W4	W5	W6	W7	W8	W9
Discover and Plan																				
Project Kick-off Meetings																				
Discover Business & Technical requirements																				
Review governance and operational readiness																				
Technical Workshops																				
Mailbox migration process																				
Deliverable: Migration schedule																				
Deliverable: Exchange Design																				
Checkpoint Review / Phase Close-out																				
Build																				
Validate Active Directory																				
Validate Licensing Requirements																				
Exchange to Exchange Online Identity Integration																				
Prepare current Azure AD Connect configuration per design																				
Public Folders																				
Validate Groups: Dynamic, Distribution and Security																				
Validate Office 365																				
Exchange Hybrid Management and SMTP Relay																				
Core Functionality Testing																				
Advise application owners (RightFax, Barracuda, Clearswift, etc.) as needed																				
Create 5 test accounts for functionality testing including mail flow and migration																				
Overall migration process automation and validation of migration lists																				
Deliverable: Defined list of users and mailboxes to be migrated																				
Deliverable: Test matrix results																				
Deliverable: Test migrations report																				
Checkpoint Review / Phase Close-out																				
Stabilize																				
Pilot Readiness																				
Pilot mailbox migrations (up to 90 users)																				
User Acceptance Testing																				
Public Folders																				
Update functional specifications, design, and as-built documentation as needed																				
Finalize migration logistics / implementation plan																				
Deliverable: Pilot migrations report																				
Checkpoint Review / Phase Close-out																				
Deploy																				
Refine migration approach based on pilot results																				
Migration preparation																				
Migrate up to 860 mailboxes (430 per week for 2 weeks)																				
Provide up to one (1) week post-migration support																				
Migrate public folders per design																				
Decommission legacy Exchange environment per design																				
Update functional specifications, design, and as-built documentation as needed																				
Deliverable: Mailbox migrations report																				
Deliverable: Exchange Design and as-built documentation																				

Figure 7: Messaging Workstream Timeline

4.3 Identity Workstream

The key goals of this workstream include design and deployment of Azure AD baseline technologies and security policies for Azure AD MFA, Azure AD Conditional Access, and Azure AD SSPR. Toward this end, Core BTS will design and configure the Azure AD environment to support the rollout of these security technologies.

4.3.1 Discover and Plan Phase

The Discover and Plan phase of this workstream will establish the foundation for the remainder of the project. This phase will solidify the plan for the remaining efforts and bring together the various aspects of this workstream into a cohesive vision and solution.

High-level tasks that may be performed during this phase for this workstream include:

- Define business and functional requirements
 - Prepare requirements to support the required functionality
 - Identify priorities for each of the requirements
- Technical workshops
 - Review Azure AD Baseline Security requirements
 - Azure MFA Requirements
 - Conditional Access Policies requirements
 - Azure AD Security baseline configuration
 - Azure AD SSPR Configuration
 - Review current state Azure AD Connect configuration
- Azure AD Analysis and Design
 - Develop migration strategy from Okta Authentication to Azure AD Password Hash Sync with Single Sign-On (“SSO”)
 - Develop initial Conditional Access strategy
 - Develop initial Azure MFA configuration
 - Develop Initial Azure AD SSPR configuration
 - Develop Azure AD Baseline security configuration

Deliverables

This phase will be complete when Core BTS has completed all objectives and documents listed below and they have been reviewed with the City of Orange Program Manager.

Phase Objectives

- Discovery and planning for Azure AD Connect configuration changes as necessary
- Discovery and planning for Conditional Access rollout
- Discovery and planning for SSPR Service rollout
- Discovery and planning for Azure MFA rollout

Phase Documents

#	Document Name	Revision	Document Content
1	Azure AD MFA / Conditional Access and SSPR Design Document	Initial	<ul style="list-style-type: none"> • Executive Summary • Current State Review • Target State Architectural Model • High-level Roadmap

Table 5: Identity Workstream Discover and Plan Documents

4.3.2 Build Phase

The Build phase of this workstream primarily involves developing the solutions and content required for go-live. During this phase, all key elements of the technical solution and deployment process must be carefully engineered and validated.

High-level tasks that may be performed during this phase for this workstream include:

- Azure AD Configuration and Integration
 - Implement Azure AD Baseline security design
 - Test transition from Okta to Azure AD Password Hash Synchronization authentication
 - Create required Conditional Access Policies per design (Report only mode initially)
 - Configure Azure MFA per Design
 - Configure Azure AD SSPR
 - Configure Azure AD Baseline security configuration
- Validate Azure AD Baseline configuration
- Validate Conditional Access policies
- Validate Azure MFA configuration
- Validate Azure AD SSPR configuration
- Validate Okta to Azure AD Authentication migration strategy
- Define test plans for Stabilize phase

Deliverables

This phase will be complete when Core BTS has completed all objectives and documents listed below and they have been reviewed with the City of Orange Program Manager.

Phase Objectives

- Build and configuration of Azure AD Conditional Access policies per design
- Build and configuration of Azure AD MFA per design
- Build and configuration Azure AD SSPR per design

Phase Documents

#	Document Name	Revision	Document Content
1	Azure AD MFA / Conditional Access and SSPR Design document	Updated	<ul style="list-style-type: none"> • Executive Summary • Current State Review • Target State Architectural Model • High-level Roadmap

Table 6: Identity Workstream Build Phase Documents

4.3.3 Stabilize Phase

The Stabilize phase of this workstream involves testing the technologies configured during the Build phase and performing any necessary reconfiguration based on testing feedback. The goal of the Stabilize phase is to ensure that all implemented technologies are operating to specification and ready to support the Deploy phase activities.

High-level tasks that may be performed during this phase for this workstream include:

- Pilot Readiness
 - Assist with communications and training documentation

- Coordinate pilot user testing
 - Define pilot audience for testing
 - Define and execute test case scenarios with pilot users
 - Prepare environment for production rollout
- Operationalize Azure AD workshops
 - Conduct workshop on standard operating procedures
 - Discuss daily, weekly, and monthly tasks
 - Review monitoring and alerting practices
- Final Design Validation
 - Gather feedback from pilot users on use case testing
 - Execute Okta to Azure AD Password Hash Sync migration
 - Adjust Azure AD Conditional Access policies as needed
 - Update end user training and guides based on feedback

Deliverables

This phase will be complete when Core BTS has completed all objectives and documents listed below and they have been reviewed with the City of Orange Program Manager.

Phase Objectives

- Validate implementation / rollout readiness and procedures for Azure MFA, Azure AD Conditional Access, and Azure AD SSPR

Phase Documents

#	Document Name	Revision	Document Content
1	Documented test plans and scenarios	Final	<ul style="list-style-type: none"> • Test plans and scenarios that apply to City of Orange access and governance requirements

Table 7: Identity Workstream Stabilize Phase Documents

4.3.4 Deploy Phase

The Deploy phase of this workstream involves implementing the technologies built and tested in the previous phases. The goal of the Deploy phase is to successfully execute the plans and solutions created throughout this workstream with minimal impact to the business.

High-level tasks that may be performed during this phase for this workstream include:

- Finalize Azure AD Configuration for Azure MFA
- Finalize Azure Conditional Access policies
- Monitor and Address authentication and / or registration issues
- Update Azure AD MFA / Conditional Access document
- Operationalize Azure AD
 - Monitor Azure AD for issues and alerts
 - Monitor Azure AD Connect for issues and alerts
 - Remediate Azure AD issues as needed

Deliverables

This phase will be complete when Core BTS has completed all objectives and documents listed below and they have been reviewed with the City of Orange Program Manager.

Phase Objectives

- Rollout of Azure MFA to all in-scope City of Orange users
- Rollout of Azure AD SSPR to all in-scope City of Orange users
- Rollout of Azure AD Conditional Access policies to all in-scope City of Orange users
- Transition from Okta to Azure AD Password Hash Sync for Microsoft 365 authentication

Phase Documents

#	Document Name	Revision	Document Content
1	Standard Operating Procedure Documents to manage Azure AD Azure AD MFA / Conditional Access	Final	<ul style="list-style-type: none"> • Standard operating procedures for Azure MFA, Azure Conditional Access, and Azure AD SSPR
2	Azure AD Azure AD MFA / Conditional Access / SSPR design document	Final	<ul style="list-style-type: none"> • Executive Summary • Current State Review • Target State Architectural Model • High-level Roadmap

Table 8: Identity Workstream Deploy Phase Documents

4.3.5 Workstream Entry Criteria

City of Orange will implement the following prior to project kickoff:

1. Service accounts created for Exchange Hybrid Configuration that have Organization Management rights in Exchange on-premises and Exchange Administrator rights in Exchange Online Named account with Global Administrator rights

4.3.6 Workstream Assumptions

Assumptions made surrounding these workstream's work efforts include:

1. Azure AD Connect is already deployed in the environment and in a working state to synchronize all identities to the City of Orange Azure AD tenant
2. Azure AD Seamless Single Sign On will be enabled to reduce the number of authentication requests to which the user must respond.
3. City of Orange has client workstations on Windows Build 1903 or later to support rollout of Hybrid Azure AD Join-based Conditional Access policies.
4. City of Orange will have Azure AD Premium ("AADP") P1 or P2 to support project requirements.
5. Okta federation with Azure AD is only scoped to a few users in IT. All users using Okta federation for Microsoft 365 authentication will be transitioned to Azure AD.
6. Users are expected to use the Microsoft Authenticator app on mobile phones to setup Azure MFA. Instructions and communications will be provided by City of Orange. Core BTS will provide technical guidance as needed to support the rollout.
7. Azure AD will be configured to use Password Hash Synchronization ("PHS") to support authentication to Azure AD.
8. Up to 10 Conditional Access policies will be deployed based on Baseline and recommended Conditional Access policies outlined by Core BTS.

4.3.7 Workstream Timeline

This workstream is projected to require eight (8) weeks of effort to perform the following:

Azure AD Access Policies, SSPR and MFA	W0	W1	W2	W3	W4	W5	W6	W7	W8	W9
Discover and Plan										
Project initiation tasks										
Project Kick-off Meetings										
Discover business and technical requirements										
Technical Workshops (Discussion)										
Azure AD Analysis and Design										
Develop migration strategy from Okta-based Authentication to Azure AD Password Hash Sync										
Deliverable: Draft Azure AD Azure AD MFA/Conditional Access and SSPR Design document										
Build										
Azure AD Configuration/Integration										
Design/Configuration Validation										
Milestone: Azure AD MFA/Conditional Access and MFA ready for pilot										
Deliverable: Updated Azure AD Azure AD MFA/Conditional Access and SSPR Design document										
Stabilize										
Pilot Readiness										
Operationalize Azure AD workshops										
Final Design Validation										
Milestone: Validated Azure AD Azure AD MFA/Conditional Access and SSPR Design										
Deliverable: Documented test plans and scenarios										
Deploy										
Configure Azure AD for production										
Operationalize Azure AD										
Milestone: Azure AD Azure AD MFA/Conditional Access in production										
Deliverable: Standard Operating Procedure Documents to manage Azure AD Azure AD MFA/Conditional Access										
Deliverable: Final Azure AD Azure AD MFA/Conditional Access Design document										

Figure 8: Identity Workstream Timeline

5 Operate

Core BTS stands behind everything we do with a promise, a promise that your solution is successfully delivered and that it remains stable for 12 months from the end of deployment. To that end, Core BTS will provide you access to a team of experts for Tier 2 and Tier 3 support during Operate to assist in making the most of your project investment and realizing the full value of your IT infrastructure. Additionally, our operational support team assists in evaluating the total cost of ownership to uncover improvement opportunities and facilitate roadmap planning for operational efficiency.

Core BTS will provide support for the following technologies via support incidents that City of Orange can apply for either remote or onsite support:

- Azure Active Directory
- Exchange Online

5.1 Operate Duration

- 12 months from completion of Week 10.

5.2 Operate Objectives

Execution on operational support program as defined below:

1. Up to 15 for 12 months from end of deployment
2. Incident based support for two (2) named contacts, provided at the end of deployment
3. One (1) incident is consumed for requests made during normal business hours of 8:00 AM – 5:00 PM Eastern Time, Monday through Friday
4. Three (3) incidents will be consumed for any request made during, or requiring, after-hours support
5. Four (4) incidents will be consumed for one (1) day of on-site consulting
 - a. On-site requests need to be pre-scheduled and mutually agreed upon between City of Orange and Core BTS
 - b. A minimum of 48-hour advanced notice is required

6 Project Assumptions and Out of Scope

6.1 Deliver: General Assumptions

The project timeline, resource plan, and pricing are based on a continuous work effort from project kickoff to completion. Unexpected project delays or incorrect project assumptions may require a Project Change Request ("PCR") to realign the scope of the project.

Project assumptions include, but are not limited to, the following statements for this project:

1. Any Adoption and Change management / end user training activities will be the responsibility of City of Orange.
2. All hardware, software, and cloud services required for the project will be the financial responsibility of City of Orange.
3. Any needed license quantities and recommendations may change based on analysis of the environment during the Discover and Plan phase. City of Orange is responsible for providing sufficient licensing and / or subscription(s) prior to the Build phase, and all licensing required prior to the Stabilize phase.
4. Any third-party support costs which include but are not limited to Microsoft tickets, contracts, or other means of support will be the financial responsibility of City of Orange.
5. City of Orange will provide any and all available technical schemas and documentation, equipment inventories and configurations, drawings and diagrams, and vendor information, or will provide accurate understanding and knowledge of the same related to all areas and technologies being assessed, reviewed, planned, or designed within scope.
6. City of Orange will permit full unattended admin access with the necessary account privileges to resources for all technologies within scope. If remote unattended access cannot be provided, the budget estimate for the project may increase by 20%.
7. City of Orange will allow or supply physical access to all computers, communications, and servers within scope.
8. Work could include on-site and off-site activity by Core BTS resources to ensure project tasks are completed in a timely manner.
9. Normal business hours are 8 AM to 5 PM Monday through Friday.
10. Knowledgeable City of Orange resources will be made available to this project and will help meet the timelines as identified in the project plan. If meetings are not attended by City of Orange and if advanced notification is not given (4 hours minimum in advance), then the cancelled meetings will be deducted against the project's billable hours since resources were reserved for that time.
11. To help minimize resource requirements on the part of City of Orange, more detailed requirements for permissions, access, and workspace will be made available prior to starting the project. Administrative credentials, access, and permissions for all Core BTS project members must be completed the first week of the Discover and Plan phase.
12. City of Orange is responsible for communicating the project plan and all timelines and goals to City of Orange business units or facilities, as appropriate.
 - a. Core BTS will use generally accepted project management techniques and processes throughout this project.
13. Informal knowledge transfer will be provided throughout the project. Informal knowledge transfer is defined as informal activities provided as your administrators, or contractors, are working side-by-side with Core BTS during the project. No formal

training materials will be developed or delivered as part of informal knowledge transfer.

6.2 Operate: Assumptions

Assumptions made surrounding this phase's work efforts include:

1. Throughout the Operate phase, Core BTS will execute defined maintenance as defined in the objectives of this phase.
2. Throughout the Operate phase, City of Orange will provide a point of contact to assist with business and technical decisions.
3. Throughout the Operate phase, Core BTS will adhere to the City of Orange documented guidelines and procedures for production changes and updates.
4. Throughout the Operate phase, City of Orange will provide any information pertaining to existing processes and technologies.
5. Throughout the Operate phase, City of Orange will provide appropriate environment access required to address system needs.
6. Throughout the Operate phase, Core BTS will act as an escalation for the City of Orange Help Desk. This will require Core BTS to be added to the City of Orange Help Desk system as a resolver group. Core BTS will only execute on help desk requests escalated by City of Orange.
7. No significant changes have been made to the environment since completion of the original project for which Core BTS is providing support.
8. Issues determined to be caused by third-party applications will be turned over to City of Orange for resolution.
9. All support will be provided in the English Language.
10. Normal business hours are defined as 8:00 AM – 5:00 PM Pacific Time, Monday through Friday, with the following holidays excluded:
 - a. New Year's Day
 - b. Martin Luther King, Jr. Day
 - c. Memorial Day
 - d. Independence Day
 - e. Labor Day
 - f. Thanksgiving Day
 - g. Day after Thanksgiving
 - h. Christmas Eve Day
 - i. Christmas Day
 - j. New Year's Eve Day

6.3 Out of Scope

All work that is "out of scope" will be addressed by Core BTS and the City of Orange Project Sponsor to clarify the issue and negotiate feasibility, impact, and cost. Should "out of scope" work be identified, formal written approval via a PCR from City of Orange is required prior to commencing any such work.

Deficiencies of any kind within the current environment discovered because of the project will not be remedied within the scope of this project. Quick win action items will be identified, if possible.

This project will focus on the scope as noted above. All other areas are not within the scope of this project. These include, but are not limited to:

- Configuration of Veeam Backup solution to support recovery of Exchange Online data
- Ongoing deployments of any technology beyond the final week of the engagement

- Remediation or roadmaps of existing infrastructure for subsequent strategic initiatives
- Support or remediation services for technologies not implemented by Core BTS
- Deployment, configuration, or, migration of any Office 365 workload including, but not limited to, Microsoft Teams, SharePoint Online, OneDrive for Business, Yammer, Stream, Intune, Project Server, Sway, Power BI, Power Automate, Power Apps, Planner, Bookings

If further services are necessary outside of the boundaries of this scope, a PCR or an additional SOW will be provided.

7 Roles and Responsibilities

7.1 Delivery Team: Roles and Responsibilities

Core BTS will provide the core resources required to plan and execute this project and ask that City of Orange provide the complementary resources required to assist in the planning and execution of this project. Core BTS will require access to several subject matter experts and managed services staff to complete this engagement.

The Core BTS engagement model facilitates deep knowledge sharing and collaboration by working hand in hand with City of Orange technical resources on all architecture and design aspects of the project. This style of engagement will strengthen City of Orange's ability to support and operate the future migration and deployment upon completion of the engagement.

7.1.1 Responsibilities of Core BTS

- Provide experienced consultants for the engagement
- Mentor and cross-train City of Orange IT staff, where appropriate
- Provide status reports on the progress of the engagement
- Return all documentation, hardware, software, and other materials to City of Orange at the completion of the project

7.1.2 Responsibilities of City of Orange

Core BTS's approach and estimate are based upon the following responsibilities and assumptions. Changes to these responsibilities and assumptions may require changes to Core BTS's approach, scope and / or estimate. Core BTS project management will notify City of Orange as soon as they are aware of any changes to these responsibilities and assumptions, including potential implications. City of Orange is responsible for:

- Designate City of Orange project sponsor, who will provide overall project direction, guidance, and high-level scope boundaries, as well as attend project kickoff and management checkpoint meetings
- Designate City of Orange primary contact and / or project manager, who will manage City of Orange project team members and resources, including any client tasks as outlined in the project schedule
- Provide project team members and other resources that are necessary to adhere to the project timeline
- Coordinate with assigned Core BTS project lead to schedule Discovery Sessions, as required, to occur during the first week of the project
- Provide appropriate accounts and access for all resources prior to the start date of each workstream Discover and Plan phase, per the project schedule
- Provide Core BTS resources with all software licensing and / or hardware required
- Responsible for procuring, installing, hosting, testing, deploying, monitoring, and maintaining all associated hardware and third-party software, including patches or upgrades as required
- ~~Submit change controls for all environments, as necessary, in a timely manner with the understanding that a standard change takes to be completed~~
- Participate in governance and operations workshops
- Participate in meetings to define strategy and architecture
- Participate in the design sessions
- Provide resources knowledgeable in current environment as necessary

- Define and validate business and technical requirements, including license and hardware requirements
- Ensure timely response to functional and technical considerations
- Validate functionality and user experience meet expectations
- Provide consolidated feedback to the deliverables in the timeframe as defined below
- Participate in project status and closeout meetings

7.2 Operate Team: Roles and Responsibilities

7.2.1 Responsibilities of Core BTS

- Provide experienced consultants for support of Core BTS implemented technologies
- Work with City of Orange IT staff, where appropriate
- Provide summary about key deliverables and / or timesheets and status reports as applicable

7.2.2 Responsibilities of City of Orange

- Participate in meetings to define the issue and provide relevant background
- Provide single contact who will work with Core BTS throughout problem analysis and resolution
- Provide full access and permission level to resources for all technologies within scope
- Perform problem determination activities as requested for initial troubleshooting of the incident

8 Management Processes and Procedures

8.1 Issue Management Procedure

During the project there may be issues that arise and that need to be resolved. Issue resolution will be handled using the following process:

- Identify the Issue – Detail in writing the current issue and update to the issue log
- Communicate the Issue – Communicate the issue to the Core BTS project team and City of Orange project lead within two business days, and include the issue in the status report
- Assign Responsibility for the Issue – Assign the issue to an individual(s) with a due date; if the issue is not resolved within five business days, they shall escalate it to the Core BTS Practice Director and a member of the City of Orange executive team
- Monitor the Issue – Monitor the issue in the status report and weekly status meetings
- Communicate the Issue Resolution – Formally communicate the resolution of the issue to the project management team and record the resolution in the issue log

8.2 Change Management Procedure

Changes to project scope, incorrect assumptions, or missing prerequisites may affect cost, resources, or scheduling. Other circumstances may arise beyond Core BTS's control that may cause it to be unable to accomplish the project objectives as defined within this SOW.

Any such modification shall be memorialized in a mutually executed PCR that details material changes to staff requirements, deliverables, fees, and milestones, as applicable.

The following process will be used to manage changes to this project:

1. A formal change request is submitted to Core BTS
2. Core BTS will review the change request and perform a high-level assessment. The high-level assessment includes business, technical, and engagement impacts to the schedule, budget, and resources
3. The results of the assessment are presented to the City of Orange Program Manager
4. The City of Orange Program Manager approves, rejects, or defers the change
5. Core BTS will provide a PCR based on the approved changes and submit it to the client for review and acceptance.

8.3 Final Deliverable Acceptance Process

Final engagement deliverables will be submitted to the City of Orange Program Manager and other officials that City of Orange requests.

1. Submission of deliverables
2. Assessment of deliverables
3. Acceptance / rejection
4. Correction of deliverables, if applicable
5. Monitoring and reporting

8.3.1 Submission of Deliverables

Core BTS will prepare written deliverables for submission to the City of Orange Program Manager. Core BTS will be responsible for managing client acceptance of the deliverables,

which will include notification via email. Deliverables will be deemed accepted upon receipt of email confirmation from the City of Orange Program Manager or after five (5) business days from the request.

8.3.2 Assessment of Deliverables

The City of Orange Program Manager will determine whether the deliverable meets the requirements as defined in this Statement of Work and that the deliverable is complete. Additional out of scope work on, or changes to, an accepted deliverable requested by City of Orange will be considered out of the scope of the project and will be managed through the agreed upon change control process (please see 8.2 above).

8.3.3 Acceptance / Rejection

After reviewing the deliverable, City of Orange will either accept the deliverable or provide written reason(s) for rejection. Notification can be submitted via email communication.

8.3.4 Correction of Final Deliverables

Core BTS will correct in-scope problems found with the final deliverable and will address the correction of out-of-scope changes according to the agreed upon change control procedures (please see above). Core BTS will submit a schedule for making changes to the deliverable within two (2) business days of receiving rejection via email. Core BTS will correct issues and in-scope problems at the expense of Core BTS. Changes beyond the project scope may require a PCR.

8.3.5 Monitoring and Reporting

The Core BTS team will track deliverable acceptance. Updates on deliverable acceptance will be a part of the weekly status report and discussed in the weekly status meeting. Deliverable acceptance issues that cannot be resolved will be elevated to the project management committee (please see 8.1 above).

8.4 Project Completion

Core BTS will have fulfilled its obligations for the Services described in this SOW when any one of the following first occurs:

- Core BTS completes the scope as described in this SOW, including all defined objectives and deliverables
- Services are terminated in accordance with the provisions of the Terms and Conditions in section 11 below

8.5 Project Pause

Should the project come to a PAUSE for reasons unrelated to Core BTS, Core BTS may terminate the project and request full fees associated with the current phase as related to the percentage of work completed as deemed by Core BTS. A PAUSE is defined as a stoppage of work and / or communication over a two (2) week period.

Any delays in the project schedule which are not under the control of Core BTS, including, but not limited to, delays in approvals, procurement, or staff availability, may require an adjustment of fees and expenses and / or scheduling estimates for project completion. If there are any delays caused by City of Orange that go beyond two (2) weeks, then Core BTS cannot guarantee the availability of the team members originally assigned to the

project. If new resources are required when the project resumes, then the City of Orange is accountable for the costs associated for providing knowledge transfer between the original team and the new team.

8.6 Delivery Assurance

Delivery Assurance allows Core BTS to engage in fixed-price projects with a milestone-based invoicing structure. That means that City of Orange must approve Core BTS's work at each project milestone. If Core BTS's work is not delivered as outlined in the SOW, Core BTS will not send an invoice until it is. This way, City of Orange knows our work is done right and Core BTS knows to move to the next milestone.

Core BTS's solutions also come with a promise that they will operate as built for one year. Core BTS does this by providing City of Orange with access to a team of experts to help make the most of the project investment and realize the full value of the Microsoft investment. The Operate phase section in this document defines how Core BTS's managed services team will execute on this promise.

9 Project Investment

9.1 Investment Summary

NOTE:

Pricing is based on Core BTS (MPN ID #947811) being recorded as the Partner of Record for all associated Microsoft Azure and Office 365 subscriptions. When applicable, Core BTS will require a DPOR association be created in the client tenant. Core BTS will also be associated as the FastTrack Partner for all M365 workloads.

When applicable, Core BTS will require a CPOR association for all Microsoft workloads. The client agrees to provide all necessary information to create this association, including Tenant ID and Cloud tenant domain (.onmicrosoft.com). Upon CPOR registration, the client will receive an email that provides an option to “Opt-out” if the association is incorrect. The only requirement is that the claim is validated and that no additional action is taken.

For PAL registration, the client agrees to use the Azure portal, PowerShell, or the Azure CLI to link to the Core BTS Microsoft Partner Network ID (MPN ID #947811) to the client ID or service principal. Core BTS will be linked the partner ID in each client tenant.

This project will take up to 10 weeks, with a continuous work effort, and with an investment as detailed below:

Component	Pricing
Professional Services	\$129,220
Total Fixed Price	129,220
Final Price with Credits	\$129,220

Table 9: Investment Summary

9.2 Invoice Schedule

City of Orange will be invoiced in three (3) installments for services performed by Core BTS for this engagement:

Invoice #	Invoice Milestone	Invoice Amount
1	<i>Upon Acceptance of Proposal</i>	\$43,000
2	<i>Upon Completion of All Stabilize Phases</i>	\$43,000
3	<i>Upon Completion of All Deploy Phases</i>	\$43,220
	Total Fixed Price	\$129,220

Table 10: Invoice Schedule

9.3 Travel and Expenses

Travel time and expenses are not included in the estimate provided above. Travel expenses will be billed to City of Orange on a pass-through basis and may include:

- Mileage and parking – at cost
- Meals – at cost
- Lodging – at cost

Such travel expenses shall adhere to the mutually agreed upon City of Orange and Core BTS Travel and Expense (“T&E”) policies during the project. Any expenses to be paid by City of Orange shall be duly documented with the corresponding invoices.

If the project is to be delivered remotely, Core BTS shall bear all its own expenses incurred in connection with the Professional Services performed under this SOW.

9.4 Proposal Expiration

This proposal expires within 30 days or our written revocation of the proposal prior to 30 days. Please send signed documents to your Account Manager via email.

10 Proposal Acceptance

To proceed with the work as defined by this proposal, all parties must sign below acknowledging that they have read the entire document and agree to all terms as laid out within.

Core BTS, Inc.	City of Orange
Signature:	Signature:
Print Name:	Print Name:
Title:	Title:
Date:	Date:

10.1 Invoicing Contact

City of Orange

Attention:	
PO Number:	
Address:	
City / State / Zip:	
AP Email Address:	

11 Terms and Conditions

1. Payment Terms. Payment is due within thirty (30) days of invoice date. After this time period, interest accrues at the lesser of the maximum rate permitted under applicable law or one and one-half percent (1.5%) per month from the date due until paid. We shall have a purchase money security interest in the products delivered by us to secure payment of the purchase price and any installation charges until they are paid in full by you. If invoice is not paid by you after 60 days, you authorize us to file all documents (including UCC financing statements) deemed necessary by us to protect and maintain our security interests.
2. Independent Contractor; Taxes. We will perform all services hereunder in our capacity as an independent contractor and not as an employee or agent of you. Our employees shall not be entitled to any privileges or benefits that you may provide to your employees, and we shall be responsible for payment of all unemployment, social security, federal income (state and local income where applicable) and other payroll taxes imposed by any governmental body on us in regard to our employees who are engaged in the performance of the services. Pricing set forth herein is exclusive of applicable sales, use and similar taxes assessed on the performance of any services. You agree to reimburse, indemnify, and hold us harmless from and against any such tax, penalty and interest thereon levied against us for the provision of services to you hereunder.
3. No Hiring. For the term of the project and for a period of one year thereafter, you agree not to hire, solicit or accept solicitation of, through employment or otherwise, directly or indirectly, any of our employees or independent contractors with whom you have had any contact during the project, unless you obtain our prior written consent. Should you hire an employee or independent contractor of ours through employment or otherwise within this time period without our prior written consent, you will immediately pay as liquidated damages to us an amount equal to the relevant person's then current annual compensation (or the amount paid to or on behalf of the person in the last 12 months, in the case of an independent contractor).
4. Warranty.
 - A. We warrant and represent that the services will be performed in a skillful and workmanlike manner according to those standards generally prevailing among consultants performing similar services under similar circumstances. To the extent that we are not the manufacturer of any hardware or software products that you may purchase as a result of or relating to our Services, we do not provide any warranty on such products, whether with respect to their design, performance, functionality or compatibility with your existing system. Any warranty with respect to product must come from the manufacturer. Our product procurement distributor or we will pass through to you any applicable warranties of the manufacturer, to the extent permissible.
 - B. EXCEPT FOR THE EXPRESS WARRANTIES STATED IN THIS SECTION, WE DISCLAIM ALL WARRANTIES INCLUDING ALL IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.**
5. Our Indemnity. We will indemnify, defend and hold you harmless from and against any claims, liabilities, losses, expenses or damages (collectively, "Damages") caused by the services performed or the work delivered by us under these terms infringing any copyright, trade secret or any other proprietary right of any third party. Excluded from such indemnification are any claims related to (i) services performed on equipment or software which you covenanted that we had the rights to modify as set forth in Section 7 below, (ii) services performed to your specification or design and (iii) infringement resulting from or caused by your misuse or unauthorized modification of systems or product. We will also indemnify, defend and hold you harmless from and against any Damages resulting from our willful misconduct or negligent acts or omissions in

performing the services which are the subject of these terms, except to the extent such Damages are caused by the willful misconduct or negligence of you, your employees or agents. Our obligation to indemnify and defend you with respect to any claim shall be subject to (i) your providing us with prompt notice of such claim, (ii) our having sole control over the defense and settlement thereof, (iii) your providing us with the information and assistance necessary to defend or settle such claim as reasonably requested by us, and (iv) the limitations on liability set forth in Section 6 below.

6. Limitations of Liability. WE WILL NOT BE LIABLE FOR INCIDENTAL, SPECIAL, PUNITIVE, INDIRECT OR CONSEQUENTIAL DAMAGES, INCLUDING FOR LOSS OF DATA OR ITS USE OR LOST PROFITS OR OTHER ECONOMIC DAMAGES, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGE. With the exception of indemnification for intellectual property infringement, your right to recover Damages from us in aggregate of all claims is limited to the amounts paid to us by you in the preceding twelve (12) months. You acknowledge that this limitation of liability is part of the consideration and was considered by us in establishing the prices and rates to be charged to you, which, but for this limitation, would have been higher.
7. Your Covenants. You covenant that: (i) you have the authority to agree to these terms and the funding necessary to pay for the requested services; (ii) you have title to or license or rights to use or modify any software or products which you have requested us to modify as part of such services; and (iii) you will provide us necessary access to your personnel, appropriate documentation and records and facilities in order for us to timely perform such services.
8. Requests for Changes. No change in the services provided hereunder will be performed until we receive a properly issued and executed Change Order; provided, however, that nothing herein will relieve you of the obligation to pay us for services rendered which were requested by you but are not documented in such a properly issued and executed Change Order or within the applicable scope of work.
9. Confidentiality. Each party acknowledges that it and its employees or agents may, in the course of the project, be exposed to or acquire information that is proprietary or confidential to the other party. Each party agrees to hold such information in strict confidence and not to discuss or disclose any such information to any third party for a period of three years. The parties acknowledge that the provisions of this paragraph shall not apply to: (a) information which at the time of disclosure is, or without fault of the recipient becomes, generally available; (b) information which either party can show was in its possession at the time of disclosure or was independently developed by it; (c) information received from a third party which had the right to transmit same without violation of any secrecy agreement with the other party; and (d) information which is required to be disclosed pursuant to court order or by law.
10. Termination of Agreement. Either party may terminate our engagement at any time upon 30 days prior written notice. **Cancellation of any licensing or services with a fixed term or indicated as non-cancellable shall Incur a termination fee equal to 100% of the cost of the remainder of the term, payable to us in full upon the effective termination date.**
11. Entire Agreement; Amendment. These terms and the accompanying engagement letter sets forth the entire understanding of the parties with respect to the subject matter hereof and is binding upon both parties in accordance with its terms and may be amended only by an entry signed by both parties. There are no understandings, representations, or agreements other than those set forth herein.
12. Assignment. You may not assign any of the rights or obligations hereunder without our prior written consent.
13. Notices. Any notice or communication from one party to the other concerning the terms hereof shall be in writing and shall be sent by certified mail, return receipt requested and

postage prepaid or by commercial overnight mail to the most recent address that either party has specified in writing to the other.

14. Governing Law. These terms shall be governed by and construed in accordance with the laws of the State of Delaware.
15. Force Majeure. Neither party shall be liable to the other for any failures or delays arising out of conditions beyond its reasonable control, including, without limitation, work stoppages, fire, civil disobedience, delays associated with product malfunction or availability, riots, rebellions, storms, electrical failures, delays caused by the other party, and acts of God and similar occurrences.
16. Waiver; Severability. Any waiver of any right or default shall be effective only in the instance given and if in writing and signed by the party against whom it is sought to be enforced and shall not operate as or imply a waiver of a similar right or default on any other occasion. If any term or provision hereof should be declared invalid by a court of competent jurisdiction, the remaining terms and provisions hereof shall be unimpaired, and the invalid terms or provisions shall be replaced by such valid terms and provisions as come closest to the intention underlying the invalid term or provision.



Agenda Item

City Council

Item #: 3.8.

7/13/2021

File #: 21-0375

TO: Honorable Mayor and Members of the City Council

THRU: Rick Otto, City Manager

FROM: Will Kolbow, Assistant City Manager/Administrative Services Director

1. SUBJECT

Agreement with Siemens Industry, Inc. for implementation of security access control and video camera management for the new Fire Station 1 and Headquarters.

2. SUMMARY

As the City's incumbent single source provider for the Genetec Security Platform, staff is recommending to expand Siemens Industry's services to furnish the security access control and video cameras for the new Fire Station 1 and Headquarters. Staff is recommending award of agreement to Siemens Industry, Inc. in the amount of \$168,367.64. Additionally, staff requests contingency authorization in the amount of \$16,836.76.

3. RECOMMENDED ACTION

1. Approve the agreement with Siemens Industry, Inc. in the total amount of \$185,204.40, representing an original bid amount of \$168,367.64, plus a 10% contingency of \$16,836.76, for implementation of security access control and video camera management; and authorize the Mayor and City Clerk to execute on behalf of the City.
2. Authorize the appropriation of \$185,204.40 from the Capital Bond Proceeds unreserved fund balance to expenditure account number 553.5011.56020.20400, Capital Bond Proceeds - Fire Station I

4. FISCAL IMPACT

The total expenditure for this agreement is \$185,204.40 and will be funded in Fire Station 1 (20400) through Capital Bond Proceeds (553).

5. STRATEGIC PLAN GOALS

Goal 1: Provide for a safe community

b: Provide and maintain infrastructure necessary to ensure the safety of the public.

Goal 2: Be a fiscally healthy community

d: Effectively manage and develop City assets.

6. DISCUSSION AND BACKGROUND

Triad Consulting and System Design Group, L.L.C., coordinated with the architect for Fire Station 1 and Headquarters, and City staff to design the security access control and camera management

solution. This resulted in a scope inclusive of 23 cameras, 21 card readers/keypads for doors, and 2 gate controllers.

On January 12, 2021, City Council approved an agreement with Siemens Industry, Inc. to replace existing electronic door access control system for City facilities and integrating access control with the City's existing Genetec security camera platform. The award was based on a competitive RFP process (Request for Proposal 20-21.14). On May 11, 2021, City Council approved a maintenance agreement with Siemens Industry, Inc. for maintenance of the City's surveillance cameras, hardware infrastructure, and Genetec license supporting the City's existing Genetec security platform. As the City's single source provider, staff recommends continuance of Siemens Industry's services for the implementation of the designed security access control and video camera management solution for the new Fire station 1 and Headquarters.

7. ATTACHMENTS

- Agreement with Siemens Industry, Inc.



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PROFESSIONAL SERVICES AGREEMENT
[Video Management and Surveillance Software and Maintenance Services]

THIS PROFESSIONAL SERVICES AGREEMENT (the “Agreement”) is made at Orange, California, on this ____ day of _____, 2021 (the “Effective Date”) by and between the CITY OF ORANGE, a municipal corporation (“City”), and SIEMENS INDUSTRY, INC., a California corporation (“Contractor”), who agree as follows:

1. Services.

a. Subject to the terms and conditions set forth in this Agreement, Contractor hereby agrees to and shall do all the work and furnish all the labor, materials, tools and equipment, except such as are mentioned in the specifications to be furnished by City to Contractor, necessary to complete in good workmanship and substantial manner the work (the “Work”) described in:

(1) Contractor’s Proposal dated June 24, 2021, attached as Exhibit “A” and incorporated herein.

b. As a material inducement to City to enter into this Agreement, Contractor represents and warrants that it has thoroughly investigated and considered the scope of work and fully understands the difficulties and restrictions in performing the work. The work which is the subject of this Agreement is not in the usual course of City’s business and City relies on Contractor’s representation that it is independently engaged in the business of providing such services and is experienced in performing the work. The work shall be performed in conformity with the RFP plans and specifications and the Contractor’s Proposal and all applicable laws, including any and all applicable federal and state labor laws and standards and applicable prevailing wage requirements and any and all state, federal and local statutes, regulations and ordinances relating to the protection of human health or the environment.

c. Mike Dering, Information Technology Project Manager (“City’s Project Manager”), shall be the person to whom Contractor will report for the performance of work hereunder. It is understood that Contractor’s performance hereunder shall be under the supervision of City’s Project Manager (or his/her designee), that Contractor shall coordinate its work hereunder with City’s Project Manager to the extent required by City’s Project Manager, and that all performances required hereunder by Contractor shall be performed to the satisfaction of City’s Project Manager and the City Manager.

2. Compensation and Fees.

a. Contractor's total compensation for all work performed under this Agreement during the Initial Term, shall not exceed ONE HUNDRED SIXTY-EIGHT THOUSAND THREE HUNDRED SIXTY-SEVEN DOLLARS and 64/100 (\$168,367.64) without the prior written authorization of City.

b. The above compensation shall include all costs, including, but not limited to, all clerical, administrative, overhead, insurance, reproduction, telephone, travel, auto rental, subsistence and all related expenses.

3. Payment.

a. As scheduled work is completed, Contractor shall submit to City an invoice for the work completed, authorized expenses and authorized extra work actually performed or incurred in accordance with the Schedule of Costs attached as Exhibit "A" and incorporated herein.

b. All such invoices shall state the basis for the amount invoiced, including work completed, the number of hours spent and any extra work performed.

c. City will pay Contractor the amount invoiced within thirty (30) days after the approval of the invoice.

d. Payment shall constitute payment in full for all services, authorized costs and authorized extra work covered by that invoice.

4. Change Orders. No payment for extra work caused by a change in the scope or complexity of work, or for any other reason, shall be made unless and until such extra services and a price therefor have been previously authorized in writing and approved by City as an amendment to this Agreement. City's Project Manager is authorized to approve a reduction in the services to be performed and compensation therefor. All amendments shall set forth the changes of work, extension of time, and/or adjustment of the compensation to be paid by City to Contractor and shall be signed by the City's Project Manager, City Manager or City Council, as applicable.

5. Licenses. Contractor represents that it and any subcontractors it may engage, possess any and all licenses which are required under state or federal law to perform the work contemplated by this Agreement and that Contractor and its subcontractors shall maintain all appropriate licenses, including a City of Orange business license, at its cost, during the performance of this Agreement.

6. Independent Contractor. At all times during the term of this Agreement, Contractor shall be an independent contractor and not an employee of City. City shall have the right to control Contractor only insofar as the result of Contractor's services rendered pursuant to this Agreement. City shall not have the right to control the means by which Contractor accomplishes services rendered pursuant to this Agreement. Contractor shall, at its sole cost and expense, furnish all facilities, materials and equipment which may be required for furnishing services pursuant to this Agreement. Contractor shall be solely responsible for, and shall indemnify, defend and save City harmless from all matters relating to the payment of its subcontractors, agents and employees, including compliance with social security withholding and all other wages, salaries, benefits, taxes, exactions, and regulations of any nature whatsoever. Contractor acknowledges that it and any subcontractors, agents or employees employed by Contractor shall not, under any circumstances, be considered employees of City, and that they shall not be entitled to any of the benefits or rights afforded employees of City, including, but not limited

to, sick leave, vacation leave, holiday pay, Public Employees Retirement System benefits, or health, life, dental, long-term disability or workers' compensation insurance benefits.

7. **Contractor Not Agent.** Except as City may specify in writing, Contractor shall have no authority, express or implied, to act on behalf of City in any capacity whatsoever as an agent. Contractor shall have no authority, express or implied, to bind City to any obligation whatsoever.

8. **Designated Persons.** Only those qualified persons authorized by City's Project Manager, or as designated in Exhibit "A," shall perform work provided for under this Agreement. It is understood by the parties that clerical and other nonprofessional work may be performed by persons other than those designated.

9. **Assignment or Subcontracting.** No assignment or subcontracting by Contractor of any part of this Agreement or of funds to be received under this Agreement shall be of any force or effect unless the assignment has the prior written approval of City. City may terminate this Agreement rather than accept any proposed assignment or subcontracting. Such assignment or subcontracting may be approved by the City Manager or his/her designee.

10. **Term and Time of Completion.** The Term of this Agreement commences on June 1, 2021 and terminates on September 21, 2023. Except as otherwise specified in Exhibit "A," Contractor shall commence the work provided for in this Agreement on June 1, 2021, and diligently prosecute completion of the work as agreed to by and between the representatives of the parties.

11. **Time Is of the Essence.** Time is of the essence in this Agreement. Contractor shall do all things necessary and incidental to the prosecution of Contractor's work.

12. **Reserved.**

13. **Delays and Extensions of Time.** Contractor's sole remedy for delays outside its control, other than those delays caused by City, shall be an extension of time. No matter what the cause of the delay, Contractor must document any delay and request an extension of time in writing at the time of the delay to the satisfaction of City. Any extensions granted shall be limited to the length of the delay outside Contractor's control. If Contractor believes that delays caused by City will cause it to incur additional costs, it must specify, in writing, why the delay has caused additional costs to be incurred and the exact amount of such cost at the time the delay occurs. No additional costs can be paid that exceed the not to exceed amount stated in Section 2.a, above, absent a written amendment to this Agreement.

14. **Products of Contractor.** The documents, studies, evaluations, assessments, reports, plans, citations, materials, manuals, technical data, logs, files, designs and other products produced or provided by Contractor for this Agreement shall become the property of City upon receipt. Contractor shall deliver all such products to City prior to payment for same. City may use, reuse or otherwise utilize such products without restriction.

15. Equal Employment Opportunity. During the performance of this Agreement, Contractor agrees as follows:

a. Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, mental or physical disability, or any other basis prohibited by applicable law. Contractor shall ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, national origin, mental or physical disability, or any other basis prohibited by applicable law. Such actions 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. Contractor agrees to post in conspicuous places, available to employees and applicants for employment, a notice setting forth provisions of this non-discrimination clause.

b. Contractor shall, in all solicitations and advertisements for employees placed by, or on behalf of Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin, mental or physical disability, or any other basis prohibited by applicable law.

c. Contractor shall cause the foregoing paragraphs (a) and (b) to be inserted in all subcontracts for any work covered by this Agreement, provided that the foregoing provisions shall not apply to subcontracts for standard commercial supplies or raw materials.

16. Conflicts of Interest. Contractor agrees that it shall not make, participate in the making, or in any way attempt to use its position as a consultant to influence any decision of City in which Contractor knows or has reason to know that Contractor, its officers, partners, or employees have a financial interest as defined in Section 87103 of the Government Code.

17. Indemnity.

a. To the fullest extent permitted by law, Contractor agrees to indemnify, defend and hold City, its City Council and each member thereof, and the officers, officials, agents and employees of City (collectively the "Indemnitees") entirely harmless from all liability arising out of:

(1) Any and all claims under workers' compensation acts and other employee benefit acts with respect to Contractor's employees or Contractor's subcontractor's employees arising out of Contractor's work under this Agreement, including any and all claims under any law pertaining to Contractor or its employees' status as an independent contractor and any and all claims under Labor Code section 1720 related to the payment of prevailing wages for public works projects; and

(2) Any claim, loss, injury to or death of persons or damage to property caused by any act, neglect, default, or omission other than a professional act or omission of Contractor, or person, firm or corporation employed by Contractor, either directly or by independent contract, including all damages due to loss or theft sustained by any person, firm or

corporation including the Indemnitees, or any of them, arising out of, or in any way connected with the work or services which are the subject of this Agreement, including injury or damage either on or off City's property; but not for any loss, injury, death or damage caused by the active negligence or willful misconduct of City. Contractor, at its own expense, cost and risk, shall indemnify any and all claims, actions, suits or other proceedings that may be brought or instituted against the Indemnitees on any such claim or liability covered by this subparagraph, and shall pay or satisfy any judgment that may be rendered against the Indemnitees, or any of them, in any action, suit or other proceedings as a result of coverage under this subparagraph.

b. To the fullest extent permitted by law, and as limited by California Civil Code 2782.8, Contractor agrees to indemnify and hold Indemnitees harmless from all liability arising out of any claim, loss, injury to or death of persons or damage to property to the extent caused by its negligent professional act or omission in the performance of professional services pursuant to this Agreement.

c. Except for the Indemnitees, the indemnifications provided in this Agreement shall not be construed to extend any third party indemnification rights of any kind to any person or entity which is not a signatory to this Agreement.

d. The indemnities set forth in this section shall survive any closing, rescission, or termination of this Agreement, and shall continue to be binding and in full force and effect in perpetuity with respect to Contractor and its successors.

18. Insurance.

a. Contractor shall carry workers' compensation insurance as required by law for the protection of its employees during the progress of the work. Contractor understands that it is an independent contractor and not entitled to any workers' compensation benefits under any City program.

b. Contractor shall maintain during the life of this Agreement the following minimum amount of comprehensive general liability insurance or commercial general liability insurance: the greater of (1) One Million Dollars (\$1,000,000) per occurrence; or (2) all the insurance coverage and/or limits carried by or available to Contractor. Said insurance shall cover bodily injury, death and property damage and be written on an occurrence basis.

c. Contractor shall maintain during the life of this Agreement, the following minimum amount of automotive liability insurance: the greater of (1) a combined single limit of One Million Dollars (\$1,000,000); or (2) all the insurance coverage and/or limits carried by or available to Contractor. Said insurance shall cover bodily injury, death and property damage for all owned, non-owned and hired vehicles and be written on an occurrence basis.

d. Any insurance proceeds in excess of or broader than the minimum required coverage and/or minimum required limits which are applicable to a given loss shall be available to City. No representation is made that the minimum insurance requirements of this Agreement are sufficient to cover the obligations of Contractor under this Agreement.

e. Each policy of general liability and automotive liability shall provide that City, its officers, officials, agents, and employees are declared to be additional insureds under the terms of the policy, but only with respect to the work performed by Contractor under this Agreement. A policy endorsement to that effect shall be provided to City along with the certificate of insurance. In lieu of an endorsement, City will accept a copy of the policy(ies) which evidences that City is an additional insured as a contracting party. The minimum coverage required by Subsection 18.b and c, above, shall apply to City as an additional insured.

f. Contractor shall maintain during the life of this Agreement professional liability insurance covering errors and omissions arising out of the performance of this Agreement with a minimum limit of One Million Dollars (\$1,000,000) per claim. Contractor agrees to keep such policy in force and effect for at least five (5) years from the date of completion of this Agreement.

g. The insurance policies maintained by Contractor shall be primary insurance and no insurance held or owned by City shall be called upon to cover any loss under the policy. Contractor will determine its own needs in procurement of insurance to cover liabilities other than as stated above.

h. Before Contractor performs any work or prepares or delivers any materials, Contractor shall furnish certificates of insurance and endorsements, as required by City, evidencing the aforementioned minimum insurance coverages on forms acceptable to City, which shall provide that the insurance in force will not be canceled or allowed to lapse without at least ten (10) days' prior written notice to City.

i. Except for professional liability insurance coverage that may be required by this Agreement, all insurance maintained by Contractor shall be issued by companies admitted to conduct the pertinent line of insurance business in California and having a rating of Grade A or better and Class VII or better by the latest edition of Best Key Rating Guide. In the case of professional liability insurance coverage, such coverage shall be issued by companies either licensed or admitted to conduct business in California so long as such insurer possesses the aforementioned Best rating.

j. Contractor shall immediately notify City if any required insurance lapses or is otherwise modified and cease performance of this Agreement unless otherwise directed by City. In such a case, City may procure insurance or self-insure the risk and charge Contractor for such costs and any and all damages resulting therefrom, by way of set-off from any sums owed Contractor.

k. Contractor agrees that in the event of loss due to any of the perils for which it has agreed to provide insurance, Contractor shall look solely to its insurance for recovery. Contractor hereby grants to City, on behalf of any insurer providing insurance to either Contractor or City with respect to the services of Contractor herein, a waiver of any right to subrogation which any such insurer may acquire against City by virtue of the payment of any loss under such insurance.

l. Contractor shall include all subcontractors, if any, as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor to City for review and approval. All coverages for subcontractors shall be subject to all of the requirements stated herein.

19. Termination. City may for any reason terminate this Agreement by giving Contractor not less than five (5) days' written notice of intent to terminate. Upon receipt of such notice, Contractor shall immediately cease work, unless the notice from City provides otherwise. Upon the termination of this Agreement, City shall pay Contractor for services satisfactorily provided and all allowable reimbursements incurred to the date of termination in compliance with this Agreement, unless termination by City shall be for cause, in which event City may withhold any disputed compensation. City shall not be liable for any claim of lost profits.

20. Maintenance and Inspection of Records. In accordance with generally accepted accounting principles, Contractor and its subcontractors shall maintain reasonably full and complete books, documents, papers, accounting records, and other information (collectively, the "records") pertaining to the costs of and completion of services performed under this Agreement. City and its authorized representatives shall have access to and the right to audit any of Contractor's records regarding the services provided under this Agreement. Contractor shall maintain all such records for a period of at least three (3) years after termination or completion of this Agreement. Contractor agrees to make available all such records for inspection or audit at its offices during normal business hours and upon three (3) days' notice from City.

21. Compliance with all Laws/Immigration Laws.

a. Contractor shall be knowledgeable of and comply with all local, state and federal laws which may apply to the performance of this Agreement.

b. If the work provided for in this Agreement constitutes a "public works," as that term is defined in Section 1720 of the California Labor Code, for which prevailing wages must be paid, to the extent Contractor's employees will perform any work that falls within any of the classifications for which the Department of Labor Relations of the State of California promulgates prevailing wage determinations, Contractor hereby agrees that it, and any subcontractor under it, shall pay not less than the specified prevailing rates of wages to all such workers. The general prevailing wage determinations for crafts can be located on the website of the Department of Industrial Relations (www.dir.ca.gov/DLSR). Additionally, to perform work under this Contract, Contractor must meet all State registration requirements and criteria, including project compliance monitoring.

c. Contractor represents and warrants that Contractor:

(1) Has complied and shall at all times during the term of this Agreement comply, in all respects, with all immigration laws, regulations, statutes, rules, codes, and orders, including, without limitation, the Immigration Reform and Control Act of 1986 (IRCA); and

(2) Has not and will not knowingly employ any individual to perform services under this Agreement who is ineligible to work in the United States or under the terms of this Agreement; and

(3) Has properly maintained, and shall at all times during the term of this Agreement properly maintain, all related employment documentation records including, without limitation, the completion and maintenance of the Form I-9 for each of Contractor's employees; and

(4) Has responded, and shall at all times during the term of this Agreement respond, in a timely fashion to any government inspection requests relating to immigration law compliance and/or Form I-9 compliance and/or worksite enforcement by the Department of Homeland Security, the Department of Labor, or the Social Security Administration.

d. Contractor shall require all subcontractors or subconsultants to make the same representations and warranties as set forth in Subsection 21.b.

e. Contractor shall, upon request of City, provide a list of all employees working under this Agreement and shall provide, to the reasonable satisfaction of City, verification that all such employees are eligible to work in the United States. All costs associated with such verification shall be borne by Contractor. Once such request has been made, Contractor may not change employees working under this Agreement without written notice to City, accompanied by the verification required herein for such employees.

f. Contractor shall require all subcontractors or sub-consultants to make the same verification as set forth in Subsection 21.d.

g. If Contractor or subcontractor knowingly employs an employee providing work under this Agreement who is not authorized to work in the United States, and/or fails to follow federal laws to determine the status of such employee, that shall constitute a material breach of this Agreement and may be cause for immediate termination of this Agreement by City.

h. Contractor agrees to indemnify and hold City, its officers, officials, agents and employees harmless for, of and from any loss, including but not limited to fines, penalties and corrective measures City may sustain by reason of Contractor's failure to comply with said laws, rules and regulations in connection with the performance of this Agreement.

22. Governing Law and Venue. This Agreement shall be construed in accordance with and governed by the laws of the State of California and Contractor agrees to submit to the jurisdiction of California courts. Venue for any dispute arising under this Agreement shall be in Orange County, California.

23. Integration. This Agreement constitutes the entire agreement of the parties. No other agreement, oral or written, pertaining to the work to be performed under this Agreement shall

be of any force or effect unless it is in writing and signed by both parties. Any work performed which is inconsistent with or in violation of the provisions of this Agreement shall not be compensated.

24. Notice. Except as otherwise provided herein, all notices required under this Agreement shall be in writing and delivered personally, by e-mail, or by first class U.S. mail, postage prepaid, to each party at the address listed below. Either party may change the notice address by notifying the other party in writing. Notices shall be deemed received upon receipt of same or within three (3) days of deposit in the U.S. Mail, whichever is earlier. Notices sent by e-mail shall be deemed received on the date of the e-mail transmission.

“CONTRACTOR”

Siemens Industry, Inc.
6141 Katella Avenue
Cypress, CA 90630
Attn.: Adam Harrold

Telephone: (714) 454-6804
E-Mail: adam.harrold@siemens.com

“CITY”

City of Orange
300 E. Chapman Avenue
Orange, CA 92866-1591
Attn.: Mike Dering

Telephone: (714) 744-2285
E-Mail: mdering@cityoforange.org

25. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Signatures transmitted via facsimile and electronic mail shall have the same effect as original signatures.

[Remainder of page intentionally left blank; signatures on next page]

IN WITNESS of this Agreement, the parties have entered into this Agreement as of the year and day first above written.

“CONTRACTOR”

SIEMENS INDUSTRY, INC.,
a California corporation

*By: _____
Printed Name: _____
Title: _____

*By: _____
Printed Name: _____
Title: _____

“CITY”

CITY OF ORANGE, a municipal corporation

By: _____
Mark A. Murphy, Mayor

ATTEST:

Pamela Coleman, City Clerk

APPROVED AS TO FORM:

Mary E. Binning
Senior Assistant City Attorney

- *NOTE:**
- City requires the following signature(s) on behalf of the Contractor:
(1) the Chairman of the Board, the President or a Vice-President, **AND** (2) the Secretary, the Chief Financial Officer, the Treasurer, an Assistant Secretary or an Assistant Treasurer. If only one corporate officer exists or one corporate officer holds more than one corporate office, please so indicate. **OR**
 - The corporate officer named in a corporate resolution as authorized to enter into this Agreement. A copy of the corporate resolution, certified by the Secretary close in time to the execution of the Agreement, must be provided to City.

EXHIBIT “A”

SCOPE OF WORK

Siemens Proposal Dated June 24, 2021

PROPOSAL

City of Orange Fire Station

PREPARED BY

Siemens Industry, Inc.

PREPARED FOR

City of Orange Fire Station

DELIVERED ON

June 29, 2021



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Contact Information

Proposal #:	5965634
Date:	June 29, 2021

Sales Executive:	Diego Velez
Branch Address:	6141 Katella Ave Cypress, CA 90630
Telephone:	657-465-8464
Email Address:	velez.diego@siemens.com

Customer Contact:	Mike Dering
Customer:	City of Orange Fire Station
Address:	300 E Chapman
	Orange CA 92866

Scope of Work

Siemens respectfully submit this Statement of Work and Pricing proposal for Orange Fire Station No.1 Headquarters. Siemens has utilized the following documentation for preparation of SOW and Pricing:

- E1-1 - TRIAD REVIEW E1-Site Plan
- E2-5 - TRIAD REVIEW HQ
- E2-6 - TRIAD REVIEW FS#1

Siemens to provide a "Parts and Smarts" Genetec Access Control and Video Management Solution. All cabling, including all consumables such as Patch Panel, Conduit, J-Hooks and Stiffy Rods to be furnished and installed by others. Siemens will mount and terminate field and headend devices. Siemens will perform basic Genetec programming, system and commissioning. Below is a detailed scope of work:

Video Surveillance

1. Siemens to furnish and install (23) IP cameras, per the drawings and specifications.
2. Siemens to provide basic programming of (23) new IP cameras into existing City NVR (Archiver 8) at 1080p @ 8 fps, continuous, 366 days.
 1. Recording of new cameras to be configured into the existing City NVR (Archiver 8).
3. Siemens to furnish and install a POE Switch at CEC parking lot.
4. Siemens shall provide a project manager, and field specialist for installation and commissioning of described systems.

Access Control

1. Siemens to furnish and install (3) Genetec Access Control Panel in designated location for access control purposes.
2. Siemens to furnish and install (21) card readers/keypads at the designated location per the drawings and specifications.
3. Siemens to furnish and install (21) door contacts, per the drawings and specifications.
4. Siemens to furnish and install (2) long range readers for vehicles at designated locations.
 1. Long range readers to be mounted on wall near gate controller.
5. Siemens to provide basic programming for card readers, door contacts, keypad readers and long range readers.
6. Siemens to furnish (2) dual height stanchions.
7. Siemens shall provide a project manager and field specialist for installation and commissioning of the described systems.

Inclusions

1. Sales Tax (if tax exempt please provide tax exempt certification)
2. Freight
3. System Commissioning and Final Pretest
4. Price is based on A-CAD disks of the project being supplied to us by others

Exclusions

1. Vehicle transponders for long range readers to be excluded from this proposal.
2. Siemens excludes cabling and conduit as a part of this scope of work.
3. Pole and flex conduit to be provided by others.
4. Installation of dual height stanchions foundation and mounting to be excluded.
5. All lock hardware, to be provided by others.
6. Provision or installation of wire, fiber, electrical distribution components, trenching, conduit and boxes to be excluded.
7. Cutting, painting and patching.
8. Dedicated Telephone lines, network connectivity or monitoring services for systems listed above.
9. 120 VAC connections and supply to be done by others as required.
10. Performance or Payment bonds to be excluded.
11. Costs associated with schedule acceleration, project meetings, multiple trips onsite due to incompleteness of others, or multiple unplanned phases.
12. Gates, motors and ground loop devices, to be provided by others.

Clarifications

1. Siemens Service Agreement details on the following pages.
2. Siemens to only furnish and install (1) POE Switch (CEC Parking Lot)
3. Upon award of contract to Siemens Industry, Inc. we require the 100% Contract drawings in ACAD format for purposes of preparing shop drawings.
4. Siemens will furnish material cut sheets for submittal, for Siemens provided materials.
5. Siemens will furnish system shop drawings for areas and schematics affected by new equipment.
6. Pricing includes project management for the duration of the tentative project schedule.
7. Pricing includes one (1) year warranty on materials and labor.
8. Materials pricing is for the extent of the tentative project schedule.
9. Requires City provided Electrician to provide and terminate 120 VAC circuit power to Siemens provided and installed panels.
10. Work is assumed to be completed during normal business hours Monday – Friday (7am-5pm).
11. Pricing includes standard ground shipping.

Material List

Base Scope

Qty	ID	Description
3	SY-LP1502	Intelligent Controller, Linux Based, 8In/4Out/2Rd (Software Connections included)
13	SY-MR52-S3	Mercury MR52 2-reader interface module Series 3 (8 inputs, 6 relays, PCB only, software connections included)
3	FPO150-B100D8PM8NL4E6M	POWER SUPPLY BOARD 150W, 12A/12V OR 6A/24V SECONDARY VOLTAGE POWER
180	ADV-CAM-E-1M	Genetec™ Advantage for 1 Omnicast™ Enterprise Camera – 1 Month
252	ADV-RDR-P-1M	Genetec™ Advantage for 1 Synergis™ Pro Reader – 1 month
1	USW-24-PoE	Ubiquiti Switches
21	195-12-W	Door Contact- Recessed 3/4" Steel Door/DPDT
4	01500-001	P3719-PLE NETWORK CAMERA IS A COMPACT 15-MEGA PIXEL CAMERA WITH FOUR VARIFOCAL LENSES
3	01598-001	AXIS P3248-LVE is a robust, outdoor-ready fixed dome that delivers brilliant 4K resolution in any light.
4	01592-001	AXIS P3245-LV DOME CAMERA, 1080P VF LENS, FORENSIC, ZIPSTREAM, IK10
7	01593-001	AXIS P3245-LVE DOME CAMERA, 1080P VF LENS, FORENSIC, ZIPSTREAM, IK10
5	01596-001	P3247-LVE DN DOME, IK10 OUT VF 3-8MM BUILT-IN IR, LF 2.0 5MP@30FPS W/WDR
23	GSC-OM-E-1C	1 camera connection
2	S3S41272/42	(1) S3S41272/42, Dual height style 4 pedestal. Arm heights at 42" and 72" with 12" arm lengths, white or black, \$560.00.
2	H101006	H101006, 10"H X 10"W X 6"D steel housing with hole patterns for an RP40 reader and IX-DV intercom, white or black, \$325.00 each.
2	MCH5375/LED	Acrylic adapter Model MCH5375/LED
2	4-002	Encompass 4 Reader
2	54-1620-001	Encompass 4 Wall Mount Bracket
21	SY-40KNKS-00-000000	HID Signo 40K reader, Wall mount w/Keypad,
2	RBSNP	Relay Module, 12/24VDC, DPDT Contacts @ 1A - 120VAC or 2A - 28VDC, Polarized
1	A36R3610HCR	Hinge-Cover, Medium, Type 3R
1	PWR-IE240W-PCAC-L=	240W AC to DC power supply
1	IE-1000-8P2S-LM	Industrial Ethernet 1000 Series, 8 Port Gb PoE+, 2 SFP, 48V Input
1	FPO75-B100M8NL4E4M	POWER SUPPLY BOARD 75W, 2A/12V AND 2A/24V

Service Agreement

As a part of this proposal, Siemens recommends that the City of Orange adds a service agreement to extend the life time of the newly installed security equipment. Year 1 of the service agreement has already been provided in the following pages. Below is a detailed scope of work:

Siemens shall provide the City of Orange Fire Station with Preventative Maintenance services. This document shall serve as the Statement of Work (SOW) and describe services, expectations, inclusions, exclusions and the investment summary.

Year 1-

Services agreement shall provide Software Maintenance Agreements for the following applications:

- Genetec Software Maintenance Agreement- Covered in initial procurement of Genetec Licenses

Siemens shall provide the following services:

1. **Annual** Preventative Maintenance
2. Comprehensive Repair and Replace- Year 1 Covered under Siemens Warranty

Preventative Maintenance

Siemens shall provide **annual** preventative maintenance on all siemens provided access control and video surveillance equipment. Based on any abnormal findings, Siemens technicians will be authorized to replace parts or alter settings and programming to optimize the systems.

Siemens shall provide cleaning of both access control and video management field and headend devices. Siemens to run reports annual report of both access control and video management system. Cleaning camera domes (especially exterior), running camera reports will be conducted during the preventative maintenance visit. System Configuration, Archiver Report, Back-up system configuration will all be a part of the report Siemens technicians conduct.

City of Orange- Fire House

Services	Semi- Annual Preventative Maintenance, Comprehensive Repair and Replace.
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Device	QTY
Cameras	23
Card Reader	19
Keypad Readers	2
Long Range readers	2

Clarifications and Exclusions-

- Archiver 8 assessment- Siemens storage calculations found that with the cameras retention settings of 1080p @ 8 fps, continuous, 366 days the City would use about 91 TB which leaves 105 TB open for further expansion. This is only an estimate and may vary depending on scene activity. Things such as moving trees, flags, moving vehicles, etc are examples of things that could affect this estimate.
- Siemens pricing assumes execution of preventative maintenance and cleaning services to be performed during normal business hours.
- Siemens excludes all equipment not explicitly stated in this scope of work.
- Siemens excludes all foliage control, as may be required for radio communication.
- Siemens excludes all traffic control, as may be required for traffic and street light cameras.
- All permits and submittals to city, or local AHJ, are by others and excluded from this scope of work.
- Siemens requires signed agreement or acceptable client Purchase Order, prior to all work commencement, including parts acquisition or project mobilization.
- Pricing and SOW is based on current system configuration and architecture. Additions to system shall be addressed annually upon program anniversary.

As a Service Agreement customer with an active contract, you will receive the benefit of a discount from our standard labor rates. Service Program Details are shown below and our Standard rates and preferred customer rates are documented on the next page.

Service	Frequency/Time	Plan
Emergency Response Time-	4 hour response time	Included
Response time- for non-emergency	8 hour response time	Included
Hours of Service	Monday- Friday 8:00 AM - 5:00 PM	Included
Hours Outside of 8-5, M-F	After hours, weekends and Holidays	Included
Response Window	24x7	Included
Repair and Replace	As Needed	Included
Preventative Maintenance	Semi-Annually	Included
Genetec	Software Support Agreement Coverage	Included

3 year term starts from date of completion and acceptance

Material Rates: Customers with an active Service Agreement will benefit from a discount percentage off the standard pricing for Siemens Industry, Inc. products. Customers without a Service Agreement will pay standard pricing for Siemens Industry, Inc. products.

**Siemens Industry Inc.
Preferred Customer Work Authorization**

(Revision 02/18/2021)

I authorize Siemens Industry, Inc., located at the following address:
6141 Katella Ave. Cypress, CA 90630 (800-806-0886 Tel; 877-797-8858 Fax)
to perform billable, time and material, service repairs at the below listed facility:

NOTIFICATION #

DESCRIPTION:

SITE NAME:

SITE ADDRESS:

CITY/STATE/ZIP:

PHONE/FAX:

EMAIL:

SITE CONTACT/TITLE:

Is Prevailing Wage required for on-site billable work? Please check one: yes ☐ no ☐
(Note: If an Intent is required provide ID number - services are subject to a \$40-per form-admin fee)
Is Certified Payroll required? Please check one: yes ☐ no ☐

I, , acknowledge that the time and material charges, for billable services, will be at the following rates:

Labor Type Preferred Customer	(per hr.) 02/1/2021 – 02/1/2022		
	Normal Hours	Evenings and/or Saturday	Sundays and/or Holidays
Automation Specialist	\$236.00	\$354.00	\$472.00
Energy Engineer	\$287.00	\$431.00	\$574.00
HVAC Mechanic	\$165.00	\$248.00	\$330.00
Fire Sprinkler Fitter	\$236.00	\$354.00	\$472.00
Fire Specialist	\$183.00	\$275.00	\$366.00
Security Specialist	\$226.00	\$339.00	\$452.00
Electrician	\$150.00	\$225.00	\$300.00

Truck/Vehicle Fee: \$95.00/per visit
Consumable Fee: \$31.75 (Applied when parts are installed or replaced)
Digital Technology Fee: \$25.00 (Only charged on Remote Service calls)

Please Note: A minimum service charge equal to 2 hours of labor at the appropriate rate will apply to all on-site service requests for all customers. A minimum charge equal to 2 hours of labor at the appropriate rate will apply to all on-line service requests.

BILLING NAME:

BILLING ADDRESS:

CITY/STATE/ZIP:

PHONE/FAX:

EMAIL:

BILLING CONTACT/TITLE:

Payment Terms: COD/Credit Cards/Net 30 days-If paying by CC please include contact information.

PO/Reference #

Signature (required)  Date

An important benefit of your Service Agreement derives from having the trained building service personnel of Siemens Industry, Inc. familiar with your building systems. Our implementation team of local experts provides thorough, reliable service and scheduling for the support of your system.

Added to the team is a team of building experts at our Digital Service Center. The benefits you receive are less disruption to your employees at the site, less intrusive on the system at peak hours, fewer emissions for trucks rolled, and real time analytics with digital workspace hours.

The following list outlines the service team that will be assigned to the service agreement for your facility

Your Assigned Team of Service Professionals will include:

Diego Velez– **Security Account Executive**
–velez.diego@siemens.com manages the overall strategic service plan based upon your current and future service requirements.

Jonathan So – **Client Services Manager** is responsible for ensuring that our contractual obligations are delivered, your expectations are being met and you are satisfied with the delivery of our services.

Carlos Black- **Primary Service Specialist** is responsible for performing the ongoing service of your system.

Joseph James- **Secondary Service Specialist** who will be familiarized with your building systems to provide in-depth backup coverage.

Darren Chen- **Service Operations Manager** is responsible for managing the delivery of your entire support program and service requirements.

Connie Hernandez- **Service Coordinator** is responsible for scheduling your planned maintenance visits, and handling your emergency situations by taking the appropriate action.

Josie Bade - **Service Administrator** is responsible for all service invoicing including both service agreement and service projects.

Michelle Wilson - **Security Sales Manager** is available for escalation.

Pricing Breakout

Pricing:

Material	\$80,745.35
Labor	\$74,538.71
Tax	\$4,461.79
Total	\$159,745.85

Service Agreement Year 1

Service Agreement Year 1	\$8,621.79
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Total	\$168,367.64
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Pricing Summary

Pricing Summary	Sell Price
Total Quote Price	\$168,367.64

Payment Terms

Payment Terms Acceptance Agreement

The total price of: \$168,367.64 and the estimated return on investment are based on the items outlined in this proposal. ANY statements made herein regarding savings that may be achieved by implementing the services offered in this proposal are estimates only. No warranty, either expressed or implied, shall be construed to arise from such statements, nor shall such statements be construed as constituting a guarantee by Siemens that such savings will occur if the services are implemented.

Terms and Conditions Disclaimer

The Customer acknowledges that when approved by the Customer and accepted by Siemens Industry, Inc.: (i) the Proposal and the Contract Terms and Conditions, (together with any other documents incorporated into the forgoing) shall constitute the entire agreement of the parties with respect to its subject matter (collectively, hereinafter referred to as the "Agreement") and (ii) in the event of any conflict between the terms and conditions of the Proposal and the terms and conditions of The Contract Terms and Conditions, the Contract Terms and Conditions shall control.

BY EXECUTION HEREOF, THE SIGNER CERTIFIES THAT (S)HE HAS READ ALL OF THE TERMS AND CONDITIONS AND DOCUMENTS, THAT SIEMENS OR ITS REPRESENTATIVES HAVE MADE NO AGREEMENTS OR REPRESENTATIONS EXCEPT AS SET FORTH THEREIN, AND THAT (S)HE IS DULY AUTHORIZED TO EXECUTE THE SIGNATURE PAGE ON BEHALF OF THE CUSTOMER.

This Proposal is based on the Siemens Industry, Inc. Standard Terms and Conditions and the "Scope of Work" and are to be considered part of this proposal. Proposal is valid for thirty (30) days from the delivery date of June 29, 2021. Payment is due within 30 days of invoice date.

Payment Terms: 25% mobilization in advance, progress payments

Total: \$168,367.64

Terms & Conditions Link(s)

Terms and Conditions (Click to download)
Terms & Conditions (Projects) (http://go.siemens.net/15156302)
Terms & Conditions (Products Only) (http://go.siemens.net/15492770)

As a result of the global Covid-19 Virus outbreak, temporary delays in delivery, labor or services from Siemens and its sub-suppliers or subcontractors may occur. Among other factors, Siemens' delivery is subject to the correct and punctual supply from sub-suppliers or subcontractors, and Siemens reserves the right to make partial deliveries or modify its labor or services. While Siemens shall make every commercially reasonable effort to meet the delivery or service or completion date mentioned above, such date is subject to change.

Attachment A

Riders (Click on rider below to download)
SI Mass Notification Rider (www.siemens.com/download?A6V10946167)
SI Monitoring Rider (www.siemens.com/download?A6V10946171)
SI Online Backup and Data Protection (www.siemens.com/download?A6V10946174)
SI Software License Warranty (www.siemens.com/download?A6V10946180)
SI Consulting Rider (www.siemens.com/download?A6V10946838)
SI Shooter Detection System Rider (http://go.siemens.net/33327137)
SI Thermal Camera Rider (http://go.siemens.net/30872411)

Signature Page

Proposed by:

Siemens Industry, Inc.

Company

Diego Velez

Name

5965634

Proposal #

\$168,367.64

Proposal Amount

June 29, 2021

Date

Accepted by:

City of Orange Fire Station

Company

Name (Printed)

Signature

Title

Date

Purchase Order #



Agenda Item

City Council

Item #: 3.9.

7/13/2021

File #: 21-0349

TO: Honorable Mayor and Members of the City Council

THRU: Rick Otto, City Manager

FROM: Susan Galvan, Interim Community Development Director

1. SUBJECT

Historic Property Preservation Agreements (Mills Act Contracts) for ten qualified historic properties.

2. SUMMARY

The Community Development Department Historic Preservation Program received ten applications for new Mills Act Contracts in the Old Towne and Eichler Historic Districts for the Spring 2021 application period. Staff recommends approval and execution of the contracts.

3. RECOMMENDED ACTION

Approve ten Mills Act Contracts between the City of Orange and the identified property owners for the preservation and rehabilitation of qualified historic properties, and authorize the Mayor and City Clerk to execute the contracts on behalf of the City.

4. FISCAL IMPACT

The purpose of the Mills Act Program is to leverage property tax savings to support private investment in the preservation of historic properties.

For the ten Mills Act applications received in Spring 2021, the City may incur a total reduction of property tax of approximately \$8,657 per year. The actual amount of the property tax reduction under the Mills Act Contract will be determined by the Orange County Office of the Assessor, using a predetermined income-based approach to assessment, considering area rental rates and maintenance costs.

The Mills Act Program requires reinvestment of this property tax reduction in preservation of the historic property through the Rehabilitation Plan (Exhibit D) attached to each contract. The Rehabilitation Plan will generate additional revenues from building permit fees, and the local economy will benefit from specialized work in historic preservation by local building contractors and material suppliers. The investment by property owners in these ten historic properties totals \$780,630 over ten years.

The \$1,000 application fee for each contract offsets the cost of staff review, property inspection, and this public meeting. The \$30 annual fee offsets ongoing costs of administration of the contracts.

5. STRATEGIC PLAN GOALS

Goal 5: Recognize, promote and preserve Orange's rich heritage

b. Expand and strengthen processes and practices related to the protection of cultural resources.

6. DISCUSSION AND BACKGROUND

Mills Act applications for ten qualified historic properties were received prior to the March 1, 2021 application deadline. Two properties are within the Old Towne Historic District, two properties are within the Eichler Fairhills Historic District, three are within the Eichler Fairmeadow Historic District, and three are within the Eichler Fairhaven Historic District.

Staff reviewed the applications and met with each property owner at the historic property to review the proposed Rehabilitation Plan (Exhibit D) attached to the Mills Act Contract. Each Rehabilitation Plan has been tailored to the preservation needs of the specific historic property and has been determined to meet the Mills Act Program requirements and to be in conformance with the relevant design standards for the historic districts.

Each Mills Act property owner agrees to complete the work described in the Rehabilitation Plan. Additional contract conditions include:

- 1 Preserve and rehabilitate the historic property and its character-defining features in conformance with adopted rules and regulations.
- 2 Meet City of Orange Historic Property Maintenance Standards for all buildings, structures, yards and other improvements on the property.
- 3 Agree to property inspections once every five years of the contract term and/or when work is completed to determine compliance with terms of the contract.
- 4 File annual status reports on progress of improvements and repairs and/or any changed conditions of the property.
- 5 Provide a ten-year update of proposed rehabilitation and repair items, 90 days prior to the tenth contract anniversary.
- 6 Meet all other contract terms and conditions as specified in the Historic Property Preservation Agreement.

A summary of each application is provided as the first attachment to the Staff Report.

7. ATTACHMENTS

- Summary of Ten Mills Act Applications
- Mills Act Contract MAC-376.0-21 with photograph
- Mills Act Contract MAC-377.0-21 with photograph
- Mills Act Contract MAC-379.0-21 with photograph
- Mills Act Contract MAC-380.0-21 with photograph
- Mills Act Contract MAC-381.0-21 with photograph
- Mills Act Contract MAC-382.0-21 with photograph
- Mills Act Contract MAC-383.0-21 with photograph
- Mills Act Contract MAC-385.0-21 with photograph

- Mills Act Contract MAC-386.0-21 with photograph
- Mills Act Contract MAC-387.0-21 with photograph



Agenda Item

City Council

Item #: 3.9.

7/13/2021

File #: 21-0349

TO: Honorable Mayor and Members of the City Council

THRU: Rick Otto, City Manager

FROM: Susan Galvan, Interim Community Development Director

1. SUBJECT

Historic Property Preservation Agreements (Mills Act Contracts) for ten qualified historic properties.

2. SUMMARY

The Community Development Department Historic Preservation Program received ten applications for new Mills Act Contracts in the Old Towne and Eichler Historic Districts for the Spring 2021 application period. Staff recommends approval and execution of the contracts.

3. RECOMMENDED ACTION

Approve ten Mills Act Contracts between the City of Orange and the identified property owners for the preservation and rehabilitation of qualified historic properties, and authorize the Mayor and City Clerk to execute the contracts on behalf of the City.

4. FISCAL IMPACT

The purpose of the Mills Act Program is to leverage property tax savings to support private investment in the preservation of historic properties.

For the ten Mills Act applications received in Spring 2021, the City may incur a total reduction of property tax of approximately \$8,657 per year. The actual amount of the property tax reduction under the Mills Act Contract will be determined by the Orange County Office of the Assessor, using a predetermined income-based approach to assessment, considering area rental rates and maintenance costs.

The Mills Act Program requires reinvestment of this property tax reduction in preservation of the historic property through the Rehabilitation Plan (Exhibit D) attached to each contract. The Rehabilitation Plan will generate additional revenues from building permit fees, and the local economy will benefit from specialized work in historic preservation by local building contractors and material suppliers. The investment by property owners in these ten historic properties totals \$780,630 over ten years.

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Mills Act applications for ten qualified historic properties were received prior to the March 1, 2021 application deadline. Two properties are within the Old Towne Historic District, two properties are within the Eichler Fairhills Historic District, three are within the Eichler Fairmeadow Historic District, and three are within the Eichler Fairhaven Historic District.

Staff reviewed the applications and met with each property owner at the historic property to review the proposed Rehabilitation Plan (Exhibit D) attached to the Mills Act Contract. Each Rehabilitation Plan has been tailored to the preservation needs of the specific historic property and has been determined to meet the Mills Act Program requirements and to be in conformance with the relevant design standards for the historic districts.

Each Mills Act property owner agrees to complete the work described in the Rehabilitation Plan. Additional contract conditions include:

- 1 Preserve and rehabilitate the historic property and its character-defining features in conformance with adopted rules and regulations.
- 2 Meet City of Orange Historic Property Maintenance Standards for all buildings, structures, yards and other improvements on the property.
- 3 Agree to property inspections once every five years of the contract term and/or when work is completed to determine compliance with terms of the contract.
- 4 File annual status reports on progress of improvements and repairs and/or any changed conditions of the property.
- 5 Provide a ten-year update of proposed rehabilitation and repair items, 90 days prior to the tenth contract anniversary.
- 6 Meet all other contract terms and conditions as specified in the Historic Property Preservation Agreement.

A summary of each application is provided as the first attachment to the Staff Report.

7. ATTACHMENTS

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- Mills Act Contract MAC-376.0-21 with photograph
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- Mills Act Contract MAC-382.0-21 with photograph
- Mills Act Contract MAC-383.0-21 with photograph
- Mills Act Contract MAC-385.0-21 with photograph

- Mills Act Contract MAC-386.0-21 with photograph
- Mills Act Contract MAC-387.0-21 with photograph

Summary of Mills Act Applications Spring 2021						
Contract No.	Property Address	Historic District	Property Owners	Estimate for Rehabilitation Plan	Property Tax Savings over 10 Years	Annual Property Tax Reduction to City
MAC-376.0-21	1070 N. Granada Drive	Eichler Fairhills	Anwar Memon and Leann Chang	\$71,000	\$71,000	\$964
MAC-377.0-21	1101 N. Linda Vista Street	Eichler Fairhills	Anwar Memon and Leann Chang	\$80,600	\$50,500	\$686
MAC-379.0-21	1843 N. Shaffer Street	Eichler Fairmeadows	Anthony and Michelle Trabucco	\$79,375	\$75,000	\$1,019
MAC-380.0-21	3811 E. Fernwood Avenue	Eichler Fairhaven	Jacob Hanson and Brittany Jones	\$110,000	\$50,000	\$679
MAC-381.0-21	3808 E. Larkstone Drive	Eichler Fairhaven	Zsombor Nagy and Laura Cowie	\$101,150	\$85,600	\$1,162
MAC-382.0-21	728 E. Glendale Avenue	Eichler Fairmeadows	Hoang Anh N. Nguyen	\$89,700	\$61,000	\$828
MAC-383.0-21	154 N. Pixley Street	Old Towne	Christina Kraus	\$57,305	\$55,000	\$747
MAC-385.0-21	1828 N. Woodside Street	Eichler Fairmeadows	Kristen Genova and James Flores	\$70,500	\$68,400	\$929
MAC-386.0-21	816 S. Woodland Street	Eichler Fairhaven	Marshall and Heidi Toplansky	\$71,000	\$71,000	\$964
MAC-387.0-21	368 S. Center Street	Old Towne	Fabiola Champagne	\$50,000	\$50,000	\$679

RECORDING REQUESTED BY
AND, WHEN RECORDED,
MAIL TO:

City Clerk
City of Orange
300 E. Chapman Avenue
Orange, California, 92866

Exempt from recording fees pursuant to
Gov. Code Sections 6103 and 27383

Property Address: 1070 N. Granada Drive
APN: 379-021-25
Mills Act Contract Number: 376.0-21

HISTORIC PROPERTY PRESERVATION AGREEMENT (MILLS ACT CONTRACT)

THIS HISTORIC PROPERTY PRESERVATION AGREEMENT (“Agreement”) is made and entered into as of the date of execution by the City (“Effective Date”), by and between the CITY OF ORANGE, a municipal corporation (“City”), and Anwar Memon and Liyen Chang, husband and wife, as joint tenants (“Owner”), with reference to the following:

RECITALS

WHEREAS, the Mills Act (Government Code Section 50280 *et seq.*) provides cities with the opportunity to contract with owners of qualified historical properties whereby the owner promises to preserve and rehabilitate the property in return for a potential reduced property tax assessment; and

WHEREAS, the City of Orange has established Historic Districts consisting of the Plaza Historic District, listed in the National Register of Historic Places; the Old Towne Orange Historic District, listed in the National Register of Historic Places; the local Old Towne Orange Historic District, designated by the Orange City Council; and the local Eichler Fairhaven, Fairhills, and Fairmeadow Historic Districts, designated by the Orange City Council; and the City desires to promote the character, quality of life, and historic features of said Districts to its citizens and visitors; and

WHEREAS, the City is dedicated to the protection and stabilization of property values through maintaining and upgrading its older housing stock, through the use of incentives such as the Mills Act; and

WHEREAS, the Mills Act also has beneficial effects on City businesses, economic stability and community pride by preserving important neighborhood historic resources; and

WHEREAS, the use of the Mills Act will fulfill one of the goals of the City’s 2010 General Plan Cultural Resources Element; specifically,

“Provide incentives and expand education efforts for historic preservation” (Goal 3.0, CR-22); and

WHEREAS, Owner possesses fee simple title in and to that certain real property, together with associated structures and improvements thereon, located at 1070 N. Granada Drive in the City of Orange, County of Orange, State of California, having Assessor’s Parcel Number 379-021-25 and more specifically described in Exhibit A, which exhibit is attached hereto and made a part hereof (“Historic Property”); and

WHEREAS, the Historic Property is a qualified historical property under the Mills Act in that it is privately owned property which is not exempt from property taxation and is either: individually designated or is a contributing property within a designated district which is listed in the National Register of Historic Places, California Register of Historical Resources or Register of Historical Landmarks, California Points of Historical Interest, or is a contributing property in a locally designated historic district; and

WHEREAS, Owner, in consideration for abiding by the terms of this Agreement shall be entitled to a reassessment of valuation of the Historic Property and any corresponding reduction in property taxes pursuant to the provisions of the California Revenue and Taxation Code; and

WHEREAS, it is the City’s expectation that the Owner will use the property tax savings accrued under this Agreement for improvements to the “Historic Property” (as defined below). To that end, as a condition of renewal, the City will require a revised schedule of improvements every ten years showing a plan for improvements commensurate with the tax savings; and

WHEREAS, the City and Owner for their mutual benefit, now desire to enter into this Agreement to limit the use of the Historic Property to prevent inappropriate alterations, to ensure that characteristics of historic significance are preserved and maintained in an exemplary manner, and to carry out the purposes of Article 12 (commencing with Section 50280) of Chapter 1, Part 1, Division 1 of Title 5 of the California Government Code and Article 1.9 (commencing with Section 439) of Chapter 3, Part 2 of Division 1 of the California Revenue and Taxation Code.

AGREEMENT

NOW, THEREFORE, both Owner and City, in consideration of the mutual promises, covenants and conditions contained herein and the substantial public benefits to be derived therefrom, do hereby agree as follows:

1. **APPLICABLE LAWS.** This Agreement is made pursuant to California Government Code Sections 50280 through 50290 and Article 1.9 (commencing with Section 439) of Chapter 3, Part 2 of Division 1 of the California Revenue and Taxation Code and is subject to all of the provisions of those statutes. To the extent any of the provisions in this Agreement are inconsistent with the aforementioned provisions of the Government and Revenue and Taxation Codes, they are superseded by those Code Sections.

2. **ASSESSMENT OF VALUATION.** Property tax relief afforded to Owner pursuant to Chapter 3, Part 2 of Division 1 of the California Revenue and Taxation Code will be determined solely by the Orange County Office of the Assessor. City makes no representations regarding the actual tax savings any person may realize by entering into this Agreement.
3. **PRESERVATION OF PROPERTY.** Owner agrees to preserve and maintain the Historic Property and its character defining features. Character defining features include, but are not necessarily limited to, the general architectural form, style, materials, design, scale, details, mass, roofline and other aspects of the appearance of the exterior of the Historic Property. For purposes of identification of the Historic Property, the City's Official Historic Property Inventory Form (DPR 523) is attached as Exhibit E.

The *Secretary of the Interior's Standards for Rehabilitation* (Exhibit B) and City's minimum maintenance standards (Exhibit C), attached hereto and incorporated herein by reference, shall constitute the minimum standards and conditions for preservation and rehabilitation of the Historic Property, and shall apply to the Historic Property throughout the term of this Agreement. Owner shall, where necessary, rehabilitate the Historic Property to conform to the rules and regulations of the Office of Historic Preservation of the California Department of Parks and Recreation, the *Secretary of the Interior's Standards for Rehabilitation*, the California Historical Building Code, and the City of Orange's Historic Preservation Design Standards for Old Towne and Eichler Design Standards.

As consideration for the City to enter into this Agreement, the Owner agrees, at its own cost and expense, to complete, or cause to be completed, the work or improvements described in Exhibit D within the times established therefore in Exhibit D. The Owner shall secure any and all permits which may be required by the City or any other governmental agency affected by the construction of the work or improvements. The Owner accepts responsibility for and shall be responsible for identification of and compliance with all applicable laws pertaining to the construction and installation of the work or improvements described on Exhibit D and the contract or contracts pertaining thereto. The Owner will neither seek to hold nor hold the City liable for, and will hold the City harmless with respect to, any consequences of any failure by the Owner to correctly determine the applicability of any such requirements to any contract he/she/they enter into.

In addition to the foregoing, the Owner hereby agrees to and will comply with all applicable local, state, and federal statutes, regulations, rules, codes (including building codes), ordinances, and other requirements of governmental authorities now or hereafter in effect ("Applicable Laws") pertaining to the use of the Historic Property. Owner must give the City immediate written notice on Owner's becoming aware that the use or condition of the Historic Property is in violation of any Applicable Laws.

4. **INSPECTIONS AND ANNUAL REPORTING.** Owner agrees to permit the examination, by prior appointment, of the interior and exterior of the Historic Property by the City at a minimum every five (5) years during the Agreement term to determine Owner's compliance with the terms and provisions of this Agreement. Owner agrees to provide the City with a report as to the status of the Historic Property annually within thirty (30) days following each anniversary of the

Effective Date of this Agreement. The annual report shall provide substantiation reasonably satisfactory to the City's Historic Preservation Planner or in his/her absence the Director of Community Development that Owner has completed the work required by Exhibit D for the twelve month period preceding each anniversary of this Agreement, and whether the Historic Property has undergone any changed conditions, and whether Owner has received any public funds from other sources designated for the preservation or maintenance of the Historic Property and from whom such funds have been received.

5. **PAYMENT OF ANNUAL FEE.** The Owner shall pay the City an annual fee to cover administrative costs associated with this Agreement including but not limited to the reasonable cost of monitoring the Historic Property, performing required inspections, and enforcement of the Agreement. Said fee shall be payable to the City of Orange and shall be remitted to the Planning Division upon demand and prior to any required inspection. The amount of the annual inspection fee shall be established by the City and may be revised from time to time, which fee shall be set forth in the City's Master Schedule of Fees and Charges. Failure to pay the required fee within 45 days of the due date will be considered a willful breach of this Agreement and may result in cancellation of the Agreement in accordance with the cancellation terms detailed below.
6. **TERM.** The term of this Agreement is for a period of ten (10) years. The initial term of this Agreement shall be from July 13, 2021 to and including July 13, 2031.
7. **AUTOMATIC RENEWAL.** On each yearly anniversary of the Effective Date of this Agreement ("renewal date"), one year shall be added automatically to the initial term of this Agreement, unless notice of non-renewal is given as provided in this Agreement.
8. **EFFECT OF OUTSIDE FUNDS.** If Owner receives funds designated for the preservation or maintenance of the Historic Property from any other public agency, this Agreement shall not be renewed except upon the vote of the City Council.
9. **NOTICE OF NONRENEWAL.** If in any year either the Owner or City desires not to renew this Agreement, that party shall serve written notice of nonrenewal to the other party in advance of the annual renewal date. Unless the notice is served by Owner to City at least ninety (90) days, or by City to Owner at least sixty (60) days prior to the renewal date, one year shall automatically be added to the term of the Agreement. Within fifteen (15) days of receipt by Owner of a notice of nonrenewal from the City, Owner may make a written protest. Upon receipt of such a protest the City Council shall set a hearing prior to the expiration of the renewal date of this Agreement or toll the renewal date until such hearing can reasonably held. Owner may furnish the City Council with any information which the Owner deems relevant; and shall furnish the City Council with any information it may require. At any time prior to the renewal date, City may withdraw its notice of nonrenewal.
10. **EFFECT OF NOTICE NOT TO RENEW.** If in any year either party serves notice of intent not to renew this Agreement, this Agreement shall remain in effect for the balance of the period remaining since the original execution date if not yet renewed, or the last renewal date of the Agreement, as the case may be.

11. **UPDATE OF IMPROVEMENT SCHEDULE.** At least ninety (90) days prior to the tenth (10th) anniversary of the Effective Date of this Agreement, and ninety (90) days prior to every tenth (10th) anniversary thereafter, Owner shall provide City with an updated schedule of rehabilitation maintenance items for the City's review and approval. Such updated schedule shall contain a list of proposed improvements and/or revisions to be accomplished during the next succeeding ten (10) years of the Agreement and a schedule for the construction of such improvements. Within thirty (30) days after the City's receipt of said updated schedule, the City's Director of Community Development shall either approve or disapprove such proposed schedule of proposed improvements, or shall respond in writing by stating what further information, if any, the City reasonably requires in order to determine the request complete and determine whether or not to grant the requested approval. Upon receipt of such a response, the Owner shall promptly furnish to the City such further information as may be reasonably requested.

From time to time, at the request of the City's Director of Community Development (or his/her authorized representative), the Owner shall meet and confer with the City's Planner for Historic Preservation or in his/her absence the Director of Community Development (or his/her designee) regarding matters arising hereunder with respect to the work and improvements and the progress in constructing the same.

12. **INDEPENDENT ADVICE OF COUNSEL.** The Owner, and each of them, represent and declare that in executing this Agreement he/she/they have relied solely upon his/her/their own judgment, belief and knowledge, and the advice and recommendations of his/her/their own independently selected counsel, concerning the nature, extent and duration of his/her/their rights and claims, and that he/she/they have not been influenced to any extent whatsoever in executing the same by the City or by any person representing the City.
13. **ENFORCEMENT OF AGREEMENT.** If the City determines the owner has breached any of the conditions of the Agreement provided for or has allowed the property to deteriorate to the point it no longer meets the standards for a qualified historical property, the City shall either cancel the Agreement or bring any action in court necessary to enforce the Agreement including, but not limited to an action to enforce the Agreement by specific performance to cure, correct or remedy any breach of the terms of this Agreement, to recover damages for any breach, or to obtain any other remedy consistent with the purpose of this Agreement. In the event of a default under the provisions of this Agreement by Owner, City shall give written notice to Owner specifying the alleged grounds for the default. Said notice shall be given by registered or certified mail addressed to the address stated in this Agreement. If such violation(s) is not corrected to the reasonable satisfaction of the City within thirty (30) days from the receipt of the notice of violation, or within such reasonable time as may be required to cure the breach or default, provided that acts to cure, correct or remedy such breach or default are commenced within thirty (30) days and thereafter diligently pursued to completion, then City may, without further notice, institute legal action.

Except as otherwise expressly stated in this Agreement, the rights and remedies of the City are cumulative, and the exercise by the City of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the Owner. Any failure or delay by the City in asserting any

of its right and remedies as to a breach of any of the covenants, conditions or agreements set forth herein shall not operate as a waiver of such breach or of any such rights or remedies, or deprive the City of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce such rights or remedies. A waiver by the City of a breach shall not be construed as a waiver of any succeeding breach of the same or other covenants, conditions or agreements set forth in this Agreement.

14. CANCELLATION. In lieu of bringing an action to enforce the Agreement City may cancel this Agreement if City determines Owner has breached any of the conditions or covenants of this Agreement or has allowed the Historic Property to deteriorate to the point that it no longer meets the standards for a qualified historical property. City may also cancel this Agreement if it determines Owner has failed to rehabilitate the Historic Property in the manner specified in this Agreement.

15. NOTICE OF CANCELLATION. This Agreement cannot be canceled until after City has given notice and has held a public hearing as required by Government Code Section 50285. Notice of the hearing shall be mailed to the last known address of each owner of property within 300 feet of the Historic Property and shall be published in accordance with Government Code Section 6061.

16. CANCELLATION FEE. If City cancels this Agreement in accordance with Section 15 above, Owner shall pay a cancellation fee of twelve and one-half percent (12-1/2%) of the current fair market value of the Historic Property at the time of cancellation. The current fair market value shall be determined by the County Assessor as though the Historic Property were free of the restriction on the Historic Property imposed pursuant to this Agreement. The cancellation fee shall be paid to the County Auditor at such time and in such manner as the County Auditor shall prescribe.

17. NOTICES. All notices required by or provided for in the Agreement shall be given in writing and may be mailed or delivered in person at the address of the respective parties as specified below or at any other address as may be later specified by the parties. Deposit of notice in the mail, postage prepaid, shall be deemed receipt of the notice.

City of Orange
Attn.: City Clerk
300 E. Chapman Avenue
Orange, CA 92866

Anwar Memon and Liyen Chang
1070 N. Granada Drive
Orange, CA 92869

18. NO COMPENSATION. Owner shall not receive any payment from the City in consideration of the obligations imposed under this Agreement. The Owner acknowledges and agrees that the consideration for the execution of this Agreement is the substantial public benefit to be derived therefrom and the advantage that will accrue to Owner as a result of the effect upon the assessed value of the Historic Property on account of the restrictions on the use and preservation of the Historic Property.

19. REMEDY IF AGREEMENT HELD NOT ENFORCEABLE. In the event it is finally determined this Agreement does not constitute an enforceable restriction within the meaning of the applicable provisions of the California Government Code and the California Revenue and Taxation Code, except for an unenforceability arising from the cancellation or nonrenewal of this Agreement, then this Agreement shall be null and void and without further effect and the Historic Property subject to this Agreement shall from that time be free from any restriction whatsoever under this Agreement without any payment or further act of the parties to this Agreement.

20. ACQUISITION OF PROPERTY BY EMINENT DOMAIN; CANCELLATION OF CONTRACT; INAPPLICABILITY TO DETERMINATION OF VALUE. In the event that the Historic Property is acquired in whole or part by eminent domain or other acquisition by any entity authorized to exercise the power of eminent domain, and the acquisition is determined by the City to frustrate the purpose of the Agreement, the Agreement shall be canceled and no fee shall be imposed under Section 17, above. The Agreement shall be deemed null and void for all purposes of determining the value of the Historic Property so acquired.

If, subsequent to the filing of an action in eminent domain, the proposed condemnation is abandoned by the condemning agency, the restrictions on the use of the Historic Property included in this Agreement shall, without further agreement of the parties, be reinstituted and the terms of this Agreement shall continue in full force and effect.

21. EFFECT OF AGREEMENT. None of the terms, provisions or conditions of this Agreement shall be deemed to create a partnership between the parties hereto and any of their heirs, successors or assigns, nor shall such terms, provisions or conditions cause the parties hereto to be considered joint venturers or members of any joint enterprise.

22. SUCCESSORS AND ASSIGNS. This Agreement is binding upon and shall inure to the benefit of all successors in interest of the Owner, regardless of the tax exempt status of any subsequent owner. A successor in interest shall have the same rights and obligations under this Agreement as the original owner who entered into this Agreement.

23. REQUIREMENTS RELATED TO TRANSFER OF HISTORIC PROPERTY. In the event of any sale, transfer, assignment or conveyance of the Historic Property ("Transfer"), the Owner agrees that, at least thirty (30) days prior to such Transfer, it shall give written notice to the City of such proposed Transfer, including the name(s) of the transferee(s). In addition, the Owner and the proposed transferee(s) shall enter into and deliver to the City through the escrow for the Transfer of the Historic Property an assignment and assumption agreement in a form satisfactory to the City's Attorney or such other evidence as may be satisfactory to the City that the transferee(s) has (have) assumed the Owner's obligations set forth in this Agreement. Upon the Transfer of the Historic Property and the assumption of the obligations hereunder by the transferee(s), the Owner's liability for performance shall be terminated as to any obligation to be performed hereunder after the date of such Transfer.

24. RECORDATION. City shall record a copy of this Agreement with the Office of the County Recorder of the County of Orange.

25. AMENDMENTS. This Agreement may be amended, in whole or in part, only by a written and recorded instrument executed by the parties hereto, except that the Director of Community Development is authorized to amend the list of required projects in Exhibit D.
26. COUNTERPARTS. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which shall constitute one and the same agreement with the same effect as if all parties had signed the same signature page. Any signature page of this Agreement may be detached from any counterpart of this Agreement and re-attached to any other counterpart of this Agreement identical in form hereto but having attached to it one or more additional signature pages.
27. ADMINISTRATION. This Agreement shall be administered by the City's Director of Community Development (or his/her designated representative) following approval of this Agreement by the City. The City shall maintain authority of this Agreement through the City's Director of Community Development (or his/her authorized representative). The City's Director of Community Development shall have the authority to issue interpretations, waive provisions and enter into amendments of this Agreement on behalf of the City so long as such actions do not change the uses permitted on the Historic Property or the purpose of this Agreement. Such amendments may include extensions of time or amendments to the projects specified in Exhibit D. All other waivers or amendments shall require the written approval and consent of the City Council.

[Remainder of page intentionally left blank; signatures on next page]

IN WITNESS WHEREOF, the City and the Owner have executed this Agreement.

“OWNER”

Dated: _____, 2021

Anwar Memon

Dated: _____, 2021

Liyen Chang

“CITY”

CITY OF ORANGE, a municipal corporation

Dated: _____, 2021

By: _____
Mark A. Murphy
Mayor

ATTEST:

APPROVED AS TO FORM:

Pamela Coleman
City Clerk

Mary E. Binning
Senior Assistant City Attorney

ACKNOWLEDGEMENT

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

State of California
County of _____

On _____ before me, _____,
a Notary Public in and for the State of California, personally appeared _____

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

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

WITNESS my hand and official seal.

Signature _____ (Seal)

EXHIBIT “A”

LEGAL DESCRIPTION OF HISTORIC PROPERTY

REAL PROPERTY IN THE CITY OF ORANGE, COUNTY OF ORANGE, STATE OF CALIFORNIA, DESCRIBED AS:

Lot 40 of Tract 4733 in the City of Orange, County of Orange, State of California, as per map recorded in Book 177, Pages 7 to 10 inclusive of Miscellaneous Maps, in the office of the County Recorder of said Orange County.

[APN 379-021-25]

EXHIBIT "B"

SECRETARY OF THE INTERIOR'S STANDARDS FOR REHABILITATION

1. Every reasonable effort shall be made to provide a compatible use for a property, which requires a minimal alteration of the building structure, or site and its environment, or to use a property for its originally intended purpose.
2. The distinguishing original qualities or character of a building, structure, or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural features should be avoided when possible.
3. All buildings, structures, and sites shall be recognized as products of their own time. Alterations that have no historical basis and which seek to create an earlier appearance shall be discouraged.
4. Changes which may have taken place in the course of time are evidence of the history and development of a building, structure or site and its environment. These changes may have acquired significance in their own right, and this significance shall be recognized and respected.
5. Distinctive stylistic features or examples of skilled craftsmanship which characterize a building, structure or site shall be treated with sensitivity.
6. Deteriorated architectural features shall be repaired rather than replaced, wherever possible. In the event replacement is necessary, the new material should match the material being replaced in composition, design, color, texture, and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplications of features, substantiated by historic, physical, or pictorial evidence rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.
7. The surface cleaning of structures shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage the historic building materials shall not be undertaken.
8. Every reasonable effort shall be made to protect and preserve archeological resources affected by, or adjacent to, any project.
9. Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant historical, architectural or cultural material, and such design is compatible with the size, scale, color, material and character of the property, neighborhood or environment.
10. Wherever possible, new additions or alterations to structures shall be done in such a manner that, if such additions or alterations were to be removed in the future, the essential form and integrity of the structure would be unimpaired.

EXHIBIT “C”

CITY OF ORANGE HISTORIC PROPERTY MAINTENANCE STANDARDS

All buildings, structures, yards and other improvements shall be maintained in a manner which does not detract from the appearance of the immediate neighborhood. The following conditions are prohibited:

1. Dilapidated, deteriorating, or unrepaired structures, such as: fences, roofs, doors, walls and windows.
2. Publicly visible storage of scrap lumber, junk, trash or debris.
3. Publicly visible storage of abandoned, discarded or unused objects or equipment, such as automobiles, automobile parts, furniture, stoves, refrigerators, cans, containers or similar items.
4. Stagnant water or excavations, including pools or spas.
5. Any device, decoration, design, structure or vegetation that is unsightly by reason of its height, condition, or its inappropriate location.

EXHIBIT “D”

REHABILITATION/MAINTENANCE SCOPE OF WORK

[Attached.]

EXHIBIT “D”

REHABILITATION/MAINTENANCE SCOPE OF WORK

1070 N. Granada Drive

Priority	Description of Work	Cost Estimate	Completion Date
1.	Repair existing roof leak(s).	\$1,000.00	2021
2.	Apply window film (UV/safety) to existing glass panels on all elevations.	\$8,000.00	2021
3.	Repair damage to beam and posts in atrium and front elevation.	\$8,700.00	2023
4.	Repaint exterior of the house	\$18,000.00	2023
5.	Replace painted interior mahogany panels in the living and dining room area with new stained panels to match original design.	\$17,000.00	2025
6.	Perform repairs to fungus damaged wood members as recommended in Termite inspection report dated 08/18/2020. Repair/replace existing damaged wooden members to match existing.	2,600.00	2025
7.	Repair condensation on windowsill trims/stops on all elevations.	\$2,700	2025
8.	Repair existing electrical deficiencies in ceiling can light fixtures caused by leaks in roof.	\$3,000.00	2025
9.	Recoat existing foam roof per recommended five-year maintenance schedule, for a total of two treatments.	\$10,000.00	2030
TOTAL		\$71,000	

EXHIBIT “E”

HISTORIC PROPERTY INVENTORY FORM (DPR 523)

[Attached.]

State of California - The Resources Agency
DEPARTMENT OF PARKS AND RECREATION
PRIMARY RECORD

Primary #

HRI #

Trinomial

ORA

NRHP Status Code

3D

Other Listings:

Review Code:

Reviewer:

Date:

Page 1 of 3

*Resource Name or #:

GRANADA_N_1070__APN_379-021-25

(Assigned by Recorder)

P1. Other Identifier: Fairhills Tract

*P2. Location:

☐ Not for Publication

☒ Unrestricted

*a. County:

Orange

and

(P2b and P2c or P2d. Attach a location map as necessary.)

*b. USGS 7.5' Quad:

Date:

T

R

1/4 of

1/4 of Sec

B.M.

c. Address:

1070

-

N GRANADA

DR

, #

City: Orange

Zip:

92869

d. UTM:

(Give more than one for large and/or linear resources)

Zone

'

mE/

mN

e. Other Locational Data:

*P3a. Description: (Describe resource and its major elements. Include design, materials, condition, alterations, size, setting, and boundaries. Continues on Pg.3.)

Materials:

Model 1744R

*P3b. Resource Attributes:

(HP2)--Single family property

(List attributes and codes)

*P4. Resources Present:

☒ Building

☐ Structure

☐ Object

☐ Site

☐ Element of District

☐ District

☐ Other (Isolates, etc.)

P5b. Description of Photo:

2005

(View, date, accession #)

*P6. Date Constructed/ Age and Source:

1962 c

☐ Historic

☐ Prehistoric

☐ Both

*P7. Owner and Address:

*P8: Recorded by:

(Name, affiliation, and address)

Marissa Moshier, Historic
Preservation Planner

City of Orange

300 E. Chapman Ave.

Orange, CA 92866

*P9. Date Recorded:

June 2015

*P10. Survey Type: (Describe)

Reconnaissance

*P11. Report Citation:

(Cite survey report and other sources, or enter "none.")

Orange County Assessor Records (2005). Chattel Architecture (2005)
Historic Resources Survey.

*Attachments:

☐ NONE

☐ Location Map

☒ Continuation Sheet(s)

☒ Building, Structure, and Object Record

☐ Archaeological Record

☐ District Record

☐ Linear Feature Record

☐ Milling Station Record

☐ Rock Art Record

☐ Artifact Record

☐ Photograph Record

☐ Other (List):

DPR 523A (1/95)

*Required Information



State of California - The Resources Agency
DEPARTMENT OF PARKS AND RECREATION
BUILDING, STRUCTURE, AND OBJECT RECORD

Primary #

HRI #

*NRHP Status Code 3D

Page 2 of 3

*Resource Name or #:
(Assigned by Recorder)

GRANADA_N_1070__APN_379-021-25

B1. Historic Name: Unknown

B2. Common Name: _____

B3. Original Use: RES

B4. Present Use: RES

*B5. Architectural Style: Mid-Century Modern

*B6. Construction History: (Construction date, alterations, and date of alterations) Date of Construction: 1962 ☐ Historic ☐ Prehistoric ☐ Both

*B7. Moved? ☒ No ☐ Yes ☐ Unknown Date: _____ Original Location: _____

*B8. Related Features: _____

*B9. Architect or Builder: Eichler Homes - A. Quincy Jones

*B10. Significance: Theme: Architecture Area: City of Orange Property Type: Residence

Period of Significance: Eichler Tract (c. 1959 - 1965)

Applicable Criteria: C

(Discuss importance in terms of historical or architectural context as defined by theme, period, and geographic scope. Also address integrity. Continues on Pg.4.)

Structural Integrity: Excellent Condition - Low level of alteration as of 2005.

Site Integrity: _____

Opportunities _____

B11. Additional Resource Attributes: (List attributes and codes) _____

*B12. References:

Orange Daily News. Eichler Tract Brochures and miscellaneous Eichler materials from the Orange Public Library.

B13. Remarks: (Continues on Pg.3.)

Status change since 1991 Survey: Not previously surveyed.

(Sketch Map with North arrow required.)

*B14. Evaluator: Robert Chattel

*Date of Evaluation: September 2005

(This space reserved for official comments.)

DPR 523B (1/95)

*Required Information

State of California - The Resources Agency
DEPARTMENT OF PARKS AND RECREATION
CONTINUATION SHEET

Primary # _____
HRI # _____
Trinomial _____

ORA

Page 3 of 3

*Resource Name or #:
(Assigned by Recorder)

GRANADA_N_1070__APN_379-021-25

Recorded by:

Marissa Moshier, Historic Preservation Planner
City of Orange
300 E. Chapman Ave.
Orange, CA 92866

Date Recorded: June 2015

☒ Continuation

☐ Update

Years Surveyed:

2005, 2015

Description of Photo:

Listed in National Register:

General Plan:

LDR

of Buildings:

1

Planning Zone:

R-1-8

of Stories:

1

Lot Acre:

0.1796

of Units:

1

Principal Building Sqft:

2566

B6. Construction History (Continued from Pg.2):

B13. Remarks (Continued from Pg.2):

P3a. Description (Continued from Pg.1):



RECORDING REQUESTED BY
AND, WHEN RECORDED,
MAIL TO:

City Clerk
City of Orange
300 E. Chapman Avenue
Orange, California, 92866

Exempt from recording fees pursuant to
Gov. Code Sections 6103 and 27383

Property Address: 1101 N. Linda Vista Street
APN: 379-034-02
Mills Act Contract Number: 377.0-21

HISTORIC PROPERTY PRESERVATION AGREEMENT (MILLS ACT CONTRACT)

THIS HISTORIC PROPERTY PRESERVATION AGREEMENT (“Agreement”) is made and entered into as of the date of execution by the City (“Effective Date”), by and between the CITY OF ORANGE, a municipal corporation (“City”), and Anwar Memon and Liyen Chang, husband and wife as joint tenants (“Owner”), with reference to the following:

RECITALS

WHEREAS, the Mills Act (Government Code Section 50280 *et seq.*) provides cities with the opportunity to contract with owners of qualified historical properties whereby the owner promises to preserve and rehabilitate the property in return for a potential reduced property tax assessment; and

WHEREAS, the City of Orange has established Historic Districts consisting of the Plaza Historic District, listed in the National Register of Historic Places; the Old Towne Orange Historic District, listed in the National Register of Historic Places; the local Old Towne Orange Historic District, designated by the Orange City Council; and the local Eichler Fairhaven, Fairhills, and Fairmeadow Historic Districts, designated by the Orange City Council; and the City desires to promote the character, quality of life, and historic features of said Districts to its citizens and visitors; and

WHEREAS, the City is dedicated to the protection and stabilization of property values through maintaining and upgrading its older housing stock, through the use of incentives such as the Mills Act; and

WHEREAS, the Mills Act also has beneficial effects on City businesses, economic stability and community pride by preserving important neighborhood historic resources; and

WHEREAS, the use of the Mills Act will fulfill one of the goals of the City’s 2010 General Plan Cultural Resources Element; specifically,

“Provide incentives and expand education efforts for historic preservation” (Goal 3.0, CR-22); and

WHEREAS, Owner possesses fee simple title in and to that certain real property, together with associated structures and improvements thereon, located at 1101 N. Linda Vista Street in the City of Orange, County of Orange, State of California, having Assessor’s Parcel Number 379-034-02 and more specifically described in Exhibit A, which exhibit is attached hereto and made a part hereof (“Historic Property”); and

WHEREAS, the Historic Property is a qualified historical property under the Mills Act in that it is privately owned property which is not exempt from property taxation and is either: individually designated or is a contributing property within a designated district which is listed in the National Register of Historic Places, California Register of Historical Resources or Register of Historical Landmarks, California Points of Historical Interest, or is a contributing property in a locally designated historic district; and

WHEREAS, Owner, in consideration for abiding by the terms of this Agreement shall be entitled to a reassessment of valuation of the Historic Property and any corresponding reduction in property taxes pursuant to the provisions of the California Revenue and Taxation Code; and

WHEREAS, it is the City’s expectation that the Owner will use the property tax savings accrued under this Agreement for improvements to the “Historic Property” (as defined below). To that end, as a condition of renewal, the City will require a revised schedule of improvements every ten years showing a plan for improvements commensurate with the tax savings; and

WHEREAS, the City and Owner for their mutual benefit, now desire to enter into this Agreement to limit the use of the Historic Property to prevent inappropriate alterations, to ensure that characteristics of historic significance are preserved and maintained in an exemplary manner, and to carry out the purposes of Article 12 (commencing with Section 50280) of Chapter 1, Part 1, Division 1 of Title 5 of the California Government Code and Article 1.9 (commencing with Section 439) of Chapter 3, Part 2 of Division 1 of the California Revenue and Taxation Code.

AGREEMENT

NOW, THEREFORE, both Owner and City, in consideration of the mutual promises, covenants and conditions contained herein and the substantial public benefits to be derived therefrom, do hereby agree as follows:

1. **APPLICABLE LAWS.** This Agreement is made pursuant to California Government Code Sections 50280 through 50290 and Article 1.9 (commencing with Section 439) of Chapter 3, Part 2 of Division 1 of the California Revenue and Taxation Code and is subject to all of the provisions of those statutes. To the extent any of the provisions in this Agreement are inconsistent with the aforementioned provisions of the Government and Revenue and Taxation Codes, they are superseded by those Code Sections.

2. **ASSESSMENT OF VALUATION.** Property tax relief afforded to Owner pursuant to Chapter 3, Part 2 of Division 1 of the California Revenue and Taxation Code will be determined solely by the Orange County Office of the Assessor. City makes no representations regarding the actual tax savings any person may realize by entering into this Agreement.
3. **PRESERVATION OF PROPERTY.** Owner agrees to preserve and maintain the Historic Property and its character defining features. Character defining features include, but are not necessarily limited to, the general architectural form, style, materials, design, scale, details, mass, roofline and other aspects of the appearance of the exterior of the Historic Property. For purposes of identification of the Historic Property, the City's Official Historic Property Inventory Form (DPR 523) is attached as Exhibit E.

The *Secretary of the Interior's Standards for Rehabilitation* (Exhibit B) and City's minimum maintenance standards (Exhibit C), attached hereto and incorporated herein by reference, shall constitute the minimum standards and conditions for preservation and rehabilitation of the Historic Property, and shall apply to the Historic Property throughout the term of this Agreement. Owner shall, where necessary, rehabilitate the Historic Property to conform to the rules and regulations of the Office of Historic Preservation of the California Department of Parks and Recreation, the *Secretary of the Interior's Standards for Rehabilitation*, the California Historical Building Code, and the City of Orange's Historic Preservation Design Standards for Old Towne and Eichler Design Standards.

As consideration for the City to enter into this Agreement, the Owner agrees, at its own cost and expense, to complete, or cause to be completed, the work or improvements described in Exhibit D within the times established therefore in Exhibit D. The Owner shall secure any and all permits which may be required by the City or any other governmental agency affected by the construction of the work or improvements. The Owner accepts responsibility for and shall be responsible for identification of and compliance with all applicable laws pertaining to the construction and installation of the work or improvements described on Exhibit D and the contract or contracts pertaining thereto. The Owner will neither seek to hold nor hold the City liable for, and will hold the City harmless with respect to, any consequences of any failure by the Owner to correctly determine the applicability of any such requirements to any contract he/she/they enter into.

In addition to the foregoing, the Owner hereby agrees to and will comply with all applicable local, state, and federal statutes, regulations, rules, codes (including building codes), ordinances, and other requirements of governmental authorities now or hereafter in effect ("Applicable Laws") pertaining to the use of the Historic Property. Owner must give the City immediate written notice on Owner's becoming aware that the use or condition of the Historic Property is in violation of any Applicable Laws.

4. **INSPECTIONS AND ANNUAL REPORTING.** Owner agrees to permit the examination, by prior appointment, of the interior and exterior of the Historic Property by the City at a minimum every five (5) years during the Agreement term to determine Owner's compliance with the terms and provisions of this Agreement. Owner agrees to provide the City with a report as to the status of the Historic Property annually within thirty (30) days following each anniversary of the

Effective Date of this Agreement. The annual report shall provide substantiation reasonably satisfactory to the City's Historic Preservation Planner or in his/her absence the Director of Community Development that Owner has completed the work required by Exhibit D for the twelve month period preceding each anniversary of this Agreement, and whether the Historic Property has undergone any changed conditions, and whether Owner has received any public funds from other sources designated for the preservation or maintenance of the Historic Property and from whom such funds have been received.

5. **PAYMENT OF ANNUAL FEE.** The Owner shall pay the City an annual fee to cover administrative costs associated with this Agreement including but not limited to the reasonable cost of monitoring the Historic Property, performing required inspections, and enforcement of the Agreement. Said fee shall be payable to the City of Orange and shall be remitted to the Planning Division upon demand and prior to any required inspection. The amount of the annual inspection fee shall be established by the City and may be revised from time to time, which fee shall be set forth in the City's Master Schedule of Fees and Charges. Failure to pay the required fee within 45 days of the due date will be considered a willful breach of this Agreement and may result in cancellation of the Agreement in accordance with the cancellation terms detailed below.
6. **TERM.** The term of this Agreement is for a period of ten (10) years. The initial term of this Agreement shall be from July 13, 2021 to and including July 13, 2031.
7. **AUTOMATIC RENEWAL.** On each yearly anniversary of the Effective Date of this Agreement ("renewal date"), one year shall be added automatically to the initial term of this Agreement, unless notice of non-renewal is given as provided in this Agreement.
8. **EFFECT OF OUTSIDE FUNDS.** If Owner receives funds designated for the preservation or maintenance of the Historic Property from any other public agency, this Agreement shall not be renewed except upon the vote of the City Council.
9. **NOTICE OF NONRENEWAL.** If in any year either the Owner or City desires not to renew this Agreement, that party shall serve written notice of nonrenewal to the other party in advance of the annual renewal date. Unless the notice is served by Owner to City at least ninety (90) days, or by City to Owner at least sixty (60) days prior to the renewal date, one year shall automatically be added to the term of the Agreement. Within fifteen (15) days of receipt by Owner of a notice of nonrenewal from the City, Owner may make a written protest. Upon receipt of such a protest the City Council shall set a hearing prior to the expiration of the renewal date of this Agreement or toll the renewal date until such hearing can reasonably held. Owner may furnish the City Council with any information which the Owner deems relevant; and shall furnish the City Council with any information it may require. At any time prior to the renewal date, City may withdraw its notice of nonrenewal.
10. **EFFECT OF NOTICE NOT TO RENEW.** If in any year either party serves notice of intent not to renew this Agreement, this Agreement shall remain in effect for the balance of the period remaining since the original execution date if not yet renewed, or the last renewal date of the Agreement, as the case may be.

11. **UPDATE OF IMPROVEMENT SCHEDULE.** At least ninety (90) days prior to the tenth (10th) anniversary of the Effective Date of this Agreement, and ninety (90) days prior to every tenth (10th) anniversary thereafter, Owner shall provide City with an updated schedule of rehabilitation maintenance items for the City's review and approval. Such updated schedule shall contain a list of proposed improvements and/or revisions to be accomplished during the next succeeding ten (10) years of the Agreement and a schedule for the construction of such improvements. Within thirty (30) days after the City's receipt of said updated schedule, the City's Director of Community Development shall either approve or disapprove such proposed schedule of proposed improvements, or shall respond in writing by stating what further information, if any, the City reasonably requires in order to determine the request complete and determine whether or not to grant the requested approval. Upon receipt of such a response, the Owner shall promptly furnish to the City such further information as may be reasonably requested.

From time to time, at the request of the City's Director of Community Development (or his/her authorized representative), the Owner shall meet and confer with the City's Planner for Historic Preservation or in his/her absence the Director of Community Development (or his/her designee) regarding matters arising hereunder with respect to the work and improvements and the progress in constructing the same.

12. **INDEPENDENT ADVICE OF COUNSEL.** The Owner, and each of them, represent and declare that in executing this Agreement he/she/they have relied solely upon his/her/their own judgment, belief and knowledge, and the advice and recommendations of his/her/their own independently selected counsel, concerning the nature, extent and duration of his/her/their rights and claims, and that he/she/they have not been influenced to any extent whatsoever in executing the same by the City or by any person representing the City.
13. **ENFORCEMENT OF AGREEMENT.** If the City determines the owner has breached any of the conditions of the Agreement provided for or has allowed the property to deteriorate to the point it no longer meets the standards for a qualified historical property, the City shall either cancel the Agreement or bring any action in court necessary to enforce the Agreement including, but not limited to an action to enforce the Agreement by specific performance to cure, correct or remedy any breach of the terms of this Agreement, to recover damages for any breach, or to obtain any other remedy consistent with the purpose of this Agreement. In the event of a default under the provisions of this Agreement by Owner, City shall give written notice to Owner specifying the alleged grounds for the default. Said notice shall be given by registered or certified mail addressed to the address stated in this Agreement. If such violation(s) is not corrected to the reasonable satisfaction of the City within thirty (30) days from the receipt of the notice of violation, or within such reasonable time as may be required to cure the breach or default, provided that acts to cure, correct or remedy such breach or default are commenced within thirty (30) days and thereafter diligently pursued to completion, then City may, without further notice, institute legal action.

Except as otherwise expressly stated in this Agreement, the rights and remedies of the City are cumulative, and the exercise by the City of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the Owner. Any failure or delay by the City in asserting any

of its right and remedies as to a breach of any of the covenants, conditions or agreements set forth herein shall not operate as a waiver of such breach or of any such rights or remedies, or deprive the City of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce such rights or remedies. A waiver by the City of a breach shall not be construed as a waiver of any succeeding breach of the same or other covenants, conditions or agreements set forth in this Agreement.

14. CANCELLATION. In lieu of bringing an action to enforce the Agreement City may cancel this Agreement if City determines Owner has breached any of the conditions or covenants of this Agreement or has allowed the Historic Property to deteriorate to the point that it no longer meets the standards for a qualified historical property. City may also cancel this Agreement if it determines Owner has failed to rehabilitate the Historic Property in the manner specified in this Agreement.

15. NOTICE OF CANCELLATION. This Agreement cannot be canceled until after City has given notice and has held a public hearing as required by Government Code Section 50285. Notice of the hearing shall be mailed to the last known address of each owner of property within 300 feet of the Historic Property and shall be published in accordance with Government Code Section 6061.

16. CANCELLATION FEE. If City cancels this Agreement in accordance with Section 15 above, Owner shall pay a cancellation fee of twelve and one-half percent (12-1/2%) of the current fair market value of the Historic Property at the time of cancellation. The current fair market value shall be determined by the County Assessor as though the Historic Property were free of the restriction on the Historic Property imposed pursuant to this Agreement. The cancellation fee shall be paid to the County Auditor at such time and in such manner as the County Auditor shall prescribe.

17. NOTICES. All notices required by or provided for in the Agreement shall be given in writing and may be mailed or delivered in person at the address of the respective parties as specified below or at any other address as may be later specified by the parties. Deposit of notice in the mail, postage prepaid, shall be deemed receipt of the notice.

City of Orange
Attn.: City Clerk
300 E. Chapman Avenue
Orange, CA 92866

Anwar Memon and Liyen Chang
1070 N. Granada Drive
Orange, CA 92869

18. NO COMPENSATION. Owner shall not receive any payment from the City in consideration of the obligations imposed under this Agreement. The Owner acknowledges and agrees that the consideration for the execution of this Agreement is the substantial public benefit to be derived therefrom and the advantage that will accrue to Owner as a result of the effect upon the assessed value of the Historic Property on account of the restrictions on the use and preservation of the Historic Property.

19. REMEDY IF AGREEMENT HELD NOT ENFORCEABLE. In the event it is finally determined this Agreement does not constitute an enforceable restriction within the meaning of the applicable provisions of the California Government Code and the California Revenue and Taxation Code, except for an unenforceability arising from the cancellation or nonrenewal of this Agreement, then this Agreement shall be null and void and without further effect and the Historic Property subject to this Agreement shall from that time be free from any restriction whatsoever under this Agreement without any payment or further act of the parties to this Agreement.

20. ACQUISITION OF PROPERTY BY EMINENT DOMAIN; CANCELLATION OF CONTRACT; INAPPLICABILITY TO DETERMINATION OF VALUE. In the event that the Historic Property is acquired in whole or part by eminent domain or other acquisition by any entity authorized to exercise the power of eminent domain, and the acquisition is determined by the City to frustrate the purpose of the Agreement, the Agreement shall be canceled and no fee shall be imposed under Section 17, above. The Agreement shall be deemed null and void for all purposes of determining the value of the Historic Property so acquired.

If, subsequent to the filing of an action in eminent domain, the proposed condemnation is abandoned by the condemning agency, the restrictions on the use of the Historic Property included in this Agreement shall, without further agreement of the parties, be reinstituted and the terms of this Agreement shall continue in full force and effect.

21. EFFECT OF AGREEMENT. None of the terms, provisions or conditions of this Agreement shall be deemed to create a partnership between the parties hereto and any of their heirs, successors or assigns, nor shall such terms, provisions or conditions cause the parties hereto to be considered joint venturers or members of any joint enterprise.

22. SUCCESSORS AND ASSIGNS. This Agreement is binding upon and shall inure to the benefit of all successors in interest of the Owner, regardless of the tax exempt status of any subsequent owner. A successor in interest shall have the same rights and obligations under this Agreement as the original owner who entered into this Agreement.

23. REQUIREMENTS RELATED TO TRANSFER OF HISTORIC PROPERTY. In the event of any sale, transfer, assignment or conveyance of the Historic Property ("Transfer"), the Owner agrees that, at least thirty (30) days prior to such Transfer, it shall give written notice to the City of such proposed Transfer, including the name(s) of the transferee(s). In addition, the Owner and the proposed transferee(s) shall enter into and deliver to the City through the escrow for the Transfer of the Historic Property an assignment and assumption agreement in a form satisfactory to the City's Attorney or such other evidence as may be satisfactory to the City that the transferee(s) has (have) assumed the Owner's obligations set forth in this Agreement. Upon the Transfer of the Historic Property and the assumption of the obligations hereunder by the transferee(s), the Owner's liability for performance shall be terminated as to any obligation to be performed hereunder after the date of such Transfer.

24. RECORDATION. City shall record a copy of this Agreement with the Office of the County Recorder of the County of Orange.

25. AMENDMENTS. This Agreement may be amended, in whole or in part, only by a written and recorded instrument executed by the parties hereto, except that the Director of Community Development is authorized to amend the list of required projects in Exhibit D.
26. COUNTERPARTS. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which shall constitute one and the same agreement with the same effect as if all parties had signed the same signature page. Any signature page of this Agreement may be detached from any counterpart of this Agreement and re-attached to any other counterpart of this Agreement identical in form hereto but having attached to it one or more additional signature pages.
27. ADMINISTRATION. This Agreement shall be administered by the City's Director of Community Development (or his/her designated representative) following approval of this Agreement by the City. The City shall maintain authority of this Agreement through the City's Director of Community Development (or his/her authorized representative). The City's Director of Community Development shall have the authority to issue interpretations, waive provisions and enter into amendments of this Agreement on behalf of the City so long as such actions do not change the uses permitted on the Historic Property or the purpose of this Agreement. Such amendments may include extensions of time or amendments to the projects specified in Exhibit D. All other waivers or amendments shall require the written approval and consent of the City Council.

[Remainder of page intentionally left blank; signatures on next page]

IN WITNESS WHEREOF, the City and the Owner have executed this Agreement.

“OWNER”

Dated: _____, 2021

Anwar Memon

Dated: _____, 2021

Liyen Chang

“CITY”

CITY OF ORANGE, a municipal corporation

Dated: _____, 2021

By: _____
Mark A. Murphy
Mayor

ATTEST:

APPROVED AS TO FORM:

Pamela Coleman
City Clerk

Mary E. Binning
Senior Assistant City Attorney

ACKNOWLEDGEMENT

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

State of California
County of _____

On _____ before me, _____,
a Notary Public in and for the State of California, personally appeared _____

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

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

WITNESS my hand and official seal.

Signature _____ (Seal)

EXHIBIT “A”

LEGAL DESCRIPTION OF HISTORIC PROPERTY

REAL PROPERTY IN THE CITY OF ORANGE, COUNTY OF ORANGE, STATE OF CALIFORNIA, DESCRIBED AS:

Lot 41 of Tract 4733 in the City of Orange, County of Orange, State of California, as per map recorded in Book 177, pages 7 to 10 inclusive of Miscellaneous Maps, in the office of the County Recorder of said Orange County.

[APN 379-034-02]

EXHIBIT “B”

SECRETARY OF THE INTERIOR'S STANDARDS FOR REHABILITATION

1. Every reasonable effort shall be made to provide a compatible use for a property, which requires a minimal alteration of the building structure, or site and its environment, or to use a property for its originally intended purpose.
2. The distinguishing original qualities or character of a building, structure, or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural features should be avoided when possible.
3. All buildings, structures, and sites shall be recognized as products of their own time. Alterations that have no historical basis and which seek to create an earlier appearance shall be discouraged.
4. Changes which may have taken place in the course of time are evidence of the history and development of a building, structure or site and its environment. These changes may have acquired significance in their own right, and this significance shall be recognized and respected.
5. Distinctive stylistic features or examples of skilled craftsmanship which characterize a building, structure or site shall be treated with sensitivity.
6. Deteriorated architectural features shall be repaired rather than replaced, wherever possible. In the event replacement is necessary, the new material should match the material being replaced in composition, design, color, texture, and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplications of features, substantiated by historic, physical, or pictorial evidence rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.
7. The surface cleaning of structures shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage the historic building materials shall not be undertaken.
8. Every reasonable effort shall be made to protect and preserve archeological resources affected by, or adjacent to, any project.
9. Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant historical, architectural or cultural material, and such design is compatible with the size, scale, color, material and character of the property, neighborhood or environment.
10. Wherever possible, new additions or alterations to structures shall be done in such a manner that, if such additions or alterations were to be removed in the future, the essential form and integrity of the structure would be unimpaired.

EXHIBIT “C”

CITY OF ORANGE HISTORIC PROPERTY MAINTENANCE STANDARDS

All buildings, structures, yards and other improvements shall be maintained in a manner which does not detract from the appearance of the immediate neighborhood. The following conditions are prohibited:

1. Dilapidated, deteriorating, or unrepaired structures, such as: fences, roofs, doors, walls and windows.
2. Publicly visible storage of scrap lumber, junk, trash or debris.
3. Publicly visible storage of abandoned, discarded or unused objects or equipment, such as automobiles, automobile parts, furniture, stoves, refrigerators, cans, containers or similar items.
4. Stagnant water or excavations, including pools or spas.
5. Any device, decoration, design, structure or vegetation that is unsightly by reason of its height, condition, or its inappropriate location.

EXHIBIT “D”

REHABILITATION/MAINTENANCE SCOPE OF WORK

[Attached.]

EXHIBIT “D”

REHABILITATION/MAINTENANCE SCOPE OF WORK

1101 North Linda Vista Street

Priority	Description of Work	Cost Estimate	Completion Date
1.	Perform termite repair to damaged wood members as recommended in termite inspection report dated 03/17/2019. Repair/replace existing roof deck/fascia curb to match existing.	\$5,500.0	2021
2.	Replace water and sun damaged exterior siding and trims on all elevations with Eichler vertical groove wood siding to match existing design, including repair of deteriorated roof beam ends on the east elevation.	\$14,000.00	2021
3.	Replace two broken fixed glazed window panels (obscure) at front façade. Replace with Mistlite glass to match original design.	\$1,100.00	2021
4.	Stain exterior wood siding of the house, including siding and eaves.	\$15,000.00	2021
5.	Restore existing ceiling/roof deck (remove existing paint/refinish).	\$8,500.00	2024
6.	Replace HVAC system. (remove existing roof mounted ducting/install new system) compliant with Orange Eichler Design Standards.	\$20,000.00	2024
7.	Replace single-pane, untempered glass windows in atrium with new dual-pane or laminated glazed units (in compliance with the Orange Eichler Design Standards).	\$6,500.00	2024
8.	Recoat existing foam roof per recommended five-year maintenance schedule, for a total of two treatments.	\$10,000.00	2030
TOTAL		\$80,600.00	

EXHIBIT “E”

HISTORIC PROPERTY INVENTORY FORM (DPR 523)

[Attached.]

State of California - The Resources Agency
DEPARTMENT OF PARKS AND RECREATION
PRIMARY RECORD

Primary #

HRI #

Trinomial

NRHP Status Code

Other Listings:

Review Code:

Reviewer:

Date:

Page 1 of 3

*Resource Name or #:

LINDA_VISTA_N_1101__APN_379-034-02

(Assigned by Recorder)

P1. Other Identifier: Fairhills Tract

*P2. Location: ☐ Not for Publication ☒ Unrestricted

*a. County: Orange and (P2b and P2c or P2d. Attach a location map as necessary.)

*b. USGS 7.5' Quad: Date: T ; R ; 1/4 of 1/4 of Sec ; B.M.

c. Address: 1101 - N LINDA VISTA ST , # City: Orange Zip: 92869

d. UTM: (Give more than one for large and/or linear resources) Zone ' mE/ mN

e. Other Locational Data:

*P3a. Description: (Describe resource and its major elements. Include design, materials, condition, alterations, size, setting, and boundaries. Continues on Pg.3.)

Materials:

Model OC-584

*P3b. Resource Attributes: (HP2)--Single family property
(List attributes and codes)

*P4. Resources Present: ☒ Building ☐ Structure ☐ Object ☐ Site ☐ Element of District ☐ District ☐ Other (Isolates, etc.)

P5b. Description of Photo: 2005

(View, date, accession #)



*P6. Date Constructed/ Age and Source:

1962 c

☐ Historic ☐ Prehistoric ☐ Both

*P7. Owner and Address:

*P8: Recorded by: (Name, affiliation, and address)

D. Gest, P. LaValley

Chattel Architecture
13417 Ventura Blvd.
Sherman Oaks, CA 91423

*P9. Date Recorded:

January 2005

*P10. Survey Type: (Describe)

Reconnaissance

*P11. Report Citation: (Cite survey report and other sources, or enter "none.")

Orange County Assessor Records (2005). Chattel Architecture (2005)
Historic Resources Survey.

*Attachments:

☐ NONE

☐ Location Map

☒ Continuation Sheet(s)

☒ Building, Structure, and Object Record

☐ Archaeological Record

☐ District Record

☐ Linear Feature Record

☐ Milling Station Record ☐ Rock Art Record

☐ Artifact Record

☐ Photograph Record

☐ Other (List):

DPR 523A (1/95)

*Required Information

State of California - The Resources Agency
DEPARTMENT OF PARKS AND RECREATION
BUILDING, STRUCTURE, AND OBJECT RECORD

Primary #

HRI #

*NRHP Status Code 3D

Page 2 of 3

*Resource Name or #:
(Assigned by Recorder)

LINDA_VISTA_N_1101__APN_379-034-02

B1. Historic Name: Unknown

B2. Common Name: _____

B3. Original Use: RES

B4. Present Use: RES

*B5. Architectural Style: Mid-Century Modern

*B6. Construction History: (Construction date, alterations, and date of alterations) 1962 ☐ Historic ☐ Prehistoric ☐ Both
Driveway repaved.

*B7. Moved? ☒ No ☐ Yes ☐ Unknown Date: _____ Original Location: _____

*B8. Related Features: _____

*B9. Architect or Builder: Eichler Homes - Claude Oakland

*B10. Significance: Theme: Architecture Area: City of Orange Property Type: Residence

Period of Significance: Eichler Tract (c. 1959 - 1965) Applicable Criteria: C

(Discuss importance in terms of historical or architectural context as defined by theme, period, and geographic scope. Also address integrity. Continues on Pg.4.)

Structural Integrity: Excellent Condition - Low level of alteration as of 2005.

Site Integrity: _____

Opportunities _____

B11. Additional Resource Attributes: (List attributes and codes) _____

*B12. References:

Orange Daily News.

B13. Remarks: (Continues on Pg.3.)

Status change since 1991 Survey: Not previously surveyed.

(Sketch Map with North arrow required.)

*B14. Evaluator: Robert Chattel

*Date of Evaluation: September 2005

(This space reserved for official comments.)

DPR 523B (1/95)

*Required Information

State of California - The Resources Agency
DEPARTMENT OF PARKS AND RECREATION
CONTINUATION SHEET

Primary #

HRI #

Trinomial

ORA

Page 3 of 3

*Resource Name or #:
(Assigned by Recorder)

LINDA_VISTA_N_1101__APN_379-034-02

Recorded by:

D. Gest, P. LaValley
Chattel Architecture
13417 Ventura Blvd.
Sherman Oaks, CA 91423

Date Recorded: January 2005

☒ Continuation

☐ Update

Years Surveyed: 2005, 2015

Description of Photo:

Listed in National Register:

General Plan: LDR # of Buildings: 1

Planning Zone: R-1-8 # of Stories: 1

Lot Acre: 0.1976 # of Units: 1

Principal Building Sqft: 2346

B6. Construction History (Continued from Pg.2):

B13. Remarks (Continued from Pg.2):

P3a. Description (Continued from Pg.1):



RECORDING REQUESTED BY
AND, WHEN RECORDED,
MAIL TO:

City Clerk
City of Orange
300 E. Chapman Avenue
Orange, California, 92866

Exempt from recording fees pursuant to
Gov. Code Sections 6103 and 27383

Property Address: 1843 N. Shaffer Street
APN: 374-215-17
Mills Act Contract Number: 379.0-21

HISTORIC PROPERTY PRESERVATION AGREEMENT (MILLS ACT CONTRACT)

THIS HISTORIC PROPERTY PRESERVATION AGREEMENT (“Agreement”) is made and entered into as of the date of execution by the City (“Effective Date”), by and between the CITY OF ORANGE, a municipal corporation (“City”), and Anthony P. Trabucco and Michelle M. Trabucco, husband and wife as Community Property with Right of Survivorship (“Owner”), with reference to the following:

RECITALS

WHEREAS, the Mills Act (Government Code Section 50280 *et seq.*) provides cities with the opportunity to contract with owners of qualified historical properties whereby the owner promises to preserve and rehabilitate the property in return for a potential reduced property tax assessment; and

WHEREAS, the City of Orange has established Historic Districts consisting of the Plaza Historic District, listed in the National Register of Historic Places; the Old Towne Orange Historic District, listed in the National Register of Historic Places; the local Old Towne Orange Historic District, designated by the Orange City Council; and the local Eichler Fairhaven, Fairhills, and Fairmeadow Historic Districts, designated by the Orange City Council; and the City desires to promote the character, quality of life, and historic features of said Districts to its citizens and visitors; and

WHEREAS, the City is dedicated to the protection and stabilization of property values through maintaining and upgrading its older housing stock, through the use of incentives such as the Mills Act; and

WHEREAS, the Mills Act also has beneficial effects on City businesses, economic stability and community pride by preserving important neighborhood historic resources; and

WHEREAS, the use of the Mills Act will fulfill one of the goals of the City’s 2010 General Plan Cultural Resources Element; specifically,

“Provide incentives and expand education efforts for historic preservation” (Goal 3.0, CR-22); and

WHEREAS, Owner possesses fee simple title in and to that certain real property, together with associated structures and improvements thereon, located at 1843 N. Shaffer Street in the City of Orange, County of Orange, State of California, having Assessor’s Parcel Number 374-215-17 and more specifically described in Exhibit A, which exhibit is attached hereto and made a part hereof (“Historic Property”); and

WHEREAS, the Historic Property is a qualified historical property under the Mills Act in that it is privately owned property which is not exempt from property taxation and is either: individually designated or is a contributing property within a designated district which is listed in the National Register of Historic Places, California Register of Historical Resources or Register of Historical Landmarks, California Points of Historical Interest, or is a contributing property in a locally designated historic district; and

WHEREAS, Owner, in consideration for abiding by the terms of this Agreement shall be entitled to a reassessment of valuation of the Historic Property and any corresponding reduction in property taxes pursuant to the provisions of the California Revenue and Taxation Code; and

WHEREAS, it is the City’s expectation that the Owner will use the property tax savings accrued under this Agreement for improvements to the “Historic Property” (as defined below). To that end, as a condition of renewal, the City will require a revised schedule of improvements every ten years showing a plan for improvements commensurate with the tax savings; and

WHEREAS, the City and Owner for their mutual benefit, now desire to enter into this Agreement to limit the use of the Historic Property to prevent inappropriate alterations, to ensure that characteristics of historic significance are preserved and maintained in an exemplary manner, and to carry out the purposes of Article 12 (commencing with Section 50280) of Chapter 1, Part 1, Division 1 of Title 5 of the California Government Code and Article 1.9 (commencing with Section 439) of Chapter 3, Part 2 of Division 1 of the California Revenue and Taxation Code.

AGREEMENT

NOW, THEREFORE, both Owner and City, in consideration of the mutual promises, covenants and conditions contained herein and the substantial public benefits to be derived therefrom, do hereby agree as follows:

1. **APPLICABLE LAWS.** This Agreement is made pursuant to California Government Code Sections 50280 through 50290 and Article 1.9 (commencing with Section 439) of Chapter 3, Part 2 of Division 1 of the California Revenue and Taxation Code and is subject to all of the provisions of those statutes. To the extent any of the provisions in this Agreement are inconsistent with the aforementioned provisions of the Government and Revenue and Taxation Codes, they are superseded by those Code Sections.

2. **ASSESSMENT OF VALUATION.** Property tax relief afforded to Owner pursuant to Chapter 3, Part 2 of Division 1 of the California Revenue and Taxation Code will be determined solely by the Orange County Office of the Assessor. City makes no representations regarding the actual tax savings any person may realize by entering into this Agreement.
3. **PRESERVATION OF PROPERTY.** Owner agrees to preserve and maintain the Historic Property and its character defining features. Character defining features include, but are not necessarily limited to, the general architectural form, style, materials, design, scale, details, mass, roofline and other aspects of the appearance of the exterior of the Historic Property. For purposes of identification of the Historic Property, the City's Official Historic Property Inventory Form (DPR 523) is attached as Exhibit E.

The *Secretary of the Interior's Standards for Rehabilitation* (Exhibit B) and City's minimum maintenance standards (Exhibit C), attached hereto and incorporated herein by reference, shall constitute the minimum standards and conditions for preservation and rehabilitation of the Historic Property, and shall apply to the Historic Property throughout the term of this Agreement. Owner shall, where necessary, rehabilitate the Historic Property to conform to the rules and regulations of the Office of Historic Preservation of the California Department of Parks and Recreation, the *Secretary of the Interior's Standards for Rehabilitation*, the California Historical Building Code, and the City of Orange's Historic Preservation Design Standards for Old Towne and Eichler Design Standards.

As consideration for the City to enter into this Agreement, the Owner agrees, at its own cost and expense, to complete, or cause to be completed, the work or improvements described in Exhibit D within the times established therefore in Exhibit D. The Owner shall secure any and all permits which may be required by the City or any other governmental agency affected by the construction of the work or improvements. The Owner accepts responsibility for and shall be responsible for identification of and compliance with all applicable laws pertaining to the construction and installation of the work or improvements described on Exhibit D and the contract or contracts pertaining thereto. The Owner will neither seek to hold nor hold the City liable for, and will hold the City harmless with respect to, any consequences of any failure by the Owner to correctly determine the applicability of any such requirements to any contract he/she/they enter into.

In addition to the foregoing, the Owner hereby agrees to and will comply with all applicable local, state, and federal statutes, regulations, rules, codes (including building codes), ordinances, and other requirements of governmental authorities now or hereafter in effect ("Applicable Laws") pertaining to the use of the Historic Property. Owner must give the City immediate written notice on Owner's becoming aware that the use or condition of the Historic Property is in violation of any Applicable Laws.

4. **INSPECTIONS AND ANNUAL REPORTING.** Owner agrees to permit the examination, by prior appointment, of the interior and exterior of the Historic Property by the City at a minimum every five (5) years during the Agreement term to determine Owner's compliance with the terms and provisions of this Agreement. Owner agrees to provide the City with a report as to the status of the Historic Property annually within thirty (30) days following each anniversary of the

Effective Date of this Agreement. The annual report shall provide substantiation reasonably satisfactory to the City's Historic Preservation Planner or in his/her absence the Director of Community Development that Owner has completed the work required by Exhibit D for the twelve month period preceding each anniversary of this Agreement, and whether the Historic Property has undergone any changed conditions, and whether Owner has received any public funds from other sources designated for the preservation or maintenance of the Historic Property and from whom such funds have been received.

5. **PAYMENT OF ANNUAL FEE.** The Owner shall pay the City an annual fee to cover administrative costs associated with this Agreement including but not limited to the reasonable cost of monitoring the Historic Property, performing required inspections, and enforcement of the Agreement. Said fee shall be payable to the City of Orange and shall be remitted to the Planning Division upon demand and prior to any required inspection. The amount of the annual inspection fee shall be established by the City and may be revised from time to time, which fee shall be set forth in the City's Master Schedule of Fees and Charges. Failure to pay the required fee within 45 days of the due date will be considered a willful breach of this Agreement and may result in cancellation of the Agreement in accordance with the cancellation terms detailed below.
6. **TERM.** The term of this Agreement is for a period of ten (10) years. The initial term of this Agreement shall be from July 13, 2021 to and including July 13, 2031.
7. **AUTOMATIC RENEWAL.** On each yearly anniversary of the Effective Date of this Agreement ("renewal date"), one year shall be added automatically to the initial term of this Agreement, unless notice of non-renewal is given as provided in this Agreement.
8. **EFFECT OF OUTSIDE FUNDS.** If Owner receives funds designated for the preservation or maintenance of the Historic Property from any other public agency, this Agreement shall not be renewed except upon the vote of the City Council.
9. **NOTICE OF NONRENEWAL.** If in any year either the Owner or City desires not to renew this Agreement, that party shall serve written notice of nonrenewal to the other party in advance of the annual renewal date. Unless the notice is served by Owner to City at least ninety (90) days, or by City to Owner at least sixty (60) days prior to the renewal date, one year shall automatically be added to the term of the Agreement. Within fifteen (15) days of receipt by Owner of a notice of nonrenewal from the City, Owner may make a written protest. Upon receipt of such a protest the City Council shall set a hearing prior to the expiration of the renewal date of this Agreement or toll the renewal date until such hearing can reasonably held. Owner may furnish the City Council with any information which the Owner deems relevant; and shall furnish the City Council with any information it may require. At any time prior to the renewal date, City may withdraw its notice of nonrenewal.
10. **EFFECT OF NOTICE NOT TO RENEW.** If in any year either party serves notice of intent not to renew this Agreement, this Agreement shall remain in effect for the balance of the period remaining since the original execution date if not yet renewed, or the last renewal date of the Agreement, as the case may be.

11. **UPDATE OF IMPROVEMENT SCHEDULE.** At least ninety (90) days prior to the tenth (10th) anniversary of the Effective Date of this Agreement, and ninety (90) days prior to every tenth (10th) anniversary thereafter, Owner shall provide City with an updated schedule of rehabilitation maintenance items for the City's review and approval. Such updated schedule shall contain a list of proposed improvements and/or revisions to be accomplished during the next succeeding ten (10) years of the Agreement and a schedule for the construction of such improvements. Within thirty (30) days after the City's receipt of said updated schedule, the City's Director of Community Development shall either approve or disapprove such proposed schedule of proposed improvements, or shall respond in writing by stating what further information, if any, the City reasonably requires in order to determine the request complete and determine whether or not to grant the requested approval. Upon receipt of such a response, the Owner shall promptly furnish to the City such further information as may be reasonably requested.

From time to time, at the request of the City's Director of Community Development (or his/her authorized representative), the Owner shall meet and confer with the City's Planner for Historic Preservation or in his/her absence the Director of Community Development (or his/her designee) regarding matters arising hereunder with respect to the work and improvements and the progress in constructing the same.

12. **INDEPENDENT ADVICE OF COUNSEL.** The Owner, and each of them, represent and declare that in executing this Agreement he/she/they have relied solely upon his/her/their own judgment, belief and knowledge, and the advice and recommendations of his/her/their own independently selected counsel, concerning the nature, extent and duration of his/her/their rights and claims, and that he/she/they have not been influenced to any extent whatsoever in executing the same by the City or by any person representing the City.
13. **ENFORCEMENT OF AGREEMENT.** If the City determines the owner has breached any of the conditions of the Agreement provided for or has allowed the property to deteriorate to the point it no longer meets the standards for a qualified historical property, the City shall either cancel the Agreement or bring any action in court necessary to enforce the Agreement including, but not limited to an action to enforce the Agreement by specific performance to cure, correct or remedy any breach of the terms of this Agreement, to recover damages for any breach, or to obtain any other remedy consistent with the purpose of this Agreement. In the event of a default under the provisions of this Agreement by Owner, City shall give written notice to Owner specifying the alleged grounds for the default. Said notice shall be given by registered or certified mail addressed to the address stated in this Agreement. If such violation(s) is not corrected to the reasonable satisfaction of the City within thirty (30) days from the receipt of the notice of violation, or within such reasonable time as may be required to cure the breach or default, provided that acts to cure, correct or remedy such breach or default are commenced within thirty (30) days and thereafter diligently pursued to completion, then City may, without further notice, institute legal action.

Except as otherwise expressly stated in this Agreement, the rights and remedies of the City are cumulative, and the exercise by the City of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the Owner. Any failure or delay by the City in asserting any

of its right and remedies as to a breach of any of the covenants, conditions or agreements set forth herein shall not operate as a waiver of such breach or of any such rights or remedies, or deprive the City of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce such rights or remedies. A waiver by the City of a breach shall not be construed as a waiver of any succeeding breach of the same or other covenants, conditions or agreements set forth in this Agreement.

14. CANCELLATION. In lieu of bringing an action to enforce the Agreement City may cancel this Agreement if City determines Owner has breached any of the conditions or covenants of this Agreement or has allowed the Historic Property to deteriorate to the point that it no longer meets the standards for a qualified historical property. City may also cancel this Agreement if it determines Owner has failed to rehabilitate the Historic Property in the manner specified in this Agreement.

15. NOTICE OF CANCELLATION. This Agreement cannot be canceled until after City has given notice and has held a public hearing as required by Government Code Section 50285. Notice of the hearing shall be mailed to the last known address of each owner of property within 300 feet of the Historic Property and shall be published in accordance with Government Code Section 6061.

16. CANCELLATION FEE. If City cancels this Agreement in accordance with Section 15 above, Owner shall pay a cancellation fee of twelve and one-half percent (12-1/2%) of the current fair market value of the Historic Property at the time of cancellation. The current fair market value shall be determined by the County Assessor as though the Historic Property were free of the restriction on the Historic Property imposed pursuant to this Agreement. The cancellation fee shall be paid to the County Auditor at such time and in such manner as the County Auditor shall prescribe.

17. NOTICES. All notices required by or provided for in the Agreement shall be given in writing and may be mailed or delivered in person at the address of the respective parties as specified below or at any other address as may be later specified by the parties. Deposit of notice in the mail, postage prepaid, shall be deemed receipt of the notice.

City of Orange
Attn.: City Clerk

300 E. Chapman Avenue
Orange, CA 92866

Anthony Trabucco and Michelle
Trabucco
1843 N. Shaffer Street
Orange, CA 92865

18. NO COMPENSATION. Owner shall not receive any payment from the City in consideration of the obligations imposed under this Agreement. The Owner acknowledges and agrees that the consideration for the execution of this Agreement is the substantial public benefit to be derived therefrom and the advantage that will accrue to Owner as a result of the effect upon the assessed value of the Historic Property on account of the restrictions on the use and preservation of the Historic Property.

19. REMEDY IF AGREEMENT HELD NOT ENFORCEABLE. In the event it is finally determined this Agreement does not constitute an enforceable restriction within the meaning of the applicable provisions of the California Government Code and the California Revenue and Taxation Code, except for an unenforceability arising from the cancellation or nonrenewal of this Agreement, then this Agreement shall be null and void and without further effect and the Historic Property subject to this Agreement shall from that time be free from any restriction whatsoever under this Agreement without any payment or further act of the parties to this Agreement.

20. ACQUISITION OF PROPERTY BY EMINENT DOMAIN; CANCELLATION OF CONTRACT; INAPPLICABILITY TO DETERMINATION OF VALUE. In the event that the Historic Property is acquired in whole or part by eminent domain or other acquisition by any entity authorized to exercise the power of eminent domain, and the acquisition is determined by the City to frustrate the purpose of the Agreement, the Agreement shall be canceled and no fee shall be imposed under Section 17, above. The Agreement shall be deemed null and void for all purposes of determining the value of the Historic Property so acquired.

If, subsequent to the filing of an action in eminent domain, the proposed condemnation is abandoned by the condemning agency, the restrictions on the use of the Historic Property included in this Agreement shall, without further agreement of the parties, be reinstituted and the terms of this Agreement shall continue in full force and effect.

21. EFFECT OF AGREEMENT. None of the terms, provisions or conditions of this Agreement shall be deemed to create a partnership between the parties hereto and any of their heirs, successors or assigns, nor shall such terms, provisions or conditions cause the parties hereto to be considered joint venturers or members of any joint enterprise.

22. SUCCESSORS AND ASSIGNS. This Agreement is binding upon and shall inure to the benefit of all successors in interest of the Owner, regardless of the tax exempt status of any subsequent owner. A successor in interest shall have the same rights and obligations under this Agreement as the original owner who entered into this Agreement.

23. REQUIREMENTS RELATED TO TRANSFER OF HISTORIC PROPERTY. In the event of any sale, transfer, assignment or conveyance of the Historic Property ("Transfer"), the Owner agrees that, at least thirty (30) days prior to such Transfer, it shall give written notice to the City of such proposed Transfer, including the name(s) of the transferee(s). In addition, the Owner and the proposed transferee(s) shall enter into and deliver to the City through the escrow for the Transfer of the Historic Property an assignment and assumption agreement in a form satisfactory to the City's Attorney or such other evidence as may be satisfactory to the City that the transferee(s) has (have) assumed the Owner's obligations set forth in this Agreement. Upon the Transfer of the Historic Property and the assumption of the obligations hereunder by the transferee(s), the Owner's liability for performance shall be terminated as to any obligation to be performed hereunder after the date of such Transfer.

24. RECORDATION. City shall record a copy of this Agreement with the Office of the County Recorder of the County of Orange.

25. AMENDMENTS. This Agreement may be amended, in whole or in part, only by a written and recorded instrument executed by the parties hereto, except that the Director of Community Development is authorized to amend the list of required projects in Exhibit D.
26. COUNTERPARTS. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which shall constitute one and the same agreement with the same effect as if all parties had signed the same signature page. Any signature page of this Agreement may be detached from any counterpart of this Agreement and re-attached to any other counterpart of this Agreement identical in form hereto but having attached to it one or more additional signature pages.
27. ADMINISTRATION. This Agreement shall be administered by the City's Director of Community Development (or his/her designated representative) following approval of this Agreement by the City. The City shall maintain authority of this Agreement through the City's Director of Community Development (or his/her authorized representative). The City's Director of Community Development shall have the authority to issue interpretations, waive provisions and enter into amendments of this Agreement on behalf of the City so long as such actions do not change the uses permitted on the Historic Property or the purpose of this Agreement. Such amendments may include extensions of time or amendments to the projects specified in Exhibit D. All other waivers or amendments shall require the written approval and consent of the City Council.

[Remainder of page intentionally left blank; signatures on next page]

IN WITNESS WHEREOF, the City and the Owner have executed this Agreement.

“OWNER”

Dated: _____, 2021

Anthony P. Trabucco

Dated: _____, 2021

Michelle M. Trabucco

“CITY”

CITY OF ORANGE, a municipal corporation

Dated: _____, 2021

By: _____
Mark A. Murphy
Mayor

ATTEST:

APPROVED AS TO FORM:

Pamela Coleman
City Clerk

Mary E. Binning
Senior Assistant City Attorney

ACKNOWLEDGEMENT

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

State of California
County of _____

On _____ before me, _____,
a Notary Public in and for the State of California, personally appeared _____

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

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

WITNESS my hand and official seal.

Signature _____ (Seal)

EXHIBIT “A”

LEGAL DESCRIPTION OF HISTORIC PROPERTY

REAL PROPERTY IN THE CITY OF ORANGE, COUNTY OF ORANGE, STATE OF CALIFORNIA, DESCRIBED AS:

Lot 17 of Tract No. 3978 in the City of Orange, County of Orange, State of California, as per map recorded in Book 140, Pages 17 to 19 inclusive of Miscellaneous Maps, in the office of the County Recorder of said Orange County.

[APN 374-215-17]

EXHIBIT “B”

SECRETARY OF THE INTERIOR'S STANDARDS FOR REHABILITATION

1. Every reasonable effort shall be made to provide a compatible use for a property, which requires a minimal alteration of the building structure, or site and its environment, or to use a property for its originally intended purpose.
2. The distinguishing original qualities or character of a building, structure, or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural features should be avoided when possible.
3. All buildings, structures, and sites shall be recognized as products of their own time. Alterations that have no historical basis and which seek to create an earlier appearance shall be discouraged.
4. Changes which may have taken place in the course of time are evidence of the history and development of a building, structure or site and its environment. These changes may have acquired significance in their own right, and this significance shall be recognized and respected.
5. Distinctive stylistic features or examples of skilled craftsmanship which characterize a building, structure or site shall be treated with sensitivity.
6. Deteriorated architectural features shall be repaired rather than replaced, wherever possible. In the event replacement is necessary, the new material should match the material being replaced in composition, design, color, texture, and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplications of features, substantiated by historic, physical, or pictorial evidence rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.
7. The surface cleaning of structures shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage the historic building materials shall not be undertaken.
8. Every reasonable effort shall be made to protect and preserve archeological resources affected by, or adjacent to, any project.
9. Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant historical, architectural or cultural material, and such design is compatible with the size, scale, color, material and character of the property, neighborhood or environment.
10. Wherever possible, new additions or alterations to structures shall be done in such a manner that, if such additions or alterations were to be removed in the future, the essential form and integrity of the structure would be unimpaired.

EXHIBIT “C”

CITY OF ORANGE HISTORIC PROPERTY MAINTENANCE STANDARDS

All buildings, structures, yards and other improvements shall be maintained in a manner which does not detract from the appearance of the immediate neighborhood. The following conditions are prohibited:

1. Dilapidated, deteriorating, or unrepaired structures, such as: fences, roofs, doors, walls and windows.
2. Publicly visible storage of scrap lumber, junk, trash or debris.
3. Publicly visible storage of abandoned, discarded or unused objects or equipment, such as automobiles, automobile parts, furniture, stoves, refrigerators, cans, containers or similar items.
4. Stagnant water or excavations, including pools or spas.
5. Any device, decoration, design, structure or vegetation that is unsightly by reason of its height, condition, or its inappropriate location.

EXHIBIT “D”

REHABILITATION/MAINTENANCE SCOPE OF WORK

[Attached.]

EXHIBIT “D”

REHABILITATION/MAINTENANCE SCOPE OF WORK

1843 N. Shaffer Street

Priority	Description of Work	Cost Estimate	Completion Date
1.	Replace damaged tankless water heater system and relocate to meet current code requirements.	\$5,375	2021
2.	Repair and repoint chimneystack above roofline.	\$1,500	2022
3.	Install new roof downspouts on side and rear elevations.	\$1,000	2023
4.	Upgrade electrical panel to 200 amps, consistent with current code requirements.	\$3,500	2024
5.	Install new slab front door with Eichler style lock set to match original design.	\$2,000	2025
6.	Remove roof-mounted HVAC unit and install a new central HVAC unit or multi-zone split system in compliance with the Orange Eichler Design Standards.	\$13,000	2026
7.	Paint exterior of the house.	\$10,000	2027
8.	Repair aluminum sliding glass door tracks, locks, and screen doors in atrium and on rear elevation.	\$3,000	2028
9.	Install new roof insulation in conjunction with new roof system, in compliance with the Orange Eichler Design Standards.	\$35,000	2029
10.	Install new glass panels on front elevation screen wall to match original Mistle design.	\$5,000	2030
TOTAL		\$79,375	

State of California - The Resources Agency
DEPARTMENT OF PARKS AND RECREATION
PRIMARY RECORD

Primary #

HRI #

Trinomial

NRHP Status Code

Other Listings:

Review Code:

Reviewer:

Date:

Page 1 of 3

*Resource Name or #:

(Assigned by Recorder)

SHAFFER_N_1843 APN_374-215-17

P1. Other Identifier: Fairmeadow Tract

*P2. Location: ☐ Not for Publication ☒ Unrestricted

*a. County: Orange and (P2b and P2c or P2d. Attach a location map as necessary.)

*b. USGS 7.5' Quad: Date: T ; R ; 1/4 of 1/4 of Sec ; B.M.

c. Address: 1843 - N SHAFFER ST, # City: Orange Zip: 92865

d. UTM: (Give more than one for large and/or linear resources) Zone ' mE/ mN

e. Other Locational Data:

*P3a. Description: (Describe resource and its major elements. Include design, materials, condition, alterations, size, setting, and boundaries. Continues on Pg.3.)

Materials:

Model LJ-144R

*P3b. Resource Attributes: (HP2)--Single family property
(List attributes and codes)

*P4. Resources Present: ☒ Building ☐ Structure ☐ Object ☐ Site ☐ Element of District ☐ District ☐ Other (Isolates, etc.)

P5b. Description of Photo: 2005

(View, date, accession #)

*P6. Date Constructed/ Age and Source:

1964 c

☐ Historic ☐ Prehistoric ☐ Both

*P7. Owner and Address:

*P8: Recorded by: (Name, affiliation, and address)

Marissa Moshier, Historic
Preservation Planner

City of Orange

300 E. Chapman Ave.

Orange, CA 92866

*P9. Date Recorded:

June 2015

*P10. Survey Type: (Describe)

Reconnaissance

*P11. Report Citation: (Cite survey report and other sources, or enter "none.")

Orange County Assessor Records (2005). Chattel Architecture (2005)
Historic Resources Survey.

*Attachments: ☐ NONE ☐ Location Map ☒ Continuation Sheet(s) ☒ Building, Structure, and Object Record
☐ Archaeological Record ☐ District Record ☐ Linear Feature Record ☐ Milling Station Record ☐ Rock Art Record
☐ Artifact Record ☐ Photograph Record ☐ Other (List):

DPR 523A (1/95)

*Required Information



State of California - The Resources Agency
DEPARTMENT OF PARKS AND RECREATION
BUILDING, STRUCTURE, AND OBJECT RECORD

Primary #

HRI #

*NRHP Status Code 3D

Page 2 of 3

*Resource Name or #:
(Assigned by Recorder)

SHAFFER_N_1843__APN_374-215-17

B1. Historic Name: Unknown

B2. Common Name: _____

B3. Original Use: RES

B4. Present Use: RES

*B5. Architectural Style: Mid-Century Modern

*B6. Construction History: (Construction date, alterations, and date of alterations) 1964 ☐ Historic ☐ Prehistoric ☐ Both
Driveway repaved, front door replaced.

*B7. Moved? ☒ No ☐ Yes ☐ Unknown Date: _____ Original Location: _____

*B8. Related Features: _____

*B9. Architect or Builder: Eichler Homes - A. Quincy Jones

*B10. Significance: Theme: Architecture Area: City of Orange Property Type: Residence

Period of Significance: Eichler Tract (c. 1959 - 1965) Applicable Criteria: C

(Discuss importance in terms of historical or architectural context as defined by theme, period, and geographic scope. Also address integrity. Continues on Pg.4.)

Structural Integrity: Excellent Condition - Low level of alteration as of 2005.

Site Integrity: _____

Opportunities _____

B11. Additional Resource Attributes: (List attributes and codes) _____

*B12. References:

Orange Daily News. Eichler Tract Brochures and miscellaneous Eichler materials from the Orange Public Library.

B13. Remarks: (Continues on Pg.3.)

Status change since 1991 Survey: Not previously surveyed.

(Sketch Map with North arrow required.)

*B14. Evaluator: Robert Chattel

*Date of Evaluation: September 2005

(This space reserved for official comments.)

DPR 523B (1/95)

*Required Information

State of California - The Resources Agency
DEPARTMENT OF PARKS AND RECREATION
CONTINUATION SHEET

Primary # _____
HRI # _____
Trinomial _____

ORA

Page 3 of 3

*Resource Name or #:
(Assigned by Recorder)

SHAFFER_N_1843__APN_374-215-17

Recorded by:

Marissa Moshier, Historic Preservation Planner
City of Orange
300 E. Chapman Ave.
Orange, CA 92866

Date Recorded: June 2015

☒ Continuation

☐ Update

Years Surveyed:

2005, 2015

Description of Photo:

Listed in National Register:

General Plan:

LDR

of Buildings:

1

Planning Zone:

R-1-8

of Stories:

1

Lot Acre:

0.1914

of Units:

1

Principal Building Sqft:

2041

B6. Construction History (Continued from Pg.2):

B13. Remarks (Continued from Pg.2):

P3a. Description (Continued from Pg.1):

EXHIBIT “E”

HISTORIC PROPERTY INVENTORY FORM (DPR 523)

[Attached.]



RECORDING REQUESTED BY
AND, WHEN RECORDED,
MAIL TO:

City Clerk
City of Orange
300 E. Chapman Avenue
Orange, California, 92866

Exempt from recording fees pursuant to
Gov. Code Sections 6103 and 27383

Property Address: 3811 E. Fernwood Avenue
APN: 094-461-09
Mills Act Contract Number: 380.0-21

HISTORIC PROPERTY PRESERVATION AGREEMENT (MILLS ACT CONTRACT)

THIS HISTORIC PROPERTY PRESERVATION AGREEMENT (“Agreement”) is made and entered into as of the date of execution by the City (“Effective Date”), by and between the CITY OF ORANGE, a municipal corporation (“City”), and Jacob Hanson, a Single Man, and Brittany Jones, a Single Woman, as Joint Tenants (“Owner”), with reference to the following:

RECITALS

WHEREAS, the Mills Act (Government Code Section 50280 *et seq.*) provides cities with the opportunity to contract with owners of qualified historical properties whereby the owner promises to preserve and rehabilitate the property in return for a potential reduced property tax assessment; and

WHEREAS, the City of Orange has established Historic Districts consisting of the Plaza Historic District, listed in the National Register of Historic Places; the Old Towne Orange Historic District, listed in the National Register of Historic Places; the local Old Towne Orange Historic District, designated by the Orange City Council; and the local Eichler Fairhaven, Fairhills, and Fairmeadow Historic Districts, designated by the Orange City Council; and the City desires to promote the character, quality of life, and historic features of said Districts to its citizens and visitors; and

WHEREAS, the City is dedicated to the protection and stabilization of property values through maintaining and upgrading its older housing stock, through the use of incentives such as the Mills Act; and

WHEREAS, the Mills Act also has beneficial effects on City businesses, economic stability and community pride by preserving important neighborhood historic resources; and

WHEREAS, the use of the Mills Act will fulfill one of the goals of the City’s 2010 General Plan Cultural Resources Element; specifically,

“Provide incentives and expand education efforts for historic preservation” (Goal 3.0, CR-22); and

WHEREAS, Owner possesses fee simple title in and to that certain real property, together with associated structures and improvements thereon, located at 3811 E. Fernwood Avenue in the City of Orange, County of Orange, State of California, having Assessor’s Parcel Number 094-461-09 and more specifically described in Exhibit A, which exhibit is attached hereto and made a part hereof (“Historic Property”); and

WHEREAS, the Historic Property is a qualified historical property under the Mills Act in that it is privately owned property which is not exempt from property taxation and is either: individually designated or is a contributing property within a designated district which is listed in the National Register of Historic Places, California Register of Historical Resources or Register of Historical Landmarks, California Points of Historical Interest, or is a contributing property in a locally designated historic district; and

WHEREAS, Owner, in consideration for abiding by the terms of this Agreement shall be entitled to a reassessment of valuation of the Historic Property and any corresponding reduction in property taxes pursuant to the provisions of the California Revenue and Taxation Code; and

WHEREAS, it is the City’s expectation that the Owner will use the property tax savings accrued under this Agreement for improvements to the “Historic Property” (as defined below). To that end, as a condition of renewal, the City will require a revised schedule of improvements every ten years showing a plan for improvements commensurate with the tax savings; and

WHEREAS, the City and Owner for their mutual benefit, now desire to enter into this Agreement to limit the use of the Historic Property to prevent inappropriate alterations, to ensure that characteristics of historic significance are preserved and maintained in an exemplary manner, and to carry out the purposes of Article 12 (commencing with Section 50280) of Chapter 1, Part 1, Division 1 of Title 5 of the California Government Code and Article 1.9 (commencing with Section 439) of Chapter 3, Part 2 of Division 1 of the California Revenue and Taxation Code.

AGREEMENT

NOW, THEREFORE, both Owner and City, in consideration of the mutual promises, covenants and conditions contained herein and the substantial public benefits to be derived therefrom, do hereby agree as follows:

1. **APPLICABLE LAWS.** This Agreement is made pursuant to California Government Code Sections 50280 through 50290 and Article 1.9 (commencing with Section 439) of Chapter 3, Part 2 of Division 1 of the California Revenue and Taxation Code and is subject to all of the provisions of those statutes. To the extent any of the provisions in this Agreement are inconsistent with the aforementioned provisions of the Government and Revenue and Taxation Codes, they are superseded by those Code Sections.

2. **ASSESSMENT OF VALUATION.** Property tax relief afforded to Owner pursuant to Chapter 3, Part 2 of Division 1 of the California Revenue and Taxation Code will be determined solely by the Orange County Office of the Assessor. City makes no representations regarding the actual tax savings any person may realize by entering into this Agreement.
3. **PRESERVATION OF PROPERTY.** Owner agrees to preserve and maintain the Historic Property and its character defining features. Character defining features include, but are not necessarily limited to, the general architectural form, style, materials, design, scale, details, mass, roofline and other aspects of the appearance of the exterior of the Historic Property. For purposes of identification of the Historic Property, the City's Official Historic Property Inventory Form (DPR 523) is attached as Exhibit E.

The *Secretary of the Interior's Standards for Rehabilitation* (Exhibit B) and City's minimum maintenance standards (Exhibit C), attached hereto and incorporated herein by reference, shall constitute the minimum standards and conditions for preservation and rehabilitation of the Historic Property, and shall apply to the Historic Property throughout the term of this Agreement. Owner shall, where necessary, rehabilitate the Historic Property to conform to the rules and regulations of the Office of Historic Preservation of the California Department of Parks and Recreation, the *Secretary of the Interior's Standards for Rehabilitation*, the California Historical Building Code, and the City of Orange's Historic Preservation Design Standards for Old Towne and Eichler Design Standards.

As consideration for the City to enter into this Agreement, the Owner agrees, at its own cost and expense, to complete, or cause to be completed, the work or improvements described in Exhibit D within the times established therefore in Exhibit D. The Owner shall secure any and all permits which may be required by the City or any other governmental agency affected by the construction of the work or improvements. The Owner accepts responsibility for and shall be responsible for identification of and compliance with all applicable laws pertaining to the construction and installation of the work or improvements described on Exhibit D and the contract or contracts pertaining thereto. The Owner will neither seek to hold nor hold the City liable for, and will hold the City harmless with respect to, any consequences of any failure by the Owner to correctly determine the applicability of any such requirements to any contract he/she/they enter into.

In addition to the foregoing, the Owner hereby agrees to and will comply with all applicable local, state, and federal statutes, regulations, rules, codes (including building codes), ordinances, and other requirements of governmental authorities now or hereafter in effect ("Applicable Laws") pertaining to the use of the Historic Property. Owner must give the City immediate written notice on Owner's becoming aware that the use or condition of the Historic Property is in violation of any Applicable Laws.

4. **INSPECTIONS AND ANNUAL REPORTING.** Owner agrees to permit the examination, by prior appointment, of the interior and exterior of the Historic Property by the City at a minimum every five (5) years during the Agreement term to determine Owner's compliance with the terms and provisions of this Agreement. Owner agrees to provide the City with a report as to the status of the Historic Property annually within thirty (30) days following each anniversary of the

Effective Date of this Agreement. The annual report shall provide substantiation reasonably satisfactory to the City's Historic Preservation Planner or in his/her absence the Director of Community Development that Owner has completed the work required by Exhibit D for the twelve month period preceding each anniversary of this Agreement, and whether the Historic Property has undergone any changed conditions, and whether Owner has received any public funds from other sources designated for the preservation or maintenance of the Historic Property and from whom such funds have been received.

5. **PAYMENT OF ANNUAL FEE.** The Owner shall pay the City an annual fee to cover administrative costs associated with this Agreement including but not limited to the reasonable cost of monitoring the Historic Property, performing required inspections, and enforcement of the Agreement. Said fee shall be payable to the City of Orange and shall be remitted to the Planning Division upon demand and prior to any required inspection. The amount of the annual inspection fee shall be established by the City and may be revised from time to time, which fee shall be set forth in the City's Master Schedule of Fees and Charges. Failure to pay the required fee within 45 days of the due date will be considered a willful breach of this Agreement and may result in cancellation of the Agreement in accordance with the cancellation terms detailed below.
6. **TERM.** The term of this Agreement is for a period of ten (10) years. The initial term of this Agreement shall be from July 13, 2021 to and including July 13, 2031.
7. **AUTOMATIC RENEWAL.** On each yearly anniversary of the Effective Date of this Agreement ("renewal date"), one year shall be added automatically to the initial term of this Agreement, unless notice of non-renewal is given as provided in this Agreement.
8. **EFFECT OF OUTSIDE FUNDS.** If Owner receives funds designated for the preservation or maintenance of the Historic Property from any other public agency, this Agreement shall not be renewed except upon the vote of the City Council.
9. **NOTICE OF NONRENEWAL.** If in any year either the Owner or City desires not to renew this Agreement, that party shall serve written notice of nonrenewal to the other party in advance of the annual renewal date. Unless the notice is served by Owner to City at least ninety (90) days, or by City to Owner at least sixty (60) days prior to the renewal date, one year shall automatically be added to the term of the Agreement. Within fifteen (15) days of receipt by Owner of a notice of nonrenewal from the City, Owner may make a written protest. Upon receipt of such a protest the City Council shall set a hearing prior to the expiration of the renewal date of this Agreement or toll the renewal date until such hearing can reasonably held. Owner may furnish the City Council with any information which the Owner deems relevant; and shall furnish the City Council with any information it may require. At any time prior to the renewal date, City may withdraw its notice of nonrenewal.
10. **EFFECT OF NOTICE NOT TO RENEW.** If in any year either party serves notice of intent not to renew this Agreement, this Agreement shall remain in effect for the balance of the period remaining since the original execution date if not yet renewed, or the last renewal date of the Agreement, as the case may be.

11. **UPDATE OF IMPROVEMENT SCHEDULE.** At least ninety (90) days prior to the tenth (10th) anniversary of the Effective Date of this Agreement, and ninety (90) days prior to every tenth (10th) anniversary thereafter, Owner shall provide City with an updated schedule of rehabilitation maintenance items for the City's review and approval. Such updated schedule shall contain a list of proposed improvements and/or revisions to be accomplished during the next succeeding ten (10) years of the Agreement and a schedule for the construction of such improvements. Within thirty (30) days after the City's receipt of said updated schedule, the City's Director of Community Development shall either approve or disapprove such proposed schedule of proposed improvements, or shall respond in writing by stating what further information, if any, the City reasonably requires in order to determine the request complete and determine whether or not to grant the requested approval. Upon receipt of such a response, the Owner shall promptly furnish to the City such further information as may be reasonably requested.

From time to time, at the request of the City's Director of Community Development (or his/her authorized representative), the Owner shall meet and confer with the City's Planner for Historic Preservation or in his/her absence the Director of Community Development (or his/her designee) regarding matters arising hereunder with respect to the work and improvements and the progress in constructing the same.

12. **INDEPENDENT ADVICE OF COUNSEL.** The Owner, and each of them, represent and declare that in executing this Agreement he/she/they have relied solely upon his/her/their own judgment, belief and knowledge, and the advice and recommendations of his/her/their own independently selected counsel, concerning the nature, extent and duration of his/her/their rights and claims, and that he/she/they have not been influenced to any extent whatsoever in executing the same by the City or by any person representing the City.
13. **ENFORCEMENT OF AGREEMENT.** If the City determines the owner has breached any of the conditions of the Agreement provided for or has allowed the property to deteriorate to the point it no longer meets the standards for a qualified historical property, the City shall either cancel the Agreement or bring any action in court necessary to enforce the Agreement including, but not limited to an action to enforce the Agreement by specific performance to cure, correct or remedy any breach of the terms of this Agreement, to recover damages for any breach, or to obtain any other remedy consistent with the purpose of this Agreement. In the event of a default under the provisions of this Agreement by Owner, City shall give written notice to Owner specifying the alleged grounds for the default. Said notice shall be given by registered or certified mail addressed to the address stated in this Agreement. If such violation(s) is not corrected to the reasonable satisfaction of the City within thirty (30) days from the receipt of the notice of violation, or within such reasonable time as may be required to cure the breach or default, provided that acts to cure, correct or remedy such breach or default are commenced within thirty (30) days and thereafter diligently pursued to completion, then City may, without further notice, institute legal action.

Except as otherwise expressly stated in this Agreement, the rights and remedies of the City are cumulative, and the exercise by the City of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the Owner. Any failure or delay by the City in asserting any

of its right and remedies as to a breach of any of the covenants, conditions or agreements set forth herein shall not operate as a waiver of such breach or of any such rights or remedies, or deprive the City of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce such rights or remedies. A waiver by the City of a breach shall not be construed as a waiver of any succeeding breach of the same or other covenants, conditions or agreements set forth in this Agreement.

14. CANCELLATION. In lieu of bringing an action to enforce the Agreement City may cancel this Agreement if City determines Owner has breached any of the conditions or covenants of this Agreement or has allowed the Historic Property to deteriorate to the point that it no longer meets the standards for a qualified historical property. City may also cancel this Agreement if it determines Owner has failed to rehabilitate the Historic Property in the manner specified in this Agreement.

15. NOTICE OF CANCELLATION. This Agreement cannot be canceled until after City has given notice and has held a public hearing as required by Government Code Section 50285. Notice of the hearing shall be mailed to the last known address of each owner of property within 300 feet of the Historic Property and shall be published in accordance with Government Code Section 6061.

16. CANCELLATION FEE. If City cancels this Agreement in accordance with Section 15 above, Owner shall pay a cancellation fee of twelve and one-half percent (12-1/2%) of the current fair market value of the Historic Property at the time of cancellation. The current fair market value shall be determined by the County Assessor as though the Historic Property were free of the restriction on the Historic Property imposed pursuant to this Agreement. The cancellation fee shall be paid to the County Auditor at such time and in such manner as the County Auditor shall prescribe.

17. NOTICES. All notices required by or provided for in the Agreement shall be given in writing and may be mailed or delivered in person at the address of the respective parties as specified below or at any other address as may be later specified by the parties. Deposit of notice in the mail, postage prepaid, shall be deemed receipt of the notice.

City of Orange
Attn.: City Clerk
300 E. Chapman Avenue
Orange, CA 92866

Jacob Hanson and Brittany Jones
3811 E. Fernwood Avenue
Orange, CA 92869

18. NO COMPENSATION. Owner shall not receive any payment from the City in consideration of the obligations imposed under this Agreement. The Owner acknowledges and agrees that the consideration for the execution of this Agreement is the substantial public benefit to be derived therefrom and the advantage that will accrue to Owner as a result of the effect upon the assessed value of the Historic Property on account of the restrictions on the use and preservation of the Historic Property.

19. REMEDY IF AGREEMENT HELD NOT ENFORCEABLE. In the event it is finally determined this Agreement does not constitute an enforceable restriction within the meaning of the applicable provisions of the California Government Code and the California Revenue and Taxation Code, except for an unenforceability arising from the cancellation or nonrenewal of this Agreement, then this Agreement shall be null and void and without further effect and the Historic Property subject to this Agreement shall from that time be free from any restriction whatsoever under this Agreement without any payment or further act of the parties to this Agreement.

20. ACQUISITION OF PROPERTY BY EMINENT DOMAIN; CANCELLATION OF CONTRACT; INAPPLICABILITY TO DETERMINATION OF VALUE. In the event that the Historic Property is acquired in whole or part by eminent domain or other acquisition by any entity authorized to exercise the power of eminent domain, and the acquisition is determined by the City to frustrate the purpose of the Agreement, the Agreement shall be canceled and no fee shall be imposed under Section 17, above. The Agreement shall be deemed null and void for all purposes of determining the value of the Historic Property so acquired.

If, subsequent to the filing of an action in eminent domain, the proposed condemnation is abandoned by the condemning agency, the restrictions on the use of the Historic Property included in this Agreement shall, without further agreement of the parties, be reinstituted and the terms of this Agreement shall continue in full force and effect.

21. EFFECT OF AGREEMENT. None of the terms, provisions or conditions of this Agreement shall be deemed to create a partnership between the parties hereto and any of their heirs, successors or assigns, nor shall such terms, provisions or conditions cause the parties hereto to be considered joint venturers or members of any joint enterprise.

22. SUCCESSORS AND ASSIGNS. This Agreement is binding upon and shall inure to the benefit of all successors in interest of the Owner, regardless of the tax exempt status of any subsequent owner. A successor in interest shall have the same rights and obligations under this Agreement as the original owner who entered into this Agreement.

23. REQUIREMENTS RELATED TO TRANSFER OF HISTORIC PROPERTY. In the event of any sale, transfer, assignment or conveyance of the Historic Property ("Transfer"), the Owner agrees that, at least thirty (30) days prior to such Transfer, it shall give written notice to the City of such proposed Transfer, including the name(s) of the transferee(s). In addition, the Owner and the proposed transferee(s) shall enter into and deliver to the City through the escrow for the Transfer of the Historic Property an assignment and assumption agreement in a form satisfactory to the City's Attorney or such other evidence as may be satisfactory to the City that the transferee(s) has (have) assumed the Owner's obligations set forth in this Agreement. Upon the Transfer of the Historic Property and the assumption of the obligations hereunder by the transferee(s), the Owner's liability for performance shall be terminated as to any obligation to be performed hereunder after the date of such Transfer.

24. RECORDATION. City shall record a copy of this Agreement with the Office of the County Recorder of the County of Orange.

25. AMENDMENTS. This Agreement may be amended, in whole or in part, only by a written and recorded instrument executed by the parties hereto, except that the Director of Community Development is authorized to amend the list of required projects in Exhibit D.
26. COUNTERPARTS. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which shall constitute one and the same agreement with the same effect as if all parties had signed the same signature page. Any signature page of this Agreement may be detached from any counterpart of this Agreement and re-attached to any other counterpart of this Agreement identical in form hereto but having attached to it one or more additional signature pages.
27. ADMINISTRATION. This Agreement shall be administered by the City's Director of Community Development (or his/her designated representative) following approval of this Agreement by the City. The City shall maintain authority of this Agreement through the City's Director of Community Development (or his/her authorized representative). The City's Director of Community Development shall have the authority to issue interpretations, waive provisions and enter into amendments of this Agreement on behalf of the City so long as such actions do not change the uses permitted on the Historic Property or the purpose of this Agreement. Such amendments may include extensions of time or amendments to the projects specified in Exhibit D. All other waivers or amendments shall require the written approval and consent of the City Council.

[Remainder of page intentionally left blank; signatures on next page]

IN WITNESS WHEREOF, the City and the Owner have executed this Agreement.

“OWNER”

Dated: _____, 2021

Jacob Hanson

Dated: _____, 2021

Brittany Jones

“CITY”

CITY OF ORANGE, a municipal corporation

Dated: _____, 2021

By: _____
Mark A. Murphy
Mayor

ATTEST:

APPROVED AS TO FORM:

Pamela Coleman
City Clerk

Mary E. Binning
Senior Assistant City Attorney

ACKNOWLEDGEMENT

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

State of California
County of _____

On _____ before me, _____,
a Notary Public in and for the State of California, personally appeared _____

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

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

WITNESS my hand and official seal.

Signature _____ (Seal)

EXHIBIT “A”

LEGAL DESCRIPTION OF HISTORIC PROPERTY

REAL PROPERTY IN THE CITY OF ORANGE, COUNTY OF ORANGE, STATE OF CALIFORNIA, DESCRIBED AS:

Lot 20 of Tract No. 3545 in the City of Orange, County of Orange, State of California, as per map recorded in Book 125, Pages 1 to 5 inclusive of Miscellaneous Maps, in the office of the County Recorder of said Orange County.

[APN 094-461-09]

EXHIBIT “B”

SECRETARY OF THE INTERIOR'S STANDARDS FOR REHABILITATION

1. Every reasonable effort shall be made to provide a compatible use for a property, which requires a minimal alteration of the building structure, or site and its environment, or to use a property for its originally intended purpose.
2. The distinguishing original qualities or character of a building, structure, or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural features should be avoided when possible.
3. All buildings, structures, and sites shall be recognized as products of their own time. Alterations that have no historical basis and which seek to create an earlier appearance shall be discouraged.
4. Changes which may have taken place in the course of time are evidence of the history and development of a building, structure or site and its environment. These changes may have acquired significance in their own right, and this significance shall be recognized and respected.
5. Distinctive stylistic features or examples of skilled craftsmanship which characterize a building, structure or site shall be treated with sensitivity.
6. Deteriorated architectural features shall be repaired rather than replaced, wherever possible. In the event replacement is necessary, the new material should match the material being replaced in composition, design, color, texture, and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplications of features, substantiated by historic, physical, or pictorial evidence rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.
7. The surface cleaning of structures shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage the historic building materials shall not be undertaken.
8. Every reasonable effort shall be made to protect and preserve archeological resources affected by, or adjacent to, any project.
9. Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant historical, architectural or cultural material, and such design is compatible with the size, scale, color, material and character of the property, neighborhood or environment.
10. Wherever possible, new additions or alterations to structures shall be done in such a manner that, if such additions or alterations were to be removed in the future, the essential form and integrity of the structure would be unimpaired.

EXHIBIT “C”

CITY OF ORANGE HISTORIC PROPERTY **MAINTENANCE STANDARDS**

All buildings, structures, yards and other improvements shall be maintained in a manner which does not detract from the appearance of the immediate neighborhood. The following conditions are prohibited:

1. Dilapidated, deteriorating, or unrepaired structures, such as: fences, roofs, doors, walls and windows.
2. Publicly visible storage of scrap lumber, junk, trash or debris.
3. Publicly visible storage of abandoned, discarded or unused objects or equipment, such as automobiles, automobile parts, furniture, stoves, refrigerators, cans, containers or similar items.
4. Stagnant water or excavations, including pools or spas.
5. Any device, decoration, design, structure or vegetation that is unsightly by reason of its height, condition, or its inappropriate location.

EXHIBIT “D”

REHABILITATION/MAINTENANCE SCOPE OF WORK

[Attached.]

EXHIBIT "D"

REHABILITATION/MAINTENANCE SCOPE OF WORK

3811 E. Fernwood Avenue

Priority	Description of Work	Cost Estimate	Completion Date
1.	Repair termite, dry rot damage as recommended in termite report dated 12/10/2020.	\$1,000	2021
2.	Install galvanized flashing on all exposed beams to prevent sun/water decay.	\$500	2021
3.	Replace roof with elastomeric or membrane roof system, adding small slope to address original weaknesses and replacement skylights.	\$40,000	2021
4.	Remove/repair all non-original roof downspouts and holes in roof and repair redwood ceiling membranes.	\$3,000	2021
5.	Re-wire electrical wiring to bring system up to current code standards, including grounding electrical outlets.	\$1,500	2021
6.	Replace damaged (dry rot) Eichler vertical groove siding and paint east elevation.	\$2,000	2021
7.	Replace deteriorating three rear sliding glass doors with new doors with safety glass on the north elevation, in compliance with the Orange Eichler Design Standards.	\$15,000	2021
8.	Replace deteriorating aluminum frame windows on side elevations in compliance with the Orange Eichler Design Standards.	\$3,000	2021
9.	Biennial beam maintenance, including wood checking and bubbling paint, termites, and dry rot.	\$2,100	2023
10.	Paint exterior on the east and west elevations, where there is maximum sun exposure.	\$5,000	2023
11.	Repair or replace deteriorating kitchen sewer pipe in foundation slab.	\$12,000	2025
12.	Biennial beam maintenance, including wood checking and bubbling paint, termites, and dry rot.	\$2,200	2025
13.	Paint exterior of the house.	\$18,000	2026
14.	Biennial beam maintenance, including wood checking and bubbling paint, termites, and dry rot.	\$2,300	2027
15.	Biennial beam maintenance, including wood checking and bubbling paint, termites, and dry rot.	\$2,400	2029
TOTAL		\$110,000	

EXHIBIT “E”

HISTORIC PROPERTY INVENTORY FORM (DPR 523)

[Attached.]

State of California - The Resources Agency
DEPARTMENT OF PARKS AND RECREATION
PRIMARY RECORD

Primary # _____

HRI # _____

Trinomial ORA

NRHP Status Code 3D

Other Listings: _____

Review Code: _____

Reviewer: _____

Date: _____

Page 1 of 3

*Resource Name or #:

FERNWOOD_E_3811__APN_094-461-09

(Assigned by Recorder)

P1. Other Identifier: Fairhaven Tract

*P2. Location: ☐ Not for Publication ☒ Unrestricted

*a. County: Orange and (P2b and P2c or P2d. Attach a location map as necessary.)

*b. USGS 7.5' Quad: _____ Date: _____ T _____; R _____; _____ 1/4 of _____ 1/4 of Sec _____; _____ B.M.

c. Address: 3811 - E FERNWOOD AVE, # _____ City: Orange Zip: 92869

d. UTM: (Give more than one for large and/or linear resources) Zone _____ ' _____ mE/ _____ mN

e. Other Locational Data: _____

*P3a. Description: (Describe resource and its major elements. Include design, materials, condition, alterations, size, setting, and boundaries. Continues on Pg.3.)

Materials: _____

Model LA-91

*P3b. Resource Attributes: (HP2)--Single family property
(List attributes and codes)

*P4. Resources Present: ☒ Building ☐ Structure ☐ Object ☐ Site ☐ Element of District ☐ District ☐ Other (Isolates, etc.)

P5b. Description of Photo: 2005

(View, date, accession #)



*P6. Date Constructed/ Age and Source:

1960 c

☐ Historic ☐ Prehistoric ☐ Both

*P7. Owner and Address:

*P8: Recorded by: (Name, affiliation, and address)

D. Gest, P. LaValley

Chattel Architecture
13417 Ventura Blvd.
Sherman Oaks, CA 91423

*P9. Date Recorded:

January 2005

*P10. Survey Type: (Describe)

Reconnaissance

*P11. Report Citation: (Cite survey report and other sources, or enter "none.")

Orange County Assessor Records (2005). Chattel Architecture (2005)
Historic Resources Survey.

*Attachments:

☐ NONE

☐ Location Map

☒ Continuation Sheet(s)

☒ Building, Structure, and Object Record

☐ Archaeological Record

☐ District Record

☐ Linear Feature Record

☐ Milling Station Record ☐ Rock Art Record

☐ Artifact Record

☐ Photograph Record

☐ Other (List): _____

DPR 523A (1/95)

*Required Information

State of California - The Resources Agency
DEPARTMENT OF PARKS AND RECREATION
BUILDING, STRUCTURE, AND OBJECT RECORD

Primary #

HRI #

*NRHP Status Code 3D

Page 2 of 3

*Resource Name or #:
(Assigned by Recorder)

FERNWOOD_E_3811__APN_094-461-09

B1. Historic Name: Unknown

B2. Common Name: _____

B3. Original Use: RES

B4. Present Use: RES

*B5. Architectural Style: Mid-Century Modern

*B6. Construction History: (Construction date, alterations, and date of alterations) Date of Construction: 1960 ☐ Historic ☐ Prehistoric ☐ Both

*B7. Moved? ☒ No ☐ Yes ☐ Unknown Date: _____ Original Location: _____

*B8. Related Features: _____

*B9. Architect or Builder: Eichler Homes - Anshen & Allen

*B10. Significance: Theme: Architecture Area: City of Orange Property Type: Residence

Period of Significance: Eichler Tract (c. 1959 - 1965)

Applicable Criteria: C

(Discuss importance in terms of historical or architectural context as defined by theme, period, and geographic scope. Also address integrity. Continues on Pg.4.)

Structural Integrity: Excellent Condition - Low level of alteration as of 2005.

Site Integrity: _____

Opportunities _____

B11. Additional Resource Attributes: (List attributes and codes) _____

*B12. References:

Orange Daily News.

B13. Remarks: (Continues on Pg.3.)

Status change since 1991 Survey: Not previously surveyed.

(Sketch Map with North arrow required.)

*B14. Evaluator: Robert Chattel

*Date of Evaluation: September 2005

(This space reserved for official comments.)

DPR 523B (1/95)

*Required Information

State of California - The Resources Agency
DEPARTMENT OF PARKS AND RECREATION
CONTINUATION SHEET

Primary #

HRI #

Trinomial

ORA

Page 3 of 3

*Resource Name or #:
(Assigned by Recorder)

FERNWOOD_E_3811__APN_094-461-09

Recorded by:

D. Gest, P. LaValley
Chattel Architecture
13417 Ventura Blvd.
Sherman Oaks, CA 91423

Date Recorded: January 2005

☒ Continuation

☐ Update

Years Surveyed: 2005, 2015

Description of Photo:

Listed in National Register:

General Plan: LDR # of Buildings: 1

Planning Zone: R-1-8 # of Stories: 1

Lot Acre: 0.1802 # of Units: 1

Principal Building Sqft: 2570

B6. Construction History (Continued from Pg.2):

B13. Remarks (Continued from Pg.2):

P3a. Description (Continued from Pg.1):



RECORDING REQUESTED BY
AND, WHEN RECORDED,
MAIL TO:

City Clerk
City of Orange
300 E. Chapman Avenue
Orange, California, 92866

Exempt from recording fees pursuant to
Gov. Code Sections 6103 and 27383

Property Address: 3808 E. Larkstone Drive
APN: 094-451-18
Mills Act Contract Number: 381.0-21

HISTORIC PROPERTY PRESERVATION AGREEMENT (MILLS ACT CONTRACT)

THIS HISTORIC PROPERTY PRESERVATION AGREEMENT (“Agreement”) is made and entered into as of the date of execution by the City (“Effective Date”), by and between the CITY OF ORANGE, a municipal corporation (“City”), and Zsombor Nagy and Laura Cowle, Husband and Wife as Joint Tenants (“Owner”), with reference to the following:

RECITALS

WHEREAS, the Mills Act (Government Code Section 50280 *et seq.*) provides cities with the opportunity to contract with owners of qualified historical properties whereby the owner promises to preserve and rehabilitate the property in return for a potential reduced property tax assessment; and

WHEREAS, the City of Orange has established Historic Districts consisting of the Plaza Historic District, listed in the National Register of Historic Places; the Old Towne Orange Historic District, listed in the National Register of Historic Places; the local Old Towne Orange Historic District, designated by the Orange City Council; and the local Eichler Fairhaven, Fairhills, and Fairmeadow Historic Districts, designated by the Orange City Council; and the City desires to promote the character, quality of life, and historic features of said Districts to its citizens and visitors; and

WHEREAS, the City is dedicated to the protection and stabilization of property values through maintaining and upgrading its older housing stock, through the use of incentives such as the Mills Act; and

WHEREAS, the Mills Act also has beneficial effects on City businesses, economic stability and community pride by preserving important neighborhood historic resources; and

WHEREAS, the use of the Mills Act will fulfill one of the goals of the City’s 2010 General Plan Cultural Resources Element; specifically,

“Provide incentives and expand education efforts for historic preservation” (Goal 3.0, CR-22); and

WHEREAS, Owner possesses fee simple title in and to that certain real property, together with associated structures and improvements thereon, located at 3808 E. Larkstone Drive in the City of Orange, County of Orange, State of California, having Assessor’s Parcel Number 094-451-18 and more specifically described in Exhibit A, which exhibit is attached hereto and made a part hereof (“Historic Property”); and

WHEREAS, the Historic Property is a qualified historical property under the Mills Act in that it is privately owned property which is not exempt from property taxation and is either: individually designated or is a contributing property within a designated district which is listed in the National Register of Historic Places, California Register of Historical Resources or Register of Historical Landmarks, California Points of Historical Interest, or is a contributing property in a locally designated historic district; and

WHEREAS, Owner, in consideration for abiding by the terms of this Agreement shall be entitled to a reassessment of valuation of the Historic Property and any corresponding reduction in property taxes pursuant to the provisions of the California Revenue and Taxation Code; and

WHEREAS, it is the City’s expectation that the Owner will use the property tax savings accrued under this Agreement for improvements to the “Historic Property” (as defined below). To that end, as a condition of renewal, the City will require a revised schedule of improvements every ten years showing a plan for improvements commensurate with the tax savings; and

WHEREAS, the City and Owner for their mutual benefit, now desire to enter into this Agreement to limit the use of the Historic Property to prevent inappropriate alterations, to ensure that characteristics of historic significance are preserved and maintained in an exemplary manner, and to carry out the purposes of Article 12 (commencing with Section 50280) of Chapter 1, Part 1, Division 1 of Title 5 of the California Government Code and Article 1.9 (commencing with Section 439) of Chapter 3, Part 2 of Division 1 of the California Revenue and Taxation Code.

AGREEMENT

NOW, THEREFORE, both Owner and City, in consideration of the mutual promises, covenants and conditions contained herein and the substantial public benefits to be derived therefrom, do hereby agree as follows:

1. **APPLICABLE LAWS.** This Agreement is made pursuant to California Government Code Sections 50280 through 50290 and Article 1.9 (commencing with Section 439) of Chapter 3, Part 2 of Division 1 of the California Revenue and Taxation Code and is subject to all of the provisions of those statutes. To the extent any of the provisions in this Agreement are inconsistent with the aforementioned provisions of the Government and Revenue and Taxation Codes, they are superseded by those Code Sections.

2. **ASSESSMENT OF VALUATION.** Property tax relief afforded to Owner pursuant to Chapter 3, Part 2 of Division 1 of the California Revenue and Taxation Code will be determined solely by the Orange County Office of the Assessor. City makes no representations regarding the actual tax savings any person may realize by entering into this Agreement.
3. **PRESERVATION OF PROPERTY.** Owner agrees to preserve and maintain the Historic Property and its character defining features. Character defining features include, but are not necessarily limited to, the general architectural form, style, materials, design, scale, details, mass, roofline and other aspects of the appearance of the exterior of the Historic Property. For purposes of identification of the Historic Property, the City's Official Historic Property Inventory Form (DPR 523) is attached as Exhibit E.

The *Secretary of the Interior's Standards for Rehabilitation* (Exhibit B) and City's minimum maintenance standards (Exhibit C), attached hereto and incorporated herein by reference, shall constitute the minimum standards and conditions for preservation and rehabilitation of the Historic Property, and shall apply to the Historic Property throughout the term of this Agreement. Owner shall, where necessary, rehabilitate the Historic Property to conform to the rules and regulations of the Office of Historic Preservation of the California Department of Parks and Recreation, the *Secretary of the Interior's Standards for Rehabilitation*, the California Historical Building Code, and the City of Orange's Historic Preservation Design Standards for Old Towne and Eichler Design Standards.

As consideration for the City to enter into this Agreement, the Owner agrees, at its own cost and expense, to complete, or cause to be completed, the work or improvements described in Exhibit D within the times established therefore in Exhibit D. The Owner shall secure any and all permits which may be required by the City or any other governmental agency affected by the construction of the work or improvements. The Owner accepts responsibility for and shall be responsible for identification of and compliance with all applicable laws pertaining to the construction and installation of the work or improvements described on Exhibit D and the contract or contracts pertaining thereto. The Owner will neither seek to hold nor hold the City liable for, and will hold the City harmless with respect to, any consequences of any failure by the Owner to correctly determine the applicability of any such requirements to any contract he/she/they enter into.

In addition to the foregoing, the Owner hereby agrees to and will comply with all applicable local, state, and federal statutes, regulations, rules, codes (including building codes), ordinances, and other requirements of governmental authorities now or hereafter in effect ("Applicable Laws") pertaining to the use of the Historic Property. Owner must give the City immediate written notice on Owner's becoming aware that the use or condition of the Historic Property is in violation of any Applicable Laws.

4. **INSPECTIONS AND ANNUAL REPORTING.** Owner agrees to permit the examination, by prior appointment, of the interior and exterior of the Historic Property by the City at a minimum every five (5) years during the Agreement term to determine Owner's compliance with the terms and provisions of this Agreement. Owner agrees to provide the City with a report as to the status of the Historic Property annually within thirty (30) days following each anniversary of the

Effective Date of this Agreement. The annual report shall provide substantiation reasonably satisfactory to the City's Historic Preservation Planner or in his/her absence the Director of Community Development that Owner has completed the work required by Exhibit D for the twelve month period preceding each anniversary of this Agreement, and whether the Historic Property has undergone any changed conditions, and whether Owner has received any public funds from other sources designated for the preservation or maintenance of the Historic Property and from whom such funds have been received.

5. **PAYMENT OF ANNUAL FEE.** The Owner shall pay the City an annual fee to cover administrative costs associated with this Agreement including but not limited to the reasonable cost of monitoring the Historic Property, performing required inspections, and enforcement of the Agreement. Said fee shall be payable to the City of Orange and shall be remitted to the Planning Division upon demand and prior to any required inspection. The amount of the annual inspection fee shall be established by the City and may be revised from time to time, which fee shall be set forth in the City's Master Schedule of Fees and Charges. Failure to pay the required fee within 45 days of the due date will be considered a willful breach of this Agreement and may result in cancellation of the Agreement in accordance with the cancellation terms detailed below.
6. **TERM.** The term of this Agreement is for a period of ten (10) years. The initial term of this Agreement shall be from July 13, 2021 to and including July 13, 2031.
7. **AUTOMATIC RENEWAL.** On each yearly anniversary of the Effective Date of this Agreement ("renewal date"), one year shall be added automatically to the initial term of this Agreement, unless notice of non-renewal is given as provided in this Agreement.
8. **EFFECT OF OUTSIDE FUNDS.** If Owner receives funds designated for the preservation or maintenance of the Historic Property from any other public agency, this Agreement shall not be renewed except upon the vote of the City Council.
9. **NOTICE OF NONRENEWAL.** If in any year either the Owner or City desires not to renew this Agreement, that party shall serve written notice of nonrenewal to the other party in advance of the annual renewal date. Unless the notice is served by Owner to City at least ninety (90) days, or by City to Owner at least sixty (60) days prior to the renewal date, one year shall automatically be added to the term of the Agreement. Within fifteen (15) days of receipt by Owner of a notice of nonrenewal from the City, Owner may make a written protest. Upon receipt of such a protest the City Council shall set a hearing prior to the expiration of the renewal date of this Agreement or toll the renewal date until such hearing can reasonably held. Owner may furnish the City Council with any information which the Owner deems relevant; and shall furnish the City Council with any information it may require. At any time prior to the renewal date, City may withdraw its notice of nonrenewal.
10. **EFFECT OF NOTICE NOT TO RENEW.** If in any year either party serves notice of intent not to renew this Agreement, this Agreement shall remain in effect for the balance of the period remaining since the original execution date if not yet renewed, or the last renewal date of the Agreement, as the case may be.

11. **UPDATE OF IMPROVEMENT SCHEDULE.** At least ninety (90) days prior to the tenth (10th) anniversary of the Effective Date of this Agreement, and ninety (90) days prior to every tenth (10th) anniversary thereafter, Owner shall provide City with an updated schedule of rehabilitation maintenance items for the City's review and approval. Such updated schedule shall contain a list of proposed improvements and/or revisions to be accomplished during the next succeeding ten (10) years of the Agreement and a schedule for the construction of such improvements. Within thirty (30) days after the City's receipt of said updated schedule, the City's Director of Community Development shall either approve or disapprove such proposed schedule of proposed improvements, or shall respond in writing by stating what further information, if any, the City reasonably requires in order to determine the request complete and determine whether or not to grant the requested approval. Upon receipt of such a response, the Owner shall promptly furnish to the City such further information as may be reasonably requested.

From time to time, at the request of the City's Director of Community Development (or his/her authorized representative), the Owner shall meet and confer with the City's Planner for Historic Preservation or in his/her absence the Director of Community Development (or his/her designee) regarding matters arising hereunder with respect to the work and improvements and the progress in constructing the same.

12. **INDEPENDENT ADVICE OF COUNSEL.** The Owner, and each of them, represent and declare that in executing this Agreement he/she/they have relied solely upon his/her/their own judgment, belief and knowledge, and the advice and recommendations of his/her/their own independently selected counsel, concerning the nature, extent and duration of his/her/their rights and claims, and that he/she/they have not been influenced to any extent whatsoever in executing the same by the City or by any person representing the City.
13. **ENFORCEMENT OF AGREEMENT.** If the City determines the owner has breached any of the conditions of the Agreement provided for or has allowed the property to deteriorate to the point it no longer meets the standards for a qualified historical property, the City shall either cancel the Agreement or bring any action in court necessary to enforce the Agreement including, but not limited to an action to enforce the Agreement by specific performance to cure, correct or remedy any breach of the terms of this Agreement, to recover damages for any breach, or to obtain any other remedy consistent with the purpose of this Agreement. In the event of a default under the provisions of this Agreement by Owner, City shall give written notice to Owner specifying the alleged grounds for the default. Said notice shall be given by registered or certified mail addressed to the address stated in this Agreement. If such violation(s) is not corrected to the reasonable satisfaction of the City within thirty (30) days from the receipt of the notice of violation, or within such reasonable time as may be required to cure the breach or default, provided that acts to cure, correct or remedy such breach or default are commenced within thirty (30) days and thereafter diligently pursued to completion, then City may, without further notice, institute legal action.

Except as otherwise expressly stated in this Agreement, the rights and remedies of the City are cumulative, and the exercise by the City of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the Owner. Any failure or delay by the City in asserting any

of its right and remedies as to a breach of any of the covenants, conditions or agreements set forth herein shall not operate as a waiver of such breach or of any such rights or remedies, or deprive the City of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce such rights or remedies. A waiver by the City of a breach shall not be construed as a waiver of any succeeding breach of the same or other covenants, conditions or agreements set forth in this Agreement.

14. CANCELLATION. In lieu of bringing an action to enforce the Agreement City may cancel this Agreement if City determines Owner has breached any of the conditions or covenants of this Agreement or has allowed the Historic Property to deteriorate to the point that it no longer meets the standards for a qualified historical property. City may also cancel this Agreement if it determines Owner has failed to rehabilitate the Historic Property in the manner specified in this Agreement.

15. NOTICE OF CANCELLATION. This Agreement cannot be canceled until after City has given notice and has held a public hearing as required by Government Code Section 50285. Notice of the hearing shall be mailed to the last known address of each owner of property within 300 feet of the Historic Property and shall be published in accordance with Government Code Section 6061.

16. CANCELLATION FEE. If City cancels this Agreement in accordance with Section 15 above, Owner shall pay a cancellation fee of twelve and one-half percent (12-1/2%) of the current fair market value of the Historic Property at the time of cancellation. The current fair market value shall be determined by the County Assessor as though the Historic Property were free of the restriction on the Historic Property imposed pursuant to this Agreement. The cancellation fee shall be paid to the County Auditor at such time and in such manner as the County Auditor shall prescribe.

17. NOTICES. All notices required by or provided for in the Agreement shall be given in writing and may be mailed or delivered in person at the address of the respective parties as specified below or at any other address as may be later specified by the parties. Deposit of notice in the mail, postage prepaid, shall be deemed receipt of the notice.

City of Orange
Attn.: City Clerk
300 E. Chapman Avenue
Orange, CA 92866

Zsombor Nagy and Laura Cowle
3808 E. Larkstone Drive
Orange, CA 92869

18. NO COMPENSATION. Owner shall not receive any payment from the City in consideration of the obligations imposed under this Agreement. The Owner acknowledges and agrees that the consideration for the execution of this Agreement is the substantial public benefit to be derived therefrom and the advantage that will accrue to Owner as a result of the effect upon the assessed value of the Historic Property on account of the restrictions on the use and preservation of the Historic Property.

19. REMEDY IF AGREEMENT HELD NOT ENFORCEABLE. In the event it is finally determined this Agreement does not constitute an enforceable restriction within the meaning of the applicable provisions of the California Government Code and the California Revenue and Taxation Code, except for an unenforceability arising from the cancellation or nonrenewal of this Agreement, then this Agreement shall be null and void and without further effect and the Historic Property subject to this Agreement shall from that time be free from any restriction whatsoever under this Agreement without any payment or further act of the parties to this Agreement.

20. ACQUISITION OF PROPERTY BY EMINENT DOMAIN; CANCELLATION OF CONTRACT; INAPPLICABILITY TO DETERMINATION OF VALUE. In the event that the Historic Property is acquired in whole or part by eminent domain or other acquisition by any entity authorized to exercise the power of eminent domain, and the acquisition is determined by the City to frustrate the purpose of the Agreement, the Agreement shall be canceled and no fee shall be imposed under Section 17, above. The Agreement shall be deemed null and void for all purposes of determining the value of the Historic Property so acquired.

If, subsequent to the filing of an action in eminent domain, the proposed condemnation is abandoned by the condemning agency, the restrictions on the use of the Historic Property included in this Agreement shall, without further agreement of the parties, be reinstituted and the terms of this Agreement shall continue in full force and effect.

21. EFFECT OF AGREEMENT. None of the terms, provisions or conditions of this Agreement shall be deemed to create a partnership between the parties hereto and any of their heirs, successors or assigns, nor shall such terms, provisions or conditions cause the parties hereto to be considered joint venturers or members of any joint enterprise.

22. SUCCESSORS AND ASSIGNS. This Agreement is binding upon and shall inure to the benefit of all successors in interest of the Owner, regardless of the tax exempt status of any subsequent owner. A successor in interest shall have the same rights and obligations under this Agreement as the original owner who entered into this Agreement.

23. REQUIREMENTS RELATED TO TRANSFER OF HISTORIC PROPERTY. In the event of any sale, transfer, assignment or conveyance of the Historic Property ("Transfer"), the Owner agrees that, at least thirty (30) days prior to such Transfer, it shall give written notice to the City of such proposed Transfer, including the name(s) of the transferee(s). In addition, the Owner and the proposed transferee(s) shall enter into and deliver to the City through the escrow for the Transfer of the Historic Property an assignment and assumption agreement in a form satisfactory to the City's Attorney or such other evidence as may be satisfactory to the City that the transferee(s) has (have) assumed the Owner's obligations set forth in this Agreement. Upon the Transfer of the Historic Property and the assumption of the obligations hereunder by the transferee(s), the Owner's liability for performance shall be terminated as to any obligation to be performed hereunder after the date of such Transfer.

24. RECORDATION. City shall record a copy of this Agreement with the Office of the County Recorder of the County of Orange.

25. AMENDMENTS. This Agreement may be amended, in whole or in part, only by a written and recorded instrument executed by the parties hereto, except that the Director of Community Development is authorized to amend the list of required projects in Exhibit D.
26. COUNTERPARTS. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which shall constitute one and the same agreement with the same effect as if all parties had signed the same signature page. Any signature page of this Agreement may be detached from any counterpart of this Agreement and re-attached to any other counterpart of this Agreement identical in form hereto but having attached to it one or more additional signature pages.
27. ADMINISTRATION. This Agreement shall be administered by the City's Director of Community Development (or his/her designated representative) following approval of this Agreement by the City. The City shall maintain authority of this Agreement through the City's Director of Community Development (or his/her authorized representative). The City's Director of Community Development shall have the authority to issue interpretations, waive provisions and enter into amendments of this Agreement on behalf of the City so long as such actions do not change the uses permitted on the Historic Property or the purpose of this Agreement. Such amendments may include extensions of time or amendments to the projects specified in Exhibit D. All other waivers or amendments shall require the written approval and consent of the City Council.

[Remainder of page intentionally left blank; signatures on next page]

IN WITNESS WHEREOF, the City and the Owner have executed this Agreement.

“OWNER”

Dated: _____, 2021

Zsombor Nagy

Dated: _____, 2021

Laura Cowle

“CITY”

CITY OF ORANGE, a municipal corporation

Dated: _____, 2021

By: _____
Mark A. Murphy
Mayor

ATTEST:

APPROVED AS TO FORM:

Pamela Coleman
City Clerk

Mary E. Binning
Senior Assistant City Attorney

ACKNOWLEDGEMENT

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

State of California
County of _____

On _____ before me, _____,
a Notary Public in and for the State of California, personally appeared _____

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

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

WITNESS my hand and official seal.

Signature _____ (Seal)

EXHIBIT “A”

LEGAL DESCRIPTION OF HISTORIC PROPERTY

REAL PROPERTY IN THE CITY OF ORANGE, COUNTY OF ORANGE, STATE OF CALIFORNIA, DESCRIBED AS:

Lot 42 of Tract No. 3545 in the City of Orange, County of Orange, State of California, as shown on a map thereof, recorded in Book 125, Pages 1 to 5 inclusive of Miscellaneous Maps, in the office of the County Recorder of said County.

[APN 094-451-18]

EXHIBIT "B"

SECRETARY OF THE INTERIOR'S STANDARDS FOR REHABILITATION

1. Every reasonable effort shall be made to provide a compatible use for a property, which requires a minimal alteration of the building structure, or site and its environment, or to use a property for its originally intended purpose.
2. The distinguishing original qualities or character of a building, structure, or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural features should be avoided when possible.
3. All buildings, structures, and sites shall be recognized as products of their own time. Alterations that have no historical basis and which seek to create an earlier appearance shall be discouraged.
4. Changes which may have taken place in the course of time are evidence of the history and development of a building, structure or site and its environment. These changes may have acquired significance in their own right, and this significance shall be recognized and respected.
5. Distinctive stylistic features or examples of skilled craftsmanship which characterize a building, structure or site shall be treated with sensitivity.
6. Deteriorated architectural features shall be repaired rather than replaced, wherever possible. In the event replacement is necessary, the new material should match the material being replaced in composition, design, color, texture, and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplications of features, substantiated by historic, physical, or pictorial evidence rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.
7. The surface cleaning of structures shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage the historic building materials shall not be undertaken.
8. Every reasonable effort shall be made to protect and preserve archeological resources affected by, or adjacent to, any project.
9. Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant historical, architectural or cultural material, and such design is compatible with the size, scale, color, material and character of the property, neighborhood or environment.
10. Wherever possible, new additions or alterations to structures shall be done in such a manner that, if such additions or alterations were to be removed in the future, the essential form and integrity of the structure would be unimpaired.

EXHIBIT “C”

CITY OF ORANGE HISTORIC PROPERTY **MAINTENANCE STANDARDS**

All buildings, structures, yards and other improvements shall be maintained in a manner which does not detract from the appearance of the immediate neighborhood. The following conditions are prohibited:

1. Dilapidated, deteriorating, or unrepaired structures, such as: fences, roofs, doors, walls and windows.
2. Publicly visible storage of scrap lumber, junk, trash or debris.
3. Publicly visible storage of abandoned, discarded or unused objects or equipment, such as automobiles, automobile parts, furniture, stoves, refrigerators, cans, containers or similar items.
4. Stagnant water or excavations, including pools or spas.
5. Any device, decoration, design, structure or vegetation that is unsightly by reason of its height, condition, or its inappropriate location.

EXHIBIT “D”

REHABILITATION/MAINTENANCE SCOPE OF WORK

[Attached.]

EXHIBIT “D”

REHABILITATION/MAINTENANCE SCOPE OF WORK

3808 E. Larkstone Drive

Priority	Description of Work	Cost Estimate	Completion Date
1.	Replace existing HVAC system with a new system in compliance with the Orange Eichler Design Standards.	\$20,000	2022
2.	Remove or reroute existing exterior mounted electrical circuits into the interior of the house and repair damaged siding.	\$6,200	2022
3.	Reroute dryer vent to the exterior of the house.	\$600	2022
4.	Maintenance and repair existing sliding doors and screens.	\$850	2022
5.	Remove porcelain tile from fireplace and restore original CMU block finish.	\$4,800	2023
6.	Repair deteriorated roof beams in atrium from sun and water damage.	\$3,700	2023
7.	New spray foam roof system and downspouts.	\$40,000	2024
8.	Paint exterior of the house.	\$15,000	2024
9.	Recoat existing foam roof per recommended five-year maintenance schedule, for a total of two treatments.	\$10,000	2025, 2030
TOTAL		\$101,150	

EXHIBIT “E”

HISTORIC PROPERTY INVENTORY FORM (DPR 523)

[Attached.]

State of California - The Resources Agency
DEPARTMENT OF PARKS AND RECREATION
PRIMARY RECORD

Primary #

HRI #

Trinomial

NRHP Status Code

Other Listings:

Review Code:

Reviewer:

Date:

Page 1 of 3

*Resource Name or #:

LARKSTONE_E_3808__APN_094-451-18

(Assigned by Recorder)

P1. Other Identifier: Fairhaven Tract

*P2. Location: ☐ Not for Publication ☒ Unrestricted

*a. County: Orange and (P2b and P2c or P2d. Attach a location map as necessary.)

*b. USGS 7.5' Quad: Date: T ; R ; 1/4 of 1/4 of Sec ; B.M.

c. Address: 3808 - E LARKSTONE DR , # City: Orange Zip: 92869

d. UTM: (Give more than one for large and/or linear resources) Zone ' mE/ mN

e. Other Locational Data:

*P3a. Description: (Describe resource and its major elements. Include design, materials, condition, alterations, size, setting, and boundaries. Continues on Pg.3.)

Materials:

Model LJ-115

*P3b. Resource Attributes: (HP2)--Single family property
(List attributes and codes)

*P4. Resources Present: ☒ Building ☐ Structure ☐ Object ☐ Site ☐ Element of District ☐ District ☐ Other (Isolates, etc.)

P5b. Description of Photo: 2005

(View, date, accession #)



*P6. Date Constructed/ Age and Source:

1960 c

☐ Historic ☐ Prehistoric ☐ Both

*P7. Owner and Address:

*P8: Recorded by: (Name, affiliation, and address)

Marissa Moshier, Historic
Preservation Planner

City of Orange

300 E. Chapman Ave.

Orange, CA 92866

*P9. Date Recorded:

June 2015

*P10. Survey Type: (Describe)

Reconnaissance

*P11. Report Citation: (Cite survey report and other sources, or enter "none.")

Orange County Assessor Records (2005). Chattel Architecture (2005)
Historic Resources Survey.

*Attachments:

☐ NONE

☐ Location Map

☒ Continuation Sheet(s)

☒ Building, Structure, and Object Record

☐ Archaeological Record

☐ District Record

☐ Linear Feature Record

☐ Milling Station Record ☐ Rock Art Record

☐ Artifact Record

☐ Photograph Record

☐ Other (List):

DPR 523A (1/95)

*Required Information

State of California - The Resources Agency
DEPARTMENT OF PARKS AND RECREATION
BUILDING, STRUCTURE, AND OBJECT RECORD

Primary #

HRI #

*NRHP Status Code 3D

Page 2 of 3

*Resource Name or #:
(Assigned by Recorder)

LARKSTONE_E_3808__APN_094-451-18

B1. Historic Name: Unknown

B2. Common Name: _____

B3. Original Use: RES

B4. Present Use: RES

*B5. Architectural Style: Mid-Century Modern

*B6. Construction History: (Construction date, alterations, and date of alterations) 1960 ☐ Historic ☐ Prehistoric ☐ Both
Driveway repaved.

*B7. Moved? ☒ No ☐ Yes ☐ Unknown Date: _____ Original Location: _____

*B8. Related Features: _____

*B9. Architect or Builder: Eichler Homes - A. Quincy Jones

*B10. Significance: Theme: Architecture Area: City of Orange Property Type: Residence

Period of Significance: Eichler Tract (c. 1959 - 1965) Applicable Criteria: C

(Discuss importance in terms of historical or architectural context as defined by theme, period, and geographic scope. Also address integrity. Continues on Pg.4.)

Structural Integrity: Excellent Condition - Low level of alteration as of 2005.

Site Integrity: _____

Opportunities _____

B11. Additional Resource Attributes: (List attributes and codes) _____

*B12. References:

Orange Daily News. Eichler Tract Brochures and miscellaneous Eichler materials from the Orange Public Library.

B13. Remarks: (Continues on Pg.3.)

Status change since 1991 Survey: Not previously surveyed.

(Sketch Map with North arrow required.)

*B14. Evaluator: Robert Chattel

*Date of Evaluation: September 2005

(This space reserved for official comments.)

DPR 523B (1/95)

*Required Information

State of California - The Resources Agency
DEPARTMENT OF PARKS AND RECREATION
CONTINUATION SHEET

Primary # _____
HRI # _____
Trinomial _____

ORA

Page 3 of 3

*Resource Name or #:
(Assigned by Recorder)

LARKSTONE_E_3808__APN_094-451-18

Recorded by:

Marissa Moshier, Historic Preservation Planner
City of Orange
300 E. Chapman Ave.
Orange, CA 92866

Date Recorded: June 2015

☒ Continuation

☐ Update

Years Surveyed: 2005, 2015

Description of Photo:

Listed in National Register:

General Plan: LDR # of Buildings: 1

Planning Zone: R-1-8 # of Stories: 1

Lot Acre: 0.1848 # of Units: 1

Principal Building Sqft: 2377

B6. Construction History (Continued from Pg.2):

B13. Remarks (Continued from Pg.2):

P3a. Description (Continued from Pg.1):



RECORDING REQUESTED BY
AND, WHEN RECORDED,
MAIL TO:

City Clerk
City of Orange
300 E. Chapman Avenue
Orange, California, 92866

Exempt from recording fees pursuant to
Gov. Code Sections 6103 and 27383

Property Address: 728 E. Glendale Avenue
APN: 374-222-06
Mills Act Contract Number: 382.0-21

HISTORIC PROPERTY PRESERVATION AGREEMENT (MILLS ACT CONTRACT)

THIS HISTORIC PROPERTY PRESERVATION AGREEMENT (“Agreement”) is made and entered into as of the date of execution by the City (“Effective Date”), by and between the CITY OF ORANGE, a municipal corporation (“City”), and Hoang Anh N. Nguyen, a Single Woman (“Owner”), with reference to the following:

RECITALS

WHEREAS, the Mills Act (Government Code Section 50280 *et seq.*) provides cities with the opportunity to contract with owners of qualified historical properties whereby the owner promises to preserve and rehabilitate the property in return for a potential reduced property tax assessment; and

WHEREAS, the City of Orange has established Historic Districts consisting of the Plaza Historic District, listed in the National Register of Historic Places; the Old Towne Orange Historic District, listed in the National Register of Historic Places; the local Old Towne Orange Historic District, designated by the Orange City Council; and the local Eichler Fairhaven, Fairhills, and Fairmeadow Historic Districts, designated by the Orange City Council; and the City desires to promote the character, quality of life, and historic features of said Districts to its citizens and visitors; and

WHEREAS, the City is dedicated to the protection and stabilization of property values through maintaining and upgrading its older housing stock, through the use of incentives such as the Mills Act; and

WHEREAS, the Mills Act also has beneficial effects on City businesses, economic stability and community pride by preserving important neighborhood historic resources; and

WHEREAS, the use of the Mills Act will fulfill one of the goals of the City’s 2010 General Plan Cultural Resources Element; specifically,

“Provide incentives and expand education efforts for historic preservation” (Goal 3.0, CR-22); and

WHEREAS, Owner possesses fee simple title in and to that certain real property, together with associated structures and improvements thereon, located at 728 E. Glendale Avenue in the City of Orange, County of Orange, State of California, having Assessor’s Parcel Number 374-222-06 and more specifically described in Exhibit A, which exhibit is attached hereto and made a part hereof (“Historic Property”); and

WHEREAS, the Historic Property is a qualified historical property under the Mills Act in that it is privately owned property which is not exempt from property taxation and is either: individually designated or is a contributing property within a designated district which is listed in the National Register of Historic Places, California Register of Historical Resources or Register of Historical Landmarks, California Points of Historical Interest, or is a contributing property in a locally designated historic district; and

WHEREAS, Owner, in consideration for abiding by the terms of this Agreement shall be entitled to a reassessment of valuation of the Historic Property and any corresponding reduction in property taxes pursuant to the provisions of the California Revenue and Taxation Code; and

WHEREAS, it is the City’s expectation that the Owner will use the property tax savings accrued under this Agreement for improvements to the “Historic Property” (as defined below). To that end, as a condition of renewal, the City will require a revised schedule of improvements every ten years showing a plan for improvements commensurate with the tax savings; and

WHEREAS, the City and Owner for their mutual benefit, now desire to enter into this Agreement to limit the use of the Historic Property to prevent inappropriate alterations, to ensure that characteristics of historic significance are preserved and maintained in an exemplary manner, and to carry out the purposes of Article 12 (commencing with Section 50280) of Chapter 1, Part 1, Division 1 of Title 5 of the California Government Code and Article 1.9 (commencing with Section 439) of Chapter 3, Part 2 of Division 1 of the California Revenue and Taxation Code.

AGREEMENT

NOW, THEREFORE, both Owner and City, in consideration of the mutual promises, covenants and conditions contained herein and the substantial public benefits to be derived therefrom, do hereby agree as follows:

1. **APPLICABLE LAWS.** This Agreement is made pursuant to California Government Code Sections 50280 through 50290 and Article 1.9 (commencing with Section 439) of Chapter 3, Part 2 of Division 1 of the California Revenue and Taxation Code and is subject to all of the provisions of those statutes. To the extent any of the provisions in this Agreement are inconsistent with the aforementioned provisions of the Government and Revenue and Taxation Codes, they are superseded by those Code Sections.

2. **ASSESSMENT OF VALUATION.** Property tax relief afforded to Owner pursuant to Chapter 3, Part 2 of Division 1 of the California Revenue and Taxation Code will be determined solely by the Orange County Office of the Assessor. City makes no representations regarding the actual tax savings any person may realize by entering into this Agreement.
3. **PRESERVATION OF PROPERTY.** Owner agrees to preserve and maintain the Historic Property and its character defining features. Character defining features include, but are not necessarily limited to, the general architectural form, style, materials, design, scale, details, mass, roofline and other aspects of the appearance of the exterior of the Historic Property. For purposes of identification of the Historic Property, the City's Official Historic Property Inventory Form (DPR 523) is attached as Exhibit E.

The *Secretary of the Interior's Standards for Rehabilitation* (Exhibit B) and City's minimum maintenance standards (Exhibit C), attached hereto and incorporated herein by reference, shall constitute the minimum standards and conditions for preservation and rehabilitation of the Historic Property, and shall apply to the Historic Property throughout the term of this Agreement. Owner shall, where necessary, rehabilitate the Historic Property to conform to the rules and regulations of the Office of Historic Preservation of the California Department of Parks and Recreation, the *Secretary of the Interior's Standards for Rehabilitation*, the California Historical Building Code, and the City of Orange's Historic Preservation Design Standards for Old Towne and Eichler Design Standards.

As consideration for the City to enter into this Agreement, the Owner agrees, at its own cost and expense, to complete, or cause to be completed, the work or improvements described in Exhibit D within the times established therefore in Exhibit D. The Owner shall secure any and all permits which may be required by the City or any other governmental agency affected by the construction of the work or improvements. The Owner accepts responsibility for and shall be responsible for identification of and compliance with all applicable laws pertaining to the construction and installation of the work or improvements described on Exhibit D and the contract or contracts pertaining thereto. The Owner will neither seek to hold nor hold the City liable for, and will hold the City harmless with respect to, any consequences of any failure by the Owner to correctly determine the applicability of any such requirements to any contract he/she/they enter into.

In addition to the foregoing, the Owner hereby agrees to and will comply with all applicable local, state, and federal statutes, regulations, rules, codes (including building codes), ordinances, and other requirements of governmental authorities now or hereafter in effect ("Applicable Laws") pertaining to the use of the Historic Property. Owner must give the City immediate written notice on Owner's becoming aware that the use or condition of the Historic Property is in violation of any Applicable Laws.

4. **INSPECTIONS AND ANNUAL REPORTING.** Owner agrees to permit the examination, by prior appointment, of the interior and exterior of the Historic Property by the City at a minimum every five (5) years during the Agreement term to determine Owner's compliance with the terms and provisions of this Agreement. Owner agrees to provide the City with a report as to the status of the Historic Property annually within thirty (30) days following each anniversary of the

Effective Date of this Agreement. The annual report shall provide substantiation reasonably satisfactory to the City's Historic Preservation Planner or in his/her absence the Director of Community Development that Owner has completed the work required by Exhibit D for the twelve month period preceding each anniversary of this Agreement, and whether the Historic Property has undergone any changed conditions, and whether Owner has received any public funds from other sources designated for the preservation or maintenance of the Historic Property and from whom such funds have been received.

5. **PAYMENT OF ANNUAL FEE.** The Owner shall pay the City an annual fee to cover administrative costs associated with this Agreement including but not limited to the reasonable cost of monitoring the Historic Property, performing required inspections, and enforcement of the Agreement. Said fee shall be payable to the City of Orange and shall be remitted to the Planning Division upon demand and prior to any required inspection. The amount of the annual inspection fee shall be established by the City and may be revised from time to time, which fee shall be set forth in the City's Master Schedule of Fees and Charges. Failure to pay the required fee within 45 days of the due date will be considered a willful breach of this Agreement and may result in cancellation of the Agreement in accordance with the cancellation terms detailed below.
6. **TERM.** The term of this Agreement is for a period of ten (10) years. The initial term of this Agreement shall be from July 13, 2021 to and including July 13, 2031.
7. **AUTOMATIC RENEWAL.** On each yearly anniversary of the Effective Date of this Agreement ("renewal date"), one year shall be added automatically to the initial term of this Agreement, unless notice of non-renewal is given as provided in this Agreement.
8. **EFFECT OF OUTSIDE FUNDS.** If Owner receives funds designated for the preservation or maintenance of the Historic Property from any other public agency, this Agreement shall not be renewed except upon the vote of the City Council.
9. **NOTICE OF NONRENEWAL.** If in any year either the Owner or City desires not to renew this Agreement, that party shall serve written notice of nonrenewal to the other party in advance of the annual renewal date. Unless the notice is served by Owner to City at least ninety (90) days, or by City to Owner at least sixty (60) days prior to the renewal date, one year shall automatically be added to the term of the Agreement. Within fifteen (15) days of receipt by Owner of a notice of nonrenewal from the City, Owner may make a written protest. Upon receipt of such a protest the City Council shall set a hearing prior to the expiration of the renewal date of this Agreement or toll the renewal date until such hearing can reasonably held. Owner may furnish the City Council with any information which the Owner deems relevant; and shall furnish the City Council with any information it may require. At any time prior to the renewal date, City may withdraw its notice of nonrenewal.
10. **EFFECT OF NOTICE NOT TO RENEW.** If in any year either party serves notice of intent not to renew this Agreement, this Agreement shall remain in effect for the balance of the period remaining since the original execution date if not yet renewed, or the last renewal date of the Agreement, as the case may be.

11. **UPDATE OF IMPROVEMENT SCHEDULE.** At least ninety (90) days prior to the tenth (10th) anniversary of the Effective Date of this Agreement, and ninety (90) days prior to every tenth (10th) anniversary thereafter, Owner shall provide City with an updated schedule of rehabilitation maintenance items for the City's review and approval. Such updated schedule shall contain a list of proposed improvements and/or revisions to be accomplished during the next succeeding ten (10) years of the Agreement and a schedule for the construction of such improvements. Within thirty (30) days after the City's receipt of said updated schedule, the City's Director of Community Development shall either approve or disapprove such proposed schedule of proposed improvements, or shall respond in writing by stating what further information, if any, the City reasonably requires in order to determine the request complete and determine whether or not to grant the requested approval. Upon receipt of such a response, the Owner shall promptly furnish to the City such further information as may be reasonably requested.

From time to time, at the request of the City's Director of Community Development (or his/her authorized representative), the Owner shall meet and confer with the City's Planner for Historic Preservation or in his/her absence the Director of Community Development (or his/her designee) regarding matters arising hereunder with respect to the work and improvements and the progress in constructing the same.

12. **INDEPENDENT ADVICE OF COUNSEL.** The Owner, and each of them, represent and declare that in executing this Agreement he/she/they have relied solely upon his/her/their own judgment, belief and knowledge, and the advice and recommendations of his/her/their own independently selected counsel, concerning the nature, extent and duration of his/her/their rights and claims, and that he/she/they have not been influenced to any extent whatsoever in executing the same by the City or by any person representing the City.
13. **ENFORCEMENT OF AGREEMENT.** If the City determines the owner has breached any of the conditions of the Agreement provided for or has allowed the property to deteriorate to the point it no longer meets the standards for a qualified historical property, the City shall either cancel the Agreement or bring any action in court necessary to enforce the Agreement including, but not limited to an action to enforce the Agreement by specific performance to cure, correct or remedy any breach of the terms of this Agreement, to recover damages for any breach, or to obtain any other remedy consistent with the purpose of this Agreement. In the event of a default under the provisions of this Agreement by Owner, City shall give written notice to Owner specifying the alleged grounds for the default. Said notice shall be given by registered or certified mail addressed to the address stated in this Agreement. If such violation(s) is not corrected to the reasonable satisfaction of the City within thirty (30) days from the receipt of the notice of violation, or within such reasonable time as may be required to cure the breach or default, provided that acts to cure, correct or remedy such breach or default are commenced within thirty (30) days and thereafter diligently pursued to completion, then City may, without further notice, institute legal action.

Except as otherwise expressly stated in this Agreement, the rights and remedies of the City are cumulative, and the exercise by the City of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the Owner. Any failure or delay by the City in asserting any

of its right and remedies as to a breach of any of the covenants, conditions or agreements set forth herein shall not operate as a waiver of such breach or of any such rights or remedies, or deprive the City of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce such rights or remedies. A waiver by the City of a breach shall not be construed as a waiver of any succeeding breach of the same or other covenants, conditions or agreements set forth in this Agreement.

14. CANCELLATION. In lieu of bringing an action to enforce the Agreement City may cancel this Agreement if City determines Owner has breached any of the conditions or covenants of this Agreement or has allowed the Historic Property to deteriorate to the point that it no longer meets the standards for a qualified historical property. City may also cancel this Agreement if it determines Owner has failed to rehabilitate the Historic Property in the manner specified in this Agreement.

15. NOTICE OF CANCELLATION. This Agreement cannot be canceled until after City has given notice and has held a public hearing as required by Government Code Section 50285. Notice of the hearing shall be mailed to the last known address of each owner of property within 300 feet of the Historic Property and shall be published in accordance with Government Code Section 6061.

16. CANCELLATION FEE. If City cancels this Agreement in accordance with Section 15 above, Owner shall pay a cancellation fee of twelve and one-half percent (12-1/2%) of the current fair market value of the Historic Property at the time of cancellation. The current fair market value shall be determined by the County Assessor as though the Historic Property were free of the restriction on the Historic Property imposed pursuant to this Agreement. The cancellation fee shall be paid to the County Auditor at such time and in such manner as the County Auditor shall prescribe.

17. NOTICES. All notices required by or provided for in the Agreement shall be given in writing and may be mailed or delivered in person at the address of the respective parties as specified below or at any other address as may be later specified by the parties. Deposit of notice in the mail, postage prepaid, shall be deemed receipt of the notice.

City of Orange
Attn.: City Clerk
300 E. Chapman Avenue
Orange, CA 92866

Hoang Anh Nguyen
728 E. Glendale Avenue
Orange, CA 92865

18. NO COMPENSATION. Owner shall not receive any payment from the City in consideration of the obligations imposed under this Agreement. The Owner acknowledges and agrees that the consideration for the execution of this Agreement is the substantial public benefit to be derived therefrom and the advantage that will accrue to Owner as a result of the effect upon the assessed value of the Historic Property on account of the restrictions on the use and preservation of the Historic Property.

19. REMEDY IF AGREEMENT HELD NOT ENFORCEABLE. In the event it is finally determined this Agreement does not constitute an enforceable restriction within the meaning of the applicable provisions of the California Government Code and the California Revenue and Taxation Code, except for an unenforceability arising from the cancellation or nonrenewal of this Agreement, then this Agreement shall be null and void and without further effect and the Historic Property subject to this Agreement shall from that time be free from any restriction whatsoever under this Agreement without any payment or further act of the parties to this Agreement.

20. ACQUISITION OF PROPERTY BY EMINENT DOMAIN; CANCELLATION OF CONTRACT; INAPPLICABILITY TO DETERMINATION OF VALUE. In the event that the Historic Property is acquired in whole or part by eminent domain or other acquisition by any entity authorized to exercise the power of eminent domain, and the acquisition is determined by the City to frustrate the purpose of the Agreement, the Agreement shall be canceled and no fee shall be imposed under Section 17, above. The Agreement shall be deemed null and void for all purposes of determining the value of the Historic Property so acquired.

If, subsequent to the filing of an action in eminent domain, the proposed condemnation is abandoned by the condemning agency, the restrictions on the use of the Historic Property included in this Agreement shall, without further agreement of the parties, be reinstituted and the terms of this Agreement shall continue in full force and effect.

21. EFFECT OF AGREEMENT. None of the terms, provisions or conditions of this Agreement shall be deemed to create a partnership between the parties hereto and any of their heirs, successors or assigns, nor shall such terms, provisions or conditions cause the parties hereto to be considered joint venturers or members of any joint enterprise.

22. SUCCESSORS AND ASSIGNS. This Agreement is binding upon and shall inure to the benefit of all successors in interest of the Owner, regardless of the tax exempt status of any subsequent owner. A successor in interest shall have the same rights and obligations under this Agreement as the original owner who entered into this Agreement.

23. REQUIREMENTS RELATED TO TRANSFER OF HISTORIC PROPERTY. In the event of any sale, transfer, assignment or conveyance of the Historic Property ("Transfer"), the Owner agrees that, at least thirty (30) days prior to such Transfer, it shall give written notice to the City of such proposed Transfer, including the name(s) of the transferee(s). In addition, the Owner and the proposed transferee(s) shall enter into and deliver to the City through the escrow for the Transfer of the Historic Property an assignment and assumption agreement in a form satisfactory to the City's Attorney or such other evidence as may be satisfactory to the City that the transferee(s) has (have) assumed the Owner's obligations set forth in this Agreement. Upon the Transfer of the Historic Property and the assumption of the obligations hereunder by the transferee(s), the Owner's liability for performance shall be terminated as to any obligation to be performed hereunder after the date of such Transfer.

24. RECORDATION. City shall record a copy of this Agreement with the Office of the County Recorder of the County of Orange.

25. AMENDMENTS. This Agreement may be amended, in whole or in part, only by a written and recorded instrument executed by the parties hereto, except that the Director of Community Development is authorized to amend the list of required projects in Exhibit D.
26. COUNTERPARTS. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which shall constitute one and the same agreement with the same effect as if all parties had signed the same signature page. Any signature page of this Agreement may be detached from any counterpart of this Agreement and re-attached to any other counterpart of this Agreement identical in form hereto but having attached to it one or more additional signature pages.
27. ADMINISTRATION. This Agreement shall be administered by the City's Director of Community Development (or his/her designated representative) following approval of this Agreement by the City. The City shall maintain authority of this Agreement through the City's Director of Community Development (or his/her authorized representative). The City's Director of Community Development shall have the authority to issue interpretations, waive provisions and enter into amendments of this Agreement on behalf of the City so long as such actions do not change the uses permitted on the Historic Property or the purpose of this Agreement. Such amendments may include extensions of time or amendments to the projects specified in Exhibit D. All other waivers or amendments shall require the written approval and consent of the City Council.

[Remainder of page intentionally left blank; signatures on next page]

IN WITNESS WHEREOF, the City and the Owner have executed this Agreement.

“OWNER”

Dated: _____, 2021

Hoang Anh Nguyen

“CITY”

CITY OF ORANGE, a municipal corporation

Dated: _____, 2021

By: _____
Mark A. Murphy
Mayor

ATTEST:

APPROVED AS TO FORM:

Pamela Coleman
City Clerk

Mary E. Binning
Senior Assistant City Attorney

ACKNOWLEDGEMENT

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

State of California
County of _____

On _____ before me, _____,
a Notary Public in and for the State of California, personally appeared _____

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

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

WITNESS my hand and official seal.

Signature _____ (Seal)

EXHIBIT “A”

LEGAL DESCRIPTION OF HISTORIC PROPERTY

REAL PROPERTY IN THE CITY OF ORANGE, COUNTY OF ORANGE, STATE OF CALIFORNIA, DESCRIBED AS:

Lot 95 of Tract No. 3978, as per map recorded in Book 140 Pages 17, 18, and 19 of Miscellaneous Maps, in the office of the County Recorder of Said County.

[APN 374-222-06]

EXHIBIT “B”

SECRETARY OF THE INTERIOR'S STANDARDS FOR REHABILITATION

1. Every reasonable effort shall be made to provide a compatible use for a property, which requires a minimal alteration of the building structure, or site and its environment, or to use a property for its originally intended purpose.
2. The distinguishing original qualities or character of a building, structure, or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural features should be avoided when possible.
3. All buildings, structures, and sites shall be recognized as products of their own time. Alterations that have no historical basis and which seek to create an earlier appearance shall be discouraged.
4. Changes which may have taken place in the course of time are evidence of the history and development of a building, structure or site and its environment. These changes may have acquired significance in their own right, and this significance shall be recognized and respected.
5. Distinctive stylistic features or examples of skilled craftsmanship which characterize a building, structure or site shall be treated with sensitivity.
6. Deteriorated architectural features shall be repaired rather than replaced, wherever possible. In the event replacement is necessary, the new material should match the material being replaced in composition, design, color, texture, and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplications of features, substantiated by historic, physical, or pictorial evidence rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.
7. The surface cleaning of structures shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage the historic building materials shall not be undertaken.
8. Every reasonable effort shall be made to protect and preserve archeological resources affected by, or adjacent to, any project.
9. Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant historical, architectural or cultural material, and such design is compatible with the size, scale, color, material and character of the property, neighborhood or environment.
10. Wherever possible, new additions or alterations to structures shall be done in such a manner that, if such additions or alterations were to be removed in the future, the essential form and integrity of the structure would be unimpaired.

EXHIBIT “C”

CITY OF ORANGE HISTORIC PROPERTY MAINTENANCE STANDARDS

All buildings, structures, yards and other improvements shall be maintained in a manner which does not detract from the appearance of the immediate neighborhood. The following conditions are prohibited:

1. Dilapidated, deteriorating, or unrepaired structures, such as: fences, roofs, doors, walls and windows.
2. Publicly visible storage of scrap lumber, junk, trash or debris.
3. Publicly visible storage of abandoned, discarded or unused objects or equipment, such as automobiles, automobile parts, furniture, stoves, refrigerators, cans, containers or similar items.
4. Stagnant water or excavations, including pools or spas.
5. Any device, decoration, design, structure or vegetation that is unsightly by reason of its height, condition, or its inappropriate location.

EXHIBIT “D”

REHABILITATION/MAINTENANCE SCOPE OF WORK

[Attached.]

EXHIBIT “D”

REHABILITATION/MAINTENANCE SCOPE OF WORK

728 E. Glendale Avenue

Priority	Description of Work	Cost Estimate	Completion Date
1.	Replace three skylights with new modules.	\$1700	2021
2.	Remove attached trellis, replace roof metal eaves, replace damaged termite wood planks on ceiling of kitchen side (next to the garage)	\$5000	2022
3.	Replace damaged sidings (front, atrium wall on the east side, east side exterior of the house, west side exterior of the house)	\$7,000	2023
4.	Repair/replace if needed front door with new lock set, Eichler Standards (material and labor)	\$4,000	2023
5.	Paint exterior of the house including atrium walls	\$7,000	2023
6.	Replace two broken glass panels adjacent to brick chimney on south elevation with new tempered glass panels (material and labor).	\$5,000	2024
7.	Maintenance and repair or replace as needed for horizontal sliding windows (5) on east and west side of the house. Replace screens as needed.	\$3,000	2024
8.	Maintenance and repair or replace as needed for sliding glass doors in atrium (3) and on rear elevation (2). Repair locks in the atrium (3). Replace screens as needed.	\$5,000	2024
9.	Repair/replace glass panels as needed and install tempering safety film on atrium and rear glass walls in compliance with the Orange Eichler Design Standards.	\$25,000	2025
10.	Repair/replace as needed for three glass panels at front entrance with new Mistlite glass panels, Eichler Standards (material and labor)	\$10,000	2026
11.	Install gutters with lid for the east side of the roof	\$2000	2028
12.	Remove glass block wall insert on west elevation and restore original Eichler exterior siding wall.	\$15,000	2029
TOTAL		\$89,700	

EXHIBIT “E”

HISTORIC PROPERTY INVENTORY FORM (DPR 523)

[Attached.]

State of California - The Resources Agency
DEPARTMENT OF PARKS AND RECREATION
PRIMARY RECORD

Primary #

HRI #

Trinomial

NRHP Status Code

Other Listings:

Review Code:

Reviewer:

Date:

Page 1 of 3

*Resource Name or #:

GLENDAL E 728 APN 374-222-06

(Assigned by Recorder)

P1. Other Identifier: Fairmeadow Tract

*P2. Location: ☐ Not for Publication ☒ Unrestricted

*a. County: Orange and (P2b and P2c or P2d. Attach a location map as necessary.)

*b. USGS 7.5' Quad: Date: T ; R ; 1/4 of 1/4 of Sec ; B.M.

c. Address: 728 - E GLENDALE AVE , # City: Orange Zip: 92865

d. UTM: (Give more than one for large and/or linear resources) Zone ' mE/ mN

e. Other Locational Data:

*P3a. Description: (Describe resource and its major elements. Include design, materials, condition, alterations, size, setting, and boundaries. Continues on Pg.3.)

Materials:

Model LJ-144

*P3b. Resource Attributes: (HP2)--Single family property
(List attributes and codes)

*P4. Resources Present: ☒ Building ☐ Structure ☐ Object ☐ Site ☐ Element of District ☐ District ☐ Other (Isolates, etc.)

P5b. Description of Photo: 2005

(View, date, accession #)



*P6. Date Constructed/ Age and Source:

1964 c

☐ Historic ☐ Prehistoric ☐ Both

*P7. Owner and Address:

*P8: Recorded by: (Name, affiliation, and address)

Marissa Moshier, Historic
Preservation Planner

City of Orange

300 E. Chapman Ave.

Orange, CA 92866

*P9. Date Recorded:

June 2015

*P10. Survey Type: (Describe)

Reconnaissance

*P11. Report Citation: (Cite survey report and other sources, or enter "none.")

Orange County Assessor Records (2005). Chattel Architecture (2005)
Historic Resources Survey.

*Attachments:

☐ NONE

☐ Location Map

☒ Continuation Sheet(s)

☒ Building, Structure, and Object Record

☐ Archaeological Record

☐ District Record

☐ Linear Feature Record

☐ Milling Station Record ☐ Rock Art Record

☐ Artifact Record

☐ Photograph Record

☐ Other (List):

DPR 523A (1/95)

*Required Information

State of California - The Resources Agency
DEPARTMENT OF PARKS AND RECREATION
BUILDING, STRUCTURE, AND OBJECT RECORD

Primary #

HRI #

*NRHP Status Code 3D

Page 2 of 3

*Resource Name or #:
(Assigned by Recorder)

GLENDAL E_728 APN_374-222-06

B1. Historic Name: Unknown

B2. Common Name:

B3. Original Use: RES

B4. Present Use: RES

*B5. Architectural Style: Mid-Century Modern

*B6. Construction History: (Construction date, alterations, and date of alterations) Date of Construction: 1964 ☐ Historic ☐ Prehistoric ☐ Both
Front door replaced, driveway repaved.

*B7. Moved? ☒ No ☐ Yes ☐ Unknown Date: Original Location:

*B8. Related Features:

*B9. Architect or Builder: Eichler Homes - A. Quincy Jones

*B10. Significance: Theme: Architecture Area: City of Orange Property Type: Residence

Period of Significance: Eichler Tract (c. 1959 - 1965) Applicable Criteria: C

(Discuss importance in terms of historical or architectural context as defined by theme, period, and geographic scope. Also address integrity. Continues on Pg.4.)

Structural Integrity: Excellent Condition - Low level of alteration as of 2005.

Site Integrity:

Opportunities

B11. Additional Resource Attributes: (List attributes and codes)

*B12. References:

Orange Daily News. Eichler Tract Brochures and miscellaneous Eichler materials from the Orange Public Library.

B13. Remarks: (Continues on Pg.3.)

Status change since 1991 Survey: Not previously surveyed.

(Sketch Map with North arrow required.)

*B14. Evaluator: Robert Chattel

*Date of Evaluation: September 2005

(This space reserved for official comments.)

DPR 523B (1/95)

*Required Information

State of California - The Resources Agency
DEPARTMENT OF PARKS AND RECREATION
CONTINUATION SHEET

Primary #

HRI #

Trinomial ORA

Page 3 of 3

*Resource Name or #:
(Assigned by Recorder)

GLENDAL E_728__APN_374-222-06

Recorded by:

Marissa Moshier, Historic Preservation Planner
City of Orange
300 E. Chapman Ave.
Orange, CA 92866

Date Recorded: June 2015

☒ Continuation

☐ Update

Years Surveyed: 2005, 2015

Description of Photo:

Listed in National Register:

General Plan: LDR # of Buildings: 1

Planning Zone: R-1-8 # of Stories: 1

Lot Acre: 0.1995 # of Units: 1

Principal Building Sqft: 2029

B6. Construction History (Continued from Pg.2):

B13. Remarks (Continued from Pg.2):

P3a. Description (Continued from Pg.1):



RECORDING REQUESTED BY
AND, WHEN RECORDED,
MAIL TO:

City Clerk
City of Orange
300 E. Chapman Avenue
Orange, California, 92866

Exempt from recording fees pursuant to
Gov. Code Sections 6103 and 27383

Property Address: 154 N. Pixley Street
APN: 386-462-16
Mills Act Contract Number: 383.0-21

HISTORIC PROPERTY PRESERVATION AGREEMENT (MILLS ACT CONTRACT)

THIS HISTORIC PROPERTY PRESERVATION AGREEMENT (“Agreement”) is made and entered into as of the date of execution by the City (“Effective Date”), by and between the CITY OF ORANGE, a municipal corporation (“City”), and Christina N. Kraus (“Owner”), with reference to the following:

RECITALS

WHEREAS, the Mills Act (Government Code Section 50280 *et seq.*) provides cities with the opportunity to contract with owners of qualified historical properties whereby the owner promises to preserve and rehabilitate the property in return for a potential reduced property tax assessment; and

WHEREAS, the City of Orange has established Historic Districts consisting of the Plaza Historic District, listed in the National Register of Historic Places; the Old Towne Orange Historic District, listed in the National Register of Historic Places; the local Old Towne Orange Historic District, designated by the Orange City Council; and the local Eichler Fairhaven, Fairhills, and Fairmeadow Historic Districts, designated by the Orange City Council; and the City desires to promote the character, quality of life, and historic features of said Districts to its citizens and visitors; and

WHEREAS, the City is dedicated to the protection and stabilization of property values through maintaining and upgrading its older housing stock, through the use of incentives such as the Mills Act; and

WHEREAS, the Mills Act also has beneficial effects on City businesses, economic stability and community pride by preserving important neighborhood historic resources; and

WHEREAS, the use of the Mills Act will fulfill one of the goals of the City’s 2010 General Plan Cultural Resources Element; specifically,

“Provide incentives and expand education efforts for historic preservation” (Goal 3.0, CR-22); and

WHEREAS, Owner possesses fee simple title in and to that certain real property, together with associated structures and improvements thereon, located at 154 N. Pixley Street in the City of Orange, County of Orange, State of California, having Assessor’s Parcel Number 386-462-16 and more specifically described in Exhibit A, which exhibit is attached hereto and made a part hereof (“Historic Property”); and

WHEREAS, the Historic Property is a qualified historical property under the Mills Act in that it is privately owned property which is not exempt from property taxation and is either: individually designated or is a contributing property within a designated district which is listed in the National Register of Historic Places, California Register of Historical Resources or Register of Historical Landmarks, California Points of Historical Interest, or is a contributing property in a locally designated historic district; and

WHEREAS, Owner, in consideration for abiding by the terms of this Agreement shall be entitled to a reassessment of valuation of the Historic Property and any corresponding reduction in property taxes pursuant to the provisions of the California Revenue and Taxation Code; and

WHEREAS, it is the City’s expectation that the Owner will use the property tax savings accrued under this Agreement for improvements to the “Historic Property” (as defined below). To that end, as a condition of renewal, the City will require a revised schedule of improvements every ten years showing a plan for improvements commensurate with the tax savings; and

WHEREAS, the City and Owner for their mutual benefit, now desire to enter into this Agreement to limit the use of the Historic Property to prevent inappropriate alterations, to ensure that characteristics of historic significance are preserved and maintained in an exemplary manner, and to carry out the purposes of Article 12 (commencing with Section 50280) of Chapter 1, Part 1, Division 1 of Title 5 of the California Government Code and Article 1.9 (commencing with Section 439) of Chapter 3, Part 2 of Division 1 of the California Revenue and Taxation Code.

AGREEMENT

NOW, THEREFORE, both Owner and City, in consideration of the mutual promises, covenants and conditions contained herein and the substantial public benefits to be derived therefrom, do hereby agree as follows:

1. **APPLICABLE LAWS.** This Agreement is made pursuant to California Government Code Sections 50280 through 50290 and Article 1.9 (commencing with Section 439) of Chapter 3, Part 2 of Division 1 of the California Revenue and Taxation Code and is subject to all of the provisions of those statutes. To the extent any of the provisions in this Agreement are inconsistent with the aforementioned provisions of the Government and Revenue and Taxation Codes, they are superseded by those Code Sections.

2. **ASSESSMENT OF VALUATION.** Property tax relief afforded to Owner pursuant to Chapter 3, Part 2 of Division 1 of the California Revenue and Taxation Code will be determined solely by the Orange County Office of the Assessor. City makes no representations regarding the actual tax savings any person may realize by entering into this Agreement.
3. **PRESERVATION OF PROPERTY.** Owner agrees to preserve and maintain the Historic Property and its character defining features. Character defining features include, but are not necessarily limited to, the general architectural form, style, materials, design, scale, details, mass, roofline and other aspects of the appearance of the exterior of the Historic Property. For purposes of identification of the Historic Property, the City's Official Historic Property Inventory Form (DPR 523) is attached as Exhibit E.

The *Secretary of the Interior's Standards for Rehabilitation* (Exhibit B) and City's minimum maintenance standards (Exhibit C), attached hereto and incorporated herein by reference, shall constitute the minimum standards and conditions for preservation and rehabilitation of the Historic Property, and shall apply to the Historic Property throughout the term of this Agreement. Owner shall, where necessary, rehabilitate the Historic Property to conform to the rules and regulations of the Office of Historic Preservation of the California Department of Parks and Recreation, the *Secretary of the Interior's Standards for Rehabilitation*, the California Historical Building Code, and the City of Orange's Historic Preservation Design Standards for Old Towne and Eichler Design Standards.

As consideration for the City to enter into this Agreement, the Owner agrees, at its own cost and expense, to complete, or cause to be completed, the work or improvements described in Exhibit D within the times established therefore in Exhibit D. The Owner shall secure any and all permits which may be required by the City or any other governmental agency affected by the construction of the work or improvements. The Owner accepts responsibility for and shall be responsible for identification of and compliance with all applicable laws pertaining to the construction and installation of the work or improvements described on Exhibit D and the contract or contracts pertaining thereto. The Owner will neither seek to hold nor hold the City liable for, and will hold the City harmless with respect to, any consequences of any failure by the Owner to correctly determine the applicability of any such requirements to any contract he/she/they enter into.

In addition to the foregoing, the Owner hereby agrees to and will comply with all applicable local, state, and federal statutes, regulations, rules, codes (including building codes), ordinances, and other requirements of governmental authorities now or hereafter in effect ("Applicable Laws") pertaining to the use of the Historic Property. Owner must give the City immediate written notice on Owner's becoming aware that the use or condition of the Historic Property is in violation of any Applicable Laws.

4. **INSPECTIONS AND ANNUAL REPORTING.** Owner agrees to permit the examination, by prior appointment, of the interior and exterior of the Historic Property by the City at a minimum every five (5) years during the Agreement term to determine Owner's compliance with the terms and provisions of this Agreement. Owner agrees to provide the City with a report as to the status of the Historic Property annually within thirty (30) days following each anniversary of the

Effective Date of this Agreement. The annual report shall provide substantiation reasonably satisfactory to the City's Historic Preservation Planner or in his/her absence the Director of Community Development that Owner has completed the work required by Exhibit D for the twelve month period preceding each anniversary of this Agreement, and whether the Historic Property has undergone any changed conditions, and whether Owner has received any public funds from other sources designated for the preservation or maintenance of the Historic Property and from whom such funds have been received.

5. **PAYMENT OF ANNUAL FEE.** The Owner shall pay the City an annual fee to cover administrative costs associated with this Agreement including but not limited to the reasonable cost of monitoring the Historic Property, performing required inspections, and enforcement of the Agreement. Said fee shall be payable to the City of Orange and shall be remitted to the Planning Division upon demand and prior to any required inspection. The amount of the annual inspection fee shall be established by the City and may be revised from time to time, which fee shall be set forth in the City's Master Schedule of Fees and Charges. Failure to pay the required fee within 45 days of the due date will be considered a willful breach of this Agreement and may result in cancellation of the Agreement in accordance with the cancellation terms detailed below.
6. **TERM.** The term of this Agreement is for a period of ten (10) years. The initial term of this Agreement shall be from July 13, 2021 to and including July 13, 2031.
7. **AUTOMATIC RENEWAL.** On each yearly anniversary of the Effective Date of this Agreement ("renewal date"), one year shall be added automatically to the initial term of this Agreement, unless notice of non-renewal is given as provided in this Agreement.
8. **EFFECT OF OUTSIDE FUNDS.** If Owner receives funds designated for the preservation or maintenance of the Historic Property from any other public agency, this Agreement shall not be renewed except upon the vote of the City Council.
9. **NOTICE OF NONRENEWAL.** If in any year either the Owner or City desires not to renew this Agreement, that party shall serve written notice of nonrenewal to the other party in advance of the annual renewal date. Unless the notice is served by Owner to City at least ninety (90) days, or by City to Owner at least sixty (60) days prior to the renewal date, one year shall automatically be added to the term of the Agreement. Within fifteen (15) days of receipt by Owner of a notice of nonrenewal from the City, Owner may make a written protest. Upon receipt of such a protest the City Council shall set a hearing prior to the expiration of the renewal date of this Agreement or toll the renewal date until such hearing can reasonably held. Owner may furnish the City Council with any information which the Owner deems relevant; and shall furnish the City Council with any information it may require. At any time prior to the renewal date, City may withdraw its notice of nonrenewal.
10. **EFFECT OF NOTICE NOT TO RENEW.** If in any year either party serves notice of intent not to renew this Agreement, this Agreement shall remain in effect for the balance of the period remaining since the original execution date if not yet renewed, or the last renewal date of the Agreement, as the case may be.

11. **UPDATE OF IMPROVEMENT SCHEDULE.** At least ninety (90) days prior to the tenth (10th) anniversary of the Effective Date of this Agreement, and ninety (90) days prior to every tenth (10th) anniversary thereafter, Owner shall provide City with an updated schedule of rehabilitation maintenance items for the City's review and approval. Such updated schedule shall contain a list of proposed improvements and/or revisions to be accomplished during the next succeeding ten (10) years of the Agreement and a schedule for the construction of such improvements. Within thirty (30) days after the City's receipt of said updated schedule, the City's Director of Community Development shall either approve or disapprove such proposed schedule of proposed improvements, or shall respond in writing by stating what further information, if any, the City reasonably requires in order to determine the request complete and determine whether or not to grant the requested approval. Upon receipt of such a response, the Owner shall promptly furnish to the City such further information as may be reasonably requested.

From time to time, at the request of the City's Director of Community Development (or his/her authorized representative), the Owner shall meet and confer with the City's Planner for Historic Preservation or in his/her absence the Director of Community Development (or his/her designee) regarding matters arising hereunder with respect to the work and improvements and the progress in constructing the same.

12. **INDEPENDENT ADVICE OF COUNSEL.** The Owner, and each of them, represent and declare that in executing this Agreement he/she/they have relied solely upon his/her/their own judgment, belief and knowledge, and the advice and recommendations of his/her/their own independently selected counsel, concerning the nature, extent and duration of his/her/their rights and claims, and that he/she/they have not been influenced to any extent whatsoever in executing the same by the City or by any person representing the City.
13. **ENFORCEMENT OF AGREEMENT.** If the City determines the owner has breached any of the conditions of the Agreement provided for or has allowed the property to deteriorate to the point it no longer meets the standards for a qualified historical property, the City shall either cancel the Agreement or bring any action in court necessary to enforce the Agreement including, but not limited to an action to enforce the Agreement by specific performance to cure, correct or remedy any breach of the terms of this Agreement, to recover damages for any breach, or to obtain any other remedy consistent with the purpose of this Agreement. In the event of a default under the provisions of this Agreement by Owner, City shall give written notice to Owner specifying the alleged grounds for the default. Said notice shall be given by registered or certified mail addressed to the address stated in this Agreement. If such violation(s) is not corrected to the reasonable satisfaction of the City within thirty (30) days from the receipt of the notice of violation, or within such reasonable time as may be required to cure the breach or default, provided that acts to cure, correct or remedy such breach or default are commenced within thirty (30) days and thereafter diligently pursued to completion, then City may, without further notice, institute legal action.

Except as otherwise expressly stated in this Agreement, the rights and remedies of the City are cumulative, and the exercise by the City of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the Owner. Any failure or delay by the City in asserting any

of its right and remedies as to a breach of any of the covenants, conditions or agreements set forth herein shall not operate as a waiver of such breach or of any such rights or remedies, or deprive the City of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce such rights or remedies. A waiver by the City of a breach shall not be construed as a waiver of any succeeding breach of the same or other covenants, conditions or agreements set forth in this Agreement.

14. CANCELLATION. In lieu of bringing an action to enforce the Agreement City may cancel this Agreement if City determines Owner has breached any of the conditions or covenants of this Agreement or has allowed the Historic Property to deteriorate to the point that it no longer meets the standards for a qualified historical property. City may also cancel this Agreement if it determines Owner has failed to rehabilitate the Historic Property in the manner specified in this Agreement.

15. NOTICE OF CANCELLATION. This Agreement cannot be canceled until after City has given notice and has held a public hearing as required by Government Code Section 50285. Notice of the hearing shall be mailed to the last known address of each owner of property within 300 feet of the Historic Property and shall be published in accordance with Government Code Section 6061.

16. CANCELLATION FEE. If City cancels this Agreement in accordance with Section 15 above, Owner shall pay a cancellation fee of twelve and one-half percent (12-1/2%) of the current fair market value of the Historic Property at the time of cancellation. The current fair market value shall be determined by the County Assessor as though the Historic Property were free of the restriction on the Historic Property imposed pursuant to this Agreement. The cancellation fee shall be paid to the County Auditor at such time and in such manner as the County Auditor shall prescribe.

17. NOTICES. All notices required by or provided for in the Agreement shall be given in writing and may be mailed or delivered in person at the address of the respective parties as specified below or at any other address as may be later specified by the parties. Deposit of notice in the mail, postage prepaid, shall be deemed receipt of the notice.

City of Orange	Christina Kraus
Attn.: City Clerk	154 N. Pixley Street
300 E. Chapman Avenue	Orange, CA 92868
Orange, CA 92866	

18. NO COMPENSATION. Owner shall not receive any payment from the City in consideration of the obligations imposed under this Agreement. The Owner acknowledges and agrees that the consideration for the execution of this Agreement is the substantial public benefit to be derived therefrom and the advantage that will accrue to Owner as a result of the effect upon the assessed value of the Historic Property on account of the restrictions on the use and preservation of the Historic Property.

19. REMEDY IF AGREEMENT HELD NOT ENFORCEABLE. In the event it is finally determined this Agreement does not constitute an enforceable restriction within the meaning of the applicable provisions of the California Government Code and the California Revenue and Taxation Code, except for an unenforceability arising from the cancellation or nonrenewal of this Agreement, then this Agreement shall be null and void and without further effect and the Historic Property subject to this Agreement shall from that time be free from any restriction whatsoever under this Agreement without any payment or further act of the parties to this Agreement.

20. ACQUISITION OF PROPERTY BY EMINENT DOMAIN; CANCELLATION OF CONTRACT; INAPPLICABILITY TO DETERMINATION OF VALUE. In the event that the Historic Property is acquired in whole or part by eminent domain or other acquisition by any entity authorized to exercise the power of eminent domain, and the acquisition is determined by the City to frustrate the purpose of the Agreement, the Agreement shall be canceled and no fee shall be imposed under Section 17, above. The Agreement shall be deemed null and void for all purposes of determining the value of the Historic Property so acquired.

If, subsequent to the filing of an action in eminent domain, the proposed condemnation is abandoned by the condemning agency, the restrictions on the use of the Historic Property included in this Agreement shall, without further agreement of the parties, be reinstituted and the terms of this Agreement shall continue in full force and effect.

21. EFFECT OF AGREEMENT. None of the terms, provisions or conditions of this Agreement shall be deemed to create a partnership between the parties hereto and any of their heirs, successors or assigns, nor shall such terms, provisions or conditions cause the parties hereto to be considered joint venturers or members of any joint enterprise.

22. SUCCESSORS AND ASSIGNS. This Agreement is binding upon and shall inure to the benefit of all successors in interest of the Owner, regardless of the tax exempt status of any subsequent owner. A successor in interest shall have the same rights and obligations under this Agreement as the original owner who entered into this Agreement.

23. REQUIREMENTS RELATED TO TRANSFER OF HISTORIC PROPERTY. In the event of any sale, transfer, assignment or conveyance of the Historic Property ("Transfer"), the Owner agrees that, at least thirty (30) days prior to such Transfer, it shall give written notice to the City of such proposed Transfer, including the name(s) of the transferee(s). In addition, the Owner and the proposed transferee(s) shall enter into and deliver to the City through the escrow for the Transfer of the Historic Property an assignment and assumption agreement in a form satisfactory to the City's Attorney or such other evidence as may be satisfactory to the City that the transferee(s) has (have) assumed the Owner's obligations set forth in this Agreement. Upon the Transfer of the Historic Property and the assumption of the obligations hereunder by the transferee(s), the Owner's liability for performance shall be terminated as to any obligation to be performed hereunder after the date of such Transfer.

24. RECORDATION. City shall record a copy of this Agreement with the Office of the County Recorder of the County of Orange.

25. AMENDMENTS. This Agreement may be amended, in whole or in part, only by a written and recorded instrument executed by the parties hereto, except that the Director of Community Development is authorized to amend the list of required projects in Exhibit D.
26. COUNTERPARTS. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which shall constitute one and the same agreement with the same effect as if all parties had signed the same signature page. Any signature page of this Agreement may be detached from any counterpart of this Agreement and re-attached to any other counterpart of this Agreement identical in form hereto but having attached to it one or more additional signature pages.
27. ADMINISTRATION. This Agreement shall be administered by the City's Director of Community Development (or his/her designated representative) following approval of this Agreement by the City. The City shall maintain authority of this Agreement through the City's Director of Community Development (or his/her authorized representative). The City's Director of Community Development shall have the authority to issue interpretations, waive provisions and enter into amendments of this Agreement on behalf of the City so long as such actions do not change the uses permitted on the Historic Property or the purpose of this Agreement. Such amendments may include extensions of time or amendments to the projects specified in Exhibit D. All other waivers or amendments shall require the written approval and consent of the City Council.

[Remainder of page intentionally left blank; signatures on next page]

IN WITNESS WHEREOF, the City and the Owner have executed this Agreement.

“OWNER”

Dated: _____, 2021

Christina N. Kraus

“CITY”

CITY OF ORANGE, a municipal corporation

Dated: _____, 2021

By: _____
Mark A. Murphy
Mayor

ATTEST:

APPROVED AS TO FORM:

Pamela Coleman
City Clerk

Mary E. Binning
Senior Assistant City Attorney

ACKNOWLEDGEMENT

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

State of California
County of _____

On _____ before me, _____,
a Notary Public in and for the State of California, personally appeared _____

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

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

WITNESS my hand and official seal.

Signature _____ (Seal)

EXHIBIT "A"

LEGAL DESCRIPTION OF HISTORIC PROPERTY

REAL PROPERTY IN THE CITY OF ORANGE, COUNTY OF ORANGE, STATE OF CALIFORNIA, DESCRIBED AS:

BEGINNING AT A POINT 50 FEET NORTH OF THE SOUTHEAST CORNER OF LOT 7, IN BLOCK "B", SPOTTS VILLA TRACT, AS PER MAP RECORDED IN BOOK 3, PAGE 45 OF MISCELLANEOUS MAPS, OF SAID COUNTY, CALIFORNIA, RUNNING THENCE NORTH 36 FEET; THENCE WEST 132 FEET; THENCE SOUTH 36 FEET; THENCE EAST 132 FEET TO THE POINT OF BEGINNING, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

EXCEPTING THEREFROM ALL OIL, GAS CASINGHEAD GAS, ASPHALTUM AND OTHER HYDROCARBONS AND ALL CHEMICAL GAS NOW OR HEREAFTER FOUND, SITUATED OR LOCATED IN ALL OR ANY PART OR PORTION OF THE LAND HEREIN DESCRIBED LYING MORE THAN 500 FEET BELOW THE SURFACE THEREOF, TOGETHER WITH THE RIGHT TO SLANT DRILL FOR AND REMOVE ALL OR ANY OF SAID OIL, GAS, CASINGHEAD GAS, ASPHALTUM AND OTHER HYDROCARBON, AND CHEMICAL GAS LYING BELOW A DEPTH OF MORE THAN 500 FEET BELOW THE SURFACE OF BUT WITHOUT ANY RIGHT WHATSOEVER TO ENTER UPON THE SURFACE OF SAID LAND OR UPON ANY LAND OR UPON ANY PART OR SAID LANDS WITHIN 500 FEET VERTICAL DISTANCE BELOW THE SURFACE THEREOF.

APN: 386-462-16

EXHIBIT "B"

SECRETARY OF THE INTERIOR'S STANDARDS FOR REHABILITATION

1. Every reasonable effort shall be made to provide a compatible use for a property, which requires a minimal alteration of the building structure, or site and its environment, or to use a property for its originally intended purpose.
2. The distinguishing original qualities or character of a building, structure, or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural features should be avoided when possible.
3. All buildings, structures, and sites shall be recognized as products of their own time. Alterations that have no historical basis and which seek to create an earlier appearance shall be discouraged.
4. Changes which may have taken place in the course of time are evidence of the history and development of a building, structure or site and its environment. These changes may have acquired significance in their own right, and this significance shall be recognized and respected.
5. Distinctive stylistic features or examples of skilled craftsmanship which characterize a building, structure or site shall be treated with sensitivity.
6. Deteriorated architectural features shall be repaired rather than replaced, wherever possible. In the event replacement is necessary, the new material should match the material being replaced in composition, design, color, texture, and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplications of features, substantiated by historic, physical, or pictorial evidence rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.
7. The surface cleaning of structures shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage the historic building materials shall not be undertaken.
8. Every reasonable effort shall be made to protect and preserve archeological resources affected by, or adjacent to, any project.
9. Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant historical, architectural or cultural material, and such design is compatible with the size, scale, color, material and character of the property, neighborhood or environment.
10. Wherever possible, new additions or alterations to structures shall be done in such a manner that, if such additions or alterations were to be removed in the future, the essential form and integrity of the structure would be unimpaired.

EXHIBIT “C”

CITY OF ORANGE HISTORIC PROPERTY MAINTENANCE STANDARDS

All buildings, structures, yards and other improvements shall be maintained in a manner which does not detract from the appearance of the immediate neighborhood. The following conditions are prohibited:

1. Dilapidated, deteriorating, or unrepaired structures, such as: fences, roofs, doors, walls and windows.
2. Publicly visible storage of scrap lumber, junk, trash or debris.
3. Publicly visible storage of abandoned, discarded or unused objects or equipment, such as automobiles, automobile parts, furniture, stoves, refrigerators, cans, containers or similar items.
4. Stagnant water or excavations, including pools or spas.
5. Any device, decoration, design, structure or vegetation that is unsightly by reason of its height, condition, or its inappropriate location.

EXHIBIT “D”

REHABILITATION/MAINTENANCE SCOPE OF WORK

[Attached.]

EXHIBIT “D”

REHABILITATION/MAINTENANCE SCOPE OF WORK

154 N. Pixley Street

Priority	Description of Work	Cost Estimate	Completion Date
1.	Perform repairs to fungus damaged wood members as recommended in Termite inspection report dated 1/29/2021.	\$2,800	2021
2.	Clear tree roots from clay sewer pipes and install a two-way ABS sewer clean-out system.	\$3,005	2021
3.	Remove knob and tube electrical wiring and bring electrical system up to current code requirements for house and detached garage.	\$3,000	2024
4.	Remove wall-mounted a/c units and install new central HVAC system to include new ductwork, new central air conditioner, and new gas furnace. Current floor furnace unable to use and will need to be removed due to gas leak.	\$15,000	2025
5.	Paint exterior of the house, including patching and repair of wood siding as needed.	\$10,000	2027
6.	Maintenance and painting of all windows on house as needed, including glazing repair and sash ropes.	\$2,000	2027
7.	Repair or Replace existing composition shingle roof system.	\$13,000	2029
8.	Seismic retrofit of house foundation.	\$6,000	2030
9.	Inspection and termite treatments as recommended for the house and detached garage.	\$2,500	2031
TOTAL		\$57,305	

EXHIBIT “E”

HISTORIC PROPERTY INVENTORY FORM (DPR 523)

[Attached.]

State of California - The Resources Agency
DEPARTMENT OF PARKS AND RECREATION
PRIMARY RECORD

Primary # 30-159791

HRI # 039157

Trinomial ORA

NRHP Status Code 5D1

Other Listings:

Review Code:

Reviewer:

Date:

Page 1 of 3

*Resource Name or #:
(Assigned by Recorder)

PIXLEY_N_154__APN_386-462-16

P1. Other Identifier:

*P2. Location: ☐ Not for Publication ☒ Unrestricted

*a. County: Orange and (P2b and P2c or P2d. Attach a location map as necessary.)

*b. USGS 7.5' Quad: Date: T ; R ; 1/4 of 1/4 of Sec ; B.M.

c. Address: 154 - N PIXLEY ST , # City: Orange Zip: 92868

d. UTM: (Give more than one for large and/or linear resources) Zone ' mE/ mN

e. Other Locational Data:

*P3a. Description: (Describe resource and its major elements. Include design, materials, condition, alterations, size, setting, and boundaries. Continues on Pg.3.)

Materials: Frame - Wood siding

A single-story bungalow with wide lap siding and multi-gable roof. A centrally located front-facing gable forms the entry porch overhang and is supported by tapered piers on ornamental brick bases. The original door with plate glass windows is located beneath.

*P3b. Resource Attributes: (HP2)--Single family property
(List attributes and codes)

*P4. Resources Present: ☒ Building ☐ Structure ☐ Object ☐ Site ☒ Element of District ☐ District ☐ Other (Isolates, etc.)



P5b. Description of Photo: 2005
(View, date, accession #)

*P6. Date Constructed/ Age and Source:

1923

☒ Historic ☐ Prehistoric ☐ Both

*P7. Owner and Address:

*P8: Recorded by: (Name, affiliation, and address)
D. Gest, P. LaValley, D.
Matsumoto; J. Snow

Chattel Architecture
13417 Ventura Blvd.
Sherman Oaks, CA 91423

*P9. Date Recorded:

March, 2005; November, 2009

*P10. Survey Type: (Describe)

Reconnaissance

*P11. Report Citation: (Cite survey report and other sources, or enter "none.")

Orange County Assessor Records (2005). Chattel Architecture (2005)
Historic Resources Survey. AEGIS (1991) Historic Building Inventory
Update. Heritage Orange County, Inc. (1982) Orange Historic Survey.

*Attachments: ☐ NONE ☐ Location Map ☒ Continuation Sheet(s) ☒ Building, Structure, and Object Record
☐ Archaeological Record ☐ District Record ☐ Linear Feature Record ☐ Milling Station Record ☐ Rock Art Record
☐ Artifact Record ☐ Photograph Record ☐ Other (List):

DPR 523A (1/95)

*Required Information

State of California - The Resources Agency
DEPARTMENT OF PARKS AND RECREATION
BUILDING, STRUCTURE, AND OBJECT RECORD

Primary # 30-159791
HRI # 039157
*NRHP Status Code 5D1

Page 2 of 3

*Resource Name or #: PIXLEY_N_154__APN_386-462-16
(Assigned by Recorder)

B1. Historic Name: Unknown

B2. Common Name:

B3. Original Use: RES

B4. Present Use: RES

*B5. Architectural Style: Bungalow

*B6. Construction History: (Construction date, alterations, and date of alterations) Date of Construction: 1923 ☒ Historic ☐ Prehistoric ☐ Both
In 2005, add 350 sqft to master bedroom and bathroom, including change bathroom window size.

*B7. Moved? ☒ No ☐ Yes ☐ Unknown Date: Original Location:

*B8. Related Features:

*B9. Architect or Builder: Unknown

*B10. Significance: Theme: Architecture Area: City of Orange Property Type: Residence

Period of Significance: Old Towne: Interwar Development (c. 1921 - 1941) Applicable Criteria: AC
(Discuss importance in terms of historical or architectural context as defined by theme, period, and geographic scope. Also address integrity. Continues on Pg.4.)

Structural Integrity: Fair Condition - No apparent change to original structure.

Site Integrity:

Opportunities: Chattel recommends amendment of NR boundaries to include property.

B11. Additional Resource Attributes: (List attributes and codes)

*B12. References:

Orange Daily News.

B13. Remarks: (Continues on Pg.3.)

Status change since 1991 Survey: None.

(Sketch Map with North arrow required.)

*B14. Evaluator: Robert Chattel

*Date of Evaluation: November, 2009

(This space reserved for official comments.)

DPR 523B (1/95)

*Required Information

State of California - The Resources Agency
DEPARTMENT OF PARKS AND RECREATION
CONTINUATION SHEET

Primary # 30-159791
HRI # 039157
Trinomial ORA

Page 3 of 3

*Resource Name or #:
(Assigned by Recorder)

PIXLEY_N_154__APN_386-462-16

Recorded by:

D. Gest, P. LaValley, D. Matsumoto; J. Snow
Chattel Architecture
13417 Ventura Blvd.
Sherman Oaks, CA 91423

Date Recorded: March, 2005; November, 2009

☒ Continuation ☐ Update

Years Surveyed: 1982, 1991, 2005

Description of Photo: 1991

Listed in National Register:

General Plan:	MDR	# of Buildings:	1
Planning Zone:	R-3	# of Stories:	1
Lot Acre:		# of Units:	1
Principal Building Sqft:	1214		

B6. Construction History (Continued from Pg.2):

B13. Remarks (Continued from Pg.2):

P3a. Description (Continued from Pg.1):





RECORDING REQUESTED BY
AND, WHEN RECORDED,
MAIL TO:

City Clerk
City of Orange
300 E. Chapman Avenue
Orange, California, 92866

Exempt from recording fees pursuant to
Gov. Code Sections 6103 and 27383

Property Address: 1828 N. Woodside Street
APN: 374-215-15
Mills Act Contract Number: 385.0-21

HISTORIC PROPERTY PRESERVATION AGREEMENT (MILLS ACT CONTRACT)

THIS HISTORIC PROPERTY PRESERVATION AGREEMENT (“Agreement”) is made and entered into as of the date of execution by the City (“Effective Date”), by and between the CITY OF ORANGE, a municipal corporation (“City”), and Kristen Genova, an unmarried woman, and James Flores, an unmarried man, as joint tenants (“Owner”), with reference to the following:

RECITALS

WHEREAS, the Mills Act (Government Code Section 50280 *et seq.*) provides cities with the opportunity to contract with owners of qualified historical properties whereby the owner promises to preserve and rehabilitate the property in return for a potential reduced property tax assessment; and

WHEREAS, the City of Orange has established Historic Districts consisting of the Plaza Historic District, listed in the National Register of Historic Places; the Old Towne Orange Historic District, listed in the National Register of Historic Places; the local Old Towne Orange Historic District, designated by the Orange City Council; and the local Eichler Fairhaven, Fairhills, and Fairmeadow Historic Districts, designated by the Orange City Council; and the City desires to promote the character, quality of life, and historic features of said Districts to its citizens and visitors; and

WHEREAS, the City is dedicated to the protection and stabilization of property values through maintaining and upgrading its older housing stock, through the use of incentives such as the Mills Act; and

WHEREAS, the Mills Act also has beneficial effects on City businesses, economic stability and community pride by preserving important neighborhood historic resources; and

WHEREAS, the use of the Mills Act will fulfill one of the goals of the City’s 2010 General Plan Cultural Resources Element; specifically,

“Provide incentives and expand education efforts for historic preservation” (Goal 3.0, CR-22); and

WHEREAS, Owner possesses fee simple title in and to that certain real property, together with associated structures and improvements thereon, located at 1828 N. Woodside Street in the City of Orange, County of Orange, State of California, having Assessor’s Parcel Number 374-215-15 and more specifically described in Exhibit A, which exhibit is attached hereto and made a part hereof (“Historic Property”); and

WHEREAS, the Historic Property is a qualified historical property under the Mills Act in that it is privately owned property which is not exempt from property taxation and is either: individually designated or is a contributing property within a designated district which is listed in the National Register of Historic Places, California Register of Historical Resources or Register of Historical Landmarks, California Points of Historical Interest, or is a contributing property in a locally designated historic district; and

WHEREAS, Owner, in consideration for abiding by the terms of this Agreement shall be entitled to a reassessment of valuation of the Historic Property and any corresponding reduction in property taxes pursuant to the provisions of the California Revenue and Taxation Code; and

WHEREAS, it is the City’s expectation that the Owner will use the property tax savings accrued under this Agreement for improvements to the “Historic Property” (as defined below). To that end, as a condition of renewal, the City will require a revised schedule of improvements every ten years showing a plan for improvements commensurate with the tax savings; and

WHEREAS, the City and Owner for their mutual benefit, now desire to enter into this Agreement to limit the use of the Historic Property to prevent inappropriate alterations, to ensure that characteristics of historic significance are preserved and maintained in an exemplary manner, and to carry out the purposes of Article 12 (commencing with Section 50280) of Chapter 1, Part 1, Division 1 of Title 5 of the California Government Code and Article 1.9 (commencing with Section 439) of Chapter 3, Part 2 of Division 1 of the California Revenue and Taxation Code.

AGREEMENT

NOW, THEREFORE, both Owner and City, in consideration of the mutual promises, covenants and conditions contained herein and the substantial public benefits to be derived therefrom, do hereby agree as follows:

1. **APPLICABLE LAWS.** This Agreement is made pursuant to California Government Code Sections 50280 through 50290 and Article 1.9 (commencing with Section 439) of Chapter 3, Part 2 of Division 1 of the California Revenue and Taxation Code and is subject to all of the provisions of those statutes. To the extent any of the provisions in this Agreement are inconsistent with the aforementioned provisions of the Government and Revenue and Taxation Codes, they are superseded by those Code Sections.

2. **ASSESSMENT OF VALUATION.** Property tax relief afforded to Owner pursuant to Chapter 3, Part 2 of Division 1 of the California Revenue and Taxation Code will be determined solely by the Orange County Office of the Assessor. City makes no representations regarding the actual tax savings any person may realize by entering into this Agreement.
3. **PRESERVATION OF PROPERTY.** Owner agrees to preserve and maintain the Historic Property and its character defining features. Character defining features include, but are not necessarily limited to, the general architectural form, style, materials, design, scale, details, mass, roofline and other aspects of the appearance of the exterior of the Historic Property. For purposes of identification of the Historic Property, the City's Official Historic Property Inventory Form (DPR 523) is attached as Exhibit E.

The *Secretary of the Interior's Standards for Rehabilitation* (Exhibit B) and City's minimum maintenance standards (Exhibit C), attached hereto and incorporated herein by reference, shall constitute the minimum standards and conditions for preservation and rehabilitation of the Historic Property, and shall apply to the Historic Property throughout the term of this Agreement. Owner shall, where necessary, rehabilitate the Historic Property to conform to the rules and regulations of the Office of Historic Preservation of the California Department of Parks and Recreation, the *Secretary of the Interior's Standards for Rehabilitation*, the California Historical Building Code, and the City of Orange's Historic Preservation Design Standards for Old Towne and Eichler Design Standards.

As consideration for the City to enter into this Agreement, the Owner agrees, at its own cost and expense, to complete, or cause to be completed, the work or improvements described in Exhibit D within the times established therefore in Exhibit D. The Owner shall secure any and all permits which may be required by the City or any other governmental agency affected by the construction of the work or improvements. The Owner accepts responsibility for and shall be responsible for identification of and compliance with all applicable laws pertaining to the construction and installation of the work or improvements described on Exhibit D and the contract or contracts pertaining thereto. The Owner will neither seek to hold nor hold the City liable for, and will hold the City harmless with respect to, any consequences of any failure by the Owner to correctly determine the applicability of any such requirements to any contract he/she/they enter into.

In addition to the foregoing, the Owner hereby agrees to and will comply with all applicable local, state, and federal statutes, regulations, rules, codes (including building codes), ordinances, and other requirements of governmental authorities now or hereafter in effect ("Applicable Laws") pertaining to the use of the Historic Property. Owner must give the City immediate written notice on Owner's becoming aware that the use or condition of the Historic Property is in violation of any Applicable Laws.

4. **INSPECTIONS AND ANNUAL REPORTING.** Owner agrees to permit the examination, by prior appointment, of the interior and exterior of the Historic Property by the City at a minimum every five (5) years during the Agreement term to determine Owner's compliance with the terms and provisions of this Agreement. Owner agrees to provide the City with a report as to the status of the Historic Property annually within thirty (30) days following each anniversary of the

Effective Date of this Agreement. The annual report shall provide substantiation reasonably satisfactory to the City's Historic Preservation Planner or in his/her absence the Director of Community Development that Owner has completed the work required by Exhibit D for the twelve month period preceding each anniversary of this Agreement, and whether the Historic Property has undergone any changed conditions, and whether Owner has received any public funds from other sources designated for the preservation or maintenance of the Historic Property and from whom such funds have been received.

5. **PAYMENT OF ANNUAL FEE.** The Owner shall pay the City an annual fee to cover administrative costs associated with this Agreement including but not limited to the reasonable cost of monitoring the Historic Property, performing required inspections, and enforcement of the Agreement. Said fee shall be payable to the City of Orange and shall be remitted to the Planning Division upon demand and prior to any required inspection. The amount of the annual inspection fee shall be established by the City and may be revised from time to time, which fee shall be set forth in the City's Master Schedule of Fees and Charges. Failure to pay the required fee within 45 days of the due date will be considered a willful breach of this Agreement and may result in cancellation of the Agreement in accordance with the cancellation terms detailed below.
6. **TERM.** The term of this Agreement is for a period of ten (10) years. The initial term of this Agreement shall be from July 13, 2021 to and including July 13, 2031.
7. **AUTOMATIC RENEWAL.** On each yearly anniversary of the Effective Date of this Agreement ("renewal date"), one year shall be added automatically to the initial term of this Agreement, unless notice of non-renewal is given as provided in this Agreement.
8. **EFFECT OF OUTSIDE FUNDS.** If Owner receives funds designated for the preservation or maintenance of the Historic Property from any other public agency, this Agreement shall not be renewed except upon the vote of the City Council.
9. **NOTICE OF NONRENEWAL.** If in any year either the Owner or City desires not to renew this Agreement, that party shall serve written notice of nonrenewal to the other party in advance of the annual renewal date. Unless the notice is served by Owner to City at least ninety (90) days, or by City to Owner at least sixty (60) days prior to the renewal date, one year shall automatically be added to the term of the Agreement. Within fifteen (15) days of receipt by Owner of a notice of nonrenewal from the City, Owner may make a written protest. Upon receipt of such a protest the City Council shall set a hearing prior to the expiration of the renewal date of this Agreement or toll the renewal date until such hearing can reasonably held. Owner may furnish the City Council with any information which the Owner deems relevant; and shall furnish the City Council with any information it may require. At any time prior to the renewal date, City may withdraw its notice of nonrenewal.
10. **EFFECT OF NOTICE NOT TO RENEW.** If in any year either party serves notice of intent not to renew this Agreement, this Agreement shall remain in effect for the balance of the period remaining since the original execution date if not yet renewed, or the last renewal date of the Agreement, as the case may be.

11. **UPDATE OF IMPROVEMENT SCHEDULE.** At least ninety (90) days prior to the tenth (10th) anniversary of the Effective Date of this Agreement, and ninety (90) days prior to every tenth (10th) anniversary thereafter, Owner shall provide City with an updated schedule of rehabilitation maintenance items for the City's review and approval. Such updated schedule shall contain a list of proposed improvements and/or revisions to be accomplished during the next succeeding ten (10) years of the Agreement and a schedule for the construction of such improvements. Within thirty (30) days after the City's receipt of said updated schedule, the City's Director of Community Development shall either approve or disapprove such proposed schedule of proposed improvements, or shall respond in writing by stating what further information, if any, the City reasonably requires in order to determine the request complete and determine whether or not to grant the requested approval. Upon receipt of such a response, the Owner shall promptly furnish to the City such further information as may be reasonably requested.

From time to time, at the request of the City's Director of Community Development (or his/her authorized representative), the Owner shall meet and confer with the City's Planner for Historic Preservation or in his/her absence the Director of Community Development (or his/her designee) regarding matters arising hereunder with respect to the work and improvements and the progress in constructing the same.

12. **INDEPENDENT ADVICE OF COUNSEL.** The Owner, and each of them, represent and declare that in executing this Agreement he/she/they have relied solely upon his/her/their own judgment, belief and knowledge, and the advice and recommendations of his/her/their own independently selected counsel, concerning the nature, extent and duration of his/her/their rights and claims, and that he/she/they have not been influenced to any extent whatsoever in executing the same by the City or by any person representing the City.
13. **ENFORCEMENT OF AGREEMENT.** If the City determines the owner has breached any of the conditions of the Agreement provided for or has allowed the property to deteriorate to the point it no longer meets the standards for a qualified historical property, the City shall either cancel the Agreement or bring any action in court necessary to enforce the Agreement including, but not limited to an action to enforce the Agreement by specific performance to cure, correct or remedy any breach of the terms of this Agreement, to recover damages for any breach, or to obtain any other remedy consistent with the purpose of this Agreement. In the event of a default under the provisions of this Agreement by Owner, City shall give written notice to Owner specifying the alleged grounds for the default. Said notice shall be given by registered or certified mail addressed to the address stated in this Agreement. If such violation(s) is not corrected to the reasonable satisfaction of the City within thirty (30) days from the receipt of the notice of violation, or within such reasonable time as may be required to cure the breach or default, provided that acts to cure, correct or remedy such breach or default are commenced within thirty (30) days and thereafter diligently pursued to completion, then City may, without further notice, institute legal action.

Except as otherwise expressly stated in this Agreement, the rights and remedies of the City are cumulative, and the exercise by the City of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the Owner. Any failure or delay by the City in asserting any

of its right and remedies as to a breach of any of the covenants, conditions or agreements set forth herein shall not operate as a waiver of such breach or of any such rights or remedies, or deprive the City of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce such rights or remedies. A waiver by the City of a breach shall not be construed as a waiver of any succeeding breach of the same or other covenants, conditions or agreements set forth in this Agreement.

14. CANCELLATION. In lieu of bringing an action to enforce the Agreement City may cancel this Agreement if City determines Owner has breached any of the conditions or covenants of this Agreement or has allowed the Historic Property to deteriorate to the point that it no longer meets the standards for a qualified historical property. City may also cancel this Agreement if it determines Owner has failed to rehabilitate the Historic Property in the manner specified in this Agreement.

15. NOTICE OF CANCELLATION. This Agreement cannot be canceled until after City has given notice and has held a public hearing as required by Government Code Section 50285. Notice of the hearing shall be mailed to the last known address of each owner of property within 300 feet of the Historic Property and shall be published in accordance with Government Code Section 6061.

16. CANCELLATION FEE. If City cancels this Agreement in accordance with Section 15 above, Owner shall pay a cancellation fee of twelve and one-half percent (12-1/2%) of the current fair market value of the Historic Property at the time of cancellation. The current fair market value shall be determined by the County Assessor as though the Historic Property were free of the restriction on the Historic Property imposed pursuant to this Agreement. The cancellation fee shall be paid to the County Auditor at such time and in such manner as the County Auditor shall prescribe.

17. NOTICES. All notices required by or provided for in the Agreement shall be given in writing and may be mailed or delivered in person at the address of the respective parties as specified below or at any other address as may be later specified by the parties. Deposit of notice in the mail, postage prepaid, shall be deemed receipt of the notice.

City of Orange
Attn.: City Clerk
300 E. Chapman Avenue
Orange, CA 92866

Kristen Genova and James Flores
1828 N. Woodside Street
Orange, CA 92865

18. NO COMPENSATION. Owner shall not receive any payment from the City in consideration of the obligations imposed under this Agreement. The Owner acknowledges and agrees that the consideration for the execution of this Agreement is the substantial public benefit to be derived therefrom and the advantage that will accrue to Owner as a result of the effect upon the assessed value of the Historic Property on account of the restrictions on the use and preservation of the Historic Property.

19. REMEDY IF AGREEMENT HELD NOT ENFORCEABLE. In the event it is finally determined this Agreement does not constitute an enforceable restriction within the meaning of the applicable provisions of the California Government Code and the California Revenue and Taxation Code, except for an unenforceability arising from the cancellation or nonrenewal of this Agreement, then this Agreement shall be null and void and without further effect and the Historic Property subject to this Agreement shall from that time be free from any restriction whatsoever under this Agreement without any payment or further act of the parties to this Agreement.

20. ACQUISITION OF PROPERTY BY EMINENT DOMAIN; CANCELLATION OF CONTRACT; INAPPLICABILITY TO DETERMINATION OF VALUE. In the event that the Historic Property is acquired in whole or part by eminent domain or other acquisition by any entity authorized to exercise the power of eminent domain, and the acquisition is determined by the City to frustrate the purpose of the Agreement, the Agreement shall be canceled and no fee shall be imposed under Section 17, above. The Agreement shall be deemed null and void for all purposes of determining the value of the Historic Property so acquired.

If, subsequent to the filing of an action in eminent domain, the proposed condemnation is abandoned by the condemning agency, the restrictions on the use of the Historic Property included in this Agreement shall, without further agreement of the parties, be reinstituted and the terms of this Agreement shall continue in full force and effect.

21. EFFECT OF AGREEMENT. None of the terms, provisions or conditions of this Agreement shall be deemed to create a partnership between the parties hereto and any of their heirs, successors or assigns, nor shall such terms, provisions or conditions cause the parties hereto to be considered joint venturers or members of any joint enterprise.

22. SUCCESSORS AND ASSIGNS. This Agreement is binding upon and shall inure to the benefit of all successors in interest of the Owner, regardless of the tax exempt status of any subsequent owner. A successor in interest shall have the same rights and obligations under this Agreement as the original owner who entered into this Agreement.

23. REQUIREMENTS RELATED TO TRANSFER OF HISTORIC PROPERTY. In the event of any sale, transfer, assignment or conveyance of the Historic Property ("Transfer"), the Owner agrees that, at least thirty (30) days prior to such Transfer, it shall give written notice to the City of such proposed Transfer, including the name(s) of the transferee(s). In addition, the Owner and the proposed transferee(s) shall enter into and deliver to the City through the escrow for the Transfer of the Historic Property an assignment and assumption agreement in a form satisfactory to the City's Attorney or such other evidence as may be satisfactory to the City that the transferee(s) has (have) assumed the Owner's obligations set forth in this Agreement. Upon the Transfer of the Historic Property and the assumption of the obligations hereunder by the transferee(s), the Owner's liability for performance shall be terminated as to any obligation to be performed hereunder after the date of such Transfer.

24. RECORDATION. City shall record a copy of this Agreement with the Office of the County Recorder of the County of Orange.

25. AMENDMENTS. This Agreement may be amended, in whole or in part, only by a written and recorded instrument executed by the parties hereto, except that the Director of Community Development is authorized to amend the list of required projects in Exhibit D.
26. COUNTERPARTS. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which shall constitute one and the same agreement with the same effect as if all parties had signed the same signature page. Any signature page of this Agreement may be detached from any counterpart of this Agreement and re-attached to any other counterpart of this Agreement identical in form hereto but having attached to it one or more additional signature pages.
27. ADMINISTRATION. This Agreement shall be administered by the City's Director of Community Development (or his/her designated representative) following approval of this Agreement by the City. The City shall maintain authority of this Agreement through the City's Director of Community Development (or his/her authorized representative). The City's Director of Community Development shall have the authority to issue interpretations, waive provisions and enter into amendments of this Agreement on behalf of the City so long as such actions do not change the uses permitted on the Historic Property or the purpose of this Agreement. Such amendments may include extensions of time or amendments to the projects specified in Exhibit D. All other waivers or amendments shall require the written approval and consent of the City Council.

[Remainder of page intentionally left blank; signatures on next page]

IN WITNESS WHEREOF, the City and the Owner have executed this Agreement.

“OWNER”

Dated: _____, 2021

Kristen Genova

Dated: _____, 2021

James Flores

“CITY”

CITY OF ORANGE, a municipal corporation

Dated: _____, 2021

By: _____
Mark A. Murphy
Mayor

ATTEST:

APPROVED AS TO FORM:

Pamela Coleman
City Clerk

Mary E. Binning
Senior Assistant City Attorney

ACKNOWLEDGEMENT

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

State of California
County of _____

On _____ before me, _____,
a Notary Public in and for the State of California, personally appeared _____

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

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

WITNESS my hand and official seal.

Signature _____ (Seal)

EXHIBIT “A”

LEGAL DESCRIPTION OF HISTORIC PROPERTY

REAL PROPERTY IN THE CITY OF ORANGE, COUNTY OF ORANGE, STATE OF CALIFORNIA, DESCRIBED AS:

Lot 29 of Tract 3978, in the City of Orange, County of Orange, State of California, as per map recorded in Book 140, Pages 17, 18, and 19 of Miscellaneous Maps in the office of the County recorder of Said County.

[APN 374-215-15]

EXHIBIT “B”

SECRETARY OF THE INTERIOR'S STANDARDS FOR REHABILITATION

1. Every reasonable effort shall be made to provide a compatible use for a property, which requires a minimal alteration of the building structure, or site and its environment, or to use a property for its originally intended purpose.
2. The distinguishing original qualities or character of a building, structure, or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural features should be avoided when possible.
3. All buildings, structures, and sites shall be recognized as products of their own time. Alterations that have no historical basis and which seek to create an earlier appearance shall be discouraged.
4. Changes which may have taken place in the course of time are evidence of the history and development of a building, structure or site and its environment. These changes may have acquired significance in their own right, and this significance shall be recognized and respected.
5. Distinctive stylistic features or examples of skilled craftsmanship which characterize a building, structure or site shall be treated with sensitivity.
6. Deteriorated architectural features shall be repaired rather than replaced, wherever possible. In the event replacement is necessary, the new material should match the material being replaced in composition, design, color, texture, and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplications of features, substantiated by historic, physical, or pictorial evidence rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.
7. The surface cleaning of structures shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage the historic building materials shall not be undertaken.
8. Every reasonable effort shall be made to protect and preserve archeological resources affected by, or adjacent to, any project.
9. Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant historical, architectural or cultural material, and such design is compatible with the size, scale, color, material and character of the property, neighborhood or environment.
10. Wherever possible, new additions or alterations to structures shall be done in such a manner that, if such additions or alterations were to be removed in the future, the essential form and integrity of the structure would be unimpaired.

EXHIBIT “C”

CITY OF ORANGE HISTORIC PROPERTY MAINTENANCE STANDARDS

All buildings, structures, yards and other improvements shall be maintained in a manner which does not detract from the appearance of the immediate neighborhood. The following conditions are prohibited:

1. Dilapidated, deteriorating, or unrepaired structures, such as: fences, roofs, doors, walls and windows.
2. Publicly visible storage of scrap lumber, junk, trash or debris.
3. Publicly visible storage of abandoned, discarded or unused objects or equipment, such as automobiles, automobile parts, furniture, stoves, refrigerators, cans, containers or similar items.
4. Stagnant water or excavations, including pools or spas.
5. Any device, decoration, design, structure or vegetation that is unsightly by reason of its height, condition, or its inappropriate location.

EXHIBIT “D”

REHABILITATION/MAINTENANCE SCOPE OF WORK

[Attached.]

EXHIBIT “D”

REHABILITATION/MAINTENANCE SCOPE OF WORK

1828 N. Woodside Street

Priority	Description of Work	Cost Estimate	Completion Date
1.	Repair areas of dry rot on siding and wood trims as needed on all elevations.	\$3,000	2023
2.	New slab front door with round Eichler door knob and lock set.	\$1,500	2023
3.	Replace non-original rain gutter system on north and south elevations with new system to prevent water splash onto siding, in compliance with the Orange Eichler Design Standards.	\$5,000	2025
4.	Replace deteriorated wood fascia boards on west elevation.	\$5,000	2026
5.	Install new built-up or foam roof system.	\$35,000	2026
6.	Update electrical wiring to allow for reinstallation of globe style ceiling lights in original locations, in conjunction with Item #4.	\$1,000	2026
7.	Paint exterior of the house.	\$10,000	2030
8.	Replace dry rot and water damaged siding panels on south and west elevations with Eichler vertical groove wood siding to match existing.	\$10,000	2030
TOTAL		\$70,500	

EXHIBIT “E”

HISTORIC PROPERTY INVENTORY FORM (DPR 523)

[Attached.]

State of California - The Resources Agency
DEPARTMENT OF PARKS AND RECREATION
PRIMARY RECORD

Primary #

HRI #

Trinomial

NRHP Status Code

Other Listings:

Review Code:

Reviewer:

Date:

Page 1 of 3

*Resource Name or #:

(Assigned by Recorder)

WOODSIDE_N_1828__APN_374-215-15

P1. Other Identifier: Fairmeadow Tract

*P2. Location: ☐ Not for Publication ☒ Unrestricted

*a. County: Orange and (P2b and P2c or P2d. Attach a location map as necessary.)

*b. USGS 7.5' Quad: Date: T ; R ; 1/4 of 1/4 of Sec ; B.M.

c. Address: 1828 - N WOODSIDE ST, # City: Orange Zip: 92865

d. UTM: (Give more than one for large and/or linear resources) Zone ' mE/ mN

e. Other Locational Data:

*P3a. Description: (Describe resource and its major elements. Include design, materials, condition, alterations, size, setting, and boundaries. Continues on Pg.3.)

Materials:

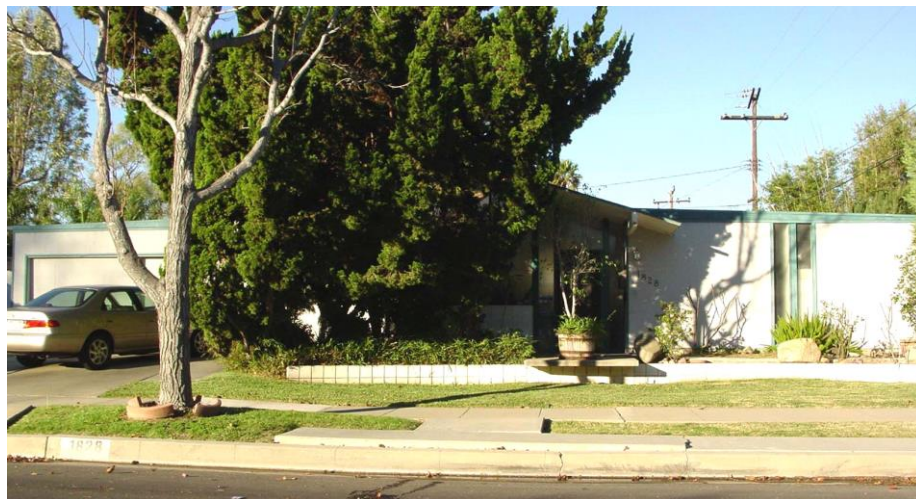
Model LA-114R

*P3b. Resource Attributes: (HP2)--Single family property
(List attributes and codes)

*P4. Resources Present: ☒ Building ☐ Structure ☐ Object ☐ Site ☐ Element of District ☐ District ☐ Other (Isolates, etc.)

P5b. Description of Photo: 2005

(View, date, accession #)



*P6. Date Constructed/ Age and Source:

1964 c

☐ Historic ☐ Prehistoric ☐ Both

*P7. Owner and Address:

*P8: Recorded by: (Name, affiliation, and address)

Marissa Moshier, Historic
Preservation Planner

City of Orange

300 E. Chapman Ave.

Orange, CA 92866

*P9. Date Recorded:

June 2015

*P10. Survey Type: (Describe)

Reconnaissance

*P11. Report Citation: (Cite survey report and other sources, or enter "none.")

Orange County Assessor Records (2005). Chattel Architecture (2005)
Historic Resources Survey.

*Attachments:

☐ NONE

☐ Location Map

☒ Continuation Sheet(s)

☒ Building, Structure, and Object Record

☐ Archaeological Record

☐ District Record

☐ Linear Feature Record

☐ Milling Station Record ☐ Rock Art Record

☐ Artifact Record

☐ Photograph Record

☐ Other (List):

DPR 523A (1/95)

*Required Information

State of California - The Resources Agency
DEPARTMENT OF PARKS AND RECREATION
BUILDING, STRUCTURE, AND OBJECT RECORD

Primary #

HRI #

*NRHP Status Code 3D

Page 2 of 3

*Resource Name or #:
(Assigned by Recorder)

WOODSIDE_N_1828__APN_374-215-15

B1. Historic Name: Unknown

B2. Common Name: _____

B3. Original Use: RES

B4. Present Use: RES

*B5. Architectural Style: Mid-Century Modern

*B6. Construction History: (Construction date, alterations, and date of alterations) Date of Construction: 1964 ☐ Historic ☐ Prehistoric ☐ Both

*B7. Moved? ☒ No ☐ Yes ☐ Unknown Date: _____ Original Location: _____

*B8. Related Features: _____

*B9. Architect or Builder: Eichler Homes - Claude Oakland

*B10. Significance: Theme: Architecture Area: City of Orange Property Type: Residence

Period of Significance: Eichler Tract (c. 1959 - 1965)

Applicable Criteria: C

(Discuss importance in terms of historical or architectural context as defined by theme, period, and geographic scope. Also address integrity. Continues on Pg.4.)

Structural Integrity: Good Condition - Low level of alteration as of 2005.

Site Integrity: _____

Opportunities _____

B11. Additional Resource Attributes: (List attributes and codes) _____

*B12. References:

Orange Daily News. Eichler Tract Brochures and miscellaneous Eichler materials from the Orange Public Library.

B13. Remarks: (Continues on Pg.3.)

Status change since 1991 Survey: Not previously surveyed.

(Sketch Map with North arrow required.)

*B14. Evaluator: Robert Chattel

*Date of Evaluation: September 2005

(This space reserved for official comments.)

DPR 523B (1/95)

*Required Information

State of California - The Resources Agency
DEPARTMENT OF PARKS AND RECREATION
CONTINUATION SHEET

Primary #

HRI #

Trinomial ORA

Page 3 of 3

*Resource Name or #:
(Assigned by Recorder)

WOODSIDE_N_1828__APN_374-215-15

Recorded by:

Marissa Moshier, Historic Preservation Planner
City of Orange
300 E. Chapman Ave.
Orange, CA 92866

Date Recorded: June 2015

☒ Continuation

☐ Update

Years Surveyed: 2005, 2015

Description of Photo:

Listed in National Register:

General Plan: LDR # of Buildings: 1

Planning Zone: R-1-8 # of Stories: 1

Lot Acre: 0.1842 # of Units: 1

Principal Building Sqft: 2162

B6. Construction History (Continued from Pg.2):

B13. Remarks (Continued from Pg.2):

P3a. Description (Continued from Pg.1):



RECORDING REQUESTED BY
AND, WHEN RECORDED,
MAIL TO:

City Clerk
City of Orange
300 E. Chapman Avenue
Orange, California, 92866

Exempt from recording fees pursuant to
Gov. Code Sections 6103 and 27383

Property Address: 816 S. Woodland Street
APN: 094-463-01
Mills Act Contract Number: 386.0-21

HISTORIC PROPERTY PRESERVATION AGREEMENT (MILLS ACT CONTRACT)

THIS HISTORIC PROPERTY PRESERVATION AGREEMENT (“Agreement”) is made and entered into as of the date of execution by the City (“Effective Date”), by and between the CITY OF ORANGE, a municipal corporation (“City”), and Marshall N. Toplansky and Harriett C. Toplansky, as trustees of the Toplansky Family Trust dated February 23, 2012 (“Owner”), with reference to the following:

RECITALS

WHEREAS, the Mills Act (Government Code Section 50280 *et seq.*) provides cities with the opportunity to contract with owners of qualified historical properties whereby the owner promises to preserve and rehabilitate the property in return for a potential reduced property tax assessment; and

WHEREAS, the City of Orange has established Historic Districts consisting of the Plaza Historic District, listed in the National Register of Historic Places; the Old Towne Orange Historic District, listed in the National Register of Historic Places; the local Old Towne Orange Historic District, designated by the Orange City Council; and the local Eichler Fairhaven, Fairhills, and Fairmeadow Historic Districts, designated by the Orange City Council; and the City desires to promote the character, quality of life, and historic features of said Districts to its citizens and visitors; and

WHEREAS, the City is dedicated to the protection and stabilization of property values through maintaining and upgrading its older housing stock, through the use of incentives such as the Mills Act; and

WHEREAS, the Mills Act also has beneficial effects on City businesses, economic stability and community pride by preserving important neighborhood historic resources; and

WHEREAS, the use of the Mills Act will fulfill one of the goals of the City’s 2010 General Plan Cultural Resources Element; specifically,

“Provide incentives and expand education efforts for historic preservation” (Goal 3.0, CR-22); and

WHEREAS, Owner possesses fee simple title in and to that certain real property, together with associated structures and improvements thereon, located at 816 S. Woodland Street in the City of Orange, County of Orange, State of California, having Assessor’s Parcel Number 094-463-01 and more specifically described in Exhibit A, which exhibit is attached hereto and made a part hereof (“Historic Property”); and

WHEREAS, the Historic Property is a qualified historical property under the Mills Act in that it is privately owned property which is not exempt from property taxation and is either: individually designated or is a contributing property within a designated district which is listed in the National Register of Historic Places, California Register of Historical Resources or Register of Historical Landmarks, California Points of Historical Interest, or is a contributing property in a locally designated historic district; and

WHEREAS, Owner, in consideration for abiding by the terms of this Agreement shall be entitled to a reassessment of valuation of the Historic Property and any corresponding reduction in property taxes pursuant to the provisions of the California Revenue and Taxation Code; and

WHEREAS, it is the City’s expectation that the Owner will use the property tax savings accrued under this Agreement for improvements to the “Historic Property” (as defined below). To that end, as a condition of renewal, the City will require a revised schedule of improvements every ten years showing a plan for improvements commensurate with the tax savings; and

WHEREAS, the City and Owner for their mutual benefit, now desire to enter into this Agreement to limit the use of the Historic Property to prevent inappropriate alterations, to ensure that characteristics of historic significance are preserved and maintained in an exemplary manner, and to carry out the purposes of Article 12 (commencing with Section 50280) of Chapter 1, Part 1, Division 1 of Title 5 of the California Government Code and Article 1.9 (commencing with Section 439) of Chapter 3, Part 2 of Division 1 of the California Revenue and Taxation Code.

AGREEMENT

NOW, THEREFORE, both Owner and City, in consideration of the mutual promises, covenants and conditions contained herein and the substantial public benefits to be derived therefrom, do hereby agree as follows:

1. **APPLICABLE LAWS.** This Agreement is made pursuant to California Government Code Sections 50280 through 50290 and Article 1.9 (commencing with Section 439) of Chapter 3, Part 2 of Division 1 of the California Revenue and Taxation Code and is subject to all of the provisions of those statutes. To the extent any of the provisions in this Agreement are inconsistent with the aforementioned provisions of the Government and Revenue and Taxation Codes, they are superseded by those Code Sections.

2. **ASSESSMENT OF VALUATION.** Property tax relief afforded to Owner pursuant to Chapter 3, Part 2 of Division 1 of the California Revenue and Taxation Code will be determined solely by the Orange County Office of the Assessor. City makes no representations regarding the actual tax savings any person may realize by entering into this Agreement.
3. **PRESERVATION OF PROPERTY.** Owner agrees to preserve and maintain the Historic Property and its character defining features. Character defining features include, but are not necessarily limited to, the general architectural form, style, materials, design, scale, details, mass, roofline and other aspects of the appearance of the exterior of the Historic Property. For purposes of identification of the Historic Property, the City's Official Historic Property Inventory Form (DPR 523) is attached as Exhibit E.

The *Secretary of the Interior's Standards for Rehabilitation* (Exhibit B) and City's minimum maintenance standards (Exhibit C), attached hereto and incorporated herein by reference, shall constitute the minimum standards and conditions for preservation and rehabilitation of the Historic Property, and shall apply to the Historic Property throughout the term of this Agreement. Owner shall, where necessary, rehabilitate the Historic Property to conform to the rules and regulations of the Office of Historic Preservation of the California Department of Parks and Recreation, the *Secretary of the Interior's Standards for Rehabilitation*, the California Historical Building Code, and the City of Orange's Historic Preservation Design Standards for Old Towne and Eichler Design Standards.

As consideration for the City to enter into this Agreement, the Owner agrees, at its own cost and expense, to complete, or cause to be completed, the work or improvements described in Exhibit D within the times established therefore in Exhibit D. The Owner shall secure any and all permits which may be required by the City or any other governmental agency affected by the construction of the work or improvements. The Owner accepts responsibility for and shall be responsible for identification of and compliance with all applicable laws pertaining to the construction and installation of the work or improvements described on Exhibit D and the contract or contracts pertaining thereto. The Owner will neither seek to hold nor hold the City liable for, and will hold the City harmless with respect to, any consequences of any failure by the Owner to correctly determine the applicability of any such requirements to any contract he/she/they enter into.

In addition to the foregoing, the Owner hereby agrees to and will comply with all applicable local, state, and federal statutes, regulations, rules, codes (including building codes), ordinances, and other requirements of governmental authorities now or hereafter in effect ("Applicable Laws") pertaining to the use of the Historic Property. Owner must give the City immediate written notice on Owner's becoming aware that the use or condition of the Historic Property is in violation of any Applicable Laws.

4. **INSPECTIONS AND ANNUAL REPORTING.** Owner agrees to permit the examination, by prior appointment, of the interior and exterior of the Historic Property by the City at a minimum every five (5) years during the Agreement term to determine Owner's compliance with the terms and provisions of this Agreement. Owner agrees to provide the City with a report as to the status of the Historic Property annually within thirty (30) days following each anniversary of the

Effective Date of this Agreement. The annual report shall provide substantiation reasonably satisfactory to the City's Historic Preservation Planner or in his/her absence the Director of Community Development that Owner has completed the work required by Exhibit D for the twelve month period preceding each anniversary of this Agreement, and whether the Historic Property has undergone any changed conditions, and whether Owner has received any public funds from other sources designated for the preservation or maintenance of the Historic Property and from whom such funds have been received.

5. **PAYMENT OF ANNUAL FEE.** The Owner shall pay the City an annual fee to cover administrative costs associated with this Agreement including but not limited to the reasonable cost of monitoring the Historic Property, performing required inspections, and enforcement of the Agreement. Said fee shall be payable to the City of Orange and shall be remitted to the Planning Division upon demand and prior to any required inspection. The amount of the annual inspection fee shall be established by the City and may be revised from time to time, which fee shall be set forth in the City's Master Schedule of Fees and Charges. Failure to pay the required fee within 45 days of the due date will be considered a willful breach of this Agreement and may result in cancellation of the Agreement in accordance with the cancellation terms detailed below.
6. **TERM.** The term of this Agreement is for a period of ten (10) years. The initial term of this Agreement shall be from July 13, 2021 to and including July 13, 2031.
7. **AUTOMATIC RENEWAL.** On each yearly anniversary of the Effective Date of this Agreement ("renewal date"), one year shall be added automatically to the initial term of this Agreement, unless notice of non-renewal is given as provided in this Agreement.
8. **EFFECT OF OUTSIDE FUNDS.** If Owner receives funds designated for the preservation or maintenance of the Historic Property from any other public agency, this Agreement shall not be renewed except upon the vote of the City Council.
9. **NOTICE OF NONRENEWAL.** If in any year either the Owner or City desires not to renew this Agreement, that party shall serve written notice of nonrenewal to the other party in advance of the annual renewal date. Unless the notice is served by Owner to City at least ninety (90) days, or by City to Owner at least sixty (60) days prior to the renewal date, one year shall automatically be added to the term of the Agreement. Within fifteen (15) days of receipt by Owner of a notice of nonrenewal from the City, Owner may make a written protest. Upon receipt of such a protest the City Council shall set a hearing prior to the expiration of the renewal date of this Agreement or toll the renewal date until such hearing can reasonably held. Owner may furnish the City Council with any information which the Owner deems relevant; and shall furnish the City Council with any information it may require. At any time prior to the renewal date, City may withdraw its notice of nonrenewal.
10. **EFFECT OF NOTICE NOT TO RENEW.** If in any year either party serves notice of intent not to renew this Agreement, this Agreement shall remain in effect for the balance of the period remaining since the original execution date if not yet renewed, or the last renewal date of the Agreement, as the case may be.

11. **UPDATE OF IMPROVEMENT SCHEDULE.** At least ninety (90) days prior to the tenth (10th) anniversary of the Effective Date of this Agreement, and ninety (90) days prior to every tenth (10th) anniversary thereafter, Owner shall provide City with an updated schedule of rehabilitation maintenance items for the City's review and approval. Such updated schedule shall contain a list of proposed improvements and/or revisions to be accomplished during the next succeeding ten (10) years of the Agreement and a schedule for the construction of such improvements. Within thirty (30) days after the City's receipt of said updated schedule, the City's Director of Community Development shall either approve or disapprove such proposed schedule of proposed improvements, or shall respond in writing by stating what further information, if any, the City reasonably requires in order to determine the request complete and determine whether or not to grant the requested approval. Upon receipt of such a response, the Owner shall promptly furnish to the City such further information as may be reasonably requested.

From time to time, at the request of the City's Director of Community Development (or his/her authorized representative), the Owner shall meet and confer with the City's Planner for Historic Preservation or in his/her absence the Director of Community Development (or his/her designee) regarding matters arising hereunder with respect to the work and improvements and the progress in constructing the same.

12. **INDEPENDENT ADVICE OF COUNSEL.** The Owner, and each of them, represent and declare that in executing this Agreement he/she/they have relied solely upon his/her/their own judgment, belief and knowledge, and the advice and recommendations of his/her/their own independently selected counsel, concerning the nature, extent and duration of his/her/their rights and claims, and that he/she/they have not been influenced to any extent whatsoever in executing the same by the City or by any person representing the City.
13. **ENFORCEMENT OF AGREEMENT.** If the City determines the owner has breached any of the conditions of the Agreement provided for or has allowed the property to deteriorate to the point it no longer meets the standards for a qualified historical property, the City shall either cancel the Agreement or bring any action in court necessary to enforce the Agreement including, but not limited to an action to enforce the Agreement by specific performance to cure, correct or remedy any breach of the terms of this Agreement, to recover damages for any breach, or to obtain any other remedy consistent with the purpose of this Agreement. In the event of a default under the provisions of this Agreement by Owner, City shall give written notice to Owner specifying the alleged grounds for the default. Said notice shall be given by registered or certified mail addressed to the address stated in this Agreement. If such violation(s) is not corrected to the reasonable satisfaction of the City within thirty (30) days from the receipt of the notice of violation, or within such reasonable time as may be required to cure the breach or default, provided that acts to cure, correct or remedy such breach or default are commenced within thirty (30) days and thereafter diligently pursued to completion, then City may, without further notice, institute legal action.

Except as otherwise expressly stated in this Agreement, the rights and remedies of the City are cumulative, and the exercise by the City of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the Owner. Any failure or delay by the City in asserting any

of its right and remedies as to a breach of any of the covenants, conditions or agreements set forth herein shall not operate as a waiver of such breach or of any such rights or remedies, or deprive the City of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce such rights or remedies. A waiver by the City of a breach shall not be construed as a waiver of any succeeding breach of the same or other covenants, conditions or agreements set forth in this Agreement.

14. CANCELLATION. In lieu of bringing an action to enforce the Agreement City may cancel this Agreement if City determines Owner has breached any of the conditions or covenants of this Agreement or has allowed the Historic Property to deteriorate to the point that it no longer meets the standards for a qualified historical property. City may also cancel this Agreement if it determines Owner has failed to rehabilitate the Historic Property in the manner specified in this Agreement.

15. NOTICE OF CANCELLATION. This Agreement cannot be canceled until after City has given notice and has held a public hearing as required by Government Code Section 50285. Notice of the hearing shall be mailed to the last known address of each owner of property within 300 feet of the Historic Property and shall be published in accordance with Government Code Section 6061.

16. CANCELLATION FEE. If City cancels this Agreement in accordance with Section 15 above, Owner shall pay a cancellation fee of twelve and one-half percent (12-1/2%) of the current fair market value of the Historic Property at the time of cancellation. The current fair market value shall be determined by the County Assessor as though the Historic Property were free of the restriction on the Historic Property imposed pursuant to this Agreement. The cancellation fee shall be paid to the County Auditor at such time and in such manner as the County Auditor shall prescribe.

17. NOTICES. All notices required by or provided for in the Agreement shall be given in writing and may be mailed or delivered in person at the address of the respective parties as specified below or at any other address as may be later specified by the parties. Deposit of notice in the mail, postage prepaid, shall be deemed receipt of the notice.

City of Orange
Attn.: City Clerk

300 E. Chapman Avenue
Orange, CA 92866

Marshall N. Toplansky and Harriett C.
Toplansky
Toplansky Family Trust dated February
23, 2012

816 S. Woodland Street
Orange, CA 92869

18. NO COMPENSATION. Owner shall not receive any payment from the City in consideration of the obligations imposed under this Agreement. The Owner acknowledges and agrees that the consideration for the execution of this Agreement is the substantial public benefit to be derived therefrom and the advantage that will accrue to Owner as a result of the effect upon the assessed

value of the Historic Property on account of the restrictions on the use and preservation of the Historic Property.

19. REMEDY IF AGREEMENT HELD NOT ENFORCEABLE. In the event it is finally determined this Agreement does not constitute an enforceable restriction within the meaning of the applicable provisions of the California Government Code and the California Revenue and Taxation Code, except for an unenforceability arising from the cancellation or nonrenewal of this Agreement, then this Agreement shall be null and void and without further effect and the Historic Property subject to this Agreement shall from that time be free from any restriction whatsoever under this Agreement without any payment or further act of the parties to this Agreement.

20. ACQUISITION OF PROPERTY BY EMINENT DOMAIN; CANCELLATION OF CONTRACT; INAPPLICABILITY TO DETERMINATION OF VALUE. In the event that the Historic Property is acquired in whole or part by eminent domain or other acquisition by any entity authorized to exercise the power of eminent domain, and the acquisition is determined by the City to frustrate the purpose of the Agreement, the Agreement shall be canceled and no fee shall be imposed under Section 17, above. The Agreement shall be deemed null and void for all purposes of determining the value of the Historic Property so acquired.

If, subsequent to the filing of an action in eminent domain, the proposed condemnation is abandoned by the condemning agency, the restrictions on the use of the Historic Property included in this Agreement shall, without further agreement of the parties, be reinstituted and the terms of this Agreement shall continue in full force and effect.

21. EFFECT OF AGREEMENT. None of the terms, provisions or conditions of this Agreement shall be deemed to create a partnership between the parties hereto and any of their heirs, successors or assigns, nor shall such terms, provisions or conditions cause the parties hereto to be considered joint venturers or members of any joint enterprise.

22. SUCCESSORS AND ASSIGNS. This Agreement is binding upon and shall inure to the benefit of all successors in interest of the Owner, regardless of the tax exempt status of any subsequent owner. A successor in interest shall have the same rights and obligations under this Agreement as the original owner who entered into this Agreement.

23. REQUIREMENTS RELATED TO TRANSFER OF HISTORIC PROPERTY. In the event of any sale, transfer, assignment or conveyance of the Historic Property ("Transfer"), the Owner agrees that, at least thirty (30) days prior to such Transfer, it shall give written notice to the City of such proposed Transfer, including the name(s) of the transferee(s). In addition, the Owner and the proposed transferee(s) shall enter into and deliver to the City through the escrow for the Transfer of the Historic Property an assignment and assumption agreement in a form satisfactory to the City's Attorney or such other evidence as may be satisfactory to the City that the transferee(s) has (have) assumed the Owner's obligations set forth in this Agreement. Upon the Transfer of the Historic Property and the assumption of the obligations hereunder by the transferee(s), the Owner's liability for performance shall be terminated as to any obligation to be performed hereunder after the date of such Transfer.

24. RECORDATION. City shall record a copy of this Agreement with the Office of the County Recorder of the County of Orange.
25. AMENDMENTS. This Agreement may be amended, in whole or in part, only by a written and recorded instrument executed by the parties hereto, except that the Director of Community Development is authorized to amend the list of required projects in Exhibit D.
26. COUNTERPARTS. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which shall constitute one and the same agreement with the same effect as if all parties had signed the same signature page. Any signature page of this Agreement may be detached from any counterpart of this Agreement and re-attached to any other counterpart of this Agreement identical in form hereto but having attached to it one or more additional signature pages.
27. ADMINISTRATION. This Agreement shall be administered by the City's Director of Community Development (or his/her designated representative) following approval of this Agreement by the City. The City shall maintain authority of this Agreement through the City's Director of Community Development (or his/her authorized representative). The City's Director of Community Development shall have the authority to issue interpretations, waive provisions and enter into amendments of this Agreement on behalf of the City so long as such actions do not change the uses permitted on the Historic Property or the purpose of this Agreement. Such amendments may include extensions of time or amendments to the projects specified in Exhibit D. All other waivers or amendments shall require the written approval and consent of the City Council.

[Remainder of page intentionally left blank; signatures on next page]

IN WITNESS WHEREOF, the City and the Owner have executed this Agreement.

“OWNER”

Dated: _____, 2021

Marshall N. Toplansky, Trustee

Dated: _____, 2021

Harriett C. Toplansky, Trustee

“CITY”

CITY OF ORANGE, a municipal corporation

Dated: _____, 2021

By: _____
Mark A. Murphy
Mayor

ATTEST:

APPROVED AS TO FORM:

Pamela Coleman
City Clerk

Mary E. Binning
Senior Assistant City Attorney

ACKNOWLEDGEMENT

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

State of California
County of _____

On _____ before me, _____,
a Notary Public in and for the State of California, personally appeared _____

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

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

WITNESS my hand and official seal.

Signature _____ (Seal)

EXHIBIT “A”

LEGAL DESCRIPTION OF HISTORIC PROPERTY

REAL PROPERTY IN THE CITY OF ORANGE, COUNTY OF ORANGE, STATE OF CALIFORNIA, DESCRIBED AS:

Lot 85 of Tract No. 3545, in the City of Orange, County of Orange, State of California, as shown on a map recorded in Book 125, Page(s) 1 to 5 inclusive of Miscellaneous Maps, in the office of the County Recorder of said County.

[APN 094-463-01]

EXHIBIT "B"

SECRETARY OF THE INTERIOR'S STANDARDS FOR REHABILITATION

1. Every reasonable effort shall be made to provide a compatible use for a property, which requires a minimal alteration of the building structure, or site and its environment, or to use a property for its originally intended purpose.
2. The distinguishing original qualities or character of a building, structure, or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural features should be avoided when possible.
3. All buildings, structures, and sites shall be recognized as products of their own time. Alterations that have no historical basis and which seek to create an earlier appearance shall be discouraged.
4. Changes which may have taken place in the course of time are evidence of the history and development of a building, structure or site and its environment. These changes may have acquired significance in their own right, and this significance shall be recognized and respected.
5. Distinctive stylistic features or examples of skilled craftsmanship which characterize a building, structure or site shall be treated with sensitivity.
6. Deteriorated architectural features shall be repaired rather than replaced, wherever possible. In the event replacement is necessary, the new material should match the material being replaced in composition, design, color, texture, and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplications of features, substantiated by historic, physical, or pictorial evidence rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.
7. The surface cleaning of structures shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage the historic building materials shall not be undertaken.
8. Every reasonable effort shall be made to protect and preserve archeological resources affected by, or adjacent to, any project.
9. Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant historical, architectural or cultural material, and such design is compatible with the size, scale, color, material and character of the property, neighborhood or environment.
10. Wherever possible, new additions or alterations to structures shall be done in such a manner that, if such additions or alterations were to be removed in the future, the essential form and integrity of the structure would be unimpaired.

EXHIBIT “C”

CITY OF ORANGE HISTORIC PROPERTY MAINTENANCE STANDARDS

All buildings, structures, yards and other improvements shall be maintained in a manner which does not detract from the appearance of the immediate neighborhood. The following conditions are prohibited:

1. Dilapidated, deteriorating, or unrepaired structures, such as: fences, roofs, doors, walls and windows.
2. Publicly visible storage of scrap lumber, junk, trash or debris.
3. Publicly visible storage of abandoned, discarded or unused objects or equipment, such as automobiles, automobile parts, furniture, stoves, refrigerators, cans, containers or similar items.
4. Stagnant water or excavations, including pools or spas.
5. Any device, decoration, design, structure or vegetation that is unsightly by reason of its height, condition, or its inappropriate location.

EXHIBIT “D”

REHABILITATION/MAINTENANCE SCOPE OF WORK

[Attached.]

EXHIBIT “D”

REHABILITATION/MAINTENANCE SCOPE OF WORK

816 S. Woodland Street

Priority	Description of Work	Cost Estimate	Completion Date
1.	Perform repairs to fungus damaged wood members as recommended in Termite inspection report dated 3/4/2021.	\$950	2023
2.	Limited replacement of Eichler vertical groove wood siding on the each elevation to match existing.	\$6,500	2023
3.	Maintenance and repair of atrium siding glass doors and screens.	\$850	2023
4.	Paint exterior of the house.	\$15,000	2023
5.	Repair dry rot on east and south elevation beams and fascia.	\$5,700	2023
6.	Replace damaged temper window film with new safety film in compliance with the Orange Eichler Design Standards.	\$4,000	2025
7.	Install new HVAC system in compliance with the Orange Eichler Design Standards.	\$22,000	2026
8.	Maintenance of existing torch-down flat roof system.	\$10,000	2026
9.	Replace four glass panels at front entrance with new Mistlite glass panels to match original design.	\$6,000	2026
TOTAL		\$71,000	

EXHIBIT “E”

HISTORIC PROPERTY INVENTORY FORM (DPR 523)

[Attached.]

State of California - The Resources Agency
DEPARTMENT OF PARKS AND RECREATION
PRIMARY RECORD

Primary #

HRI #

Trinomial

NRHP Status Code

Other Listings:

Review Code:

Reviewer:

Date:

Page 1 of 3

*Resource Name or #:

WOODLAND_S_816__APN_094-463-01

(Assigned by Recorder)

P1. Other Identifier: Fairhaven Tract

*P2. Location: ☐ Not for Publication ☒ Unrestricted

*a. County: Orange and (P2b and P2c or P2d. Attach a location map as necessary.)

*b. USGS 7.5' Quad: Date: T ; R ; 1/4 of 1/4 of Sec ; B.M.

c. Address: 816 - S. WOODLAND ST, # City: Orange Zip: 92869

d. UTM: (Give more than one for large and/or linear resources) Zone ' mE/ mN

e. Other Locational Data:

*P3a. Description: (Describe resource and its major elements. Include design, materials, condition, alterations, size, setting, and boundaries. Continues on Pg.3.)

Materials:

Model LJ-124

*P3b. Resource Attributes: (HP2)--Single family property
(List attributes and codes)

*P4. Resources Present: ☒ Building ☐ Structure ☐ Object ☐ Site ☐ Element of District ☐ District ☐ Other (Isolates, etc.)

P5b. Description of Photo: 2005

(View, date, accession #)

*P6. Date Constructed/ Age and Source:

1960 c

☐ Historic ☐ Prehistoric ☐ Both

*P7. Owner and Address:

*P8: Recorded by: (Name, affiliation, and address)

Marissa Moshier, Historic
Preservation Planner

City of Orange

300 E. Chapman Ave.

Orange, CA 92866

*P9. Date Recorded:

June 2015

*P10. Survey Type: (Describe)

Reconnaissance

*P11. Report Citation: (Cite survey report and other sources, or enter "none.")

Orange County Assessor Records (2005). Chattel Architecture (2005)
Historic Resources Survey.

*Attachments: ☐ NONE ☐ Location Map ☒ Continuation Sheet(s) ☒ Building, Structure, and Object Record
☐ Archaeological Record ☐ District Record ☐ Linear Feature Record ☐ Milling Station Record ☐ Rock Art Record
☐ Artifact Record ☐ Photograph Record ☐ Other (List):

DPR 523A (1/95)

*Required Information



State of California - The Resources Agency
DEPARTMENT OF PARKS AND RECREATION
BUILDING, STRUCTURE, AND OBJECT RECORD

Primary #

HRI #

*NRHP Status Code 3D

Page 2 of 3

*Resource Name or #:
(Assigned by Recorder)

WOODLAND_S_816__APN_094-463-01

B1. Historic Name: Unknown

B2. Common Name: _____

B3. Original Use: RES

B4. Present Use: RES

*B5. Architectural Style: Mid-Century Modern

*B6. Construction History: (Construction date, alterations, and date of alterations) 1960 ☐ Historic ☐ Prehistoric ☐ Both
Front door replaced.

*B7. Moved? ☒ No ☐ Yes ☐ Unknown Date: _____ Original Location: _____

*B8. Related Features: _____

*B9. Architect or Builder: Eichler Homes - A. Quincy Jones

*B10. Significance: Theme: Architecture Area: City of Orange Property Type: Residence

Period of Significance: Eichler Tract (c. 1959 - 1965) Applicable Criteria: C

(Discuss importance in terms of historical or architectural context as defined by theme, period, and geographic scope. Also address integrity. Continues on Pg.4.)

Structural Integrity: Excellent Condition - Low level of alteration as of 2005.

Site Integrity: _____

Opportunities _____

B11. Additional Resource Attributes: (List attributes and codes) _____

*B12. References:

Orange Daily News. Eichler Tract Brochures and miscellaneous Eichler materials from the Orange Public Library.

B13. Remarks: (Continues on Pg.3.)

Status change since 1991 Survey: Not previously surveyed.

(Sketch Map with North arrow required.)

*B14. Evaluator: Robert Chattel

*Date of Evaluation: September 2005

(This space reserved for official comments.)

DPR 523B (1/95)

*Required Information

State of California - The Resources Agency
DEPARTMENT OF PARKS AND RECREATION
CONTINUATION SHEET

Primary # _____
HRI # _____
Trinomial _____

ORA

Page 3 of 3

*Resource Name or #:
(Assigned by Recorder)

WOODLAND_S_816__APN_094-463-01

Recorded by:

Marissa Moshier, Historic Preservation Planner
City of Orange
300 E. Chapman Ave.
Orange, CA 92866

Date Recorded: June 2015

☒ Continuation ☐ Update

Years Surveyed: 2005, 2015

Description of Photo:

Listed in National Register:

General Plan: LDR # of Buildings: 1

Planning Zone: R-1-8 # of Stories: 1

Lot Acre: 0.2537 # of Units: 1

Principal Building Sqft: 2263

B6. Construction History (Continued from Pg.2):

B13. Remarks (Continued from Pg.2):

P3a. Description (Continued from Pg.1):



RECORDING REQUESTED BY
AND, WHEN RECORDED,
MAIL TO:

City Clerk
City of Orange
300 E. Chapman Avenue
Orange, California, 92866

Exempt from recording fees pursuant to
Gov. Code Sections 6103 and 27383

Property Address: 368 S. Center Street
APN: 390-403-14
Mills Act Contract Number: 387.0-21

HISTORIC PROPERTY PRESERVATION AGREEMENT (MILLS ACT CONTRACT)

THIS HISTORIC PROPERTY PRESERVATION AGREEMENT (“Agreement”) is made and entered into as of the date of execution by the City (“Effective Date”), by and between the CITY OF ORANGE, a municipal corporation (“City”), and Fabiola Champagne, a Widow (“Owner”), with reference to the following:

RECITALS

WHEREAS, the Mills Act (Government Code Section 50280 *et seq.*) provides cities with the opportunity to contract with owners of qualified historical properties whereby the owner promises to preserve and rehabilitate the property in return for a potential reduced property tax assessment; and

WHEREAS, the City of Orange has established Historic Districts consisting of the Plaza Historic District, listed in the National Register of Historic Places; the Old Towne Orange Historic District, listed in the National Register of Historic Places; the local Old Towne Orange Historic District, designated by the Orange City Council; and the local Eichler Fairhaven, Fairhills, and Fairmeadow Historic Districts, designated by the Orange City Council; and the City desires to promote the character, quality of life, and historic features of said Districts to its citizens and visitors; and

WHEREAS, the City is dedicated to the protection and stabilization of property values through maintaining and upgrading its older housing stock, through the use of incentives such as the Mills Act; and

WHEREAS, the Mills Act also has beneficial effects on City businesses, economic stability and community pride by preserving important neighborhood historic resources; and

WHEREAS, the use of the Mills Act will fulfill one of the goals of the City’s 2010 General Plan Cultural Resources Element; specifically,

“Provide incentives and expand education efforts for historic preservation” (Goal 3.0, CR-22); and

WHEREAS, Owner possesses fee simple title in and to that certain real property, together with associated structures and improvements thereon, located at 368 S. Center Street in the City of Orange, County of Orange, State of California, having Assessor’s Parcel Number 390-403-14 and more specifically described in Exhibit A, which exhibit is attached hereto and made a part hereof (“Historic Property”); and

WHEREAS, the Historic Property is a qualified historical property under the Mills Act in that it is privately owned property which is not exempt from property taxation and is either: individually designated or is a contributing property within a designated district which is listed in the National Register of Historic Places, California Register of Historical Resources or Register of Historical Landmarks, California Points of Historical Interest, or is a contributing property in a locally designated historic district; and

WHEREAS, Owner, in consideration for abiding by the terms of this Agreement shall be entitled to a reassessment of valuation of the Historic Property and any corresponding reduction in property taxes pursuant to the provisions of the California Revenue and Taxation Code; and

WHEREAS, it is the City’s expectation that the Owner will use the property tax savings accrued under this Agreement for improvements to the “Historic Property” (as defined below). To that end, as a condition of renewal, the City will require a revised schedule of improvements every ten years showing a plan for improvements commensurate with the tax savings; and

WHEREAS, the City and Owner for their mutual benefit, now desire to enter into this Agreement to limit the use of the Historic Property to prevent inappropriate alterations, to ensure that characteristics of historic significance are preserved and maintained in an exemplary manner, and to carry out the purposes of Article 12 (commencing with Section 50280) of Chapter 1, Part 1, Division 1 of Title 5 of the California Government Code and Article 1.9 (commencing with Section 439) of Chapter 3, Part 2 of Division 1 of the California Revenue and Taxation Code.

AGREEMENT

NOW, THEREFORE, both Owner and City, in consideration of the mutual promises, covenants and conditions contained herein and the substantial public benefits to be derived therefrom, do hereby agree as follows:

1. **APPLICABLE LAWS.** This Agreement is made pursuant to California Government Code Sections 50280 through 50290 and Article 1.9 (commencing with Section 439) of Chapter 3, Part 2 of Division 1 of the California Revenue and Taxation Code and is subject to all of the provisions of those statutes. To the extent any of the provisions in this Agreement are inconsistent with the aforementioned provisions of the Government and Revenue and Taxation Codes, they are superseded by those Code Sections.

2. **ASSESSMENT OF VALUATION.** Property tax relief afforded to Owner pursuant to Chapter 3, Part 2 of Division 1 of the California Revenue and Taxation Code will be determined solely by the Orange County Office of the Assessor. City makes no representations regarding the actual tax savings any person may realize by entering into this Agreement.
3. **PRESERVATION OF PROPERTY.** Owner agrees to preserve and maintain the Historic Property and its character defining features. Character defining features include, but are not necessarily limited to, the general architectural form, style, materials, design, scale, details, mass, roofline and other aspects of the appearance of the exterior of the Historic Property. For purposes of identification of the Historic Property, the City's Official Historic Property Inventory Form (DPR 523) is attached as Exhibit E.

The *Secretary of the Interior's Standards for Rehabilitation* (Exhibit B) and City's minimum maintenance standards (Exhibit C), attached hereto and incorporated herein by reference, shall constitute the minimum standards and conditions for preservation and rehabilitation of the Historic Property, and shall apply to the Historic Property throughout the term of this Agreement. Owner shall, where necessary, rehabilitate the Historic Property to conform to the rules and regulations of the Office of Historic Preservation of the California Department of Parks and Recreation, the *Secretary of the Interior's Standards for Rehabilitation*, the California Historical Building Code, and the City of Orange's Historic Preservation Design Standards for Old Towne and Eichler Design Standards.

As consideration for the City to enter into this Agreement, the Owner agrees, at its own cost and expense, to complete, or cause to be completed, the work or improvements described in Exhibit D within the times established therefore in Exhibit D. The Owner shall secure any and all permits which may be required by the City or any other governmental agency affected by the construction of the work or improvements. The Owner accepts responsibility for and shall be responsible for identification of and compliance with all applicable laws pertaining to the construction and installation of the work or improvements described on Exhibit D and the contract or contracts pertaining thereto. The Owner will neither seek to hold nor hold the City liable for, and will hold the City harmless with respect to, any consequences of any failure by the Owner to correctly determine the applicability of any such requirements to any contract he/she/they enter into.

In addition to the foregoing, the Owner hereby agrees to and will comply with all applicable local, state, and federal statutes, regulations, rules, codes (including building codes), ordinances, and other requirements of governmental authorities now or hereafter in effect ("Applicable Laws") pertaining to the use of the Historic Property. Owner must give the City immediate written notice on Owner's becoming aware that the use or condition of the Historic Property is in violation of any Applicable Laws.

4. **INSPECTIONS AND ANNUAL REPORTING.** Owner agrees to permit the examination, by prior appointment, of the interior and exterior of the Historic Property by the City at a minimum every five (5) years during the Agreement term to determine Owner's compliance with the terms and provisions of this Agreement. Owner agrees to provide the City with a report as to the status of the Historic Property annually within thirty (30) days following each anniversary of the

Effective Date of this Agreement. The annual report shall provide substantiation reasonably satisfactory to the City's Historic Preservation Planner or in his/her absence the Director of Community Development that Owner has completed the work required by Exhibit D for the twelve month period preceding each anniversary of this Agreement, and whether the Historic Property has undergone any changed conditions, and whether Owner has received any public funds from other sources designated for the preservation or maintenance of the Historic Property and from whom such funds have been received.

5. **PAYMENT OF ANNUAL FEE.** The Owner shall pay the City an annual fee to cover administrative costs associated with this Agreement including but not limited to the reasonable cost of monitoring the Historic Property, performing required inspections, and enforcement of the Agreement. Said fee shall be payable to the City of Orange and shall be remitted to the Planning Division upon demand and prior to any required inspection. The amount of the annual inspection fee shall be established by the City and may be revised from time to time, which fee shall be set forth in the City's Master Schedule of Fees and Charges. Failure to pay the required fee within 45 days of the due date will be considered a willful breach of this Agreement and may result in cancellation of the Agreement in accordance with the cancellation terms detailed below.
6. **TERM.** The term of this Agreement is for a period of ten (10) years. The initial term of this Agreement shall be from July 13, 2021 to and including July 13, 2031.
7. **AUTOMATIC RENEWAL.** On each yearly anniversary of the Effective Date of this Agreement ("renewal date"), one year shall be added automatically to the initial term of this Agreement, unless notice of non-renewal is given as provided in this Agreement.
8. **EFFECT OF OUTSIDE FUNDS.** If Owner receives funds designated for the preservation or maintenance of the Historic Property from any other public agency, this Agreement shall not be renewed except upon the vote of the City Council.
9. **NOTICE OF NONRENEWAL.** If in any year either the Owner or City desires not to renew this Agreement, that party shall serve written notice of nonrenewal to the other party in advance of the annual renewal date. Unless the notice is served by Owner to City at least ninety (90) days, or by City to Owner at least sixty (60) days prior to the renewal date, one year shall automatically be added to the term of the Agreement. Within fifteen (15) days of receipt by Owner of a notice of nonrenewal from the City, Owner may make a written protest. Upon receipt of such a protest the City Council shall set a hearing prior to the expiration of the renewal date of this Agreement or toll the renewal date until such hearing can reasonably held. Owner may furnish the City Council with any information which the Owner deems relevant; and shall furnish the City Council with any information it may require. At any time prior to the renewal date, City may withdraw its notice of nonrenewal.
10. **EFFECT OF NOTICE NOT TO RENEW.** If in any year either party serves notice of intent not to renew this Agreement, this Agreement shall remain in effect for the balance of the period remaining since the original execution date if not yet renewed, or the last renewal date of the Agreement, as the case may be.

11. **UPDATE OF IMPROVEMENT SCHEDULE.** At least ninety (90) days prior to the tenth (10th) anniversary of the Effective Date of this Agreement, and ninety (90) days prior to every tenth (10th) anniversary thereafter, Owner shall provide City with an updated schedule of rehabilitation maintenance items for the City's review and approval. Such updated schedule shall contain a list of proposed improvements and/or revisions to be accomplished during the next succeeding ten (10) years of the Agreement and a schedule for the construction of such improvements. Within thirty (30) days after the City's receipt of said updated schedule, the City's Director of Community Development shall either approve or disapprove such proposed schedule of proposed improvements, or shall respond in writing by stating what further information, if any, the City reasonably requires in order to determine the request complete and determine whether or not to grant the requested approval. Upon receipt of such a response, the Owner shall promptly furnish to the City such further information as may be reasonably requested.

From time to time, at the request of the City's Director of Community Development (or his/her authorized representative), the Owner shall meet and confer with the City's Planner for Historic Preservation or in his/her absence the Director of Community Development (or his/her designee) regarding matters arising hereunder with respect to the work and improvements and the progress in constructing the same.

12. **INDEPENDENT ADVICE OF COUNSEL.** The Owner, and each of them, represent and declare that in executing this Agreement he/she/they have relied solely upon his/her/their own judgment, belief and knowledge, and the advice and recommendations of his/her/their own independently selected counsel, concerning the nature, extent and duration of his/her/their rights and claims, and that he/she/they have not been influenced to any extent whatsoever in executing the same by the City or by any person representing the City.
13. **ENFORCEMENT OF AGREEMENT.** If the City determines the owner has breached any of the conditions of the Agreement provided for or has allowed the property to deteriorate to the point it no longer meets the standards for a qualified historical property, the City shall either cancel the Agreement or bring any action in court necessary to enforce the Agreement including, but not limited to an action to enforce the Agreement by specific performance to cure, correct or remedy any breach of the terms of this Agreement, to recover damages for any breach, or to obtain any other remedy consistent with the purpose of this Agreement. In the event of a default under the provisions of this Agreement by Owner, City shall give written notice to Owner specifying the alleged grounds for the default. Said notice shall be given by registered or certified mail addressed to the address stated in this Agreement. If such violation(s) is not corrected to the reasonable satisfaction of the City within thirty (30) days from the receipt of the notice of violation, or within such reasonable time as may be required to cure the breach or default, provided that acts to cure, correct or remedy such breach or default are commenced within thirty (30) days and thereafter diligently pursued to completion, then City may, without further notice, institute legal action.

Except as otherwise expressly stated in this Agreement, the rights and remedies of the City are cumulative, and the exercise by the City of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the Owner. Any failure or delay by the City in asserting any

of its right and remedies as to a breach of any of the covenants, conditions or agreements set forth herein shall not operate as a waiver of such breach or of any such rights or remedies, or deprive the City of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce such rights or remedies. A waiver by the City of a breach shall not be construed as a waiver of any succeeding breach of the same or other covenants, conditions or agreements set forth in this Agreement.

14. CANCELLATION. In lieu of bringing an action to enforce the Agreement City may cancel this Agreement if City determines Owner has breached any of the conditions or covenants of this Agreement or has allowed the Historic Property to deteriorate to the point that it no longer meets the standards for a qualified historical property. City may also cancel this Agreement if it determines Owner has failed to rehabilitate the Historic Property in the manner specified in this Agreement.

15. NOTICE OF CANCELLATION. This Agreement cannot be canceled until after City has given notice and has held a public hearing as required by Government Code Section 50285. Notice of the hearing shall be mailed to the last known address of each owner of property within 300 feet of the Historic Property and shall be published in accordance with Government Code Section 6061.

16. CANCELLATION FEE. If City cancels this Agreement in accordance with Section 15 above, Owner shall pay a cancellation fee of twelve and one-half percent (12-1/2%) of the current fair market value of the Historic Property at the time of cancellation. The current fair market value shall be determined by the County Assessor as though the Historic Property were free of the restriction on the Historic Property imposed pursuant to this Agreement. The cancellation fee shall be paid to the County Auditor at such time and in such manner as the County Auditor shall prescribe.

17. NOTICES. All notices required by or provided for in the Agreement shall be given in writing and may be mailed or delivered in person at the address of the respective parties as specified below or at any other address as may be later specified by the parties. Deposit of notice in the mail, postage prepaid, shall be deemed receipt of the notice.

City of Orange	Fabiola Champagne
Attn.: City Clerk	368 S. Center Street
300 E. Chapman Avenue	Orange, CA 92866
Orange, CA 92866	

18. NO COMPENSATION. Owner shall not receive any payment from the City in consideration of the obligations imposed under this Agreement. The Owner acknowledges and agrees that the consideration for the execution of this Agreement is the substantial public benefit to be derived therefrom and the advantage that will accrue to Owner as a result of the effect upon the assessed value of the Historic Property on account of the restrictions on the use and preservation of the Historic Property.

19. REMEDY IF AGREEMENT HELD NOT ENFORCEABLE. In the event it is finally determined this Agreement does not constitute an enforceable restriction within the meaning of the applicable provisions of the California Government Code and the California Revenue and Taxation Code, except for an unenforceability arising from the cancellation or nonrenewal of this Agreement, then this Agreement shall be null and void and without further effect and the Historic Property subject to this Agreement shall from that time be free from any restriction whatsoever under this Agreement without any payment or further act of the parties to this Agreement.

20. ACQUISITION OF PROPERTY BY EMINENT DOMAIN; CANCELLATION OF CONTRACT; INAPPLICABILITY TO DETERMINATION OF VALUE. In the event that the Historic Property is acquired in whole or part by eminent domain or other acquisition by any entity authorized to exercise the power of eminent domain, and the acquisition is determined by the City to frustrate the purpose of the Agreement, the Agreement shall be canceled and no fee shall be imposed under Section 17, above. The Agreement shall be deemed null and void for all purposes of determining the value of the Historic Property so acquired.

If, subsequent to the filing of an action in eminent domain, the proposed condemnation is abandoned by the condemning agency, the restrictions on the use of the Historic Property included in this Agreement shall, without further agreement of the parties, be reinstituted and the terms of this Agreement shall continue in full force and effect.

21. EFFECT OF AGREEMENT. None of the terms, provisions or conditions of this Agreement shall be deemed to create a partnership between the parties hereto and any of their heirs, successors or assigns, nor shall such terms, provisions or conditions cause the parties hereto to be considered joint venturers or members of any joint enterprise.

22. SUCCESSORS AND ASSIGNS. This Agreement is binding upon and shall inure to the benefit of all successors in interest of the Owner, regardless of the tax exempt status of any subsequent owner. A successor in interest shall have the same rights and obligations under this Agreement as the original owner who entered into this Agreement.

23. REQUIREMENTS RELATED TO TRANSFER OF HISTORIC PROPERTY. In the event of any sale, transfer, assignment or conveyance of the Historic Property ("Transfer"), the Owner agrees that, at least thirty (30) days prior to such Transfer, it shall give written notice to the City of such proposed Transfer, including the name(s) of the transferee(s). In addition, the Owner and the proposed transferee(s) shall enter into and deliver to the City through the escrow for the Transfer of the Historic Property an assignment and assumption agreement in a form satisfactory to the City's Attorney or such other evidence as may be satisfactory to the City that the transferee(s) has (have) assumed the Owner's obligations set forth in this Agreement. Upon the Transfer of the Historic Property and the assumption of the obligations hereunder by the transferee(s), the Owner's liability for performance shall be terminated as to any obligation to be performed hereunder after the date of such Transfer.

24. RECORDATION. City shall record a copy of this Agreement with the Office of the County Recorder of the County of Orange.

25. AMENDMENTS. This Agreement may be amended, in whole or in part, only by a written and recorded instrument executed by the parties hereto, except that the Director of Community Development is authorized to amend the list of required projects in Exhibit D.
26. COUNTERPARTS. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which shall constitute one and the same agreement with the same effect as if all parties had signed the same signature page. Any signature page of this Agreement may be detached from any counterpart of this Agreement and re-attached to any other counterpart of this Agreement identical in form hereto but having attached to it one or more additional signature pages.
27. ADMINISTRATION. This Agreement shall be administered by the City's Director of Community Development (or his/her designated representative) following approval of this Agreement by the City. The City shall maintain authority of this Agreement through the City's Director of Community Development (or his/her authorized representative). The City's Director of Community Development shall have the authority to issue interpretations, waive provisions and enter into amendments of this Agreement on behalf of the City so long as such actions do not change the uses permitted on the Historic Property or the purpose of this Agreement. Such amendments may include extensions of time or amendments to the projects specified in Exhibit D. All other waivers or amendments shall require the written approval and consent of the City Council.

[Remainder of page intentionally left blank; signatures on next page]

IN WITNESS WHEREOF, the City and the Owner have executed this Agreement.

“OWNER”

Dated: _____, 2021

Fabiola Champagne

“CITY”

CITY OF ORANGE, a municipal corporation

Dated: _____, 2021

By: _____
Mark A. Murphy
Mayor

ATTEST:

APPROVED AS TO FORM:

Pamela Coleman
City Clerk

Mary E. Binning
Senior Assistant City Attorney

ACKNOWLEDGEMENT

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

State of California
County of _____

On _____ before me, _____,
a Notary Public in and for the State of California, personally appeared _____

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

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

WITNESS my hand and official seal.

Signature _____ (Seal)

EXHIBIT “A”

LEGAL DESCRIPTION OF HISTORIC PROPERTY

REAL PROPERTY IN THE CITY OF ORANGE, COUNTY OF ORANGE, STATE OF CALIFORNIA, DESCRIBED AS:

Lot 20 of Block A of George Achison’s Subdivision of Richland Farm, Lots 41 and 42, as per map recorded in Book 3, Page 49 of Miscellaneous Maps, in the office of the County Recorder of said County.

[APN 390-403-14]

EXHIBIT "B"

SECRETARY OF THE INTERIOR'S STANDARDS FOR REHABILITATION

1. Every reasonable effort shall be made to provide a compatible use for a property, which requires a minimal alteration of the building structure, or site and its environment, or to use a property for its originally intended purpose.
2. The distinguishing original qualities or character of a building, structure, or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural features should be avoided when possible.
3. All buildings, structures, and sites shall be recognized as products of their own time. Alterations that have no historical basis and which seek to create an earlier appearance shall be discouraged.
4. Changes which may have taken place in the course of time are evidence of the history and development of a building, structure or site and its environment. These changes may have acquired significance in their own right, and this significance shall be recognized and respected.
5. Distinctive stylistic features or examples of skilled craftsmanship which characterize a building, structure or site shall be treated with sensitivity.
6. Deteriorated architectural features shall be repaired rather than replaced, wherever possible. In the event replacement is necessary, the new material should match the material being replaced in composition, design, color, texture, and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplications of features, substantiated by historic, physical, or pictorial evidence rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.
7. The surface cleaning of structures shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage the historic building materials shall not be undertaken.
8. Every reasonable effort shall be made to protect and preserve archeological resources affected by, or adjacent to, any project.
9. Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant historical, architectural or cultural material, and such design is compatible with the size, scale, color, material and character of the property, neighborhood or environment.
10. Wherever possible, new additions or alterations to structures shall be done in such a manner that, if such additions or alterations were to be removed in the future, the essential form and integrity of the structure would be unimpaired.

EXHIBIT “C”

CITY OF ORANGE HISTORIC PROPERTY **MAINTENANCE STANDARDS**

All buildings, structures, yards and other improvements shall be maintained in a manner which does not detract from the appearance of the immediate neighborhood. The following conditions are prohibited:

1. Dilapidated, deteriorating, or unrepaired structures, such as: fences, roofs, doors, walls and windows.
2. Publicly visible storage of scrap lumber, junk, trash or debris.
3. Publicly visible storage of abandoned, discarded or unused objects or equipment, such as automobiles, automobile parts, furniture, stoves, refrigerators, cans, containers or similar items.
4. Stagnant water or excavations, including pools or spas.
5. Any device, decoration, design, structure or vegetation that is unsightly by reason of its height, condition, or its inappropriate location.

EXHIBIT “D”

REHABILITATION/MAINTENANCE SCOPE OF WORK

[Attached.]

EXHIBIT “D”

REHABILITATION/MAINTENANCE SCOPE OF WORK

368 S. Center Street

Priority	Description of Work	Cost Estimate	Completion Date
1.	Uncover and repair/replace historic exterior wood siding, add window trim, and paint exterior.	\$15,000	2021
2.	Add wood guardrail and handrail at front porch of historic house, compatible with historic architectural style.	\$5,000	2021
3.	Repair plumbing leaks under house and replace kitchen drain pipe.	\$2,000	2022
4.	Replace non-historic front door with compatible wood door.	\$2,500	2023
5.	Remove vinyl fence at rear of house.	\$500	2027
6.	Replace non-historic aluminum windows with compatible wood windows. The plans for the windows at the front of the house, two on the east elevation and one on the north elevation, will be reviewed for compatibility with the Historic Preservation Design Standards and with the house prior to issuance of a building permit and installation, to be mutually agreed upon by both parties.	\$25,000	2031
TOTAL		\$50,000	

***Note: 372 S. Center Street is a non-contributing building and is not included within the scope of the Mills Act Program.

EXHIBIT “E”

HISTORIC PROPERTY INVENTORY FORM (DPR 523)

[Attached.]

State of California - The Resources Agency
DEPARTMENT OF PARKS AND RECREATION
PRIMARY RECORD

Primary # 30-158955
HRI # 038321
Trinomial ORA
NRHP Status Code 1D

Other Listings:

Review Code:

Reviewer:

Date:

Page 1 of 4.1

*Resource Name or #:
(Assigned by Recorder)

CENTER_S_368-372__APN_390-403-14

P1. Other Identifier: See B13 Remarks

*P2. Location: ☐ Not for Publication ☒ Unrestricted

*a. County: Orange and (P2b and P2c or P2d. Attach a location map as necessary.)

*b. USGS 7.5' Quad: Date: T ; R ; 1/4 of 1/4 of Sec ; B.M.

c. Address: 368 - 372 S CENTER ST , # City: Orange Zip: 92866

d. UTM: (Give more than one for large and/or linear resources) Zone ' mE/ mN

e. Other Locational Data:

*P3a. Description: *** Property status pending review with the National Register! ***

Materials: Frame - Wood siding

A box plan house with pyramidal roof and board and batten siding. Corner recessed porch forms the entry focal porch supported by Classical columns with wide pier bases.

*P3b. Resource Attributes: (HP2)--Single family property
(List attributes and codes)

*P4. Resources Present: ☒ Building ☐ Structure ☐ Object ☐ Site ☒ Element of District ☐ District ☐ Other (Isolates, etc.)



P5b. Description of Photo: 2005
(View, date, accession #)

*P6. Date Constructed/ Age and Source:

1910

☒ Historic ☐ Prehistoric ☐ Both

*P7. Owner and Address:

*P8: Recorded by: (Name, affiliation, and address)
D. Gest, P. LaValley, D. Matsumoto

Chattel Architecture
13417 Ventura Blvd.
Sherman Oaks, CA 91423

*P9. Date Recorded:

April, 2005

*P10. Survey Type: (Describe)

Reconnaissance

*P11. Report Citation: (Cite survey report and other sources, or enter "none.")

Orange County Assessor Records (2005). Chattel Architecture (2005)
Historic Resources Survey. AEGIS (1991) Historic Building Inventory
Update. Heritage Orange County, Inc. (1982) Orange Historic Survey.

*Attachments: ☐ NONE ☐ Location Map ☒ Continuation Sheet(s) ☒ Building, Structure, and Object Record
☐ Archaeological Record ☐ District Record ☐ Linear Feature Record ☐ Milling Station Record ☐ Rock Art Record
☐ Artifact Record ☐ Photograph Record ☐ Other (List):

DPR 523A (1/95)

*Required Information

State of California - The Resources Agency
DEPARTMENT OF PARKS AND RECREATION

BUILDING, STRUCTURE, AND OBJECT RECORD

Primary # 30-158955

HRI # 038321

*NRHP Status Code 1D

Page 2 of 4.1

*Resource Name or #:
(Assigned by Recorder)

CENTER_S_368-372__APN_390-403-14

B1. Historic Name: Unknown

B2. Common Name:

B3. Original Use: RES

B4. Present Use: RES

*B5. Architectural Style: Hip Roof Cottage

*B6. Construction History: (Construction date, alterations, and date of alterations) Date of Construction: 1910 ☒ Historic ☐ Prehistoric ☐ Both
Altered as of 2005: Windows; Doors; and Siding replaced.

*** Property status pending review with the National Register! ***

*B7. Moved? ☒ No ☐ Yes ☐ Unknown Date: Original Location:

*B8. Related Features:

*B9. Architect or Builder: Unknown

*B10. Significance: Theme: Architecture Area: City of Orange Property Type: Residence

Period of Significance: Old Towne: Early Settlement (c. 1870 - 1920) Applicable Criteria: AC

(Discuss importance in terms of historical or architectural context as defined by theme, period, and geographic scope. Also address integrity. Continues on Pg.4.)

Structural Integrity: Fair Condition - Major inappropriate changes to original structure.

Site Integrity:

Opportunities:

B11. Additional Resource Attributes: (List attributes and codes)

*B12. References:

Orange Daily News.

B13. Remarks: (Continues on Pg.3.)

Status change since 1991 Survey: None.

Only 368 S. Center is a contributing building. 372 S. Center is the rear, non-historic building.

(Sketch Map with North arrow required.)

*B14. Evaluator: Robert Chattel

*Date of Evaluation: September, 2005

(This space reserved for official comments.)

DPR 523B (1/95)

*Required Information

State of California - The Resources Agency
DEPARTMENT OF PARKS AND RECREATION
CONTINUATION SHEET

Primary # 30-158955
HRI # 038321
Trinomial ORA

Page 3 of 4.1

*Resource Name or #: CENTER_S_368-372__APN_390-403-14

Recorded by: *** Property status pending review with the National Register! ***

D. Gest, P. LaValley, D. Matsumoto
Chattel Architecture
13417 Ventura Blvd.
Sherman Oaks, CA 91423

Date Recorded: April, 2005

☒ Continuation ☐ Update

Years Surveyed: 1982, 1991, 2005

Description of Photo: 1991

Listed in National Register: 1997

General Plan: LDR # of Buildings: 2

Planning Zone: R-2-6 # of Stories: 1

Lot Acre: 0.1415 # of Units: 2

Principal Building Sqft: 1404

B6. Construction History (Continued from Pg.2):

B13. Remarks (Continued from Pg.2):

P3a. Description (Continued from Pg.1):



State of California - The Resources Agency
DEPARTMENT OF PARKS AND RECREATION
CONTINUATION SHEET

Primary # 30-158955
HRI # 038321
Trinomial ORA

Page 4.1 of 4.1

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Recorded by: *** Property status pending review with the National Register! ***

D. Gest, P. LaValley, D. Matsumoto
Chattel Architecture
13417 Ventura Blvd.
Sherman Oaks, CA 91423

Date Recorded: April, 2005

☒ Continuation ☐ Update

2012 National Register Amendment: (Based upon 2010 Historic Resources Inventory Update)

Purpose of Amendment:
Alterations

Recommended Action: Down-grade to NR Non-contributing

Current Status (2011): 1D

Recommended Status (2012): 5D1

Detail:

Description of Photo:

Description of Photo:





Agenda Item

City Council

Item #: 3.10.

7/13/2021

File #: 21-0332

TO: Honorable Mayor and Members of the City Council

THRU: Rick Otto, City Manager

FROM: Christopher Cash, Public Works Director

1. SUBJECT

Appropriation of \$34,580 in designated grant funding received from the California Department of Resources Recycling and Recovery for the Beverage Container Recycling City Payment Program.

2. SUMMARY

Based on an agreement with the California Department of Resources Recycling and Recovery, the Public Works department receives an allocation of per-capita grant funds to utilize towards activities related to beverage container recycling.

3. RECOMMENDED ACTION

1. Accept into the City's revenue budget a \$34,580 grant from the California Department of Resources Recycling and Recovery into revenue account number 220.5022.45290.20487, Sanitation & Sewer - Beverage Container Program 20-21.
2. Authorize the appropriation of \$34,580 into the following expenditure account numbers Sanitation & Sewer - Beverage Container Program 20-21:

220.5022.51001.20487	Contractual Services	\$17,080
220.5022.53001.20487	Materials and Supplies	\$16,000
220.5022.50002.20487	Regular Salaries - Misc	\$ 1,500

4. FISCAL IMPACT

The total appropriations for this grant are funded by the additional revenue received from the California Department of Resources Recycling and Recovery.

5. STRATEGIC PLAN GOALS

Goal 2: Be a Fiscally Healthy Community

d: Effectively manage and develop City assets.

Goal 4: Provide Outstanding Public Service

b: Provide facilities and services to meet customer expectations.

6. DISCUSSION AND BACKGROUND

The City participates in the Beverage Container Recycling Payment Program administered by the California Department of Resources Recycling and Recovery (CalRecycle). The City must submit an application to CalRecycle to secure the grant funding, which provides opportunities for local

governments to receive funds for beverage container recycling programs. The focus of the program is to reach and maintain an 80% recycling rate for all California refund value beverage containers made of aluminum, glass, plastic, and bi-metal.

The City has received funding for this program since 1999, utilizing the funds to obtain the services of Orange County Conservation Corps (OCCC) and reduce the use of bottled water consumption by installing hydration stations.

Historically, OCCC has performed maintenance of storm channels through the City. Furthermore, the City uses a portion of the grant to have OCCC provide litter reduction and recycling activities during City events. A portion of this grant is also used for the construction of hydration stations.

7. ATTACHMENTS

- None



Agenda Item

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7. ATTACHMENTS

- None



Agenda Item

City Council

Item #: 3.11.

7/13/2021

File #: 21-0339

TO: Honorable Mayor and Members of the City Council

THRU: Rick Otto, City Manager

FROM: Bonnie Hagan, Assistant City Manager / Community Services Director

1. SUBJECT

Acceptance and appropriation of \$459,659 in American Recovery Act Program funding for Meal Gap Services.

2. SUMMARY

Staff is recommending the acceptance and appropriation of \$459,659 in American Recovery Act Program funding received through the County of Orange for expenses to implement a grocery store voucher program for seniors, persons with disabilities, and other individuals experiencing food insecurity as a result of the COVID-19 pandemic.

3. RECOMMENDED ACTION

1. Accept into the City's revenue budget \$459,659 in American Recovery Act Program Funding from the County of Orange, into revenue account 550.7011.45150.30182, Reimbursable Capital Projects - Federal Grant Revenue.
2. Authorize the appropriation of \$22,983 to Reimbursable Capital Projects expenditure accounts 550.7011.56002.30182, Staff Time for CIP and \$436,676 to 550.7011.56510.30182, CIP Other Capital Outlay.
3. Authorize the City Manager, or his designee, to negotiate and execute all necessary documents to implement the Meal Gap Program.

4. FISCAL IMPACT

The total appropriations for this program are funded by the revenue received from the American Recovery Act Program distributed by the County of Orange.

5. STRATEGIC PLAN GOALS

Goal 1: Provide for a safe community

- e: Develop and implement effective community outreach services and programs to promote public safety.

Goal 3: Enhance and promote quality of life in the community

- e: Develop and strengthen collaborative partnerships to enhance and promote quality of life programs, projects, and services.

6. DISCUSSION AND BACKGROUND

Background

In June 2020, the City received \$229,825 through Orange County Supervisor, Don Wagner via the Coronavirus Relief Fund for the Senior Meal Gap program (SMGP). Using a voucher program, over 350 Orange seniors received \$500 in vouchers to local restaurants for delivered meals and grocery stores. The Orange Senior Center/Orange Elderly Service (OES) was also able to expand its Meals on Wheels (MOW) program to provide meals on the weekends for its MOW participants.

On May 25, 2021 Supervisor Wagner's Office notified the City that the Board of Supervisors approved \$10 million (\$2 million per District) from the American Recovery Act Program funding for an expanded food/meal gap program for seniors, persons with disabilities, and other individuals experiencing food insecurities as a result of the COVID-19 pandemic. Supervisor Wagner is once again remitting his District 3 funds directly to the cities in his District, including the City of Orange. The City's share of these funds is \$459,659 and are required to be used by November 30, 2021.

2021 Meal Gap Program

Following the grant guidelines, staff is proposing to implement a program similar to the first round of funding by distributing grocery store vouchers to Orange residents who are experiencing food insecurities. The City will utilize its partnership with OES and the Friendly Center (FC) to identify Orange seniors, persons with disabilities, and other individuals who are experiencing food insecurities as a result of the pandemic. OES will offer the voucher program to Senior Center participants who are experiencing food insecurities. This includes seniors participating in the congregate meal program, currently operating as a "Grab N Go" program, and seniors who were asked to be put on a waitlist after last year's SMGP ended. The City received feedback through OES that the MOW participants felt the weekend food was too much. If an individual MOW participant needs additional food, they can apply for the individual senior voucher program and OES will assist. The FC will offer the voucher program to individuals and families who meet the criteria.

Program Outline

The new Meal Gap Program (MGP) will provide one, \$500 grocery store voucher to individuals/seniors in one household (1-2 people) and one, \$1,000 voucher to families (2+ people) in one household. Program applicants will be required to fill out an application, which includes their address and a section to self-verify the individual or family is experiencing food insecurities as a result of the pandemic. OES and the FC will begin accepting program applications in July. Applications of recipients will then be turned into the City for tracking and reporting.

The City will purchase grocery store vouchers from Orange grocery stores identified by both OES and the FC as stores regularly patronized by their participants. The City will then distribute the vouchers to OES and FC who in turn will distribute the vouchers to the approved participants. FC staff have shared that summer is the hardest time for their families to secure food, as children are home from school. Both OES and the FC hope to distribute the vouchers before the end of summer.

Staff anticipates that the new MGP will serve approximately 300 families and over 260 seniors. Five percent of the funds (\$22,983) are being allocated to staff time to administer the program and support the cost of supplies. The City is required to provide the County with invoices and receipts within 14 working days of expending the full amount, submit a progress report mid-August, and submit a final report mid-December. Staff is requesting authorization for the City Manager, or his designee, to negotiate and execute all necessary documents to implement the proposed Meal Gap Program. The

City would like to thank Supervisor Wagner for his tremendous support for Orange residents experiencing food insecurities during this time.

7. ATTACHMENTS

- Contract for Meal Gap Services



Agenda Item

City Council

Item #: 3.11.

7/13/2021

File #: 21-0339

TO: Honorable Mayor and Members of the City Council

THRU: Rick Otto, City Manager

FROM: Bonnie Hagan, Assistant City Manager / Community Services Director

1. SUBJECT

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2. SUMMARY

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3. Authorize the City Manager, or his designee, to negotiate and execute all necessary documents to implement the Meal Gap Program.

4. FISCAL IMPACT

The total appropriations for this program are funded by the revenue received from the American Recovery Act Program distributed by the County of Orange.

5. STRATEGIC PLAN GOALS

Goal 1: Provide for a safe community

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7. ATTACHMENTS

- Contract for Meal Gap Services



**CONTRACT NO. MA-012-21011577
BY AND BETWEEN
COUNTY OF ORANGE
AND
CITY OF ORANGE
FOR MEAL GAP SERVICES**

This "Contract" No. MA-012-21011577 is made and entered into by and between the County of Orange, a political subdivision of the State of California, hereinafter referred to as "COUNTY", and the City of Orange, a municipal corporation, with a place of business at, 300 E. Chapman Avenue, Orange, California 92866, D-U-N-S Number 089140982, hereafter referred to as "SUBRECIPIENT," with the COUNTY and SUBRECIPIENT referred to individually as "PARTY," or collectively as "PARTIES."

WHEREAS, on February 26, 2020, the County Health Officer declared a local health emergency based on an imminent and proximate threat to public health from the introduction of a novel coronavirus (named "COVID-19") in Orange County (the "COVID-19 Emergency"); and

WHEREAS, on March 2, 2020, the Board of Supervisors adopted Resolution No. 2020-11 ratifying the local health emergency declared by the County's Health Officer; and

WHEREAS, on March 4, 2020, the Governor of the State of California declared a State of Emergency to exist in California as a result of the threat of COVID-19; and

WHEREAS, the COVID-19 pandemic and the necessary physical distancing measures implemented have impacted many people, especially those with food insecurities; and

WHEREAS, the Orange County Board of Supervisors has allocated \$10 million in American Recovery Act Program dollars equally between the five supervisorial districts for meal gap support initiatives in response to COVID-19 on April 27, 2021; and

WHEREAS, pursuant to the authority delegated by the Orange County Board of Supervisors, a share will be distributed to each city located in District 3 based on overall district population; and

WHEREAS, in order to provide meals to those facing food insecurities in the Third District due to the COVID-19 public health emergency, the PARTIES have agreed that the COUNTY shall transfer the grant amount described herein to SUBRECIPIENT.

NOW, THEREFORE, the PARTIES mutually agree as follows:

1. **TERM OF CONTRACT.** The term of this Contract begins on the date when fully executed by the PARTIES, and terminates on November 30, 2021, or

when all of the PARTIES' obligations under this Contract are fully satisfied, whichever occurs earlier.

2. USE OF GRANT AMOUNT.

- a. Cities shall use the grant amount provided under this Contract to provide for food insecurities: (1) are necessary expenditures incurred due to the public health emergency with respect to COVID-19; and (2) were incurred during the period that begins on the date the contract is fully executed and ends on November 30, 2021.
- b. The term "Eligible Expenses," as used in this Contract, shall mean expenses incurred and paid for by City for the provision of providing food/meal gap programs to clients with insecurities due to the Covid-19 pandemic located in the Third District in connection with the COVID-19 public health emergency.
- c. The following is a nonexclusive list of expenditures that shall not constitute Eligible Expenses payable from the grant amount:
 - (1) Damages covered by insurance.
 - (2) Expenses that have been or will be reimbursed under any local, state or federal program, such as the reimbursement by the federal government pursuant to the CARES Act of contributions by States to State unemployment funds.
 - (3) Reimbursement to donors for donated items or services.
 - (4) Workforce bonuses other than hazard pay or overtime.
 - (5) Severance pay.
 - (6) Legal settlements.
- d. SUBRECIPIENT must utilize the grant amount in accordance with all Local, Federal and State laws.

3. PAYMENT OF GRANT AMOUNT

- a. The COUNTY will issue a one-time payment to the CITY in the amount of **\$459,659** within 10 business days of the full execution of this Contract. All of SUBRECIPIENT'S expenditures of the grant amount must be for costs as described in Paragraph 2 of this Contract. The grant amount represents the amount allocated to SUBRECIPIENT.
- b. It is understood that the COUNTY makes no commitment to fund this Contract beyond the terms set forth herein.

- c. SUBRECIPIENT will provide the COUNTY invoices and receipts as proof of eligible expenses within 14 working days of expending the full \$459,659.
- c. If SUBRECIPIENT has not spent any portion of the grant amount it has received under this Contract to cover Eligible Expenses by November 30, 2021, SUBRECIPIENT shall return to the COUNTY by December 31, 2021 the amount remaining unspent as of November 30, 2021.

4. STATUTES AND REGULATIONS APPLICABLE TO GRANT.

SUBRECIPIENT must comply with all applicable requirements of State, Federal, and County of Orange laws, executive orders, regulations, program and administrative requirements, policies and any other requirements governing this Contract. SUBRECIPIENT must comply with applicable Local, State and Federal laws and regulations pertaining to labor, wages, hours, and other conditions of employment. SUBRECIPIENT must comply with new, amended, or revised laws, regulations, and/or procedures that apply to the performance of this Contract. These requirements include, but are not limited to:

- a. Office of Management and Budget (OMB) Circulars. SUBRECIPIENT must comply with OMB Circulars, as applicable: OMB Circular A-21 (Cost Principles for Educational Institutions); OMB Circular A-87 (Cost Principles for State, Local, and Indian Tribal Governments); OMB Circular A-102 (Grants and Cooperative Contracts with State and Local Governments); Common Rule, Subpart C for public agencies or OMB Circular A-110 (Uniform Administrative Requirements for Grants and Other Contracts with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations); OMB Circular A-122 (Cost Principles for Non-Profit Organizations); OMB Circular A-133 (Audits of States, Local Governments, and Non-Profit Organizations).
- b. Political Activity Prohibited. None of the funds, materials, property, or services provided directly or indirectly under this Contract may be used for any partisan political activity, or to further the election or defeat of any candidate for public office. Funds provided under this Contract may not be used for any purpose designed to support or defeat any pending legislation or administrative regulation.
- c. Tax Reporting. SUBRECIPIENT is responsible for any tax reporting requirements that arise from this Contract, including the filing of any required tax forms with the IRS and the issuance of any required tax forms to recipients of economic support from the SUBRECIPIENT.

5. REPORTS.

- a. Progress Report. On August 15, 2021, SUBRECIPIENT shall provide a report to the COUNTY that shall: (1) identify the Eligible Expenses paid from the grant amount; (2) demonstrate how SUBRECIPIENT used the grant amount consistent with the use requirements of Paragraph 2; and (4) identify the balance of the grant amount that SUBRECIPIENT has not spent.
- b. Final Report. Upon the earlier of SUBRECIPIENT'S expenditure of the balance of the grant amount or December 15, 2021, SUBRECIPIENT shall provide a report to the COUNTY that shall: (1) identify the Eligible Expenses paid from the grant amount; (2) demonstrate how SUBRECIPIENT used the grant amount consistent with the use requirements of Paragraph 2; and (3) identify the balance of the grant amount that SUBRECIPIENT has not spent, if any.
- c. The SUBRECIPIENT shall provide a certification signed by its chief executive officer with each report required under this Paragraph 5 that the statements contained in the report are true and that the expenditures described in the report comply with the uses permitted under Paragraph 2.
- d. SUBRECIPIENT shall maintain supporting documentation for the reports required by this Paragraph 5 consistent with the requirements of Paragraph 6.

6. RECORDS MAINTENANCE.

Records, in their original form, must be maintained in accordance with requirements prescribed by the COUNTY with respect to all matters specified in this Contract. Original forms are to be maintained on file for all documents specified in this Contract. Such records must be retained for a period four (4) years after termination of this Contract and after final disposition of all pending matters. "Pending matters" include, but are not limited to, an audit, litigation or other actions involving records. Records, in their original form pertaining to matters covered by this Contract, must at all times be retained within the County of Orange unless authorization to remove them is granted in writing by the COUNTY.

7. RECORDS INSPECTION.

At any time during normal business hours and as often as either the COUNTY or the Auditor General of the State of California may deem necessary, SUBRECIPIENT must make available for examination all of its records with respect to all matters covered by this Contract. The COUNTY

and the Auditor General of the State of California each have the authority to audit, examine and make excerpts or transcripts from records, including all SUBRECIPIENT'S invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to all matters covered by this Contract. SUBRECIPIENT agrees to provide any reports requested by the COUNTY regarding performance of this Contract. With respect to inspection of SUBRECIPIENT'S records, the COUNTY may require that SUBRECIPIENT provide supporting documentation to substantiate SUBRECIPIENT'S expenses with respect to the SUBRECIPIENT'S use or expenditure of the grant amount.

8. INDEPENDENT CONTRACTOR.

The SUBRECIPIENT shall be considered an independent contractor and neither the SUBRECIPIENT, its employees, nor anyone working under the SUBRECIPIENT shall be considered an agent or an employee of COUNTY. Neither the SUBRECIPIENT, its employees nor anyone working under the SUBRECIPIENT shall qualify for workers' compensation or other fringe benefits of any kind through COUNTY.

9. PERMITS, LICENSES, APPROVALS, AND LEGAL OBLIGATIONS.

SUBRECIPIENT shall be responsible for obtaining any and all permits, licenses, and approvals required for performing any work under this Contract. SUBRECIPIENT shall be responsible for observing and complying with any applicable Federal, State, or local laws, or rules or regulations affecting any such work. SUBRECIPIENT shall provide copies of permits and approvals to the COUNTY upon request.

10. INSURANCE.

Employee Dishonesty: coverage is required in the minimum amount of \$100,000 per occurrence. The County of Orange shall be the loss payee. A Loss Payee endorsement evidencing that the County of Orange is a Loss Payee shall accompany the Certificate of Insurance.

11. INDEMNITY.

The SUBRECIPIENT agrees to indemnify, defend with counsel approved in writing by COUNTY, and hold COUNTY, its elected and appointed officials, officers, employees and agents and those special districts and agencies which County's Board of Supervisors acts as the governing Board harmless from any claims, demands or liability of any kind or nature, including but not limited to personal injury or property damage, arising from or related to the SUBRECIPIENT'S receipt, distribution or expenditure of the grant amount under this Contract. The provisions of this paragraph shall survive the termination of this Contract.

12. NOTICES.

Any and all notices, requests, demands and other communications contemplated, called for, permitted, or required to be given hereunder shall be in writing. Any written communications shall be deemed to have been duly given upon actual in-person delivery, if delivery is by direct hand, or upon delivery on the actual day of receipt or no greater than four (4) calendar days after being mailed by US certified or registered mail, return receipt requested, postage prepaid, whichever occurs first. The date of mailing shall count as the first day. All communications shall be addressed to the appropriate PARTY at the address stated herein or such other address as the PARTIES hereto may designate by written notice from time to time in the manner aforesaid.

SUBRECIPIENT:

CITY:

Rick Otto
City Manager
City of Orange
300 E. Chapman Avenue
Orange, CA 92866

COUNTY:

Renee Ramirez
County of Orange
OC Community Services
1300 S. Grand Ave., Bldg. B
Santa Ana, CA 92705

13. DEFAULTS.

Should either PARTY fail for any reason to comply with the contractual obligations of this Contract within the time specified by this Contract, the non-breaching PARTY reserves the right to terminate the Contract, reserving all rights under State and Federal law.

14. ATTORNEY FEES.

In any action or proceeding to enforce or interpret any provision of this Contract, each PARTY shall bear its own attorney's fees, costs, and expenses.

15. ENTIRE CONTRACT.

This Contract contains the entire contract between the PARTIES with respect to the matters herein, and there are no restrictions, promises, warranties or undertakings other than those set forth herein or referred to herein. No exceptions, alternatives, substitutes, or revisions are valid or binding on the PARTIES unless authorized by the PARTIES in writing.

16. AMENDMENTS.

No alteration or variation of the terms of this Contract shall be valid unless made in writing and signed by the PARTIES; no oral understanding or agreement not incorporated herein shall be binding on either of the PARTIES; and no exceptions, alternatives, substitutes, or revisions are valid or binding on COUNTY unless authorized by COUNTY in writing.

17. EQUAL EMPLOYMENT OPPORTUNITY.

The SUBRECIPIENT shall comply with U.S. Executive Order 11246 entitled, "Equal Employment Opportunity" as amended by Executive Order 11375 and as supplemented in Department of Labor regulations (41 CFR, Part 60) and applicable State of California regulations as may now exist or be amended in the future. The SUBRECIPIENT shall not discriminate against any employee or applicant for employment on the basis of race, color, national origin, ancestry, religion, sex, marital status, political affiliation or physical or mental condition.

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

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

18. DEBARMENT.

SUBRECIPIENT shall execute and abide by the Debarment & Suspension Certification, attached hereto as Exhibit 1 and incorporated herein by this reference, and by so doing declares that it is not debarred or suspended or otherwise excluded from or ineligible for participation in Federal/State assistance programs in accordance with 29 C.F.R. Part 98.

19. LOBBYING CERTIFICATION.

- a. SUBRECIPIENT shall execute and abide by the terms of the "Certification Regarding Lobbying," which is attached hereto as Exhibit 2 and incorporated herein by this reference. SUBRECIPIENT shall complete and immediately forward to the County's Project Manager the "Disclosure Form to Report Lobbying," a copy of which is attached hereto as Exhibit 3 and incorporated herein by this reference, if SUBRECIPIENT, or any person, firm or corporation acting on SUBRECIPIENT's behalf, engaged or engages in lobbying any federal office, employee, elected official or agency with respect to this Contract or funds to be received by SUBRECIPIENT pursuant to this Contract.
- b. SUBRECIPIENT agrees that the funds provided herein shall not be used to promote, directly or indirectly, any political party, political candidate or political activity, except as permitted by law.
- c. SUBRECIPIENT shall be in compliance with the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352 and 29 CFR Part 93).

20. AUDIT.

- a. If SUBRECIPIENT expends more than \$750,000 in federal funds during the term of this Contract, SUBRECIPIENT shall arrange for an audit to be performed, within one hundred fifty (150) days of the end of SUBRECIPIENT's fiscal year and in accordance with 2 CFR Part 200, Subpart F, "Audit Requirements of States, Local Governments, and Non-Profit Organizations," which is incorporated herein by reference. Furthermore, COUNTY retains the authority to require SUBRECIPIENT to submit a similarly prepared audit at SUBRECIPIENT's expense even in instances when SUBRECIPIENT's expenditure is less than \$750,000.

- b. SUBRECIPIENT shall take the following actions in connection with such audit:
- i. Ensure that appropriate corrective action is taken to correct instances of noncompliance with federal laws and regulations. Corrective action shall be taken within six months after COUNTY receives SUBRECIPIENT's audit report;
 - ii. Adjust its own records as necessitated by the audit;
 - iii. Permit independent auditors to have access to its records and financial statements as is necessary for COUNTY or SUBRECIPIENT to comply with 2 CFR Part 200, Subpart F;
 - iv. Submit two copies of its audit reports to COUNTY no later than 30 days after completion of the reports;
 - v. Procure audit services in accordance with 2 CFR Part, 215.40 (OMB Circular A-110) procurement standards and provide maximum opportunity for small and minority audit firms;
 - vi. Include in Contract(s) with auditor(s) provisions that the auditor(s) will comply with all applicable audit requirements;
 - vii. Include in its Contract with independent auditors a clause permitting representatives of COUNTY or the State to have access to the work papers of the independent auditors;
 - viii. Provide to COUNTY, the Bureau of State Audits, and their designated representatives, the right to review and to copy all audit reports and any supporting documentation pertaining to the performance of this Contract, and the option to perform audits and/or additional work as needed;
 - ix. Cooperate with and participate in any further audits which may be required by COUNTY or the State;
 - x. Ensure that its audit addresses all issues contained in any federal OMB Compliance Supplement that applies to its program;
 - xi. Ensure that the audit is performed in accordance with Generally Accepted Government Auditing Standards -2 CFR 200.514 and 45 CFR 75.514, is performed by an independent auditor, and is organization-wide;
- c. Ensure that the audit is all-inclusive, i.e., it includes an opinion (or disclaimer of opinion) of the financial statements; a report on internal control related to the financial statements and major programs; an opinion (or disclaimer of opinion) on compliance with laws, regulations, and the provisions of contracts; and the schedule of findings and questioned costs in accordance with 2 CFR 200.515 and 45 CFR 75.515; If total funds awarded under this Contract equal or exceed \$10,000, SUBRECIPIENT shall be subject to examination and audit, including interviews of its staff, by the COUNTY and State of

California for a period of three (3) years after final payment under this Contract.

21. NON-DISCRIMINATION AND COMPLIANCE PROVISIONS.

a. State laws.

- i. SUBRECIPIENT shall, unless exempted, ensure compliance with the requirements of Cal. Gov. Code §11135 et seq., and 2 CCR § 11140 et seq., which prohibit recipients of state financial assistance from discriminating against persons based on race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, or disability. [22 CCR § 98323]
- ii. SUBRECIPIENT's signature affixed hereon shall constitute a certification, under penalty of perjury under the laws of the State of California, that SUBRECIPIENT has, unless exempted, complied with the nondiscrimination program requirements of Government Code Section 12900 (a-f) and Title 2, California Code of Regulations, Section 8103.
- iii. SUBRECIPIENT shall include the nondiscrimination and compliance provisions of this Paragraph in all sub-contracts to perform work under this Contract.

b. Title VI of Civil Rights Act. SUBRECIPIENT hereby agrees that it will comply with Title VI of the Civil Rights Act of 1964 [42 USC 2000d; 45 CFR 80](P.L. 88-352) and all requirements imposed by or pursuant to the Regulation of the Department of Health and Human Services (45 CFR Part 80) issued pursuant to that title, to the end that, in accordance with Title VI of the Act and the Regulation, no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which funds are made available under this Contract. SUBRECIPIENT hereby gives assurance that it will immediately take any measures necessary to effectuate this Contract.

c. Title VII of Civil Rights Act. SUBRECIPIENT shall comply with Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000), as amended by the Equal Opportunity Act of March 24, 1972 (Public Law No. 92-261), and with all applicable rules, regulations and orders promulgated pursuant thereto, as now in existence or as hereafter amended.

d. Disability discrimination. SUBRECIPIENT shall comply with Sections 503 and 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et

seq.), and all requirements imposed by the applicable regulations and guidelines issued pursuant to those statutes, including 45 CFR, Part 84.

- e. Failure to comply. If SUBRECIPIENT fails to comply with the requirements of any Sub-Paragraphs of this Paragraph 21 Administrator may withhold payment to SUBRECIPIENT and/or terminate this Contract.

22. FEDERAL ENVIRONMENTAL LAWS.

If the amount of compensation SUBRECIPIENT shall receive under this Contract exceeds \$100,000, SUBRECIPIENT and its subcontractors shall comply with all applicable orders or requirements issued under the following laws:

- a. Clean Air Act as amended (42 U.S.C. 7401)
- b. Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et seq.)
- c. Environmental Protection Agency Regulations (40 CFR 29, Executive Order 11738).
- d. State Contract Act [Cal. Pub. Con. Code §10295 et seq.]
- e. Unruh Civil Rights Act [Cal. Pub. Con. Code § 2010]

23. CONTRACTOR/SUBRECIPIENT DETERMINATION:

In accordance with the requirements of 2 CFR 200.330 (Subrecipient and Contractor determination) and for the purpose of this Contract, City of Orange is determined to be a SUBRECIPIENT.

24. FEDERAL AWARD IDENTIFICATION:

FAIN INFORMATION		
A.	Subrecipient Name:	City of Orange
B.	Subrecipient's Unique Identifier (D-U-N-S):	089140982
C.	Federal Award Identification Number (FAIN):	Pending
D.	Federal Award Date:	March 11, 2021
E.	Subaward Period of Performance:	Upon execution – November 30, 2021
F.	Total Amount of Federal Funds Obligated by the Action:	\$459,659
G.	Total Amount of Federal Funds	\$459,659

	Obligated to the Subrecipient:	
H.	Total Amount of the Federal Award:	\$616,840,943
I.	Federal Award Project Description:	American Rescue Plan Act of 2021
J.	Federal Awarding Agency:	U.S. Department of the Treasury
K.	Name of PTE:	County of Orange
L.	Contact Information for the Awarding Official:	Dylan Wright, Executive Director
	Phone Number:	(714) 480-2788
	E-mail Address:	Dylan.Wright@occr.ocgov.com
M.	CFDA Number:	21.019
	CFDA Name:	State and Local Fiscal Recovery Funds program
N.	Whether Award is R&D:	No
O.	Indirect Cost Rate for the Federal Award:	N/A

THE REMAINDER OF THIS PAGE WAS INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, the PARTIES hereto have executed this Contract on the day and year dated below.

CITY OF ORANGE

By: _____
Rick Otto, City Manager

Date: _____

By: _____
Gary A. Sheatz, City Attorney

Date: _____

COUNTY OF ORANGE

A Political Subdivision of the State of California

By: _____
Dylan Wright, Director
OC Community Resources

Dated: _____

**APPROVED AS TO FORM
DEPUTY COUNTY COUNSEL**

By: _____
Patrick Bruso
Deputy County Counsel

Dated: _____

**CERTIFICATION REGARDING
DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION
LOWER TIER COVERED TRANSACTIONS**

This certification is required by the regulations implementing Executive Order 12549, Debarment and suspension, 29 CFR Part 98.510, Participants' responsibilities. The regulations were published as Part VII of the May 26, 1988 Federal Register (pages 19160-19211)

(BEFORE COMPLETING CERTIFICATION, READ INSTRUCTIONS FOR CERTIFICATION)

- (1) The contractor or grant recipient of Federal assistance funds certifies, by submission of this exhibit document, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- (2) Where the contractor or grant recipient of Federal assistance funds is unable to certify to any of the statements in this certification, the contractor or grant recipient shall attach an explanation to this exhibit document.

Name

Title

Authorized Signature

Date

DEBARMENT AND SUSPENSION CERTIFICATION - Instructions for Certification

1. By signing and submitting this exhibit document, the contractor or grant recipient of Federal assistance funds is providing the certification as set out below.
2. The certification in the clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the contractor or grant recipient of Federal assistance funds knowingly rendered an erroneous certification in addition to other remedies available to the Federal Government, the Department of Labor (DOL) may pursue available remedies, including suspension and/or debarment.
3. The contractor recipient of Federal assistance funds shall provide immediate written notice to the County of Orange/Workforce Investment Board to which this certification document is submitted if at any time the contractor or grant recipient of Federal assistance funds learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The contractor or grant recipient of Federal assistance funds agrees by submitting this certification document that, should the covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the DOL.
5. The contractor or grant recipient of Federal assistance funds further agrees by submitting this certification document that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
6. The contractor or grant recipient in a covered transaction may rely upon a certification of a contractor or grant recipient in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. The contractor or grant recipient may decide the method and frequency by which it determines the eligibility of its principals.
7. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the contractor or grant recipient is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
8. Except for transactions authorized under paragraph 5 of these instructions, if the contractor or grant recipient in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the DOL may pursue available remedies, including suspension and/or debarment.

CERTIFICATION REGARDING LOBBYING
CERTIFICATION FOR CONTRACTS, GRANTS, LOANS,
AND COOPERATIVE AGREEMENTS

The undersigned certifies, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all* subawards at all tiers (including subcontracts, subgrants and contracts under grants, loans, and cooperative agreements) and that all* subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10, 000 and not more than \$100,000 for each such failure.

City of Orange

Grantee/Contractor Organization

Name

Title

Authorized Signature

*Note: In these instances, "All," in the Final Rule is expected to be clarified to show that it applies to covered contract/grant transactions over \$100,000 (per OMB).

INSTRUCTIONS FOR COMPLETION OF SF-LLL DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Use the SF LLL-A Continuation sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying is and has been secured to influence the outcome of a covered action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a follow up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, state and zip code of the reporting entity. Include congressional district, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be a prime or subaward recipient. Identify the tier of the subawardee, e. g. the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report, in item 4 checks "Subawardee", then enter the full name, address, city, state, and zip code of the prime Federal recipient. Include congressional district, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e. g. Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number the contract, grant, or loan award number; the application proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP DE 90 09."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the primary entity identified in item 4 or 5.
10.
 - (a) Enter the full name, address, city, state and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered Federal action.
 - (b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).
11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report enter the cumulative amount of payment made or planned to be made.
12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in kind contribution, specify the nature and value of the in kind payment.
13. Check the appropriate box(es). Check all boxes that apply. If other, specify nature.
14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal official(s) or employee(s) contacted and the officer(s), employee(s), or Member(s) of Congress that were contacted.
15. Check whether or not a SF LLL A Continuation Sheet(s) is attached.
16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348 0046) Washington D.C., 20503.

DISCLOSURE OF LOBBYING ACTIVITIES

Complete this form to disclose activities pursuant to 31 U.S.C 1352

1. Type of Federal Actions: a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	2. Status of Federal Actions: a. bid/offer/application b. initial award c. post-award	3. Report Type: a. initial filing b. material change For material change only: Year: _____ Quarter: _____ Date of last report: _____
4. Name and Address of Reporting Entity Prime Subawardee Tier _____ if known Congressional District, if known: _____	5. If Reporting Entity in No. 4 is a Subawardee: Enter Name and Address of Prime: Congressional District, if known: _____	
6. Federal Department / Agency: _____	7. Federal Program Name/Description 	
8. Federal Action Number, if known: _____	9. Award Amount, if known: \$ _____	
10a. Name and Address of Lobbying Entity (if individual, last name, first name, MI): (attach Continuation Sheets SF-LLL-A, if necessary)	10b. Individual Performing Services (including address if different from No. 10a) (last name, first name, MI): 	
11. Amount of Payment (check all that apply): \$ Actual Planned	13. Type of Payment (check all that apply) a. retainer b. one-time free c. commission d. contingent fee e. deferred f. other specify: _____	
12. Form of Payment (check all that apply): a. cash b. in-kind: specify: nature: _____ value: _____		
14. Enter Description of Services performed or to be Performed and date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment indicated on item 11: 		
15. Continuation sheet(s) SF-LLL-A attached: <input type="checkbox"/> Yes <input type="checkbox"/> No		
<div style="display: flex;"> <div style="flex: 1; padding-right: 10px;"> 16. Information requested through this form authorized by Title 31 U.S.C. Section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semiannually and will be available for public inspection. An person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure. </div> <div style="flex: 1;"> Signature: _____ _____ Print Name: Title: Telephone No: Date: </div> </div>		

DISCLOSURE OF LOBBYING ACTIVITIES
CONTINUATION SHEET
Approved by OMS - 0348-0046

Reporting Entity:_____

_____Page_____of_____

BILLING CODES 3410-01 -C; 6450-01-C; 6890-01 ;6025-01-C; 7510-01-C , 35 1 0-FE-C; 8120-01 -C; 4710-24-C, 6116-01 -C,



**Subject: OC Community Resources
Contract Reimbursement Policy**

Effective: July 1, 2010
Revised: January 17, 2020

PURPOSE:

This policy contains updated fiscal documentation requirements for contract reimbursement for OC Community Services and OC Housing & Community Development. The procedures provide instructions for submitting reimbursement demand letter or invoice.

REFERENCES:

Executed County Board of Supervisors approved contract
Budget included in contract or presented as an attachment
48 CFR Part 31 Contract Cost Principles and Procedures
24 CFR Parts 85, 570.502, 570.201, 576.21, 576.51 and 576.61: For OC Housing & Community Development Contracts only.
2 CFR Part 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance)

BACKGROUND:

The executed Board of Supervisors approved contract is the authorization for all aspects of payment, including the maximum amount to be paid, the payee, and the scope of services and work. Payments are made in strict accordance with the contract terms. Allowable costs are identified in referenced Uniform Guidance and Code of Federal Regulations (CFR).

ATTACHMENTS:

Reimbursement Policy Status Form (RPS-1)

POLICY:

Contractor is responsible for the submission of accurate claims. This reimbursement policy is intended to ensure that the Contractor is reimbursed based on the code or codes that correctly describe the services provided. This information is intended to serve only as a general reference resource regarding OC Community Services' and OC Housing & Community Development's reimbursement policy for the services described and is not intended to address every aspect of a reimbursement situation. Accordingly, OC Community Services and OC Housing & Community Development may use reasonable discretion in interpreting and applying this policy to services provided in a particular case. Other factors affecting reimbursement may supplement, modify or, in some cases, supersede this policy. These factors may include, but are not limited to: legislative mandates and County directives. OC Community Services and OC Housing & Community Development may modify this reimbursement policy at any time by publishing a new version of the policy. However, the information presented in this policy is accurate and current as of the date of publication.

Cost incurred by Contractor must be substantiated and incurred during the contract period. Total of all reimbursements cannot exceed the amount of the contract. Cost must be allowable under applicable Code of Federal Regulations (CFR) or Uniform Guidance. All supporting documentation for reimbursement must be submitted with demand letter or invoice. If contract

requires matching contribution, documentation substantiating contribution match must be submitted with demand letter or invoice.

At any time, based on County's business needs and/or Contractor's performance, the County may designate Contractor to submit abbreviated or comprehensive documentation, as identified in the respective sections. Upon designation, Contractor will be notified, in writing via Reimbursement Policy Status Form, of which requirements are in full force. When Contractor is required to submit comprehensive documentation, in addition to the items identified in the Abbreviated Documentation Requirements Section, Contractor must also provide the documentation identified in the Comprehensive Documentation Requirements Section.

PROCEDURES:

Abbreviated Documentation Requirements

Compile and submit:

1. Supporting documentation includes, but is not limited to:
 - a. General ledger/expense transaction report
 - b. Payroll register or labor distribution report
 - c. Payroll allocation plan
 - d. Personnel Documentation
 - e. Benefit plan and calculation of benefit
 - f. Employer-employee contract for non-customary benefits (if applicable)
 - g. Pre-approval documentation for equipment purchases equal to or greater than \$5,000
2. The following is required with the first month's invoice only:
 - a. Cost allocation plan for rent, utilities, etc.
 - b. Indirect rate approved by cognizant agency (if applicable)
3. Summary of leveraged resources (if applicable)
4. Demand letters must contain the following certification (if required by Contract):

"By signing this report, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the Federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise. (U.S. Code Title 18, Section 1001 and Title 31 Sections 3729-3730 and 3801-3812)"
5. Grantee Performance Report (if required by Contract)
6. Supporting documentation shall be on single-sided sheets
7. Please redact employees' Social Security Number from payroll reports
8. Demand letter or invoice, along with supporting documentation shall be submitted to:

OC Community Resources Accounting
601 N. Ross St., 6th Floor
Santa Ana, CA 92701

Comprehensive Documentation Requirements

In addition to abbreviated documentation, compile and submit:

9. Purchase orders, invoices, and receipts
10. Cashed checks
11. Check register
12. Consultant/sub-contractor invoices (with description of services)
13. Travel expense documentation: mileage reimbursement, hotel bill, meal reimbursement

ACTION:

Distribute this policy to all appropriate staff

INQUIRIES: Inquiries may be directed to OCCR Accounts Payable at:
OCCRAccountsPayable@occr.ocgov.com



Reimbursement Policy Status Form

Per OC Community Resources Contract Reimbursement Policy, in regards to the Contract # listed herein, Contractor is designated with the Documentation Status of Abbreviated unless Comprehensive is checked below. If the contractor’s designation should change to Abbreviated, a new status form shall be approved. All related documentation requirements are in full force, until further notice.

Contractor: City of Orange

Effective Date: Upon final execution by County

Contract #: MA-012-21011577

Documentation Status: ☒ **Abbreviated** ☐ **Comprehensive**

Program Authorization by:

Auditor Controller Authorization by:

Print Name

Print Name

Signed by: _____

Signed by: _____

Date:

Date:

Two signatures are required to implement the form.

Distribution:

- Contractor
- Auditor Controller
- Contract File
- Program File



Agenda Item

City Council

Item #: 3.12.

7/13/2021

File #: 21-0341

TO: Honorable Mayor and Members of the City Council

THRU: Rick Otto, City Manager

FROM: Bonnie Hagan, Assistant City Manager/Community Services Director

1. SUBJECT

Appropriation of \$40,104.20 in revenue from community partnership donations and user group sports field maintenance.

2. SUMMARY

Collected and donated revenues are recommended to be appropriated for annual City special events and sports field maintenance.

3. RECOMMENDED ACTION

1. Accept into the City's revenue budget \$40,104.20 in community partnership donations and user group sports field maintenance into the following accounts in the General Fund:
\$20,000.00 100.7015.48390.20473 Donations-Special Events 2021 Season
\$20,104.20 100.7022.42480.00000 User Group Maintenance Fees
2. Authorize the appropriation of \$20,000 into expenditure account number 100.7015.51355.20473 - General Fund - Special Events 2021 Season
3. Authorize the appropriation of \$20,104.20 into expenditure account number 100.7022.51424.00000, General Fund - User Group Maintenance Fees

4. FISCAL IMPACT

The revenue received funds the requested appropriations.

5. STRATEGIC PLAN GOALS

Goal 3: Enhance and promote quality of life in the community

a: Refurbish, maintain, develop and/or expand public use places and spaces.

6. DISCUSSION AND BACKGROUND

Community Partnership Donation

The City's annual Community Partnership Program solicits donations to support Citywide special events. The City's donation policy states that single donations greater than \$5,000 may only be accepted and appropriated by the City Council. Chapman University and Thompson Building Materials became "Orange Tree" partners for the 2021 Special Events Season and each provided a \$10,000 partnership donation. Staff is requesting a total of \$20,000 to be accepted and appropriated to help cover the cost of the City's annual special events.

Sports Field Maintenance and Renovation Reimbursement

In September 2000, the City Council approved a 25-year joint-use agreement with Rancho Santiago Community College District (District) for the use of two soccer fields located at Santiago Canyon College (SCC) for education and recreational activities benefitting the community. Per the terms of the agreement, the District and the City agree to pay fair share for the maintenance and utility costs associated with the fields. Annually, the District and the City confer regarding the cost attributable to each party's use and the City is billed for reimbursable costs by the District. The City's fair share costs for 2020 is \$20,104.20.

The Community Services Department developed a cooperative program with ongoing youth sports groups to fund annual maintenance and renovation of sports fields, based on significant wear resulting from repetitive use. Orange Junior Soccer Club (OJSC), a City approved youth sports group, is currently the sole user group permitted to use the SCC soccer fields. As part of the cooperative program, the City billed OJSC \$20,140.20 towards its annual field use. Staff is requesting the appropriation of this amount to the expenditure account. Once appropriated, the City will use the received revenue to pay SCC.

Summary of Revenue Sources

The total appropriation request is \$40,104.20.

<u>Revenue Source</u>	<u>Total Collected</u>	<u>Location</u>
Thompson Building Materials	\$ 10,000.00	Community Partnership Program
Chapman University	10,000.00	Community Partnership Program
OJSC	20,104.20	SCC Soccer Fields
TOTAL	\$40,104.20	

7. ATTACHMENTS

- None



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OJSC	20,104.20	SCC Soccer Fields
TOTAL	\$40,104.20	

7. ATTACHMENTS

- None



Agenda Item

City Council

Item #: 3.13.

7/13/2021

File #: 21-0376

TO: Honorable Mayor and Members of the City Council

THRU: Rick Otto, City Manager

FROM: Sean deMetropolis, Fire Chief

1. SUBJECT

Appropriation of \$53,576.37 in State of California Office of Emergency Services funding received.

2. SUMMARY

Costs for strike team and individual overhead deployments represent non-budgeted expenditures for the Fire Department. These costs are reimbursed by the State of California Office of Emergency Services at a later date. Staff is requesting that funds be appropriated into the appropriate expenditure accounts for Fiscal Year 2020-2021.

3. RECOMMENDED ACTION

1. Accept into the City's revenue budget \$53,576.37 in strike team reimbursement funds from the California Office of Emergency Services, into the following revenue account number for CAL EMA reimbursements: 100.3024.48212.40249 - Castle Fire.
2. Authorize the appropriation of \$53,576.37 into the following expenditure account number for Overtime-Safety: 100.3024.50221.40249 - Castle Fire.

4. FISCAL IMPACT

The total appropriations for this reimbursement are funded by the additional revenue received from the State of California Office of Emergency Services.

5. STRATEGIC PLAN GOALS

Goal 1: Provide for a safe community

- a. Provide staffing and resources to deliver services that ensure public safety.

6. DISCUSSION AND BACKGROUND

The Orange City Fire Department is a party to a state-level agreement with the State of California Office of Emergency Services (Cal-OES) to provide fire and emergency assistance to state and federal fire agencies. This agreement is managed by Cal-OES and referred to as the California Fire Assistance Agreement (CFAA). Under this agreement, the Orange City Fire Department generally provides resources two different ways: Strike Teams and Individual Overhead.

Strike team deployments involve an Engine Company, or a Battalion Chief, or a Deputy Chief responding to an incident with their vehicle, as part of a multi-agency team. Individual Overhead resources respond to fill a specific role for an incident, such as Safety Officer or Line Emergency

Medical Technician (EMT).

Upon return from an incident, reimbursement paperwork and invoices are submitted to Cal-OES. The Fire Department recently received reimbursement payments for the Castle Fire for \$53,576.37. Staff is requesting that funds be appropriated into the appropriate expenditure accounts for Fiscal Year 2020-2021. The additional funds will reimburse Fire Department overtime and travel expenditures incurred during these incidents.

7. ATTACHMENTS

- None



Agenda Item

City Council

Item #: 3.13.

7/13/2021

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FROM: Sean deMetropolis, Fire Chief

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7. ATTACHMENTS

- None



Agenda Item

City Council

Item #: 3.14.

7/13/2021

File #: 21-0379

TO: Honorable Mayor and Members of the City Council

THRU: Rick Otto, City Manager

FROM: Christopher Cash, Public Works Director

1. SUBJECT

Appropriation of \$825,000 to Cannon Street Widening Project (30174).

2. SUMMARY

This project will widen portions of Cannon Street from Santiago Canyon Road to Serrano Avenue to add a third northbound thru lane. The scope of work will include engineering design and environmental study of widening the bridge as well as the roadway north of the bridge in order to maintain the continuity of the thru lane until Serrano Avenue where it would turn into a dedicated right-turn lane to eastbound Serrano Avenue.

3. RECOMMENDED ACTION

1. Authorize the appropriation of \$206,250 from the TSIP unreserved fund balance to the expenditure account number 287.5011.56330.30174 (Cannon Street Widening).
2. Accept into the City's revenue budget a \$618,750 grant from Orange County Transportation Authority, into revenue account number 550.5011.45460.30174 (Cannon Street Widening).
3. Authorize the appropriation of \$618,750 from Reimbursable unreserved fund balance into 550.5011.56330.30174 (Cannon Street Widening).
4. Authorize staff to execute Letter Agreement No. 21 amending Agreement No. C-1-2777 with the Orange County Transportation Authority, Measure M2 Seven-Year Capital Improvement Program for fiscal year 2021-22 through 2027-28 to comply with Measure M2 eligibility criteria.

4. FISCAL IMPACT

The total expenditure for this project's design phase is \$825,000 and will be funded in Cannon Street Widening (30174) through:

TSIP Citywide (287)	\$206,250
Reimbursable Capital Projects (550)	<u>618,750</u>
Total:	\$825,000

5. STRATEGIC PLAN GOALS

Goal 1: Provide for a Safe Community

b: Provide and maintain infrastructure necessary to ensure the safety of the public.

Goal 2: Be a Fiscally Healthy Community

d: Effectively manage and develop City assets.

6. DISCUSSION AND BACKGROUND

As part of the M2 Comprehensive Transportation Funding Program (CTFP) Master Funding Agreement, the City recently obtained a \$618,750 M2 grant for the engineering design and environmental study to widen Cannon Street from Santiago Canyon Road to Serrano Avenue by adding a third northbound thru lane. This will improve traffic flow and capacity for this congested segment of roadway and join the planned intersection improvement at Cannon/Serrano.

The scope of work will include widening the bridge as well as the roadway north of the bridge in order to maintain the continuity of the thru lane until Serrano Avenue where it would get dropped into a dedicated right-turn lane to eastbound Serrano Avenue. The existing painted median will be replaced with a raised median. All improvements fall within the City of Orange public right-of-way except for the portion between Taft Avenue and Serrano Avenue in which a portion of the proposed improvements will fall in the City of Villa Park public right-of-way.

The appropriation requests will fund the design portion of the project and has been included in the Orange County Transportation Authority's (OCTA) call for projects. The City's match is 25% with OCTA funding the remaining portion. Staff is also requesting appropriation from unserved fund balance of Transportation System Improvement Program (TSIP) fees to this project for the City's match. The estimated completion of the preliminary engineering and environmental study is June 2023.

7. ATTACHMENTS

- M2 CTFP Master Funding Agreement with OCTA



Agenda Item

City Council

Item #: 3.14.

7/13/2021

File #: 21-0379

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AFFILIATED AGENCIES

Orange County
Transit District

Local Transportation
Authority

Service Authority for
Freeway Emergencies

Consolidated Transportation
Service Agency

Congestion Management
Agency

June 29, 2021

Mr. Christopher Cash
City of Orange – Department of Public Works
300 East Chapman Avenue
Orange, CA 92866

Subject: Agreement No. C-1-2777, City of Orange, “M2 CTFP Master Funding Agreement” – Letter Agreement No. 21

Dear Mr. Cash:

This Letter Agreement serves as the Orange County Transportation Authority's (OCTA) approval to amend Agreement No. C-1-2777, Attachment A-20 “Projects List.” OCTA is deleting Attachment A-20, in its entirety, as identified in Article 4 “Responsibilities of Agency,” paragraph A, and in lieu thereof is inserting the revised “Project List,” attached hereto as Attachment A-21, which is incorporated and made a part of the Agreement. All provisions set forth in Master Funding Agreement No. C-1-2777 apply.

If you have any questions, please feel free to contact Alfonso Hernandez at (714) 560-5363.

Please execute this Letter Agreement and return the signed original to the attention of:

Luis Martinez, Associate Contract Administrator, Procurement
Contracts Administration and Materials Management Department
600 South Main Street, 4th Floor
Orange, CA 92868

Phone: (714) 560-5767, Email: lmartinez@octa.net

Upon full execution of the Letter Agreement, the effective date will be July 1, 2021.

Accepted and Agreed

Kia Mortazavi
Executive Director, Planning
Orange County Transportation Authority

Christopher Cash
Director of Public Works
City of Orange

Georgia Martinez
Department Manager, Contracts and Procurement
Orange County Transportation Authority

Date

Em

M2 CTFP MASTER FUNDING AGREEMENT

City of Orange - Project List

Project Description	CTFP Amount	Programmed Fiscal Year	Board Date	Letter Agreement No.
Project O "Regional Capacity Program"				
Katella Avenue and Wanda Street Intersection Widening (Engineering)	\$ 51,500	2012-13	6/27/2011	
Meats Avenue Interchange at SR-55 (Engineering)	\$ 1,400,000	2011-12	6/27/2011	
Lincoln Avenue and Tustin Street Intersection	\$ 105,000	2013-14	4/8/2013	3
Lincoln Avenue/Tustin Street Intersection (Right of Way)	\$ 67,500	2014-15	4/14/2014	6
Lincoln Avenue/Tustin Street Intersection (Construction)	\$ 368,640	2015-16	4/14/2014	6
Katella Avenue/Wanda Road Intersection (Right of Way)	\$ 120,000	2014-15	4/14/2014	6
Katella Avenue/Wanda Road Intersection (Construction)	\$ 583,680	2015-16	4/14/2014	6
Tustin Street and Katella Avenue Intersection (Engineering) (FAST TRACK)	\$ 105,000	2015-16	4/27/2015	9
Tustin Street and Katella Avenue Intersection (Right of Way) (FAST TRACK)	\$ 750,000	2016-17	4/27/2015	9
Tustin Street and Katella Avenue Intersection (Construction) (FAST TRACK)	\$ 363,882	2017-18	4/27/2015	9
Tustin Street and Chapman Avenue Intersection (Engineering)	\$ 105,000	2015-16	4/27/2015	9
Tustin Street and Chapman Avenue Intersection (Right of Way)	\$ 138,750	2016-17	4/27/2015	9
Tustin Street and Meats Avenue Intersection (Engineering)	\$ 97,500	2015-16	4/27/2015	9
Tustin Avenue and Meats Avenue Intersection Right Turn Lane Addition (Right of Way)	\$ 1,424,713	2016-17	4/11/2016	11
Tustin/Meats Intersection Right Turn Lane Addition	\$ 719,625	2018-19	4/10/2017	13
Tustin Street and Chapman Avenue Intersection Widening	\$ 375,000	2017-18	4/10/2017	13
Cannon Street at Serrano Avenue Intersection Widening	\$ 108,750	2018-19	6/11/2018	15
Cannon Street Widening - Santiago Canyon Road to Serrano Avenue (Engineering)	\$ 618,750	2021-2022	5/10/2021	21
<i>Cumulative Program Total</i>	\$ 7,503,290			
Project X "Environmental Clean Up"				

M2 CTFP MASTER FUNDING AGREEMENT

City of Orange - Project List

Orange Old Towne Automatic Retractable Screens Project	\$ 100,000	2011-12	8/8/2011	1
Savi Storm Drain Installation Project	\$ 100,000	2012-13	8/13/2012	2
CDS Unit at Santiago Creek	\$ 111,750	2013-14	9/23/2013	5
Lemon Street Continuous Deflection Separator Unit	\$ 150,000	2014-15	9/22/2014	8
Collins Avenue Bio Clean Unit Installation	\$ 150,000	2015-16	8/10/2015	10
Orangewood Avenue Bio Clean Unit Installation	\$ 150,000	2016-17	9/12/2016	12
Orangewood Avenue BioClean Unit Installation	\$ 300,000	2017-18	8/14/2017	14
DSBB and CPS BMP Installation	\$ 249,360	2019-20	9/9/2019	17
DSBB and CPS BMP Installation - 2020	\$ 308,803	2020-21	10/12/2020	20
<i>Cumulative Program Total</i>	\$ 1,619,913			
Project P "Regional Traffic Signal Synchronization Program"				
Tustin Avenue - Rose Drive RTSSP	\$ 2,766,833	2020-21	5/11/2020	19
<i>Cumulative Program Total</i>	\$ 2,766,833			
Project W "Safe Transit Stops"				
South Bound (SB) The City Drive/City Way	\$ 30,000	2014-15	7/14/2014	7
North Bound (NB) The City Drive/Dawn Way	\$ 28,020	2014-15	7/14/2014	7
SB Main Street/Katella Avenue	\$ 13,837	2014-15	7/14/2014	7
SB Main Street/Chapman Avenue	\$ 15,241	2014-15	7/14/2014	7
Orange Transportation Center Dock 1	\$ 14,338	2014-15	7/14/2014	7
SB Main Street/La Veta Avenue	\$ 14,010	2014-15	7/14/2014	7
SB Tustin Street at East Village Way	\$ 30,000	2014-15	7/14/2014	7
NB The City Drive/Justice Center	\$ 18,100	2019-20	6/26/2019	16
West Bound (WB) Chapman Ave/Main Street	\$ 18,100	2019-20	6/26/2019	16
East Bound (EB) Chapman Ave/The City Drive	\$ 22,000	2019-20	6/26/2019	16
WB Chapman Ave/The City Drive	\$ 18,100	2019-20	6/26/2019	16
Orange Transportation Center/Dock # 2	\$ 22,000	2019-20	6/26/2019	16
<i>Cumulative Program Total</i>	\$ 243,746			
Project V "Community Base Transit"				

M2 CTFP MASTER FUNDING AGREEMENT

City of Orange - Project List

Orange Community Circulator Feasibility Study	\$ 59,400	2020-21	4/13/2020	18
<i>Cumulative Program Total</i>	\$ 59,400			
Total (All Projects)	\$ 12,193,182			



Agenda Item

City Council

Item #: 3.15.

7/13/2021

File #: 21-0326

TO: Honorable Mayor and Members of the City Council

THRU: Rick Otto, City Manager

FROM: Christopher Cash, Public Works Director

1. SUBJECT

Final Acceptance of Bid No. 190-51, Reservoir 2 External Cathodic Protection System Installation Project; and authorization to file Notice of Completion.

2. SUMMARY

This project provided corrosion control for Reservoir 2. The scope of work consisted of removal and replacement of existing rectifier, installation of new anode junction boxes, anode groundbed, test stations, electrical cables, re-energizing the system, and pavement restoration. The project has been completed by Calpromax Engineering, Inc. to the satisfaction of the Public Works Department, Water Division.

3. RECOMMENDED ACTION

Accept Reservoir 2 External Cathodic Protection System Installation Project as complete; and authorize staff to file Notice of Completion with the County Recorder.

4. ATTACHMENTS

- Notice of Completion and Acceptance



Agenda Item

City Council

Item #: 3.15.

7/13/2021

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3. RECOMMENDED ACTION

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4. ATTACHMENTS

- Notice of Completion and Acceptance

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

City of Orange
300 East Chapman Avenue
Orange, California 92866
Attention: City Clerk

[Space above this line for Recorder's use only.]

THIS DOCUMENT IS RECORDED AT THE
REQUEST AND FOR THE BENEFIT OF THE CITY
OF ORANGE AND IS EXEMPT FROM THE
PAYMENT OF A RECORDING FEE PURSUANT
TO GOVERNMENT CODE SECTIONS 6103 AND
27383.

NOTICE OF COMPLETION AND ACCEPTANCE

NOTICE IS HEREBY GIVEN that work on that certain public work and improvements known as "Reservoir 2 External Cathodic Protection System Installation Project (Bid No. 190-51; W-702)" (herein referred to as the "Project"), for the owner, the City of Orange, a municipal corporation (herein referred to as the "City"), whose address is 300 E. Chapman Avenue, Orange, CA 92866, was completed and accepted by the City Council of the City of Orange on July 13, 2021 at a regular meeting of its members, at which a quorum was present and acting throughout. The Contractor who performed (or caused to be performed) said public work and improvements was Calpromax Engineering, Inc., a California Corporation, with its principal office at 650 N. Rose Dr. #186, in the City of Placentia, State of California.

The name of the surety on the Labor and Material Bond for the Project is Western Surety Company (Bond# 300886619) in the amount of \$148,500.00.

DATED as of the 13th day of July, 2021.

CITY OF ORANGE, a municipal corporation

By: _____
Mark A. Murphy
Mayor of the City of Orange

STATE OF CALIFORNIA
COUNTY OF ORANGE

I, Mark A. Murphy, Mayor of the City of Orange, state that I have read the foregoing document, know the contents thereof, and that the facts therein stated are true of my own knowledge. I hereby declare under penalty of perjury that the foregoing is true and correct.

DATED as of the 13th day of July, 2021 at Orange, California.

Mark A. Murphy, Mayor of the City of Orange

I, Pamela Coleman, City Clerk for the City of Orange, hereby attest that Mark A Murphy is known to me to be the Mayor of the City of Orange and known to me to be the person who executed the within instrument on behalf of said municipal corporation, and acknowledged to me that the City of Orange executed the same.

Pamela Coleman, City Clerk of the City of Orange



Agenda Item

City Council

Item #: 3.16.

7/13/2021

File #: 21-0333

TO: Honorable Mayor and Members of the City Council

THRU: Rick Otto, City Manager

FROM: Christopher Cash, Public Works Director

1. SUBJECT

Final Acceptance of Bid No. 20-21.24, Annual Concrete Replacement at Various Locations, Fiscal Year 2020-2021; and authorization to file Notice of Completion.

2. SUMMARY

The City of Orange entered into a contract with CJ Concrete Construction, Inc. to replace damaged curb and gutter, sidewalk and reconstruction of Americans with Disabilities Act (ADA) sidewalk access ramps at various locations throughout the City. The work was completed to the satisfaction of the Public Works Department.

3. RECOMMENDED ACTION

Accept Annual Concrete Replacement at Various Locations Project, Fiscal Year 2020-2021 (SP-4150) as complete and authorize staff to file Notice of Completion with the County Recorder.

4. ATTACHMENTS

- Notice of Completion and Acceptance



Agenda Item

City Council

Item #: 3.16.

7/13/2021

File #: 21-0333

TO: Honorable Mayor and Members of the City Council

THRU: Rick Otto, City Manager

FROM: Christopher Cash, Public Works Director

1. SUBJECT

Final Acceptance of Bid No. 20-21.24, Annual Concrete Replacement at Various Locations, Fiscal Year 2020-2021; and authorization to file Notice of Completion.

2. SUMMARY

The City of Orange entered into a contract with CJ Concrete Construction, Inc. to replace damaged curb and gutter, sidewalk and reconstruction of Americans with Disabilities Act (ADA) sidewalk access ramps at various locations throughout the City. The work was completed to the satisfaction of the Public Works Department.

3. RECOMMENDED ACTION

Accept Annual Concrete Replacement at Various Locations Project, Fiscal Year 2020-2021 (SP-4150) as complete and authorize staff to file Notice of Completion with the County Recorder.

4. ATTACHMENTS

- Notice of Completion and Acceptance

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

City of Orange
300 East Chapman Avenue
Orange, California 92866
Attention: City Clerk

[Space above this line for Recorder's use only.]

THIS DOCUMENT IS RECORDED AT THE
REQUEST AND FOR THE BENEFIT OF THE CITY
OF ORANGE AND IS EXEMPT FROM THE
PAYMENT OF A RECORDING FEE PURSUANT
TO GOVERNMENT CODE SECTIONS 6103 AND
27383.

NOTICE OF COMPLETION AND ACCEPTANCE

NOTICE IS HEREBY GIVEN that work on that certain public work and improvements known as "Annual Concrete Replacement at Various Locations Project, Fiscal Year 2020-2021 (Bid No. 20-21.24; SP-4150)" (herein referred to as the "Project"), for the owner, the City of Orange, a municipal corporation (herein referred to as the "City"), whose address is 300 E. Chapman Avenue, Orange, CA 92866, was completed and accepted by the City Council of the City of Orange on July 13, 2021 at a regular meeting of its members, at which a quorum was present and acting throughout. The Project is at various locations in the City of Orange, State of California. The contractor who performed (or caused to be performed) said public work and improvements were CJ Concrete Construction Inc., a California corporation, with its principal office at 10142 Shoemaker Avenue, Santa Fe Springs, State of California.

The name of the surety on the Labor and Material Bond for the Project is Merchants Bonding Company (Mutual), Iowa (Bond No. CAC718212) in the amount of \$544,868.00.

DATED as of the 13th day of July 2021. CITY OF ORANGE, a municipal corporation

By: _____
Mark A. Murphy, Mayor, City of Orange

STATE OF CALIFORNIA
COUNTY OF ORANGE

I, Mark A. Murphy, Mayor of the City of Orange, state that I have read the foregoing document know the contents thereof, and that the facts therein stated are true of my own knowledge. I hereby declare under penalty of perjury that the foregoing is true and correct.

DATED as of the 13th day of July 2021 at Orange, California.

Mark A. Murphy, Mayor, City of Orange

I, Pamela Coleman, City Clerk for the City of Orange, hereby attest that Mark A. Murphy is known to me to be the Mayor of the City of Orange and known to me to be the person who executed the within instrument on behalf of said municipal corporation, and acknowledged to me that the City of Orange executed the same.

Pamela Coleman, City Clerk, City of Orange



Agenda Item

City Council

Item #: 3.17.

7/13/2021

File #: 21-0340

TO: Honorable Mayor and Members of the City Council

THRU: Rick Otto, City Manager

FROM: Bonnie Hagan, Assistant City Manager / Community Services Director

1. SUBJECT

Final Acceptance of Bid No. 20-21.05, Landscape Renovation at Skylark Place and Canyon View Avenue; and authorization to file Notice of Completion.

2. SUMMARY

The City entered into a contract with Nieves Landscape, Inc. for the renovation of medians and planting areas in the Santiago Hills Assessment District along Skylark Place and Canyon View Ave. The scope of work includes replacing the District's costly and aging landscape with new, low water use plants and sod, new trees, and installation of a new water efficient, sub-surface irrigation system. The work has been completed to the satisfaction of the Community Services Department.

3. RECOMMENDED ACTION

Accept Landscape Renovation at Skylark Place and Canyon View Avenue as complete and authorize staff to file Notice of Completion with the County Recorder.

4. ATTACHMENTS

- Notice of Completion and Acceptance



Agenda Item

City Council

Item #: 3.17.

7/13/2021

File #: 21-0340

TO: Honorable Mayor and Members of the City Council

THRU: Rick Otto, City Manager

FROM: Bonnie Hagan, Assistant City Manager / Community Services Director

1. SUBJECT

Final Acceptance of Bid No. 20-21.05, Landscape Renovation at Skylark Place and Canyon View Avenue; and authorization to file Notice of Completion.

2. SUMMARY

The City entered into a contract with Nieves Landscape, Inc. for the renovation of medians and planting areas in the Santiago Hills Assessment District along Skylark Place and Canyon View Ave. The scope of work includes replacing the District's costly and aging landscape with new, low water use plants and sod, new trees, and installation of a new water efficient, sub-surface irrigation system. The work has been completed to the satisfaction of the Community Services Department.

3. RECOMMENDED ACTION

Accept Landscape Renovation at Skylark Place and Canyon View Avenue as complete and authorize staff to file Notice of Completion with the County Recorder.

4. ATTACHMENTS

- Notice of Completion and Acceptance

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

City of Orange
300 East Chapman Avenue
Orange, California 92866
Attention: City Clerk

[Space above this line for Recorder's use only.]

THIS DOCUMENT IS RECORDED AT THE
REQUEST AND FOR THE BENEFIT OF THE CITY
OF ORANGE AND IS EXEMPT FROM THE
PAYMENT OF A RECORDING FEE PURSUANT
TO GOVERNMENT CODE SECTIONS 6103 AND
27383.

NOTICE OF COMPLETION AND ACCEPTANCE

NOTICE IS HEREBY GIVEN that work on that certain public work and improvements known as "Landscape Renovation at Skylark Place and Canyon View Avenue (Bid No. 20-21.05)" (herein referred to as the 'Project'), for the owner, the City of Orange, a municipal corporation (herein referred to as the 'City'), whose address is 300 E. Chapman Avenue, Orange, CA 92866, was completed and accepted by the City Council of the City of Orange on July 13, 2021 at a regular meeting of its members, at which a quorum was present and acting throughout. The Project was performed at, the intersection of Skylark Place and Canyon View Avenue, in the City of Orange. The Contractor who performed (or caused to be performed) said public work and improvements was Nieves Landscape Inc., a California Corporation, with its principal office at 1629 E. Edinger Avenue, Santa Ana, CA 92705.

The name of the surety on Payment Bond for the Project is The Gray Insurance Company and The Gray Casualty & Surety Company (Bond No. GS22900011) in the amount of \$226,354.70.

DATED as of the 13th day of July 2021.

CITY OF ORANGE, a municipal corporation

By: _____
Mark A. Murphy, Mayor, City of Orange

STATE OF CALIFORNIA
COUNTY OF ORANGE

I, Mark A. Murphy, Mayor of the City of Orange, state that I have read the foregoing document, know the contents thereof, and that the facts therein stated are true of my own knowledge. I hereby declare under penalty of perjury that the foregoing is true and correct.

DATED as of the 13th day of April 2021.

Mark A. Murphy, Mayor, City of Orange

I, Pamela Coleman, City Clerk for the City of Orange, hereby attest that Mark A. Murphy is known to me to be the Mayor of the City of Orange and known to me to be the person who executed the within instrument on behalf of said municipal corporation, and acknowledged to me that the City of Orange executed the same.

Pamela Coleman, City Clerk, City of Orange



Agenda Item

City Council

Item #: 3.18.

7/13/2021

File #: 21-0360

TO: Honorable Mayor and Members of the City Council

THRU: Rick Otto, City Manager

FROM: Christopher Cash, Public Works Director

1. SUBJECT

Approval of plans and specifications for Reservoir 4 Exterior Cathodic Protection (CP) System Installation Project and authorization to advertise Bid No. 21-22.01.

2. SUMMARY

Plans and specifications have been completed for Reservoir 4 Exterior Cathodic Protection (CP) System Installation Project. The project is ready to be advertised for bids. The total estimated construction cost including 10% for contingencies is \$165,000.

3. RECOMMENDED ACTION

Approve the plans and specifications, and authorize advertising for bids.

4. FISCAL IMPACT

The total expenditure for this project will be funded in the Exterior CP Systems (18301) through Water Fund (600).

5. STRATEGIC PLAN GOALS

Goal 1: Provide for a safe community

b: Provide and maintain infrastructure necessary to ensure the safety of the public.

Goal 4: Provide outstanding public service

b: Provide facilities and services to meet customer expectations.

6. DISCUSSION AND BACKGROUND

Constructed in 1968, Reservoir 4 has been used to store and provide drinking water to the customers residing within Pressure Zone 1 of the City's water distribution system. This partially buried, five-million gallon reservoir was constructed as a steel tank, which required complete internal and external cathodic protection systems (CP) to prevent corrosion to the metal shell and structural elements. Continuous monitoring and maintenance of the CP systems is necessary to prevent corrosion and preserve the tank structure. Recent annual monitoring report recommends the replacement of the tank's existing exterior CP system and installation of a new Impressed Current Cathodic Protection (ICCP) in accordance with the current codes and industry standards. The new CP system has a minimum service life of 20 years. Plans and technical specifications have been completed for the replacement of the exterior CP for Reservoir 4.

The scope of work for this project will include relocation of the existing internal CP system rectifier, installation of a new exterior ICCP system, anode bed, rectifier, underground electrical conduits, reference electrodes, and repairing disturb surface.

The proposed project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) under CEQA guidelines Section 15301 "Existing Facilities" Class 1 (c). The CEQA Notice of Exemption will be filed with the County Recorder's Office upon Council's approval of the plans and specifications.

7. ATTACHMENTS

- Location Map



Agenda Item

City Council

Item #: 3.18.

7/13/2021

File #: 21-0360

TO: Honorable Mayor and Members of the City Council

THRU: Rick Otto, City Manager

FROM: Christopher Cash, Public Works Director

1. SUBJECT

Approval of plans and specifications for Reservoir 4 Exterior Cathodic Protection (CP) System Installation Project and authorization to advertise Bid No. 21-22.01.

2. SUMMARY

Plans and specifications have been completed for Reservoir 4 Exterior Cathodic Protection (CP) System Installation Project. The project is ready to be advertised for bids. The total estimated construction cost including 10% for contingencies is \$165,000.

3. RECOMMENDED ACTION

Approve the plans and specifications, and authorize advertising for bids.

4. FISCAL IMPACT

The total expenditure for this project will be funded in the Exterior CP Systems (18301) through Water Fund (600).

5. STRATEGIC PLAN GOALS

Goal 1: Provide for a safe community

b: Provide and maintain infrastructure necessary to ensure the safety of the public.

Goal 4: Provide outstanding public service

b: Provide facilities and services to meet customer expectations.

6. DISCUSSION AND BACKGROUND

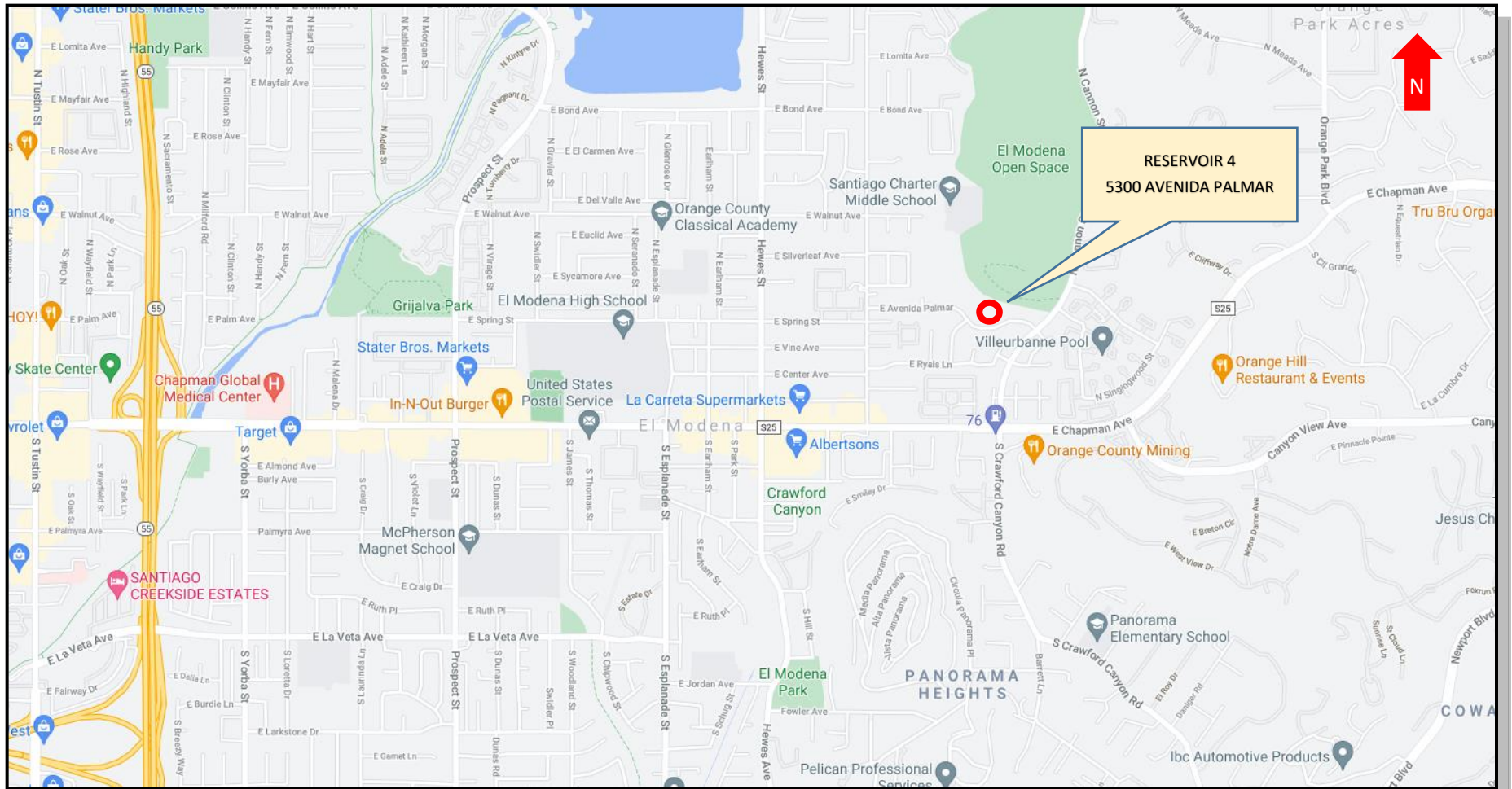
Constructed in 1968, Reservoir 4 has been used to store and provide drinking water to the customers residing within Pressure Zone 1 of the City's water distribution system. This partially buried, five-million gallon reservoir was constructed as a steel tank, which required complete internal and external cathodic protection systems (CP) to prevent corrosion to the metal shell and structural elements. Continuous monitoring and maintenance of the CP systems is necessary to prevent corrosion and preserve the tank structure. Recent annual monitoring report recommends the replacement of the tank's existing exterior CP system and installation of a new Impressed Current Cathodic Protection (ICCP) in accordance with the current codes and industry standards. The new CP system has a minimum service life of 20 years. Plans and technical specifications have been completed for the replacement of the exterior CP for Reservoir 4.

The scope of work for this project will include relocation of the existing internal CP system rectifier, installation of a new exterior ICCP system, anode bed, rectifier, underground electrical conduits, reference electrodes, and repairing disturb surface.

The proposed project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) under CEQA guidelines Section 15301 "Existing Facilities" Class 1 (c). The CEQA Notice of Exemption will be filed with the County Recorder's Office upon Council's approval of the plans and specifications.

7. ATTACHMENTS

- Location Map



LOCATION MAP
NTS



Agenda Item

City Council

Item #: 3.19.

7/13/2021

File #: 21-0361

TO: Honorable Mayor and Members of the City Council

THRU: Rick Otto, City Manager

FROM: Christopher Cash, Public Works Director

1. SUBJECT

Approval of plans and specifications for Well 29 Drilling Project (W-709) and authorization to advertise Bid No. 21-22.04.

2. SUMMARY

Plans and specifications have been completed for Well 29 Drilling Project. The project is ready to be advertised for bids. The engineering cost estimate including 10% contingencies is \$2,300,000.

3. RECOMMENDED ACTION

Approve the plans and specifications and authorize advertising for bids.

4. FISCAL IMPACT

The total expenditure for this project will be funded in Well 29 Construction (18120) through Water Fund (600).

5. STRATEGIC PLAN GOALS

Goal 1: Provide for a safe community

b: Provide and maintain infrastructure necessary to ensure the safety of the public.

Goal 4: Provide outstanding public service

b: Provide facilities and services to meet customer expectations.

6. DISCUSSION AND BACKGROUND

Well 29 will be located at the corner of Struck Ave. and Katella Ave. on the same site as the existing Well 8. Well 8's production has been decreased over recent years and shown signs that it has reached the end of its service life. In addition, the Per and Polyfluoralkyl substances (PFAS) levels at Well 8 exceeds the regulatory limits causing the well to be removed from service since 2018. The Public Works Department Water Division plans to demolish the existing Well 8 to make room for the new Well 29 and an Ion Exchange (IX) treatment system. Well 29 is expected to produce approximately 3,000 gallons per minute (gpm) in flow capacity.

The proposed Well 29 project will be constructed in two phases. Phase I will include drilling the well, and Phase II will consist of equipping the well and installing the treatment system. Well drilling phase is expected to begin in the Fall of 2021 and to be completed within 120 calendar days. Well

equipping will begin in the spring of 2022.

The Scope of Work for phase I includes the demolition of existing Well 8, pilot hole drilling, installation of approximately 1,300 feet of 20-inch stainless steel casing and screen, installation of accessory tubing, gravel pack, sanitary seal, conduct hydrogeology testing, well development, and disinfection. The drilling operations for the project will last approximately 30 days and require some 24-hour operational working periods. To mitigate potential noise possibly caused by the drilling operation, the contractor will install 24-foot high sound attenuation walls around the project site for the duration of the project. Prior to the project starting, staff will conduct outreach to the neighborhood that could be affected by the construction. The cost estimate for phase I of the project is \$2,300,000.

Well 29 will be partially funded by the Santa Ana River Conservation Conjunctive Use Program (SARCUP) initiated by the Orange County Water District (OCWD). The City is eligible to receive up to a maximum reimbursement of \$1,575,140 in grant funding for well construction and equipping cost. Additionally, the design and construction cost of the IX treatment system will be reimbursed by OCWD via its PFAS Treatment Systems Program.

Upon the completion of the well drilling phase, a separate staff report will be prepared to advertise for phase 2 of the project, consisting of the construction of all above ground piping, buildings, and pumping equipment, as well as the construction of the IX treatment system.

The proposed project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) under CEQA guidelines Section 15301 "Existing Facilities" Class 1 (c). The CEQA Notice of Exemption will be filed with the County Recorder's Office upon Council's approval of the plans and specifications.

7. ATTACHMENTS

- Location Map



Agenda Item

City Council

Item #: 3.19.

7/13/2021

File #: 21-0361

TO: Honorable Mayor and Members of the City Council

THRU: Rick Otto, City Manager

FROM: Christopher Cash, Public Works Director

1. SUBJECT

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2. SUMMARY

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3. RECOMMENDED ACTION

Approve the plans and specifications and authorize advertising for bids.

4. FISCAL IMPACT

The total expenditure for this project will be funded in Well 29 Construction (18120) through Water Fund (600).

5. STRATEGIC PLAN GOALS

Goal 1: Provide for a safe community

b: Provide and maintain infrastructure necessary to ensure the safety of the public.

Goal 4: Provide outstanding public service

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6. DISCUSSION AND BACKGROUND

Well 29 will be located at the corner of Struck Ave. and Katella Ave. on the same site as the existing Well 8. Well 8's production has been decreased over recent years and shown signs that it has reached the end of its service life. In addition, the Per and Polyfluoralkyl substances (PFAS) levels at Well 8 exceeds the regulatory limits causing the well to be removed from service since 2018. The Public Works Department Water Division plans to demolish the existing Well 8 to make room for the new Well 29 and an Ion Exchange (IX) treatment system. Well 29 is expected to produce approximately 3,000 gallons per minute (gpm) in flow capacity.

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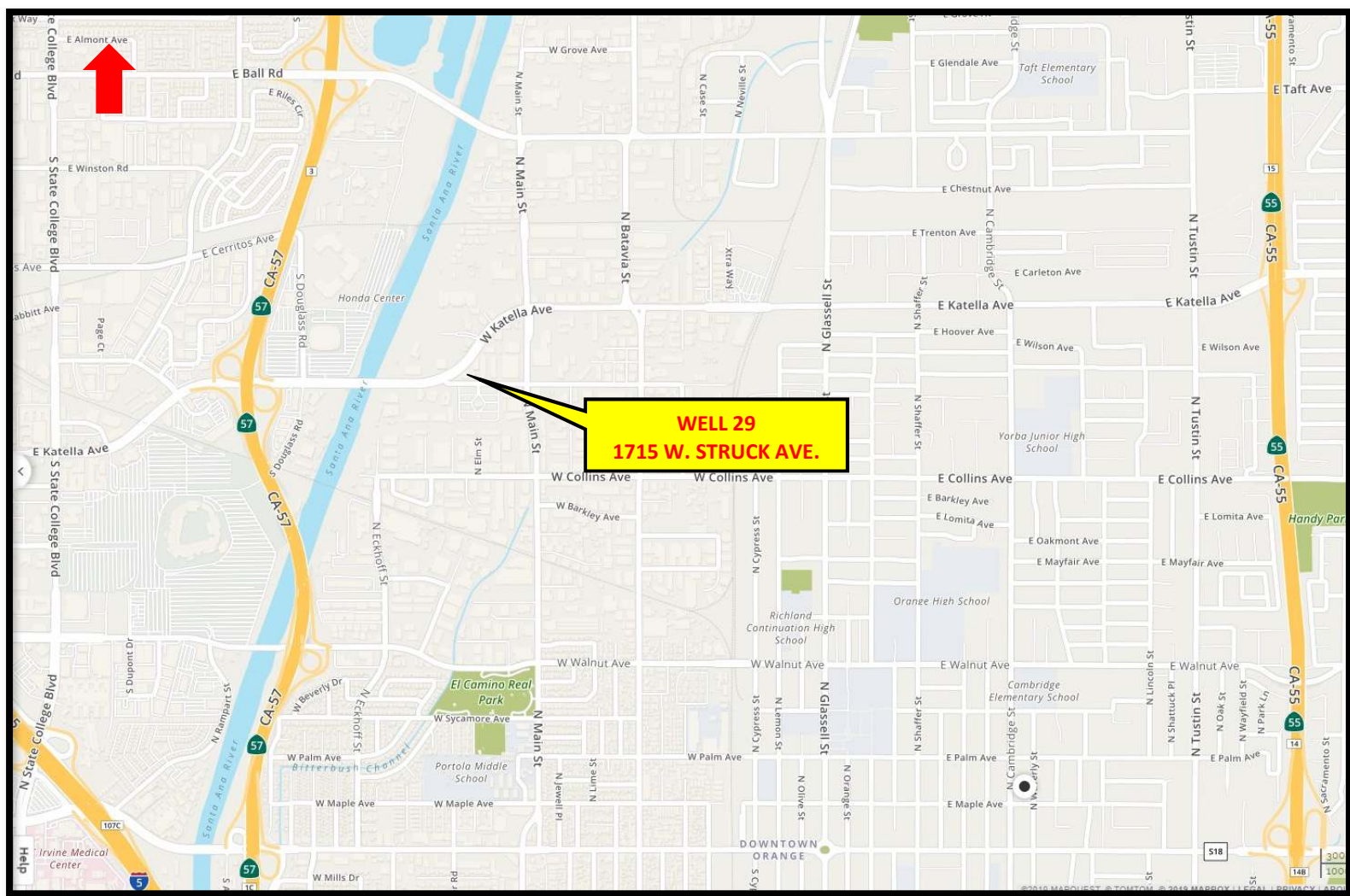
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Upon the completion of the well drilling phase, a separate staff report will be prepared to advertise for phase 2 of the project, consisting of the construction of all above ground piping, buildings, and pumping equipment, as well as the construction of the IX treatment system.

The proposed project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) under CEQA guidelines Section 15301 "Existing Facilities" Class 1 (c). The CEQA Notice of Exemption will be filed with the County Recorder's Office upon Council's approval of the plans and specifications.

7. ATTACHMENTS

- Location Map



LOCATION MAP

NOT TO SCALE



Agenda Item

City Council

Item #: 3.20.

7/13/2021

File #: 21-0373

TO: Honorable Mayor and Members of the City Council

THRU: Rick Otto, City Manager

FROM: Gary A. Sheatz, City Attorney

1. SUBJECT

Claims for Damages.

2. SUMMARY

Five claims have been received and investigated by the City Attorney's Office and/or the Risk Manager with the involved departments.

3. RECOMMENDED ACTION

Deny the following claims and refer to City Attorney and Claims Adjuster:

1. Michael Adam Spix
2. Sentinel Insurance Company, Ltd.
3. Arabella Reece
4. Asha Ezzati
5. Corey Schwarz

4. FISCAL IMPACT

None.

5. STRATEGIC PLAN GOALS

Goal 2: Be a fiscally healthy community

a: Expend fiscal resources responsibly.

6. DISCUSSION AND BACKGROUND

1. Claim for damages from Michael Adam Spix alleging missing property from Orange Police Department seizure.
2. Claim for damages from Sentinel Insurance Company, Ltd. alleging property damage to insured's building due to broken water meter.
3. Claim for damages from Arabella Reece alleging property damage to vehicle due to street improvements without caution signs.
4. Claim for damages from Asha Ezzati alleging property damage and personal injury due to a traffic collision on SR-1 (W. Coast Hwy).
5. Claim for reimbursement of towing fees from Corey Schwarz.

7. ATTACHMENTS

- None.



Agenda Item

City Council

Item #: 3.20.

7/13/2021

File #: 21-0373

TO: Honorable Mayor and Members of the City Council

THRU: Rick Otto, City Manager

FROM: Gary A. Sheatz, City Attorney

1. SUBJECT

Claims for Damages.

2. SUMMARY

Five claims have been received and investigated by the City Attorney's Office and/or the Risk Manager with the involved departments.

3. RECOMMENDED ACTION

Deny the following claims and refer to City Attorney and Claims Adjuster:

1. Michael Adam Spix
2. Sentinel Insurance Company, Ltd.
3. Arabella Reece
4. Asha Ezzati
5. Corey Schwarz

4. FISCAL IMPACT

None.

5. STRATEGIC PLAN GOALS

Goal 2: Be a fiscally healthy community

a: Expend fiscal resources responsibly.

6. DISCUSSION AND BACKGROUND

1. Claim for damages from Michael Adam Spix alleging missing property from Orange Police Department seizure.
2. Claim for damages from Sentinel Insurance Company, Ltd. alleging property damage to insured's building due to broken water meter.
3. Claim for damages from Arabella Reece alleging property damage to vehicle due to street improvements without caution signs.
4. Claim for damages from Asha Ezzati alleging property damage and personal injury due to a traffic collision on SR-1 (W. Coast Hwy).
5. Claim for reimbursement of towing fees from Corey Schwarz.

7. ATTACHMENTS

- None.



Agenda Item

City Council

Item #: 3.21.

7/13/2021

File #: 21-0362

TO: Honorable Mayor and Members of the City Council

THRU: Rick Otto, City Manager

FROM: Christopher Cash, Public Works Director

1. SUBJECT

Award of Contract to Pacific Polymers, Inc. doing business as American Foam Experts for Roof Coating at Taft Branch Library; Bid No. 20-21.23 (SP-4145).

2. SUMMARY

Four bids for Roof Coating at Taft Branch Library were received and opened on November 19, 2020. The apparent lowest bidder is Pacific Polymers, Inc. DBA American Foam Experts of Herald, California in the amount of \$57,200.

3. RECOMMENDED ACTION

Approve contract with Pacific Polymers, Inc. doing business as American Foam Experts in the amount of \$65,780, representing an original bid amount of \$57,200, plus a 15% contingency of \$8,580, for Roof Coating at Taft Branch Library; and authorize the Mayor and City Clerk to execute on behalf of the City.

4. FISCAL IMPACT

The total expenditure for this contract is \$65,780 and will be funded in Taft Library Improvements (20462) through Library Development Fees (573).

5. STRATEGIC PLAN GOALS

Goal 1: Provide for a safe community

b: Provide and maintain infrastructure necessary to ensure the safety of the public

Goal 4: Provide outstanding public service

b: Provide facilities and services to meet customer expectations

6. DISCUSSION AND BACKGROUND

This project will provide the Taft Branch Library with a new roof coating. As part of this project a 1.5-inch polyurethane foam roofing system will be used to restore the useful life of the roofing system.

The formal bid solicitation was advertised on October 29, 2020 and on November 5, 2020 and bids were opened on November 19, 2020. Four bids were received as follows:

- | | |
|--|-----------|
| 1. Pacific Polymer, Inc. DBA American Foam Experts, Herald | \$ 57,200 |
| 2. Harbor Coating & Restoration, Orange | \$ 63,800 |

3. Best Contracting Services, Inc., Gardena	\$ 90,200
4. Brazos Urethane, Inc., Madera	\$131,736

Staff checked the references and qualifications for American Foam Experts and found them to be acceptable, with adequate years of experience in completing contracts of similar nature to this project. Therefore, staff recommends that American Foam Experts be awarded the contract in the total amount of \$65,780, representing an original amount of \$57,200, plus a contingency of \$8,580, for the Roof Coating at Taft Branch Library.

Construction is scheduled to begin in August 2021 and expected to be completed within 25 calendar days.

7. ATTACHMENTS

- Bid Abstract
- Contract with American Foam Experts.



Agenda Item

City Council

Item #: 3.21.

7/13/2021

File #: 21-0362

TO: Honorable Mayor and Members of the City Council

THRU: Rick Otto, City Manager

FROM: Christopher Cash, Public Works Director

1. SUBJECT

Award of Contract to Pacific Polymers, Inc. doing business as American Foam Experts for Roof Coating at Taft Branch Library; Bid No. 20-21.23 (SP-4145).

2. SUMMARY

Four bids for Roof Coating at Taft Branch Library were received and opened on November 19, 2020. The apparent lowest bidder is Pacific Polymers, Inc. DBA American Foam Experts of Herald, California in the amount of \$57,200.

3. RECOMMENDED ACTION

Approve contract with Pacific Polymers, Inc. doing business as American Foam Experts. in the amount of \$65,780, representing an original bid amount of \$57,200, plus a 15% contingency of \$8,580, for Roof Coating at Taft Branch Library; and authorize the Mayor and City Clerk to execute on behalf of the City.

4. FISCAL IMPACT

The total expenditure for this contract is \$65,780 and will be funded in Taft Library Improvements (20462) through Library Development Fees (573).

5. STRATEGIC PLAN GOALS

Goal 1: Provide for a safe community

b: Provide and maintain infrastructure necessary to ensure the safety of the public

Goal 4: Provide outstanding public service

b: Provide facilities and services to meet customer expectations

6. DISCUSSION AND BACKGROUND

This project will provide the Taft Branch Library with a new roof coating. As part of this project a 1.5-inch polyurethane foam roofing system will be used to restore the useful life of the roofing system.

The formal bid solicitation was advertised on October 29, 2020 and on November 5, 2020 and bids were opened on November 19, 2020. Four bids were received as follows:

- | | |
|--|-----------|
| 1. Pacific Polymer, Inc. DBA American Foam Experts, Herald | \$ 57,200 |
| 2. Harbor Coating & Restoration, Orange | \$ 63,800 |

3. Best Contracting Services, Inc., Gardena	\$ 90,200
4. Brazos Urethane, Inc., Madera	\$131,736

Staff checked the references and qualifications for American Foam Experts and found them to be acceptable, with adequate years of experience in completing contracts of similar nature to this project. Therefore, staff recommends that American Foam Experts be awarded the contract in the total amount of \$65,780, representing an original amount of \$57,200, plus a contingency of \$8,580, for the Roof Coating at Taft Branch Library.

Construction is scheduled to begin in August 2021 and expected to be completed within 25 calendar days.

7. ATTACHMENTS

- Bid Abstract
- Contract with American Foam Experts.

City of Orange: Summary of Bid Abstracts for:

Roof Coating at Taft Branch Library
Bid No. 20-21.23; Project No. SP-4145
Date of Bid Opening: 11/19/2020

Roof Coating at Taft Branch Library Bid No. 20-21.23; Project No. SP-4145 Date of Bid Opening: 11/19/2020				ENGINEER'S ESTIMATE		1 Pacific Polymer Inc. DBA American Foam Experts Herald, CA (209) 748-2662		2 Harbor Coating and Resotriation Orange, CA (760) 500-9264		3 Best Contracting Services Inc. Gardena, CA (310) 328-6969		4 Brazos Urethane Inc. Madera, CA (559) 674-2222	
NO.	DESCRIPTION OF WORK	QUANTITY				UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT
West Palmyra Avenue Street Rehabilitation													
1	Prepare and apply roof coating to Original Taft Branch Library roof per Specification for polyurethane foam roofing system or approved equal (Minimum 1.5 inch thick), inclusive of flashing	8,800	SF	\$ 6.60	\$58,080.00	\$6.50	\$57,200.00	\$7.25	\$63,800.00	\$10.25	\$90,200.00	\$14.97	\$131,736.00
2	Prepare and apply roof coating to Original Annex Building roof per Specification for polyurethane foam roofing system or approved equal (Minimum 1.5 inch thick), inclusive of flashing. DELETED	1,050	SF	\$ 6.60	\$6,930.00								
Total				\$65,010.00		\$64,917.50		\$71,675.00		\$117,500.00		\$169,641.00	
Notes: Item 2 is Deleted from Scope													

CONTRACT
[Roof Coating at Taft Branch Library (Bid No. 20-21.23; SP-4145)]

THIS CONTRACT (the “Contract”) is made and entered into as of _____, 2021 (“Effective Date”) by and between the CITY OF ORANGE, a municipal corporation (“City”), and PACIFIC POLYMERS, INC., a California corporation (“Contractor”), dba AMERICAN FOAM EXPERTS, who agree as follows.

ARTICLE 1
Work Performed

a. For and in consideration of the payments and agreements hereinafter mentioned, to be made and performed by City, and under the conditions expressed in the two (2) bonds presented to City with this Contract and incorporated herein by this reference, Contractor hereby agrees to and shall do all the work and furnish all the labor, materials, tools and equipment, except such as are mentioned in the specifications to be furnished by City to Contractor, necessary to complete in good workmanship and substantial manner the work (the “Work”) described in:

(1) The Construction Plans for Roof Coating at Taft Branch Library prepared for City, approved by the “Engineer” (as defined herein below) on October 28, 2020, (the “Plans”);

(2) The latest edition of the "City of Orange Standard Plans and Specifications" (the “Orange Book”) with the term "Engineer," as used in the Orange Book and in this Contract, to specifically include the City Engineer (or his/her designee);

(3) The "Standard Specifications for Public Works Construction" (the “Greenbook”), and all amendments thereto, except the definition of “Subcontractor” in Section 1.2 (General – Terms and Definitions) of Part 1 (General Provisions) of the Greenbook, which is hereby amended in its entirety to read as follows: “Subcontractor – An individual, firm, or corporation having a direct contract with the Contractor for the performance of a part of the Work;”

(4) The “City of Orange Standard Special Provisions;”

(5) The Standard Plans; and

(6) Contractor’s Bid Proposal, which is on file with City’s Department of Public Works.

b. Contractor acknowledges that it has received the Plans from City and that a complete copy of the Plans are in its possession and are hereby specifically referred to and by such reference made a part hereof. The Orange Book, Greenbook and City of Orange Standard Special Provisions and Standard Plans are on file with City’s Public Works Director and are hereby specifically referred to and by such reference made a part hereof. Contractor hereby acknowledges that it has read, reviewed and understands the Plans, the Orange Book, the Greenbook, the Special

Provisions, the Standard Plans, and the Encroachment Permit as they relate to the Work, all of which documents shall be referred to herein collectively as the “Plans and Specifications.”

c. Contractor acknowledges the provisions of Chapter 8.28 of the Orange Municipal Code which requires, among other things, that Contractor utilize City’s exclusive solid waste hauler for the rental of bins for trash and debris removal and imposes mandatory recycling requirements for self-hauled construction and demolition waste. The terms and conditions set forth in this Contract shall control over any terms and conditions in the Plans and Specifications to the contrary.

d. The Work shall be performed in conformity with the Plans and Specifications and the Bid Proposal and all applicable laws, including any and all applicable federal and state labor laws and standards and applicable prevailing wage requirements and any and all state, federal and local statutes, regulations and ordinances relating to the protection of human health or the environment.

e. Unless and until otherwise notified in writing by City’s Public Works Director, City’s Public Works Administrative Manager, Joshua Soliz (“Authorized City Representative”), shall be the person to whom Contractor will report for the performance of the Work hereunder. It is understood that Contractor’s performance hereunder shall be under the direction and supervision of the Authorized City Representative or such other person as City’s Public Works Director may designate from time to time, that Contractor shall coordinate the Work hereunder with the Authorized City Representative to the extent required by the Authorized City Representative, and that all performances required hereunder by Contractor shall be performed to the satisfaction of the Authorized City Representative or City’s Public Works Director.

f. It is expressly agreed by and between the parties hereto that should there be any conflict between the terms of this instrument and Contractor’s Bid Proposal, then this instrument shall control and nothing herein shall be considered as an acceptance of the said terms of said Bid Proposal conflicting herewith.

ARTICLE 2

Commencement of Work

Contractor shall commence the Work provided for in this Contract within fifteen (15) days of the date of the issuance by City of a Notice to Proceed and diligently prosecute completion of the Work within TWENTY-FIVE (25) calendar days from such date, unless legal extension is granted in accordance with the terms set forth in the Greenbook. Time is of the essence in this Contract. Contractor shall do all things necessary and incidental to the prosecution of Contractor's Work.

ARTICLE 3

Compensation

a. Contractor agrees to receive and accept an amount not to exceed FIFTY-SEVEN THOUSAND TWO HUNDRED DOLLARS and 00/100 (\$57,200.00) as compensation for

furnishing all materials and doing all the Work contemplated and embraced in this Contract. Said compensation covers (1) all loss or damage arising out of the nature of the Work, from the acts of the elements; (2) any unforeseen difficulties or obstructions which may arise or be encountered in the prosecution of the Work until its acceptance by City, other than as provided below; (3) all risks of every description connected with the Work; (4) all expenses incurred by or in consequence of the suspension or discontinuance of the Work; and (5) well and faithfully completing the Work, and for the whole thereof, in the manner and according to the Plans and Specifications, and requirements of the Authorized City Representative under them. Retention amounts shall be withheld from progress payments as required by law unless Contractor provides securities in lieu of retention.

b. In addition to the scheduled Work to be performed by the Contractor, the parties recognize that additional, unforeseen work and services may be required by the Authorized City Representative. In anticipation of such contingencies, the sum of EIGHT THOUSAND FIVE HUNDRED EIGHTY DOLLARS and 00/100 (\$8,580.00) has been added to the total compensation of this Contract. The Authorized City Representative may approve the additional work and the actual costs incurred by the Contractor in performance of additional work or services in accordance with such amount as the Authorized City Representative and the Contractor may agree upon in advance. Said additional work or services and the amount of compensation therefor, up to the amount of the authorized contingency, shall be memorialized in the form of a Contract Amendment approved by the City Manager on a form acceptable to the City Attorney. The Contractor agrees to perform only that work or those services that are specifically requested by the Authorized City Representative. Any and all additional work and services performed under this Contract shall be completed in such sequence as to assure their completion as expeditiously as is consistent with professional skill and care in accordance with a cost estimate or proposal submitted to and approved by the Authorized City Representative prior to the commencement of such Work or services.

c. The total amount of compensation under this Contract, including contingencies, shall not exceed SIXTY-FIVE THOUSAND SEVEN HUNDRED EIGHTY DOLLARS and 00/100 (\$65,780.00).

ARTICLE 4

Licenses

Contractor represents that it and any subcontractors it may engage, possess any and all licenses which are required under state or federal law to perform the Work contemplated by this Contract and that Contractor and subcontractors shall maintain all appropriate licenses, including a City of Orange business license, at its cost, during the performance of this Contract.

ARTICLE 5

Guarantees

a. Contractor guarantees the construction and installation of all Work included in the Plans and Specifications for which Contractor has been awarded this Contract.

b. Should any of the materials or equipment installed pursuant to this Contract prove defective or should the Work as a whole prove defective, due to faulty equipment, workmanship, materials furnished or methods of installations, or should said Work or any part thereof fail to function properly, as designed, due to any of the above causes within twelve (12) months after the date on which said Work is accepted by City, Contractor shall make repairs and furnish such materials and equipment as are necessary to be furnished and installed within fifteen (15) calendar days after the receipt of a demand from City.

c. Said Work will be deemed defective within the meaning of this guarantee in the event that it fails to function as originally intended either by the Plans and Specifications of this Contract or by the manufacturer(s) of the equipment incorporated into the Work.

d. In the event repairs are not made within fifteen (15) calendar days after Contractor's receipt of a demand from City, City shall have the unqualified option to make any needed repairs or replacements itself or by any other contractor. Contractor shall reimburse City, upon demand, for all expenses incurred in restoring said Work to the condition contemplated in this Contract, including the cost of any equipment or materials replaced.

e. It is understood that emergency repairs may, by necessity, be made by City. Therefore, when defective equipment, materials or workmanship result in emergency repairs by City, Contractor shall reimburse City, upon demand, for all expenses incurred. Emergency repairs will be deemed as those repairs determined by City's Director of Public Works to be necessary due to an immediate detriment to the health, safety, welfare or convenience of the residents of City.

ARTICLE 6

Water Quality

a. The Santa Ana Regional Water Quality Control Board ("RWQCB") has issued National Pollutant Discharge Elimination System ("NPDES") Permit No. R8-2009-0030 (the "Permit"), which governs storm water and non-storm water discharges resulting from municipal activities performed by City or its contractors. In order to comply with the Permit requirements, the County of Orange has prepared a Drainage Area Management Plan ("DAMP"), containing Model Maintenance Procedures with Best Management Practices ("BMPs") that City and its contractors must adhere to. The Model Maintenance Procedures contain pollution prevention and source control techniques to minimize the impact of those activities upon dry-weather urban runoff, storm water runoff, and receiving water quality. Examples include: wash water from cleaning of sidewalks or parking lots must be collected and disposed of in the sewer or landscaped areas.

b. The Permit, the DAMP and the Model Maintenance Procedures are on file in the office of City's Director of Public Works. Contractor hereby acknowledges that it has read, reviewed and understands the Permit, the DAMP and the Model Maintenance Procedures, as they relate to the Work and hereby shall perform the Work in conformance therewith.

ARTICLE 7
Independent Contractor; Contractor not Agent

a. At all times during the term of this Contract, Contractor shall be an independent contractor and not an employee of City. City shall have the right to control Contractor only insofar as the result of Contractor's services rendered pursuant to this Contract. City shall not have the right to control the means by which Contractor accomplishes services rendered pursuant to this Contract. Contractor shall, at its sole cost and expense, furnish all facilities, materials and equipment which may be required for furnishing services pursuant to this Contract. Contractor shall be solely responsible for, and shall indemnify, defend and save City harmless from all matters relating to the payment of its subcontractors, agents and employees, including compliance with social security, withholding and all other wages, salaries, benefits, taxes, exactions, and regulations of any nature whatsoever. Contractor acknowledges that Contractor and any subcontractors, agents or employees employed by Contractor shall not, under any circumstances, be considered employees of City, and that they shall not be entitled to any of the benefits or rights afforded employees of City, including, but not limited to, sick leave, vacation leave, holiday pay, Public Employees Retirement System benefits, or health, life, dental, long-term disability or workers' compensation insurance benefits.

b. Except as City may specify in writing, Contractor shall have no authority, express or implied, to act on behalf of City in any capacity whatsoever as an agent. Contractor shall have no authority, express or implied, to bind City to any obligation whatsoever.

ARTICLE 8
Public Work; Prevailing Wage

a. The Work which is the subject of this Contract is a "public work," as that term is defined in Section 1720 of the California Labor Code, for which prevailing wages must be paid. To the extent Contractor's employees will perform any work that falls within any of the classifications for which the Department of Labor Relations of the State of California promulgates prevailing wage determinations, Contractor hereby agrees that Contractor, and any subcontractor under it, shall pay not less than the specified prevailing rates of wages to all such workers. The general prevailing wage determinations for crafts can be located on the website of the Department of Industrial Relations (www.dir.ca.gov/DLSR). Additionally, to perform work under this Contract, Contractor must meet all State registration requirements and criteria, including project compliance monitoring.

b. Attached hereto as Attachment No. 1 and incorporated herein by this reference is a copy of the provisions of Sections 1725.5, 1771, 1771.1, 1771.4, 1775, 1776, 1777.5, 1813 and 1815 of the California Labor Code. Contractor hereby acknowledges that it has read, reviewed and understands those provisions of the Labor Code and shall prosecute and complete the Work under this Contract in strict compliance with all of those terms and provisions.

c. Contractor shall secure the payment of compensation to its employees in accordance with the provisions of Section 3700 of the California Labor Code. Accordingly, and as required by Section 1861 of the California Labor Code, Contractor hereby certifies as follows:

“I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract.”

d. Contractor shall indemnify, protect, defend and hold harmless City and its officers, employees, contractors and agents, with counsel reasonably acceptable to City, from and against any and all loss, liability, damage, claim, cost, expense, and/or “increased costs” (including reasonable attorney’s fees, court and litigation costs, and fees of expert witnesses) which result or arise in any way from the noncompliance by Contractor of any applicable local, state and/or federal law, including, without limitation, any applicable federal and/or state labor laws (including, without limitation, the requirement to pay state prevailing wages). It is agreed by the parties that, in connection with the construction of the Work which is the subject of this Contract, Contractor shall bear all risks of payment or non-payment of state prevailing wages. “Increased costs” as used in this paragraph shall have the meaning ascribed to it in Labor Code Section 1781, as the same may be enacted, adopted or amended from time to time. The foregoing indemnity shall survive termination of this Contract.

ARTICLE 9

Equal Employment Opportunity

During the performance of this Contract, Contractor agrees as follows:

a. Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, mental or physical disability, or any other basis prohibited by applicable law. Contractor shall ensure that applicants are employed and that employees are treated during employment, without regard to their race, color, religion, sex, national origin, mental or physical disability, or any other basis prohibited by applicable law. Such actions 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. Contractor shall post in conspicuous places, available to employees and applicants for employment, a notice setting forth provisions of this non-discrimination clause.

b. Contractor shall, in all solicitations and advertisements for employees placed by, or on behalf of Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin, mental or physical disability, or any other basis prohibited by applicable law.

c. Contractor shall cause the foregoing paragraphs (a) and (b) to be inserted in all subcontracts for any Work covered by this Contract, provided that the foregoing provisions shall not apply to subcontracts for standard commercial supplies or raw materials.

ARTICLE 10

Conflicts of Interest

Contractor agrees that it shall not make, participate in the making, or in any way attempt to use its position as a contractor to influence any decision of City in which Contractor knows or has reason to know that Contractor, its officers, partners, or employees have a financial interest as defined in Section 87103 of the Government Code. Contractor further agrees that it shall not be eligible to work as the builder for any project for which the design work is part of this Contract.

ARTICLE 11

Indemnity

Contractor shall defend, indemnify and hold harmless City and its officers, officials, agents, and employees from and against:

a. Any and all claims, liabilities, losses, damages, penalties, costs or expenses (including reasonable attorneys' fees and court costs) which City may directly or indirectly sustain or suffer arising from or as a result of the death of any person or any accident, injury, loss or damage whatsoever caused to any person or the property of any person which shall occur on or adjacent to the real property which is the subject of this Contract, or in connection with performance of this Contract which may be directly or indirectly caused by the acts or omissions of Contractor or its officers, employees, contractors or agents, or as a consequence of any use, generation, manufacture, storage, disposal, release or threatened release of a hazardous waste or substance. Contractor shall not be responsible for (and such indemnity shall not apply to) any willful misconduct, negligence or breach of this Contract by City or its officers, officials, agents, and employees. The foregoing indemnity shall survive termination of this Contract.

b. Any and all claims under workers' compensation acts and other employee benefit acts with respect to Contractor's employees or its subcontractor's employees arising out of Contractor's Work under this Contract, including any and all claims under any law pertaining to Contractor's status as an independent contractor.

ARTICLE 12

Insurance

a. Contractor shall procure and maintain for the duration of this Contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Work hereunder and the results of that Work by Contractor, its agents, representatives, employees or subcontractors. Any umbrella liability insurance that is provided as part of the general or automobile liability minimums set forth below shall be maintained for the duration of the Contract.

b. Contractor shall maintain the following minimum amount of insurance: the greater of either the limits set forth in (1) through (4), below; or all of the insurance coverage and/or limits carried by or available to Contractor.

- | | | |
|---------------------------|-------------|--|
| (1) General Liability | \$2,000,000 | per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit. |
| (2) Automobile Liability | \$1,000,000 | per accident for bodily injury and property damage. |
| (3) Workers' Compensation | | as required by the State of California. |
| (4) Employer's Liability | \$1,000,000 | per accident for bodily injury or disease. |

c. Any insurance proceeds in excess of or broader than the minimum required coverage and/or minimum required limits which are applicable to a given loss shall be available to City. No representation is made that the minimum insurance requirements of this Contract are sufficient to cover the obligations of Contractor under this Contract.

d. Any deductibles or self-insured retentions must be declared to and approved by City. At the option of City, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions with respect to City, its officers, officials, agents and employees; or Contractor shall provide a financial guarantee satisfactory to City guaranteeing payment of losses and related investigations, claim administration, and defense expenses.

e. Each policy of general liability and automotive liability insurance shall contain, or be endorsed to contain, the following provisions:

(1) City, its officers, officials, agents, and employees are declared to be additional insureds under the terms of the policy, with respect to liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of Contractor (any auto), and with respect to liability arising out of Work or operations performed by or on behalf of Contractor, including materials, parts or equipment furnished in connection with such Work or operations. A policy endorsement to that effect shall be provided to City along with the certificate of insurance. In lieu of an endorsement, City will accept a copy of the policy(ies) which evidences that City is an additional insured as a contracting party. The minimum coverage required by Subsection 12.b, above, shall apply to City as an additional insured.

(2) For any claims related to this Contract, Contractor's insurance coverage shall be primary insurance with respect to City, its officers, officials, agents and employees. Any insurance or self-insurance maintained by City, its officers, officials, agents and employees shall be excess of Contractor's insurance and shall not contribute with it.

(3) Coverage shall not be canceled, except after thirty (30) days' prior written notice has been provided to City.

f. Contractor shall furnish City with original certificates of insurance and endorsements effecting coverage required by this Article 12. The endorsements shall be on forms acceptable to City. All certificates and endorsements are to be received and approved by City before the Work commences. However, failure to do so shall not operate as a waiver of these insurance requirements. City reserves the right to require complete, certified copies of all required insurance policies, including endorsements effecting the coverage required by these specifications at any time.

g. All insurance procured and maintained by Contractor shall be issued by insurers admitted to conduct the pertinent line of insurance business in California and having a rating of Grade A or better and Class VII or better by the latest edition of Best Key Rating Guide.

h. Contractor shall immediately notify City if any required insurance lapses or is otherwise modified and cease performance of this Contract unless otherwise directed by City. In such a case, City may procure insurance or self-insure the risk and charge Contractor for such costs and any and all damages resulting therefrom by way of set-off from any sums owed Contractor.

i. Contractor agrees that in the event of loss due to any of the perils for which it has agreed to provide insurance, Contractor shall look solely to its insurance for recovery. Contractor hereby grants to City, on behalf of any insurer providing insurance to either Contractor or City with respect to the services of Contractor herein, a waiver of any right to subrogation which any such insurer may acquire against City by virtue of the payment of any loss under such insurance. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of City for all Work performed by Contractor, its employees, agents and subcontractors. Contractor shall obtain any other endorsement that may be necessary to effect this waiver of subrogation.

j. Contractor shall require and verify that all subcontractors maintain insurance meeting all of the requirements stated herein.

ARTICLE 13

Termination

City, acting through its City Manager or his/her designee, reserves the right to terminate this Contract for any reason by giving five (5) days' written notice of intent to terminate to Contractor. Upon receipt of notice, Contractor shall immediately cease work, unless the notice provides otherwise. Should City terminate this Contract, City shall pay Contractor for services satisfactorily provided and all allowable reimbursements incurred to the date of termination in compliance with this Contract, unless such termination shall be for cause, in which event City may withhold any disputed compensation. City shall not be liable for any claim of lost profits.

ARTICLE 14

Maintenance and Inspection of Records

In accordance with generally accepted accounting principles, Contractor and its subcontractors shall maintain reasonably full and complete books, documents, papers, accounting

records and other information (collectively, the “records”) pertaining to the costs of and completion of services performed under this Contract. During the term of this Contract and for a period of three (3) years after termination or completion of this Contract, City shall have the right to inspect and/or audit Contractor's records pertaining to the performance of this Contract at Contractor's office. Contractor shall make available all such records for inspection or audit at its offices during normal business hours and upon three (3) days’ notice from City, and copies thereof shall be furnished if requested.

ARTICLE 15

Compliance with Laws

a. Contractor shall be knowledgeable of and comply with all local, state and federal laws pertaining to the subject matter hereof or in any way regulating the activities undertaken by Contractor or any subcontractor hereunder.

b. Contractor represents and warrants that it:

(1) Has complied and shall at all times during the term of this Contract comply, in all respects, with all immigration laws, regulations, statutes, rules, codes, and orders, including, without limitation, the Immigration Reform and Control Act of 1986 (IRCA); and

(2) Has not and will not knowingly employ any individual to perform services under this Contract who is ineligible to work in the United States or under the terms of this Contract; and

(3) Has properly maintained, and shall at all times during the term of this Contract properly maintain, all related employment documentation records including, without limitation, the completion and maintenance of the Form I-9 for each of Contractor’s employees; and

(4) Has responded, and shall at all times during the term of this Contract respond, in a timely fashion to any government inspection requests relating to immigration law compliance and/or Form I-9 compliance and/or worksite enforcement by the Department of Homeland Security, the Department of Labor, or the Social Security Administration.

c. Contractor shall require all subcontractors and/or subconsultants to make the same representations and warranties required by this Article 15 when hired to perform services under this Contract.

d. Contractor shall, upon request of City, provide a list of all employees working under this Contract and shall provide, to the reasonable satisfaction of City, verification that all such employees are eligible to work in the United States. All costs associated with such verification shall be borne by Contractor. Once such request has been made, Contractor may not change employees working under this Contract without written notice to City, accompanied by the verification required herein for such employees. Contractor shall require all subcontractors and/or sub-consultants to make the same verification when hired to perform services under this Contract.

e. If Contractor, or a subcontractor or subconsultant, knowingly employs an employee providing Work under this Contract who is not authorized to work in the United States, and/or

fails to follow federal laws to determine the status of such employee, such shall constitute a material breach of this Contract and may be cause for immediate termination of this Contract by City.

f. Contractor shall indemnify and hold City, its officials and employees harmless for, of and from any loss, including but not limited to fines, penalties and corrective measures, City may sustain by reason of Contractor's failure to comply with said laws, rules and regulations in connection with the performance of this Contract.

ARTICLE 16

Governing Law and Venue

This Contract shall be construed in accordance with and governed by the laws of the State of California and Contractor shall submit to the jurisdiction of California courts. Venue for any dispute arising under this Contract shall be in Orange County, California.

ARTICLE 17

Integration and Amendment

a. This Contract constitutes the entire agreement of the parties. No other agreement, oral or written, pertaining to the Work to be performed under this Contract shall be of any force or effect unless it is in writing and signed by both parties. Any Work performed which is inconsistent with or in violation of the provisions of this Contract shall not be compensated.

b. Amendments to this Contract must be in writing and signed by both parties. The City Manager is authorized to execute amendments to this Contract up to the amounts specified in Chapter 3.08 of the Orange Municipal Code.

ARTICLE 18

Notice

Except as otherwise provided herein, all notices required under this Contract shall be in writing and delivered personally, by e-mail, or by first class mail, postage prepaid, to each party at the address listed below. Either party may change the notice address by notifying the other party in writing. Notices shall be deemed received upon receipt of same or within three (3) days of deposit in the U.S. Mail, whichever is earlier. Notices sent by e-mail shall be deemed received on the date of the e-mail transmission.

"CONTRACTOR"

Pacific Polymers, Inc
DBA American Foam Experts
P.O. Box 190
Herald, CA 95638
Attn: Bobby Stepps

Telephone: (209) 748-2662
E-Mail: briana@americanfoamexperts.com

"CITY"

City of Orange
300 E. Chapman Avenue
Orange, CA 92866-1591

Attn: Joshua G. Soliz

Telephone: (714) 744-5588
E-Mail: jsoliz@cityoforange.org

ARTICLE 19
Claim Resolution

City and Contractor agree that the claim resolution process applicable to any claim by Contractor in connection with the Work provided herein shall be subject to the procedures set forth in California Public Contract Code Section 9204, attached hereto as Attachment No. 2, and incorporated herein by this reference.

ARTICLE 20
Counterparts

This Contract may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Signatures transmitted via facsimile and electronic mail shall have the same effect as original signatures.

“CITY”

CITY OF ORANGE, a municipal corporation

By: _____
Mark A. Murphy
Mayor of the City of Orange

CONTRACT, BOND(S) AND INSURANCE
APPROVED BY:

ATTEST:

Mary E. Binning
Senior Assistant City Attorney

Pamela Coleman, City Clerk

“CONTRACTOR”

PACIFIC POLYMERS, INC., dba AMERICAN
FOAM EXPERTS, a California corporation

***[Note: Signature of Chairman of the
Board, President or Vice President is
required]***

By: _____
Printed Name: _____
Title: _____

***[Note: Signature of Secretary, Assistant
Secretary, Chief Financial Officer or
Assistant Treasurer is also required]***

By: _____
Printed Name: _____
Title: _____

ATTACHMENT NO. 1

CALIFORNIA LABOR CODE

SECTIONS 1725.5, 1771, 1771.1, 1771.4, 1775, 1776, 1777.5, 1813 and 1815

Section 1725.5. Registration of contractors; mandatory registration; qualifications and application; fees; exempt contractors

A contractor shall be registered pursuant to this section to be qualified to bid on, be listed in a bid proposal, subject to the requirements of Section 4104 of the Public Contract Code, or engage in the performance of any public work contract that is subject to the requirements of this chapter. For the purposes of this section, "contractor" includes a subcontractor as defined by Section 1722.1.

(a) To qualify for registration under this section, a contractor shall do all of the following:

(1)(A) Register with the Department of Industrial Relations in the manner prescribed by the department and pay an initial nonrefundable application fee of four hundred dollars (\$400) to qualify for registration under this section and an annual renewal fee on or before July 1 of each year thereafter. The annual renewal fee shall be in a uniform amount set by the Director of Industrial Relations, and the initial registration and renewal fees may be adjusted no more than annually by the director to support the costs specified in Section 1771.3.

(B) Beginning June 1, 2019, a contractor may register or renew according to this subdivision in annual increments up to three years from the date of registration. Contractors who wish to do so will be required to prepay the applicable nonrefundable application or renewal fees to qualify for the number of years for which they wish to preregister.

(2) Provide evidence, disclosures, or releases as are necessary to establish all of the following:

(A) Workers' compensation coverage that meets the requirements of Division 4 (commencing with Section 3200) and includes sufficient coverage for any worker whom the contractor employs to perform work that is subject to prevailing wage requirements other than a contractor who is separately registered under this section. Coverage may be evidenced by a current and valid certificate of workers' compensation insurance or certification of self-insurance required under Section 7125 of the Business and Professions Code.

(B) If applicable, the contractor is licensed in accordance with Chapter 9 (commencing with Section 7000) of the Business and Professions Code.

(C) The contractor does not have any delinquent liability to an employee or the state for any assessment of back wages or related damages, interest, fines, or penalties pursuant to any final judgment, order, or determination by a court or any federal, state, or local administrative agency, including a confirmed arbitration award. However, for purposes of this paragraph, the contractor shall not be disqualified for any judgment, order, or determination that is under appeal, provided that the contractor has secured the payment of any amount eventually found due through a bond or other appropriate means.

(D) The contractor is not currently debarred under Section 1777.1 or under any other federal or state law providing for the debarment of contractors from public works.

(E) The contractor has not bid on a public works contract, been listed in a bid proposal, or engaged in the performance of a contract for public works without being lawfully registered in accordance with this section, within the preceding 12 months or since the effective date of the requirements set forth in subdivision (e), whichever is earlier. If a contractor is found to be in violation of the requirements of this paragraph, the period of disqualification shall be waived if both of the following are true:

- (i) The contractor has not previously been found to be in violation of the requirements of this paragraph within the preceding 12 months.
- (ii) The contractor pays an additional nonrefundable penalty registration fee of two thousand dollars (\$2,000).
- (b) Fees received pursuant to this section shall be deposited in the State Public Works Enforcement Fund established by Section 1771.3 and shall be used only for the purposes specified in that section.
- (c) A contractor who fails to pay the renewal fee required under paragraph (1) of subdivision (a) on or before the expiration of any prior period of registration shall be prohibited from bidding on or engaging in the performance of any contract for public work until once again registered pursuant to this section. If the failure to pay the renewal fee was inadvertent, the contractor may renew its registration retroactively by paying an additional nonrefundable penalty renewal fee equal to the amount of the renewal fee within 90 days of the due date of the renewal fee.
- (d) If, after a body awarding a contract accepts the contractor's bid or awards the contract, the work covered by the bid or contract is determined to be a public work to which Section 1771 applies, either as the result of a determination by the director pursuant to Section 1773.5 or a court decision, the requirements of this section shall not apply, subject to the following requirements:
 - (1) The body that awarded the contract failed, in the bid specification or in the contract documents, to identify as a public work that portion of the work that the determination or decision subsequently classifies as a public work.
 - (2) Within 20 days following service of notice on the awarding body of a determination by the Director of Industrial Relations pursuant to Section 1773.5 or a decision by a court that the contract was for public work as defined in this chapter, the contractor and any subcontractors are registered under this section or are replaced by a contractor or subcontractors who are registered under this section.
 - (3) The requirements of this section shall apply prospectively only to any subsequent bid, bid proposal, contract, or work performed after the awarding body is served with notice of the determination or decision referred to in paragraph (2).
- (e) The requirements of this section shall apply to any bid proposal submitted on or after March 1, 2015, to any contract for public work, as defined in this chapter, executed on or after April 1, 2015, and to any work performed under a contract for public work on or after January 1, 2018, regardless of when the contract for public work was executed.
- (f) This section does not apply to work performed on a public works project of twenty-five thousand dollars (\$25,000) or less when the project is for construction, alteration, demolition, installation, or repair work or to work performed on a public works project of fifteen thousand dollars (\$15,000) or less when the project is for maintenance work.

Section 1771. Payment of general prevailing rate

Except for public works projects of one thousand dollars (\$1,000) or less, not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the public work is performed, and not less than the general prevailing rate of per diem wages for holiday and overtime work fixed as provided in this chapter, shall be paid to all workers employed on public works.

This section is applicable only to work performed under contract, and is not applicable to work carried out by a public agency with its own forces. This section is applicable to contracts let for maintenance work.

Section 1771.1. Registration as a contractor or subcontractor required prior to bid submission; exceptions; violations; penalties

(a) A contractor or subcontractor shall not be qualified to bid on, be listed in a bid proposal, subject to the requirements of Section 4104 of the Public Contract Code, or engage in the performance of any contract for public work, as defined in this chapter, unless currently registered and qualified to perform public work pursuant to Section 1725.5. It is not a violation of this section for an unregistered contractor to submit a bid that is authorized by Section 7029.1 of the Business and Professions Code or by Section 10164 or 20103.5 of the Public Contract Code, provided the contractor is registered to perform public work pursuant to Section 1725.5 at the time the contract is awarded.

(b) Notice of the requirement described in subdivision (a) shall be included in all bid invitations and public works contracts, and a bid shall not be accepted nor any contract or subcontract entered into without proof of the contractor or subcontractor's current registration to perform public work pursuant to Section 1725.5.

(c) An inadvertent error in listing a subcontractor who is not registered pursuant to Section 1725.5 in a bid proposal shall not be grounds for filing a bid protest or grounds for considering the bid nonresponsive, provided that any of the following apply:

(1) The subcontractor is registered prior to the bid opening.

(2) Within 24 hours after the bid opening, the subcontractor is registered and has paid the penalty registration fee specified in subparagraph (E) of paragraph (2) of subdivision (a) of Section 1725.5.

(3) The subcontractor is replaced by another registered subcontractor pursuant to Section 4107 of the Public Contract Code.

(d) Failure by a subcontractor to be registered to perform public work as required by subdivision (a) shall be grounds under Section 4107 of the Public Contract Code for the contractor, with the consent of the awarding authority, to substitute a subcontractor who is registered to perform public work pursuant to Section 1725.5 in place of the unregistered subcontractor.

(e) The department shall maintain on its Internet Web site a list of contractors who are currently registered to perform public work pursuant to Section 1725.5.

(f) A contract entered into with any contractor or subcontractor in violation of subdivision (a) shall be subject to cancellation, provided that a contract for public work shall not be unlawful, void, or voidable solely due to the failure of the awarding body, contractor, or any subcontractor to comply with the requirements of Section 1725.5 or this section.

(g) If the Labor Commissioner or his or her designee determines that a contractor or subcontractor engaged in the performance of any public work contract without having been registered in accordance with this section, the contractor or subcontractor shall forfeit, as a civil penalty to the state, one hundred dollars (\$100) for each day of work performed in violation of the registration requirement, not to exceed an aggregate penalty of eight thousand dollars (\$8,000) in addition to any penalty registration fee assessed pursuant to clause (ii) of subparagraph (E) of paragraph (2) of subdivision (a) of Section 1725.5.

(h)(1) In addition to, or in lieu of, any other penalty or sanction authorized pursuant to this chapter, a higher tiered public works contractor or subcontractor who is found to have entered into a subcontract with an unregistered lower tier subcontractor to perform any public work in violation of the requirements of Section 1725.5 or this section shall be subject to forfeiture, as a civil penalty to the state, of one hundred dollars (\$100)

for each day the unregistered lower tier subcontractor performs work in violation of the registration requirement, not to exceed an aggregate penalty of ten thousand dollars (\$10,000).

(2) The Labor Commissioner shall use the same standards specified in subparagraph (A) of paragraph (2) of subdivision (a) of Section 1775 when determining the severity of the violation and what penalty to assess, and may waive the penalty for a first time violation that was unintentional and did not hinder the Labor Commissioner's ability to monitor and enforce compliance with the requirements of this chapter.

(3) A higher tiered public works contractor or subcontractor shall not be liable for penalties assessed pursuant to paragraph (1) if the lower tier subcontractor's performance is in violation of the requirements of Section 1725.5 due to the revocation of a previously approved registration.

(4) A subcontractor shall not be liable for any penalties assessed against a higher tiered public works contractor or subcontractor pursuant to paragraph (1). A higher tiered public works contractor or subcontractor may not require a lower tiered subcontractor to indemnify or otherwise be liable for any penalties pursuant to paragraph (1).

(i) The Labor Commissioner or his or her designee shall issue a civil wage and penalty assessment, in accordance with the provisions of Section 1741, upon determination of penalties pursuant to subdivision (g) and subparagraph (B) of paragraph (1) of subdivision (h). Review of a civil wage and penalty assessment issued under this subdivision may be requested in accordance with the provisions of Section 1742. The regulations of the Director of Industrial Relations, which govern proceedings for review of civil wage and penalty assessments and the withholding of contract payments under Article 1 (commencing with Section 1720) and Article 2 (commencing with Section 1770), shall apply.

(j)(1) Where a contractor or subcontractor engages in the performance of any public work contract without having been registered in violation of the requirements of Section 1725.5 or this section, the Labor Commissioner shall issue and serve a stop order prohibiting the use of the unregistered contractor or the unregistered subcontractor on all public works until the unregistered contractor or unregistered subcontractor is registered. The stop order shall not apply to work by registered contractors or subcontractors on the public work.

(2) A stop order may be personally served upon the contractor or subcontractor by either of the following methods:

(A) Manual delivery of the order to the contractor or subcontractor personally.

(B) Leaving signed copies of the order with the person who is apparently in charge at the site of the public work and by thereafter mailing copies of the order by first class mail, postage prepaid to the contractor or subcontractor at one of the following:

(i) The address of the contractor or subcontractor on file with either the Secretary of State or the Contractors' State License Board.

(ii) If the contractor or subcontractor has no address on file with the Secretary of State or the Contractors' State License Board, the address of the site of the public work.

(3) The stop order shall be effective immediately upon service and shall be subject to appeal by the party contracting with the unregistered contractor or subcontractor, by the unregistered contractor or subcontractor, or both. The appeal, hearing, and any further review of the hearing decision shall be governed by the procedures, time limits, and other requirements specified in subdivision (a) of Section 238.1.

(4) Any employee of an unregistered contractor or subcontractor who is affected by a work stoppage ordered by the commissioner pursuant to this subdivision shall be paid at his or her regular hourly prevailing wage rate by that employer for any hours the employee would have worked but for the work stoppage, not to exceed 10 days.

(k) Failure of a contractor or subcontractor, owner, director, officer, or managing agent of the contractor or subcontractor to observe a stop order issued and served upon him or her pursuant to subdivision (j) is guilty of a misdemeanor punishable by imprisonment in county jail not exceeding 60 days or by a fine not exceeding ten thousand dollars (\$10,000), or both.

(l) This section shall apply to any bid proposal submitted on or after March 1, 2015, and any contract for public work entered into on or after April 1, 2015. This section shall also apply to the performance of any public work, as defined in this chapter, on or after January 1, 2018, regardless of when the contract for public work was entered.

(m) Penalties received pursuant to this section shall be deposited in the State Public Works Enforcement Fund established by Section 1771.3 and shall be used only for the purposes specified in that section.

(n) This section shall not apply to work performed on a public works project of twenty-five thousand dollars (\$25,000) or less when the project is for construction, alteration, demolition, installation, or repair work or to work performed on a public works project of fifteen thousand dollars (\$15,000) or less when the project is for maintenance work.

Section 1771.4. Additional requirements when bidding and awarding public works contracts

(a) All of the following are applicable to all public works projects that are otherwise subject to the requirements of this chapter:

(1) The call for bids and contract documents shall specify that the project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

(2) The awarding body shall post or require the prime contractor to post job site notices, as prescribed by regulation.

(3) Each contractor and subcontractor shall furnish the records specified in Section 1776 directly to the Labor Commissioner, in the following manner:

(A) At least monthly or more frequently if specified in the contract with the awarding body.

(B) In a format prescribed by the Labor Commissioner.

(4) If the contractor or subcontractor is not registered pursuant to Section 1725.5 and is performing work on a project for which registration is not required because of subdivision (f) of Section 1725.5, the unregistered contractor or subcontractor is not required to furnish the records specified in Section 1776 directly to the Labor Commissioner but shall retain the records specified in Section 1776 for at least three years after completion of the work.

(5) The department shall undertake those activities it deems necessary to monitor and enforce compliance with prevailing wage requirements.

(b) The Labor Commissioner may exempt a public works project from compliance with all or part of the requirements of subdivision (a) if either of the following occurs:

(1) The awarding body has enforced an approved labor compliance program, as defined in Section 1771.5, on all public works projects under its authority, except those deemed exempt pursuant to subdivision (a) of Section 1771.5, continuously since December 31, 2011.

(2) The awarding body has entered into a collective bargaining agreement that binds all contractors performing work on the project and that includes a mechanism for resolving disputes about the payment of wages.

(c) The requirements of paragraph (1) of subdivision (a) shall only apply to contracts for public works projects awarded on or after January 1, 2015.

(d) The requirements of paragraph (3) of subdivision (a) shall apply to all contracts for public work, whether new or ongoing, on or after January 1, 2016.

Section 1775. Penalties for violations

(a)(1) The contractor and any subcontractor under the contractor shall, as a penalty to the state or political subdivision on whose behalf the contract is made or awarded, forfeit not more than two hundred dollars (\$200) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rates as determined by the director for the work or craft in which the worker is employed for any public work done under the contract by the contractor or, except as provided in subdivision (b), by any subcontractor under the contractor.

(2)(A) The amount of the penalty shall be determined by the Labor Commissioner based on consideration of both of the following:

(i) Whether the failure of the contractor or subcontractor to pay the correct rate of per diem wages was a good faith mistake and, if so, the error was promptly and voluntarily corrected when brought to the attention of the contractor or subcontractor.

(ii) Whether the contractor or subcontractor has a prior record of failing to meet its prevailing wage obligations.

(B)(i) The penalty may not be less than forty dollars (\$40) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rate, unless the failure of the contractor or subcontractor to pay the correct rate of per diem wages was a good faith mistake and, if so, the error was promptly and voluntarily corrected when brought to the attention of the contractor or subcontractor.

(ii) The penalty may not be less than eighty dollars (\$80) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rate, if the contractor or subcontractor has been assessed penalties within the previous three years for failing to meet its prevailing wage obligations on a separate contract, unless those penalties were subsequently withdrawn or overturned.

(iii) The penalty may not be less than one hundred twenty dollars (\$120) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rate, if the Labor Commissioner determines that the violation was willful, as defined in subdivision (c) of Section 1777.1.

(C) If the amount due under this section is collected from the contractor or subcontractor, any outstanding wage claim under Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 against that contractor

or subcontractor shall be satisfied before applying that amount to the penalty imposed on that contractor or subcontractor pursuant to this section.

(D) The determination of the Labor Commissioner as to the amount of the penalty shall be reviewable only for abuse of discretion.

(E) The difference between the prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate shall be paid to each worker by the contractor or subcontractor, and the body awarding the contract shall cause to be inserted in the contract a stipulation that this section will be complied with.

(b) If a worker employed by a subcontractor on a public works project is not paid the general prevailing rate of per diem wages by the subcontractor, the prime contractor of the project is not liable for any penalties under subdivision (a) unless the prime contractor had knowledge of that failure of the subcontractor to pay the specified prevailing rate of wages to those workers or unless the prime contractor fails to comply with all of the following requirements:

(1) The contract executed between the contractor and the subcontractor for the performance of work on the public works project shall include a copy of the provisions of this section and Sections 1771, 1776, 1777.5, 1813, and 1815.

(2) The contractor shall monitor the payment of the specified general prevailing rate of per diem wages by the subcontractor to the employees, by periodic review of the certified payroll records of the subcontractor.

(3) Upon becoming aware of the failure of the subcontractor to pay his or her workers the specified prevailing rate of wages, the contractor shall diligently take corrective action to halt or rectify the failure, including, but not limited to, retaining sufficient funds due the subcontractor for work performed on the public works project.

(4) Prior to making final payment to the subcontractor for work performed on the public works project, the contractor shall obtain an affidavit signed under penalty of perjury from the subcontractor that the subcontractor has paid the specified general prevailing rate of per diem wages to his or her employees on the public works project and any amounts due pursuant to Section 1813.

(c) The Division of Labor Standards Enforcement shall notify the contractor on a public works project within 15 days of the receipt by the Division of Labor Standards Enforcement of a complaint of the failure of a subcontractor on that public works project to pay workers the general prevailing rate of per diem wages.

Section 1776. Payroll records; retention; inspection; redacted information; agencies entitled to receive nonredacted copies of certified records; noncompliance penalties; rules

(a) Each contractor and subcontractor shall keep accurate payroll records, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by him or her in connection with the public work. Each payroll record shall contain or be verified by a written declaration that it is made under penalty of perjury, stating both of the following:

(1) The information contained in the payroll record is true and correct.

(2) The employer has complied with the requirements of Sections 1771, 1811, and 1815 for any work performed by his or her employees on the public works project.

(b) The payroll records enumerated under subdivision (a) shall be certified and shall be available for inspection at all reasonable hours at the principal office of the contractor on the following basis:

(1) A certified copy of an employee's payroll record shall be made available for inspection or furnished to the employee or his or her authorized representative on request.

(2) A certified copy of all payroll records enumerated in subdivision (a) shall be made available for inspection or furnished upon request to a representative of the body awarding the contract and the Division of Labor Standards Enforcement of the Department of Industrial Relations.

(3) A certified copy of all payroll records enumerated in subdivision (a) shall be made available upon request by the public for inspection or for copies thereof. However, a request by the public shall be made through either the body awarding the contract or the Division of Labor Standards Enforcement. If the requested payroll records have not been provided pursuant to paragraph (2), the requesting party shall, prior to being provided the records, reimburse the costs of preparation by the contractor, subcontractors, and the entity through which the request was made. The public may not be given access to the records at the principal office of the contractor.

(c) Unless required to be furnished directly to the Labor Commissioner in accordance with paragraph (3) of subdivision (a) of Section 1771.4, the certified payroll records shall be on forms provided by the Division of Labor Standards Enforcement or shall contain the same information as the forms provided by the division. The payroll records may consist of printouts of payroll data that are maintained as computer records, if the printouts contain the same information as the forms provided by the division and the printouts are verified in the manner specified in subdivision (a).

(d) A contractor or subcontractor shall file a certified copy of the records enumerated in subdivision (a) with the entity that requested the records within 10 days after receipt of a written request.

(e) Except as provided in subdivision (f), any copy of records made available for inspection as copies and furnished upon request to the public or any public agency by the awarding body or the Division of Labor Standards Enforcement shall be marked or obliterated to prevent disclosure of an individual's name, address, and social security number. The name and address of the contractor awarded the contract or the subcontractor performing the contract shall not be marked or obliterated. Any copy of records made available for inspection by, or furnished to, a multiemployer Taft-Hartley trust fund (29 U.S.C. Sec. 186(c)(5)) that requests the records for the purposes of allocating contributions to participants shall be marked or obliterated only to prevent disclosure of an individual's full social security number, but shall provide the last four digits of the social security number. Any copy of records made available for inspection by, or furnished to, a joint labor-management committee established pursuant to the federal Labor Management Cooperation Act of 1978 (29 U.S.C. Sec. 175a) shall be marked or obliterated only to prevent disclosure of an individual's social security number.

(f)(1) Notwithstanding any other provision of law, agencies that are included in the Joint Enforcement Strike Force on the Underground Economy established pursuant to Section 329 of the Unemployment Insurance Code and other law enforcement agencies investigating violations of law shall, upon request, be provided nonredacted copies of certified payroll records. Any copies of records or certified payroll made available for inspection and furnished upon request to the public by an agency included in the Joint Enforcement Strike Force on the Underground Economy or to a law enforcement agency investigating a violation of law shall be marked or redacted to prevent disclosure of an individual's name, address, and social security number.

(2) An employer shall not be liable for damages in a civil action for any reasonable act or omission taken in good faith in compliance with this subdivision.

(g) The contractor shall inform the body awarding the contract of the location of the records enumerated under subdivision (a), including the street address, city, and county, and shall, within five working days, provide a notice of a change of location and address.

(h) The contractor or subcontractor has 10 days in which to comply subsequent to receipt of a written notice requesting the records enumerated in subdivision (a). In the event that the contractor or subcontractor fails to comply within the 10-day period, he or she shall, as a penalty to the state or political subdivision on whose behalf the contract is made or awarded, forfeit one hundred dollars (\$100) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Upon the request of the Division of Labor Standards Enforcement, these penalties shall be withheld from progress payments then due. A contractor is not subject to a penalty assessment pursuant to this section due to the failure of a subcontractor to comply with this section.

(i) The body awarding the contract shall cause to be inserted in the contract stipulations to effectuate this section.

(j) The director shall adopt rules consistent with the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) and the Information Practices Act of 1977 (Title 1.8 (commencing with Section 1798) of Part 4 of Division 3 of the Civil Code) governing the release of these records, including the establishment of reasonable fees to be charged for reproducing copies of records required by this section.

Section 1777.5. Employment of registered apprentices; wages; standards; number; apprenticeable craft or trade; exemptions; contributions; compliance program

(a)(1) This chapter does not prevent the employment upon public works of properly registered apprentices who are active participants in an approved apprenticeship program.

(2) For purposes of this chapter, “apprenticeship program” means a program under the jurisdiction of the California Apprenticeship Council established pursuant to Section 3070.

(b)(1) Every apprentice employed upon public works shall be paid the prevailing rate of per diem wages for apprentices in the trade to which he or she is registered and shall be employed only at the work of the craft or trade to which he or she is registered.

(2) Unless otherwise provided by a collective bargaining agreement, when a contractor requests the dispatch of an apprentice pursuant to this section to perform work on a public works project and requires the apprentice to fill out an application or undergo testing, training, an examination, or other preemployment process as a condition of employment, the apprentice shall be paid for the time spent on the required preemployment activity, including travel time to and from the required activity, if any, at the prevailing rate of per diem wages for apprentices in the trade to which he or she is registered. Unless otherwise provided by a collective bargaining agreement, a contractor is not required to compensate an apprentice for the time spent on preemployment activities if the apprentice is required to take a preemployment drug or alcohol test and he or she fails to pass that test.

(c) Only apprentices, as defined in Section 3077, who are in training under apprenticeship standards that have been approved by the Chief of the Division of Apprenticeship Standards and who are parties to written

apprentice agreements under Chapter 4 (commencing with Section 3070) of Division 3 are eligible to be employed at the apprentice wage rate on public works. The employment and training of each apprentice shall be in accordance with either of the following:

- (1) The apprenticeship standards and apprentice agreements under which he or she is training.
- (2) The rules and regulations of the California Apprenticeship Council.

(d) If the contractor to whom the contract is awarded by the state or any political subdivision, in performing any of the work under the contract, employs workers in any apprenticeable craft or trade, the contractor shall employ apprentices in at least the ratio set forth in this section and may apply to any apprenticeship program in the craft or trade that can provide apprentices to the site of the public work for a certificate approving the contractor under the apprenticeship standards for the employment and training of apprentices in the area or industry affected. However, the decision of the apprenticeship program to approve or deny a certificate shall be subject to review by the Administrator of Apprenticeship. The apprenticeship program or programs, upon approving the contractor, shall arrange for the dispatch of apprentices to the contractor. A contractor covered by an apprenticeship program's standards shall not be required to submit any additional application in order to include additional public works contracts under that program. "Apprenticeable craft or trade," as used in this section, means a craft or trade determined as an apprenticeable occupation in accordance with rules and regulations prescribed by the California Apprenticeship Council. As used in this section, "contractor" includes any subcontractor under a contractor who performs any public works not excluded by subdivision (o).

(e) Before commencing work on a contract for public works, every contractor shall submit contract award information to an applicable apprenticeship program that can supply apprentices to the site of the public work. The information submitted shall include an estimate of journeyman hours to be performed under the contract, the number of apprentices proposed to be employed, and the approximate dates the apprentices would be employed. A copy of this information shall also be submitted to the awarding body, if requested by the awarding body. Within 60 days after concluding work on the contract, each contractor and subcontractor shall submit to the awarding body, if requested, and to the apprenticeship program a verified statement of the journeyman and apprentice hours performed on the contract. The information under this subdivision shall be public. The apprenticeship programs shall retain this information for 12 months.

(f) The apprenticeship program supplying apprentices to the area of the site of the public work shall ensure equal employment and affirmative action in apprenticeship for women and minorities.

(g) The ratio of work performed by apprentices to journeymen employed in a particular craft or trade on the public work may be no higher than the ratio stipulated in the apprenticeship standards under which the apprenticeship program operates if the contractor agrees to be bound by those standards. However, except as otherwise provided in this section, in no case shall the ratio be less than one hour of apprentice work for every five hours of journeyman work.

(h) This ratio of apprentice work to journeyman work shall apply during any day or portion of a day when any journeyman is employed at the jobsite and shall be computed on the basis of the hours worked during the day by journeymen so employed. Any work performed by a journeyman in excess of eight hours per day or 40 hours per week shall not be used to calculate the ratio. The contractor shall employ apprentices for the number of hours computed as above before the end of the contract or, in the case of a subcontractor, before the end of the subcontract. However, the contractor shall endeavor, to the greatest extent possible, to employ apprentices during the same time period that the journeymen in the same craft or trade are employed at the jobsite. When an hourly apprenticeship ratio is not feasible for a particular craft or trade, the Administrator

of Apprenticeship, upon application of an apprenticeship program, may order a minimum ratio of not less than one apprentice for each five journeymen in a craft or trade classification.

(i) A contractor covered by this section who has agreed to be covered by an apprenticeship program's standards upon the issuance of the approval certificate, or who has been previously approved for an apprenticeship program in the craft or trade, shall employ the number of apprentices or the ratio of apprentices to journeymen stipulated in the applicable apprenticeship standards, but in no event less than the 1-to-5 ratio required by subdivision (g).

(j) Upon proper showing by a contractor that he or she employs apprentices in a particular craft or trade in the state on all of his or her contracts on an annual average of not less than one hour of apprentice work for every five hours of labor performed by journeymen, the Administrator of Apprenticeship may grant a certificate exempting the contractor from the 1-to-5 hourly ratio, as set forth in this section for that craft or trade.

(k) An apprenticeship program has the discretion to grant to a participating contractor or contractor association a certificate, which shall be subject to the approval of the Administrator of Apprenticeship, exempting the contractor from the 1-to-5 ratio set forth in this section when it finds that any one of the following conditions is met:

(1) Unemployment for the previous three-month period in the area exceeds an average of 15 percent.

(2) The number of apprentices in training in the area exceeds a ratio of 1 to 5.

(3) There is a showing that the apprenticeable craft or trade is replacing at least one-thirtieth of its journeymen annually through apprenticeship training, either on a statewide basis or on a local basis.

(4) Assignment of an apprentice to any work performed under a public works contract would create a condition that would jeopardize his or her life or the life, safety, or property of fellow employees or the public at large, or the specific task to which the apprentice is to be assigned is of a nature that training cannot be provided by a journeyman.

(l) If an exemption is granted pursuant to subdivision (k) to an organization that represents contractors in a specific trade from the 1-to-5 ratio on a local or statewide basis, the member contractors shall not be required to submit individual applications for approval to local joint apprenticeship committees, if they are already covered by the local apprenticeship standards.

(m)(1) A contractor to whom a contract is awarded, who, in performing any of the work under the contract, employs journeymen or apprentices in any apprenticeable craft or trade shall contribute to the California Apprenticeship Council the same amount that the director determines is the prevailing amount of apprenticeship training contributions in the area of the public works site. A contractor may take as a credit for payments to the council any amounts paid by the contractor to an approved apprenticeship program that can supply apprentices to the site of the public works project. The contractor may add the amount of the contributions in computing his or her bid for the contract.

(2)(A) At the conclusion of the 2002-03 fiscal year and each fiscal year thereafter, the California Apprenticeship Council shall distribute training contributions received by the council under this subdivision, less the expenses of the Department of Industrial Relations for administering this subdivision, by making grants to approved apprenticeship programs for the purpose of training apprentices. The grant funds shall be distributed as follows:

(i) If there is an approved multiemployer apprenticeship program serving the same craft or trade and geographic area for which the training contributions were made to the council, a grant to that program shall be made.

(ii) If there are two or more approved multiemployer apprenticeship programs serving the same craft or trade and county for which the training contributions were made to the council, the grant shall be divided among those programs based on the number of apprentices from that county registered in each program.

(iii) All training contributions not distributed under clauses (i) and (ii) shall be used to defray the future expenses of the Department of Industrial Relations for the administration and enforcement of apprenticeship and preapprenticeship standards and requirements under this code.

(B) An apprenticeship program shall only be eligible to receive grant funds pursuant to this subdivision if the apprenticeship program agrees, prior to the receipt of any grant funds, to keep adequate records that document the expenditure of grant funds and to make all records available to the Department of Industrial Relations so that the Department of Industrial Relations is able to verify that grant funds were used solely for training apprentices. For purposes of this subparagraph, adequate records include, but are not limited to, invoices, receipts, and canceled checks that account for the expenditure of grant funds. This subparagraph shall not be deemed to require an apprenticeship program to provide the Department of Industrial Relations with more documentation than is necessary to verify the appropriate expenditure of grant funds made pursuant to this subdivision.

(C) The Department of Industrial Relations shall verify that grants made pursuant to this subdivision are used solely to fund training apprentices. If an apprenticeship program is unable to demonstrate how grant funds are expended or if an apprenticeship program is found to be using grant funds for purposes other than training apprentices, then the apprenticeship program shall not be eligible to receive any future grant pursuant to this subdivision and the Department of Industrial Relations may initiate the process to rescind the registration of the apprenticeship program.

(3) All training contributions received pursuant to this subdivision shall be deposited in the Apprenticeship Training Contribution Fund, which is hereby created in the State Treasury. Upon appropriation by the Legislature, all moneys in the Apprenticeship Training Contribution Fund shall be used for the purpose of carrying out this subdivision and to pay the expenses of the Department of Industrial Relations.

(n) The body awarding the contract shall cause to be inserted in the contract stipulations to effectuate this section. The stipulations shall fix the responsibility of compliance with this section for all apprenticeable occupations with the prime contractor.

(o) This section does not apply to contracts of general contractors or to contracts of specialty contractors not bidding for work through a general or prime contractor when the contracts of general contractors or those specialty contractors involve less than thirty thousand dollars (\$30,000).

(p) An awarding body that implements an approved labor compliance program in accordance with subdivision (b) of Section 1771.5 may, with the approval of the director, assist in the enforcement of this section under the terms and conditions prescribed by the director.

Section 1813. Forfeiture for violations; contract stipulation; report of violations

The contractor or subcontractor shall, as a penalty to the state or political subdivision on whose behalf the contract is made or awarded, forfeit twenty- five dollars (\$25) for each worker employed in the execution of

the contract by the respective contractor or subcontractor for each calendar day during which the worker is required or permitted to work more than 8 hours in any one calendar day and 40 hours in any one calendar week in violation of the provisions of this article. In awarding any contract for public work, the awarding body shall cause to be inserted in the contract a stipulation to this effect. The awarding body shall take cognizance of all violations of this article committed in the course of the execution of the contract, and shall report them to the Division of Labor Standards Enforcement.

Section 1815. Overtime

Notwithstanding the provisions of Sections 1810 to 1814, inclusive, of this code, and notwithstanding any stipulation inserted in any contract pursuant to the requirements of said sections, work performed by employees of contractors in excess of 8 hours per day, and 40 hours during any one week, shall be permitted upon public work upon compensation for all hours worked in excess of 8 hours per day at not less than 1 ½ times the basic rate of pay.

ATTACHMENT NO. 2

CALIFORNIA PUBLIC CONTRACT CODE SECTION 9204

Section 9204. Legislative findings and declarations regarding timely and complete payment of contractors for public works projects; claims process (Eff: January 1, 2017)

(a) The Legislature finds and declares that it is in the best interests of the state and its citizens to ensure that all construction business performed on a public works project in the state that is complete and not in dispute is paid in full and in a timely manner.

(b) Notwithstanding any other law, including, but not limited to, Article 7.1 (commencing with Section 10240) of Chapter 1 of Part 2, Chapter 10 (commencing with Section 19100) of Part 2, and Article 1.5 (commencing with Section 20104) of Chapter 1 of Part 3, this section shall apply to any claim by a contractor in connection with a public works project.

(c) For purposes of this section:

(1) "Claim" means a separate demand by a contractor sent by registered mail or certified mail with return receipt requested, for one or more of the following:

(A) A time extension, including, without limitation, for relief from damages or penalties for delay assessed by a public entity under a contract for a public works project.

(B) Payment by the public entity of money or damages arising from work done by, or on behalf of, the contractor pursuant to the contract for a public works project and payment for which is not otherwise expressly provided or to which the claimant is not otherwise entitled.

(C) Payment of an amount that is disputed by the public entity.

(2) "Contractor" means any type of contractor within the meaning of Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code who has entered into a direct contract with a public entity for a public works project.

(3)(A) "Public entity" means, without limitation, except as provided in subparagraph (B), a state agency, department, office, division, bureau, board, or commission, the California State University, the University of California, a city, including a charter city, county, including a charter county, city and county, including a charter city and county, district, special district, public authority, political subdivision, public corporation, or nonprofit transit corporation wholly owned by a public agency and formed to carry out the purposes of the public agency.

(B) "Public entity" shall not include the following:

(i) The Department of Water Resources as to any project under the jurisdiction of that department.

(ii) The Department of Transportation as to any project under the jurisdiction of that department.

(iii) The Department of Parks and Recreation as to any project under the jurisdiction of that department.

(iv) The Department of Corrections and Rehabilitation with respect to any project under its jurisdiction pursuant to Chapter 11 (commencing with Section 7000) of Title 7 of Part 3 of the Penal Code.

(v) The Military Department as to any project under the jurisdiction of that department.

(vi) The Department of General Services as to all other projects.

(vii) The High-Speed Rail Authority.

(4) "Public works project" means the erection, construction, alteration, repair, or improvement of any public structure, building, road, or other public improvement of any kind.

(5) "Subcontractor" means any type of contractor within the meaning of Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code who either is in direct contract with a contractor or is a lower tier subcontractor.

(d)(1)(A) Upon receipt of a claim pursuant to this section, the public entity to which the claim applies shall conduct a reasonable review of the claim and, within a period not to exceed 45 days, shall provide the claimant a written statement identifying what portion of the claim is disputed and what portion is undisputed. Upon receipt of a claim, a public entity and a contractor may, by mutual agreement, extend the time period provided in this subdivision.

(B) The claimant shall furnish reasonable documentation to support the claim.

(C) If the public entity needs approval from its governing body to provide the claimant a written statement identifying the disputed portion and the undisputed portion of the claim, and the governing body does not meet within the 45 days or within the mutually agreed to extension of time following receipt of a claim sent by registered mail or certified mail, return receipt requested, the public entity shall have up to three days following the next duly publicly noticed meeting of the governing body after the 45-day period, or extension, expires to provide the claimant a written statement identifying the disputed portion and the undisputed portion.

(D) Any payment due on an undisputed portion of the claim shall be processed and made within 60 days after the public entity issues its written statement. If the public entity fails to issue a written statement, paragraph (3) shall apply.

(2)(A) If the claimant disputes the public entity's written response, or if the public entity fails to respond to a claim issued pursuant to this section within the time prescribed, the claimant may demand in writing an informal conference to meet and confer for settlement of the issues in dispute. Upon receipt of a demand in writing sent by registered mail or certified mail, return receipt requested, the public entity shall schedule a meet and confer conference within 30 days for settlement of the dispute.

(B) Within 10 business days following the conclusion of the meet and confer conference, if the claim or any portion of the claim remains in dispute, the public entity shall provide the claimant a written statement identifying the portion of the claim that remains in dispute and the portion that is undisputed. Any payment due on an undisputed portion of the claim shall be processed and made within 60 days after the public entity issues its written statement. Any disputed portion of the claim, as identified by the contractor in writing, shall be submitted to nonbinding mediation, with the public entity and the claimant sharing the associated costs equally. The public entity and claimant shall mutually agree to a mediator within 10 business days after the disputed portion of the claim has been identified in writing. If the parties cannot agree upon a mediator, each party shall select a mediator and those mediators shall select a qualified neutral third party to mediate with regard to the disputed portion of the claim. Each party shall bear the fees and costs charged by its respective mediator in connection with the selection of the neutral mediator. If mediation is unsuccessful, the parts of the claim remaining in dispute shall be subject to applicable procedures outside this section.

(C) For purposes of this section, mediation includes any nonbinding process, including, but not limited to, neutral evaluation or a dispute review board, in which an independent third party or board assists the parties in dispute resolution through negotiation or by issuance of an evaluation. Any mediation utilized shall conform to the timeframes in this section.

(D) Unless otherwise agreed to by the public entity and the contractor in writing, the mediation conducted pursuant to this section shall excuse any further obligation under Section 20104.4 to mediate after litigation has been commenced.

(E) This section does not preclude a public entity from requiring arbitration of disputes under private arbitration or the Public Works Contract Arbitration Program, if mediation under this section does not resolve the parties' dispute.

(3) Failure by the public entity to respond to a claim from a contractor within the time periods described in this subdivision or to otherwise meet the time requirements of this section shall result in the claim being deemed rejected in its entirety. A claim that is denied by reason of the public entity's failure to have responded to a claim, or its failure to otherwise meet the time requirements of this section, shall not constitute an adverse finding with regard to the merits of the claim or the responsibility or qualifications of the claimant.

(4) Amounts not paid in a timely manner as required by this section shall bear interest at 7 percent per annum.

(5) If a subcontractor or a lower tier subcontractor lacks legal standing to assert a claim against a public entity because privity of contract does not exist, the contractor may present to the public entity a claim on behalf of a subcontractor or lower tier subcontractor. A subcontractor may request in writing, either on their own behalf or on behalf of a lower tier subcontractor, that the contractor present a claim for work which was performed by the subcontractor or by a lower tier subcontractor on behalf of the subcontractor. The subcontractor requesting that the claim be presented to the public entity shall furnish reasonable documentation to support the claim. Within 45 days of receipt of this written request, the contractor shall notify the subcontractor in writing as to whether the contractor presented the claim to the public entity and, if the original contractor did not present the claim, provide the subcontractor with a statement of the reasons for not having done so.

(e) The text of this section or a summary of it shall be set forth in the plans or specifications for any public works project that may give rise to a claim under this section.

(f) A waiver of the rights granted by this section is void and contrary to public policy, provided, however, that (1) upon receipt of a claim, the parties may mutually agree to waive, in writing, mediation and proceed directly to the commencement of a civil action or binding arbitration, as applicable; and (2) a public entity may prescribe reasonable change order, claim, and dispute resolution procedures and requirements in addition to the provisions of this section, so long as the contractual provisions do not conflict with or otherwise impair the timeframes and procedures set forth in this section.

(g) This section applies to contracts entered into on or after January 1, 2017.

(h) Nothing in this section shall impose liability upon a public entity that makes loans or grants available through a competitive application process, for the failure of an awardee to meet its contractual obligations.

(i) This section shall remain in effect only until January 1, 2027, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2027, deletes or extends that date.



Agenda Item

City Council

Item #: 3.22.

7/13/2021

File #: 21-0348

TO: Honorable Mayor and Members of the City Council

THRU: Rick Otto, City Manager

FROM: Christopher Cash, Public Works Director

1. SUBJECT

Second Amendment to Contract with Alfaro Communications Construction, Inc. for Chapman Avenue at Tustin Street Right Turn Lane Improvements.

2. SUMMARY

Second Amendment to Contract with Alfaro Communications Construction, Inc., Chapman Avenue at Tustin Street Right Turn Lane Improvements (Bid No. 189-34, SP-3932), authorizing final contract payment for extra work.

3. RECOMMENDED ACTION

Approve the Second Amendment to Contract with Alfaro Communications Construction, Inc. in the amount of \$20,623.80 for extra work; and authorize the Mayor and City Clerk to execute on behalf of the City.

4. FISCAL IMPACT

The total expenditure for this amendment is \$20,623.80 for a total project cost of \$520,143.86 will be funded in Chapman/Tustin Critical Intersection (13228) through funds:

Transportation System Improvement Program - City-Wide (287)	\$145,143.86
Reimbursable Capital Projects (550)	<u>375,000.00</u>
Total	\$520,143.86

5. STRATEGIC PLAN GOALS

Goal 1: Provide for a safe community

b: Provide and maintain infrastructure necessary to ensure the safety of the public.

Goal 4: Provide outstanding public service

b: Provide facilities and services to meet customer expectations.

6. DISCUSSION AND BACKGROUND

On July 9, 2019, the City Council awarded the Chapman Avenue at Tustin Street Right Turn Lane Improvements project, to Alfaro Communications Construction, Inc. (ACCI). The scope of work for the project was to construct a right-turn lane for the southbound direction at the intersection of Tustin Street and Chapman Avenue. ACCI submitted a list of contract change order requests for additional payment. After reviewing all of the contract change order requests, staff engaged in discussions with

ACCI, and an initial amount of \$34,834.75 was paid to compensate ACCI for the extra work agreed upon under the First Amendment to Contract.

Subsequently, staff and ACCI continued to negotiate over the remaining contract change order requests, and after the extensive negotiations, staff and ACCI have reached an agreement on a this second amendment and final payment in the amount of \$20,623.80. The total cost of the initial and final payments for contract change order requests is \$55,458.55. Therefore, staff recommends City Council approve the Second Amendment to Contract in an additional amount of \$20,623.80 for contract change order work.

The original awarded contract amount was \$470,555.20. The First Amendment and Second Amendment to the Contract represents a total 10.54% increase from the awarded contract amount bringing the new contract amount to \$520,143.86.

7. ATTACHMENTS

- Second Amendment to Contract



Agenda Item

City Council

Item #: 3.22.

7/13/2021

File #: 21-0348

TO: Honorable Mayor and Members of the City Council

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3. RECOMMENDED ACTION

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ACCI, and an initial amount of \$34,834.75 was paid to compensate ACCI for the extra work agreed upon under the First Amendment to Contract.

Subsequently, staff and ACCI continued to negotiate over the remaining contract change order requests, and after the extensive negotiations, staff and ACCI have reached an agreement on a this second amendment and final payment in the amount of \$20,623.80. The total cost of the initial and final payments for contract change order requests is \$55,458.55. Therefore, staff recommends City Council approve the Second Amendment to Contract in an additional amount of \$20,623.80 for contract change order work.

The original awarded contract amount was \$470,555.20. The First Amendment and Second Amendment to the Contract represents a total 10.54% increase from the awarded contract amount bringing the new contract amount to \$520,143.86.

7. ATTACHMENTS

- Second Amendment to Contract

**SECOND AMENDMENT
TO
CONTRACT**

**[Chapman Avenue at Tustin Street Right Turn Lane Improvements
(Bid No. 189-34, SP-3932)]**

THIS SECOND AMENDMENT TO CONTRACT (the “Second Amendment”) is made and entered into as of _____, 2021, by and between the CITY OF ORANGE, a municipal corporation (“City”), and ALFARO COMMUNICATIONS CONSTRUCTION, INC, a California corporation (“Contractor”), with reference to the following:

A. City and Contractor entered into a Contract (Agreement No. 6815) dated July 9, 2019, which is incorporated herein by this reference (the “Original Contract”); and

B. City and Contractor amended the Original Contract to revise the Scope of Services and increase the compensation by a First Amendment to Contract (Agreement No. 6815.1) dated December 18, 2020, which is incorporated herein by this reference (the “First Amendment”); and

C. City and Contractor desire to further amend the Original Contract to modify, amend and supplement certain portions of the Original Contract to revise the Scope of Services and increase the compensation.

NOW, THEREFORE, the parties hereby agree as follows:

Section 1. **Defined Terms.** Except as otherwise defined herein, all capitalized terms used herein shall have the meanings set forth for such terms in the Original Contract.

Section 2. **Cross-References.** City and Contractor agree that all references in this Second Amendment are deemed and construed to refer to the Original Contract, as implemented by this Second Amendment.

Section 3 **Revised Scope of Services.** The Contractor’s Proposal as referenced in Article 1 of the Original Contract, is hereby amended, modified and increased in quantity to include the services described on Exhibit A attached hereto and incorporated herein by this reference.

Section 4 **Compensation.** The total not-to-exceed compensation for the services to be rendered as set forth in Article 3 of the Original Contract is increased by TWENTY THOUSAND SIX HUNDRED TWENTY-THREE DOLLARS and 80/100 (\$20,623.80) and Article 3 is hereby amended in its entirety to read as follows:

“Contractor's agrees to receive and accept an amount not to exceed FIVE HUNDRED TWENTY-SIX THOUSAND THIRTEEN HUNDRED DOLLARS and 75/100 (\$526,013.75) as full compensation for furnishing all materials and doing all the Work contemplated and embraced in this Contract. Said compensation covers (1) all loss or damage arising out of the nature of the Work, from the acts of the elements; (2) any

unforeseen difficulties or obstructions which may arise or be encountered in the prosecution of the Work until its acceptance by City; (3) all risks of every description connected with the Work; (4) all expenses incurred by or in consequence of the suspension or discontinuance of the Work; (5) and well and faithfully completing the Work, and for the whole thereof, in the manner and according to the Plans and Specifications, and requirements of the Authorized City Representative under them.”

Section 5. **Authority of City Manager.** Pursuant to Section 3.08.520 and 3.08.560 of the Orange Municipal Code, the City Manager is authorized to approve and execute amendments to the Contract to adjust the compensation as provided herein.

Section 6. **Integration.** This Second Amendment amends, as set forth herein, the Original Contract and, except as specifically amended hereby, the Original Contract shall remain in full force and effect. To the extent that there is any conflict or inconsistency between the terms and provisions of this Second Amendment and the terms and provisions of the Original Contract, the terms and provisions of this Second Amendment shall control and govern the rights and obligations of the parties.

[Remainder of page intentionally left blank; signatures on next page]

IN WITNESS of this Contract, the parties enter into this Contract on the year and day first above written.

“CONTRACTOR”

“CITY”

ALFARO COMMUNICATIONS
CONSTRUCTION, INC, a California corporation

CITY OF ORANGE, a municipal corporation

*By: _____
Printed Name: _____
Title: _____

By: _____
Mark A. Murphy, Mayor

*By: _____
Printed Name: _____
Title: _____

ATTEST:

Pamela Coleman, City Clerk

APPROVED AS TO FORM:

Mary E. Binning
Senior Assistant City Attorney

***NOTE:** If Contractor is a corporation, the City requires the following signature(s):
-- (1) the Chairman of the Board, the President or a Vice-President, AND (2) the Secretary, the Chief Financial Officer, the Treasurer, an Assistant Secretary or an Assistant Treasurer. If only one corporate officer exists or one corporate officer holds more than one corporate office, please so indicate. OR
-- The corporate officer named in a corporate resolution as authorized to enter into this Agreement. A copy of the corporate resolution, certified by the Secretary close in time to the execution of the Agreement, must be provided to the City.

EXHIBIT “A”

SCOPE OF SERVICES

[Beneath this sheet.]



Agenda Item

City Council

Item #: 3.23.

7/13/2021

File #: 21-0369

TO: Honorable Mayor and Members of the City Council

THRU: Rick Otto, City Manager

FROM: Christopher Cash, Public Works Director

1. SUBJECT

Second Amendment to Contract with Alfaro Communications Construction, Inc. for Tustin Street at Meats Avenue Right Turn Lane Improvements.

2. SUMMARY

Second Amendment to Contract with Alfaro Communications Construction, Inc. for Tustin Street at Meats Avenue Right Turn Lane Improvements (Bid No. 189-05, SP-3892), and authorizing final contract payment for extra work.

3. RECOMMENDED ACTION

Approve the second amendment to contract with Alfaro Communications Construction, Inc. in the amount of \$45,000 for extra work; and authorize the Mayor and City Clerk to execute on behalf of the City.

4. FISCAL IMPACT

The total expenditure for this amendment is \$45,000, for a total project cost of \$630,686.80, and will be funded in Tustin/Meats Critical Intersection (30025) through funds:

Transportation System Improvement Program B - West Orange (284)	\$141,165.56
Transportation System Improvement Program - City-Wide (287)	16,506.14
Reimbursable Capital Projects (550)	<u>473,015.10</u>
Total	\$630,686.80

5. STRATEGIC PLAN GOALS

Goal 1: Provide for a safe community

b: Provide and maintain infrastructure necessary to ensure the safety of the public.

Goal 4: Provide outstanding public service

b: Provide facilities and services to meet customer expectations.

6. DISCUSSION AND BACKGROUND

On January 8, 2019, City Council awarded the Tustin Street at Meats Avenue Right Turn Lane Improvements project to Alfaro Communications Construction, Inc. (ACCI). The scope of work for the

project was to construct a right-turn lane for the northbound direction at the intersection of Tustin Street and Meats Avenue. ACCI submitted a list of contract change order requests for additional payment. After reviewing all of the contract change order requests, staff engaged in discussions with ACCI, an initial amount of \$21,025.59 was paid to compensate ACCI for the extra work agreed upon under the First Amendment to Contract.

Subsequently, staff and ACCI continued to negotiate the remaining contract change order requests, and after extensive negotiations, staff and ACCI have agreed on this second and final change order payment in the amount of \$45,000. The combined total cost of the contract change order requests is \$66,025.59. Therefore, staff recommends City Council approves the Second Amendment to Contract, in an additional amount of \$45,000 for the extra work. The original awarded contract amount was \$573,354.94. The First Amendment and Second Amendment to the Contract combined represent a 10% increase from the awarded contract amount bringing the new contract amount to \$630,331.80.

7. ATTACHMENTS

- Second Amendment to Contract



Agenda Item

City Council

Item #: 3.23.

7/13/2021

File #: 21-0369

TO: Honorable Mayor and Members of the City Council

THRU: Rick Otto, City Manager

FROM: Christopher Cash, Public Works Director

1. SUBJECT

Second Amendment to Contract with Alfaro Communications Construction, Inc. for Tustin Street at Meats Avenue Right Turn Lane Improvements.

2. SUMMARY

Second Amendment to Contract with Alfaro Communications Construction, Inc. for Tustin Street at Meats Avenue Right Turn Lane Improvements (Bid No. 189-05, SP-3892), and authorizing final contract payment for extra work.

3. RECOMMENDED ACTION

Approve the second amendment to contract with Alfaro Communications Construction, Inc. in the amount of \$45,000 for extra work; and authorize the Mayor and City Clerk to execute on behalf of the City.

4. FISCAL IMPACT

The total expenditure for this amendment is \$45,000, for a total project cost of \$630,686.80, and will be funded in Tustin/Meats Critical Intersection (30025) through funds:

Transportation System Improvement Program B - West Orange (284)	\$141,165.56
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Total	\$630,686.80

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6. DISCUSSION AND BACKGROUND

On January 8, 2019, City Council awarded the Tustin Street at Meats Avenue Right Turn Lane Improvements project to Alfaro Communications Construction, Inc. (ACCI). The scope of work for the

project was to construct a right-turn lane for the northbound direction at the intersection of Tustin Street and Meats Avenue. ACCI submitted a list of contract change order requests for additional payment. After reviewing all of the contract change order requests, staff engaged in discussions with ACCI, an initial amount of \$21,025.59 was paid to compensate ACCI for the extra work agreed upon under the First Amendment to Contract.

Subsequently, staff and ACCI continued to negotiate the remaining contract change order requests, and after extensive negotiations, staff and ACCI have agreed on this second and final change order payment in the amount of \$45,000. The combined total cost of the contract change order requests is \$66,025.59. Therefore, staff recommends City Council approves the Second Amendment to Contract, in an additional amount of \$45,000 for the extra work. The original awarded contract amount was \$573,354.94. The First Amendment and Second Amendment to the Contract combined represent a 10% increase from the awarded contract amount bringing the new contract amount to \$630,331.80.

7. ATTACHMENTS

- Second Amendment to Contract

**SECOND AMENDMENT
TO
CONTRACT**

[Tustin Street and Meats Avenue Intersection Right Turn Lane (Bid No. 189-05, SP-3892)]

THIS SECOND AMENDMENT TO CONTRACT (the “Second Amendment”) is made and entered into as of _____, 2021, by and between the CITY OF ORANGE, a municipal corporation (“City”), and ALFARO COMMUNICATIONS CONSTRUCTION, INC, a California corporation (“Contractor”), with reference to the following:

A. City and Contractor entered into a Contract (Agreement No. 6735) dated January 15, 2019, which is incorporated herein by this reference (the “Original Contract”); and

B. City and Contractor amended the Original Contract to revise the Scope of Work and increase the compensation by a First Amendment to Contract (Agreement No. 6735.1) dated fovember 10, 2020, which is incorporated herein by this reference (the “First Amendment”); and

C. City and Contractor desire to further amend the Original Contract to modify, amend and supplement certain portions of the Original Contract to revise the Scope of Work and increase the compensation.

NOW, THEREFORE, the parties hereby agree as follows:

Section 1. **Defined Terms.** Except as otherwise defined herein, all capitalized terms used herein shall have the meanings set forth for such terms in the Original Contract.

Section 2. **Cross-References.** City and Contractor agree that all references in this Second Amendment are deemed and construed to refer to the Original Contract, as implemented by this Second Amendment.

Section 3 **Revised Scope of Services.** The Contractor’s Proposal as referenced in Article I of the Original Contract, is hereby amended, modified and increased in quantity to include the services described on Exhibit A attached hereto and incorporated herein by this reference.

Section 4 **Compensation.** Article III of the Original Contract is hereby amended to increase the total not-to-exceed compensation for the services to be rendered by FORTY-FIVE THOUSAND DOLLARS and 00/100 (\$45,000.00) and Article III is hereby amended in its entirety to read as follows:

“Contractor agrees to receive and accept an amount not to exceed SIX HUNDRED THIRTY-NINE THOUSAND THREE HUNDRED EIGHTY DOLLARS and 53/100 (\$639,380.53) as full compensation for furnishing all materials and doing all the Work contemplated and embraced in this Contract. Said compensation covers (1) all loss or damage arising out of the nature of the Work, from the acts of the elements; (2) any unforeseen difficulties or obstructions which may arise or be encountered in the prosecution of the Work until its acceptance by City; (3) all risks of every description

connected with the Work; (4) all expenses incurred by or in consequence of the suspension or discontinuance of the Work; (5) and well and faithfully completing the Work, and for the whole thereof, in the manner and according to the Plans and Specifications, and requirements of the Authorized City Representative under them.”

Section 6. **Integration.** This Second Amendment amends, as set forth herein, the Original Contract and, except as specifically amended hereby, the Original Contract shall remain in full force and effect. To the extent that there is any conflict or inconsistency between the terms and provisions of this Second Amendment and the terms and provisions of the Original Contract, the terms and provisions of this Second Amendment shall control and govern the rights and obligations of the parties.

IN WITNESS of this Contract, the parties enter into this Contract on the year and day first above written.

“CONTRACTOR”

“CITY”

ALFARO COMMUNICATIONS
CONSTRUCTION, INC., a California
corporation

CITY OF ORANGE, a municipal corporation

*By: _____
Printed Name: _____
Title: _____

By: _____
Mark A. Murphy, Mayor

*By: _____
Printed Name: _____
Title: _____

ATTEST:

Pamela Coleman, City Clerk

APPROVED AS TO FORM:

Gary A. Sheatz, City Attorney

***NOTE:** **If Contractor is a corporation, the City requires the following signature(s):**
-- **(1) the Chairman of the Board, the President or a Vice-President, AND (2) the Secretary, the Chief Financial Officer, the Treasurer, an Assistant Secretary or an Assistant Treasurer. If only one corporate officer exists or one corporate officer holds more than one corporate office, please so indicate. OR**
-- **The corporate officer named in a corporate resolution as authorized to enter into this Agreement. A copy of the corporate resolution, certified by the Secretary close in time to the execution of the Agreement, must be provided to the City.**

EXHIBIT “A”

FINAL CONTRACT CHANGE ORDER

[Behind this page.]

FINAL CONTRACT CHANGE ORDER

PROJECT: Tustin Street and Meats Avenue Intersection Right Turn Lane
PROJECT NUMBER: Bid No. 189-05; Project No. SP-3892
CONTRACTOR: Alfaro Comm. Construction, Inc

Date: 6/15/2021

The contractor is hereby directed to make the herein described changes from the plans and specifications or do the following described work not included in the plans and specifications on this contract.

NOTE: This change order is not effective until approved by the City Engineer

Description of work to be done, an estimate of quantities, and prices to be paid. Segregate between additional work at the contract price, agreed price and force account. Unless otherwise stated, rates for rental of equipment cover only such time as equipment is actually used and no allowance will be made for idle time.

The following work is added or deleted, as applicable, from the contract as a change order in accordance with the provisions of Section 3 of the contract specifications. The method of payment shall be as described for each item of this change order.

NO.	DESCRIPTION OF WORK	UNIT PRICE	UNIT DESCRIPTION	ORIGINAL QUANTITY	ORIGINAL AMOUNT	FINAL QUANTITY	QUANTITY AMOUNT	Increase (Decrease) QUANTITY AMOUNT	
1	Clearing And Grubbing	\$9,724.00	LS	1.00	\$9,724.00	1	\$9,724.00	0.00	\$0.00
2	Traffic Control	\$13,325.00	LS	1.00	\$13,325.00	1	\$13,325.00	0.00	\$0.00
3	Unclassified Excavation	\$196.00	CY	270.00	\$52,920.00	434.00	\$85,064.00	164.00	\$32,144.00
4	Construct Type A Curb and Gutter Per City of Orange Std 117, Inclusive of Removals	\$39.00	LF	380.00	\$14,820.00	225.00	\$8,775.00	(155.00)	(\$6,045.00)
5	Construct Concrete Sidewalk Per City of Orange Std 118, Case 1, Inclusive of Removals and Tree Well Blockouts	\$6.50	SF	1835.00	\$11,927.50	1415.00	\$9,197.50	(420.00)	(\$2,730.00)
6	Construct Type 1 Access Ramp Per City of Orange Std 121, Inclusive of Removals	\$3,900.00	EA	1.00	\$3,900.00	1.00	\$3,900.00	0.00	\$0.00
7	Construct Concrete Commercial Driveway Per City of Orange Std 115, Case B, Inclusive of Removals	\$11.70	SF	673.00	\$7,874.10	1101.50	\$12,887.55	428.50	\$5,013.45
8	Construct Inlet, Type 1 Per City Std 301 and Local Depression Type II per City Std 308	\$17,875.00	LS	1.00	\$17,875.00	1.00	\$17,875.00	0.00	\$0.00
9	Construct Modified Far-Side Bus Bay Per City Std 129 (P.C.C. Thickness to be 10-inches). Adjacent 8-inch Curb to be Poured Monolithic with P.C.C. Pavement	\$13.00	SF	1720.00	\$22,360.00	1921.50	\$24,979.50	201.50	\$2,619.50
10	Asphalt Concrete (AC), Density = 144 lbs/cf	\$123.00	TON	391.00	\$48,093.00	384.82	\$47,332.86	(6.18)	(\$760.14)
11	Cold Mill Existing AC Pavement to 3-inches Below Proposed Surface	\$6.24	SY	676.00	\$4,218.24	514.56	\$3,210.85	(161.44)	(\$1,007.39)
12	Construct 2-inch Minimum Asphalt Rubber Hot Mix (AHRM) Overlay with Variable Thickness; Density = 144 lbs/cf	\$205.20	TON	130.00	\$26,676.00	100.81	\$20,686.21	(29.19)	(\$5,989.79)
13	Rock Dust Blotter	\$1.62	SY	1205.00	\$1,952.10	860.33	\$1,393.73	(344.67)	(\$558.37)
14	Furnish and Install 4'x12' Contech Filterra Unit (or Approved Equal) per Manufacturer's Specifications. Connect to New Inlet with 4-inch SDR-35 Pipe.	\$44,789.00	LS	1.00	\$44,789.00	1.00	\$44,789.00	0.00	\$0.00
15	Furnish and Install 4'x12' Contech Filterra Unit (or Approved Equal) per Manufacturer's Specifications. Connect to New Inlet with 4-inch SDR-35 Pipe. Install Cleanout at Angle Point per City of Orange Std 208	\$42,786.00	LS	1.00	\$42,786.00	1.00	\$42,786.00	0.00	\$0.00
16	Install 24-inch RCP (2000-D) Storm Drain Pipe	\$215.00	LF	16.00	\$3,440.00	16.00	\$3,440.00	0.00	\$0.00
17	Install Concrete Collar Per City of Orange Std 320	\$4,875.00	EA	1.00	\$4,875.00	1.00	\$4,875.00	0.00	\$0.00
18	Install Concrete Curb (CF=6") Per Detail on Sheet 2	\$26.00	LF	193.00	\$5,018.00	178.00	\$4,628.00	(15.00)	(\$390.00)
19	Remove and Relocate Water Meter	\$3,000.00	EA	2.00	\$6,000.00	1.00	\$3,000.00	(1.00)	(\$3,000.00)
20	Remove Tree		EA	0.00	\$0.00	0.00	\$0.00	0.00	\$0.00
21	Furnish and Install King Palm Street Tree and Tree Root Barrier per City Std 417	\$6,000.00	EA	2.00	\$12,000.00	0.00	\$0.00	(2.00)	(\$12,000.00)
22	Relocate Commercial Sign (AP 372-130-02)	\$5,400.00	LS	1.00	\$5,400.00	1.00	\$5,400.00	0.00	\$0.00
23	Relocate Commercial Sign (AP 372-130-03)	\$5,000.00	LS	1.00	\$5,000.00	1.00	\$5,000.00	0.00	\$0.00
24	Remove and Relocate Fire Hydrant Per city of Orange Std OWD-102	\$14,300.00	EA	1.00	\$14,300.00	0.00	\$0.00	(1.00)	(\$14,300.00)
25	Adjust Manhole Frame and Cover To Grade	\$1,100.00	EA	1.00	\$1,100.00	1.00	\$1,100.00	0.00	\$0.00
26	Replace Water Valve Frame and Cover and Adjust To Grade	\$845.00	EA	2.00	\$1,690.00	0.00	\$0.00	(2.00)	(\$1,690.00)
27	Street Lighting Installation	\$21,000.00	LS	1.00	\$21,000.00	1.00	\$21,000.00	0.00	\$0.00
28	Signing and Striping	\$11,452.00	LS	1.00	\$11,452.00	1.00	\$11,452.00	0.00	\$0.00
29	Traffic Signal Modification	\$132,000.00	LS	1.00	\$132,000.00	1.00	\$132,000.00	0.00	\$0.00
30	Install 4-inch SDR-35 Pipe (Empty Conduit)	\$176.80	LF	50.00	\$8,840.00	50.00	\$8,840.00	0.00	\$0.00
31	Landscape and Irrigation Modifications, inclusive of 90-day maintenance period	\$18,000.00	LS	1.00	\$18,000.00	1.00	\$18,000.00	0.00	\$0.00
Total Contract Items:					\$573,354.94		\$564,661.21		(\$8,693.73)

Contract Change Order									
1	CCO # 1	\$21,025.59	LS	1.00	\$21,025.59	1.00	\$21,025.59	1.00	\$21,025.59
2	Trench and Sidewalk Repair (COR#6,7)	\$3,757.82	LS	1.00	\$3,757.82	1.00	\$3,757.82	1.00	\$3,757.82
3	Motel Sign Foundation Work (COR #8)	\$2,297.68	LS	1.00	\$2,297.68	1.00	\$2,297.68	1.00	\$2,297.68
4	Motel Sign Final Location (COR #9,10)	\$2,915.94	LS	1.00	\$2,915.94	1.00	\$2,915.94	1.00	\$2,915.94
5	Irrigation Work (COR #11)	\$1,209.05	LS	1.00	\$1,209.05	1.00	\$1,209.05	1.00	\$1,209.05
6	Sub-Con Mobilization Cost (COR #13,14)	\$25,875.00	LS	1.00	\$25,875.00	1.00	\$25,875.00	1.00	\$25,875.00
7	Traffic Signal Work (COR #15)	\$8,944.51	LS	1.00	\$8,944.51	1.00	\$8,944.51	1.00	\$8,944.51
COR = Change Order Request									
Total Change Order Items:					\$66,025.59		\$66,025.59		\$66,025.59
PROJECT TOTALS:					\$639,380.53		\$630,686.80		\$57,331.86
Original Contract Amount:		\$573,354.94	Total Contract Days		100				
New Contract Amount Including Contract Change Order:		\$630,686.80	Date Contract Approved:		1/8/2019				
Change from Original Contract Amount in Percentage:		10.0%	Original Date of Completion		11/20/2019				
Amount of Difference:		\$57,331.86	Time Extension per the CCO herin:		12/12/2019				
Change requested by: _____ Approved: _____ Project Manager _____ Division Manager _____ Approved: _____ Approved: _____ City Engineer _____ Public Works Director _____ Approved as to form: _____ Approved: _____ City Attorney _____ City Manager (If Applicable) _____									
The compensation (time and cost) set forth in this Change Order constitutes the total compensation due to the Contractor, all Subcontractors, and all suppliers, for the work or change defined in this Change Order, including all impacts on any unchanging work. By signing this Change Order, the Contractor acknowledges and agrees, on behalf of himself, all Subcontractors, and all suppliers, that the stipulated compensation includes payment for all work contained in this Change Order, plus all payment for the interruption of schedules, extended overhead costs, delays, and all impacts, ripple effects or cumulative impacts on all other work under this Contract. The signing of this Change Order shall indicate that the Change Order constitutes a full mutual accord and satisfaction for the change and that the time and/or cost under the Change Order constitutes the total equitable adjustment owed the Contractor, all Subcontractors, and all suppliers, as a result of the change. The Contractor, on behalf of himself, all Subcontractors, and suppliers, agrees to waive all rights, without exception or reservation of any kind whatsoever, to file any further claim or request for equitable adjustment of any type, for any reasonably foreseeable cause that shall arise out of or as a result of this Change Order or the impact of this Change Order on the remainder of the work under this Contract. This release does not waive, release, or affect in any way Contractor's defenses to claim by the City for defective work (latent or patent). The City represents it is presently aware of no defects in Contractor's work on the project.									
We, the undersigned Contractor, have given careful consideration to the change proposed and hereby agree, if this proposal is approved, that we will provide all equipment, furnish all materials, except as may otherwise be noted above, and perform all services necessary for the work above specified, and will accept as full payment, including all overhead and bonds. Therefore the prices are shown above.									
Acceptance Date: _____					Contractor: _____				
By: _____					Title: _____				
If the Contractor does not signify acceptance of this order, his attention is directed to the requirements of the specifications as to proceeding with the order work and filing a written protest within the time therein specified.									



City Council

File #: 21-0354

FROM: Pamela Coleman, City Clerk

- Ordinance No. 08-21



Item #: 3.24.

7/13/2021

File #: 21-0354

TO: Honorable Mayor and Members of the City Council

THRU: Rick Otto, City Manager

FROM: Pamela Coleman, City Clerk

1. SUBJECT

Second Reading and adoption of an Ordinance of the City Council of the City of Orange approving a Development Agreement with DCSG Three Thousand West, LLC for a hotel project on a site located at 3000 W Chapman Avenue. Ordinance No. 08-21.

2. SUMMARY

The Introduction and First Reading of the above-entitled Ordinance was approved at a Regular Council Meeting on June 8, 2021.

The Ordinance is now presented for Second Reading by title only, and adoption.

Vote at First Reading: AYES: Murphy, Nichols, Monaco, Barrios, Dumitru,
Tavoularis, and Gutierrez
NOES: None
ABSENT: None

3. RECOMMENDED ACTION

Adopt Ordinance No. 08-21.

4. ATTACHMENTS

- Ordinance No. 08-21

ORDINANCE NO. 08-21

**AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF ORANGE APPROVING A DEVELOPMENT
AGREEMENT WITH DCSG THREE THOUSAND
WEST, LLC FOR A HOTEL PROJECT ON A SITE
LOCATED AT 3000 W. CHAPMAN AVENUE.**

**DEVELOPMENT AGREEMENT
APPLICANT: DCSG THREE THOUSAND WEST, LLC**

WHEREAS, the Planning Commission conducted a duly advertised public hearing on June 8, 2018, at which time interested persons had an opportunity to testify either in support of or opposition to a project consisting of construction of a new 305 guest room, five-story hotel on a 4.555 acre site located at 3000 W. Chapman Avenue (the "Project"), including Major Site Plan Review No. 0937-18, Design Review No. 4937-18, Administrative Adjustment No. 0264-18; and

WHEREAS, the Planning Commission unanimously recommended approval of the Project and determined that the Project is categorically exempt from the provisions of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guideline 15332 because:

- (a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations.
- (b) The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses.
- (c) The project site has no value as habitat for endangered, rare or threatened species.
- (d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.
- (e) The site can be adequately served by all required utilities and public services; and

WHEREAS, the Project applicant, DCSG THREE THOUSAND WEST, LLC, wishes to extend the entitlement period by means of a Development Agreement; and

WHEREAS, a Development Agreement application was filed by DCSG THREE THOUSAND WEST, LLC as authorized by the City of Orange Municipal Code; and

WHEREAS, the Development Agreement application was processed in the time and manner consistent with state and local law; and

WHEREAS, the City Council conducted a duly advertised public hearing on June 8, 2021, at which time interested persons had an opportunity to testify either in support of or opposition to the Development Agreement.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ORANGE DOES
ORDAIN AS FOLLOWS:**

SECTION I:

1. *The Development Agreement is consistent with the objectives, policies, general land uses, and programs specified in the General Plan and any applicable specific plan or redevelopment plan.*

The Development Agreement and related enhanced public benefits offered in conjunction with the Project (Major Site Plan Review No. 0937-18, Design Review No. 4937-18, and Administrative Adjustment No. 0264-18) are consistent with the objectives, policies, general land uses, and programs specified in the General Plan and any applicable specific plan or redevelopment plan.

The General Plan Economic Development Element calls for the City to strengthen the City's economic base and stimulate employment through new commercial and industrial development and expansion.

2. *The Development Agreement is compatible with the uses authorized in the district or planning area in which the real property is located.*

The Development Agreement and related enhanced public benefits offered in conjunction with the Project (Major Site Plan Review No. 0937-18, Design Review No. 4937-18, and Administrative Adjustment No. 0264-18) are compatible with the uses authorized in the district or planning area in which the real property is located.

3. *The Development Agreement is in conformity with the public necessity, public convenience, general welfare, and good land use practices.*

The Development Agreement and related enhanced public benefits offered in conjunction with the Project (Major Site Plan Review No. 0937-18, Design Review No. 4937-18, and Administrative Adjustment No. 0264-18) are consistent with public necessity, public convenience, and general welfare through the improvement of vacant property, the expansion of employment opportunities, increased transient occupancy tax revenues, and the public benefit payment to support City services.

4. *The Development Agreement will be beneficial to the health, safety, and general welfare consistent with the policy of the City with respect to development agreements as provided in Section 17.44.200.*

The development of the site replaces a vacant property with a modern, attractive commercial development that is beneficial to the local economy and generates revenue to support local government services that improve the quality of life for the community.

5. *The Development Agreement will not adversely affect the orderly development of property in the City.*

The Development Agreement and related enhanced public benefits offered in conjunction with the Project (Major Site Plan Review No. 0937-18, Design Review No. 4937-18, and Administrative Adjustment No. 0264-18) will ensure that it is compatible with the existing development of the surrounding area.

SECTION II:

The Development Agreement for the Project is approved and adopted as shown in Exhibit “A,” attached hereto and incorporated herein by reference.

SECTION III:

The Development Agreement described in Section II is consistent with the finding of categorical exemption pursuant to CEQA Guideline 15332 for Major Site Plan Review No. 0937-18, Design Review No. 4937-18, and Administrative Adjustment No. 0264-18 and no further environmental analysis is necessary because:

- (a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations.
- (b) The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses.
- (c) The project site has no value as habitat for endangered, rare or threatened species.
- (d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.
- (e) The site can be adequately served by all required utilities and public services.

SECTION IV:

If any section, subdivision, paragraph, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance, and each section, subdivision, paragraph, sentence, clause and phrase thereof, irrespective of the fact that any one (or more) section, subdivision, paragraph, sentence, clause or phrase had been declared invalid or unconstitutional.

SECTION V:

The City Clerk is hereby directed to certify the adoption of this Ordinance and cause the same to be published as required by law. This Ordinance shall take effect thirty (30) days from and after the date of its final passage.

ADOPTED this ____ day of _____, 2021.

Mark A. Murphy, Mayor, City of Orange

ATTEST:

Pamela Coleman, City Clerk, City of Orange

STATE OF CALIFORNIA)
COUNTY OF ORANGE)
CITY OF ORANGE)

I, PAMELA COLEMAN, City Clerk of the City of Orange, California, do hereby certify that the foregoing Ordinance was introduced at the regular meeting of the City Council held on the ____ day of _____, 2021, and thereafter at the regular meeting of said City Council duly held on the ____ day of _____, 2021, was duly passed and adopted by the following vote, to wit:

AYES: COUNCILMEMBERS:
NOES: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:
ABSTAIN: COUNCILMEMBERS:

Pamela Coleman, City Clerk, City of Orange

Attachment: Exhibit A

EXHIBIT “A”

[Beneath this sheet.]

EXEMPT FROM RECORDER'S FEES
Pursuant to Government Code §§ 6103 and 27383

Recording requested by and when recorded return to:

City Clerk
City of Orange
300 East Chapman Avenue
Orange, CA 92866

(SPACE ABOVE FOR RECORDER'S USE)

DEVELOPMENT AGREEMENT

BY AND BETWEEN

CITY OF ORANGE,

a California Municipal Corporation,

and

DCSG THREE THOUSAND WEST, LLC,

a California Limited Liability Company

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (the “Agreement”) is entered into as of the ____ day of _____, 2021 (“Agreement Date”), by and between DCSG THREE THOUSAND WEST, LLC (“OWNER”), and the CITY OF ORANGE, a municipal corporation, organized and existing under the laws of the State of California (“CITY”), pursuant to the authority of California Government Code Sections 65864 through 65869.5 (“Development Agreement Legislation”) and California Constitution Article XI, Section 7 as implemented through Orange Municipal Code Chapter 17.44.

RECITALS

This Agreement is predicated upon the following facts:

A. These Recitals refer to and utilize certain capitalized terms which are defined in this Agreement. The parties intend to refer to those definitions in conjunction with the use thereof in these Recitals.

B. The Development Agreement Legislation authorizes CITY to enter into binding development agreements with persons having legal or equitable interests in real property for the development of such property in order to, among other matters, ensure high quality development in accordance with comprehensive plans; provide certainty in the approval of development projects so as to avoid the waste of resources and the escalation in the cost of development to the consumer; provide assurance to the applicants for development projects that they may proceed with their projects in accordance with existing policies, rules and regulations and subject to conditions of approval, in order to strengthen the public planning process and encourage private participation in comprehensive planning and reduce the private and public economic costs of development; and provide for reimbursements to OWNER for the construction and financing of certain public infrastructure improvements.

C. OWNER has a legal and equitable interest in and plans to construct and operate a new 305 guest room, five-story hotel(s), related uses, and retail facilities on an approximate 4.555 acre site located at 3000 W. Chapman Avenue (the “Project”).

D. OWNER has applied for, and CITY has approved the Project with Major Site Plan Review No. 0937-18, Design Review No. 4937-18, Administrative Adjustment No. 0264-18 (the “Existing Project Approvals”), and adopts this Agreement in order to create a Project and a physical environment that will conform to and complement the goals of CITY, consistent with the elements and policies of CITY’s General Plan.

E. In consideration of the substantial public improvements and benefits to be provided by OWNER and the Project, and in order to strengthen the public financing and planning process and reduce the economic costs of development, by this Agreement CITY intends to give OWNER assurance that OWNER can proceed with the development of the Project for the Term of this Agreement pursuant to the terms and conditions of this Agreement and in accordance with CITY’s General Plan, ordinances, policies, rules and regulations existing as of the Effective Date. In reliance on CITY’s covenants in this Agreement concerning the Development of the Property,

OWNER has and will in the future incur substantial costs in site preparation and the construction and installation of major infrastructure and facilities in order to make the Project feasible.

F. Pursuant to Section 65867.5 of the Development Agreement Legislation, the City Council has found and determined that: (i) this Agreement and the Existing Project Approvals implement the goals and policies of CITY's General Plan, provide balanced and diversified land uses and impose appropriate standards and requirements with respect to land development and usage in order to maintain the overall quality of life and the environment within CITY; (ii) this Agreement is in the best interests of and not detrimental to the public health, safety and general welfare of CITY and its residents; (iii) adopting this Agreement is consistent with CITY's General Plan and constitutes a present exercise of the CITY's police power; and (iv) this Agreement is being entered into pursuant to and consistent with the requirements of Section 65867 of the Development Agreement Legislation and Orange Municipal Code Chapter 17.44.

G. CITY and OWNER agree that it may be beneficial to enter into additional agreements or to modify this Agreement with respect to the implementation of the separate components of the Project when more information concerning the details of each component is available, and that this Agreement should expressly allow for such contemplated additional agreements or modifications to this Agreement.

NOW, THEREFORE, pursuant to the authority contained in the Development Agreement Legislation, as it applies to CITY, pursuant to California Constitution Article XI, Section 7, and in consideration of the foregoing recitals of fact, all of which are expressly incorporated into this Agreement, the mutual covenants set forth in this Agreement and for other consideration, the receipt and adequacy of which are hereby acknowledged, the parties agree as follows:

1. **Definitions.** The following words and phrases are used as defined terms throughout this Agreement, and each defined term shall have the meaning set forth below.

1.1 **Authorizing Ordinance.** The "Authorizing Ordinance" means Ordinance No. 08-21 approving this Agreement.

1.2 **City Council.** "City Council" means the duly elected and constituted city council of the CITY.

1.3 **Development.** "Development" means the improvement of 3000 W. Chapman Avenue in the City of Orange (the "Property") for purposes of completing the Project, including, without limitation: grading, the construction of infrastructure and public facilities related to the Project (whether located within or outside the Property), the construction of structures and buildings and the installation of landscaping.

1.4 **Development Plan.** The "Development Plan" consists of the Existing Project Approvals, the Existing Regulations, and those Future Project Approvals (such as precise development plans) contemplated, necessary, and requested by OWNER to implement the Project Approvals.

1.5 **Development Transferee.** “Development Transferee” means an assignee or transferee from OWNER of all or a portion of OWNER’s interest in the Property pursuant to Section 3 and the successors and assigns of any such transferee.

1.6 **Effective Date.** “Effective Date” means the date that the Authorizing Ordinance becomes effective.

1.7 **Existing Project Approvals.** “Existing Project Approvals” are those Project Approvals, including Major Site Plan Review No. 0937-18, Design Review No. 4937-18, and Administrative Adjustment No. 0264-18 which have been approved by the CITY on June 4, 2018, consistent with the Existing Regulations.

1.8 **Existing Regulations.** “Existing Regulations” means those ordinances, rules, regulations, policies, requirements, guidelines, constraints or other actions of the CITY, other than site-specific Project Approvals, which purport to affect, govern or apply to the Property or the implementation of the Development Plans in effect on June 4, 2018.

1.9 **On-Site Improvements.** “On-Site Improvements” means physical infrastructure improvements or facilities that are or will be located on the Property.

1.10 **OWNER.** “OWNER” is DCSG Three Thousand West, LLC, a California limited liability company.

1.11 **Project Approvals.** “Project Approvals” means Major Site Plan Review No. 0937-18, Design Review No. 4937-18, Administrative Adjustment No. 0264-18 and any future Project-related entitlements approved by the CITY.

2. **Term and Termination.**

2.1 The Term of this Agreement shall commence on the Effective Date and shall extend for a period of three (3) years thereafter, terminating at the end of the day preceding the third anniversary of the Effective Date, subject to specific extensions, revisions and termination provisions of this Agreement. The Existing Approvals are valid and shall not expire for the Term of this Agreement (as such Term may be extended). If construction has commenced within such three (3) year period, the Term of this Agreement shall automatically be extended until the completion of the events specified in Section 2.2.2. Once an occupancy permit has been issued for the Project, or the Project is otherwise vested pursuant to California law, the Existing Approvals shall be deemed permanently vested and control the use of the Property.

2.2 This Agreement shall be deemed terminated and of no further effect upon the occurrence of any of the following events:

2.2.1 If termination occurs pursuant to any specific provision of this Agreement;
or

2.2.2 Completion of the total build-out of the Project pursuant to the terms of this Agreement and the CITY’s issuance of all required occupancy permits and acceptance of all dedications and improvements required to complete Development of the Project.

2.3 The termination of this Agreement shall not affect any right or duty arising independently from entitlements issued by CITY or other land use approvals approved concurrently or subsequent to the approval of this Agreement.

3. **Transfers and Assignments.**

3.1 **Right to Assign.** OWNER shall have the right to sell, assign or otherwise transfer all or any portion of its interests in the Property together with all its right, title and interest in this Agreement, or the portion thereof which is subject to transfer (the “Transferred Property”) to a Development Transferee at any time during the Term of this Agreement; provided, however, that any such transfer or assignment must be pursuant to a sale, assignment or other transfer of the interest of OWNER in the Property, or a portion thereof. In the event of any such sale, assignment, or other transfer (i) OWNER shall notify CITY thirty (30) days prior to such event of the name of the Development Transferee, together with the corresponding entitlements being transferred to such Development Transferee; and (ii) the agreement between OWNER and such Development Transferee pertaining to such transfer shall provide that either OWNER or the Development Transferee shall be liable for the performance of those obligations of OWNER under this Agreement which relate to the Transferred Property, if any. Each Development Transferee and OWNER shall notify CITY in writing which entity shall be liable for the performance of each respective obligation hereunder within thirty (30) days prior to the date of any sale, assignment or transfer pursuant to this subsection. Owner shall be released from any obligations assumed by a Development Transferee.

3.2 **Effect of Noncompliance.** From and after the assumption of obligations under this Agreement by a Development Transferee pursuant to Section 3.1, noncompliance by any such Development Transferee with the terms and conditions of this Agreement assumed by such Development Transferee shall entitle CITY to pursue any and all of its rights under this Agreement so assumed against such Development Transferee, but such noncompliance shall not be deemed a default or grounds for termination hereof with respect to, or constitute cause for CITY to initiate enforcement action against, other persons then owning or holding interest in the Property or any portion thereof and not themselves in default hereunder. Similarly, noncompliance by OWNER with respect to any terms and conditions of this Agreement not assumed by such Development Transferee shall entitle CITY to pursue any and all of its rights under this Agreement retained by OWNER against OWNER, but such noncompliance by OWNER shall not be deemed a default or grounds for termination hereof with respect to, or constitute cause for CITY to initiate enforcement action against, such Development Transferee or other persons then owning or holding interest in the Property or any portion thereof and not themselves in default hereunder.

3.3 **Rights of Successors and Assigns.** Except as otherwise set forth in this Agreement, a Development Transferee shall have all of the same rights, benefits and obligations of OWNER under this Agreement.

4. **Revisions to Development Agreement.**

4.1 **Initiation of Amendment.** Either party may propose an amendment to this Agreement when that party believes it would be beneficial to enter into additional agreements or

modification of this Agreement in connection with the implementation of the separate components of the Project.

4.2 **Procedure.** Except as set forth in Section 4.5 below, the procedure for proposing and adopting an amendment to this Agreement shall be the same as the procedure followed for entering into this Agreement in the first instance.

4.3 **Cancellation.** Either party may propose cancellation to this Agreement.

4.4 **Consent.** Except as expressly provided in this Agreement, any amendment to or cancellation of this Agreement shall require the written consent of both parties. No amendment to or cancellation of all or any provision of this Agreement shall be effective unless set forth in writing and signed by duly authorized representatives of each party.

4.5 **Consent of OWNER.** Where an assignee of OWNER applies for an amendment to this Agreement, the written consent of OWNER shall always be required before CITY approval of the amendment unless the Development Transferee has assumed all obligations under this Agreement. Further, an assignee shall not be required to approve an amendment to this Agreement. The recordation of this Agreement shall serve as notice to all assignees of the provisions of this Agreement.

4.6 **Operating Memoranda.** The parties acknowledge that refinements and further development of the Project may demonstrate that changes are appropriate with respect to the details and performance of the parties under this Agreement. The parties desire to retain a certain degree of flexibility with respect to the details of the Project Development and with respect to those items covered in general terms under this Agreement. If and when the parties mutually find that changes, adjustments, or clarifications are appropriate to further the intended purposes of this Agreement, they may, unless otherwise required by law, effectuate such changes, adjustments, or clarifications without amendment to this Agreement as specified in the Project Approvals or through operating memoranda mutually approved by the parties. The Orange City Manager and any corporate officer or other person designated for such purpose in a writing signed by a corporate officer on behalf of OWNER are authorized to execute said operating memoranda. After execution, said operating memoranda shall be attached hereto as addenda and become a part hereof and may be further changed and amended from time to time as necessary, with further approval by the parties. Unless otherwise required by law or by the Project Approvals, no such changes, adjustments, or clarifications shall require prior notice or hearing.

4.7 This Section shall not limit CITY's or OWNER's remedies as provided by Section 10.

5. **Description of Development.**

5.1 **Development and Control of Development.**

5.1.1 **Project.** During the Term of this Agreement, OWNER shall have the vested right to implement the Development pursuant to this Agreement and the Project Approvals and CITY shall have the right to control the Development of the Project in accordance with the terms and conditions of this Agreement.

5.1.2 **Permits and Future Project Approvals.** CITY shall accept and timely process, in the normal and legal manner for processing such matters, all applications for Future Project Approvals called for or required under this Agreement. The Existing Project Approvals are in full force and effect and the expiration of such Existing Project Approvals shall not occur unless the Term of this Agreement expires, and vested rights have not been achieved under California law.

5.2 **Rules, Regulations and Official Policies.** Except as otherwise specified in this Agreement and the Project Approvals, the rules, regulations and official policies governing the permitted uses of the Property, the density and intensity of use of the Property, the provisions for reservation or dedication of land for public purposes and the design, improvement and construction standards and specifications applicable to Development of the Property shall be the Existing Regulations and the Existing Approvals. In connection with any subsequent approval or action which CITY is permitted or has the right to make under this Agreement relating to the Project, CITY shall exercise its discretion or take action in a manner which complies and is consistent with the Project Approvals, the Existing Regulations and such other standards, terms and conditions contained in this Agreement.

5.3 **Reserved Authority.**

5.3.1 **Uniform Codes.** This Agreement shall not prevent CITY from applying new rules, regulations and policies relating to uniform codes (such as the Uniform Building Code, National Electrical Code, Uniform Mechanical Code or Uniform Fire Code, as amended) adopted by the State of California, which new rules and regulations are necessary to preserve the health and safety of the residents of CITY or which the CITY is required by state law to apply.

5.3.2 **State and Federal Laws and Regulations.**

5.3.2.1 **Precedence of State and Federal Laws.** In the event that state or federal laws or regulations prevent or preclude compliance with one or more of the provisions of this Agreement, such provisions of this Agreement shall be modified or suspended as may be necessary to comply with such state or federal laws or regulations; provided, however, that this Agreement shall remain in full force and effect to the extent it is not inconsistent with such laws or regulations and to the extent such laws or regulations do not render such remaining provisions impractical to enforce.

5.3.2.2 **Subsequent Amendment to Authorizing Statutes.** This Agreement has been entered into in reliance upon the provisions of the Development Agreement Legislation in effect as of the Effective Date. Accordingly, to the extent that subsequent amendments to the Government Code would affect the provisions of this Agreement, such amendments shall not be applicable to this Agreement unless necessary for this Agreement to be enforceable or required by law or unless this Agreement is modified pursuant to the provisions set forth in this Agreement and Government Code Section 65868 as in effect on the Agreement Date.

5.3.3 **Regulation for Health and Safety.** Notwithstanding anything to the contrary in this Agreement, CITY shall have the right to apply regulations (including amendments

to the Existing Regulations) adopted by the CITY after the Effective Date, in connection with any Project Approvals, or deny, or impose conditions of approval on, any Project Approvals provided that such application to the Development is required to protect the physical health and safety of existing or future residents or occupants of the Property, or any portion thereof or any lands adjacent thereto. OWNER may protest the imposition of any such emergency regulations or conditions to the City Council or as otherwise provided by CITY rules or regulations while continuing to construct the Development.

5.3.4 **Procedure For Application of New Regulations.** The CITY shall not apply to the Project any regulation, law, program, ordinance or action under Section 5.3.1, 5.3.2, or 5.3.3 (except for emergency ordinances adopted to protect health and welfare as set forth therein) which is not an Existing Regulation (“New Regulation”) without providing at least thirty (30) days’ prior written notice to OWNER of the CITY’s intent to apply such New Regulation to the Project. OWNER shall have thirty (30) days from the date of such notice to review and evaluate the New Regulation and to serve CITY with a written protest (“Protest”) against the application of the New Regulation to the Project. If the OWNER timely provides the Protest to CITY, then CITY will not apply the New Regulation to the Project until the City Council makes a finding, after a duly noticed public hearing, that such New Regulation does not conflict with the Existing Regulations as applied to the Project and is required (as opposed to permitted) to comply with state or federal laws or regulations after taking into consideration all reasonable alternatives. Should OWNER elect to continue to construct the Development after receipt of notice of the applicability of any New Regulation described in Section 5.3.3 to such construction, OWNER does so at its own risk.

5.4 **Vested Rights.** By entering into this Agreement and relying thereon, OWNER obtains vested rights to proceed with the Project in accordance with the terms and conditions of this Agreement, and in accordance with, and to the extent of, the Project Approvals. By entering into this Agreement and relying thereon, CITY secures significant public benefits and facilities which enhance the public health, safety and welfare, a partial listing of which benefits is set forth in Section 6.

5.5 **Consistency Between This Agreement and Current Laws.** CITY represents that there are no rules, regulations, ordinances, policies or other measures of the CITY in force as of the Agreement Date that would interfere with Development and use of all or any part of the Project according to the Project Approvals and this Agreement. The parties understand and acknowledge that the Agreement is consistent with CITY’s General Plan and zoning for the Property.

5.6 **Future Amendments to Development Plan.** The following rules apply to future amendments to the Development Plan:

5.6.1 **Compliance.** Any Development Plan amendment which is not in compliance with Section 4 of this Agreement shall not apply to the Property or the Project while this Agreement is in effect.

5.6.2 **Concurrent Development Agreement Amendment.** Any Development Plan amendment requiring amendment of this Agreement shall be processed concurrently with an amendment to this Agreement

5.6.3 **Effect of Amendment.** Except as expressly set forth within this Agreement or in any amendment to this Agreement, a Development Plan amendment will not alter, affect, impair or otherwise impact the rights, duties and obligations of the parties under this Agreement.

6. **Benefits to CITY; Obligations of OWNER.** The direct and indirect benefits CITY, its existing and future residents, will receive pursuant to the implementation of the Agreement include, but are not limited to, the following:

6.1 **Rehabilitation of Property.** The Development will result in the rehabilitation of a blighted, vacant property.

6.2 **Transient Occupancy Tax Revenue.** The Development will generate transient occupancy tax revenue to support City services that improve the quality of life for residents.

6.2.1 **Reduced Economic Development Assistance Payment.** OWNER agrees to amend the Participation Agreement to reduce the amount of Economic Development Assistance Payment for the first three years of the Term from thirty three and one third percent (33 1/3%) of the Transient Occupancy Tax generated less the Transient Occupancy Tax Base, to twenty five percent (25%) of the Transient Occupancy Tax generated less the Transient Occupancy Tax Base.

6.3 **Public Benefit Payment.** Upon execution of this Agreement, OWNER shall make a public benefit payment of FIFTY THOUSAND DOLLARS (\$50,000.00) to CITY.

6.4 **Assurances to OWNER.** The parties further acknowledge that the public benefits to be provided by OWNER to CITY pursuant to this Agreement are in consideration for and reliance upon assurances that the Property will be developed in accordance with the Project Approvals and this Agreement. Accordingly, while recognizing that the Development of the Property may be affected by exercise of the authority and rights reserved and excepted as provided in Section 5.3 of this Agreement, OWNER desires assurances that CITY will not and CITY agrees that it will not further restrict or limit the development of the Property in violation of this Agreement except in strict accordance with the Reserved Authority.

7. **Indemnification.**

7.1 **Defense Obligations.** Except to the extent of the gross negligence or willful misconduct of the Indemnified Parties (as defined below), OWNER, and with respect to the portion of the Property transferred to them, the Development Transferees, agree during the term of this Agreement, to, at CITY's request, defend CITY and its agents, officers, and employees (the "Indemnified Parties") from and against any claims, including claims for attorneys' fees, or proceeding against the Indemnified Parties to set aside, void or annul the approval of this Agreement or the Project Approvals.

7.2 **Notification Obligation.** CITY agrees to timely take all actions necessary or required to uphold the validity and enforceability of this Agreement and the Existing Regulations and shall promptly notify OWNER of any claim, action or proceeding brought challenging any provision of this Agreement or the Project Approvals. Should the CITY fail to promptly and timely

notify OWNER or cooperate fully or decide to terminate this Agreement, OWNER shall be relieved of its defense and indemnity obligations hereunder.

7.3 **Selection of Counsel; Costs of Defense.** OWNER and the CITY shall select joint legal counsel to conduct such defense which legal counsel shall represent both OWNER and the CITY in defense of such action. OWNER and CITY shall meet and confer to determine the reasonable estimate of the costs of defense of any such claim or action and OWNER shall deposit a sufficient portion of said amount with the CITY to ensure CITY that it will have sufficient funds to pay the costs of defense until a further deposit is required, if any. The CITY will draw down on such funds to pay for costs of defense and may require additional deposits if it appears that the costs of defense will exceed the amount on deposit. The CITY shall refund, without interest, any unused portions of the deposit once the claim or action is finally concluded.

7.4 **Defense and Settlement.** OWNER shall have the right to direct the prosecution, strategy and settlement of any defense hereunder in consultation with the CITY, provided however, that CITY and OWNER agree not to unreasonably withhold or delay approval of the settlement of any claim or action which does not significantly impair the rights and obligations of either party under this Agreement or the Project Approvals.

7.5 **Survival of Provisions.** The indemnities set forth in this Section shall survive any closing, rescission, or termination of this Agreement, and shall continue to be binding and in full force and effect in perpetuity with respect to the Indemnified Parties and their successors.

8. **Relationship of Parties.** The contractual relationship between CITY and OWNER is such that OWNER is independent from and not an agent or employee of CITY. CITY and OWNER hereby renounce the existence of any form of joint venture or partnership between them, and agree that nothing contained in this Agreement or in any document executed in connection with the Project shall be construed as making CITY and OWNER joint venturers or partners.

9. **Periodic Review of Compliance with Agreement.**

9.1 **Periodic Review.** CITY and OWNER shall review this Agreement at least once every twelve (12) month period from the Agreement Date. CITY shall notify OWNER in writing of the date for review at least thirty (30) days prior thereto. Such periodic review shall be conducted in accordance with Government Code Section 65865.1.

9.2 **Good-Faith Compliance.** During each periodic review, OWNER shall be required to demonstrate good faith compliance with the terms of this Agreement. OWNER agrees to furnish such reasonable evidence of good faith compliance as CITY, in the exercise of its reasonable discretion, may require. If requested by CITY, CITY agrees to provide to OWNER, a Development Transferee or any party designated by OWNER or a Development Transferee, an estoppel certificate that OWNER or a Development Transferee is in compliance with the terms of this Agreement, provided OWNER reimburses CITY for all reasonable and direct costs and fees incurred by CITY with respect thereto.

9.3 **Failure to Conduct Annual Review.** The failure of the CITY to conduct the annual review shall not be an OWNER default and OWNER shall not be entitled to any remedy for CITY failure to conduct the annual review.

9.4 **Initiation of Review by City Council.** In addition to the annual review, the City Council may at any time, but not more than once in any twelve (12) month period, initiate a review of this Agreement by giving written notice to OWNER. Within thirty (30) days following receipt of such notice, OWNER shall submit evidence to the City Council of OWNER's good faith compliance with this Agreement and such review and determination shall proceed in the same manner as provided for the annual review.

9.5 **Availability of Documents.** If requested by OWNER, CITY agrees to provide to OWNER copies of any documents, reports or other items reviewed, accumulated or prepared by or for CITY in connection with any periodic compliance review by CITY, provided OWNER reimburses CITY for all reasonable and direct costs and fees incurred by CITY with respect thereto.

10. **Events of Default; Remedies.** Unless amended or canceled as provided in Section 4, or modified or suspended pursuant to Government Code Section 65869.5, or terminated pursuant to this Section 10, this Agreement is enforceable by either party hereto.

10.1 **Defaults by OWNER.** If CITY determines on the basis of substantial evidence that OWNER has not complied in good faith with the terms and conditions of this Agreement, CITY shall, by written notice to OWNER, specify the manner in which OWNER has failed to so comply and state the steps OWNER must take to bring itself into compliance ("First Default Notice"). CITY and OWNER shall meet in good faith for the purpose of resolving any disputes within fifteen (15) days of OWNER's receipt of written notice of default from CITY. If the CITY determines that following these meetings, OWNER is not taking necessary steps to cure such default, it shall provide notice of same to OWNER ("Second Default Notice") and if, within thirty (30) days after the effective date of such notice OWNER has failed to so comply or OWNER does not commence all steps reasonably necessary to bring itself into compliance as required and thereafter diligently pursue such steps to completion, then OWNER may be deemed to be in default under the terms of this Agreement and CITY may initiate the process to terminate this Agreement pursuant to Government Code Section 65868. In event of default by OWNER, except as provided in Section 10.3, CITY's sole remedy for any breach of this Agreement by OWNER shall be CITY's right to terminate this Agreement.

10.2 **Defaults by CITY.** If OWNER determines on the basis of substantial evidence that CITY has not complied in good faith with the terms and conditions of this Agreement, OWNER shall, by written notice to CITY, specify the manner in which CITY has failed to so comply and state the steps CITY must take to bring itself into compliance. CITY and OWNER shall meet in good faith for the purpose of resolving any disputes within fifteen (15) days of CITY's receipt of written notice of default from OWNER. If the OWNER determines that following these meetings, CITY is not taking necessary steps to cure such default, it shall provide notice of same to CITY and if, within thirty (30) days after the effective date of such notice, CITY has failed to so comply or CITY does not commence all steps reasonably necessary to bring itself into compliance as required and thereafter diligently pursue such steps to completion, then CITY shall be deemed to be in default under the terms of this Agreement and OWNER may initiate the process to terminate this Agreement and, in addition, may pursue any other remedy available at law or equity, including specific performance as long as such remedy is consistent with Section 10.3.

10.3 **Specific Performance Remedy.**

10.3.1 **OWNER's Remedies.** Due to the size, nature and scope of the Project, it will not be practical or possible to restore the Property to its natural condition once implementation of this Agreement and the Project Approvals have begun. After such implementation, OWNER may be foreclosed from other choices it may have had to utilize the Property and provide for other benefits. OWNER has invested significant time and resources and performed extensive planning and processing of the Project in agreeing to the terms of this Agreement and will be investing even more significant time and resources in implementing the Project in reliance upon the terms of this Agreement, and it is not possible to determine the sum of money which would adequately compensate OWNER for such efforts. For the above reasons, CITY and OWNER agree that damages alone would not be an adequate remedy if CITY fails to carry out its obligations under this Agreement and that, in addition to any all other remedies OWNER may have at law or in equity, including, without limitation, claims for general, special or compensatory damages for any default under this Agreement, OWNER shall have the right to seek and obtain specific performance or injunctive relief as a remedy for any breach of this Agreement. OWNER may seek to enjoin any threatened or attempted violation of this Agreement, seek to enjoin any threatened or attempted violation hereof, or enforce by specific performance the obligations and rights of OWNER.

10.3.2 **CITY's Remedies.** CITY's remedy of terminating this Agreement shall be sufficient if OWNER fails to carry out its obligations hereunder. Notwithstanding the above, CITY may not seek specific performance to require OWNER to construct the Development except to the extent that OWNER becomes otherwise obligated under this Agreement to construct any or all of the public facilities identified in the Development Plan. Nothing contained in this Agreement shall prevent OWNER from enforcing the right to seek a refund or return of a deposit made, or a fee paid, to the CITY in accordance with the provisions of the Existing Rules.

10.4 **Institution of Legal Action.** OWNER may institute legal action to cure, correct or remedy any default, to enforce any covenants or agreements herein, to enjoin any threatened or attempted violation hereof, or to obtain any other remedies consistent with this Agreement. Such legal action shall be heard by a referee approved by the Orange County Superior Court pursuant to the applicable procedures of California Code of Civil Procedure ("CCP") Sections 638, et seq. OWNER and CITY shall agree upon a single referee who shall then try all issues, whether of fact or law, and report a finding and judgment thereon and issue all legal and equitable relief appropriate under the circumstances of the controversy before it. If OWNER and CITY are unable to agree on a referee within ten (10) days of a written request to do so by either party hereto, either party may seek to have one appointed pursuant to CCP Section 640. The cost of such proceeding shall initially be borne equally by the parties. Any referee selected pursuant to this Section 10.4 shall be considered a temporary judge appointed pursuant to California Constitution Article VI, Section 21.

10.5 **Estoppel Certificates.** Either party may at any time deliver written notice to the other party requesting an estoppel certificate ("Estoppel Certificate") stating:

10.5.1 The Agreement is in full force and effect and is a binding obligation of the parties.

10.5.2 The Agreement has not been amended or modified either orally or in writing or, if so amended, identifying the amendments.

10.5.3 No default in the performance of the requesting party's obligations under the Agreement exists or, if a default does exist, the nature and amount of any default.

A party receiving a request for an Estoppel Certificate shall provide a signed certificate to the requesting party within thirty (30) days after receipt of the request. The City Manager or any person designated by the City Manager may sign the Estoppel Certificate on behalf of the CITY. Any officer of OWNER may sign on behalf of OWNER. An Estoppel Certificate may be relied on by assignees and mortgagees. In the event that one party requests an Estoppel Certificate from the other, the requesting party shall reimburse the other party for all reasonable and direct costs and fees incurred by such party with respect thereto.

11. **Waivers and Delays.**

11.1 **No Waiver.** Failure by a party to insist upon the strict performance of any of the provisions of this Agreement by the other party, and failure by a party to exercise its rights upon a default by the other party hereto, shall not constitute a waiver of such party's right to demand strict compliance by such other party in the future.

11.2 **Third Parties.** Non-performance shall not be excused because of a failure of a third person, except as provided in Section 11.3.

11.3 **Force Majeure.** OWNER and CITY shall not be deemed to be in default where failure or delay in performance of any of their obligations under this Agreement is caused by floods, earthquakes, epidemics, other Acts of God, fires, wars, riots, or similar hostilities, strikes and other labor difficulties beyond OWNER or CITY control, including government regulations (including, without limitation, local, state and federal environmental and natural resource regulations), voter initiative or referenda, moratoria (including, without limitation, any "development moratorium" as that term is applied in Government Code Section 66452.6) or judicial decisions.

11.4 **Extensions.** The Term of this Agreement and the time for performance by OWNER or CITY of any of its obligations hereunder or pursuant to the Project Approvals shall be extended by the period of time that any of the events described in Section 11.3 or this Section 11.4 exist and/or prevent performance of such obligations; provided that, in no event shall any such extension exceed a total of twenty-four (24) months without the prior approval, in their sole and complete discretion, of both OWNER and CITY. Subject to this limit the Term shall be extended for delays arising from the following events for a time equal to the duration of each delay which occurs during the Term.

11.4.1 **Litigation.** The period of time after the Effective Date during which litigation related to the Project Approvals, which has the actual effect of delaying implementation of the Project, is pending, including any litigation pending on the Agreement Date. This period shall include any time during which appeals may be filed or are pending.

11.4.2 **Referenda**. Any referenda or petition initiative which would invalidate or delay the implementation of the Project Approvals.

11.4.3 **Government Agencies**. Any delay resulting from the acts or omissions of the CITY or any other governmental agency or public utility and beyond the reasonable control of OWNER.

11.5 **Notice of Delay**. Each party shall give notice to the other of any delay that either party believes to have occurred as a result of the occurrence of any of the events described in Section 11.3 or 11.4. Such notice shall be provided as soon as either party becomes aware of any such delay, and in no event shall notice of a delay of any length be given later than sixty (60) days after the end of the delay or it shall be deemed waived.

12. **General Provisions**.

12.1 **Binding Covenants**. The provisions of this Agreement, to the extent permitted by law, shall constitute covenants which shall run with the Property for the benefit thereof, and the benefits and burdens of this Agreement shall bind and inure to the benefit of the parties and all successors in interest to the parties hereto.

12.2 **Notices**. All notices required or provided for under this Agreement shall be in writing and either (i) delivered in person; or (ii) sent by certified mail, postage prepaid, return receipt requested; or (iii) sent by independent courier service or overnight delivery service. Notices required to be given to CITY shall be addressed as follows:

City of Orange, City Manager
300 E. Chapman Avenue
Orange, CA 92866
Attn: City Manager

With a copy to:

City of Orange
300 E. Chapman Avenue
Orange, CA 92866
Attn: City Attorney

Notices required to be given to OWNER shall be addressed as follows:

DCSG Three Thousand West, LLC
732 S Walnut Ave
San Dimas CA 91773
Attn: Scott Gunderson

Any notice given as required herein shall be deemed given only if in writing and upon delivery by one of the methods set forth above. A party may change its address for notices by giving notice in writing to the other party as required herein and thereafter notices shall be addressed and transmitted to the new address.

12.3 **Attorneys' Fees.** If legal action is brought by either party against the other for breach of this Agreement or to compel performance under this Agreement, the prevailing party shall be entitled to an award of its costs, including reasonable attorneys' fees, and shall also be entitled to recover its contribution for the costs of the referee referred to in Section 10.4 above as an item of damage and/or recoverable costs. If CITY is the prevailing party and uses in-house counsel in the litigation, it shall be entitled to recover attorneys' fees at the hourly rate that OWNER is being charged by its attorney or at the in-house counsel's fully burdened rate, whichever is higher.

12.4 **Recording.** This Agreement and any amendment or cancellation hereto shall be recorded by the City Clerk, in the Official Records of Orange County within ten (10) days after the Effective Date, as provided in Section 65868.5 of the Development Agreement Legislation.

12.5 **Severability of Terms.** If any term, provision, covenant or condition of this Agreement shall be determined invalid, void or unenforceable, the remainder of this Agreement shall not be affected thereby to the extent such remaining provisions are not rendered impractical to enforce.

12.6 **Rules of Construction and Miscellaneous Terms.**

12.6.1 **Interpretation and Governing Law.** The language in all parts of this Agreement shall, in all cases, be construed as a whole and in accordance with its fair meaning. This Agreement and any dispute arising hereunder shall be governed and interpreted in accordance with the laws of the State of California. The parties understand and agree that this Agreement is not intended to constitute, nor shall be construed to constitute, an impermissible attempt to contract away the legislative and governmental functions of the CITY, and in particular, the CITY's police powers. In this regard, the parties understand and agree that this Agreement shall not be deemed to constitute the surrender or abnegation of the CITY's governmental powers over the Property.

12.6.2 **Section Headings.** All section headings and subheadings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

12.6.3 **Gender.** The singular includes the plural; the masculine gender includes the feminine; "shall" is mandatory, "may" is permissive.

12.6.4 **Joint and Several Liability.** If there is more than one signatory to this Agreement, their obligations are joint and several.

12.6.5 **Time of Essence.** Time is of the essence regarding each provision of this Agreement of which time is an element.

12.6.6 **Recitals.** All Recitals set forth herein are incorporated in this Agreement as though fully set forth herein.

12.6.7 **Entire Agreement.** This Agreement together with the Development Plan constitutes the entire agreement between the parties with respect to the subject matter hereof, and the Agreement supersedes all previous negotiations, discussion and agreements between the

parties, and no parol evidence of any prior or other agreement shall be permitted to contradict or vary the terms hereof.

12.6.8 **Not for Benefit of Third Parties.** This Agreement and all provisions hereof are for the exclusive benefit of CITY and OWNER and its Development Transferees and shall not be construed to benefit or be enforceable by any third party.

13. **Effect of Agreement on Title.**

13.1 **Effect on Title.** OWNER and CITY agree that this Agreement shall not continue as an encumbrance against any portion of the Property as to which this Agreement has terminated.

13.2 **Encumbrances and Lenders' Rights.**

13.2.1 OWNER and CITY hereby agree that this Agreement shall not prevent or limit any owner of any interest in the Property, or any portion thereof, at any time or from time to time in any manner, at its or their sole discretion, from encumbering the Property, the improvements thereon, or any portion thereof with any mortgage, deed of trust sale and leaseback arrangement or other security device. CITY acknowledges that any Lender (as hereinafter defined) may require certain interpretations of or modifications to the Agreement or the Project and CITY agrees, upon request, from time to time, to meet with the property owner(s) and/or representatives of such Lenders to negotiate in good faith any such request for interpretation or modification. CITY further agrees that it will not unreasonably withhold its consent to any such requested interpretation or modification to the extent such interpretation or modification is consistent with the intent and purpose of this Agreement. A default under this Agreement shall not defeat, render invalid, diminish or impair the lien of any Lender.

13.2.2 The mortgagee of a mortgage, or beneficiary of a deed of trust, or holder of any other security interest in the Property or any portion thereof and their successors and assigns, including without limitation the purchaser at a judicial or non-judicial foreclosure sale, or a person or entity which obtains title by deed-in-lieu of foreclosures ("Lender") shall be entitled to receive a copy of any First Default Notice, as defined in Section 10.1, at the name and address Lender has provided to the City Clerk of the CITY. As a pre-condition to the institution of any legal proceedings or termination proceedings, the CITY shall deliver to all such Lenders written notification of any Second Default Notice. The Second Default Notice shall specify in detail the alleged default and the suggested means to cure it. Each such Lender shall have the right, at its sole option, to cure such default within seventy-five (75) days of receipt of the Second Default Notice or, if such default cannot be reasonably cured within seventy-five (75) days, to commence and diligently pursue a cure of such default, in which case CITY shall not terminate this Agreement or otherwise institute legal proceedings. Within twenty (20) days of receipt of the Second Default Notice, such Lenders shall provide written notice to the CITY as to whether such Lender intends to cure the default. If the CITY does not receive such notice within twenty (20) days, the Lender shall be deemed to have elected not to cure and the CITY may pursue all available remedies provided to it under this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year dated below.

Dated: _____, 2021

“CITY”

THE CITY OF ORANGE,
a municipal corporation,

By: _____
Mark A. Murphy, Mayor

ATTEST:

Pamela Coleman, City Clerk

APPROVED AS TO FORM:

Gary A. Sheatz, City Attorney

Dated: _____, 2021

“OWNER”

DCSG THREE THOUSAND WEST, LLC,
a California limited liability company,

By: _____

[Notary Acknowledgments Attached]



Agenda Item

City Council

Item #: 3.25.

7/13/2021

File #: 21-0305

TO: Honorable Mayor and Members of the City Council

THRU: Rick Otto, City Manager

FROM: Dave Curtis, Library Services Director

1. SUBJECT

Authorize purchase of print and audiovisual materials for the Orange Public Library from Baker & Taylor, Inc.

2. SUMMARY

Request to authorize a \$115,000 purchase order with Baker & Taylor, Inc. for print and audiovisual materials (i.e. books, DVDs, and CDs) for the Orange Public Library & History Center and the El Modena and Taft Branch Libraries.

3. RECOMMENDED ACTION

1. Approve purchase order for print and audiovisual materials from Baker & Taylor, Inc. in the amount of \$115,000.
2. Authorize the City Manager to approve increases to the purchase order should the Library receive donations designated for the purchase of additional print and audiovisual materials.

4. FISCAL IMPACT

The total initial expenditure for this purchase is \$115,000 and will be funded through General Fund (100).

5. STRATEGIC PLAN GOALS

Goal 3: Enhance and promote quality of life in the community

- b: Deliver high quality and safe recreational, social, environmental, educational, and cultural services.

6. DISCUSSION AND BACKGROUND

As the vendor with the largest inventory and widest selection of titles in the USA, Baker & Taylor, Inc. (Baker & Taylor) is capable of providing a wide variety of library materials sought by Orange Public Library to meet the interests and needs of city users.

Baker & Taylor has demonstrated the highest “fill rate” of any library materials vendor in providing the titles ordered, according to the professional literature. Staff has determined that Baker & Taylor provides the Orange Public Library with volume discounts and minimal shipping costs on terms that are as good as any that are being provided to other libraries.

Periodically, the Library will receive donations specifically designated for the purchase of print and

audiovisual materials. For amounts over \$5,000 for any one donation, staff will request Council to accept the donation into revenue and appropriate the monies to the designated expenditure account. For amounts of \$5,000 and under, the City Manager has this authority. Rather than requesting Council approve an increase to the purchase order amount each time a donation is received, staff requests Council to authorize the City Manager to approve any increases to the purchase order should the Library receive donations designated for the purchase of additional print and audiovisual materials.

Funds will purchase new books and audiovisual materials to meet public demand.

7. ATTACHMENTS

None



Agenda Item

City Council

Item #: 3.25.

7/13/2021

File #: 21-0305

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THRU: Rick Otto, City Manager

FROM: Dave Curtis, Library Services Director

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2. Authorize the City Manager to approve increases to the purchase order should the Library receive donations designated for the purchase of additional print and audiovisual materials.

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The total initial expenditure for this purchase is \$115,000 and will be funded through General Fund (100).

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Funds will purchase new books and audiovisual materials to meet public demand.

7. ATTACHMENTS

None



Agenda Item

City Council

Item #: 3.26.

7/13/2021

File #: 21-0316

TO: Honorable Mayor and Members of the City Council

THRU: Rick Otto, City Manager

FROM: Christopher Cash, Public Works Director

1. SUBJECT

Authorize purchase of material and supplies for water maintenance operations from various vendors.

2. SUMMARY

Request to authorize purchase orders in the amount of \$150,000 with Yo Fire, \$150,000 with C Wells Supply, \$125,000 with United Water Works, \$100,000 with Ferguson, \$100,000 with S&J Supply, and \$75,000 with Armorcast for miscellaneous waterworks material and supplies on an as needed basis during Fiscal Year 2021-2022.

3. RECOMMENDED ACTION

Approve purchase orders for miscellaneous material and supplies for the following vendors and amounts: Yo Fire - \$150,000; C Wells Supply - \$150,000; United Waterworks - \$125,000; Ferguson - \$100,000; S&J Supply - \$100,000; and Armorcast - \$75,000, for a total not to exceed of \$700,000.

4. FISCAL IMPACT

The total expenditure for these purchases is \$700,000 and will be funded through Water Fund (600).

5. STRATEGIC PLAN GOALS

Goal 1: Provide for a safe community

b: Provide and maintain infrastructure necessary to ensure the safety of the public.

Goal 4: Provide outstanding public service

b: Provide facilities and services to meet customer expectations.

6. DISCUSSION AND BACKGROUND

The Public Works Department Water Division purchases many different types of materials and supplies such as copper tubing, brass fittings, hydrants, couplings, saddles, valves, meter boxes, lids, etc. for its daily maintenance operations. These items are needed for the successful repair, installation, and maintenance of the City's water infrastructure. The Water Division uses the informal bid process to purchase the required materials by requesting all participating vendors to provide pricing for each individual item needed. There is no, one specific vendor that continually provides the lowest price for all items; therefore, the Public Works Water Division purchases material from the vendors that offer the lowest price for that particular item.

The following six vendors are the ones from which the Public Works Water Division continuously

purchases different materials and supplies. The amount of purchases from each vendor is over the \$30,000 per year limit per vendor. In order to continue purchasing from these vendors when they offer the lowest price, staff is requesting the City Council authorize the purchase orders, on an as needed basis, not to exceed the amounts shown in the below table for Fiscal Year 2021/2022.

Vendor	Amount
Yo Fire	\$150,000
C Wells Supply	\$150,000
United Water Works	\$125,000
Ferguson	\$100,000
S&J Supply	\$100,000
Armorcast	\$ 75,000

The Public Works Water Division continues to monitor and seek out vendors with the lowest prices to ensure the City is getting the best value available.

7. ATTACHMENTS

- None



Agenda Item

City Council

Item #: 3.26.

7/13/2021

File #: 21-0316

TO: Honorable Mayor and Members of the City Council

THRU: Rick Otto, City Manager

FROM: Christopher Cash, Public Works Director

1. SUBJECT

Authorize purchase of material and supplies for water maintenance operations from various vendors.

2. SUMMARY

Request to authorize purchase orders in the amount of \$150,000 with Yo Fire, \$150,000 with C Wells Supply, \$125,000 with United Water Works, \$100,000 with Ferguson, \$100,000 with S&J Supply, and \$75,000 with Armorcast for miscellaneous waterworks material and supplies on an as needed basis during Fiscal Year 2021-2022.

3. RECOMMENDED ACTION

Approve purchase orders for miscellaneous material and supplies for the following vendors and amounts: Yo Fire - \$150,000; C Wells Supply - \$150,000; United Waterworks - \$125,000; Ferguson - \$100,000; S&J Supply - \$100,000; and Armorcast - \$75,000, for a total not to exceed of \$700,000.

4. FISCAL IMPACT

The total expenditure for these purchases is \$700,000 and will be funded through Water Fund (600).

5. STRATEGIC PLAN GOALS

Goal 1: Provide for a safe community

b: Provide and maintain infrastructure necessary to ensure the safety of the public.

Goal 4: Provide outstanding public service

b: Provide facilities and services to meet customer expectations.

6. DISCUSSION AND BACKGROUND

The Public Works Department Water Division purchases many different types of materials and supplies such as copper tubing, brass fittings, hydrants, couplings, saddles, valves, meter boxes, lids, etc. for its daily maintenance operations. These items are needed for the successful repair, installation, and maintenance of the City's water infrastructure. The Water Division uses the informal bid process to purchase the required materials by requesting all participating vendors to provide pricing for each individual item needed. There is no, one specific vendor that continually provides the lowest price for all items; therefore, the Public Works Water Division purchases material from the vendors that offer the lowest price for that particular item.

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The Public Works Water Division continues to monitor and seek out vendors with the lowest prices to ensure the City is getting the best value available.

7. ATTACHMENTS

- None



Agenda Item

City Council

Item #: 3.27.

7/13/2021

File #: 21-0377

TO: Honorable Mayor and Members of the City Council

THRU: Rick Otto, City Manager

FROM: Sean deMetropolis, Fire Chief

1. SUBJECT

Authorize purchase of one hundred twenty Bendix King handheld VHF radios and twenty one Bendix King mobile VHF radios from Cross Connections Mobile Communications.

2. SUMMARY

The Fire Department is seeking the purchase of one hundred twenty digital P25 compliant Bendix King handheld VHF radios and twenty-one Bendix King mobile VHF radios, to replace aging analog equipment. VHF radios are key to local, regional, and statewide mutual aid response communications and allow us to operate on emergency incidents with both Cal Fire and the United States Forest Service.

3. RECOMMENDED ACTION

Approve the purchase of one hundred twenty Bendix King handheld VHF radios and twenty one Bendix King mobile VHF radios in an amount not to exceed \$300,000, from Cross Connections Mobile Connections, through National Association of State Procurement Officials (NASPO) Contract 06913.

4. FISCAL IMPACT

The total expenditure for this purchase is \$300,000 and will be funded in Bendix King Radio Replacement (20474) through Capital Projects (500).

5. STRATEGIC PLAN GOALS

Goal 1: Provide for a safe community

a: Provide staffing and resources to deliver services that ensure public safety.

6. DISCUSSION AND BACKGROUND

The Fire Department has used the Bendix King VHF radios for over 18 years. Bendix King radios are approved on the National Interagency Incident Communications Division (NIICC) list for VHF Fire Radios, UHF Fire Radios, or Cooperator Radios. VHF radios are key to local, regional, and statewide mutual aid response communications. The Bendix King VHF single band radios are the only ones that are supported on State and Federal incident team run incidents. These radios allow us to operate on emergency incidents with both Cal Fire and the United States Forest Service. VHF radios also provide redundancy to agency communications should a large-scale failure of the

communications system occur within the countywide 800MHz network.

Our current inventory of Bendix King analog radios are being phased out in favor of the upgraded digital P25 compliant models. The new digital models are both clonable and field programmable. The analog models are forecast to not be supported for parts and repair within the next two to five years. The life expectancy of BK radios is fifteen to eighteen years. Our current inventory of BK radios were purchased approximately 18 years ago.

The following three companies were asked to provide quotes for these radios: 49er Communications, Silverado Avionics, Inc., and Cross Connections Mobile Communications. Cross Connections Mobile Communications provided the most cost-effective purchase price, due to the fact that they were able to provide pricing through the NASPO Valupoint contract.

7. ATTACHMENTS

- Quotes from Cross Connections Mobile Communications reflecting National Association of State Procurement Officials (NASPO) Valupoint pricing
- NASPO Contract 06913 Price List
- State of California Participating Addendum Number 7-16-58-15



Agenda Item

City Council

Item #: 3.27.

7/13/2021

File #: 21-0377

TO: Honorable Mayor and Members of the City Council

THRU: Rick Otto, City Manager

FROM: Sean deMetropolis, Fire Chief

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- NASPO Contract 06913 Price List
- State of California Participating Addendum Number 7-16-58-15



35860 Pauba Road, Temecula, CA. 92592
 951-764-4022 office; 951-302-0145 fax
www.cross-connections.net
 State of California Small Business
 Certification #54962

NASPO Quote*****NASPO Quote

NASPO Contract # 7-16-58-15

Account #	Date	Quote #
Card Ending	May 3, 2021	2020-10-6- City of Orange

Quote is good for 90 Days

Bill To:	Ship To:
City of Orange FD Attn: Jeremy Billeaudeaux 300 East Chapman Ave Orange, CA 92866 jbilleaudeaux@cityoforange.org 714-335-5377	City of Orange FD Attn: Jeremy Billeaudeaux 176 S. Grand St Orange, CA 92866 jbilleaudeaux@cityoforange.org 714-335-5377

Terms	Due Date	PO #	Sales Rep.	Partner Co.
Total Due	Date of Order		J. Cross	BK Technologies

Item	Qty	Part #	Description	Unit Price	Amount
1	120	KNG2-P150CMD	136-174 MHz, 5000 channels, 6 Watt, P25 Digital/Analog Portable Blue tooth/GPS capable Specialized Command Groups.	1,348.20	\$161,784.00
2	120	KAA0818	Antenna, VHF, 150-170MHz, SMA, KNG-P150	32.50	\$ 3,900.00



3	120	KAA0101	Li-Ion Battery, 3600 mAh	146.25	\$ 17,550.00
4	120	KAA0120	"AA" Clam Shell Battery Case Orange	42.25	\$ 5,070.00
5	120	KAA0204-E35	Microphone, Speaker, Emergency Button, W3.5mm jack, KNG-P	104.00	\$ 12,480.00
6	120	KAA0355P	Charger, Vehicle	100.75	\$ 12,090.00
			Sub Total		\$212,874.00
			Orange County Sales Tax 7.75%		\$ 16,497.74
			Shipping*		TBD
			TOTAL*		\$229,371.74

Thank you, Jeremy for the opportunity to earn your business. As a Small Business we are very grateful. Under the NASPO agreement the shipping is free.

Signed Jeremy Cross Date May 3, 2021
 Jeremy Cross



35860 Pauba Road, Temecula, CA. 92592
 951-764-4022 office; 951-302-0145 fax
www.cross-connections.net
 State of California Small Business
 Certification #54962

NASPO Quote*****NASPO Quote

NASPO Contract # 7-16-58-15

Account #	Date	Quote #
Card Ending	May 3, 2021	2020-11-3- City of Orange

Quote is good for 90 Days

Bill To:	Ship To:
City of Orange FD Attn: Jeremy Billeaudeaux 300 East Chapman Ave Orange, CA 92866 jbilleaudeaux@cityoforange.org 714-335-5377	City of Orange FD Attn: Jeremy Billeaudeaux 176 S. Grand St Orange, CA 92866 jbilleaudeaux@cityoforange.org 714-335-5377

Terms	Due Date	PO #	Sales Rep.	Partner Co.
Total Due	Date of Order		J. Cross	BK Technologies

Item	Qty	Part #	Description	Unit Price	Amount
1	21	KNG-M150-R	136-174 MHz, Digital/Analog, P25, 5000 channels, 50 Watts Remote Mount. Units come with Installation Kit (KAA0630) & External Speaker (KAA0261)	1,718.92	\$36,097.32
2	21	KAA0660	Remote Control Head Plug & Play KNG-Mxxx (Comes with KAA0638 Install Kit)	879.00	\$18,459.00



3	21	KAA0636	Cable Assy Remote Mount 17' KNG-MxxxR	120.17	\$ 2,523.57
4	21	KAA0290	Handheld Programming Microphone, Right-angle Connector	282.16	\$ 5,925.36
5	21	NMO-NTYPE	Fixed Antenna Mount NMO w/ Type N Connector	33.40	\$ 701.40
6	21	B1360WS	136-174 Mhz Wideband, No Tune Mobile Antenna w/ Spring	70.08	\$ 1,471.68
			Sub Total		\$65,178.33
			Orange County Sales Tax 7.75%		\$ 5,051.32
			Shipping*		TBD
			TOTAL*		\$70,229.65

Thank you, Jeremy for the opportunity to earn your business. As a Small Business we are very grateful. Under the NASPO agreement the shipping is free.

Signed Jeremy Cross
Jeremy Cross

Date May 3, 2021



NASPO Contract 06913
Price List

March 10, 2021

35% off list

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www.bktechnologies.com

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Factory Service
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Service@bktechnologies.com

Accounts Receivable
acctsreceivable@bktechnologies.com

Customer Service
Phone (800) 422-6281
Care@bktechnologies.com

BK Technologies, Inc. Warranty Information

STANDARD LIMITED WARRANTY

BK Technologies ("Warrantor") warrants to the Purchaser of new radio equipment of the Warrantor's manufacture that such equipment shall be free from material defects in material and workmanship for the period commencing upon the date of purchase and continuing for the following specified period of time after that date:

Basic Unit (Radio)	2 years
Battery	1 year
Antenna	1 year
Other Accessories	1 year

Extended warranty options on the basic unit (radio) are provided below. There is NO extended warranty offered on the repeater, antenna, battery and all other accessories. Equipment and accessory items not manufactured by the Warrantor carry the standard warranty of the manufacturer thereof and are not covered by this warranty. FOR THE AVOIDANCE OF DOUBT, WARRANTOR MAKES NO REPRESENTATIONS OR WARRANTIES WITH RESPECT TO ANY THIRD PARTY PRODUCT, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY, WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, WARRANTY OF TITLE, OR WARRANTY AGAINST INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY, WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE.

This warranty does not cover equipment which has been: (a) damaged or not maintained as reasonable or necessary, (b) modified in any way, including the removal of the serial tag, (c) improperly installed, (d) repaired by someone other than the Warrantor or an Authorized Warranty Repair Station, (e) used in a manner or purpose for which the equipment was not intended, or (f) used with aftermarket (any accessory that is not issued/sold by Warrantor) accessories. Subject to compliance with the terms of this warranty, with respect to the applicable equipment during the applicable warranty period, Warrantor shall, in its sole discretion, repair or replace the applicable equipment.

IN NO EVENT WILL WARRANTOR BE LIABLE TO THE PURCHASER OR ANY THIRD PARTY FOR ANY LOSS OF USE, REVENUE OR PROFIT OR LOSS OF DATA OR DIMINUTION IN VALUE, OR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES WHETHER ARISING OUT OF BREACH CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE AND WHETHER OR NOT WARRANTOR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.

To obtain warranty repair or replacement, the customer must return the equipment properly packaged and freight prepaid to the Warrantor or any Authorized Warranty Repair Station. The equipment will be returned freight prepaid from the Warrantor only.

EXCEPT FOR THE WARRANTY SET FORTH IN THE FIRST PARAGRAPH ABOVE, WARRANTOR MAKES NO WARRANTY WHATSOEVER WITH RESPECT TO THE EQUIPMENT, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY, WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, WARRANTY OF TITLE, OR WARRANTY AGAINST INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY, WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE. No person, whether in the employment of the Warrantor or not, is authorized to make oral or other modifications, extensions, or additions to this warranty, unless approved in writing by an authorized officer of the Warrantor at its home office.

The liability of the Warrantor is expressly limited to the repair or replacement of the equipment as described herein. SUCH REMEDY WILL BE THE PURCHASER'S SOLE AND EXCLUSIVE REMEDY AND WARRANTOR'S ENTIRE LIABILITY FOR ANY BREACH OF THIS LIMITED WARRANTY. Warrantor shall not be liable to the Purchaser and the Purchaser shall, upon his tender of the purchase price for the equipment, agree that the Warrantor shall not be liable, in any respect, for the equipment or damages caused thereby, except as prescribed herein, whether such liability is predicated upon negligence, tort, contract or other product liability theory.

BK Technologies, Inc. Warranty Information Continued

BK Technologies EXTENDED WARRANTY* on Portables, Mobiles and Base Stations

KNG Series:

2 PLUS 1 PROGRAM	
Extends standard 2 year warranty to 3 years total	
LFW0012	\$179.00
2 PLUS 2 PROGRAM	
Extends standard 2 year warranty to 4 years total	
LFW0024	\$229.00
2 PLUS 3 PROGRAM	
Extends standard 2 year warranty to 5 years total	
LFW0036	\$279.00

BKR Series:

Extends standard 2 year warranty to 3 years total	
BKW0012	\$299.00
2 PLUS 3 PROGRAM	
Extends standard 2 year warranty to 5 years total	
BFW0036	\$499.00

*EXTENDED WARRANTY (not offered on repeaters, antennas, batteries and all other accessories; certain restrictions may apply on international warranties)

All repairs must be performed by an authorized BK Technologies service center during the life of the warranty. Except for duration and factory-only repair, extended warranties are identical to our standard 2 year warranty. Factory extended warranties cover all BK Technologies portables, mobiles and base stations and must be purchased at point of sale.



Digital Portable Radios

BK Technologies, Inc. BKR-P Series

Product Name	Product Description	List Price	Discount %	35% NASPO Price	Effective date
BKR5000-T1	BKR 5000 Base Radio Unit Model I Top Display Only, No Keypad. Includes one base frequency, GPS, Black Housing, Belt Clip.	\$ 2,420.50	35%	\$ 1,573.33	12/23/2020
BKR5000-T2	BKR 5000 Base Radio Unit Model II Top Display & Front Display, Nav Keypad. Includes one base frequency, GPS, Black Housing, Belt Clip.	\$ 2,626.50	35%	\$ 1,707.23	12/23/2020
BKR5000-T3	BKR 5000 Base Radio Unit Model III Top Display & Front Display, Full Keypad. Includes one base frequency, GPS, Black Housing, Belt Clip.	\$ 2,729.50	35%	\$ 1,774.18	12/23/2020
Antennas					
BKR0810GPS	Antenna, GPS, VHF, 136-174MHz,BKR-P Series	\$ 79.31	35%	\$ 51.55	12/23/2020
Batteries					
BKR0101	Battery Pack, Li-Ion 4900 mAh, Smart, BKR-P Series	\$ 229.00	35%	\$ 148.85	12/23/2020
BKR0120	Battery,Clamshell,12 cell, Orange Case	\$ 146.49	35%	\$ 95.22	12/23/2020
Chargers					
BKR0300	Charger, Smart, Desk Top, Single Bay, BKR	\$ 195.70	35%	\$ 127.21	12/23/2020
Carrying Accessories					
BKR0400	Belt Clip Replacement - (Included with portable), BKR-P Series	\$ 25.75	35%	\$ 16.74	12/23/2020
BKR0421	Case,Leather,w/Belt Loop & D Swivel Kit, BKR-P Series	\$ 103.00	35%	\$ 66.95	12/23/2020
Extended Warranty					
BFW0012	Extend warranty to 3 years (Radio Only), BKR-P Series	\$ 299.00	0%	\$ 299.00	
BFW0036	Extend warranty to 5 years (Radio Only), BKR-P Series	\$ 499.00	0%	\$ 499.00	
Options					
BKR0040	Kit,Knob,Portable,Ch.Sei. & Vol,BKR-P Series(qty. of 10)	\$ 103.00	35%	\$ 66.95	12/23/2020
BKR0048	Cover,Accessory,Connector,BKR-P Series	\$ 10.30	35%	\$ 6.70	12/23/2020
BKR0570	OTAR (Trunking & Conventional),BKR-P Series	\$ 499.55	35%	\$ 324.71	12/23/2020
BKR0574	DES & AES FIPS140-2 Level 2 Encryption w/"tamper proof",BKR-P Series	\$ 478.95	35%	\$ 311.32	12/23/2020
BKR0579	P25 FDMA Trunking,BKR-P Series	\$ -	35%	\$ -	
BKR0581	Multi -Cast Vote Scan Plus,BKR-P Series	\$ 92.70	35%	\$ 60.26	12/23/2020
BKR0582	OTAP, Trunking,BKR-P Series	\$ 206.00	35%	\$ 133.90	12/23/2020
BKR0587A	Cable, Key Encryption to KVL3000/4000, BKR-P Series	\$ 592.25	35%	\$ 384.96	12/23/2020
BKR0593	P25 TDMA Trunking (Requires BKR0579 - P25 FDMA),BKR-P Series	\$ 1,019.70	35%	\$ 662.81	12/23/2020
Programming Accessories					
BKR0608	Cable kit, Service, BKR-P Series, BKR-P Series	\$ 496.46	35%	\$ 322.70	12/23/2020
BKR0700	Cable,Cloning, BKR-P Series	\$ 255.00	35%	\$ 165.75	12/23/2020
BKR0701	Cable,Cloning,Legacy,Portable & Mobile	\$ 230.00	35%	\$ 149.50	12/23/2020
BKR0710	Cable,Programming,USB, BKR-P Series	\$ 128.75	35%	\$ 83.69	12/23/2020
BKR0733	Software,RES, BKR-P Series	\$ 154.50	35%	\$ 100.43	3/10/2021
BKR0740	Factory Install, Advance Security Key Token, USB, BKR-P Series	\$ 256.47	35%	\$ 166.71	12/23/2020
BKR0903	Factory Programming, BKR-P Series	\$ 77.25	35%	\$ 50.21	12/23/2020
BKR5780	Radio Authentication,BKR-P Series	\$ 128.75	35%	\$ 83.69	12/23/2020
BKR-ASK-CK	Flash Drive, Child Key Used with BKR0733,BKR-P Series	\$ 43.26	35%	\$ 28.12	12/23/2020
BKR-BFV	Option,Base,Freq,VHF,136-174 MHz,5000 channels,6 Watt,No Charge,BKR-P Series	\$ -	35%	\$ -	
BKR-CMD	Option,Continuous Rotation Channel Select Knob, BKR-P Series	\$ -	35%	\$ -	
BKR-YELLOW	Option,Yellow Radio Housing, BKR-P Series	\$ 77.25	35%	\$ 50.21	12/23/2020
Speakers and Microphones					
BKR0203	Microphone, Speaker, w/3.5mm, IP68 Submersible, Emergency Button, BKR-P Series	\$ 323.42	35%	\$ 210.22	12/23/2020
BKR0206	Microphone, Speaker, Fire Mic, BKR-P Series, with Emergency Button	\$ 614.00	35%	\$ 399.10	12/23/2020



KNG2 Series P25 Digital Portables

Product Name	Product Description	List Price	Discount %	35% NASPO Price	Effective date
KNG2-P150	136-174 MHz, 5000 channels, 6 Watt, P25 Digital/Analog Portable Blue tooth/GPS capable	\$ 3,084.85	35%	\$ 2,005.15	12/23/2020
KNG2-P150CMD	136-174 MHz, 5000 channels, 6 Watt, P25 Digital/Analog Portable Blue tooth/GPS capable	\$ 3,084.85	35%	\$ 2,005.15	12/23/2020
	Specialized Command Groups				
KNG2-P150T2	136-174 MHz, 5000 channels, 6 Watt, P25 Digital/Analog Portable Blue tooth/GPS capable	\$ 3,084.85	35%	\$ 2,005.15	12/23/2020
	without Keypad				
KNG2-P400	380-470 MHz, 5000 channels, 5 Watt P25 Digital/Analog Portable Blue tooth/GPS capable	\$ 3,084.85	35%	\$ 2,005.15	12/23/2020
KNG2-P400CMD	380-470 MHz, 5000 channels, 5 Watt, P25 Digital/Analog Portable Blue tooth/GPS capable	\$ 3,084.85	35%	\$ 2,005.15	12/23/2020
	Specialized Command Groups				
KNG2-P400T2	380-470 MHz, 5000 channels, 5 Watt, P25 Digital/Analog Portable Blue tooth/GPS capable	\$ 3,084.85	35%	\$ 2,005.15	12/23/2020
	without Keypad				
KNG2-P500	440-520 MHz, 5000 channels, 5 Watt P25 Digital/Analog Portable Blue tooth/GPS capable	\$ 3,084.85	35%	\$ 2,005.15	12/23/2020
KNG2-P800	763-870 MHz, 5000 channels, 3 Watt P25 Digital/Analog Portable Blue tooth/GPS capable	\$ 3,084.85	35%	\$ 2,005.15	12/23/2020
KNG2-P800T2	763-870 MHz, 5000 channels, 3 Watt, P25 Digital/Analog Portable Blue tooth/GPS capable	\$ 3,084.85	35%	\$ 2,005.15	12/23/2020
	without Keypad				

Prices for radio and KAA0400 belt clip only. Battery, Antenna and other accessories sold separately

GPH, DPH and KNG Portables Call Sales Representative for Trade-in allowance and Process



KNG2-Pxxx
Antenna sold separately

KNG2 Series P25 Digital Portable Accessories

Product Name	Product Description	List Price	Discount %	35% NASPO Price	Effective date
Antennas					
KAA0810G2	Antenna, VHF, 136-174MHz, SMA, KNG-P150	\$ 30.90	35%	\$ 20.09	12/23/2020
KAA0811C	Antenna, VHF, 162-174MHz, SMA, KNG-P, Stubby	\$ 30.90	35%	\$ 20.09	12/23/2020
KAA0813	Antenna, Portable, VHF, 144-174MHz, KNG-P	\$ 46.35	35%	\$ 30.13	12/23/2020
KAA0815	UHF, SMA (380-470 MHz) Antenna	\$ 25.75	35%	\$ 16.74	12/23/2020
KAA0816	UHF, SMA (440-520 MHz) Antenna	\$ 25.75	35%	\$ 16.74	12/23/2020
KAA0818	Antenna, VHF, 150-170MHz, SMA, KNG-P150, Whip	\$ 51.50	35%	\$ 33.48	12/23/2020
KAA0825	800, SMA (764-870 MHz) Antenna	\$ 33.99	35%	\$ 22.09	12/23/2020
KAA0833	760-870 MHz, 1/4 Wave Stubby KNG-P800	\$ 41.92	35%	\$ 27.25	12/23/2020
MAGMT-SMA	Antenna Mag Mount SMA Male 17' Cable	\$ 102.67	35%	\$ 66.74	12/23/2020
Batteries					
KAA0101	Li-Ion-Ion Battery 3450 mAh	\$ 163.00	35%	\$ 105.95	12/23/2020
KAA0103	Battery Pack, Li-Ion, 2300mAh, Intelligent	\$ 169.95	35%	\$ 110.47	12/23/2020
KAA0103E	Battery Pack, Li-Ion, 2300mAh, Intelli, RCP	\$ 171.00	35%	\$ 111.15	12/23/2020
KAA0120	"AA" Clam Shell Battery Case Orange	\$ 66.95	35%	\$ 43.52	12/23/2020
Carrying Accessories					
KAA0400	Belt Clip "Included with portable KNG Series or purchase as replacement"	\$ 25.75	35%	\$ 16.74	12/23/2020
KAA0402	Belt Clip 2.5" W/ Snap, KAA0422	\$ 20.60	35%	\$ 13.39	12/23/2020
KAA0413	Strap, Leather, Shoulder, BLK, HD	\$ 61.80	35%	\$ 40.17	12/23/2020
KAA0413T	Strap, Leather, Tether, BLK used W/ KAA0413	\$ 20.60	35%	\$ 13.39	12/23/2020
KAA0415	Leather Case, Cover, Belt Loop Black	\$ 53.56	35%	\$ 34.81	12/23/2020
KAA0415CF	Case, Leather, Large, Belt-loop, Open Key, Black	\$ 46.35	35%	\$ 30.13	12/23/2020
KAA0421	Leather Case with Belt Loop & D Swivel Kit	\$ 77.25	35%	\$ 50.21	12/23/2020
KAA0422C	Leather Case "Cordovan Color"	\$ 77.25	35%	\$ 50.21	12/23/2020
KAA0422E	Case, Leather, Clamshell, Rugged, KNG2-P radio	\$ 66.95	35%	\$ 43.52	12/23/2020
KAA0447	Chest Carrying Pack Orange	\$ 67.98	35%	\$ 44.19	12/23/2020
KAA0447A	Chest Carrying Pack Black	\$ 67.98	35%	\$ 44.19	12/23/2020
KAA0448	Chest Harness, Black, KNG/DPH	\$ 97.85	35%	\$ 63.60	12/23/2020
KAA0450T	Case Nylon Holster w/ Belt Loop Tan	\$ 40.17	35%	\$ 26.11	12/23/2020
KAA0451B	Case Nylon Full Case W/ Belt Clip Black	\$ 41.20	35%	\$ 26.78	12/23/2020
KAA0455	KNG Carrying Case Nylon Camouflage (KAA0100 Only)	\$ 40.12	35%	\$ 26.08	12/23/2020
LAA0413	Strap, Leather, Shoulder " Can be used with KAA0415 & KAA0415CF"	\$ 15.45	35%	\$ 10.04	12/23/2020
RDRCC	12 Cavity Carrying Case	\$ 1,001.16	35%	\$ 650.75	12/23/2020
Chargers					
KAA0300P	Charger, Desktop Single KNG-Pxxx	\$ 103.00	35%	\$ 66.95	12/23/2020
KAA0301P	Charger, Desktop 6 Bay KNG-Pxxx	\$ 801.34	35%	\$ 520.87	12/23/2020
KAA0303-1	Charger, Desk Top, 1 Bay, KNG, Intelligent, Conditioning	\$ 133.00	35%	\$ 86.45	12/23/2020
KAA0303-6	Charger, Desk Top, 6-Bay, KNG, Intelligent, Conditioning	\$ 834.30	35%	\$ 542.30	12/23/2020
KAA0355P	Charger, Vehicle KNG-Pxxx	\$ 159.65	35%	\$ 103.77	12/23/2020
KAA0601P	Mounting Bracket, Vehicle, for KAA0301P	\$ 82.40	35%	\$ 53.56	12/23/2020
KAA0602P	Cable Kit, 10ft. Hard Wire, fused for KAA0301P	\$ 41.20	35%	\$ 26.78	12/23/2020
Options					
KAA0560	Option Bluetooth, KNG2-Pxxx	\$ 103.00	35%	\$ 66.95	12/23/2020
KAA0561	Option, GPS, KNG2-Pxxx	\$ 257.50	35%	\$ 167.38	12/23/2020
KAA0582	Option, OTAP, Trunking, KNG-Pxxx "Must have KZA0579"	\$ 204.97	35%	\$ 133.23	12/23/2020
KAA0570	OTAR (Trunking & Conventional) 2048 Channel Portables "Must have KZA0579"	\$ 499.55	35%	\$ 324.71	12/23/2020
KAA0574	Field Instl, DES & AES FIPS140-2 Lev 2 Encrypt, KNG2	\$ 478.95	35%	\$ 311.32	12/23/2020
KAA0579	P25 9600 Baud Trunking 5000 Channel Portables	\$ 679.80	35%	\$ 441.87	12/23/2020
KAA0593	Option, TDMA, KNG-Pxxx	\$ 257.50	35%	\$ 167.38	12/23/2020
KAA0595	Option, radio Authentication, KNG-P "Must have KZA0577"	\$ 128.75	35%	\$ 83.69	12/23/2020
KZA0541	Factory Conversion Trunking KNG-PxxxS to KNG-PxxxCMD KAA0579 or KZA0579 required	\$ 618.00	35%	\$ 401.70	12/23/2020
KZA0560	Factory Install Option Bluetooth, KNG2-Pxxx	\$ 103.00	35%	\$ 66.95	12/23/2020
KZA0561	Factory , GPS, KNG2-Pxxx	\$ 257.50	35%	\$ 167.38	12/23/2020
KZA0570	Factory Install OTAR Trunking & Conventional 2048 Channel Portables "Must have KZA0577"	\$ 499.55	35%	\$ 324.71	12/23/2020
KZA0574	Factory Install, DES & AES FIPS140-2 Level 2 Encryption KNG2 "Only"	\$ 478.95	35%	\$ 311.32	12/23/2020
KZA0579	Factory Install P25 9600 Baud Trunking	\$ 679.80	35%	\$ 441.87	12/23/2020
KZA0581	Factory Install Multi -Cast Vote Scan Plus	\$ 92.70	35%	\$ 60.26	12/23/2020
KZA0582	Factory Install, OTAP, Trunking, KNG-Pxxx "Must have KZA0579"	\$ 204.97	35%	\$ 133.23	12/23/2020
KZA0584	Factory Install, Wireless Tactical Over the Air Rekeying Includes KZA0578 KNG-PS Series	\$ 499.55	35%	\$ 324.71	12/23/2020
KZA0593	Factory Install, TDMA, KNG-Pxxx	\$ 257.50	35%	\$ 167.38	12/23/2020
KZA0595	Factory Install, Site Authentication KNG-Pxxx "Must have KZA0577 & KZA0579"	\$ 128.75	35%	\$ 83.69	12/23/2020
ASK-CK	Flash Drive, Child Key Used with KAA0735	\$ 43.26	35%	\$ 28.12	12/23/2020
KAA0587A	Cable Key Encryption KNG to KVL3000/4000 KNG2-Pxxx & KNG-Mxxx	\$ 592.25	35%	\$ 384.96	12/23/2020
KAA0700	Cloning Cable KNG-P to KNG2-P	\$ 283.25	35%	\$ 184.11	12/23/2020
KAA0701	Legacy / KNG Cloning Cable Portable & Mobile D/G Series, KNG2P to KNGM	\$ 566.50	35%	\$ 368.23	12/23/2020
KAA0705	Cable, Authentication key Loader, KNG	\$ 267.80	35%	\$ 174.07	12/23/2020
KAA0710	KNG Programming Cable USB	\$ 128.75	35%	\$ 83.69	12/23/2020
KAA0733-5.5.9	Software, RES vision, KNG-Pxxx/KNG2-Pxxx W/ Trunking	\$ 154.50	35%	\$ 100.43	12/23/2020
KZA0735	Factory Install, Advance Security Key Token, USB	\$ 256.47	35%	\$ 166.71	12/23/2020
KZA0903	Factory Programming	\$ 77.25	35%	\$ 50.21	12/23/2020

Product Name	Product Description	List Price	Discount %	35% NASPO Price	Effective date
Speakers and Microphones					
KAA0044	Kit, Side Connector, Cover, KNG/KNG2 Portable	\$ 29.87	35%	\$ 19.42	12/23/2020
KAA0203EA	Speaker/ Mic/ w/Emergency Button/ Ant port	\$ 365.65	35%	\$ 237.67	12/23/2020
KAA0203EA-KIT	Kit, KAA0203EA, KAA0811C, KAA0221-203	\$ 442.90	35%	\$ 287.89	12/23/2020
KAA0204-35	Speaker Microphone, 3.5mm audio jack IP68 submersible use with KAA0221 or KAA0221EH	\$ 190.55	35%	\$ 123.86	12/23/2020
KAA0204-E35	Microphone, Speaker, Emergency Button, W3.5mm jack, KNG-P	\$ 165.00	35%	\$ 107.25	12/23/2020
KAA0204-VCE35	Microphone Speaker Volume Control, Emergency Button, w/ 3.5mm Jack	\$ 231.75	35%	\$ 150.64	12/23/2020
KAA0206	Microphone, Speaker , Fire Mic, KNG-P	\$ 757.00	35%	\$ 492.05	12/23/2020
KAA0210NC	Speaker Microphone Cancelling 3.5mm KNG P Series	\$ 231.75	35%	\$ 150.64	12/23/2020
KAA0210NC-K	Speaker Microphone Cancelling 3.5mm KNG P Series W/Adaptor Kit	\$ 231.75	35%	\$ 150.64	12/23/2020
KAA0214	Side Connector KNG to Hirose "Need for KAA0228"	\$ 76.63	35%	\$ 49.81	12/23/2020
KAA0220	Earphone Listen Only 2.5 mm Black Loop "Used with KAA0200"	\$ 16.43	35%	\$ 10.68	12/23/2020
KAA0220EH	Earphone Listen Only 2.5 mm Black Loop (Ear Hugger Style)	\$ 63.52	35%	\$ 41.29	12/23/2020
KAA0221	Earphone Listen Only 3.5 mm Black Ear Loop	\$ 77.25	35%	\$ 50.21	12/23/2020
KAA0221-203	Earphone , Listen Only, 3.5mm, Ear loop For KAA0203E, 203E-GPS, 203EA only	\$ 46.35	35%	\$ 30.13	12/23/2020
KAA0221EH	Earphone Listen Only 3.5 mm Black Loop (Ear Hugger Style)	\$ 63.52	35%	\$ 41.29	12/23/2020
KAA0221OTE	Earphone, Listen Only, 3.5mm, Over-the Ear	\$ 30.90	35%	\$ 20.09	12/23/2020
KAA0222EH	Earphone, Listen Only, 3.5mm, Ear Hugger	\$ 41.20	35%	\$ 26.78	12/23/2020
KAA0222OE	Earphone Kit, Over Ear, KNG-P teem , 0783B2	\$ 77.25	35%	\$ 50.21	12/23/2020
KAA0223	Headset, Heavy Duty Boom microphone, KNG-P	\$ 638.60	35%	\$ 415.09	12/23/2020
KAA0225	Two Wire Speaker Microphone	\$ 259.56	35%	\$ 168.71	12/23/2020
KAA0226	Three Wire Speaker Microphone " Requires One of these KAA0226B,KAA0226F,KAA0 226R"	\$ 278.10	35%	\$ 180.77	12/23/2020
KAA0226A	Acoustic Tube w/ clear Ear Tip (Replacement)	\$ 53.56	35%	\$ 34.81	12/23/2020
KAA0226AT	Acoustic Tube with Ear Bud,07821T	\$ 10.30	35%	\$ 6.70	12/23/2020
KAA0226B	Barrel PTT Button LP	\$ 51.50	35%	\$ 33.48	12/23/2020
KAA0226EB	Ear Bud, Standard Kit, 07821B	\$ 3.61	35%	\$ 2.34	12/23/2020
KAA0226EL	Large Flexible Ear Insert (Replacement)	\$ 28.33	35%	\$ 18.41	12/23/2020
KAA0226EM	Medium Flexible Ear Insert (Replacement)	\$ 28.33	35%	\$ 18.41	12/23/2020
KAA0226ES	Small Flexible Ear Insert (Replacement)	\$ 28.33	35%	\$ 18.41	12/23/2020
KAA0226ET	Ear Tip Flexible Ear Insert	\$ 20.60	35%	\$ 13.39	12/23/2020
KAA0226F	Flat PTT Button LP	\$ 82.40	35%	\$ 53.56	12/23/2020
KAA0226EI	Acoustic Tube with Ear Insert	\$ 46.35	35%	\$ 30.13	12/23/2020
KAA0228	Heavy Duty Behind the Headset Heavy Duty, Boom Microphone, KNG-P	\$ 993.95	35%	\$ 646.07	12/23/2020
KAA0235	Adaptor, 2.5 to 3.5mm audio jack, used with KAA0205NC-25	\$ 25.75	35%	\$ 16.74	12/23/2020
Service					
KAA0005	Service Manual KNG2-PXXX	\$ 128.75	35%	\$ 83.69	12/23/2020
KAA0005CD	Service Manual KNG2-PXXX CD	\$ 20.60	35%	\$ 13.39	12/23/2020
KAA0040	Kit, Knob, Portable, Channel Select & Volume, KNG-P	\$ 6.55	35%	\$ 4.26	12/23/2020
KAA0043	Kit, Battery Latch & Spring KNG-Pxxx	\$ 6.18	35%	\$ 4.02	12/23/2020
KAA0111	Battery Eliminator, KNG-P Series	\$ 72.92	35%	\$ 47.40	12/23/2020
KAA0608	Cable Kit, Service, KNG-Pxxx	\$ 489.25	35%	\$ 318.01	12/23/2020
KAA0608A	Cable Kit, service, Aeroflex, KNG-P	\$ 489.25	35%	\$ 318.01	12/23/2020
KAA0648	Cable , Coiled, Molded, KAA0200, KNG-P (Replacement cable)	\$ 139.05	35%	\$ 90.38	12/23/2020
KAA0649	Cable, Strd, Molded, Unterminated, KNG-P	\$ 139.05	35%	\$ 90.38	12/23/2020
Extended Warranty					
LFW0012	Extend warranty to 3 years (Radio Only)	\$ 179.00	0%	\$ 179.00	
LFW0024	Extend warranty to 4 years (Radio Only)	\$ 229.00	0%	\$ 229.00	
LFW0036	Extend warranty to 5 years (Radio Only)	\$ 279.00	0%	\$ 279.00	

KNG Series P25 Digital Portable Accessories

Product Name	Product Description	List Price	Discount %	35% NASPO Price	Effective date
Antennas					
KA00801	Adaptor,Ant,SMA-male to UHF-fem,12in.	\$ 72.10	35%	\$ 46.87	12/23/2020
KA00810G2	Antenna, VHF, 136-174MHz, SMA, KNG-P150	\$ 30.90	35%	\$ 20.09	12/23/2020
KA00811C	Antenna, VHF, 162-174MHz, SMA, KNG-P, Stubby	\$ 30.90	35%	\$ 20.09	12/23/2020
KA00813	Antenna, Portable, VHF, 144-174MHz, KNG-P	\$ 46.35	35%	\$ 30.13	12/23/2020
KA00815	UHF, SMA (380-470 MHz) Antenna	\$ 25.75	35%	\$ 16.74	12/23/2020
KA00816	UHF, SMA (440-520 MHz) Antenna	\$ 25.75	35%	\$ 16.74	12/23/2020
KA00817	Ant,UHF,380-420 MHz,SMA,Stubby,KNG-P400	\$ 36.82	35%	\$ 23.93	12/23/2020
KA00818	Antenna, VHF, 150-170MHz, SMA, KNG-P150, Whip	\$ 51.50	35%	\$ 33.48	12/23/2020
KA00825	800, SMA (764-870 MHz) Antenna	\$ 33.99	35%	\$ 22.09	12/23/2020
KA00833	760-870 MHz, 1/4 Wave Stubby KNG-P800	\$ 41.92	35%	\$ 27.25	12/23/2020
MAGMT-SMA	Antenna Mag Mount SMA Male 17' Cable	\$ 102.67	35%	\$ 66.74	12/23/2020
Batteries					
KA00101	Li-Ion-Ion Battery 3450 mAh	\$ 163.00	35%	\$ 105.95	12/23/2020
KA00101S	Battery Pack, Li-Ion, 3450 mAh, 10.8 V Intrinsically Safe (Used with KA00422 Case)	\$ 272.95	35%	\$ 177.42	12/23/2020
KA00103	Battery Pack, Li-Ion, 2300mAh, Intelligent	\$ 169.95	35%	\$ 110.47	12/23/2020
KA00103E	Battery Pack,Li-Ion,2300mAh,Intelli,RCP	\$ 171.00	35%	\$ 111.15	12/23/2020
KA00120	"AA" Clam Shell Battery Case Orange	\$ 66.95	35%	\$ 43.52	12/23/2020
Carrying Accessories					
KA00203-Clip	Belt Clip, KA00203, w/4 Screw, Benelec	\$ 20.10	35%	\$ 13.06	12/23/2020
KA00204-CLIP	Assembly, Lapel Clip, KA00204 Series	\$ 25.75	35%	\$ 16.74	12/23/2020
KA00400	Belt Clip "Included with portable KNG Series or purchase as replacement"	\$ 25.75	35%	\$ 16.74	12/23/2020
KA00402	Belt Clip 2.5" W/ Snap, KA00422	\$ 20.60	35%	\$ 13.39	12/23/2020
KA00413	Strap, Leather, Shoulder, BLK, HD	\$ 61.80	35%	\$ 40.17	12/23/2020
KA00413T	Strap, Leather, Tether, BLK used W/ KA00413	\$ 20.60	35%	\$ 13.39	12/23/2020
KA00415	Leather Case, Cover, Belt Loop Black	\$ 53.56	35%	\$ 34.81	12/23/2020
KA00415CF	Case, Leather, Large, Belt-loop, Open Key, Blk	\$ 46.35	35%	\$ 30.13	12/23/2020
KA00415CF2	Case,Leather,Large Belt-loop,Open Key,Blk,KNG-P/KNG2	\$ 46.35	35%	\$ 30.13	12/23/2020
KA00421	Leather Case with Belt Loop & D Swivel Kit	\$ 77.25	35%	\$ 50.21	12/23/2020
KA00422C	Leather Case "Cordovan Color"	\$ 77.25	35%	\$ 50.21	12/23/2020
KA00447	Chest Carrying Pack Orange	\$ 67.98	35%	\$ 44.19	12/23/2020
KA00447A	Chest Carrying Pack Black	\$ 67.98	35%	\$ 44.19	12/23/2020
KA00448	Chest Harness, Black, KNG/DPH	\$ 97.85	35%	\$ 63.60	12/23/2020
KA00450T	Case Nylon Holster w/ Belt Loop Tan	\$ 40.17	35%	\$ 26.11	12/23/2020
KA00451B	Case Nylon Full Case W/ Belt Clip Black	\$ 41.20	35%	\$ 26.78	12/23/2020
KA00455	KNG Carrying Case Nylon Camouflage (KA00100 Only)	\$ 40.12	35%	\$ 26.08	12/23/2020
LAA0413	Strap, Leather, Shoulder " Can be used with KA00415 & KA00415CF"	\$ 15.45	35%	\$ 10.04	12/23/2020
RDRCC	12 Cavity Carrying Case	\$ 1,001.16	35%	\$ 650.75	12/23/2020
Chargers					
KA00300P	Charger, Desktop Single KNG-Pxxx	\$ 103.00	35%	\$ 66.95	12/23/2020
KA00300P-PS	Power Supply, Wall Adapter, 15Vdc, for the KA00300P Desk Top Charger	\$ 32.96	35%	\$ 21.42	12/23/2020
KA00301P	Charger, Desktop 6 Bay KNG-Pxxx	\$ 801.34	35%	\$ 520.87	12/23/2020
KA00303-1	Charger, Desk Top, 1 Bay, KNG, Intelligent, Conditioning	\$ 133.00	35%	\$ 86.45	12/23/2020
KA00303-6	Charger, Desk Top, 6-Bay, KNG, Intelligent, Conditioning	\$ 834.30	35%	\$ 542.30	12/23/2020
KA00303-CUP	Charging Cup, KA00303-X	\$ 24.72	35%	\$ 16.07	12/23/2020
KA00355P	Charger, Vehicle KNG-Pxxx	\$ 159.65	35%	\$ 103.77	12/23/2020
KA00601P	Mounting Bracket, Vehicle, for KA00301P	\$ 82.40	35%	\$ 53.56	12/23/2020
KA00602P	Cable Kit, 10ft. Hard Wire, fused for KA00301P	\$ 41.20	35%	\$ 26.78	12/23/2020
Options					
KA00582	Option, OTAP, Trunking, KNG-Pxxx "Must have KZA00579"	\$ 204.97	35%	\$ 133.23	12/23/2020
KA00570	OTAR (Trunking & Conventional) 2048 Channel Portables "Must have KZA00579"	\$ 499.55	35%	\$ 324.71	12/23/2020
KA00579	P25 9600 Baud Trunking 5000 Channel Portables	\$ 679.80	35%	\$ 441.87	12/23/2020
KA00593	Option, TDMA, KNG-Pxxx	\$ 257.50	35%	\$ 167.38	12/23/2020
KA00595	Option, radio Authentication, KNG-P "Must have KZA00577"	\$ 128.75	35%	\$ 83.69	12/23/2020
KZA00541	Factory Conversion Trunking KNG-PxxxS to KNG-PxxxCMD KA00579 or KZA00579 required	\$ 618.00	35%	\$ 401.70	12/23/2020
KZA00558	Factory Install Intrinsically Safe, KNG-Pxxx only	\$ 180.25	35%	\$ 117.16	12/23/2020
KZA00570	Factory Install OTAR Trunking & Conventional 2048 Channel Portables "Must have KZA00577"	\$ 499.55	35%	\$ 324.71	12/23/2020
KZA00577	Factory Install DES / AES Encryption	\$ 296.64	35%	\$ 192.82	12/23/2020
KZA00579	Factory Install P25 9600 Baud Trunking	\$ 679.80	35%	\$ 441.87	12/23/2020
KZA00581	Factory Install Multi -Cast Vote Scan Plus	\$ 92.70	35%	\$ 60.26	12/23/2020
KZA00582	Factory Install, OTAP, Trunking, KNG-Pxxx "Must have KZA00579"	\$ 204.97	35%	\$ 133.23	12/23/2020
KZA00584	Factory Install, Wireless Tactical Over the Air Rekeying Includes KZA00578 KNG-PS Series	\$ 499.55	35%	\$ 324.71	12/23/2020
KZA00588	Factory Conversion to P25 Trunking KNG-PxxxS to KNG-Pxxx KA00579 or KZA00579 required	\$ 618.00	35%	\$ 401.70	12/23/2020
KZA00593	Factory Install, TDMA, KNG-Pxxx	\$ 257.50	35%	\$ 167.38	12/23/2020
KZA00595	Factory Install, Site Authentication KNG-Pxxx "Must have KZA00577 & KZA00579"	\$ 128.75	35%	\$ 83.69	12/23/2020
ASK-CK	Flash Drive, Child Key Used with KA00735	\$ 43.26	35%	\$ 28.12	12/23/2020
KA00587A	Cable Key Encryption KNG to KVL3000/4000 KNG-Pxxx & KNG-Mxxx	\$ 592.25	35%	\$ 384.96	12/23/2020
KA00700	Cloning Cable KNG-P to KNG-P	\$ 283.25	35%	\$ 184.11	12/23/2020
KA00701	Legacy / KNG Cloning Cable Portable & Mobile D/G Series, KNGP to KNGM	\$ 566.50	35%	\$ 368.23	12/23/2020
KA00701-8	Cable Assy, Cloning, and Legacy, KNG, 8ft	\$ 654.00	35%	\$ 425.10	12/23/2020

KNG Series P25 Digital Portable Accessories Continued

Product Name	Product Description	List Price	Discount %	35% NASPO Price	Effective date
Programming Accessories					
KAA0705	Cable, Authentication key Loader, KNG	\$ 267.80	35%	\$ 174.07	12/23/2020
KAA0710	KNG Programming Cable USB	\$ 128.75	35%	\$ 83.69	12/23/2020
KAA0733-5.5.0	Software, Radio Editor, KAA0733, ver. 5.5.0	\$ 154.50	35%	\$ 100.43	12/23/2020
KAA0733-5.5.4	Software, Radio Editor, KAA0733, ver. 5.5.4	\$ 154.50	35%	\$ 100.43	12/23/2020
KAA0733-5.5.5	Software, Radio Editor, KAA0733, ver. 5.5.5	\$ 154.50	35%	\$ 100.43	12/23/2020
KAA0733-5.5.8	Software, Radio Editor, KAA0733, ver. 5.5.8	\$ 154.50	35%	\$ 100.43	12/23/2020
KAA0733-5.6.0	Software, Radio Editor, KAA0733, ver. 5.6.0	\$ 154.50	35%	\$ 100.43	12/23/2020
KZA0735	Factory Install, Advance Security Key Token, USB	\$ 256.47	35%	\$ 166.71	12/23/2020
KZA0903	Factory Programming	\$ 77.25	35%	\$ 50.21	12/23/2020
Speakers and Microphones					
KAA0044	Kit, Side Connector, Cover, KNG/KNG2 Portable	\$ 29.87	35%	\$ 19.42	12/23/2020
KAA0203EA	Speaker/ Mic/ w/Emergency Button/ Ant port	\$ 365.65	35%	\$ 237.67	12/23/2020
KAA0203EA-KIT	Kit, KAA0203EA, KAA0811C, KAA0221-203	\$ 442.90	35%	\$ 287.89	12/23/2020
KAA0204-35	Speaker Microphone, 3.5mm audio jack IP68 submersible use with KAA0221 or KAA0221EH	\$ 190.55	35%	\$ 123.86	12/23/2020
KAA0204-E35	Microphone, Speaker, Emergency Button, W3.5mm jack, KNG-P	\$ 165.00	35%	\$ 107.25	12/23/2020
KAA0204-VCE35	Microphone Speaker Volume Control, Emergency Button, w/ 3.5mm Jack	\$ 231.75	35%	\$ 150.64	12/23/2020
KAA0206	Microphone, Speaker, Fire Mic, KNG-P	\$ 757.00	35%	\$ 492.05	12/23/2020
KAA0210EH	Earphone, Listen only, 3.5mm, Ear Hugger, Otto	\$ 50.00	35%	\$ 32.50	3/10/2021
KAA0210NC	Speaker Microphone Cancelling 3.5mm KNG P Series	\$ 231.75	35%	\$ 150.64	12/23/2020
KAA0210NC-K	Speaker Microphone Cancelling 3.5mm KNG P Series W/Adaptor Kit	\$ 231.75	35%	\$ 150.64	12/23/2020
KAA0214	Side Connector KNG to Hirose "Need for KAA0228"	\$ 76.63	35%	\$ 49.81	12/23/2020
KAA0220	Earphone Listen Only 2.5 mm Black Loop "Used with KAA0200"	\$ 16.43	35%	\$ 10.68	12/23/2020
KAA0220EH	Earphone Listen Only 2.5 mm Black Loop (Ear Hugger Style)	\$ 63.52	35%	\$ 41.29	12/23/2020
KAA0221	Earphone Listen Only 3.5 mm Black Ear Loop	\$ 77.25	35%	\$ 50.21	12/23/2020
KAA0221-203	Earphone, Listen Only, 3.5mm, Ear loop For KAA0203E, 203E-GPS, 203EA only	\$ 46.35	35%	\$ 30.13	12/23/2020
KAA0221EH	Earphone Listen Only 3.5 mm Black Loop (Ear Hugger Style)	\$ 63.52	35%	\$ 41.29	12/23/2020
KAA0221OTE	Earphone, Listen Only, 3.5mm, Over-the Ear	\$ 30.90	35%	\$ 20.09	12/23/2020
KAA0222EH	Earphone, Listen Only, 3.5mm, Ear Hugger	\$ 41.20	35%	\$ 26.78	12/23/2020
KAA0222OE	Earphone Kit, Over Ear, KNG-P team, 0783B2	\$ 77.25	35%	\$ 50.21	12/23/2020
KAA0223	Headset, Heavy Duty Boom KNG	\$ 638.60	35%	\$ 415.09	12/23/2020
KAA0225	Two Wire Speaker Microphone	\$ 259.56	35%	\$ 168.71	12/23/2020
KAA0226	Three Wire Speaker Microphone " Requires One of these KAA0226B, KAA0226F, KAA0226R"	\$ 278.10	35%	\$ 180.77	12/23/2020
KAA0226A	Acoustic Tube w/ clear Ear Tip (Replacement)	\$ 53.56	35%	\$ 34.81	12/23/2020
KAA0226AT	Acoustic Tube with Ear Bud, 07821T	\$ 10.30	35%	\$ 6.70	12/23/2020
KAA0226B	Barrel PTT Button LP	\$ 51.50	35%	\$ 33.48	12/23/2020
KAA0226EB	Ear Bud, Standard Kit, 07821B	\$ 3.61	35%	\$ 2.34	12/23/2020
KAA0226EL	Large Flexible Ear Insert (Replacement)	\$ 28.33	35%	\$ 18.41	12/23/2020
KAA0226EM	Medium Flexible Ear Insert (Replacement)	\$ 28.33	35%	\$ 18.41	12/23/2020
KAA0226ES	Small Flexible Ear Insert (Replacement)	\$ 28.33	35%	\$ 18.41	12/23/2020
KAA0226ET	Ear Tip Flexible Ear Insert	\$ 20.60	35%	\$ 13.39	12/23/2020
KAA0226F	Flat PTT Button LP	\$ 82.40	35%	\$ 53.56	12/23/2020
KAA0226OEI	Acoustic Tube with Ear Insert	\$ 46.35	35%	\$ 30.13	12/23/2020
KAA0228	Heavy Duty Behind the Headset "Need KAA0214"	\$ 993.95	35%	\$ 646.07	12/23/2020
KAA0235	Adaptor, 2.5 to 3.5mm audio jack, used with KAA0205NC-25	\$ 25.75	35%	\$ 16.74	12/23/2020
KAA0239	Microphone, Throat w/ Wide Body PTT, KNG-P	\$ 763.23	35%	\$ 496.10	12/23/2020
Service					
KAA0001CD	Service Manual on CD KNG-PXXX	\$ 46.35	35%	\$ 30.13	12/23/2020
KAA0001SCD	Service Manual on CD KNG-PS Series	\$ 46.35	35%	\$ 30.13	12/23/2020
KAA0001S	Service Manual KNG-PS Series	\$ 128.75	35%	\$ 83.69	12/23/2020
KAA0040	Kit, Knob, Portable, Channel Select & Volume, KNG-P	\$ 6.55	35%	\$ 4.26	12/23/2020
KAA0043	Kit, Battery Latch & Spring KNG-Pxxx	\$ 10.30	35%	\$ 6.70	12/23/2020
KAA0111	Battery Eliminator, KNG-P Series	\$ 72.92	35%	\$ 47.40	12/23/2020
KAA0608	Cable Kit, Service, KNG-Pxxx	\$ 489.25	35%	\$ 318.01	12/23/2020
KAA0608A	Cable Kit, service, Aeroflex, KNG-P	\$ 489.25	35%	\$ 318.01	12/23/2020
KAA0648	Cable, Coiled, Molded, KAA0200, KNG-P (Replacement cable)	\$ 139.05	35%	\$ 90.38	12/23/2020
KAA0649	Cable, Strd, Molded, Unterminated, KNG-P	\$ 139.05	35%	\$ 90.38	12/23/2020
Extended Warranty					
LFW0012	Extend warranty to 3 years (Radio Only)	\$ 179.00	0%	\$ 179.00	
LFW0024	Extend warranty to 4 years (Radio Only)	\$ 229.00	0%	\$ 229.00	
LFW0036	Extend warranty to 5 years (Radio Only)	\$ 279.00	0%	\$ 279.00	



Digital Mobile Radios

KNG Series P25 Digital Mobiles

Product Name	Product Description	List Price	Discount %		Effective date
KNG-M150	136-174 MHz, Digital/Analog, P25, 5000 channels, 50 Watts Dash Mount	\$ 3,768.09	35%	\$ 2,449.26	12/23/2020
KNG-M150LP	136-174 MHz, Digital/Analog, P25, 5000 channels, 50/1 Watts Dash Mount (No 100Watt Option)	\$ 4,025.24	35%	\$ 2,616.41	12/23/2020
KNG-M400	380-470 MHz, Digital/Analog, P25, 5000 channels, 50 Watts Dash Mount	\$ 3,768.09	35%	\$ 2,449.26	12/23/2020
KNG-M500	440-520 MHz, Digital/Analog, P25, 5000 channels, 50 Watts Dash Mount	\$ 3,768.09	35%	\$ 2,449.26	12/23/2020
KNG-M800	763-870 MHz, Digital/Analog, P25, 5000 channels, 30/35 Watts Dash Mount	\$ 3,768.09	35%	\$ 2,449.26	12/23/2020
Microphones sold separately.					
KNG-M150R	136-174 MHz, Digital/Analog, P25, 5000 channels, 50 Watts Remote Mount	\$ 2,884.00	35%	\$ 1,874.60	12/23/2020
KNG-M150LPR	136-174 MHz, Digital/Analog, P25, 5000 channels, 50/1 Watts Remote Mount (No 100Watt Op)	\$ 3,141.15	35%	\$ 2,041.75	12/23/2020
KNG-M400R	380-470 MHz, Digital/Analog, P25, 5000 channels, 50 Watts Remote Mount	\$ 2,884.00	35%	\$ 1,874.60	12/23/2020
KNG-M500R	440-520 MHz, Digital/Analog, P25, 5000 channels, 50 Watts Remote Mount	\$ 2,884.00	35%	\$ 1,874.60	12/23/2020
KNG-M800R	763-870 MHz, Digital/Analog, P25, 5000 channels, 30/35 Watts Remote Mount	\$ 2,884.00	35%	\$ 1,874.60	12/23/2020
KNG-M800R-SUV	Bundle,KNG-M800R w/1 Remote,Acces. and Options	\$ 5,751.98	35%	\$ 3,738.79	12/23/2020

Requires Remote Controller KAA0660 or KAA0670 and Remote Mount Cable



KNG-Mxxx



KAA0670 HCH
Handheld Control Head



KNG-MxxxR



KAA0660
Remote Control Head

KNG Series P25 Mobile Accessories

Product Name	Product Description	List Price	Discount %		Effective date
Antennas					
KAA0834	Antenna , GPS KNG-M	\$ 113.11	35%	\$ 73.52	12/23/2020
KAA0835	Antenna, Combo Mount NMO/GPS	\$ 200.85	35%	\$ 130.55	12/23/2020
MAGMT-NTYPE	Magnetic Mount Base 17" Cable N Type	\$ 66.90	35%	\$ 43.48	12/23/2020
MAGMT-UHF	Mount, Mag, UHF, 17" Cable	\$ 66.90	35%	\$ 43.48	12/23/2020
MWU4002S	UHF Mobile Antenna, 380-520 MHz	\$ 108.15	35%	\$ 70.30	12/23/2020
MWV1360S	VHF Mobile Antenna, 136-174 MHz	\$ 108.15	35%	\$ 70.30	12/23/2020
MWV800	Mobile Antenna, 763-870 MHZ	\$ 108.15	35%	\$ 70.30	12/23/2020
MWV800NGP	Antenna Mobile, 806-866MHz, MUF8003NGP (S) (No Ground Plane Required	\$ 108.15	35%	\$ 70.30	12/23/2020
MWV800STB	Antenna, OMNI, NMO, 698-960 MHz /1700-2700 MHz, Stubby 3.5 dbi, 100 W	\$ 108.15	35%	\$ 70.30	12/23/2020
NMO-NTYPE	Fixed Antenna Mount NMO w/ Type N Connector	\$ 51.50	35%	\$ 33.48	12/23/2020
NMO-NTYPE-L	Mount, Antenna, Perm Hole, NMOKHFUD	\$ 46.35	35%	\$ 30.13	12/23/2020
Speaker Microphones & Audio Accessories					
KAA0045	Dust Cover,Mic,Connector,KNG-M	\$ 2.41	35%	\$ 1.57	12/23/2020
KAA0258	Microphone, Desktop, KNG-BXXX	\$ 293.55	35%	\$ 190.81	12/23/2020
KAA0261	External Speaker 20W, 4 Ohm, W/ Mounting Bracket (Replacement or Spare)	\$ 51.50	35%	\$ 33.48	12/23/2020
KAA0276	Standard Handheld Microphone KNG-M with right angle connector	\$ 273.98	35%	\$ 178.09	12/23/2020
KAA0276S	Standard Handheld Microphone KNG-M with Straight connector	\$ 273.98	35%	\$ 178.09	12/23/2020
KAA0290R	Handheld Programming Microphone with right angle connector	\$ 366.00	35%	\$ 237.90	3/10/2021
KAA0290S	Handheld Programming Microphone with straight connector	\$ 366.00	35%	\$ 237.90	3/10/2021
KAA0647	Aux. / Speaker Cable Assembly (Replacement or Spare)	\$ 55.48	35%	\$ 36.06	12/23/2020
KAA07110	Handset, Radio Telephone, KNG-M	\$ 566.50	35%	\$ 368.23	12/23/2020
Installation Kits					
KAA0622	Cable, Interface, Motorcycle , SetCom, KNG-M	\$ 211.15	35%	\$ 137.25	12/23/2020
KAA0623	Cable, Radio, Interface, David Clark to KNG-M	\$ 574.74	35%	\$ 373.58	12/23/2020
KAA0630	Kit Install, Bracket & PWR Cord KNG-M Series Mobile Dash and Remote (Replacement or Spare)	\$ 221.14	35%	\$ 143.74	12/23/2020
KAA0631	Kit, Mobile, Mounting Adaptor, KNG-M to Kenwood	\$ 82.40	35%	\$ 53.56	12/23/2020
KAA0633	Kit, Install, KNG-M Series, Mobile, 12 AWG, Dash Mount	\$ 206.00	35%	\$ 133.90	12/23/2020
KAA0634	Cable Assy, Remote, Service, KNG-M, 30"	\$ 134.93	35%	\$ 87.70	12/23/2020
KAA0635	Cable Assy Remote Mount 8' KNG-MxxxR	\$ 131.00	35%	\$ 85.15	12/23/2020
KAA0636	Cable Assy Remote Mount 17' KNG-MxxxR	\$ 154.00	35%	\$ 100.10	12/23/2020
KAA0637	Cable Assy Remote Mount 25' KNG-MxxxR	\$ 196.73	35%	\$ 127.87	12/23/2020
KAA0638	Kit Install for KAA0660 (Replacement or Spare)	\$ 132.82	35%	\$ 86.33	12/23/2020
KAA0639	Kit Install KAA0670 HCH Trunk Mount "Remote Interface Box"	\$ 139.05	35%	\$ 90.38	12/23/2020
KAA0639C	Kit, Install, Cab Mount, KAA0670 HCH to KNG-Mxxx & KNG-MxxxR	\$ 154.50	35%	\$ 100.43	12/23/2020
KAA0642	Kit, Interface KNG-M/RCH for KAA0628	\$ 190.55	35%	\$ 123.86	12/23/2020
KAA0656	Cable, RCH Extension, 300ft, KNG-Mxxx	\$ 839.45	35%	\$ 545.64	12/23/2020
KAA0656-100	Cable, RCH Extension, 100ft., KNG-Mxxx	\$ 350.20	35%	\$ 227.63	12/23/2020
KAA0656-500	Cable, RCH Extension, 500Ft. KNG-Mxxx	\$ 1,210.25	35%	\$ 786.66	12/23/2020
KAAMSAT	MSAT to KNG-M Interface Cable	\$ 509.85	35%	\$ 331.40	12/23/2020
NS1535	Filter,Line,15A,Chassis Mount	\$ 70.56	35%	\$ 45.86	12/23/2020
Options & Upgrades					
KAA0154	High Power, 110W KNG-M150	\$ 360.50	35%	\$ 234.33	12/23/2020
KAA0521M	Ethernet Interface, KNG-M/B	\$ 283.25	35%	\$ 184.11	12/23/2020
KAA0569	P25 9600 Baud Trunking	\$ 679.80	35%	\$ 441.87	12/23/2020
KAA0576	Field Install, DES and AES Encryption, KNG-M	\$ 296.64	35%	\$ 192.82	12/23/2020
KAA0580	OTAR (Trunking & Conventional) *Must have KZA0576"	\$ 499.55	35%	\$ 324.71	12/23/2020
KAA0583	Vote Scan	\$ 92.70	35%	\$ 60.26	12/23/2020
KAA0589	Field Installed GPS Option for KNG Mobiles	\$ 715.85	35%	\$ 465.30	12/23/2020
KAA0592	Field Installed, OTAP, Trunking, KNG-Mxxx "Must have KZA0569"	\$ 204.97	35%	\$ 133.23	12/23/2020
KAA0594	Option, TDMA	\$ 257.50	35%	\$ 167.38	12/23/2020
KAA0596	Option, Radio Authentication "Must have KZA0576 & KZA0569"	\$ 128.75	35%	\$ 83.69	12/23/2020
KAA0613	Cable Assy,KAA0276 Extension,KNG-M, 15 ft.	\$ 643.75	35%	\$ 418.44	12/23/2020
KAA0614	Kit, Nameplate KNG-Mxxx	\$ 30.90	35%	\$ 20.09	12/23/2020
KAA0616	Cable Interface, FireCom KNG-Mxxx	\$ 123.60	35%	\$ 80.34	12/23/2020
KAA0617	Hood W/Power Supply (KAA0158) KNG-M	\$ 697.31	35%	\$ 453.25	12/23/2020
KAA0625	Cable,Interface,Mobile to DC Headset,KNG-M	\$ 146.26	35%	\$ 95.07	12/23/2020
KAA0628	Cradle, Desktop, HCH/RCH Interface, KNG-M/B	\$ 432.60	35%	\$ 281.19	12/23/2020
KAA0629	Kit, RCH Expansion Splitter Box, KNG-M	\$ 272.95	35%	\$ 177.42	12/23/2020
KAA0640A	Cable Kit, KNG-M to MSAT, Noise Inhibit	\$ 2,859.28	35%	\$ 1,858.53	12/23/2020
KAA0647A	Cable Assy, ACC, 25 pin w/audio Jack, KNG-M	\$ 118.45	35%	\$ 76.99	12/23/2020
KAA0659	Splitter, Interface, HCH/RCH, KNG-M/B	\$ 1,014.55	35%	\$ 659.46	12/23/2020
KAA0660	Remote Control Head Plug & Play KNG-Mxxx (Comes with KAA0638 Install Kit)	\$ 1,398.00	35%	\$ 908.70	12/23/2020
KAA0661	Remote Control Head Cover KNG Mobiles	\$ 30.39	35%	\$ 19.75	12/23/2020
KAA0670	Hand Held Control Head HCH	\$ 1,131.13	35%	\$ 735.23	12/23/2020
KZA0154	Factory Install Option, High Power, 110W KNG-M150 Only	\$ 360.50	35%	\$ 234.33	12/23/2020
KZA0569	Factory Install P25 9600 Baud Trunking	\$ 679.80	35%	\$ 441.87	12/23/2020
KAA0720	Cable,Kit,Programming Extension,KNG-MxxxR	\$ 178.19	35%	\$ 115.82	12/23/2020
KZA0576	Factory Install DES / AES Encryption	\$ 296.64	35%	\$ 192.82	12/23/2020

KNG Series P25 Mobile Accessories Continued

Product Name	Product Description	List Price	Discount %		Effective date
Options & Upgrades continued					
KZA0580	Factory Install P25 Over the Air Rekeying (OTAR) " Must have KZA0576"	\$ 499.55	35%	\$ 324.71	12/23/2020
KZA0583	Factory Install Vote Scan	\$ 92.70	35%	\$ 60.26	12/23/2020
KZA0589	Factory Install GPS	\$ 715.85	35%	\$ 465.30	12/23/2020
KZA0592	Factory Install, OTAP, Trunking, KNG-Mxxx "Must have KZA0569"	\$ 204.97	35%	\$ 133.23	12/23/2020
KZA0594	Factory Install, TDMA "Must have KZA0569"	\$ 257.50	35%	\$ 167.38	12/23/2020
KZA0596	Factory Install, Radio Authentication "Must have KZA0576 & KZA0569"	\$ 128.75	35%	\$ 83.69	12/23/2020
KZA0614	Factory Install, Kit, Nameplate KNG-Mxxx	\$ 36.05	35%	\$ 23.43	12/23/2020
Programming					
ASK-CK	Flash Drive, Child Key Used with KAA0735	\$ 43.26	35%	\$ 28.12	12/23/2020
KAA0587A	Cable Key Encryption KNG to KVL3000/4000 KNG-Pxxx & KNG-Mxxx	\$ 592.25	35%	\$ 384.96	12/23/2020
KAA0701	Cloning Cable Portable & Mobile KNG	\$ 566.50	35%	\$ 368.23	12/23/2020
KAA0705	CABLE, Authentication, Key Loader, KNG	\$ 267.80	35%	\$ 174.07	12/23/2020
KAA0710	KNG Programming Cable USB	\$ 128.75	35%	\$ 83.69	12/23/2020
KAA0733-5.5.0	Software,Radio Editor,KAA0733,ver. 5.5.0	\$ 154.50	35%	\$ 100.43	12/23/2020
KAA0733-5.5.4	Software,Radio Editor,KAA0733,ver. 5.5.4	\$ 154.50	35%	\$ 100.43	12/23/2020
KAA0733-5.5.5	Software,Radio Editor,KAA0733,ver. 5.5.5	\$ 154.50	35%	\$ 100.43	12/23/2020
KAA0733-5.5.8	Software,Radio Editor,KAA0733,ver. 5.5.8	\$ 154.50	35%	\$ 100.43	12/23/2020
KAA0733-5.6.0	Software,Radio Editor,KAA0733,ver. 5.6.0	\$ 154.50	35%	\$ 100.43	12/23/2020
KZA0735	Factory Install, Advance Security Key Token, USB	\$ 256.47	35%	\$ 166.71	12/23/2020
KZA0903	Factory Programming KNG	\$ 77.25	35%	\$ 50.21	12/23/2020
Service					
KAA0002-150	Service Manual, KNG-M150 Printed	\$ 133.90	35%	\$ 87.04	12/23/2020
KAA0002-150CD	Manual, Service, KNG-M150 CD	\$ 20.60	35%	\$ 13.39	12/23/2020
KAA0002-400	Service Manual, KNG-M400/500 Printed	\$ 149.35	35%	\$ 97.08	12/23/2020
KAA0002-400CD	Service Manual, KNG-M400/500, CD	\$ 20.60	35%	\$ 13.39	12/23/2020
KAA0002-800CD	Service Manual, KNG-M800, CD	\$ 20.60	35%	\$ 13.39	12/23/2020
KAA0609	Cable Kit, Service, KNG-M	\$ 370.80	35%	\$ 241.02	12/23/2020
KAA0609A	Cable Kit, Service, Aeroflex, KNG-M	\$ 370.80	35%	\$ 241.02	12/23/2020
Extended Warranty					
LFW0012	Extend warranty to 3 years (Radio Only)	\$ 179.00	0%	\$ 179.00	
LFW0024	Extend warranty to 4 years (Radio Only)	\$ 229.00	0%	\$ 229.00	
LFW0036	Extend warranty to 5 years (Radio Only)	\$ 279.00	0%	\$ 279.00	



Legacy

Portable and Mobile Accessories

Legacy Portable and Mobile Accessories

Product Name	Product Description	List Price	Discount %		Effective date
Legacy Portable Accessories - DPH Series					
G/ECC	"Smart" Cloning Cable	\$ 169.95	35%	\$ 110.47	12/23/2020
LAA0139	Battery, Large, AA-holder, Org.	\$ 46.87	35%	\$ 30.46	12/23/2020
LAA0170	Battery Pack, Li-Ion, 2200mAh, Large	\$ 123.60	35%	\$ 80.34	12/23/2020
LAA0380P	Charger Desktop 6 Bay	\$ 880.65	35%	\$ 572.42	12/23/2020
LAA0640	Stainless Steel LCD Protector (D & G Series Only)	\$ 17.51	35%	\$ 11.38	12/23/2020
LAA0700	Basic Cloning Cable	\$ 77.25	35%	\$ 50.21	12/23/2020
LAA0701	Programming Plug	\$ 31.93	35%	\$ 20.75	12/23/2020
LAA0725	PC Programming Cable (Not USB)	\$ 128.75	35%	\$ 83.69	12/23/2020
Legacy Portable Accessories - GPH Series					
LAA0653F	Kit, Display, Alpha/Numeric, GPH Flash	\$ 154.50	35%	\$ 100.43	12/23/2020
Legacy Portable Accessories - L Series					
LAA0655	Kit, Graphic LCD, Disp-Key pad	\$ 206.00	35%	\$ 133.90	12/23/2020
LAA0813	Ant, VHF, Whip, 148-174, Std-Trd, 17"	\$ 20.60	35%	\$ 13.39	12/23/2020
Legacy Mobile Accessories - DMH Series					
LAA0550	Kit, New RF Power Module	\$ 118.45	35%	\$ 76.99	12/23/2020
LAA0642	17' Remote Mount Cable and Power Cord for 50 Watt Enhanced	\$ 334.75	35%	\$ 217.59	12/23/2020
LAA0745	DMH PC Software	\$ 92.70	35%	\$ 60.26	12/23/2020
Legacy Mobile Accessories - EMH Series					
LAA0620	Kit, Install, E-series, UHF, Mob, Dash Mount	\$ 30.90	35%	\$ 20.09	12/23/2020

**STATE OF CALIFORNIA
PARTICIPATING ADDENDUM NO. 7-16-58-15
AMENDMENT NO. 2**

Public Safety Communication Equipment-Radio
Washington NASPO ValuePoint Master Agreement No. 06913
RELM Wireless Corporation (Contractor)

The parties hereto mutually agree to amend Participating Addendum No. 7-16-58-15 as follows:

Section 2. Term, subparagraph A. is amended to now read as follows:

- A. The term of this Participating Addendum shall begin upon signature approval by the State and will end June 30, 2021, or upon termination by the State, whichever occurs first.

Section 15. Contract Management, subparagraph C. is amended to now read as follows:

- C. The State Contract Administrator for this Participating Addendum shall be as follows:

Name: Stacy Jarvis
Phone: (916) 375-4378
E-Mail: Stacy.Jarvis@dgs.ca.gov
Address: State of California
Department of General Services
Procurement Division
707 Third Street, 2nd Floor, MS 2-202
West Sacramento, CA 95605

Section 19. Authorized Resellers is added as follows:

- A. Contractor may use State-approved Authorized Resellers under this Participating Addendum for sales and service functions as defined herein.
 - 1) Authorized Resellers must accept purchase orders and accept payment from ordering agencies for products offered under this Participating Addendum.
 - 2) Authorized Resellers are responsible for sending a copy of all purchase orders and invoices to the Contractor for compliance with quarterly usage reporting and administrative fee requirements.
 - 3) All purchase documents to Authorized Resellers shall reference the Participating Addendum Number and Contractor Name.
- B. Contractor shall be responsible for successful performance and compliance with all requirements in accordance with the terms and conditions under this Participating Addendum, even if work is performed by Authorized Resellers. All State policies, guidelines, and requirements shall apply to Authorized Resellers.
- C. Contractor will be the sole point of contact with regard to Participating Addendum contractual matters, reporting, and administrative fee requirements.
- D. Subject to the approval of the State, Authorized Resellers may be added on a quarterly basis during the term of the contract. Contractors shall notify the State of any deleted

**STATE OF CALIFORNIA
PARTICIPATING ADDENDUM NO. 7-16-58-15
AMENDMENT # 1**

Public Safety Communication Equipment-Radio
Washington NASPO VALUEPOINT Master Price Agreement No. 06913
RELM Wireless Corporation (Contractor)

The Parties hereto mutually agree to amend Participating Addendum Number **7-16-58-15** as follows:

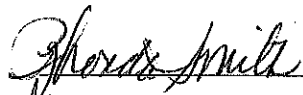
1. Term:

Participating Addendum term is extended from June 30, 2016 to June 30, 2018.

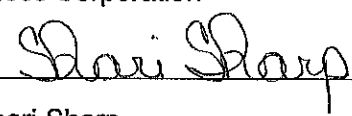
All other terms and conditions shall remain the same.

IN WITNESS WHEREOF, the parties have executed this Participating Addendum as of the date of execution by both parties below.

STATE OF CALIFORNIA

By: 
Name: Jim Butler
Title: Deputy Director
Date: 6/30/16

RELM Wireless Corporation

By: 
Name: Shari Sharp
Title: Director of Business Operations
Date: 6-30-16

STATE OF CALIFORNIA
PARTICIPATING ADDENDUM NO. 7-16-58-15

Public Safety Communication Equipment-Radio
Washington NASPO VALUEPOINT Master Price Agreement No. 06913
RELM Wireless Corporation (Contractor)

This Participating Addendum Number **7-16-58-15** is entered into between the State of California, Department of General Services (hereafter referred to as "State" or "DGS") and RELM Wireless Corporation (hereafter referred to as "Contractor") under the lead State of Washington NASPO ValuePoint Cooperative Purchasing Organization Master Price Agreement Number 06913.

1. Scope

- A. This Participating Addendum covers the purchase of Public Safety Communication Equipment-Radios under the State of Washington NASPO ValuePoint Master Price Agreement Number 06913. The NASPO ValuePoint Master Price Agreement is hereby incorporated by reference and shall apply to the purchase of goods and services made under this Participating Addendum.
- B. This Participating Addendum is available for use by all State Departments and California political subdivisions/local governments. A political subdivision/local government is defined as any city, county, city and county, district, or other local governmental body or corporation, including the California State Universities (CSU) and University of California (UC) systems, K-12 schools and community colleges empowered to expend public funds.
- C. Each political subdivision/local government is to make its own determination whether this Participating Addendum and the NASPO ValuePoint Master Price Agreement are consistent with its procurement policies and regulations.

2. Term

- A. The term of this Participating Addendum shall begin upon signature approval by the State and will end June 30, 2016, or upon termination by the State, whichever occurs first.
- B. Lead State amendments to extend the Master Price Agreement term date are not automatically incorporated into this Participating Addendum. Extension(s) to the term of this Participating Addendum will be through a written amendment upon mutual agreement between the State and the Contractor.

3. Mandatory Statewide Contracts

Product and service categories that are available on mandatory California statewide contracts for Public Safety Communication Equipment contract cannot be purchased from this Participating Addendum by State Departments without an exemption. State Departments are responsible for obtaining an exemption from CAL OES Governor's Office of Emergency Services prior to issuing a purchase order.

This restriction is not applicable to political subdivisions/local governments.

14. Administrative Fee

- A. Contractor shall submit a check, payable to the State of California, remitted to the Department of General Services, Procurement Division, Masters Unit 2 for the calculated amount equal to one percent (0.01) of the sales for the quarterly period.
- B. Contractor must include the Participating Addendum Number on the check. Those checks submitted to the State without the Participating Addendum Number will be returned to Contractor for additional identifying information.
- C. Administrative fee checks shall be submitted to:

State of California
Department of General Services, Procurement Division
Attention: Master Unit 2
707 3rd Street, 2nd Floor, MS 2-202
West Sacramento, CA 95605
- D. The administrative fee shall not be included as an adjustment to Contractor's NASPO ValuePoint Master Price Agreement pricing.
- E. The administrative fee shall not be invoiced or charged to the ordering agency.
- F. Payment of the administrative fee is due irrespective of payment status on orders or service contracts from a purchasing entity.
- G. Administrative fee checks are due for each quarter as follows:

Reporting Period	Due Date
JUL 1 to SEP 30	OCT 31
OCT 1 to DEC 31	JAN 31
JAN 1 to MAR 31	APR 30
APR 1 to JUN 30	JUL 31

- H. Failure to meet administrative fee requirements and submit fees on a timely basis shall constitute grounds for suspension of this contract.

17. Amendment

No amendment or variation of the terms of this Participating Addendum shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or agreement not incorporated in the Participating Addendum is binding on any of the parties.

18. Agreement

- A. This Participating Addendum and the Master Price Agreement together with its exhibits and/or amendments, set forth the entire agreement between the parties with respect to the subject matter of all previous communications, representations or agreements, whether oral or written, with respect to the subject matter hereof. Terms and conditions inconsistent with, contrary or in addition to the terms and conditions of this Participating Addendum and the Master Price Agreement, together with its exhibits and/or amendments, shall not be added to or incorporated into this Participating Addendum or the Master Price Agreement and its exhibits and/or amendments, by any subsequent purchase order or otherwise, and any such attempts to add or incorporate such terms and conditions are hereby rejected. The terms and conditions of this Participating Addendum and the Master Price Agreement and its exhibits and/or amendments shall prevail and govern in the case of any such inconsistent or additional terms.
- B. By signing below Contractor agrees to offer the same products/and or services as on the Washington NASPO ValuePoint Master Price Agreement Number 06913, at prices equal to or lower than the prices on that contract.
- C. IN WITNESS WHEREOF, the parties have executed this Participating Addendum as of the date of execution by both parties below.

STATE OF CALIFORNIA

RELM Wireless Corporation

By: 

By: 

 Name: Jim Butler

Name: Shari Sharp

Title: Deputy Director

Title: Director of Business Operations

Date: March 25, 2016

Date: 3/3/16



State of California
California Governor's Office of Emergency Services
**PUBLIC SAFETY RADIO GOODS
SPECIAL PROVISIONS**
TDe-947 (REV. 02/2015)



PUBLIC SAFETY COMMUNICATIONS

1. TECHNICAL STANDARDS

- a) Where applicable, all goods delivered shall meet or exceed the requirements contained in the Code of Federal Regulations, Title 47 Telecommunication, Chapter I Federal Communications Commission Rules and Regulations, in particular:
 - i) Part 2, Subpart I, "Marketing of Radio Frequency Devices" (47CFR2.803). All goods offered shall be authorized by the FCC by the bid due date.
 - ii) Part 15, Radio Frequency Devices (47CFR15).
 - iii) Part 90, Private Land Mobile Radio Service (47CFR90).
 - iv) Part 101, Fixed Microwave Services (47CFR101).
- b) Where applicable, all goods operating in the analog mode shall meet or exceed all applicable performance standards listed in TIA/EIA-603-C, "Land Mobile FM and PM Communications Equipment Measurement and Performance Standards", unless otherwise stated in the specification.
 - i) The State may consider goods operating within 30-50 MHz that are tested under comparable performance standards listed in TIA-603 and possibly EIA-152-C, "Minimum Standards for Land Mobile Communication FM or PM Transmitters, 25-866 MHz" and EIA/TIA-204-D, "Minimum Standards for Land Mobile Communication FM or PM Receivers, 25-866 MHz (which were superseded by TIA/EIA-603).
 - ii) Specification compliance testing conducted by the State, however, will be conducted in accordance with the methods, procedures, and requirements of TIA/EIA-603-C, unless otherwise stated in the specification. All measurements of transmitter radio frequency specifications shall be made at the transmitter chassis antenna connector. All measurements of receiver radio frequency specifications shall be made at the receiver chassis antenna connector. Measurements of received audio response and distortion shall be made at the speaker output.
 - iii) The performance requirements contained within the technical specifications further define and, in some cases, exceed the requirements contained in TIA/EIA-603-C. In the event of a conflict between performance requirements contained in TIA/EIA-603-C and the performance requirements contained in the specification, the requirements contained in the specification shall prevail.

- c) Where applicable, all goods operating in the digital mode shall meet or exceed all applicable APCO Project 25 system standards listed in the TIA/EIA 102 series of standards, interim standards and technical bulletins.
- d) Where applicable, all goods operating within 806-809 / 821-824 MHz and 851-854 / 866-869 MHz shall comply with the recommendations set forth in the National Public Safety Planning Advisory Committee 800 MHz NPSPAC Channel Regional Communications Plan for Regions 5 and 6 approved by the Federal Communications Commission (FCC) in 47CFR90.621(g).

2. SPECIAL ORDERING PROVISIONS

During the thirty-calendar day period immediately following purchase order issuance, the State reserves the right to increase the quantity ordered by up to twenty-five percent, or as otherwise specified, at rates not to exceed those contained herein.

3. SPECIFICATION COMPLIANCE TESTING

- a) Goods may be inspected before acceptance for workmanship, appearance, and conformance to all other requirements of the specifications. The State may reject any shipment or item of a shipment that is not in compliance with specification requirements or is otherwise defective in any manner.
- b) Within fifteen calendar days after contractor first receives notice of rejection, contractor shall, if requested by the State, remove rejected goods from the State's facilities. Upon failure of contractor to remove such goods from the State's facilities within the specified period, the State may forward such goods to contractor by common carrier, at contractor's expense and risk.
- c) Unless otherwise specified at time of rejection, and at no cost to the State, all rejected goods shall be repaired or replaced by contractor and shall be returned to the State within thirty calendar days from the date the goods are made available on, or removed from, the State's facilities, whichever occurs first.
- d) Unless otherwise specified at time of rejection, if contractor does not deliver goods meeting specifications within sixty calendar days from the date the goods are made available on, or removed from, State's facilities, whichever occurs first, contractor shall be deemed to be in default, and the State will terminate the purchase order in whole or in part in accordance with the Termination for Default provision contained in the General Provisions.

- e) At the State's option, contractor may be permitted to make repairs of rejected goods at the State's facilities.

4. MINIMUM GUARANTEES AND WARRANTIES

- a) Contractor is responsible for all guarantees and warranties required herein. Any guarantee/warranty offered by the original goods manufacturer shall not relieve contractor of this responsibility.
- b) If contractor is other than the manufacturer of goods delivered, contractor warrants that the manufacturer has authorized contractor to sell goods delivered. At the request of the State, written verification by manufacturer of such authorization shall be immediately provided.
- c) All goods delivered shall be guaranteed by contractor against defects for eighteen months from date of acceptance.
- d) During the guarantee period, contractor shall repair or replace, at its option and expense, all defective goods, or refund the purchase price thereof.
- e) Unless otherwise specified at time of requested repair, if contractor has not completed guarantee repair within thirty calendar days after notification of a malfunction, the State may effect such repairs and bill contractor for material cost and labor cost at the State technician current hourly rate.
- f) Workmanship and materials provided by contractor in the performance of any installation work required shall be guaranteed for ninety calendar days after installation. Workmanship or materials which are found to be defective during this period shall be promptly corrected at contractor's expense.
- g) During the Warranty Period, Contractor shall manage the individual warranties and maintenance services (if any) of the third-party Goods. If the third-party Goods do not function as warranted during the Warranty Period, Contractor will correct the deficiency

5. DESIGN DEFECT

- a) A design defect shall be defined as identical failures occurring within five years after delivery in at least five units or five percent, whichever is larger, of identical assemblies, subassemblies, or parts supplied.
- b) Delivered goods shall be guaranteed by contractor against design defects for five years from date of acceptance. Upon written notification to and confirmation by contractor of design defects evidenced within the five-year guarantee period, contractor shall take prompt corrective action, at no cost to the State.
- c) Whenever it is necessary for contractor to take corrective action of design defects, contractor shall take the same corrective action in all identical goods supplied.

- d) All parts and materials used in corrective action for design defects shall be guaranteed by contractor against defects for one year from date of such corrective action.

6. SERVICE PROVISIONS

- a) Contractor shall provide the following services that will repair or exchange, in the times indicated, all defective goods returned by the State for repair.
 - i) Emergency no-charge warranty service within five calendar days, excluding shipping time, for defective goods returned within the guarantee period.
 - ii) Non-emergency no-charge warranty service within twenty calendar days, excluding shipping time, for defective goods returned within the guarantee period.
 - iii) Emergency full-charge nonwarranty service within five calendar days, excluding shipping time, for defective goods returned after expiration of the guarantee period.

7. AVAILABILITY OF REPAIR PARTS

- a) Contractor shall notify State of the date of last manufacture for all goods delivered.
- b) For a period of seven years from the notice of last manufacture, contractor shall make available to the State exact replacement parts for use in the delivered goods.
- c) If exact replacement parts are not available, contractor may substitute equal or similar parts which do not deteriorate performance and which will continue to meet all specifications in effect at the time of purchase.

8. SOFTWARE USAGE/LICENSE REQUIREMENT

- a) The California Governor's Office of Emergency Services, Public Safety Communications, and/or the purchasing agency shall be permitted to make unlimited copies of any software required for installation and maintenance of goods supplied. Such copies shall be for the sole and exclusive use of the State designated maintenance and engineering personnel in the installation, maintenance, and operation of the delivered goods.
- b) Any need for a separate software license agreement to reflect the scope and/or limitations of this usage shall be negotiated to the mutual agreement of the parties, including Department of General Services, Procurement Division and Public Safety Communications Agency.



Agenda Item

City Council

Item #: 3.28.

7/13/2021

File #: 21-0382

TO: Honorable Mayor and Members of the City Council

THRU: Rick Otto, City Manager

FROM: Sean deMetropolis, Fire Chief

1. SUBJECT

Authorize purchase of fire station alerting system from US Digital Designs, Inc.

2. SUMMARY

The Fire Department is seeking to purchase the Phoenix G2 alerting platform from US Digital Designs, Inc. for the new Fire Headquarters and Station 1. This alerting platform will allow Fire Department personnel to more rapidly and efficiently respond to emergency incidents by providing upgraded alerting options including individualized tones and lighting systems.

3. RECOMMENDED ACTION

Approve the purchase of the Phoenix G2 station alerting system in an amount not to exceed \$130,000, from US Digital Designs, Inc.; and authorize the Mayor and City Clerk to execute the purchase contract on behalf of the City.

4. FISCAL IMPACT

Goal 1: Provide for a safe community

a: Provide staffing and resources to deliver services that ensure public safety.

Goal 4: Provide outstanding public service

b: Provide facilities and services to meet customer expectations.

5. STRATEGIC PLAN GOALS

Goal 1: Provide for a safe community

a: Provide staffing and resources to deliver services that ensure public safety.

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6. DISCUSSION AND BACKGROUND

The Fire Department is seeking to purchase the Phoenix G2 fire station alerting system for the new Fire Headquarters and Station 1 from US Digital Designs, Inc. (USDD). This system will allow Fire Department personnel to more rapidly and efficiently respond to emergency incidents by providing upgraded alerting options, including individualized tones and lighting options throughout the facility. The USDD fire station alerting system will allow each speaker, room, and light to be individually programmed to allow the firefighters in the station to receive emergency incident notifications at the

earliest opportunity, leading to the best possible reflex time as well as overall response times.

In 2003, the Orange Fire Department (OFD) purchased and installed station alerting equipment from Westnet, Inc. (Westnet), through the Metro Cities Fire Authority. At the time, Westnet was the only vendor providing fire station alerting services to the Metro Net Communications Center (Metro Net), which is responsible for dispatching services to the OFD. As of today, Westnet and USDD are the only two station alerting vendors that Metro Net is using.

While the Westnet platform has proven to be a quality product, there are multiple issues that have caused concern within OFD, primarily the lack of, or significant delays in, customer service. In addition, the proprietary nature of their equipment and programming has made it very costly to service and replace when needed.

OFD reached out to numerous agencies and contacts to determine the best fire station alerting solution for the new Fire Headquarters and Station 1. The consensus was the same as OFD had experienced - Westnet provides a good product but inadequate service. This is magnified by the cost of the required annual service agreements of upwards of \$80,000 based upon the complexity of the design and the number of stations and apparatus. OFD currently does not have a service agreement, preferring to have programming issues addressed by staff when possible.

The Newport Beach Fire Department (NBFD) provided the most valuable information in our decision to use USDD in place of Westnet for this project. The NBFD is similar in size to OFD with eight fire stations, and they utilize Metro Net for dispatch services. Prior to the replacement of an antiquated facility, the Command Staff of NBFD elected to move away from Westnet as a vendor and have the USDD Phoenix 2 system installed. Their decision was based on many of the same issues OFD has experienced, including the inability to program the system internally, lack of responsiveness, and increases in annual maintenance costs. NBFD noted USDD offered a mostly non-proprietary solution that could be serviced in-house and without authorization from USDD. Upon completion of the fire facility and finalized programming of the Phoenix G2 alerting system, NBFD management decided to implement a system-wide replacement of the remaining seven Westnet alerting systems.

Based upon information gained during OFD's research, we believe the USDD Phoenix G2 system will provide the best overall value for the OFD. Some of the items offered by USDD that Westnet could not compete with are: end user application, end user programmability, end user ability to add or delete system components, and component purchasing from internet vendors. Westnet will also provide certification training to staff for internal programming, minimizing future maintenance costs.

7. ATTACHMENTS

- USDD Fire Station Alerting System Purchasing Contract
- USDD New System Warranty



Agenda Item

City Council

Item #: 3.28.

7/13/2021

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7. ATTACHMENTS

- USDD Fire Station Alerting System Purchasing Contract
- USDD New System Warranty



US DIGITAL DESIGNS
stationalerting.com

**FIRE STATION ALERTING SYSTEM
PURCHASE CONTRACT**

This Fire Station Alerting System Purchase Contract (“Contract”) is made by and between US Digital Designs, Inc. (“USDD”), with its principal place of business at 1835 East Sixth Street, Suite 27, Tempe, Arizona 85281 and the following entity (“Customer”):

Orange City Fire Department
Attn: Matt Nelson, Administrative Captain
176 S. Grand Street
Orange, CA 92866
Telephone: (714) 288-2506
Email: mnelson@cityoforange.org


1. **Recitals.** The Customer requires USDD to provide certain goods, products and services related to the Customer’s fire station alerting system. USDD has agreed to provide such goods and services to the Customer pursuant to the terms, conditions, and limitations of this Contract. In consideration of the forgoing, and for other good and valuable consideration, the parties hereby agree to the terms set forth in this Contract.

2. **Definitions.** For purposes of this Contract, the following terms shall have the following meanings:

- a. “Additional Services” means any and all services performed by USDD at the instruction or request of Customer through its authorized personnel that are not specifically included in the Scope of Work.
- b. “Engineering Services” means engineering or project management services performed by USDD’s employees, agents or contractors directly related to

planning and documenting the layout, design, project schedule, installation, and functionality of the System as a whole and at each individual installation sight.

- c. "Hardware" means a physically tangible electro-mechanical system or sub-system and associated documentation provided to Customer by USDD, provided however, that Hardware shall not include any televisions or monitors manufactured by third parties.
- d. "Intellectual Property" means any and all rights of USDD related to USDD's Products and business existing from time to time under patent law, copyright law, trade secret law, trademark law, unfair competition law, and any and all other proprietary rights, and any and all derivative works, work product, applications, renewals, extensions and restorations thereof, now or hereafter in force and effect worldwide.
- e. "Products" means the Hardware, Software and other tangible goods, equipment, supplies and components included in the Quote.
- f. "Quote" means the document at Exhibit A, excluding the section titled "terms and conditions," if any.
- g. "Scope of Work" means the document attached at Exhibit B (Scope of Work excludes any goods or services to be provided under the Service Agreement. The Scope of Work applies only to the Products and services included in the Quote.

- 
- i. "Software" means software programs, including embedded software, firmware, executable code, linkable object code, and source code, including any updates, modifications, revisions, copies, documentation, and design data that are licensed to Customer by USDD.
 - j. "System" means all Hardware and Software purchased by Customer directly from USDD under any contract, purchase order, or arrangement that is used exclusively by Customer as part of its fire station alerting system, provided however, that the term "System" specifically excludes any components, hardware, or software provided by third parties, including without limitation Customer's computers, lap tops, computer peripherals, monitors, televisions, routers, switches, operating systems, computer programs, applications, internet and network connections, and any other parts or items not provided to Customer directly by USDD.
 - k. "Station Controller" means the CPU and related computer components (whether USDD's ATX or ATU model) to be installed at each fire station as described in the Quote.

1. "Warranty" means the New System Warranty attached at Exhibit D.
- m. Undefined technical terms, specifications and acronyms used throughout this Contract shall have the meanings generally attributed to them in the in the fire station alerting industry.
3. **Products and Services.** USDD agrees to provide the Products and perform the services set forth in the Scope of Work at the prices set forth in the Quote. Unless otherwise specifically waived in the Quote, Customer shall bear all costs of shipping the Products. Risk of loss or damage in transit shall be borne by USDD. Upon delivery to Customer's site, Customer shall bear all risk of loss or damage to any Products occurring thereafter.
4. **Engineering Services.** Except as otherwise set forth in the Quote, all Engineering Services provided by USDD related to the System shall be charged at \$250.00 per man-hour.
5. **Installation Services.** Except as otherwise set forth in the Quote, installation of the System shall be provided by USDD and its certified installation subcontractors as follows:
 - a. Within 30 days after the execution of this Contract, the parties shall participate in a project meeting at a place and in a manner as shall be reasonably convenient ("Project Meeting").
 - b. Either party may elect to participate in the meeting remotely via video or telephone conference.
 - c. USDD will provide a proposed project schedule for discussion at that time or otherwise consult with Customer regarding development of a project schedule and the Engineering Services.
 - d. Thereafter, USDD and Customer will collaborate to plan and document the Products, layout, and installation protocols for each individual installation sight and finalize the project schedule (collectively the "Design Phase").
 - e. Customer shall issue its authorization to proceed with delivery of the Products and Services as set forth in the Quote within 5 days of completion of the Design Phase.
 - f. Upon issuance of Customer's authorization to proceed, no changes will be made to the design of the System except upon written change order.
6. **Invoices and Payment.** USDD shall invoice Customer for all Products delivered to Customer and all services provided to Customer on a monthly basis. All invoices shall be due and payable upon receipt in United States currency, free of exchange, or any other charges, or as otherwise agreed upon and set forth in writing by USDD. Invoices unpaid for 30 days are subject to interest at 18% per annum.

7. **Training.** Pursuant to a mutually agreed upon schedule, USDD shall provide training as set forth in the Scope of Work for the price stated in the Quote. Except as otherwise set forth in the Quote, all training provided by USDD related to the System shall be charged at \$250.00 per man-hour, plus reasonable costs and expenses incurred by USDD related to the training, which costs shall be approved in advance by Customer. Reasonable costs and expenses shall include air fare, lodging, meals, ground transportation, shipping, document reproduction, and other reasonably necessary costs and expenses related to the training.

8. **Acceptance of Station Installation.** Upon satisfactory completion of installation at Customer's fire station, Customer shall forward to USDD written notice that installation has been completed and accepted by Customer. This acceptance will trigger USDD to perform the configuration and start-up of the fire station as provided for in the Quote and Scope of Work.

9. **Reserved.**

10. **Taxes.** The amount of any sales, use, occupancy, excise, or other tax, federal, state, or local which USDD shall be obligated legally to pay, either on its own, on behalf of the Customer or otherwise, with respect to the Products and services to be provided under this Contract, shall be paid by Customer in addition to all other sums due hereunder.

11. **Warranty.** USDD warrants and guarantees its Products subject to the terms and limitations set forth in the Warranty. The Customer's rights and remedies with respect to Products found to be defective in material or workmanship shall be limited exclusively to the rights and remedies set forth in the Warranty.

12. **Service and Support Option.** Upon expiration of the "Warranty Period" (as defined in the Warranty), Customer shall have five one-year options to purchase certain support and maintenance services from USDD (each a "Service Option") on the terms and conditions set forth in the Service Agreement. The compensation to be paid to USDD for the "Services" is the "Annual Fee" (as such terms are defined in the Service Agreement). USDD may invoice Customer for the Annual Fee as set forth in the Service Agreement. Customer shall have no obligation to pay the invoice for the Annual Fee unless it elects to exercise its Service Option as set forth below. Customer may exercise its Service Option by: (a) providing written notice to USDD of its intent to exercise the Service Option at any time prior to the beginning of each one-year option period; or (b) making payment of USDD's invoice for the Annual Fee, provided however that such payment is received by USDD prior to the commencement of such one-year option period. After the expiration of the Warranty Period, USDD shall have no obligation to provide the services set forth in the Service Agreement unless and until Customer exercises the Service Option and pays the Annual Fee.

13. **Intellectual Property.** Customer hereby agrees and acknowledges that USDD owns all rights, title, and interest in and to the Intellectual Property. Customer agrees to not remove, obscure, or alter USDD's or any third party's copyright notice, trademarks, or other proprietary rights notices affixed to or contained within or accessed in conjunction with or through USDD's Products. Nothing herein shall be deemed to give, transfer, or convey to Customer any rights in the Intellectual Property other than the license to use the Software, as set forth below.

14. **License.** At all times that Customer is in compliance with the terms of this Contract and all other agreements between the parties, Customer shall have a non-exclusive, non-transferable, fully paid license to use the Software in conjunction with the System.

15. **Insurance.** USDD and its contractors shall provide copies of current insurance certificates for general liability insurance, automobile liability insurance, and workers' compensation insurance with a minimum of \$1,000,000.00 in coverage ("Proof of Insurance"). Customer shall be added as an additional insured on the general and automobile liability policies. Notwithstanding the foregoing, if after submission of the Proof of Insurance Customer authorizes USDD or its contractors to proceed with the performance of this Agreement, it shall be conclusively presumed and determined that the insurance is in full compliance with the requirements set forth above, and such requirements shall be deemed revised and amended to require only the coverages provided in the Proof of Insurance. These terms are effective and shall be controlling whether the Proof of Insurance is provided before or after the date of this Contract.

16. **Customer Point of Contact.** Customer shall assign a minimum of one and a maximum of three contact people to manage the installation and administration of the System (the "System Administrator"). Customer shall provide USDD with written notice of such assignment prior to the Project Meeting. Customer may change the System Administrator only upon written notice to USDD. The System Administrator shall have the principal responsibility of overseeing and managing this Contract on behalf of Customer and shall be the primary point of contact for Customer. The Customer may replace the person serving as its System Administrator only upon prior written notice to USDD. Customer will ensure that the System Administrator is reasonably available to USDD and USDD may rely on the direction of the System Administrator in performing its duties hereunder, including without limit, direction to provide Additional Services.

17. **Customer Obligations.** Customer shall take and perform all reasonable action necessary to facilitate USDD's performance of the Scope of Work hereunder. Prior to the Project Meeting, USDD shall provide Customer with certain project documentation that lists tasks to be performed by Customer to enable USDD to configure the Communications Gateway and prepare for installation and implementation. In addition to the foregoing, Customer shall be responsible for procuring and/or providing the following for use with the System:

- a. The procurement and/or provision of all computers, peripherals, and consumables (collectively "Customer Equipment"), including printer paper, toner and ink necessary for the installation, testing and functionality of the of the System;
- b. Procure and install radio control station(s) or radio console(s), if necessary, and integrate with existing radio system. Radios or consoles must have PTT input, audio input, and COR output for full System functionality. Provide any third party console software licenses as necessary;

- c. Any configuration and regular maintenance that is normally undertaken by the user or operator as described in any operating manuals for the Customer Equipment, including the replacement of UPS batteries as necessary;
- d. Providing all reasonable security and bearing all risk of loss or damage to any Products delivered to, stored at, or installed on Customer's property;
- e. Providing a stable means of data transmission between the Communications Gateway (servers installed at dispatch) and the Station Controller serviced by the System necessary for the installation, testing and functionality of the of the System; such means of data transmission may include, but is not limited to, TCP/IP, data modems, leased lines, radios, etc;
- f. The correct use of the Products and System in accordance with the manufacturer and USDD's operating instructions; and
- g. The security, accessibility, and integrity of the System, Customer Equipment, and installation site.

18. Remote Access to System.

- a. USDD requires remote network access to the System, including access to Customer's Communications Gateways, Station Controllers, and other USDD-supplied equipment through Secure Shell (SSH) to perform implementation and support tasks under this contract. To enable this the Customer will provide USDD support personnel VPN or similar remote network access to the System for USDD support personnel ("Customer Support") to effectively troubleshoot critical or complex problems and to expedite resolution of such issues. Remote network access is also used to install core System software upgrades and customized software. USDD will only access Customer's System with the knowledge and consent of Customer.
- b. Alternative to Network Access. If the Customer elects not to provide remote network access to the System, then USDD may not be able to perform some support functions. Customers that elect not to routinely provide network access may temporarily reinstate this access to allow USDD to perform the above services. The following services will not be performed without this access:
 - System software upgrades
 - System software customization
 - Network troubleshooting assistance including packet capture and network monitoring on USDD devices
 - Detailed log analysis
 - Bulk updates to System database tables
 - Troubleshooting that requires low-level system access or large file transfer

- c. Timely Access. Customers must ensure that remote access is available prior to notifying USDD of a support request. In the event that the Customer is unable to provide remote access, USDD will not be required to provide support outside those tasks that do not require remote access, and any corresponding resolution response times will not apply.
- d. Physical Security Tokens. USDD has multiple software engineers that provide after-hours support and these engineers do not typically take security tokens from the USDD office. If the customer requires the use of physical security tokens this may delay after hours service.

19. **Cancellation and Suspension.** Any order resulting from this Contract is subject to cancellation or instructions to suspend work by the Customer only upon Customer's agreement to pay USDD for all work in progress, services rendered, all inventoried or ordered Products, and all other costs incurred by USDD related to this Contract. USDD may suspend all performances under this Contract immediately upon Customer's failure to pay any sum due hereunder for more than 30 days.

20. **Termination**

- a. **By Customer.** If this Contract is terminated by Customer for any reason other than USDD's breach, Customer shall immediately pay USDD for all work in progress, services rendered, all inventoried or ordered Products, and all other costs incurred by USDD related to this Contract.
- b. **By USDD.** If Customer refuses or fails to perform any of its obligations in accordance with this Contract, including, without limitation, to remit all payments in a timely manner, USDD shall provide written notice thereof to Customer ("Default Notice"). The Default notice shall specifically describe the nature of the alleged failure and demand that Customer cure such failure within a specified reasonable time period, which in the event of a failure to make timely payment shall be five days, and in all other events shall not be less than 30 days ("Cure Period"). If Customer fails to cure the failure within the Cure Period, such failure shall be deemed a default under this Contract. In such event, USDD shall have the right to terminate this Contract by written notice to Customer, and Customer shall immediately pay USDD for all work in progress, services rendered, all inventoried or ordered Products, and all other costs incurred by USDD related to this Contract.
- c. **For Failure to Complete Design Phase.** If the parties cannot complete the Design Phase within 30 days of the Project Meeting, either party may terminate this Contract by written notice to the other. In such event, Customer shall immediately pay USDD for all work in progress, services rendered, all inventoried or ordered Products, and all other costs incurred by USDD related to this Contract.

21. **Assignment.** The parties shall not assign in whole or in part the Contract without the prior written consent of the other party, which consent may not be unreasonably withheld. Notwithstanding the foregoing, USDD may freely transfer its rights under this Contract in the event of a sale of all or substantially all of this assets or stock, after written notice to Customer. Additionally, USDD may subcontract any or all of the installation and Products manufacturing. Each party binds itself, its successors, assigns, executors, administrators or other representatives to the other party hereto and to successors, assigns, executors, administrators or other representatives of such other party in connection with all terms and conditions of this Contract.

22. **Force Majeure.** Except for Customer's duty to pay sums due hereunder, neither party will be liable for any act, omission, or failure to fulfill its obligations under this Contract if such act, omission or failure arises from any cause beyond its control including acts of nature, strikes, lockouts, riots, acts of war, acts of terrorism, epidemics, governmental action after the date of this Contract, fire communication line failures, power failures, earthquakes or other disasters. The party unable to fulfill its obligations due to Force Majeure will immediately:

- a. Notify the other in writing of the reasons for its failure to fulfill its obligations and the effect of such failure; and
- b. Use all responsible endeavors to avoid or remove the cause and perform its obligations.

23. **Images and Testimonials.** During the term of this agreement and any Service Agreement between the parties, Customer agrees that USDD may take, make or obtain images, pictures, photographs, commentary, and video and audio recordings of Customer's System and property and reproductions of the same in whole or in part, either digitally or in any other medium now known or later discovered (collectively "Images"). In addition, USDD may request Customer to provide testimonials, endorsements, feedback or other written or oral comments concerning Customer's experience with the System (collectively "Testimonials"). USDD may request Customer's consent to the use of such Images and Testimonials for verification, training, and promotional purposes.

24. **Notices.** Whenever any provision of this Contract requires the giving of written notice, it shall be deemed to have been validly given if delivered (i) in person, (ii) by registered mail, postage pre-paid, (iii) by a nationally recognized overnight courier service, or (iv) electronically via facsimile copy or email, provided that the sender obtains confirmation of transmission, to the following:

For the Customer:
Name: Matt Nelson

Title: Administrative Captain
Address: Orange City Fire Department
176 S. Grand St.
Orange, CA 92866
Fax: (714) 744-6035
Email: mnelson@cityoforange.org

For USDD:
US Digital Designs, Inc.
Attention: Dominic Magnoni
1835 East 6th Street, Suite 27
Tempe, Arizona 85281
Fax: 480-290-7892
Email: dmagnoni@usdd.com

25. **Headings and Usage.** The headings, captions, and section numbers contained herein are provided for convenience only and are not part of the terms of this Contract. When the context of the words used in this Contract indicate that such is the intent, words in the singular shall include the plural, and vice versa, and the references to the masculine, feminine or neuter shall be construed as the gender of the person, persons, entity or entities actually referred to require.

26. **Waiver.** No failure or delay, in any one or more instances, to enforce or require strict compliance with any term of this Contract shall be deemed to be a waiver of such term nor shall such failure or delay be deemed a waiver of any other breach of any other term contained in this Contract.

27. **Governing Law and Venue.** This Contract will be governed by and construed according to the laws of the State of Arizona without regard to conflicts of law principles. Venue for any dispute arising under the Contract will be in Orange County, California.

28. **Execution in Counterparts.** This Contract may be executed in counterparts, all of which taken together shall be deemed one original. The date of this Contract shall be the latest date on which any party executes this Contract.

29. **Entire Agreement.** This Contract contains the entire understanding between the parties, and supersedes any prior understandings and agreements between or among them with respect to the subject matter hereof. This Contract supersedes and replaces the "terms and conditions" section set forth in the Quote, if any. This Contract may not be amended, altered, or changed except by the express written agreement of the parties.

30. **Joint Effort.** This Contract has been drafted through the joint efforts of the parties and shall not be construed against any party on the basis that such party is the drafter of this Contract or any term thereof.

31. **Savings Clause.** In the event any part, provision, or term of this Contract is deemed to be illegal or unenforceable, this Contract shall be construed as if such unenforceable part, provision, or term had not been included herein. Such illegal or unenforceable part, provision, or

term shall be deemed revised to the extent necessary to cure its defect and such revision and the remainder of the Contract shall be and remain in full force and effect.


32. **Customer Representative.** The undersigned representative of Customer hereby represents and warrants that s/he has the authority to bind Customer and that the execution, delivery and performance by Customer under this Contract will not violate the provisions of any law, rule, regulation or policy, and will not conflict with or result in the breach or termination or constitute a default under any agreement or instrument to which Customer is a party.

33. **Incorporation of all Exhibits.** All exhibits, addenda, schedules and other documents referenced herein and attached hereto are hereby fully incorporated and made a part hereof by this reference as if the terms and content thereof had been fully set forth in the body of this Contract.

City of Orange Fire Department:
CITY OF ORANGE

By: _____
Name: MARK A. MURPHY
Its: Mayor
Date: _____

US Digital Designs, Inc.

By: 
DOMINIC MAGNONI, Vice President
Date: 15 APR 2021

ATTEST:

Pamela Coleman, City Clerk

APPROVED AS TO FORM:

Mary E. Binning
Senior Assistant City Attorney

EXHIBIT A
Quote

**See Quote #CA_OGCY003-Qv1 – 1StationSystem&InstallTraining (2021FEB17).pdf
attached at the following pages.**

US DIGITAL DESIGNS

Tempe, Arizona USA

Phoenix G2 - Automated Fire Station Alerting

Quotation to:

The City of Orange, California
Orange City Fire Department

Project:

G2 Fire Station Alerting System
One (1) Station System & Installation Training

Proposal number:

CA_OGCY003

Revision #

1

[Pricing Protected per Public Procurement Authority (PPA0), League of Oregon Cities (LOC), Master Price Agreement (MPA) - available to members of National Purchase Partners, LLC, dba Public Safety GPO, dba Law Enforcement GPO and dba NPPGov - Contract #/H 1164 - more information available at <https://nppgov.com/contract/us-digital-designs>]

The Orange City Fire Department is Already Member # M-5722839

Quote Date:

17-Feb-2021

Quote Expires:

18-May-2021

INSTALLATION BY:

N/A - G2 Installation Training
is included for Orange City Fire Department Staff

By:

Peter Donkin
Project Manager

US Digital Designs, Inc.
1835 E Sixth St #27
Tempe, AZ 85281
602-687-1759 direct
480-290-7892 fax
pdonkin@usdd.com

[This Proposal is subject to corrections due to Errors or Omissions]

US DIGITAL DESIGNS

1835 E. Sixth St. Suite #27
Tempe, Arizona 85281

877-551-8733 tel 480-290-7892 fax

QUOTE

DATE: 2/17/21
Expires: 5/18/21

Quote SUBMITTED TO:
The City of Orange, California
Orange City Fire Department

REF PROPOSAL

CA_OGCY003 v1

STATION-LEVEL

STATION 01

Based from USDD G2 Fire Station Alerting System Design Drawing # USDD.CA_OGCY.FS01.FSA.2020.09.28.pdf

STATION SYSTEM LICENSES

Item	Unit	Mfr	Qty	Description	Part No.	US List Unit	QUOTE UNIT	QUOTE EXT
SL1	Ea	USDD	1	G2 VOICEALERT - Single Station License.	VA	\$ 1,030.00	\$ 927.00	\$ 927.00
SL2	Ea/Yr	USDD	24	G2 MOBILE FSAS APP - Single Device License. Up to 24 Licenses-Per-ATX are offered at \$0.00 cost each as long as system is currently under warranty or elected recurring annual support coverage. See 'Mobile' Section for more detail.	G2-APP-DLI	\$ 108.00	\$ 97.20	N/A - Included

STATION SYSTEM CONTROLLER

Item	Unit	Mfr	Qty	Description	Part No.	US List Unit	QUOTE UNIT	QUOTE EXT
SC1	Kit	USDD	1	G2 ATX STATION CONTROLLER - Power/Signal/Control up to 8 peripheral Remote Options. 4 Unique Amps/Zones available.	ATX	\$ 21,750.00	\$ 19,575.00	\$ 19,575.00
SC2	Kit	USDD	2	G2 EXPANSION KIT - Allows ability to Power/Signal/Control up to 12 more peripheral Remote options per EXP.	EXP	\$ 7,325.00	\$ 6,592.50	\$ 13,185.00
SC3	Kit	USDD	0	Rack Mount Ears for ATX or EXP	ATX-E	\$ 54.00	\$ 48.60	\$ -
SC4	Kit	USDD	0	Base Plate for ATX or EXP	ATX-P	\$ 54.00	\$ 48.60	\$ -
SC5	Ea	TBD	3	ATX UPS, Standard	UPS-STD	\$ 923.00	\$ 830.70	\$ 2,492.10
SC6	Ea	TBD	3	Shelf/Bracket, Wall-Mount for UPS	UPS-WMB	\$ 57.00	\$ 51.30	\$ 153.90

STATION SYSTEM PERIPHERAL COMPONENTS

Item	Unit	Mfr	Qty	Description	Part No.	US List Unit	QUOTE UNIT	QUOTE EXT
SP1a	Ea	TBD	0	Audio Amplifier, External, Standard	AMP	\$ 987.00	\$ 888.30	\$ -
SP1b	Ea	TBD	0	Shelf, Under Table or Wall Mount, for 1U 1/2 Rack	AMP-S	\$ 66.00	\$ 59.40	\$ -
SP2	Ea	USDD	4	G2 COLOR INDICATOR REMOTE Module - Up to 8 unique colors	CIR	\$ 725.00	\$ 652.50	\$ 2,610.00
SP3a	Ea	USDD	5	G2 HDTV REMOTE Module (TV & Electrical Outlet by Others; C.E.C. control subject to TV ability)	TVR	\$ 975.00	\$ 877.50	\$ 4,387.50
SP3b	Ea	TBD	0	Flat Panel Monitor / Smart HDTV 40-43" (Electrical Outlet/Provision By Others; C.E.C. control subject to TV ability)	FP-43	\$ 1,377.57	\$ 1,239.81	\$ -
SP3c	Ea	TBD	0	Flat Panel / TV Mount- Universal 23"-46" Tilt	FPM-U	\$ 107.86	\$ 97.07	\$ -
SP4	Ea	USDD	0	G2 I/O REMOTE Module w/ 8 In & 8 Out	IOR	\$ 1,275.00	\$ 1,147.50	\$ -
SP5	Ea	USDD	1	Push Button, Standard (Black)	PB-B	\$ 110.00	\$ 99.00	\$ 99.00
SP6	Ea	USDD	2	Push Button, Emergency (Red)	PB-R	\$ 110.00	\$ 99.00	\$ 198.00
SP7	Ea	USDD	3	G2 MESSAGE REMOTE 2 Module (2017 Version 2)	MR2	\$ 1,275.00	\$ 1,147.50	\$ 3,442.50
SP9a	Ea	USDD	0	G2 MESSAGE SIGN (Digital LED) MINI GammaSign / 12" Active Screen Width / Turn Out Timing ONLY	MS-G-M	\$ 915.00	\$ 823.50	\$ -

SP9b	Ea	USDD	11	G2 MESSAGE SIGN (Digital LED) STANDARD GammaSign / 24" Active Screen Width	MS-G-S	\$ 1,050.00	\$ 945.00	\$ 10,395.00	
SP9c	Ea	USDD	0	G2 MESSAGE SIGN (Digital LED) EXTENDED GammaSign / 36" Active Screen Width	MS-G-E	\$ 1,575.00	\$ 1,417.50	\$ -	
SP9d	Ea	USDD	1	MS-G Adapter Plate, SINGLE, VESA 100 joins (1) MS-G-S (or-E) to any standard mount with VESA 100 hole patterns (mount not included)	MS-AP-S	\$ 38.00	\$ 34.20	\$ 34.20	
SP9e	Ea	USDD	4	MS-G Adapter Plate, DOUBLE, VESA 100 joins (2) MS-G-S (or-E) to any standard mount with VESA 100 hole patterns (mount not included)	MS-AP-D	\$ 49.00	\$ 44.10	\$ 176.40	
SP9f	Ea	USDD	0	MS-G Hanger Kit. Hangs single or double (back-to-back) Message Signs (Gamma Version) from Ceiling. Includes both suspended ceiling T-Bar Scissor Clips and Hard-Pan Flange Mounts.	MS-HK	\$ 73.00	\$ 65.70	\$ -	
SP11	Ea	TBD	5	MS Mount - Articulating, Long reach	MS-MNT-ART-L	\$ 287.00	\$ 258.30	\$ 1,291.50	
SP12a	Ea	USDD	15	G2 ROOM REMOTE 2 Module / 2017 version 2	RR2	\$ 2,025.00	\$ 1,822.50	\$ 27,337.50	
SP12c	Ea	USDD	0	RR2 Adapter Plate, for Retrofit in RR1 Wall Cavity	RR2-AP	\$ 46.00	\$ 41.40	\$ -	
SP12d	Ea	USDD	0	RR2 Surface Mount Box, for SURFACE MOUNT (hard wall) installation. Three (3) 3/4" conduit knock-outs.	RR2-SMB	\$ 175.00	\$ 157.50	\$ -	
SP15	Ea	USDD	29	G2 SPEAKER - LED Illuminated - FLUSH Mount, 70v	SPK-LED-FM	\$ 325.00	\$ 292.50	\$ 8,482.50	
SP16	Ea	USDD	1	G2 SPEAKER - LED Illuminated - SURFACE Mount (Metal Box), 70v	SPK-LED-SM	\$ 325.00	\$ 292.50	\$ 292.50	
SP17a	Ea	USDD	2	G2 SPEAKER - OmniAlertStrobe - Omnidirectional Alerting Speaker, optimized for high Vocal Intelligibility in large open indoor areas and with High-Intensity LED Strobe Light Arrays - includes Cable Hanging Kit (typically requires MR2 for power/signal/control)	SPK-OAS	\$ 815.00	\$ 733.50	\$ 1,467.00	
SP17b	Ea	USDD	0	SPK-OAS/OmniStrobe Mounting Bracket / BEAM FLANGE CLIP- for mounting directly onto an exposed (1/8-14") I-Beam	SPK-OAS-BFC	\$ 13.00	\$ 11.70	\$ -	
SP17c	Ea	USDD	0	SPK-OAS/OmniStrobe Mounting Bracket /DROP CEILING BRACKET- for mounting directly to T-Bar in Suspended Ceiling	SPK-OAS-DCB	\$ 48.00	\$ 43.20	\$ -	
SP17d	Ea	USDD	0	SPK-OAS/OmniStrobe Mounting Bracket / SURFACE MOUNT - for mounting directly to hard ceiling	SPK-OAS-SMB	\$ 42.00	\$ 37.80	\$ -	
SP18a	Ea	USDD	30	SPEAKER - STANDARD, FLUSH Mount, 70v	SPK-STD-FM	\$ 85.00	\$ 76.50	\$ 2,295.00	
SP18b	Ea	USDD	0	SPEAKER - STANDARD, SURFACE Mount (Metal Box), 70v	SPK-STD-SM	\$ 85.00	\$ 76.50	\$ -	
SP19	Ea	USDD	1	SPEAKER - APP BAY/OUTDOOR - Weatherized, Surface Mount, 70v	SPK-W-SM	\$ 310.00	\$ 279.00	\$ 279.00	
SP21	Ea	USDD	0	G2 Strobe Light / Red LED	STR	\$ 550.00	\$ 495.00	\$ -	
SP20	Ea	USDD	0	Transformer, 8ohm to 70V, External	XFMR	\$ 53.00	\$ 47.70	\$ -	
SP22	Ea	USDD	0	VIDEO DOOR STATION - Doorbell & Camera that ties into G2 FSAS (HDTV Remote) - Includes Power Injector	VDS	\$ 1,700.00	\$ 1,530.00	\$ -	

STATION SYSTEM SERVICES									
Item	Unit	Mfr	Qty	Description	Part No.	US List Unit	QUOTE UNIT	QUOTE EXT	
SS1	Ea	USDD	0	Station Installation (N/A - Installation is not assumed or included by USDD. Customer to contract directly with a Certified G2 Installer.)	ST-INST	\$ -	\$ -	\$ -	
SS2	Ea	USDD	0	Station Remediation (Removal and Disposal of Legacy Equipment Not currently Assumed or Included, nor is any related Remediation to Paint, Drywall, etc.)	ST-INST	\$ -	\$ -	\$ -	
SS3	Ea	USDD	1	Station Configuration & Start-Up	ST-SU	\$ 3,225.82	\$ 2,903.24	\$ 2,903.24	

SS4	Ea	USDD	1	Station Project Management	ST-PM	\$ 1,114.56	\$ 1,003.10	\$ 1,003.10	
SS5	Ea	USDD	1	Station Engineering / Design Services	ST-ES	\$ 396.48	\$ 356.83	\$ 356.83	
SS6	Ea	USDD	1	Station Documentation	ST-DM	\$ 57.27	\$ 51.54	\$ 51.54	
SS7a	Ea	USDD	0	Station Training - Configuration and Equipment. On-Site @ Station. 4 Hours, 1 Visit. (for Technical Services Staff)	TRA-UT-O	\$ 4,025.00	\$ 3,622.50	\$ -	
SS7b	Ea	USDD	0	Station Training - User/Technician / Remote Refresh (2 Hours)	TRA-UT-R	\$ 600.00	\$ 540.00	\$ -	
SS8a	Ea	USDD	1	Training - Installation Contractor - On-Site / USDD G2 Certification / 8 Hours (Orange City Fire Department Staff)	TRA-IC-O	\$ 5,325.00	\$ 4,792.50	\$ 4,792.50	
SS8b	Ea	USDD	0	Training - Installation Contractor - At Arizona Training Center / USDD G2 Certification / 8 Hours (TBD - only needed if required to use non-certified contractor)	TRA-IC-AZ	\$ 2,725.00	\$ 2,452.50	\$ -	
SS9	Ea	USDD	0	Miscellaneous/TBD	MISC	\$ -	\$ -	\$ -	

STATION SYSTEM WARRANTY & OPTIONAL RECURRING ANNUAL SUPPORT									
Item	Unit	Mfr	Qty	Description	Part No.	US List Unit	QUOTE UNIT	QUOTE EXT	
SW1	YR	USDD	1.0	[STANDARD] 1st YEAR WARRANTY & SUPPORT FOR THIS STATION SYSTEM (or component): Telephone / Remote Access Support (8:00 AM - 5:00 PM MST)	RS-1YR-STD	\$ 9,912.06	\$ 8,920.85	8920.854 but No Charge For Initial Warranty Period / Not Included in Subtotals	
SW2	YR	USDD	0.0	[STANDARD] EACH ADDITIONAL YEAR (12-Months) WARRANTY & SUPPORT FOR THIS STATION SYSTEM (or Component): Telephone / Remote Access Support (8:00 AM - 5:00 PM MST) IF QUANTITY '0' THEN NO ADDITIONAL SUPPORT IS ASSUMED OR AUTHORIZED BEYOND INITIAL WARRANTY PERIOD	RS-AYR-STD	\$ 9,912.06	\$ 8,920.85	\$ -	

STATION 01		System:	\$ 108,227.82
		Shipping:	\$ 2,862.00
		Warranty & Support:	\$ -
		California Cost Recovery Fee:	\$ 5,086.71
		STATION SUBTOTAL:	\$ 116,176.53

This quote does not include or assume any amounts for sales or use tax. Customer needs to contact its procurement department to determine if sales or use tax is payable, and if so, to make the determination of the amount to be paid. Per our contracts, Customer is responsible for the payment of any sales or use taxes owed from any purchase from USDD.

See Section Totals Page for Explanation of the California Cost-Recovery Fee

Warranty & Support Notes:

Customer must elect to choose any coverage they require beyond initial warranty period, or USDD will not be authorized to provide any service or support. Mobile Smart Phone Alerting App and Mapping Services only available to customer while under warranty or elected recurring annual support. Support Agreements subject to change if system design is modified. For additional details, please review current USDD Warranty Statement and Service Agreement. USDD cannot warrant nor support any system configuration that deviates from this specific proposal's documented station system design file number. USDD cannot warrant nor support any system not using USDD-approved UPS Battery Backup. USDD cannot warrant nor support any system not installed by G2 Trained & Certified Installation technician (installer). If customer intends to tie this system into any 3rd-party system or devices, USDD will be unable to warrant or support the system until we've had a chance to review documented engineering assumptions and approve system integrity, performance and reliability expectations.

For FSaaS Program: The cost of service and support beyond initial warranty period is included in the FSaaS Program for a total of 5 years. The service and support includes Mobile Smart Phone Alerting App and Mapping Services. Please see the FSaaS Subscription Agreement for more information concerning the service and support provided by USDD. USDD cannot warrant nor support any system not using USDD-approved UPS Battery Backup. USDD cannot warrant nor support any system not installed by G2 Trained & Certified Installation technician (installer). If customer intends to tie this system into any 3rd-party system or devices, USDD will be unable to warrant or support the system until we've had a chance to review documented engineering assumptions and approve system integrity, performance and reliability expectations.

Station System Installation Notes:

- 01 - Unless specifically detailed in this proposal, no installation by USDD or it's subcontractors is assumed or provided.
- 02 - Because these are mission-critical systems, USDD can only warrant and support systems installed by G2 Trained and Certified Contractors.
- 03 - USDD can source, qualify, train and certify Local Licensed Regional Subcontractors where needed.
- 04 - Installation warranted by installation contractor - G2 FSAS warranted, serviced and supported by USDD.
- 05 - Unless specifically detailed in this proposal, installation to be performed during normal working hours.
- 06 - Unless specifically detailed in this proposal, no permit fees or material charges have been included.
- 07 - Unless specifically detailed in this proposal, no removal or remediation has been assumed or included.
- 08 - Unless specifically detailed in this proposal, no bonds of any type (performance, bid) have been assumed, included or budgeted for in this proposal.
- 09 - USDD FSAS Equipment to be made available by owner to Installation Contractor prior to on-site arrival.
- 10 - Structural backing for system devices and other millwork (not specifically detailed) by others.
- 11 - If applicable, Gas Control Shutoff Valve Addendum (to USDD and installation contractor) must be signed prior to installation.
- 12 - All electrical power, including (but not limited to) raceway, conduit, backboxes, service panels, high-voltage wiring and fixtures by others.
- 13 - All communications pathway infrastructure (network, radio, etc.) by others unless specifically detailed in this proposal.
- 14 - USDD cannot warrant nor support any owner-furnished (3rd-Party) system or component we are required to integrate with. USDD cannot warrant nor support any system or component it has not proofed engineering for and has not specifically authorized for use within public safety environments.
- 15 - Any misuse, unauthorized modification, improper installation, excessive shock, attempted repair, accident, or improper or negligent use, storage, transportation, or handling by any party other than USDD shall render this limited warranty null, void and of no further effect

US DIGITAL DESIGNS

QUOTE

1835 E. Sixth St. Suite #27
Tempe, Arizona 85281

877-551-8733 tel

480-290-7892 fax

DATE: 2/17/21
Expires: 5/18/21

Quote SUBMITTED TO:

The City of Orange, California
Orange City Fire Department

REF PROPOSAL

CA_OGCY003 v1

Section Totals

SECTION TOTALS		
[UNLESS OTHERWISE NOTED, ALL PRICES ARE \$US]		
STATION-LEVEL SUBTOTAL	\$	116,176.53
Includes: STATION 01 SYSTEM:	\$	111,089.82
STATION 01 WARRANTY & SUPPORT:	\$	-
STATION 01 CALIFORNIA COST RECOVERY FEE:	\$	5,086.71
Notes: One (1) Station System with G2 Installation Training & Certification for Orange City Fire Department Staff currently included in this proposal.		
US Digital Designs System Total	\$	116,176.53

This quote does not include or assume any amounts for **sales or use tax**. Customer needs to contact its procurement department to determine if sales or use tax is payable, and if so, to make the determination of the amount to be paid. Per our contracts, Customer is responsible for the payment of any sales or use taxes owed from any purchases from USDD.

(TBD By Customer) Customer must elect to choose any coverage they require beyond initial warranty period, or USDD will not be authorized to provide any service or support. Mobile Smart Phone Alerting App and Mapping Services only available to customer while under warranty or elected recurring annual support. Support Agreements subject to change if system design is modified. For additional details, please review current USDD Warranty Statement and Service Agreement

The California Cost-Recovery Fee is a fee charged by USDD to offset amounts incurred by USDD to calculate, file and pay franchise taxes charged by the State of California for doing business within the state. The recovery fee is NOT a tax that is required to be paid by the customer and collected by USDD. More information from the California Franchise Tax board on this here https://www.ftb.ca.gov/businesses/Structures/S-Corporations.shtml?WT.mc_id=Business_Forms_SCorpTOC

STANDARD TERMS AND CONDITIONS OF SALE

(Contract Sales)

1. **REMITTANCES** All invoices shall be due and payable upon receipt in United States currency, free of exchange, or any other charges, or as otherwise agreed in writing by US Digital Designs, Inc. (hereinafter called "USDD").
2. **PROPOSALS** This proposal expires 30 days after its date. Prices are subject to correction for error.
3. **PROGRESS PAYMENTS** USDD reserves the right to invoice Customer monthly for all materials delivered. Invoices are due NET 30 upon receipt by Customer. If the Customer becomes overdue in any progress payment, USDD shall be entitled to suspend further shipments, shall be entitled to interest at the annual rate of 18%, and also to avail itself of any other legal remedies. Customer agrees that it will pay and/or reimburse USDD for any and all reasonable attorneys' fees and costs which are incurred by USDD in the collection of amounts due and payable hereunder.
4. **CANCELLATION AND SUSPENSION** Any order resulting from this proposal is subject to cancellation or instructions to suspend work by the Customer only upon agreement to pay USDD for all work in progress and all inventoried or ordered project parts and materials, and all other costs incurred by USDD related to the contract.
5. **TAXES** All taxes of any kind levied by any federal, state, municipal or other governmental authority, which tax USDD is required to collect or pay with respect to the production, sale, or delivery of products sold to Customer shall be the responsibility of Customer. Customer agrees to pay all such taxes and further agrees to reimburse USDD for any such payments made by USDD.
6. **LOSS, DAMAGE OR DELAY** USDD shall not be liable for any loss, damage, or delay occasioned by any causes beyond USDD's control, including, but not limited to, governmental actions or orders, embargoes, strikes, differences with workmen, fires, floods, accidents, or transportation delays. IN NO EVENT SHALL USDD BE LIABLE FOR ANY CONSEQUENTIAL OR SPECIAL DAMAGES.
7. **WARRANTY:** USDD warrants and guarantees its products for 12 months from the day of shipment to Customer (the "Warranty Period"), subject to the terms and limitations set forth herein. The Customer's rights and remedies with respect to a product found to be defective in material or workmanship shall be limited exclusively to the rights and remedies set forth herein. Any misuse, unauthorized modification, improper installation, excessive shock, attempted repair, accident, or improper or negligent use, storage, transportation, or handling by any party other than USDD shall render this warranty null, void and of no further effect. USDD cannot warrant nor support any system or component it has not proofed engineering for and has not specifically authorized for use within public safety environments.

7.1 PRODUCT DEFECTS. If a product is defective and a valid claim is made within the Warranty Period, at its option, USDD will either (1) repair the defective product at no charge, using new parts or parts equivalent to new in performance and reliability or (2) exchange the product with a product that is new or equivalent to new in performance and reliability and is at least functionally equivalent to the original product. Any replacement product or part, including a user-installable part that has been installed in accordance with instructions provided by USDD, shall remain under warranty during the Warranty Period or for 90 days from the date of repair, whichever is later. When a product or part is exchanged, any replacement item becomes the Customer's property and the replaced item becomes the property of USDD. Customer shall be responsible for and bear all risks and costs of shipping any products to USDD for repair. USDD shall be responsible for and bear all risks and costs of returning any product to Customer after repair or replacement. Replacement products will be returned to Customer configured as it was when the product was originally purchased, subject to applicable updates.

7.2 CLAIMS. Prior to making a Warranty claim, Customer is encouraged to review USDD's online help resources. Thereafter, to make a valid claim hereunder, Customer must contact USDD technical support and describe the problem or defect with specificity. The first such contact must occur during the Warranty Period. USDD's technical support contact information can be found on USDD's web site at <http://stationalerting.com/home/about-usdd/contact-usdd/>. Customer must use its best efforts to assist in diagnosing defects, follow USDD's technical instructions, and fully cooperate in the diagnostic process. Failure to do so shall relieve USDD of any further obligation hereunder.

7.3 EXCLUSIONS AND LIMITATIONS. USDD does not warrant that the operation of its product or any related peripherals will be uninterrupted or error-free. USDD is not responsible for damage arising from Customer's failure to follow instructions relating to the product's use. This Warranty does not apply to any Hardware or Software (as defined below) not used for its intended purpose. This Warranty does not apply to monitors or televisions manufactured by third parties. Repair or replacement of such components shall be subject exclusively to the manufacturer's warranty, if any. Recovery and reinstallation of Hardware and user data (including passwords) are not covered under this Warranty. This Warranty does not apply: (a) to consumable parts, such as batteries, unless damage has occurred due to a defect in materials or workmanship; (b) to cosmetic damage, including but not limited to scratches, dents and broken plastic on ports; (c) to damage caused by use with non-USDD products; (d) to damage caused by accident, abuse, misuse, flood, lightning, fire, earthquake or other external causes; (e) to damage caused by operating the product outside the permitted or intended uses described by USDD; (f) to damage or failure caused by installation or service (including upgrades and expansions) performed by anyone who is not a representative of USDD or a USDD authorized installer or service provider; (g) to a product or part that has been modified to alter functionality or capability without the written permission of USDD; or (h) if any serial number has been removed or defaced.

TO THE EXTENT PERMITTED BY LAW, THIS WARRANTY AND REMEDIES SET FORTH ABOVE ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, REMEDIES AND CONDITIONS, WHETHER ORAL OR WRITTEN, STATUTORY, EXPRESS OR IMPLIED. AS PERMITTED BY APPLICABLE LAW, USDD SPECIFICALLY DISCLAIMS ANY AND ALL STATUTORY OR IMPLIED WARRANTIES, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND WARRANTIES AGAINST HIDDEN OR LATENT DEFECTS. If USDD cannot lawfully disclaim statutory or implied warranties then to the extent permitted by law, all such warranties shall be limited in duration to the duration of this express Warranty and to repair or replacement service as determined by USDD in its sole discretion. No reseller, agent, or employee is authorized to make any modification, extension, or addition to this Warranty. If any term is held to be illegal or unenforceable, the legality or enforceability of the remaining terms shall not be affected or impaired.

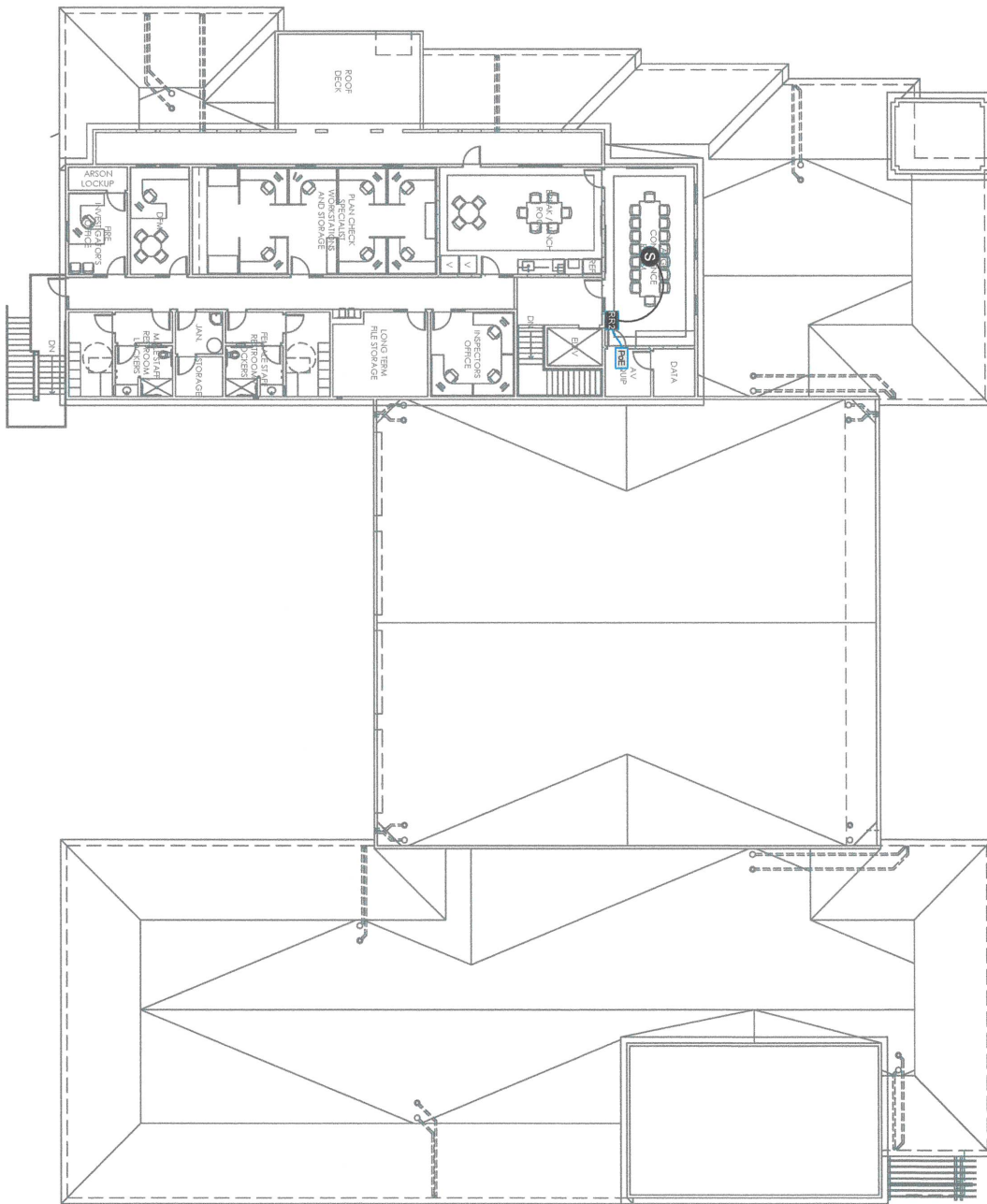
EXCEPT AS PROVIDED IN THIS WARRANTY AND TO THE EXTENT PERMITTED BY LAW, USDD IS NOT RESPONSIBLE FOR DIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES RESULTING FROM ANY BREACH OF WARRANTY OR CONDITION, OR UNDER ANY OTHER LEGAL THEORY, INCLUDING BUT NOT LIMITED TO LOSS OF USE; LOSS OF REVENUE; LOSS OF THE USE OF MONEY; LOSS OF ANTICIPATED SAVINGS; LOSS OF GOODWILL; LOSS OF REPUTATION; and LOSS OF, DAMAGE TO OR CORRUPTION OF DATA. USDD IS NOT RESPONSIBLE FOR ANY INDIRECT LOSS OR DAMAGE HOWSOEVER CAUSED INCLUDING THE REPLACEMENT OF EQUIPMENT AND PROPERTY, ANY COSTS OF RECOVERING PROGRAMMING OR REPRODUCING ANY PROGRAM OR DATA STORED OR USED WITH USDD PRODUCTS, AND ANY FAILURE TO MAINTAIN THE CONFIDENTIALITY OF DATA STORED ON THE PRODUCT. USDD disclaims any representation that it will be able to repair any product under this Warranty or make a product exchange without risk to or loss of the programs or data stored thereon.

8. **SERVICE AGREEMENT.** The Product being purchased hereunder is not subject to any post warranty service agreement or maintenance program unless specifically contracted for between USDD and Customer. USDD offers a comprehensive post warranty Service Agreement at additional cost. Customer should contact USDD regarding its Service Agreement and costs associated therewith.
9. **INTELLECTUAL PROPERTY:** Customer hereby agrees and acknowledges that USDD owns all rights, title, and interest in and to the Intellectual Property (as defined below). Customer agrees to not remove, obscure, or alter USDD's or any third party's copyright notice, trademarks, or other proprietary rights notices affixed to or contained within or accessed in conjunction with or through USDD's Product (as defined below). Nothing herein shall be deemed to give, transfer, or convey to Customer any rights in the Intellectual Property other than the License, as set forth below.
9.1 **LICENSE:** At all times that Customer is in compliance with the terms of this Agreement and all other agreements between the parties, Customer shall have a non-exclusive, non-transferable, fully paid license to use the Software, but only in conjunction with the Hardware provided by USDD and only in conjunction with Customer's fire station alerting system pursuant to the terms of this Agreement.
9.2 **DEFINITIONS:** For purposes of this Section the following terms shall have the following definitions:
9.2.1 "Intellectual Property" means any and all rights of USDD related to USDD's Product existing from time to time under patent law, copyright law, trade secret law, trademark law, unfair competition law, and any and all other proprietary rights, and any and all derivative works, work product, applications, renewals, extensions and restorations thereof, now or hereafter in force and effect worldwide;
9.2.2 "USDD's Product" means any and all Hardware and Software provided to Customer by USDD under this Agreement or any other contract, purchase order, or arrangement;
9.2.3 "Hardware" means a physically tangible electro-mechanical system or sub-system and associated documentation but specifically excludes any televisions or monitors manufactured by a third party; and
9.2.4 "Software" means software programs, including embedded software, firmware, executable code, linkable object code, and source code, including any updates, modifications, revisions, copies, documentation and design data that are licensed under this Agreement.
10. **Remote Access to System.**
 - a. USDD requires remote network access to the System, including access to Customer's Communications Gateways, Station Controllers, and other USDD-supplied equipment through Secure Shell (SSH) to perform implementation and support tasks under this contract. To enable this the Customer will provide USDD support personnel VPN or similar remote network access to the System for USDD support personnel ("Customer Support") to effectively troubleshoot critical or complex problems and to expedite resolution of such issues. Remote network access is also used to install core System software upgrades and customized software. USDD will only access Customer's System with the knowledge and consent of Customer.
 - b. Alternative to Network Access. If the Customer elects not to provide remote network access to the System, then USDD may not be able to perform some support functions. Customers that elect not to routinely provide network access may temporarily reinstate this access to allow USDD to perform the above services. The following services will not be performed without this access:
 - System software upgrades
 - System software customization
 - Network troubleshooting assistance including packet capture and network monitoring on USDD devices
 - Detailed log analysis
 - Bulk updates to System database tables
 - Troubleshooting that requires low-level system access or large file transfer
 - c. Timely Access. Customers must ensure that remote access is available prior to notifying USDD of a support request. In the event that the Customer is unable to provide remote access, USDD will not be required to provide support outside those tasks that do not require remote access, and any corresponding resolution response times will not apply.
 - d. Physical Security Tokens. USDD has multiple software engineers that provide after-hours support and these engineers do not typically take security tokens from the USDD office. If the customer requires the use of physical security tokens this may delay after hours service.
11. **GOVERNING LAW** Any contract resulting from this proposal shall be governed by, construed, and enforced in accordance with the laws of the State of Arizona.
12. **ACCEPTANCE OF TERMS** This proposal shall become a binding contract between the Customer and USDD when accepted in writing by the Customer. Without limiting the foregoing, issuance by Customer of a purchase order to USDD for any of the goods or services herein described shall constitute acceptance. Any such acceptance shall be with the mutual understanding that the terms and conditions of this proposal are a part thereof with the same effect as though signed by both parties named herein and shall prevail over any inconsistent provision of said order. No waiver, alteration, or modification of these terms and conditions shall be binding unless in writing and signed by an authorized representative of USDD.
13. **SHIPPING/DELIVERY:** Unless specifically detailed as otherwise in this proposal, all shipping and delivery costs (even those detailed per-system) relate to single combined shipment to a single point of delivery. If requested otherwise then costs and terms subject to change.
14. **CREDIT CARDS:** All USDD quotes are developed for the customer with the understanding the eventual purchase would be facilitated using standard Purchase Order and Invoice process. If customer would rather use a Credit Card for purchase then said order would be subject to a 4% credit card processing charge.
15. USDD cannot warrant nor support any system configuration that deviates from this specific proposal's documented station system design file number. USDD cannot warrant nor support any system not using USDD-approved UPS Battery Backup. USDD cannot warrant nor support any system not installed by G2 Trained & Certified Installation technician (installer). If customer intends to tie this system into any 3rd-party system or devices, USDD will be unable to warrant or support the system until we've had a chance to review documented engineering assumptions and approve system integrity, performance and reliability expectations.
16. **THIS QUOTE SUBJECT TO REVIEW FOR ERRORS AND OMISSIONS.**

EXHIBIT B
Scope of Work

Provision of Products and Services as described in the Quote attached at Exhibit A, for installation at Customer's Fire Station 1. Installation of Station Equipment to be provided by Customer after successful completion of the G2 Installation Training described below, with equipment to be installed as shown on the attached station designs and identified as File USDD.CA_OGCY.FS01.FSA.2020.09.28.pdf attached hereto

USDD will provide Customer with onsite installation training to Customer selected personnel to enable such personnel to install the System properly and be able to troubleshoot any problems with the installation. Training is designed to acquaint the installation personnel with the design, features and functions of the System, and special installation instructions to enable the installers to be qualified and certified to perform installation as required by USDD, and which will enable USDD to warrant, service and support Customer's System.



INSTALLER NOTES:

1. INSTALLER TO VERIFY WALL AND CEILING TYPE TO DETERMINE NEED FOR FLUSH OR SURFACE MOUNT
2. INSTALLATION OF EQUIPMENT SPECIFIED.
3. INSTALLER TO COORDINATE CONNECTION BETWEEN ATX STATION CONTROLLER'S LINE-LEVEL AUDIO OUTPUT AND (EXISTING) OWNER-FURNISHED HOUSE AUDIO SYSTEM (AMP), IF APPLICABLE FOR BACKUP.
4. INSTALLER TO PROVIDE CAT6 CABLE FROM ATX CONTROLLER W/ OUTPUT TO CUSTOMER'S IN-STATION NETWORK.
5. INSTALLER TO COORDINATE CONNECTION BETWEEN EXISTING STATION LIGHTING CONTROL SYSTEM AND RELAY OUTPUT FROM ATX STATION CONTROLLER OR TO REDUCE WITH OWNER, IF APPLICABLE
6. VOLUME CONTROL TO BE PROVIDED BY OWNER OR INSTALLER IF SHOWN ON CONNECTIONS.
7. INSTALLER TO VERIFY AND CONSIDER LOCATION OF NETWORK AND RADIO CONNECTIONS.

POE = G2 ATX Power-over-Ethernet (POE) ports 1...8 and G2 Expansion Module ports 1...12
 A.N = G2 ATX Amplifier 1...4 E.A.N = G2 External Amplifier 1...n C.H.N = G2 Message Remote 2 Channel 1 or 2

NOTES:

1. SEE ARCHITECTURAL SPECIFICATIONS FOR ALL ROUGH-IN AND INSTALLATION DETAILS.
2. US DIGITAL DESIGNS DOES NOT SUPPLY BACK BOXES, CONDUITS, OR MOUNTING FASTENERS.
3. US DIGITAL DESIGNS FIRE STATION ALERTING PLANS ARE DIAGRAMMATIC AND FOR QUOTING PURPOSES ONLY. DRAWING MAY NOT BE TO SCALE.
4. PHOENIX G2 SYSTEM IS ABLE TO SIGNAL OWNER-FURNISHED SYSTEMS, (EXHAUST, LIGHT, GAS SHUT OFF, ETC.) BUT USDD DOES NOT SUPPLY THESE SYSTEMS AND CANNOT WARRANT OR SUPPORT ANY OF THEIR PERFORMANCE BEYOND THE TRANSMISSION OF RELAY SIGNAL TO THEM.

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SYMBOL	DESCRIPTION
ATX	G2 ATX STATION CONTROLLER
EXP	G2 EXPANSION MODULE
POE	G2 LANTERESTIMABLE POWER SUPPLY
AMP	G2 AMP

SYMBOL	DESCRIPTION
IO	G2 IO REMOTE
MR2	G2 MESSAGE REMOTE 2
RR2	G2 ROOM REMOTE 2
TR	G2 TON REMOTE
GR	G2 COLOR INDICATION REMOTE
PR	G2 PUSH BUTTON - RED
BR	G2 PUSH BUTTON - BLACK
VR	G2 VIDEO DOOR STATION
LA	G2 LOCAL AREA REMOTE
STR	G2 STROBE LIGHT
TR	G2 TRANSFORMER
SR	G2 STROBE SPEAKER
SR	G2 LED BREAKER, FLUSH MOUNT
SR	G2 LED BREAKER, METAL BOX
SR	G2 WEATHER-PROOF BREAKER, FLUSH MOUNT
SR	G2 WEATHER-PROOF BREAKER, METAL BOX
SR	G2 MESSAGE SIGN (MIN 12")
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SR	G2 MESSAGE SIGN (EXTENDED 36")
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SR	G2 MESSAGE SIGN (EXTENDED 2916")
SR	G2 MESSAGE SIGN (EXTENDED 2928")
SR	G2 MESSAGE SIGN (EXTENDED 2940")
SR	G2 MESSAGE SIGN (EXTENDED 2952")
SR	G2 MESSAGE SIGN (EXTENDED 2964")
SR	G2 MESSAGE SIGN (EXTENDED 2976")
SR	G2 MESSAGE SIGN (EXTENDED 2988")
SR	G2 MESSAGE SIGN (EXTENDED 3000")

project	ORANGE CITY FIRE DEPARTMENT, CA
building	FIRE STATION 1
address	105 SOUTH WATER STREET, ORANGE, CA 92866
filename	USDD.CA_OGCV.FS01.FSA.DWG
date	9/28/2020 - 9:53AM
design by	PD

SIGNATURE REQUIRED
 END-USER APPROVES STATION DESIGN FOR PURPOSES OF INSTALLATION. USDD DESIGNS ALIGN WITH SITE CONDITIONS. (SPEAKER MOUNTING TYPE, ATX LOCATION ETC.)

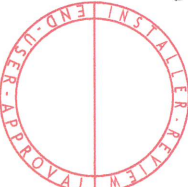


EXHIBIT D
Warranty



NEW SYSTEM WARRANTY

1. **Warranty.** Subject to the terms, conditions and limitations contained herein, US Digital Designs, Inc. ("USDD") warrants and guarantees its products purchased and integrated into Customer's Phoenix G2 Fire Station Alerting System (the "System") for a period of One (1) Year from the day of initial shipment of the System to Customer ("Warranty Period"). The Customer's rights and remedies with respect to a product found to be defective in material or workmanship shall be limited exclusively to the rights and remedies set forth herein.

2. **Hardware Defects.** If a Hardware defect arises and a valid claim is made within the Warranty Period, at its option, USDD will either (1) repair the hardware defect at no charge, using new parts or parts equivalent to new in performance and reliability or (2) exchange the product with a product that is new or equivalent to new in performance and reliability and is at least functionally equivalent to the original product. Any replacement product or part, including a user-installable part that has been installed in accordance with instructions provided by USDD, shall remain under warranty during the Warranty Period or for 90 days from the date of repair, whichever is later. When a product or part is exchanged, any replacement item becomes the Customer's property and the replaced item becomes the property of USDD. Parts provided by USDD in fulfillment of its warranty obligation must be used in the System for which warranty service is claimed. Customer shall be responsible for and bear all risks and costs of shipping any Hardware to USDD for repair. USDD shall be responsible for and bear all risks and costs of returning any Hardware to Customer after repair or replacement. Replacement Hardware will be returned to Customer configured as it was when the Hardware was originally purchased, subject to applicable updates.

3. **System Maintenance and Support.** During the Warranty Period, USDD shall provide Software updates and maintenance for the System (collectively the "Support Services"). The Services shall include the following:

- a. Technical phone support Monday through Friday from 08:00 to 17:30 MST, excluding USDD holidays;
- b. Remote access support Monday through Friday from 08:00 to 17:30 MST, excluding USDD holidays;
- c. 24 hour per day telephone access for Customer's System Administrator to USDD's senior staff and engineers in the event of a "Mission Critical Failure" (as defined below); and
- d. Updates for all System Software, as and when released by USDD.

4. **Claims.** Prior to making a Warranty claim or requesting Support Services, Customer is encouraged to review USDD's online help resources. Thereafter, to make a valid claim hereunder, Customer must contact USDD technical support and describe the problem or defect with specificity. The first such contact must occur during the Warranty Period. USDD's technical support contact information can be found on USDD's web site at <http://stationalerting.com/service-support/>. Customer must use its best efforts to assist in diagnosing defects, follow USDD's technical instructions, and fully cooperate in the diagnostic process. Failure to do so shall relieve USDD of any further obligation hereunder.

5. **Mission Critical Failure.** "Mission Critical Failure" means a failure in the materials, workmanship or design of the System that causes any fire station served by the System to be incapable of receiving dispatches through all communications paths, provided however, that any such failure caused by operator error, internet or telephony service outages, misuse or neglect of the System or any cause outside of USDD's direct control does not constitute a Mission Critical Failure. Customer's use of Emergency Support in the absence of a Mission Critical Failure shall constitute additional services not covered by this Warranty and the time expended will be charged at USDD's then current rates.

6. **Exclusions and Limitations.** USDD does not warrant that the operation of the System, Hardware, Software, or any related peripherals will be uninterrupted or error-free. USDD is not responsible for damage arising from Customer's failure to follow instructions relating to the product's use. This Warranty does not apply to any Hardware or Software not used in conjunction with the System and for its intended purpose. This Warranty does not apply to monitors or televisions manufactured by third parties. Recovery and reinstallation of Hardware and user data (including passwords) are not covered under this Warranty. This Warranty does not apply: (a) to consumable parts, such as batteries, unless damage has occurred due to a defect in materials or workmanship; (b) to cosmetic damage, including but not limited to scratches, dents and broken plastic on ports; (c) to damage caused by use with non-USDD products; (d) to damage caused by accident, abuse, misuse, flood, lightning, fire, earthquake or other external causes; (e) to damage caused by operating the product outside the permitted or intended uses described by USDD; (f) to damage or failure caused by installation or service (including upgrades and expansions) performed by anyone who is not a representative of USDD or a USDD authorized installer or service provider; (g) to a product or part that has been modified to alter functionality or capability without the written permission of USDD; or (h) if any serial number

has been removed or defaced. TO THE EXTENT PERMITTED BY LAW, THIS WARRANTY AND REMEDIES SET FORTH ABOVE ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, REMEDIES AND CONDITIONS, WHETHER ORAL OR WRITTEN, STATUTORY, EXPRESS OR IMPLIED. AS PERMITTED BY APPLICABLE LAW, USDD SPECIFICALLY DISCLAIMS ANY AND ALL STATUTORY OR IMPLIED WARRANTIES, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND WARRANTIES AGAINST HIDDEN OR LATENT DEFECTS. If USDD cannot lawfully disclaim statutory or implied warranties then to the extent permitted by law, all such warranties shall be limited in duration to the duration of this express Warranty and to repair or replacement service as determined by USDD in its sole discretion. No reseller, agent, or employee is authorized to make any modification, extension, or addition to this Warranty. If any term is held to be illegal or unenforceable, the legality or enforceability of the remaining terms shall not be affected or impaired. EXCEPT AS PROVIDED IN THIS WARRANTY AND TO THE EXTENT PERMITTED BY LAW, USDD IS NOT RESPONSIBLE FOR DIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES RESULTING FROM ANY BREACH OF WARRANTY OR CONDITION, OR UNDER ANY OTHER LEGAL THEORY, INCLUDING BUT NOT LIMITED TO LOSS OF USE; LOSS OF REVENUE; LOSS OF THE USE OF MONEY; LOSS OF ANTICIPATED SAVINGS; LOSS OF GOODWILL; LOSS OF REPUTATION; and LOSS OF, DAMAGE TO OR CORRUPTION OF DATA. USDD IS NOT RESPONSIBLE FOR ANY INDIRECT LOSS OR DAMAGE HOWSOEVER CAUSED INCLUDING THE REPLACEMENT OF EQUIPMENT AND PROPERTY, ANY COSTS OF RECOVERING PROGRAMMING OR REPRODUCING ANY PROGRAM OR DATA STORED OR USED WITH USDD PRODUCTS, AND ANY FAILURE TO MAINTAIN THE CONFIDENTIALITY OF DATA STORED ON THE PRODUCT. USDD disclaims any representation that it will be able to repair any Hardware under this Warranty or make a product exchange without risk to or loss of the programs or data stored thereon.



Agenda Item

City Council

Item #: 3.29.

7/13/2021

File #: 21-0386

TO: Honorable Mayor and Members of the City Council

THRU: Rick Otto, City Manager

FROM: Will Kolbow, Assistant City Manager/Administrative Services Director

1. SUBJECT

Authorize purchase of Network Engineering Support Services from Sidepath, Inc.

2. SUMMARY

Approve the purchase order with Sidepath Inc. for Network Engineering Support Services in order to provide interim assistance while IT staff are recruiting to fill an unexpected vacancy of the Network Analyst position.

3. RECOMMENDED ACTION

Approve the purchase of Network Engineering Support Services from Sidepath, Inc. for \$29,700.

4. FISCAL IMPACT

The total expenditure for this agreement is \$29,700 and will be funded through Information Systems Operations (780).

5. STRATEGIC PLAN GOALS

Goal 4: Provide outstanding public service.

c: Enhance technology to improve public accessibility to information and services.

6. DISCUSSION AND BACKGROUND

IT staff are seeking approval to issue a blanket purchase order to Sidepath, Inc. for an ad-hoc network engineering support. The IT department is currently recruiting to fill the Network Analyst position and is in need of interim support. Sidepath, Inc. has provided all of the switching hardware and is very familiar with the IT network infrastructure. This blanket purchase order is only invoiced as hours are consumed, in circumstances where IT staff cannot remediate a network problem internally. The engineers at Sidepath, Inc. will be able to support the following network technologies such as:

- Brocade/Ruckus ICX switches
- Cisco Routers and edge devices
- Palo Alto Networks firewalls
- Ruckus Wireless Access Points

Sidepath's services will provide the City with an escalation point for most network issues that cannot

be handled internally with the sudden departure of Network Analyst position.

In June 2021, Council approved a \$358,995 agreement with Sidepath, Inc. for Security Operations Center as a Service. As the purchase order request of \$29,700 is in addition to the \$358,995, pursuant to the City's purchasing policies, staff is requesting City Council approval.

The total not to exceed amount for the purchase order is \$29,700. Sufficient funds are available to cover the purchase order in Information Systems Operations (780).

7. ATTACHMENTS

- Quote from Sidepath, Inc.



Agenda Item

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7. ATTACHMENTS

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22892 Mill Creek Drive
Laguna Hills, CA 92653
Phone (949)748-8700; Fax (949)748-8706
www.sidepath.com

Quotation

Date: 06/17/21
Quotation #: SIDQ34374
Valid Until: 07/17/21
Prepared By: Ryan Domm
Project ID: SIDPROJECT31580

Bill To:

City of Orange
Attn: Steven Scardina
300 E. Chapman Avenue
Orange, CA 92866

Phone: (714) 744-2283
Email: sscardina@cityoforange.org

Ship To:

City of Orange
Attn: Steven Scardina
300 E. Chapman Avenue
Orange, CA 92866

Phone: (714) 744-2283
Email: sscardina@cityoforange.org

Qty	Item Code	Description	Unit Price	Ext. Price
Professional Services				
132	SP-PS	Professional Services for Ruckus and Palo Alto	\$225.00	\$29,700.00

Payment Terms from Ship Date: Net 30

Pricing does not include Sales Tax or Shipping/Handling unless specifically stated in quote.

CA Shipments: CA Electronic Waste Recycling (eWaste) Fee will apply to monitors, laptops or tablets.

Product Total	\$29,700.00
----------------------	--------------------

Unless you have a separate written agreement that specifically applies to this order, your order will be subject to and governed by Sidepath's Purchasing Terms and Conditions, which are located at: www.sidepath.com/terms. The Purchasing Terms and Conditions are incorporated herein by reference and available in hard copy upon your request.

Note: Sidepath does not collect sales tax for orders shipped out of the state of California. It will be the customer's responsibility to report the tax as Sales & Use Tax.

Please contact me if I can be of further assistance.

THANK YOU FOR YOUR BUSINESS!

Accepted by: _____ Title: _____ Date: _____ PO: _____

If you have any questions regarding this quotation, please contact:

Patrick Mulvee | (213) 458-7771 | pat@sidepath.com

***This document is proprietary and confidential and is intended solely for the recipient.
No part of this document may be disclosed in any manner to a third party who is not affiliated with the recipient.***



Agenda Item

City Council

Item #: 3.30.

7/13/2021

File #: 21-0304

TO: Honorable Mayor and Members of the City Council

THRU: Rick Otto, City Manager

FROM: Dave Curtis, Library Services Director

1. SUBJECT

Request to close the Orange Public Library & History Center and the El Modena and Taft Branch Libraries for various dates during September 2021 - January 2022.

2. SUMMARY

Annually, the Orange Public Libraries are closed to the public to accommodate various events.

3. RECOMMENDED ACTION

Approve closure of the Orange Public Library facilities to the public as described in the Staff Report.

4. FISCAL IMPACT

None.

5. STRATEGIC PLAN GOALS

Goal 4: Provide outstanding public service

b: Provide facilities and services to meet customer expectations.

6. DISCUSSION AND BACKGROUND

Fiscal Year 2021-2022 closure dates

- **September 3 - 4** - The Orange International Street Fair takes place Labor Day weekend. The Orange Public Library & History Center (OPL & HC) closes at 2:30 p.m. on that Friday and all day on Saturday. As the Library parking lot is used for fundraising, it is not feasible to remain open. Both El Modena and Taft Branch Libraries will maintain their regular business hours during this time. Full-time staff scheduled to work Friday afternoon or Saturday will take vacation time or work at the branches.
- **November 24** - Every year, due to limited public use, the Orange Public Library facilities have closed at 6:00 p.m. on the Wednesday evening prior to the Thanksgiving Day holiday.
- **December 23 - January 2** - Orange Public Library facilities will close as part of the City's annual holiday closure. These dates were outlined in Resolution No. 11199 and approved by City Council at the December 10, 2019 meeting.
- **January 17** - Due to the Library's commitment to the City's goal to provide outstanding public

service, the Library conducts Staff Development Day a day for staff to work together on goals, objectives, and training. This will be the Library's seventh Staff Development Day in the past twelve years. The cost is covered by funds donated from library support groups. Monday, January 17 was selected since it is one of the least busy days of the year as it is a federal and local school holiday in honor of the birthday of Martin Luther King, Jr. Staff Development Day will be held from 8:00 a.m. - 5:00 p.m. at the OPL & HC. Attendance will be mandatory.

Notification of these closures will be communicated as usual through library signage, printed calendars, social media, and online.

7. ATTACHMENTS

None



Agenda Item

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7. ATTACHMENTS

None



Agenda Item

City Council

Item #: 3.31.

7/13/2021

File #: 21-0347

TO: Honorable Mayor and Members of the City Council

THRU: Rick Otto, City Manager

FROM: Christopher Cash, Public Works Director

1. SUBJECT

Grant of easement to AT&T California, located in the Grand Street parking lot, south of the Community Services building addressed as 230 E. Chapman Ave.

2. SUMMARY

Granting of easement to AT&T California, located in the Grand Street parking lot, south of the Community Services building addressed as 230 E. Chapman Ave.

3. RECOMMENDED ACTION

Approve the granting of an easement to AT&T California, located in the Grand Street parking lot south of the Community Services building, addressed as 230 E. Chapman Ave; and authorize the Mayor and City Clerk to execute on behalf of the City.

4. FISCAL IMPACT

None.

5. STRATEGIC PLAN GOALS

Goal 1: Provide for a Safe Community

d: Assure the development of the City occurs in a fashion that maximizes public safety

Goal 4: Provide Outstanding Customer Service

b: Provide facilities and services to meet customer expectations.

6. DISCUSSION AND BACKGROUND

In 1968, the City granted an easement for communication lines to Pacific Telephone and Telegraph Company, now AT&T California (AT&T), from Grand Avenue to the First United Methodist Church. The easement was recorded July 2, 1968, document no. 2271, book 8648, page 723 of the official records.

Recently AT&T needed to install high-speed fiber optic communication lines to the church. Rather than utilize the 1968 easement, requiring removal and replacement of sidewalk in the parking lot, AT&T determined it would be quicker and more cost effective to locate the lines in a new easement that would only require cutting into pavement. The new proposed easement is located approximately 10 feet south of the 1968 easement.

Tonight's action is for the approval of the new easement to AT&T California. This easement is being granted with the condition that AT&T must remove their equipment from the easement area and quitclaim the easement back to the City within 60 days of written notice by, and at no cost to, the City. This ensures the City will not incur any additional cost if the easement area is needed for any future development.

7. ATTACHMENTS

- Easement deed
- Location Map (Exhibit "C")



Agenda Item

City Council

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CF0057B UNDERGROUND

AFTER RECORDING, RETURN TO:

PACIFIC BELL TELEPHONE COMPANY

R/W OFFICE

1452 EDINGER AVE, 3RD FLOOR

TUSTIN, CA 92780

CONSIDERATION LESS THAN \$100

DOCUMENT TRANSFER TAX \$0

Signature of declarant or agent determining tax:

Agent

Exchange: Orange/Chapman

APN: 390-382-14

Town of Orange, Por Lots 3 & 13, Blk E

CB(16) A020P41

E042107/CA-2021-APR-1108377-0

Page 1 of 3

GRANT OF EASEMENT

The undersigned Grantor, hereby grants to PACIFIC BELL TELEPHONE COMPANY, a California corporation dba AT&T California, its associated and affiliated companies, its and their successors, assigns, lessees and agents, hereinafter referred to as "Grantee," an easement to construct, reconstruct and maintain (place, operate, inspect, repair, replace and remove) such underground communication facilities only as Grantee may from time to time require (including ingress thereto and egress therefrom) consisting of wires, cables, conduits, pipes, manholes, handholes, associated electrical conductors, necessary fixtures and appurtenances necessary to any and all thereof, together with the right of way therefore in, and under that certain real property in the City of Orange, County of Orange, State of California.

The easement is described in Exhibit "A" and shown on Exhibit "B", attached hereto and made a part hereof.

SEE PAGE 2

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

Grantor, his/her/their successors and assigns, shall not erect or construct any building or other structure or drill or operate any well within said easement.

Grantee shall be responsible for damage caused intentionally or by any negligent act or omission of Grantee, its agents or employees, while exercising the rights granted herein.

Upon written notice from Grantor, Grantee will remove all equipment installed in the easement and restore the property to its pre-easement condition within 60 days. In addition, Grantee will issue a quitclaim of the easement back to the Grantor within those 60 days. All of the above will be done at no charge to the Grantor.

The provisions hereof shall inure to the benefit of and bind the successors and assigns of the respective parties hereto.

Executed this _____ day of _____, 2021

CITY OF ORANGE

BY: _____

ITS: _____

APPROVED AS TO FORM:

ATTEST:

BY: _____

BY: _____

Title: _____

SEE PAGE 3

ACKNOWLEDGMENT

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

State of California

County of _____

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

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

WITNESS my hand and official seal.

(Signature of Notary)

EXHIBIT "A"
LEGAL DESCRIPTION
PUBLIC UTILITY EASEMENT

THOSE CERTAIN STRIPS OF LAND SITUATED IN THE CITY OF ORANGE, COUNTY OF ORANGE, STATE OF CALIFORNIA BEING A PORTION OF LOTS 3 AND 13 OF BLOCK E OF THE MAP OF ORANGE, AS SHOWN ON A MAP FILED IN BOOK 2, PAGES 630 THROUGH 631, INCLUSIVE, OF MISCELLANEOUS RECORDS IN THE OFFICE OF THE COUNTY RECORDER OF LOS ANGELES COUNTY BEING 6.00 FEET WIDE, THE CENTERLINE OF WHICH IS DESCRIBED AS FOLLOWS:

STRIP 1

COMMENCING AT THE NORTHEAST CORNER OF SAID LOT 3; THENCE SOUTHERLY ALONG THE EASTERLY BOUNDARY OF SAID LOT 3 SOUTH 0°07'07" EAST 18.23 FEET TO THE **TRUE POINT OF BEGINNING**; THENCE WEST 18.78 FEET TO A POINT HEREINAFTER REFERRED TO AS POINT "A"; THENCE CONTINUING WEST 111.67 FEET; THENCE SOUTH 41.39 FEET TO THE SOUTHERLY LINE OF SAID LOT 3.

SAID STRIP SHALL BE LENGTHENED OR SHORTENED SO AS TO TERMINATE EASTERLY IN SAID EASTERLY LINE OF LOT 3 AND SOUTHERLY IN THE SOUTHERLY LINES OF SAID LOTS 3 AND 13.

STRIP 2

BEGINNING AT POINT "A"; THENCE NORTH 18.23 FEET TO A POINT ON THE NORTHERLY LINE OF SAID LOT 3.

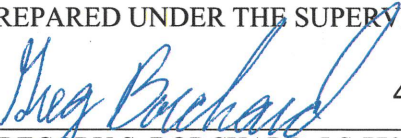
SAID STRIP OF LAND SHALL BE LENGTHENED OR SHORTENED SO AS TO TERMINATE NORTHERLY IN SAID NORTHERLY LINE OF LOT 3 AND SOUTHERLY IN THE NORTHERLY LINE OF SAID STRIP 1 AS PREVIOUSLY DESCRIBED.

CONTAINING: 1122 SQUARE FEET, MORE OR LESS

EXHIBIT "B" ATTACHED HERETO AND BY THIS REFERENCE MADE A PART HEREOF

SUBJECT TO: COVENANTS, CONDITIONS, RESTRICTIONS, RIGHT OF WAY AND EASEMENTS OF RECORD.

PREPARED UNDER THE SUPERVISION OF:



GREGORY S. BORCHARD, LS 7705
MY REGISTRATION EXPIRES: 12/31/22



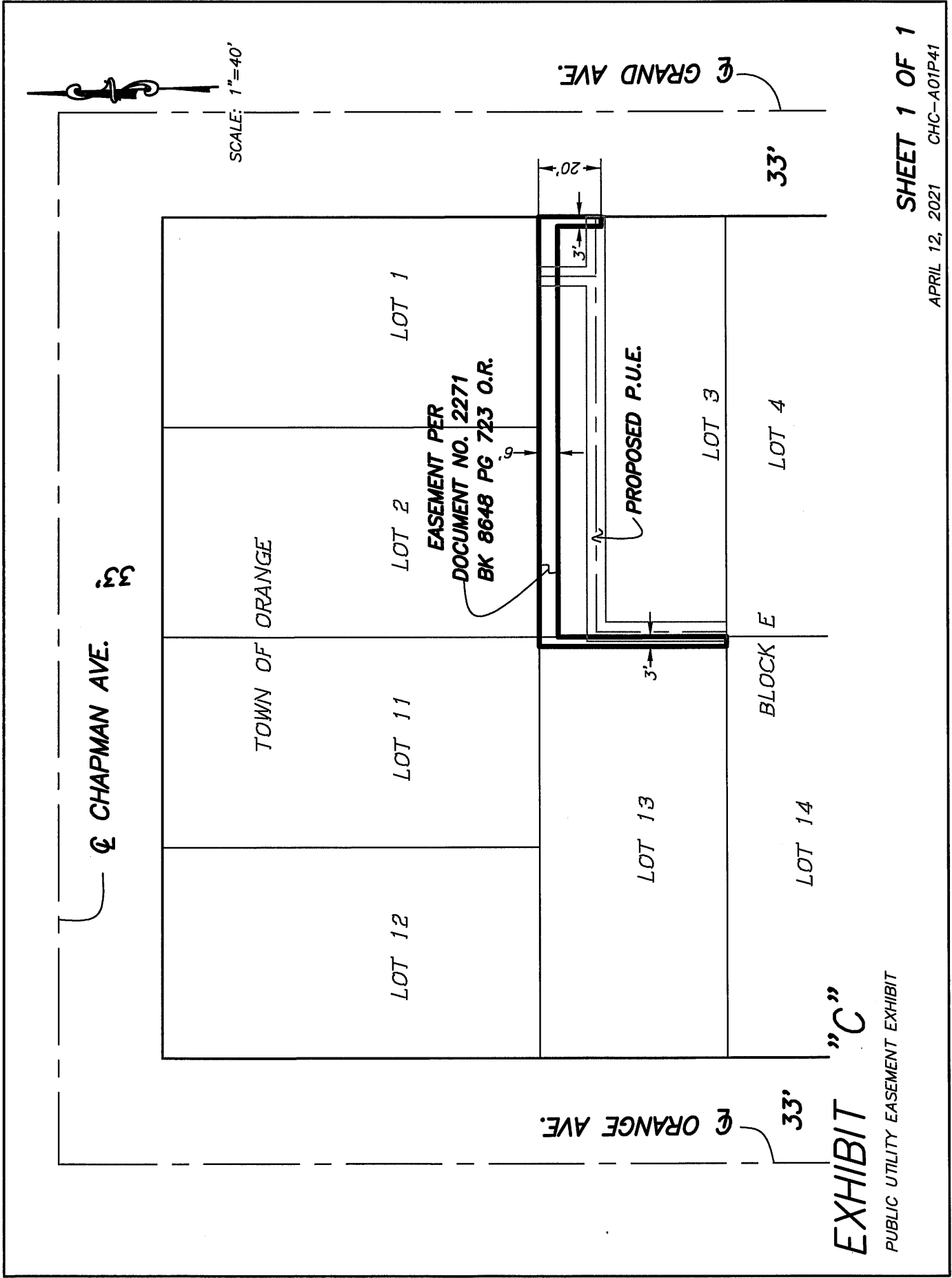


EXHIBIT "C"

PUBLIC UTILITY EASEMENT EXHIBIT

SHEET 1 OF 1

APRIL 12, 2021 CHC-A01P41



Agenda Item

City Council

Item #: 3.32.

7/13/2021

File #: 21-0363

TO: Honorable Mayor and Members of the City Council

THRU: Rick Otto, City Manager

FROM: Gary A. Sheatz, City Attorney

1. SUBJECT

Extension of the existence of a local emergency declared by the City Manager/Director of Emergency Services in response to the COVID-19 (Coronavirus) Pandemic. Resolution No. 11342.

2. SUMMARY

Adopting Resolution No. 11342 extends the City Council ratification of the Declaration of the Existence of a Local Emergency for an additional 60 days, unless terminated sooner by the City Council.

3. RECOMMENDED ACTION

Adopt Resolution No. 11342. A Resolution of the City Council of the City of Orange Confirming the Extension of the Existence of a Local Emergency Declared by the City Manager/Director of Emergency Services in Response to the COVID-19 (Coronavirus) Pandemic.

4. FISCAL IMPACT

The fiscal impact associated with the City's response to the Declaration of the Existence of a Local Emergency due to COVID-19 (Coronavirus) is unknown at this time.

5. STRATEGIC PLAN GOALS

Goal 1: Provide for a safe community

- c. Enhance the emergency management system to provide public safety during times of disaster.

Goal 2: Be a fiscally healthy community

- d: Effectively manage and develop City assets.

6. DISCUSSION AND BACKGROUND

On March 16, 2020, the City Council adopted Resolution No. 11222, confirming the proclamation declaring a local emergency by the City Manager. The actions of the City Manager and the City Council are provided for under Government Code section 8630, however, City Council must reaffirm the local emergency at least once every 60 days.

As the State transitions into addressing various stages of the pandemic, the City continues to update and modify its response plans. While the Governor lifted many of the COVID-related restrictions, it is not known how regulations implemented from time to time will continue to impact City operations.

Further, as the City is still utilizing COVID-related federal funding to aid in its response efforts, the need to continue the local emergency is necessary. As such, the City Council is requested to renew its finding of a local emergency for another 60 days, unless otherwise extended or terminated earlier by the Council.

7. ATTACHMENTS

- Resolution No. 11342



Agenda Item

City Council

Item #: 3.32.

7/13/2021

File #: 21-0363

TO: Honorable Mayor and Members of the City Council

THRU: Rick Otto, City Manager

FROM: Gary A. Sheatz, City Attorney

1. SUBJECT

Extension of the existence of a local emergency declared by the City Manager/Director of Emergency Services in response to the COVID-19 (Coronavirus) Pandemic. Resolution No. 11342.

2. SUMMARY

Adopting Resolution No. 11342 extends the City Council ratification of the Declaration of the Existence of a Local Emergency for an additional 60 days, unless terminated sooner by the City Council.

3. RECOMMENDED ACTION

Adopt Resolution No. 11342. A Resolution of the City Council of the City of Orange Confirming the Extension of the Existence of a Local Emergency Declared by the City Manager/Director of Emergency Services in Response to the COVID-19 (Coronavirus) Pandemic.

4. FISCAL IMPACT

The fiscal impact associated with the City's response to the Declaration of the Existence of a Local Emergency due to COVID-19 (Coronavirus) is unknown at this time.

5. STRATEGIC PLAN GOALS

Goal 1: Provide for a safe community

- c. Enhance the emergency management system to provide public safety during times of disaster.

Goal 2: Be a fiscally healthy community

- d: Effectively manage and develop City assets.

6. DISCUSSION AND BACKGROUND

On March 16, 2020, the City Council adopted Resolution No. 11222, confirming the proclamation declaring a local emergency by the City Manager. The actions of the City Manager and the City Council are provided for under Government Code section 8630, however, City Council must reaffirm the local emergency at least once every 60 days.

As the State transitions into addressing various stages of the pandemic, the City continues to update and modify its response plans. While the Governor lifted many of the COVID-related restrictions, it is not known how regulations implemented from time to time will continue to impact City operations.

Further, as the City is still utilizing COVID-related federal funding to aid in its response efforts, the need to continue the local emergency is necessary. As such, the City Council is requested to renew its finding of a local emergency for another 60 days, unless otherwise extended or terminated earlier by the Council.

7. ATTACHMENTS

- Resolution No. 11342

RESOLUTION NO. 11342

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ORANGE CONFIRMING THE EXTENSION OF THE EXISTENCE OF A LOCAL EMERGENCY DECLARED BY THE CITY MANAGER/DIRECTOR OF EMERGENCY SERVICES IN RESPONSE TO THE COVID-19 (CORONAVIRUS) PANDEMIC

WHEREAS, the California Emergency Services Act (California Government Code sections 8630, 8550 et. seq.) empowers the City Council to designate by ordinance a local official with the power to proclaim the existence of a local emergency when the City Council is not in session so long as such proclamation is ratified by the City Council within seven days; and

WHEREAS, Chapter 2.68 of the Orange Municipal Code empowers the City Manager, acting as Director of Emergency Services, to proclaim the existence or threatened existence of a local emergency when the City is affected or likely to be affected by a public calamity and the City Council is not in session; and

WHEREAS, based on conditions of extreme peril to the safety of persons within the City of Orange as the result of conditions surrounding the COVID-19 pandemic, and in conjunction with the Local Health Emergency declared by the Board of Supervisors of the County of Orange, and finding that the COVID-19 pandemic, if fully manifested, poses extreme peril to the health and safety of persons and property within the City and is, or is likely to be, beyond the control and capacity of the services, personnel, equipment and facilities of the City, the City Manager declared a local emergency within the City on March 16th, 2020; and

WHEREAS, the City Council of the City of Orange unanimously adopted Resolution No. 11222, ratifying that Proclamation on March 16th, 2020; and

WHEREAS, pursuant to California Government Code section 8630 of the Emergency Services Act, the City Council must review the need for continuing the local emergency at least once every 60 days until the governing body terminates the local emergency; and

WHEREAS, the City Council of the City of Orange unanimously adopted Resolution No. 11228, on April 14th, 2020 extending the declaration of emergency an additional 60 days; and

WHEREAS, the City Council of the City of Orange unanimously adopted Resolution No. 11232, on May 12th, 2020 extending the declaration of emergency an additional 60 days; and

WHEREAS, the City Council of the City of Orange unanimously adopted Resolution No. 11250, on June 23rd, 2020 extending the declaration of emergency an additional 60 days; and

WHEREAS, the City Council of the City of Orange unanimously adopted Resolution No. 11266, on August 11th, 2020 extending the declaration of emergency an additional 60 days; and

WHEREAS, the City Council of the City of Orange unanimously adopted Resolution No. 11283, on October 13th, 2020 extending the declaration of emergency an additional 60 days; and

WHEREAS, the City Council of the City of Orange unanimously adopted Resolution No. 11290, on December 8th, 2020 extending the declaration of emergency an additional 60 days; and

WHEREAS, the City Council of the City of Orange unanimously adopted Resolution No. 11295, on January 12th, 2021 extending the declaration of emergency an additional 60 days; and

WHEREAS, the City Council of the City of Orange unanimously adopted Resolution No. 11299, on February 9th, 2021 extending the declaration of emergency an additional 60 days; and

WHEREAS, the City Council of the City of Orange unanimously adopted Resolution No. 11305, on March 9th, 2021 extending the declaration of emergency an additional 60 days; and

WHEREAS, the City Council of the City of Orange unanimously adopted Resolution No. 11316, on April 13th, 2021 extending the declaration of emergency an additional 60 days; and

WHEREAS, the City Council of the City of Orange unanimously adopted Resolution No. 11327 on May 11th, 2021 extending the declaration of emergency an additional 60 days; and

WHEREAS, the City Council of the City of Orange unanimously adopted Resolution No. 11339 on June 8th, 2021 extending the declaration of emergency an additional 60 days; and

WHEREAS, the City Council of the City of Orange has reviewed the need to continue the existence of the local emergency; and

WHEREAS, the City Council does hereby find that the above-described conditions of extreme peril continue to warrant and necessitate the proclamation of the existence of a local emergency within the City of Orange.

NOW THEREFORE, IT IS HEREBY RESOLVED, by the City Council of the City of Orange that the period of the Existence of a Local Emergency is extended for an additional 60 days, unless terminated sooner by the City Council.

BE IT FURTHER RESOLVED, that the City Manager/Director of Emergency Services is authorized to take whatever other action is authorized under the Orange Municipal Code and state and federal law, subject to authorization required from the City Council, consistent with this Resolution.

ADOPTED this ____ day of _____, 2021.

Mark A. Murphy, Mayor, City of Orange

ATTEST:

Pamela Coleman, City Clerk, City of Orange

I, PAMELA COLEMAN, City Clerk of the City of Orange, California, do hereby certify that the foregoing Resolution was duly and regularly adopted by the City Council of the City of Orange at an adjourned regular meeting held on the day of _____, 2021 by the following vote:

AYES:	COUNCILMEMBERS:
NOES:	COUNCILMEMBERS:
ABSENT:	COUNCILMEMBERS:
ABSTAIN:	COUNCILMEMBERS:

Pamela Coleman, City Clerk, City of Orange



Agenda Item

City Council

Item #: 3.33.

7/13/2021

File #: 21-0372

TO: Honorable Mayor and Members of the City Council

THRU: Rick Otto, City Manager

FROM: Christopher Cash, Public Works Director

1. SUBJECT

Request for Permit Parking on Mayfair Avenue between Grand and Shaffer Streets, and adoption of a revised master resolution of permit parking areas within the City of Orange. Resolution No. 11343.

2. SUMMARY

The affected segment of Mayfair Avenue lies within the boundaries of the Downtown Permit Parking Area (Area "A",) and meets all of the City's permit parking implementation criteria. A petition has been circulated to demonstrate the necessary level of neighborhood support, and the City Traffic Commission voted to approve permit parking and forward to City Council for final approval.

3. RECOMMENDED ACTION

1. Approve permit parking on Mayfair Avenue between the above-referenced limits.
2. Adopt Resolution No. 11343. A Resolution of the City Council of the City of Orange rescinding Resolution No. 11216, and adopting a revised master resolution of permit parking areas within the City of Orange.

4. FISCAL IMPACT

The total expenditure for the project is \$1,000 and will be funded in Minor Traffic Control Devices (16302) through Traffic Improvement Measure M2 (263).

5. STRATEGIC PLAN GOALS

Goal 1: Provide for a safe community

- b. Provide and maintain infrastructure necessary to ensure the safety of the public.

6. DISCUSSION AND BACKGROUND

Approved by City Council, the City's Neighborhood Permit Parking Program (NPPP) was designed to mitigate the intrusion of non-residential, e.g. university, commercial, and industrial, parking demands on residential streets. In doing so, the program assures that local residents and their guests have access to convenient on-street parking in proximity to their homes.

The NPPP is currently comprised of multiple permit parking areas, the first of which is designated Area "A" and comprises an area within and around Chapman University. Area "A" was established in 1987 to prevent student parking from encroaching onto residential streets in high parking demand areas. Because the intrusion potential and tolerance levels varies between the many streets within

the area, the intent was that each street within the area's boundary could request activation of permit parking on a case-by-case basis, if and when parking conditions deteriorate to unacceptable levels. A resident living on the affected segment of Mayfair Avenue has submitted a written request to the Public Works Department requesting such activation.

Parking Study

Because Mayfair Avenue (between Grand and Shaffer streets) lies within in Area "A", a parking occupancy study is not required. A petition was circulated to determine the level of support on the affected block, the results of which are shown in the table below:

21 Affected Addresses	In Favor	Opposed	Unsigned
Total	13	2	6
Percentage	62%	9.5%	28.5%

Analysis

In order for permit parking be implemented, no less than 55 percent of the affected residents must be in support of the proposal. As shown above, 62 percent of the affected residences support permit parking, and the petition satisfies the minimum requirement.

If approved, parking permits are issued for residents only. Participation in the permit program is voluntary; however, after implementation, any vehicle parked on the street without a permit can be cited.

Recommendation

This matter was presented to the City Traffic Commission (CTC) for consideration at its June 11, 2021, regular meeting. Two comment cards were received, with both speakers opposed to the proposal based on their (a) perceived lack of a parking problem on Mayfair Avenue and (b) belief that it should not have been included within the Area "A" boundaries. Notwithstanding, the CTC approved the request unanimously, citing that the request for permit parking was evaluated in accordance with, and satisfied all criteria delineated in, the City's approved policy for Permit Parking Area "A".

In addition, subsequent to the CTC meeting, staff received an email in opposition to the project, questioning the procedures that were employed for processing permit parking requests within Area "A," including fee waivers and support threshold. Attached hereto is a City Council staff report dated July 24, 2001, in which the boundaries of Area "A" and associated permit parking procedures were most recently revised.

Because the request meets the City-established requirements for permit parking in Area "A", staff respectfully recommends that the City Council approve permit parking on Mayfair Avenue between Grand and Shaffer streets.

The proponent and all residents and businesses within 300 feet of the study area were notified of the City Council Meeting.

7. ATTACHMENTS

- June 11, 2021, CTC Staff Report and Petition
- July 24, 2001, City Council Report for Area "A" Permit Parking

- Resolution No. 11343



Agenda Item

City Council

Item #: 3.33.

7/13/2021

File #: 21-0372

TO: Honorable Mayor and Members of the City Council

THRU: Rick Otto, City Manager

FROM: Christopher Cash, Public Works Director

1. SUBJECT

Request for Permit Parking on Mayfair Avenue between Grand and Shaffer Streets, and adoption of a revised master resolution of permit parking areas within the City of Orange. Resolution No. 11343.

2. SUMMARY

The affected segment of Mayfair Avenue lies within the boundaries of the Downtown Permit Parking Area (Area "A",) and meets all of the City's permit parking implementation criteria. A petition has been circulated to demonstrate the necessary level of neighborhood support, and the City Traffic Commission voted to approve permit parking and forward to City Council for final approval.

3. RECOMMENDED ACTION

1. Approve permit parking on Mayfair Avenue between the above-referenced limits.
2. Adopt Resolution No. 11343. A Resolution of the City Council of the City of Orange rescinding Resolution No. 11216, and adopting a revised master resolution of permit parking areas within the City of Orange.

4. FISCAL IMPACT

The total expenditure for the project is \$1,000 and will be funded in Minor Traffic Control Devices (16302) through Traffic Improvement Measure M2 (263).

5. STRATEGIC PLAN GOALS

Goal 1: Provide for a safe community

- b. Provide and maintain infrastructure necessary to ensure the safety of the public.

6. DISCUSSION AND BACKGROUND

Approved by City Council, the City's Neighborhood Permit Parking Program (NPPP) was designed to mitigate the intrusion of non-residential, e.g. university, commercial, and industrial, parking demands on residential streets. In doing so, the program assures that local residents and their guests have access to convenient on-street parking in proximity to their homes.

The NPPP is currently comprised of multiple permit parking areas, the first of which is designated Area "A" and comprises an area within and around Chapman University. Area "A" was established in 1987 to prevent student parking from encroaching onto residential streets in high parking demand areas. Because the intrusion potential and tolerance levels varies between the many streets within

the area, the intent was that each street within the area's boundary could request activation of permit parking on a case-by-case basis, if and when parking conditions deteriorate to unacceptable levels. A resident living on the affected segment of Mayfair Avenue has submitted a written request to the Public Works Department requesting such activation.

Parking Study

Because Mayfair Avenue (between Grand and Shaffer streets) lies within in Area "A", a parking occupancy study is not required. A petition was circulated to determine the level of support on the affected block, the results of which are shown in the table below:

21 Affected Addresses	In Favor	Opposed	Unsigned
Total	13	2	6
Percentage	62%	9.5%	28.5%

Analysis

In order for permit parking be implemented, no less than 55 percent of the affected residents must be in support of the proposal. As shown above, 62 percent of the affected residences support permit parking, and the petition satisfies the minimum requirement.

If approved, parking permits are issued for residents only. Participation in the permit program is voluntary; however, after implementation, any vehicle parked on the street without a permit can be cited.

Recommendation

This matter was presented to the City Traffic Commission (CTC) for consideration at its June 11, 2021, regular meeting. Two comment cards were received, with both speakers opposed to the proposal based on their (a) perceived lack of a parking problem on Mayfair Avenue and (b) belief that it should not have been included within the Area "A" boundaries. Notwithstanding, the CTC approved the request unanimously, citing that the request for permit parking was evaluated in accordance with, and satisfied all criteria delineated in, the City's approved policy for Permit Parking Area "A".

In addition, subsequent to the CTC meeting, staff received an email in opposition to the project, questioning the procedures that were employed for processing permit parking requests within Area "A," including fee waivers and support threshold. Attached hereto is a City Council staff report dated July 24, 2001, in which the boundaries of Area "A" and associated permit parking procedures were most recently revised.

Because the request meets the City-established requirements for permit parking in Area "A", staff respectfully recommends that the City Council approve permit parking on Mayfair Avenue between Grand and Shaffer streets.

The proponent and all residents and businesses within 300 feet of the study area were notified of the City Council Meeting.

7. ATTACHMENTS

- June 11, 2021, CTC Staff Report and Petition
- July 24, 2001, City Council Report for Area "A" Permit Parking

- Resolution No. 11343



Agenda Item

City Traffic Commission

Item #: 6.2.

6/9/2021

File #: 21-0311

TO: City Traffic Commission

THRU: Larry Tay, City Traffic Engineer

FROM: Dave Allenbach, Transportation Analyst

1. SUBJECT

Request for permit parking on both sides of the 300 East Block of Mayfair Avenue

2. SUMMARY

A request was received to make the 300 East Block of Mayfair Avenue a part of the Downtown Permit Parking Area, Area "A". The request meets the requirements of the City's Neighborhood Permit Parking Program, and received adequate support from residents of the affected street.

3. RECOMMENDED ACTION

Approve the request.

4. FISCAL IMPACT

The total expenditure for the project is \$1000 and will be funded in Minor Traffic Control Devices (16302) through Traffic Improvement Measure M2 (263).

5. STRATEGIC PLAN GOALS

Goal 1: Provide for a safe community

b. Provide and maintain infrastructure necessary to ensure the safety of the public.

6. DISCUSSION AND BACKGROUND

Staff received request that the 300 block of East Mayfair Avenue be included in the Downtown Neighborhood Parking Permit Area (Area "A"). The subject neighborhood is located between Grand and Shaffer Streets.

Existing Conditions

Per the City's Parking Permit Ordinance, the program is to mitigate the intrusion of college-oriented and other long-term vehicle parking either by commercial or institutional use on streets in residential areas, to assure local residents and their guests of convenient parking on streets in proximity to their homes. A resident of the neighborhood must provide the Traffic Division with a letter of request. Those neighborhoods in the Downtown Parking Permit Area are exempt from paying the application fees since this is the first permit parking area and was implemented prior to application fees.

Parking Study

Because the affected block is within the boundaries of the Area "A", the conduct of a parking occupancy study is waived.

After receipt by the Traffic Engineering Division of the letter of request, staff provided a petition form to Ms. Ludden with instructions to make a good faith effort to contact all the addresses on the petition. The completed petition was returned to Traffic Engineering Division. The table below shows the results of the neighborhood polling.

21 Affected Addresses	In Favor	Opposed	Unsigned
Total	13	2	6
Percentage	62%	9.5%	28.5%

Analysis

In order to incorporate a street into Area "A", at least 55% of the affected residents must be in favor of the proposal. In the affected area, 62% of the residents are in favor of the parking permit program, which meets the minimum requirements.

Parking permits are issued for residents only. Participation in the permit program is voluntary; however, after implementation any vehicle parked on the street without a permit can be cited.

Recommendation

Staff respectfully recommends that the Traffic Commission approve the request for permit parking on the 300 Block of East Mayfair Avenue, and forward to the City Council for final approval.

The proponent and all residents and businesses within 300 feet of the study area were notified of the Traffic Commission Meeting.

7. ATTACHMENTS

- Letter of Request
- Completed Petition
- Area Map
- Map of Poling Results

From: Stacy Ludden <stacyludden@gmail.com>
Sent: Monday, April 12, 2021 12:21 PM
To: Dave Allenbach
Subject: Permit Parking

Dear Mr. Allendale,

We lived for 7 years as renters at 209 E Mayfair Ave. It was a permit parking street. We purchased our house at 336 E Mayfair Ave in 2018, not realizing that the full street wasn't designated as Permit Parking. I have researched and found that the Permit bylaws include the full street of Mayfair Ave from Schaffer to Lemon eligible.

We have recently had a 4bdrm, 4 bath ADU put in the backyard behind us. Plus they have 5 students already renting the front house. Everett is permitted parking so those additional students renters will be looking to park on our street to be able to walk to their house. We have a severely disabled son who will be going back to program soon. The bus will not pick up if there isn't sufficient room to pull near our driveway to be able to load and unload his wheelchair safely.

I have spoken to 7 neighbors who want the permit parking issued. I am sure there are others.
How do we get this side of the street approved?

Thank you, Stacy Ludden



**Petition for the Implementation of a
Neighborhood Permit Parking Program on the **both** side of
Mayfair Ave. Between Grand St. and Shaffer St.**

The petition being circulated is to **ADD** the above noted street to the Parking Permit Program. This petition is to solicit your input as a resident of this street. Signing the petition and checking either the "IN FAVOR" or "OPPOSED" and checking the "I HAVE READ THE ENCLOSED ADVANTAGES/ DISADVANTAGES NOTICE" indicates that you have read and understand the material presented here.

Note: Only one (1) signature per household is allowed.

Address	Print Name	Signature	In Favor	Opposed	I Have Read the advantages disadvantages form
302 E. Mayfair Ave	House Vacant				
310 E. Mayfair Ave	Maureen Cleary	Maureen Cleary	✓		✓
320 E. Mayfair Ave	Moving/Rental 5/31/2021				
328 E. Mayfair Ave	Moving/Rental 5/23/2021				
336 E. Mayfair Ave	Stacy Udden		✓		✓
342 E. Mayfair Ave	Jerilyn Broadshaw	Jerilyn Broadshaw	✓		✓
402 E. Mayfair Ave	Joseph Davis		✓		✓
410 E. Mayfair Ave	Nadison Nagursky	Nadison Nagursky	✓		✓
420 E. Mayfair Ave	Karen Thomas	Karen Thomas	✓		✓
430 E. Mayfair Ave	WILLIAM		✓		✓
440 E. Mayfair Ave	JOHN BRITTON		✓		✓
303 E. Mayfair Ave	Wouldn't answer tried 3 times/days				

The person circulating this petition is not an employee of the City of Orange. If you need additional information please contact Dave Allenbach of the Traffic Engineering Division at (714) 744- 5540.

N:\Public Works\TRAFFIC\Dave Allenbach\Neighborhood Parking Permit Program\Area A Documents\Blank Petition for Implementation of Permit Parking Revision 3.doc



Petition for the **Implementation** of a
Neighborhood Permit Parking Program on the **both** side of
Mayfair Ave. Between Grand St. and Shaffer St.

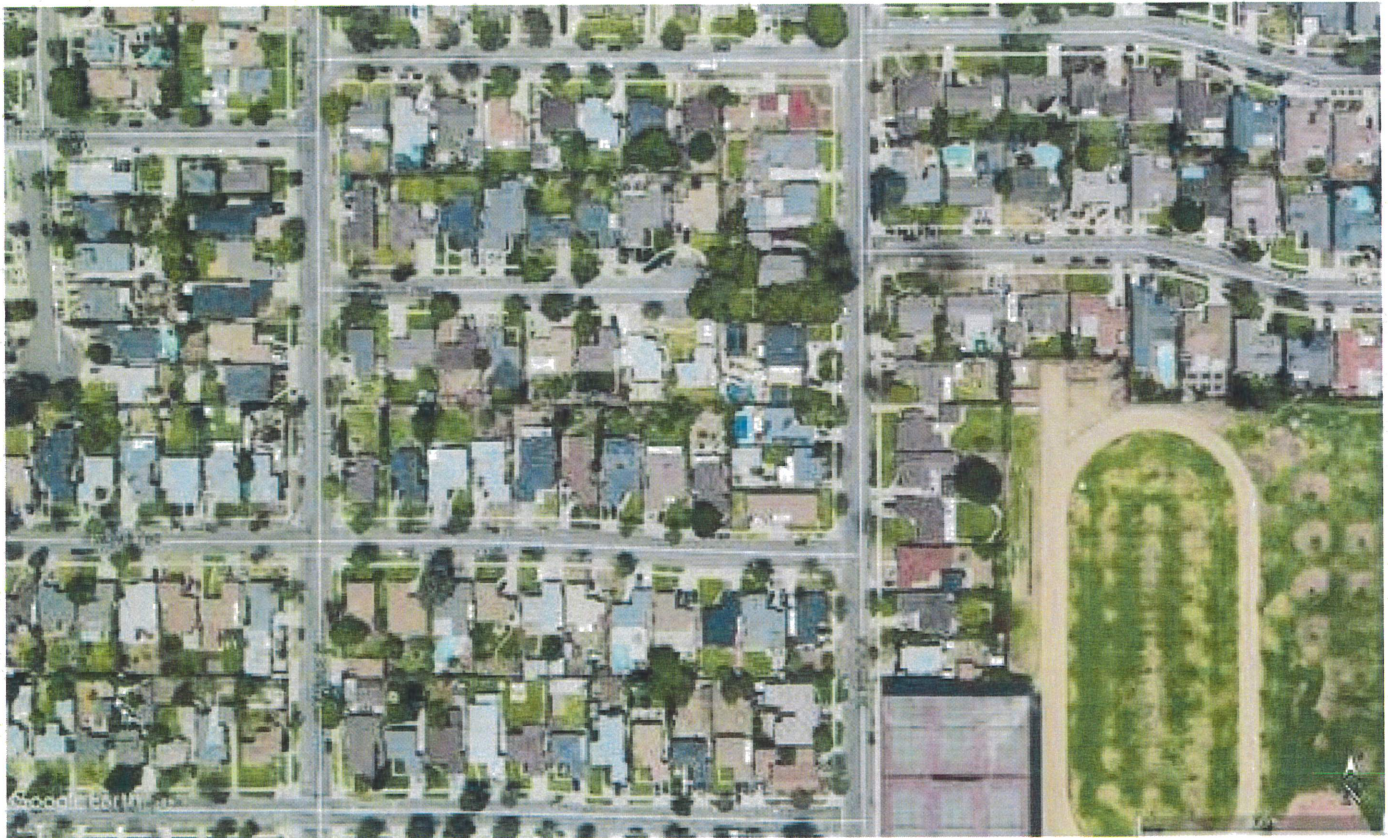
The petition being circulated is to **ADD** the above noted street to the Parking Permit Program. This petition is to solicit your input as a resident of this street. Signing the petition and checking either the "IN FAVOR" or "OPPOSED" and checking the "I HAVE READ THE ENCLOSED ADVANTAGES/ DISADVANTAGES NOTICE" indicates that you have read and understand the material presented here.

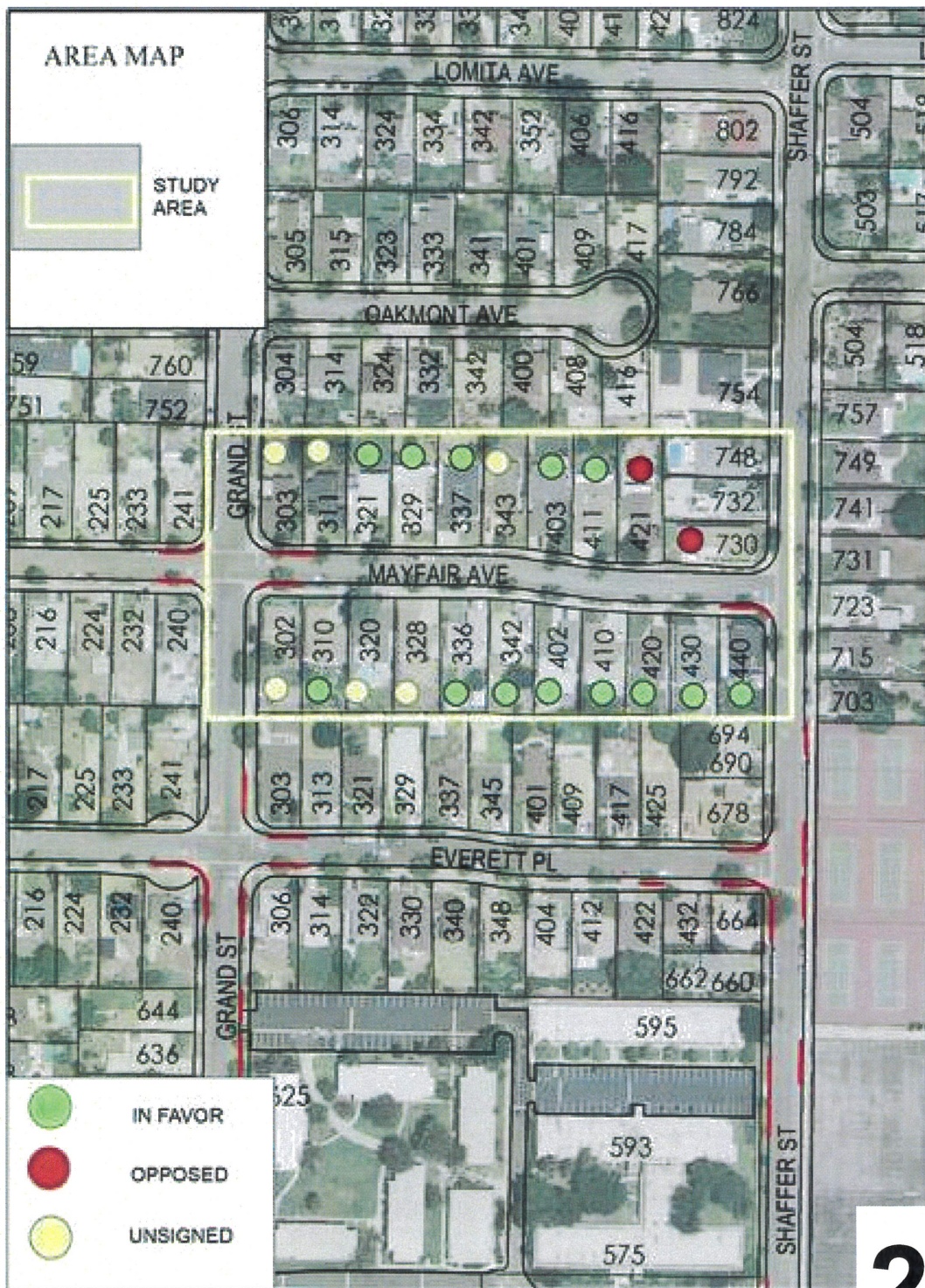
Note: Only one (1) signature per household is allowed.

Address	Print Name	Signature	In Favor	Opposed	I Have Read the advantages disadvantages form
311 E. Mayfair Ave	No Answer tried 3 time/days				
321 E. Mayfair Ave	Clement Hernandez	<i>Clement Hernandez</i>	✓		✓
329 E. Mayfair Ave	Enrique Soto	<i>Enrique Soto</i>	✓		✓
337 E. Mayfair Ave	K. Gennell	<i>Kristeen Gennell</i>	✓		
343 E. Mayfair Ave	Scott	<i>Don't sign yes no -</i>			
403 E. Mayfair Ave	Alex Will	<i>Alex Will</i>	✓		✓
411 E. Mayfair Ave	ANDREW MILLER	<i>Andrew Miller</i>	✓		✓
421 E. Mayfair Ave	Deborah Odell	<i>Deborah Odell</i>		✓	✓
730 N. Shaffer St.	Debra Hottel	<i>Debra Hottel</i>		✓	✓
	Deborah E 730				

The person circulating this petition is not an employee of the City of Orange. If you need additional information please contact Dave Allenbach of the Traffic Engineering Division at (714) 744- 5540.

N:\Public Works\TRAFFIC\Dave Allenbach\Neighborhood Parking Permit Program\Area A Documents\Blank Petition for Implementation of Permit Parking Revision 3.doc





27



AGENDA ITEM

July 24, 2001 Meeting

TO: Honorable Mayor and
Members of the City Council

THRU: David L. Rudat
City Manager

FROM: Harry W. Thomas
Public Works Director/
City Engineer

Reviewed/Verified By:

City Manager

Finance Director

To Be Presented By:

Harry W. Thomas

1. SUBJECT

Resolution No. 9468

A Resolution of the City Council of the City of Orange rescinding Resolution No. 9171, and adopting a Revised Master Resolution of Permit Parking Areas within the City of Orange.

Request to **waive the \$400 application fee** for inclusion in the neighborhood parking permit program for residential streets within the permit parking area surrounding Chapman University, generally bordered by Cambridge St., Chapman Ave., Lomita Ave., Mayfair Ave. and Cypress St.

2. SUMMARY

In response to findings in the Chapman University Parking Study and requests made by area residents, the City Traffic Commission is recommending augmentation of the existing permit parking area to better manage the limited on-street parking around the Chapman University Campus.

3. RECOMMENDED ACTION/MOTION

It is recommended by the City Traffic Commission that the Orange City Council take the following action(s):

1. **Approve via Resolution waiver of the \$400 application fee** for inclusion in the neighborhood parking permit program for residential streets within the permit parking area surrounding Chapman University as shown in Exhibit 3.
2. **Rename Area "A" to "Chapman University Neighborhood Parking Permit Area".**
3. **Adopt Resolution No. 9468** revising the Master Resolution of Permit Parking Areas.

4. FISCAL IMPACT

Loss of \$400 per request generated in the Chapman University Area, cumulative impact unknown.

ITEM 3.19

PAGE 8

Printed on Recycled Paper

July 24, 2001

5. AUTHORIZATION/GUIDELINES

The City Council is authorized by Orange Municipal Code Section 10.30 to amend the existing Permit Parking Program.

6. DISCUSSION and BACKGROUND

As requested by City Council, notices have been sent to all property owners and residences within the proposed area, and to the Principal of Orange High School. The intent of this action is to provide residents in the Chapman University sphere of influence a means of mitigating the demand for on-street parking being placed on residential streets by university students and faculty. As identified in the Chapman University Parking Study and resident requests, additional permit parking on the unrestricted residential streets surrounding Chapman University may be required.

Exhibit 1 shows the original neighborhood permit parking area, "A" which was established around the University about 13 years ago. The spirit of the permit parking program is intended to provide residents who are being negatively impacted by on-street parking generated from an institutional and/or commercial use with the expectation of parking within a reasonable distance to their homes. Permit Area "A" was initially established without an application fee.

Exhibit 2 shows the street segments that have been added to Area "A" since it was initially established. It should be noted that the City Council has waived or reduced application fees for many of the street sections in this area. Area "I", in the McPherson Magnet School area was also established as a non application fee permit parking area, to mitigate parking influence from the McPherson Athletic Complex.

Exhibit 3 shows the proposed boundaries for the new parking permit area "A". The proposed boundaries reflect the same geographic area evaluated in the Chapman University Parking Study. Staff is proposing that this area be renamed "Chapman University Neighborhood Permit Parking Area". It is important to note that the \$400 application fee is the only fee being considered for waiver and only for the area outlined in Exhibit 3.

Future requests to initiate permit parking within the new expanded permit area boundaries will still be considered on a block-by-block basis after a completed petition has been submitted to the City Traffic Commission with a 55% majority in favor of the request. The permit parking signs will still look the same. The parking permits will still have the same configuration and the annual renewal fee will still be assessed to the residents.

It is the Traffic Commission's recommendation that the request to rename Area "A" to the "Chapman University Neighborhood Permit Parking Area", and waiver of the \$400 application fee be approved by resolution.

The revised resolution was presented to the City Council for consideration at their meeting of July 10, 2001 at which time the Council continued the item until their meeting July 24, 2001, to provide an opportunity to notify residents within the expanded Chapman University Permit Parking Area of a proposal to waive the \$400 application fee for inclusion in the neighborhood parking permit program. Chapman University Parking Management Plan, Recommendations Manual, Planning Commission recommendations and Addendum are on file in the City Clerk's Office.

7. ATTACHMENTS

- Resolution No. 9468
- Exhibits 1, 2 & 3

Neighborhood Parking Permit Area 'A'

Established July 1, 1987

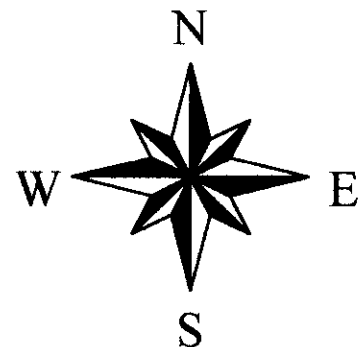
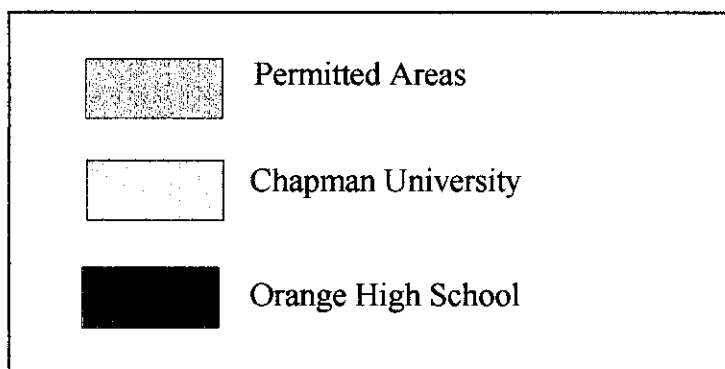
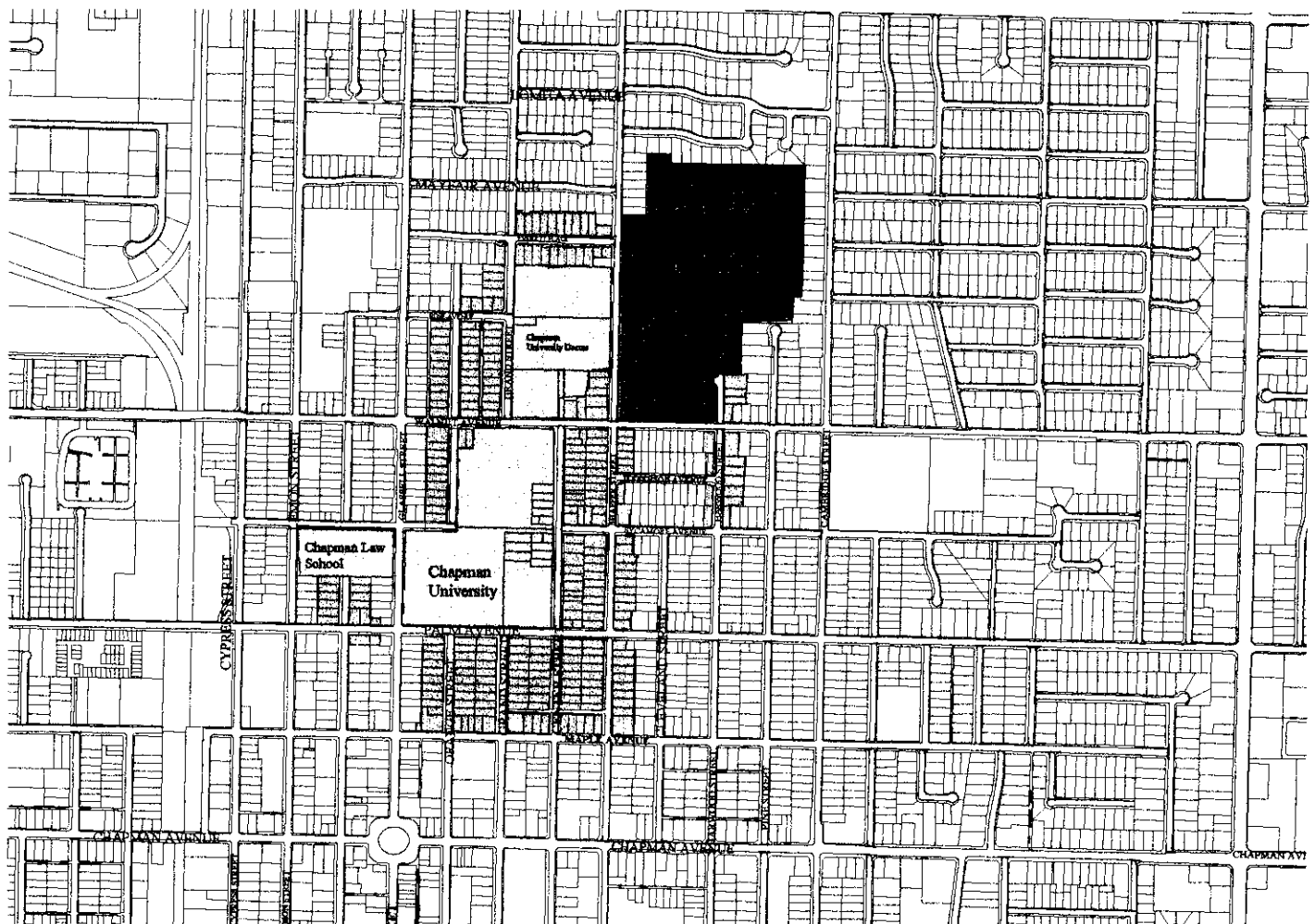


Exhibit 1

Additions to Neighborhood Parking Permit Area 'A'

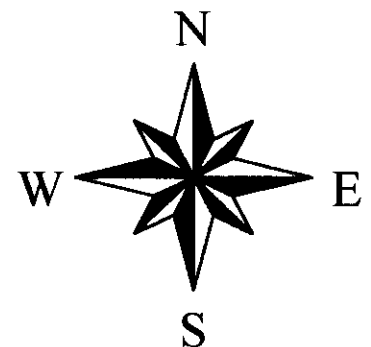
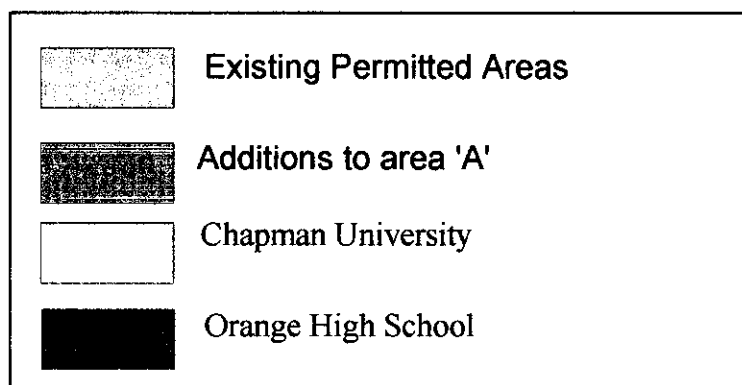
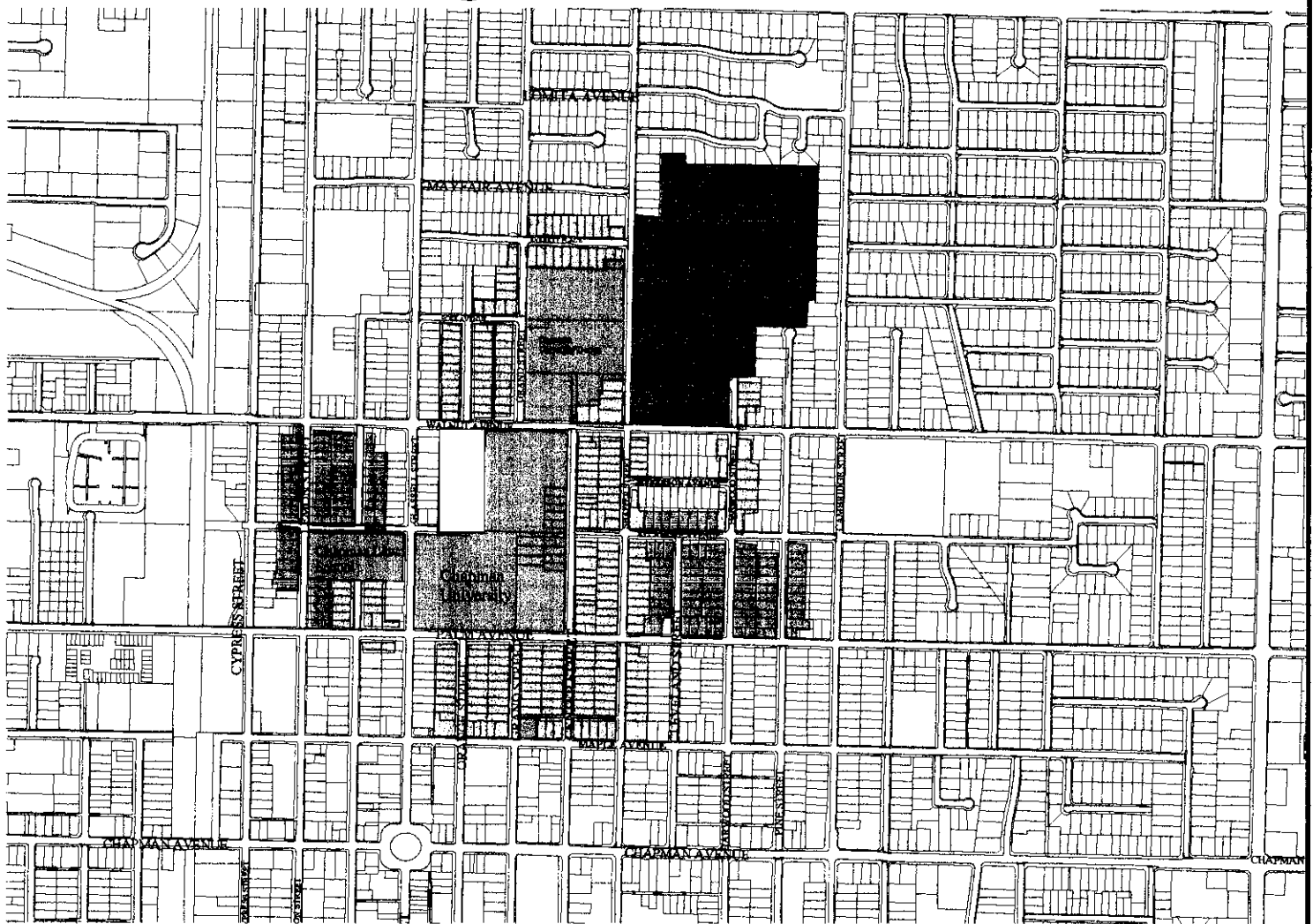


Exhibit 2

Proposed Chapman University Parking Permit Area

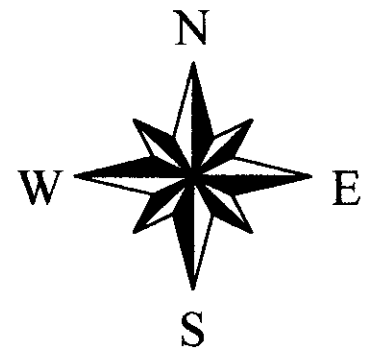
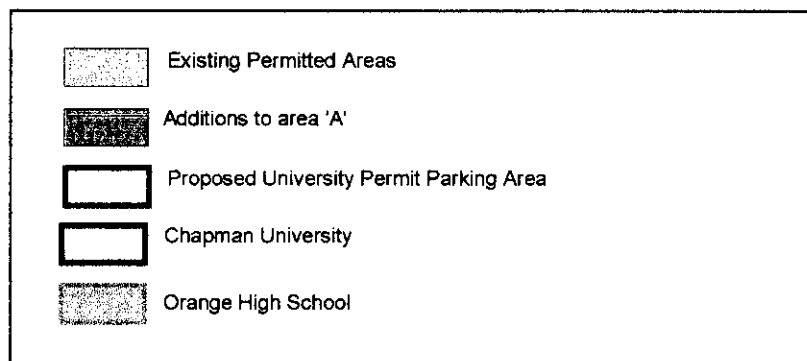
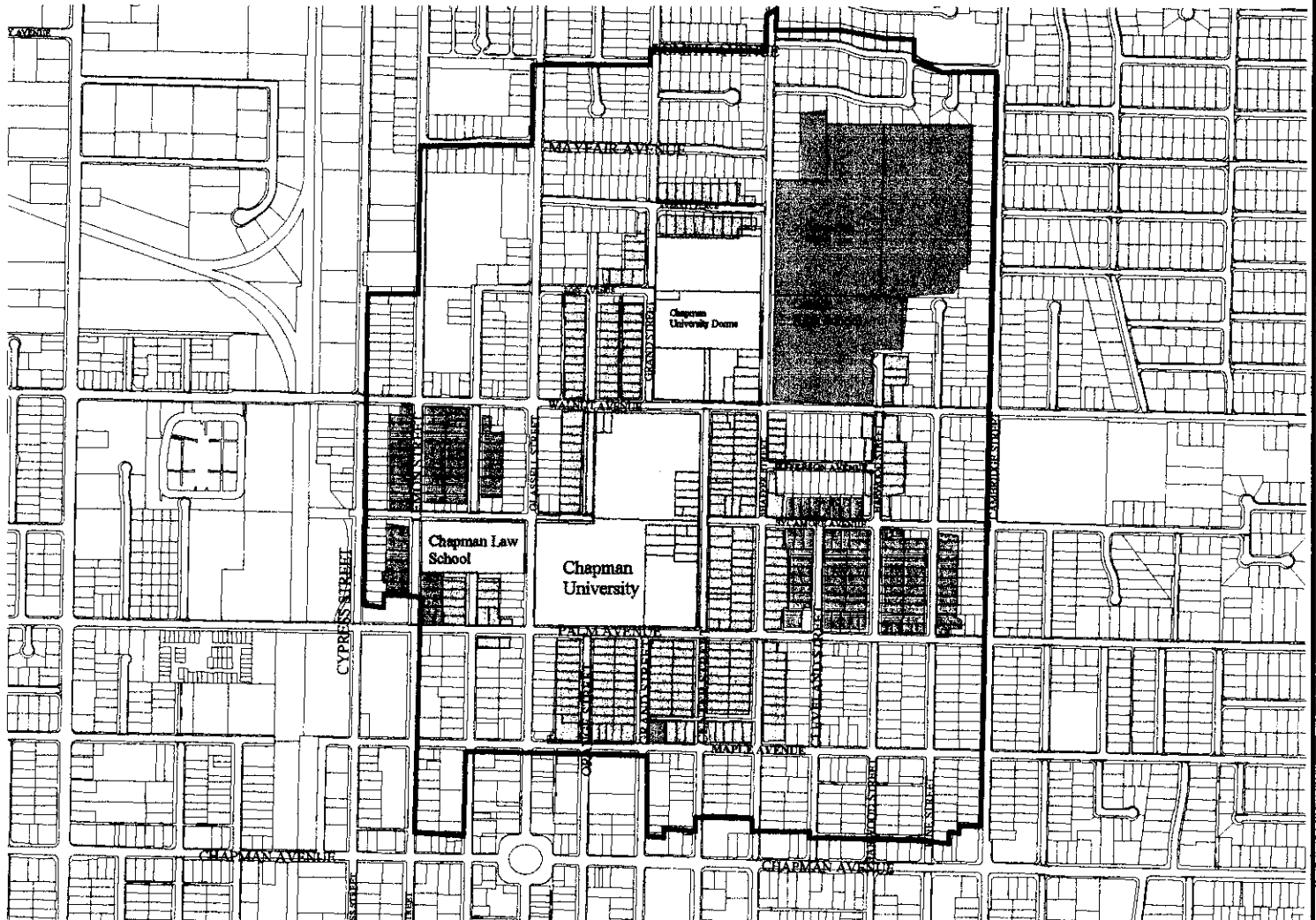


Exhibit 3

RESOLUTION NO. 9468

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ORANGE RESCINDING RESOLUTION NO. 9171, AND ADOPTING A REVISED MASTER RESOLUTION OF PERMIT PARKING AREAS WITHIN THE CITY OF ORANGE.

WHEREAS, Chapter 10.30 of the Orange Municipal Code authorizes the City Council of the City of Orange to add or remove designated areas to the Neighborhood Permit Parking Program by resolution; and

WHEREAS, the creation of a master resolution which contains all permit parking areas will compile all areas into a single document and eliminate the need to revise the Orange Municipal Code every time an area is added or deleted from the Neighborhood Permit Parking Program.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Orange does resolve as follows:

Section I

That the Master Resolution of Permit Parking Area for the Neighborhood Permit Parking program attached hereto as Exhibit "A" is adopted.

ADOPTED this 24th day of July, 2001.

Mark A. Murphy, Mayor of the City of Orange

ATTEST:

Cassandra J. Cathcart, City Clerk of the City of Orange

I hereby certify that the foregoing Resolution was duly and regularly adopted by the City Council of the City of Orange at a regular meeting thereof held on the 24th day of July, 2001, by the following vote:

AYES: COUNCILMEMBERS:
NOES: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:
ABSTAIN: COUNCILMEMBERS:

Cassandra J. Cathcart, City Clerk of the City of Orange

Reso. No. 9468
Prepared By: DPW-TE

REVISED MASTER RESOLUTION OF PERMIT PARKING AREAS

The following areas are all areas that have been approved by the City Council for inclusion in the Neighborhood Permit Parking Program and are subject Chapter 10.30 of the Orange Municipal Code. Any additions or deletions to the Neighborhood Permit Parking Program shall be made by amending this Master Resolution.

CHAPMAN UNIVERSITY NEIGHBORHOOD PERMIT PARKING AREA

1. Both side of Center St. from Chapman to Palm Ave. adjacent to residential land uses.
2. East side of Center St. between Palm and Walnut Ave.
3. West side of Cambridge St. from Chapman to Lomita Ave. adjacent to residential land uses.
4. East side of Cypress St. from Palm to 637 feet north of Walnut Ave.
5. Both sides of Everett Place between Shaffer and Glassell St.
6. East side of Grand St. from Chapman to Maple Ave. adjacent to residential land uses.
7. Both sides of Grand St. between Maple and Palm Ave.
8. West side of Grand St. between Everett Place and Walnut Ave.
9. Both sides of Grand St. between Everett Place and Lomita Ave.
10. Both sides of Glassell St. between Lomita and Walnut Ave.
11. Both sides of Harwood St. from 146 feet north of Chapman Ave. to the northern terminus of Harwood St.
12. Both sides of Maple Ave. between Cambridge and Cypress St. adjacent to residential land uses.
13. Both sides of Orange St. between Maple and Palm Ave.
14. Both sides of Orange St. between Walnut and the northern terminus of Orange St.
15. Both sides of Orange St. between Lomita Ave. and the southern terminus of Orange St.
16. Both sides of Palm Ave. between Cambridge and Lemon St. adjacent to residential land uses.
17. Both sides of Olive St. from Chapman Ave. to the northern terminus of Olive St. adjacent to residential land uses.
18. Both sides of Olive St. from Sycamore to Rose Ave.
19. Both sides of Rose Ave. from Grand St. to Olive St.
20. East side of Lemon St. from Chapman Ave. to Palm Ave. adjacent to residential land uses.
21. Both sides of Lemon St. between Palm Ave. and Walnut Ave. adjacent to residential land uses.
22. West side of Lemon St. from Walnut Ave. to 644 feet north of Walnut Ave.
23. Both sides of Shaffer St. from Chapman to Lomita Ave. adjacent to residential land uses.
24. Both sides of Cleveland St. from Chapman to Sycamore Ave. adjacent to residential land uses.
25. Both sides of Jefferson Ave. between Harwood and Shaffer St.
26. Both sides of Lomita Ave. between Cambridge and Lemon St. adjacent to residential land uses.
27. Both sides of Mayfair Ave. between Shaffer and Lemon St.
28. Both sides of Sycamore Ave. between Cambridge and Center St. adjacent to residential land uses.
29. Both sides of Walnut Ave. between Cambridge and Cypress St. adjacent to residential land uses.

REVISED MASTER RESOLUTION OF PERMIT PARKING AREAS

AREA "B"

1. Both sides of Adams Ave. between Glassell and Grand St.
2. Both sides of Hoover Ave. between Glassell and Grand St.
3. Both sides of Quincy Ave. between Glassell and Grand St.
4. Both sides of Wilson Ave. between Glassell and Grand St.

AREA "C"

1. Both sides of Compton Ave. from Manchester to Lewis St.
2. East side of Lewis St. from the northerly property line at 4035 Compton Ave. to the southerly property line at 119 N. Lewis St.
3. West side of Manchester St. between Sheringham and Compton Ave.
4. North side of Sheringham Ave. from Manchester St. to Windgap Dr.
5. South sides of Sheringham Ave. from Woodridge Cr. To Windgap Dr.
6. Both sides of Sunningdale Cr. From Compton Ave. south to include the cul-de-sac.
7. Both sides of Windgap Dr. from Compton Ave. south to include the cul-de-sac.
8. West side of Woodridge Cr. From Sheringham Ave. south to include the cul-de-sac.
9. East side of Woodridge Cr. From the northerly property line of 119 N. Woodridge Cr. South to include the cul-de-sac.

AREA "D"

1. Both sides of Dunas St.
2. Both sides of Maple Ave. between Prospect St. and Olympia Way.
3. Both sides of Olympia Way between Maple Ave. and Spring St.
4. Both sides of Shasta St.
5. Both sides of Vine Ave. between Olympia Way and its western terminus.

AREA "E"

1. West side of Elm St. south of Sycamore Ave. to include the cul-de-sac.

REVISED MASTER RESOLUTION OF PERMIT PARKING AREAS

AREA "F"

Permit Parking between the hours of 10:00 p.m. and 6:00 a.m.

1. East side of Prospect St. between Almond and Palmyra Ave.
2. Both sides of Violet Ln. between Almond and Palmyra Ave.
3. Both sides of Kathleen St. between Chapman and Palmyra Ave.
4. Both sides of Palmyra Ave. between Craig Dr. and Prospect St.
5. Both sides of Almond Ave. between Prospect St. and Violet Ln.

AREA "G"

Permit Parking between the hours of 10:00 p.m. and 6:00 a.m.

1. Both sides of Euclid Ave. between James and Seranado St.
2. Both sides of James St. between Sycamore and Euclid Ave.
3. Both sides of Palm and Sycamore Ave. between Swidler and Seranado St.
4. Both sides of Seranado St. between Spring St. and Walnut Ave.
5. Both sides of Silverleaf Ave. between Thomas and Seranado St.
6. Both sides of Spring St. between Swidler and Seranado St.
7. Both sides of Swidler St. between Spring St. and Walnut Ave.
8. Both sides of Thomas St. between Sycamore and Silverleaf Ave.
9. Both sides of Walnut Ave. between Swidler and Seranado St.

AREA "H"

1. Both sides of Shaffer St. beginning 390 feet north of Katella Ave. and ending at Trenton Ave. (R-1 zoned single-family residences only.)

REVISED MASTER RESOLUTION OF PERMIT PARKING AREAS

AREA "I"

1. Both sides of Almond Ave. between Prospect and Dunas St.
2. Both sides of Century Ave. between James and Thomas St.
3. Both sides of Craig Dr. 100 feet south of Roberta Dr. to Prospect St.
4. Both sides of Dunas St. between Palmyra and Almond Ave.
5. Both sides of James St. between Century and LaVeta Ave.
6. North side of LaVeta Ave. between Prospect and Dunas St.
7. Both sides of Merelet Ln. from Craig Dr. to include the cul-de-sac.
8. Both sides of Olympia Way between Palmyra and Almond Ave.
9. North side of Palmyra Ave. between Prospect and Thomas St.
10. Both sides of Ruth Pl. easterly of James St.
11. Both sides of Ruth Pl. between Prospect St. and Olympia Way.
12. Both sides of Shasta St. between Palmyra and Almond Ave.
13. Both sides of Thomas St. between Century and Palmyra Ave.

RESOLUTION NO. 11343

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ORANGE RESCINDING RESOLUTION NO. 11216, AND ADOPTING A REVISED MASTER RESOLUTION OF PERMIT PARKING AREAS WITHIN THE CITY OF ORANGE.

WHEREAS, Chapter 10.30 of the Orange Municipal Code authorizes the City Council of the City of Orange to add or remove designated areas to the Neighborhood Permit Parking Program by resolution; and

WHEREAS, the rescission of Resolution No. 11216 is necessary to add Parking Permit Area “A” to the Master Resolution of Permit Parking Areas within the City of Orange; and

WHEREAS, the creation of a master resolution which contains all the permit parking areas will compile all areas into a single document and eliminate the need to revise the Orange Municipal Code every time an area is added or deleted from the Neighborhood Permit Parking Program.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Orange as follows:

SECTION I:

That Resolution No. 11216, adopted March 10, 2020, is hereby rescinded, effective immediately.

SECTION II:

That the following street be added to the permit parking program Area “A:”

- Both sides of East Mayfair Avenue from Shaffer Street to Grand Street.

SECTION III:

That the Master Resolution of Permit Parking Areas for the Neighborhood Permit Parking Program, attached hereto as Exhibit “A,” is hereby adopted.

ADOPTED this ____ day of _____, 2021

Mark A. Murphy, Mayor, City of Orange

ATTEST:

Pamela Coleman, City Clerk, City of Orange

STATE OF CALIFORNIA)
COUNTY OF ORANGE)
CITY OF ORANGE)

I, PAMELA COLEMAN, City Clerk of the City of Orange, California, do hereby certify that the foregoing Resolution was duly and regularly adopted by the City Council of the City of Orange at a regular meeting thereof held on the ____ day of _____, 2021 by the following vote:

AYES:	COUNCILMEMBERS:
NOES:	COUNCILMEMBERS:
ABSENT:	COUNCILMEMBERS:
ABSTAIN:	COUNCILMEMBERS:

Pamela Coleman, City Clerk, City of Orange

EXHIBIT A

The following areas are all areas that have been approved by the City Council for inclusion in the Neighborhood Permit Parking Program and are subject to Chapter 10.30 of the Orange Municipal Code. Any additions or deletions to the Neighborhood Permit Parking Program shall be made by amending this Master Resolution.

CHAPMAN UNIVERSITY NEIGHBORHOOD PERMIT PARKING AREA “A”

1. West side of Cambridge St. from Chapman to Lomita Ave. adjacent to residential land uses.
2. Both sides of Center St. from Chapman to Palm Ave. adjacent to residential land uses.
3. East side of Center St. from Palm Ave. to Walnut Ave.
4. Both sides of Cleveland St. from Chapman to Sycamore Ave. adjacent to residential land uses.
5. East side of Cypress St. from Palm to 637 feet north of Walnut Ave.
6. Both sides of Cypress St. from Walnut to Sycamore Ave.
7. Both sides of Everett Pl. from Shaffer St. to Glassell St.
8. Both sides of Glassell St. from Walnut Ave. to Rose Ave.
9. Both sides of Glassell St. from Lomita Ave. to Walnut Ave.
10. East side of Grand St. from Chapman to Maple Ave. adjacent to residential land uses.
11. Both sides of Grand St. from Maple Ave. to Palm Ave.
12. Both sides of Grand St. from Everett Pl. to Walnut Ave.
13. Both sides of Grand St. from Everett Pl. to Lomita Ave.
14. Both sides of Harwood St. from 146 feet north of Chapman Ave. to the northern terminus of Harwood St.
15. Both sides of Jefferson Ave. from Harwood St. to Shaffer St.
16. East side of Lemon St. from Chapman to Palm Ave. adjacent to residential land uses.
17. Both sides of Lemon St. from Palm Ave. to Walnut Ave. adjacent to residential land uses.
18. West side of Lemon St. from Walnut to 644 feet north of Walnut Ave.
19. Both sides of Lomita Ave. from Cambridge St. to Lemon St. adjacent to residential land uses.
20. Both sides of Maple Ave. from Cambridge to Cypress St. adjacent to residential land uses.
21. Both sides of Mayfair Ave. from Shaffer St. to Lemon St.
22. Both sides of Olive St. from Chapman Ave. to the northern terminus of Olive St. adjacent to residential land uses.
23. Both sides of Olive St. from Sycamore Ave. to Rose Ave.
24. Both sides of Orange St. from Maple Ave. and Palm Ave.
25. Both sides of Orange St. from Walnut Ave. to the northern terminus of Orange St.
26. Both sides of Orange St. from Lomita Ave. to the southern terminus of Orange St.
27. Both sides of Palm Ave. from Cambridge St. to Lemon St. adjacent to residential land uses.
28. Both sides of Rose Ave. from Glassell to Orange St.
29. Both sides of Shaffer St. from Chapman to Lomita Ave. adjacent to residential land uses.
30. Both sides of Sycamore Ave. from Cambridge to Center St. adjacent to residential land uses.
31. North side of Sycamore Ave. at 145 W. Sycamore Ave. adjacent to residential land uses.
32. Both sides of Walnut Ave. from Cambridge to Cypress St. adjacent to residential land uses.
33. Both sides of North Shaffer St. between Chapman and Walnut Ave.
34. Both sides of East Maple Ave. between Shaffer and Cleveland Ave.
35. Both sides of East Mayfair Avenue between Shaffer to Grand Streets.

AREA “B”

1. Both sides of Adams Ave. from Glassell St. to Grand St.
2. Both sides of Hoover Ave. from Glassell St. to Grand St.
3. Both sides of Quincy Ave. from Glassell St. to Grand St.
4. Both sides of Wilson Ave. from Glassell St. to Grand St.

AREA “C”

1. Both sides of Compton Ave from Manchester Ave. to Lewis St.
2. East side of Lewis St. from the northerly property line at 4035 Compton Ave. to the southern property line of 119 N. Lewis St.
3. West side of Manchester Ave. from Sheringham Ave. to Compton Ave.
4. North side of Sheringham Ave. from Manchester Ave. to Windgap Dr.
5. South sides of Sheringham Ave. from Woodridge Cr. to Windgap Dr.
6. Both sides of Sunningdale Cr. from Compton Ave. south to include the cul-de-sac.
7. Both sides of Windgap Dr. from Compton Ave. south to include the cul-de-sac.
8. West side of Woodridge Cr. from Sheringham Ave. south to include the cul-de-sac.
9. East side of Woodridge Cr. from the northerly property line of 119 N. Woodridge Cr. south to include the cul-de-sac.

AREA “D”

1. Both sides of Dunas St. from Maple Ave. north to include the cul-de-sac.
2. Both sides of Maple Ave. from Prospect St. to Olympia Way.
3. Both sides of Olympia Way from Maple Ave. to Spring St.
4. Both sides of Shasta St. from Maple Ave. north to include the cul-de-sac.
5. Both sides of Vine Ave. from Olympia Way to its western terminus.
6. Both sides of First St. from Chapman Ave. north to include the cul-de-sac.
7. Both sides of Pearl Ave. from First St. to McPherson Rd.
8. East side of McPherson Rd. from 131 to 133 N. McPherson Rd.

AREA “E”

1. West side of Elm St. south of Sycamore Ave. to include the cul-de-sac.

AREA “F”

Permit Parking between the hours of 10:00 p.m. and 6:00 a.m.

Both sides of Almond Ave. from Prospect St. to Violet Ln.
Both sides of Kathleen St. from Chapman Ave. to Palmyra Ave.
Both sides of Palmyra Ave. from Craig Dr. to Prospect St.
East side of Prospect St. from Almond Ave. to Palmyra Ave.
Both sides of Violet Ln. from Almond Ave. to Palmyra Ave.

AREA “G”

Permit Parking between the hours of 10:00 p.m. and 6:00 a.m.

1. Both sides of Euclid Ave. from James St. to Seranado St.

2. Both sides of James St. from Sycamore Ave. to Euclid Ave.
3. Both sides of Palm and from Swidler Ave. to Seranado St.
4. Both sides of Sycamore Ave. from Swidler Ave. to Seranado St.
5. Both sides of Seranado St. from Spring St. to Walnut Ave.
6. Both sides of Silverleaf Ave. from Thomas St. to Seranado St.
7. Both sides of Spring St. from Swidler Ave. to Seranado St.
8. Both sides of Swidler St. from Spring St. to Walnut Ave.
9. Both sides of Thomas St. from Sycamore Ave. to Silverleaf Ave.
10. Both sides of Walnut Ave. from Swidler St. to Seranado St.

AREA “H”

1. Both sides of Shaffer St. beginning 390 feet north of Katella Ave. and ending at Trenton Ave. (R-1 zoned single-family residences only.)

AREA “I”

2. Both sides of Almond Ave. from Prospect St. to Dunas St.
3. Both sides of Century Ave. from James St. to Thomas St.
4. Both sides of Craig Dr. 100 feet south of Roberta Dr. to Prospect St.
5. Both sides of Dunas St. from Palmyra Ave. to Almond Ave.
6. Both sides of James St. from Century Dr. to LaVeta Ave.
7. North side of LaVeta Ave. from Prospect St. to Dunas St.
8. Both sides of Merelet Ln. from Craig Dr. to include the cul-de-sac.
9. Both sides of Olympia Way from Palmyra Ave. to Almond Ave.
10. North side of Palmyra Ave. from Prospect St. to Thomas St.
11. Both sides of Ruth Pl. easterly of James St.
12. Both sides of Ruth Pl. from Prospect St. to Olympia Way.
13. Both sides of Shasta St. from Palmyra Ave. to Almond Ave.
14. Both sides of Thomas St. from Century Dr. to Palmyra Ave.

AREA “J”

1. Both sides of Binnacle Ave. from Jetty Dr. to its easterly terminus.
2. North side of Chapman Ave. from Jetty Dr. to 4537 W. Chapman Ave.
3. North side of Chapman Ave. frontage road from Jetty Dr. to cul-de-sac.
4. Both sides of Grant Pl. from Chapman Ave. northerly to include the cul-de-sac.
5. Both sides of Jetty Dr. from Chapman to Sirius Ave.
6. West side of Lewis St. from Sirius to Simmons Ave.
7. South side of Simmons Ave. from Lewis to Spinnaker St.
8. Both sides of Sirius Ave. from Lewis St. to Jetty Dr.
9. Both sides of Spinnaker St. from Binnacle to Simmons Ave.
10. Both sides of Stay Court easterly of Jetty Dr.
11. Both sides of Tiller Ave. from Lewis to Spinnaker St.

AREA “K”

1. Both sides of the 2700 block of East Bennett Ave.
2. Both sides of the 2700 block of East Killingsworth Ave.
3. Both sides of the 100-200 blocks of North Malena Dr.
4. Both sides of the 2700 block of East Sherman Ave.
5. Both sides of the 100-200 blocks of North Wheeler St.

AREA “L”

1. Both sides of Jacaranda Ave. from Morgan St. to Mallard St.
2. Both sides of Juniper Ave. from Morgan St. to Mallard St.
3. Both sides of Mallard St. from Collins Ave. northerly to 985 North Mallard St.
4. Both sides of Morgan St. from Collins Ave. northerly to 986 North Morgan St.

AREA “M”

1. Both sides of Citrus St. from Almond Ave. to the southerly commercial property lines south of Chapman Ave.

AREA “N”

1. West side of Bedford Rd. from LaVeta Ave. to Bronson Ave.

AREA “O”

1. The north side of Spring St. from Hewes St. to Earlham St.

AREA “P”

1. Both sides of the 1000 block of Gardner Dr.
2. Both sides of the 1000 block of Greengrove St.
3. Both sides of Monroe Ave. from California St. to Lincoln St.
4. Both sides of Quincy Ave. from California St. to Lincoln St.
5. Both sides of Lincoln St. between Adams Ave. and Wilson Ave. including the cul-de-sac.
6. West side of Lincoln St. from 990 N. Lincoln St. and Adams Ave.
7. East side of Lincoln St. from 1073 N. Lincoln St. and Adams Ave.
8. Both sides of Adams Ave. between Lincoln St. and California St.

AREA “Q”

1. Both sides of the 8500 block of Biscayne Way
2. Both sides of the 8500 block of Deershire Court
3. Both sides of the 200 block of Fairfield Lane
4. Both sides of the 200 block of Firenze Way
5. Both sides of the 8500 block of Heatherview Lane

AREA ‘R’

1. Both sides of San Luis Drive from 7821 (north side) to Santa Cruz Avenue, and from 7816 (south side) to the beginning of 8132.
2. 8102 and 8110 Santa Cruz Avenue (south side).
3. Both sides of Santa Maria Street between San Luis Drive and Santa Cruz Avenue.

AREA “S”

1. Both sides of Poplar St. between Maple Ave. and the cul-de-sac.

2. North side of Maple Ave. between Stevens St. and 1949 W. Maple Ave.
3. South side of Maple Ave. from Stevens St. to 2010 W. Maple Ave.
4. Both sides of Eckhoff St. between 130-283 N. Eckhoff St.

AREA “T”

1. Both sides of Cully Drive from the westerly property lines of 861 and 864 West Cully Drive to the cul-de-sac.
 - Four spaces on the east side of Eckhoff Street from the southerly limit to West Arbor Way (approximately 110 feet).
 - Five spaces on the east side of Eckhoff Street from 45 feet north of West Arbor Way end of curb return to Maple Avenue (approximately 140 feet. It allows one parking space to remain in the permit parking program just north of the driveway at 2037 West Arbor Way for visibility).
 - Three spaces on the east side of Eckhoff Street north of Willow Avenue to the northerly limit (approximately 70 feet).
 - Two spaces on the east side of Eckhoff Street from the existing red curb north of Maple Avenue to the driveway south of 206 N. Eckhoff Street.

AREA “U”

1. Both sides of Waverly Street from the northerly property lines of 133 and 138 S. Waverly Street to Almond Avenue.

AREA “V”

1. The south side of East Rose Avenue from 1932/1934 to North Highland Street.
2. Both sides of North Highland Street from East Rose Avenue to East Barkley Avenue.
3. Both sides of East Mayfair Avenue from 1740 East Mayfair Avenue to North Highland Street.
4. The south side of East Lomita Avenue from 1734/1736 to North Highland Street.
5. The north side of East Lomita Avenue from 1901 to North Highland Street.
6. Both sides of East Barkley Avenue from the cul-de-sac to North Highland Street.
7. Both sides of the cul-de-sac streets of North Victoria Drive, North Russell Drive, and North Shirley Drive, north of East Mayfair Avenue.



Agenda Item

City Council

Item #: 3.34.

7/13/2021

File #: 21-0380

TO: Honorable Mayor and Members of the City Council

THRU: Rick Otto, City Manager

FROM: Monica Espinoza, Human Resources Director

1. SUBJECT

Amend the Citywide Pay Schedule in accordance with the requirements of California Code of Regulations, Title 2, Section 570.5. Resolution No. 11338.

2. SUMMARY

Per the California Code of Regulations, Title 2, Section 570.5, the City must abide by the California Government Code when establishing and reporting compensation for its employees. The pay schedule must meet the following requirements: must be duly approved and adopted by the employer's governing body in accordance with requirements of applicable public meeting laws, identifies the position title of every employee position, shows the pay rate for each position, indicates the time base for each pay rate, is posted at the office of the employer or immediately accessible for public review during normal business hours or posted on the employer's internet website, indicates an effective date and date of any revisions, is retained by the employer and available for public inspection for a period not less than five years, and does not reference another document in lieu of disclosing the pay rate. The last amendment to the Citywide Pay Schedule was effective March 14, 2021 via Resolution No. 11307.

3. RECOMMENDED ACTION

Adopt Resolution No. 11338. A Resolution of the City Council of the City of Orange amending the Citywide Pay Schedule in accordance with the requirements of California Code of Regulations, Title 2, Section 570.5.

4. FISCAL IMPACT

None.

5. STRATEGIC PLAN GOALS

Goal 1: Provide for a safe community

b: Provide and maintain infrastructure necessary to ensure the safety of the public.

Goal 4: Provide outstanding public service

e: Attract, retain and develop quality employees dedicated to public service.

6. DISCUSSION AND BACKGROUND

The City Council previously approved various Resolutions that address classification, compensation, and terms of employment with various groups. These include:

- Resolution No. 11273 between the City of Orange and the City of Orange Police Management Association with a salary adjustment effective June 20, 2021
- Resolution No. 11274 between the City of Orange and the Orange City Firefighters, Inc. Local 2384 of the International Association of Fire Fighters, AFL-CIO with a salary adjustment effective June 20, 2021, which was amended by Resolution No. 11333 to approve the salary tables effective June 20, 2021
- Resolution No. 11275 between the City of Orange and the Orange Fire Management Association with a salary adjustment effective June 20, 2021
- Resolution No. 11277 between the City of Orange and the City of Orange Police Association with a salary adjustment effective June 20, 2021, which was amended by Resolution No. 11341 to include the newly established classifications of Homeless Outreach Specialist and Police Jailer effective July 1, 2021, and
- Resolution No. 11332 relating to the classification, compensation, and terms of employment of Executive Management and Senior Management Employees, on June 8, 2021 with an effective date of July 1, 2021

All salary adjustments included in the Resolutions above have been incorporated into the attached Salary Schedule.

7. ATTACHMENTS

- Resolution No. 11338



Agenda Item

City Council

Item #: 3.34.

7/13/2021

File #: 21-0380

TO: Honorable Mayor and Members of the City Council

THRU: Rick Otto, City Manager

FROM: Monica Espinoza, Human Resources Director

1. SUBJECT

Amend the Citywide Pay Schedule in accordance with the requirements of California Code of Regulations, Title 2, Section 570.5. Resolution No. 11338.

2. SUMMARY

Per the California Code of Regulations, Title 2, Section 570.5, the City must abide by the California Government Code when establishing and reporting compensation for its employees. The pay schedule must meet the following requirements: must be duly approved and adopted by the employer's governing body in accordance with requirements of applicable public meeting laws, identifies the position title of every employee position, shows the pay rate for each position, indicates the time base for each pay rate, is posted at the office of the employer or immediately accessible for public review during normal business hours or posted on the employer's internet website, indicates an effective date and date of any revisions, is retained by the employer and available for public inspection for a period not less than five years, and does not reference another document in lieu of disclosing the pay rate. The last amendment to the Citywide Pay Schedule was effective March 14, 2021 via Resolution No. 11307.

3. RECOMMENDED ACTION

Adopt Resolution No. 11338. A Resolution of the City Council of the City of Orange amending the Citywide Pay Schedule in accordance with the requirements of California Code of Regulations, Title 2, Section 570.5.

4. FISCAL IMPACT

None.

5. STRATEGIC PLAN GOALS

Goal 1: Provide for a safe community

b: Provide and maintain infrastructure necessary to ensure the safety of the public.

Goal 4: Provide outstanding public service

e: Attract, retain and develop quality employees dedicated to public service.

6. DISCUSSION AND BACKGROUND

The City Council previously approved various Resolutions that address classification, compensation, and terms of employment with various groups. These include:

- Resolution No. 11273 between the City of Orange and the City of Orange Police Management Association with a salary adjustment effective June 20, 2021
- Resolution No. 11274 between the City of Orange and the Orange City Firefighters, Inc. Local 2384 of the International Association of Fire Fighters, AFL-CIO with a salary adjustment effective June 20, 2021, which was amended by Resolution No. 11333 to approve the salary tables effective June 20, 2021
- Resolution No. 11275 between the City of Orange and the Orange Fire Management Association with a salary adjustment effective June 20, 2021
- Resolution No. 11277 between the City of Orange and the City of Orange Police Association with a salary adjustment effective June 20, 2021, which was amended by Resolution No. 11341 to include the newly established classifications of Homeless Outreach Specialist and Police Jailer effective July 1, 2021, and
- Resolution No. 11332 relating to the classification, compensation, and terms of employment of Executive Management and Senior Management Employees, on June 8, 2021 with an effective date of July 1, 2021

All salary adjustments included in the Resolutions above have been incorporated into the attached Salary Schedule.

7. ATTACHMENTS

- Resolution No. 11338

RESOLUTION NO. 11338

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ORANGE AMENDING THE CITYWIDE PAY SCHEDULE IN ACCORDANCE WITH THE REQUIREMENTS OF CALIFORNIA CODE OF REGULATIONS, TITLE 2, SECTION 570.5.

WHEREAS, the City of Orange, hereinafter referred to as “City”, contracts with the California Public Employees’ Retirement System to provide retirement benefits for its employees; and

WHEREAS, per California Code of Regulations, Title 2, Section 570.5, the City must abide by the California Government Code when establishing and reporting compensation for its employees; and

WHEREAS, the attached Citywide Pay Schedule must meet the following requirements; must be duly approved and adopted by the employer’s governing body in accordance with requirements of applicable public meeting laws, identifies the position title of every employee position, shows the pay rate for each position, indicates the time base for each pay rate, is posted at the office of the employer or immediately accessible for public review during normal business hours or posted on the employer’s internet website, indicates an effective date and date of any revisions, is retained by the employer and available for public inspection for a period not less than five years, and does not reference another document in lieu of disclosing the pay rate; and

WHEREAS, the City Council approved Resolution No. 11307 on March 9, 2021, which last amended the Citywide Pay Schedule effective March 14, 2021; and

WHEREAS, the City Council approved Resolution No. 11273 between the City of Orange and the City of Orange Police Management Association with a salary adjustment effective June 20, 2021; and

WHEREAS, the City Council approved Resolution No. 11274 between the City of Orange and the Orange City Firefighters, Inc. Local 2384 of the International Association of Fire Fighters, AFL-CIO with a salary adjustment effective June 20, 2021, which was amended by Resolution No. 11333 to approve the salary tables effective June 20, 2021; and

WHEREAS, the City Council approved Resolution No. 11275 between the City of Orange and the Orange Fire Management Association with a salary adjustment effective June 20, 2021; and

WHEREAS, the City Council approved Resolution No. 11277 between the City of Orange and the City of Orange Police Association with a salary adjustment effective June 20, 2021, which was amended by Resolution No. 11341 to include the newly established classifications of Homeless Outreach Specialist and Police Jailer effective July 1, 2021; and

WHEREAS, the City Council approved Resolution No. 11332, relating to the classification, compensation, and terms of employment of Executive Management and Senior Management Employees, on June 8, 2021 with an effective date of July 1, 2021; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Orange that Resolution No. 11307 is hereby rescinded and the attached revised Citywide Pay Schedule, effective June 20, 2021 is approved and incorporated.

ADOPTED this 13th day of July 2021.

Mark A. Murphy, Mayor, City of Orange

ATTEST:

Pamela Coleman, City Clerk, City of Orange

STATE OF CALIFORNIA)
COUNTY OF ORANGE)
CITY OF ORANGE)

I, PAMELA COLEMAN, City Clerk of the City of Orange, California, do hereby certify that the foregoing Resolution was duly and regularly adopted by the City Council of the City of Orange at a regular meeting thereof held on the 13th day of July 2021, by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:
ABSTAINED: COUNCIL MEMBERS:

Pamela Coleman, City Clerk, City of Orange

City of Orange
Citywide Pay Schedule - Revision Effective June 20, 2021
Approved by City Council on July 13, 2021

Classification Title	Group	Effective	Range	Step A	Step B	Step C	Step D	Step E	Step F	Step G	Step H
Accountant	OMEA	1/3/2021	550	5,541	5,823	6,120	6,432	6,760	7,105		
Accounting Manager	SM	6/20/2021	618	7,778	8,175	8,590	9,029	9,490	9,974		
Administrative Analyst I	SM	6/20/2021	548	5,485	5,766	6,059	6,369	6,693	7,035		
Administrative Analyst II	SM	6/20/2021	568	6,061	6,370	6,695	7,036	7,395	7,772		
Administrative Assistant	OMEA	1/3/2021	498	4,275	4,493	4,722	4,963	5,216	5,482		
Administrative Services Director	EM	6/20/2021	720	12,935	13,596	14,287	15,017	15,783	16,587		
Administrative Specialist	OMEA	1/3/2021	496	4,232	4,448	4,675	4,914	5,164	5,427		
Assistant City Attorney I	SM	6/20/2021	674	10,283	10,809	11,359	11,938	12,547	13,187		
Assistant City Attorney II	SM	6/20/2021	684	10,809	11,361	11,939	12,549	13,189	13,861		
Assistant City Manager	EM	6/20/2021	731	13,664	14,363	15,093	15,864	16,673	17,523		
Assistant Community Devel. Director	SM	6/20/2021	682	10,702	11,249	11,820	12,424	13,058	13,724		
Assistant Community Services Director	SM	6/20/2021	669	10,030	10,542	11,078	11,644	12,239	12,862		
Assistant Engineer	OMEA	1/3/2021	579	6,403	6,729	7,073	7,433	7,812	8,211		
Assistant Field Services Manager	SM	6/20/2021	649	9,078	9,542	10,027	10,539	11,077	11,641		
Assistant Finance Director	SM	6/20/2021	669	10,030	10,542	11,078	11,644	12,239	12,862		
Assistant Human Resources Director	SM	6/20/2021	669	10,030	10,542	11,078	11,644	12,239	12,862		
Assistant Library Services Director	SM	6/20/2021	628	8,175	8,593	9,029	9,491	9,975	10,483		
Assistant Planner	OMEA	1/3/2021	537	5,193	5,458	5,736	6,028	6,336	6,659		
Assistant Pool Manager	PT&S	12/6/2020	440	18.47	19.41						
Assistant Public Works Director	SM	6/20/2021	694	11,362	11,942	12,550	13,191	13,863	14,570		
Assistant Recreation Services Coordinator	PT&S	12/6/2020	480	22.54	23.70	24.90					
Assistant to the City Manager	SM	6/20/2021	618	7,778	8,175	8,590	9,029	9,490	9,974		
Assistant Water Manager	SM	6/20/2021	649	9,078	9,542	10,027	10,539	11,077	11,641		
Associate Civil Engineer	OMEA	1/3/2021	602	7,181	7,548	7,931	8,336	8,762	9,208		
Associate Engineer	OMEA	1/3/2021	602	7,181	7,548	7,931	8,336	8,762	9,208		
Associate Planner	OMEA	1/3/2021	572	6,183	6,498	6,830	7,178	7,544	7,929		
Budget Manager	SM	6/20/2021	618	7,778	8,175	8,590	9,029	9,490	9,974		
Budget Officer	SM	6/20/2021	608	7,399	7,778	8,172	8,590	9,028	9,488		
Building Inspection Supervisor	OMA	1/3/2021	578	6,371	6,696	7,037	7,396	7,773	8,170		
Building Inspector	OMEA	1/3/2021	538	5,219	5,485	5,765	6,059	6,368	6,692		
Business License Inspector	OMEA	1/3/2021	526	4,916	5,166	5,430	5,707	5,998	6,303		
Buyer	OMEA	1/3/2021	534	5,116	5,376	5,651	5,939	6,242	6,560		
Chemical Sprayer	OMCEA	1/3/2021	480	3,907	4,107	4,316	4,537	4,768	5,011		
Chief Building Official	SM	6/20/2021	669	10,030	10,542	11,078	11,644	12,239	12,862		
City Attorney	EM	6/20/2021	N/A	20,232							
City Clerk Services Director	EM	6/20/2021	638	8,593	9,033	9,491	9,976	10,485	11,020		
City Manager	EM	6/20/2021	N/A	20,771							
Civilian Investigative Officer	COPA	6/20/2021	519P	4,747	4,989	5,243	5,510	5,792	6,087	6,331	
Code Compliance Officer	OMEA	1/3/2021	532	5,065	5,323	5,595	5,880	6,180	6,495		
Code Compliance Supervisor	OMA	1/3/2021	578	6,371	6,696	7,037	7,396	7,773	8,170		
Combination Building Inspector	OMEA	1/3/2021	548	5,485	5,766	6,059	6,369	6,693	7,035		
Community Development Director	EM	6/20/2021	708	12,183	12,806	13,457	14,145	14,866	15,624		
Community Services Director	EM	6/20/2021	703	11,883	12,491	13,126	13,796	14,500	15,239		
Construction Inspection Supervisor	OMA	1/3/2021	567	6,031	6,338	6,662	7,001	7,358	7,734		
Construction Inspector I	OMEA	1/3/2021	519	4,747	4,989	5,243	5,510	5,792	6,087		
Construction Inspector II	OMEA	1/3/2021	539	5,245	5,512	5,794	6,089	6,400	6,725		
Contract Administrator	OMEA	1/3/2021	579	6,403	6,729	7,073	7,433	7,812	8,211		
Court Liaison Officer	COPA	6/20/2021	509P	4,516	4,746	4,988	5,243	5,510	5,791	6,023	
Crime Analyst	SM	6/20/2021	566	6,001	6,307	6,629	6,966	7,322	7,695		
Crime Prevention Specialist	COPA	6/20/2021	527P	4,940	5,192	5,457	5,735	6,028	6,335	6,588	
Custodian	OMCEA	1/3/2021	438	3,169	3,331	3,501	3,679	3,867	4,064		
Deputy City Clerk	SM	6/20/2021	570	6,121	6,434	6,762	7,107	7,469	7,850		
Deputy City Manager	SM	6/20/2021	682	10,702	11,249	11,820	12,424	13,058	13,724		
Deputy Public Works Director	SM	6/20/2021	684	10,809	11,361	11,939	12,549	13,189	13,861		
Development Project Manager	OMA	1/3/2021	579	6,403	6,729	7,073	7,433	7,812	8,211		
Digital Marketing Coordinator	OMA	1/3/2021	553	5,624	5,911	6,212	6,529	6,862	7,212		

City of Orange
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Classification Title	Group	Effective	Range	Step A	Step B	Step C	Step D	Step E	Step F	Step G	Step H
Economic Development Manager	SM	6/20/2021	669	10,030	10,542	11,078	11,644	12,239	12,862		
Economic Development Project Manager	SM	6/20/2021	618	7,778	8,175	8,590	9,029	9,490	9,974		
Emergency Medical Services Manager	SM	6/20/2021	633	8,381	8,810	9,258	9,730	10,227	10,748		
Emergency Preparedness Manager	SM	7/1/2021	633	8,381	8,810	9,258	9,730	10,227	10,748		
Employee Benefits Analyst	SM	6/20/2021	561	5,853	6,152	6,465	6,795	7,142	7,505		
Engineering Intern	PT&S	12/6/2020	385	14.03	14.76	15.50					
Engineering Technician I	OMEA	1/3/2021	508	4,493	4,723	4,963	5,217	5,483	5,762		
Engineering Technician II	OMEA	1/3/2021	528	4,965	5,218	5,484	5,764	6,058	6,367		
Environmental Compliance Specialist	OMEA	1/3/2021	532	5,065	5,323	5,595	5,880	6,180	6,495		
Environmental Program Manager	OMA	1/3/2021	631	8,298	8,723	9,165	9,634	10,125	10,641		
Environmental Scientist	OMEA	1/3/2021	602	7,181	7,548	7,931	8,336	8,762	9,208		
Equipment Maint Leadworker	OMCEA	1/3/2021	525	4,891	5,141	5,403	5,678	5,968	6,272		
Equipment Maint. Superintendent	SM	6/20/2021	621	7,895	8,298	8,720	9,165	9,633	10,124		
Equipment Maintenance Supervisor	OMA	1/3/2021	577	6,339	6,663	7,002	7,359	7,735	8,129		
Equipment Mechanic I	OMCEA	1/3/2021	495	4,212	4,426	4,652	4,890	5,138	5,401		
Equipment Mechanic II	OMCEA	1/3/2021	515	4,653	4,890	5,140	5,402	5,677	5,967		
Equipment Operator	OMCEA	1/3/2021	507	4,471	4,699	4,939	5,191	5,455	5,734		
Equipment Parts Technician	OMCEA	1/3/2021	495	4,212	4,426	4,652	4,890	5,138	5,401		
Executive Assistant	SM	6/20/2021	515	4,653	4,890	5,140	5,402	5,677	5,967		
Executive Assistant to the Chief	SM	6/20/2021	535	5,141	5,403	5,679	5,969	6,273	6,593		
Facilities Maintenance Supervisor	OMA	1/3/2021	567	6,031	6,338	6,662	7,001	7,358	7,734		
Field Services Manager	SM	6/20/2021	669	10,030	10,542	11,078	11,644	12,239	12,862		
Finance Assistant	OMEA	1/3/2021	511	4,561	4,794	5,038	5,295	5,566	5,849		
Finance Clerk	OMEA	1/3/2021	476	3,831	4,026	4,231	4,447	4,674	4,912		
Finance Coordinator	OMA	1/3/2021	554	5,652	5,940	6,243	6,562	6,896	7,248		
Finance Director	EM	6/20/2021	703	11,883	12,491	13,126	13,796	14,500	15,239		
Finance Manager	SM	6/20/2021	600	7,110	7,473	7,853	8,254	8,675	9,116		
Finance Supervisor	SM	6/20/2021	580	6,435	6,763	7,108	7,470	7,851	8,252		
Financial Analyst	SM	6/20/2021	572	6,183	6,498	6,830	7,178	7,544	7,929		
Fire Battalion Chief	OFMA	6/20/2021	690.5	11,165	11,736	12,332	12,962	13,623	14,318		
Fire Captain	Local 2384	6/20/2021	F641.5	10,412	10,412	10,412	10,412	10,412			
Fire Chief	EM	6/20/2021	747	14,799	15,556	16,347	17,182	18,058	18,979		
Fire Engineer	Local 2384	6/20/2021	F610.5	7,338	7,704	8,090	8,494	8,919			
Fire Inspector/Investigator	Local 2384	6/20/2021	F629.5	9,807	9,807	9,807	9,807	9,807			
Fire Safety Specialist	Local 2384	6/20/2021	F591.5	6,673	7,007	7,357	7,725	8,112			
Firefighter	Local 2384	6/20/2021	F585.5	6,476	6,800	7,140	7,497	7,872			
Forensic Services Specialist	COPA	6/20/2021	519P	4,747	4,989	5,243	5,510	5,792	6,087	6,331	
Forensic Services Supv	PMA	6/20/2021	613PM	7,586	7,974	8,379	8,807	9,256	9,727	10,068	
GIS Analyst	OMEA	1/3/2021	602	7,181	7,548	7,931	8,336	8,762	9,208		
Hazardous Materials Spec	Local 2384	6/20/2021	F611.5	7,374	7,743	8,130	8,537	8,964			
Historic Preservation Planner	OMA	1/3/2021	602	7,181	7,548	7,931	8,336	8,762	9,208		
Homeless Outreach Specialist	COPA	7/1/2021	515P	4,653	4,890	5,140	5,402	5,677	5,967	6,206	
Housing Manager	SM	6/20/2021	618	7,778	8,175	8,590	9,029	9,490	9,974		
Housing Specialist	OMEA	1/3/2021	532	5,065	5,323	5,595	5,880	6,180	6,495		
Human Resources Analyst I	SM	6/20/2021	553	5,624	5,911	6,212	6,529	6,862	7,212		
Human Resources Analyst II	SM	6/20/2021	580	6,435	6,763	7,108	7,470	7,851	8,252		
Human Resources Director	EM	6/20/2021	703	11,883	12,491	13,126	13,796	14,500	15,239		
Human Resources Manager	SM	6/20/2021	649	9,078	9,542	10,027	10,539	11,077	11,641		
Human Resources Technician	OMEA	1/3/2021	506	4,449	4,675	4,914	5,165	5,428	5,705		
Information Technology Manager	SM	6/20/2021	669	10,030	10,542	11,078	11,644	12,239	12,862		
Information Technology Project Manager	SM	6/20/2021	649	9,078	9,542	10,027	10,539	11,077	11,641		
Information Technology Specialist	OMA	1/3/2021	553	5,624	5,911	6,212	6,529	6,862	7,212		
Intergovernmental & Comm Affairs Mgr	SM	6/20/2021	660	9,589	10,080	10,592	11,132	11,701	12,297		
Internal Audit Manager	SM	6/20/2021	618	7,778	8,175	8,590	9,029	9,490	9,974		
Investment/Revenue Officer	SM	6/20/2021	588	6,696	7,039	7,397	7,774	8,171	8,588		
Landscape Coordinator	OMA	1/3/2021	579	6,403	6,729	7,073	7,433	7,812	8,211		

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Classification Title	Group	Effective	Range	Step A	Step B	Step C	Step D	Step E	Step F	Step G	Step H
Lead Business License Inspector	OMEA	1/3/2021	536	5,167	5,430	5,707	5,998	6,304	6,626		
Lead Custodian	OMCEA	1/3/2021	468	3,681	3,868	4,066	4,273	4,491	4,720		
Lead Finance Clerk	OMEA	1/3/2021	536	5,167	5,430	5,707	5,998	6,304	6,626		
Legal Assistant	OMA	1/3/2021	526	4,916	5,166	5,430	5,707	5,998	6,303		
Librarian I	OMEA	1/3/2021	514	4,629	4,866	5,114	5,375	5,650	5,937		
Librarian II	OMEA	1/3/2021	534	5,116	5,376	5,651	5,939	6,242	6,560		
Librarian III	OMEA	1/3/2021	554	5,652	5,940	6,243	6,562	6,896	7,248		
Library Assistant	OMEA	1/3/2021	474	3,793	3,986	4,189	4,403	4,627	4,863		
Library Clerk	OMEA	1/3/2021	428	3,015	3,169	3,330	3,500	3,679	3,866		
Library Literacy Coordinator	OMEA	1/3/2021	514	4,629	4,866	5,114	5,375	5,650	5,937		
Library Manager I	OMA	1/3/2021	582	6,499	6,831	7,179	7,545	7,930	8,335		
Library Manager II	OMA	1/3/2021	592	6,831	7,181	7,545	7,931	8,336	8,760		
Library Page	OMEA	1/3/2021	389	2,482	2,609	2,742	2,881	3,028	3,183		
Library Services Director	EM	6/20/2021	689	11,082	11,648	12,240	12,866	13,522	14,211		
Library Support Services Assistant	OMEA	1/3/2021	474	3,793	3,986	4,189	4,403	4,627	4,863		
Library Tech & Support Services Mgr.	OMA	1/3/2021	592	6,831	7,181	7,545	7,931	8,336	8,760		
Library Technology Assistant	OMEA	1/3/2021	474	3,793	3,986	4,189	4,403	4,627	4,863		
Library Technology Coordinator	OMEA	1/3/2021	534	5,116	5,376	5,651	5,939	6,242	6,560		
Library Technology Specialist	OMEA	1/3/2021	514	4,629	4,866	5,114	5,375	5,650	5,937		
Library Volunteer Coordinator	OMEA	1/3/2021	498	4,275	4,493	4,722	4,963	5,216	5,482		
Lifeguard/Swim Instructor	PT&S	12/6/2020	420	16.71	17.57						
Maintenance Worker	OMCEA	1/3/2021	457	3,485	3,662	3,848	4,045	4,251	4,468		
Management Intern	PT&S	12/6/2020	385	14.03	14.76	15.50					
Manager of Trans Svcs/City Traffic Eng	SM	6/20/2021	669	10,030	10,542	11,078	11,644	12,239	12,862		
Network/Security Analyst	SM	6/20/2021	599	7,074	7,436	7,814	8,213	8,632	9,071		
Office Assistant	OMEA	1/3/2021	448	3,331	3,501	3,680	3,867	4,065	4,272		
Parking Control Officer I	PT&S	12/6/2020	409	15.82	16.63	17.48					
Parking Control Officer II	COPA	6/20/2021	486P	4,026	4,232	4,448	4,674	4,913	5,163	5,370	
Parks and Facilities Attendant	PT&S	12/6/2020	415	16.30	17.14	18.01					
Parks and Facilities Manager	SM	6/20/2021	649	9,078	9,542	10,027	10,539	11,077	11,641		
Parks Maint Leadworker	OMCEA	1/3/2021	515	4,653	4,890	5,140	5,402	5,677	5,967		
Parks Maintenance Helper	PT&S	12/6/2020	385	14.03	14.76	15.50					
Parks Maintenance Supervisor	OMA	1/3/2021	567	6,031	6,338	6,662	7,001	7,358	7,734		
Parks Maintenance Worker I	OMCEA	1/3/2021	457	3,485	3,662	3,848	4,045	4,251	4,468		
Parks Maintenance Worker II	OMCEA	1/3/2021	477	3,850	4,046	4,252	4,469	4,697	4,937		
Payroll Manager	SM	6/20/2021	618	7,778	8,175	8,590	9,029	9,490	9,974		
Payroll Specialist	OMA	1/3/2021	546	5,431	5,708	5,999	6,305	6,627	6,965		
Payroll Technician	OMEA	1/3/2021	536	5,167	5,430	5,707	5,998	6,304	6,626		
Permit Technician	OMEA	1/3/2021	498	4,275	4,493	4,722	4,963	5,216	5,482		
Plan Check Engineer	OMEA	1/3/2021	579	6,403	6,729	7,073	7,433	7,812	8,211		
Plan Examiner	Local 2384	6/20/2021	F611.5	7,374	7,743	8,130	8,537	8,964			
Planning Aide	OMEA	1/3/2021	507	4,471	4,699	4,939	5,191	5,455	5,734		
Planning Manager	SM	6/20/2021	669	10,030	10,542	11,078	11,644	12,239	12,862		
Police Academy Trainee	PT&S	12/6/2020	550	5,541	<Monthly						
Police Administrative Assistant	COPA	6/20/2021	499P	4,296	4,515	4,746	4,988	5,242	5,509	5,730	
Police Armorer	COPA	6/20/2021	499P	4,296	4,515	4,746	4,988	5,242	5,509	5,730	
Police Cadet I	PT&S	12/6/2020	385	14.03	14.76	15.50					
Police Cadet II	PT&S	12/6/2020	395	14.75	15.51	16.30					
Police Captain	PMA	6/20/2021	731PM	13,664	14,363	15,093	15,864	16,673	17,523	18,136	
Police Chief	EM	6/20/2021	758	15,635	16,434	17,269	18,152	19,077	20,050		
Police Clerk	COPA	6/20/2021	478P	3,869	4,066	4,273	4,492	4,721	4,961	5,160	
Police Code Enforcement Officer	COPA	6/20/2021	552P	5,596	5,882	6,181	6,497	6,828	7,176	7,463	
Police Communications Manager	PMA	6/20/2021	607PM	7,362	7,739	8,132	8,547	8,983	9,441	9,771	
Police Dispatch Shift Supervisor	COPA	6/20/2021	556P	5,709	6,000	6,306	6,628	6,966	7,321	7,614	
Police Dispatcher	COPA	6/20/2021	538P	5,219	5,485	5,765	6,059	6,368	6,692	6,960	
Police Jailer	COPA	7/1/2021	499P	4,296	4,515	4,746	4,988	5,242	5,509	5,730	
Police Lieutenant	PMA	6/20/2021	691SL	11,193	11,765	12,363	12,995	13,657	14,354	15,215	15,747

City of Orange
Citywide Pay Schedule - Revision Effective June 20, 2021
Approved by City Council on July 13, 2021

Classification Title	Group	Effective	Range	Step A	Step B	Step C	Step D	Step E	Step F	Step G	Step H
Police Officer	COPA	6/20/2021	595P	6,935	7,289	7,659	8,050	8,461	8,892	9,248	
Police Records Clerk	COPA	6/20/2021	478P	3,869	4,066	4,273	4,492	4,721	4,961	5,160	
Police Records Manager	PMA	6/20/2021	606PM	7,325	7,700	8,091	8,504	8,938	9,394	9,723	
Police Records Shift Supervisor	COPA	6/20/2021	538P	5,219	5,485	5,765	6,059	6,368	6,692	6,960	
Police Reserve Officer I	PT&S	12/6/2020	453	19.71	20.71	21.76					
Police Reserve Officer II	PT&S	12/6/2020	413	16.14	16.97	17.83					
Police Reserve Officer III	PT&S	12/6/2020	393	14.61	15.36	16.14					
Police Sergeant	PMA	6/20/2021	649SL	9,078	9,542	10,027	10,539	11,077	11,641	12,339	12,771
Police Services Officer	COPA	6/20/2021	499P	4,296	4,515	4,746	4,988	5,242	5,509	5,730	
Police Subpoenas & Warrants Specialist	COPA	6/20/2021	499P	4,296	4,515	4,746	4,988	5,242	5,509	5,730	
Police Training Coordinator	COPA	6/20/2021	509P	4,516	4,746	4,988	5,243	5,510	5,791	6,023	
Police Volunteer Coordinator	COPA	6/20/2021	527P	4,940	5,192	5,457	5,735	6,028	6,335	6,588	
Pool Manager	PT&S	12/6/2020	460	20.40	21.45	22.54					
Principal Civil Engineer	SM	6/20/2021	649	9,078	9,542	10,027	10,539	11,077	11,641		
Principal Planner	SM	6/20/2021	638	8,593	9,033	9,491	9,976	10,485	11,020		
Project Development Coordinator	OMA	1/3/2021	579	6,403	6,729	7,073	7,433	7,812	8,211		
Project Engineer	OMEA	1/3/2021	589	6,730	7,074	7,433	7,813	8,212	8,630		
Property Officer	COPA	6/20/2021	513P	4,606	4,842	5,089	5,348	5,621	5,908	6,144	
Public Affairs & Information Manager	SM	6/20/2021	618	7,778	8,175	8,590	9,029	9,490	9,974		
Public Works Administrative Manager	SM	6/20/2021	618	7,778	8,175	8,590	9,029	9,490	9,974		
Public Works Director	EM	6/20/2021	720	12,935	13,596	14,287	15,017	15,783	16,587		
Public Works Maint Worker I	OMCEA	1/3/2021	457	3,485	3,662	3,848	4,045	4,251	4,468		
Public Works Maint Worker II	OMCEA	1/3/2021	477	3,850	4,046	4,252	4,469	4,697	4,937		
Public Works Maintenance Leadworker	OMCEA	1/3/2021	515	4,653	4,890	5,140	5,402	5,677	5,967		
Public Works Maintenance Supervisor	OMA	1/3/2021	567	6,031	6,338	6,662	7,001	7,358	7,734		
Purchasing Officer	SM	6/20/2021	600	7,110	7,473	7,853	8,254	8,675	9,116		
Real Property Agent	OMA	1/3/2021	602	7,181	7,548	7,931	8,336	8,762	9,208		
Recreation Services Activity Specialist	PT&S	12/6/2020	460	20.40	21.45	22.54					
Recreation Services Coordinator	OMEA	1/3/2021	515	4,653	4,890	5,140	5,402	5,677	5,967		
Recreation Services Leader I	PT&S	12/6/2020	385	14.03	14.76						
Recreation Services Leader II	PT&S	12/6/2020	395	14.75	15.51						
Recreation Services Leader III	PT&S	12/6/2020	415	16.30	17.14	18.01					
Recreation Services Manager	SM	6/20/2021	639	8,636	9,078	9,539	10,026	10,538	11,075		
Recreation Services Supervisor	OMA	1/3/2021	572	6,183	6,498	6,830	7,178	7,544	7,929		
Risk Management Analyst	SM	6/20/2021	551	5,569	5,852	6,151	6,464	6,794	7,141		
Risk Manager	SM	6/20/2021	653	9,261	9,734	10,229	10,751	11,300	11,875		
School Crossing Guard	PT&S	12/6/2020	385	14.03	14.76	15.50					
School Crossing Guard Supervisor	PT&S	12/6/2020	410	15.90	16.72	17.56					
Senior Accountant	OMA	1/3/2021	570	6,121	6,434	6,762	7,107	7,469	7,850		
Senior Administrative Analyst	SM	6/20/2021	598	7,039	7,399	7,775	8,172	8,589	9,026		
Senior Assistant City Attorney	SM	6/20/2021	704	11,943	12,553	13,191	13,865	14,572	15,315		
Senior Assistant to the City Manager	SM	6/20/2021	649	9,078	9,542	10,027	10,539	11,077	11,641		
Senior Buyer	OMA	1/3/2021	554	5,652	5,940	6,243	6,562	6,896	7,248		
Senior Civil Engineer	OMA	1/3/2021	631	8,298	8,723	9,165	9,634	10,125	10,641		
Senior Code Compliance Officer	OMEA	1/3/2021	552	5,596	5,882	6,181	6,497	6,828	7,176		
Senior Combo. Building Inspector	OMEA	1/3/2021	568	6,061	6,370	6,695	7,036	7,395	7,772		
Senior Contract Administrator	OMA	1/3/2021	599	7,074	7,436	7,814	8,213	8,632	9,071		
Senior Econ Development Project Mgr	SM	6/20/2021	644	8,854	9,307	9,780	10,279	10,804	11,354		
Senior Emergency Medical Svcs Mgr	SM	6/20/2021	669	10,030	10,542	11,078	11,644	12,239	12,862		
Senior Executive Assistant to the City Council and the City Manager	SM	6/20/2021	565	5,971	6,275	6,596	6,931	7,285	7,657		
Senior Finance Clerk	OMEA	1/3/2021	496	4,232	4,448	4,675	4,914	5,164	5,427		
Senior Fire Inspection Specialist	OMA	1/3/2021	588	6,696	7,039	7,397	7,774	8,171	8,588		
Senior GIS Analyst	OMA	1/3/2021	622	7,934	8,340	8,763	9,211	9,681	10,174		
Senior Housing Manager	SM	6/20/2021	644	8,854	9,307	9,780	10,279	10,804	11,354		
Senior Human Resources Analyst	SM	6/20/2021	610	7,473	7,855	8,254	8,676	9,119	9,583		

City of Orange
Citywide Pay Schedule - Revision Effective June 20, 2021
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Classification Title	Group	Effective	Range	Step A	Step B	Step C	Step D	Step E	Step F	Step G	Step H
Senior Landscape Coordinator	OMA	1/3/2021	599	7,074	7,436	7,814	8,213	8,632	9,071		
Senior Legal Assistant	OMA	1/3/2021	546	5,431	5,708	5,999	6,305	6,627	6,965		
Senior Library Clerk	OMEA	1/3/2021	458	3,502	3,680	3,868	4,065	4,273	4,490		
Senior Library Manager	SM	6/20/2021	608	7,399	7,778	8,172	8,590	9,028	9,488		
Senior Office Assistant	OMEA	1/3/2021	468	3,681	3,868	4,066	4,273	4,491	4,720		
Senior Permit Technician	OMEA	1/3/2021	518	4,723	4,964	5,217	5,483	5,763	6,057		
Senior Plan Check Engineer	OMA	1/3/2021	602	7,181	7,548	7,931	8,336	8,762	9,208		
Senior Planner	OMA	1/3/2021	602	7,181	7,548	7,931	8,336	8,762	9,208		
Senior Police Clerk	COPA	6/20/2021	498P	4,275	4,493	4,722	4,963	5,216	5,482	5,701	
Senior Traffic Signal Technician	OMEA	1/3/2021	568	6,061	6,370	6,695	7,036	7,395	7,772		
Senior Water Meter Service Wkr	WDEA	1/3/2021	503	4,383	4,606	4,841	5,088	5,348	5,620		
Senior Water Quality Inspector	OMA	1/3/2021	567	6,031	6,338	6,662	7,001	7,358	7,734		
Skilled Maint Leadworker	OMCEA	1/3/2021	520	4,770	5,014	5,269	5,538	5,821	6,118		
Skilled Maintenance Wkr -Water	WDEA	1/3/2021	500	4,317	4,538	4,770	5,013	5,268	5,537		
Skilled Maintenance Worker – Facilities	OMCEA	1/3/2021	500	4,317	4,538	4,770	5,013	5,268	5,537		
Skilled Maintenance Worker – Parks	OMCEA	1/3/2021	500	4,317	4,538	4,770	5,013	5,268	5,537		
Skilled Maintenance Worker – Public Works	OMCEA	1/3/2021	500	4,317	4,538	4,770	5,013	5,268	5,537		
Stock Clerk	OMEA	1/3/2021	457	3,485	3,662	3,848	4,045	4,251	4,468		
Swimming Attendant	PT&S	12/6/2020	385	14.03	14.76						
Systems Analyst	SM	6/20/2021	599	7,074	7,436	7,814	8,213	8,632	9,071		
Traffic Management Center Tech	OMEA	1/3/2021	568	6,061	6,370	6,695	7,036	7,395	7,772		
Traffic Operations Superintendent	OMA	1/3/2021	587	6,663	7,003	7,360	7,736	8,130	8,545		
Traffic Signal Technician I	OMEA	1/3/2021	508	4,493	4,723	4,963	5,217	5,483	5,762		
Traffic Signal Technician II	OMEA	1/3/2021	528	4,965	5,218	5,484	5,764	6,058	6,367		
Transportation Analyst	OMEA	1/3/2021	602	7,181	7,548	7,931	8,336	8,762	9,208		
Tree Services Coordinator	OMA	1/3/2021	557	5,737	6,030	6,338	6,661	7,000	7,357		
Warehouse/Inventory Specialist	OMEA	1/3/2021	515	4,653	4,890	5,140	5,402	5,677	5,967		
Water Maintenance Leadworker	WDEA	1/3/2021	520	4,770	5,014	5,269	5,538	5,821	6,118		
Water Maintenance Supervisor	OMA	1/3/2021	567	6,031	6,338	6,662	7,001	7,358	7,734		
Water Maintenance Worker I	WDEA	1/3/2021	461	3,554	3,736	3,926	4,127	4,337	4,558		
Water Maintenance Worker II	WDEA	1/3/2021	481	3,927	4,128	4,338	4,559	4,792	5,036		
Water Manager	SM	6/20/2021	669	10,030	10,542	11,078	11,644	12,239	12,862		
Water Meter Service Worker I	WDEA	1/3/2021	469	3,699	3,887	4,086	4,294	4,513	4,744		
Water Meter Service Worker II	WDEA	1/3/2021	489	4,087	4,296	4,515	4,745	4,987	5,241		
Water Plant Operator I	WDEA	1/3/2021	494	4,191	4,404	4,629	4,865	5,112	5,374		
Water Plant Operator II	WDEA	1/3/2021	514	4,629	4,866	5,114	5,375	5,650	5,937		
Water Quality Inspector	OMA	1/3/2021	547	5,458	5,737	6,029	6,337	6,660	7,000		
Water Yard Storekeeper	WDEA	1/3/2021	491	4,129	4,339	4,560	4,793	5,037	5,293		

Group Key:

COPA: City of Orange Police Association
EM: Executive Management
Local 2384: Orange City Firefighters, Inc. Local 2384
OFMA: Orange Fire Management Association
OMA: Orange Management Association
OMCEA: Orange Maintenance and Crafts Employees' Association
OMEA: Orange Municipal Employees' Association
PMA: Police Management Association
PT&S: Part-Time & Seasonal Employees (Hourly)
SM: Senior Management
WDEA: Water Division Employees' Association



Agenda Item

City Council

Item #: 3.35.

7/13/2021

File #: 21-0381

TO: Honorable Mayor and Members of the City Council

THRU: Rick Otto, City Manager

FROM: Gary Sheatz, City Attorney

1. SUBJECT

Rescind Resolution No. 11187 certifying the EIR for the Trails at Santiago Creek project. Resolution No. 11344.

2. SUMMARY

Discussion and action regarding adoption of a resolution to rescind City Council Resolution No. 11187. Resolution No. 11187 certified the Final Environmental Impact Report for the Project, adopted Findings of Fact, a Statement of Overriding Consideration, a Mitigation Monitoring and Reporting Program, and implemented specific project conditions. With the referendum defeating the passage of the General Plan Amendment for the Project, the EIR is no longer needed due to the lack of underlying Project approvals. As proposed, the indemnity provisions from Resolution No. 11187 would survive in the event that there are any outstanding costs or liabilities associated with the Project.

3. RECOMMENDED ACTION

Adopt Resolution No. 11344. A Resolution of the City Council of the City of Orange rescinding Resolution No. 11187, which certified and adopted Final Environmental Impact Report No. 1857-18 (SCH No. 2017031020), adopted Findings of Fact, a Statement of Overriding Consideration, a Mitigation Monitoring and Reporting Program, and imposed other project conditions for the Trails at Santiago Creek Project.

4. FISCAL IMPACT

None.

5. STRATEGIC PLAN GOALS

Adoption of Resolution No. 11344 is not applicable to the specific goals in the City strategic plan as it relates to the Annual Operating and Capital Improvement Budget.

6. DISCUSSION AND BACKGROUND

Project Background and City Approvals

Project applicant Milan REI X, LLC proposed the Trails at Santiago Creek Project, a residential project involving 128 units and 68.5 acres of open space located at 6145 E. Santiago Canyon Road in the City of Orange ("Project Site"). After entering into a Pre-Development Agreement regarding the

proposed Project with applicants on October 11, 2016, the City began environmental review to analyze the proposed Project's potentially significant environmental impacts. The City issued a Final EIR No. 1857-18 for the Project on July 5, 2019.

At the October 22, 2019 meeting, the City Council adopted two Resolutions related to the Project: (1) Resolution No. 11187, certifying the EIR and related actions, and (2) Resolution No. 11188, approving the General Plan Amendment for the Project.

Shortly thereafter on November 12, 2019, the City adopted subordinate Project approvals including the zoning amendments in Ordinance No. 07-19, and the development agreement in Ordinance No. 08-19. However, Resolution No. 11188 specifically stated that "[t]he other subordinate project entitlements shall not take effect unless this General Plan Amendment becomes effective."

Voter Referendum of Resolution No. 11188

City residents pursued a referendum of Resolution No. 11188 and submitted to the City a "Petition for a Referendum Against Resolution No. 11188 Adopted by the Orange City Council on October 22, 2019" ("Referendum" or "Measure AA"). The Referendum contained the requisite number of signatures to qualify for a public vote.

On February 11, 2020, the City Council submitted Resolution No. 11188 to the voters of the City of Orange. Measure AA was placed on the ballot of the November 3, 2020 General Municipal Election, where a vote "YES" on Measure AA supported authorization of the Project and a vote "NO" opposed authorization of the Project.

The certified results of the election contained in Resolution 11287 show that Measure AA failed to pass, with 39,877 of the City's registered voters voting "NO" on Measure AA, and 23,290 voting "YES."

The electorate's disapproval of Measure AA invalidated Resolution No. 11188 such that the approval of General Plan Amendment No. 2018-0001 never took legal effect. The subordinate project approvals contained in Ordinance Nos. 07-19 and 08-19 therefore also did not become effective.

Certification of the Final EIR contained within Resolution No. 11187 is no longer needed due to the lack of underlying Project approvals (CEQA Guidelines §§ 15090, 15092). Given the lack of Project approvals, the applicant Milan REI X, LLC, submitted a request to the City on July 2, 2021 stating "on behalf of Milan, this email is to request that the City Council rescind Resolution No. 11187 adopted on October 22, 2019." (Attachment B.)

City Staff agree with Milan's request, but suggest that the City maintain the indemnity provisions from Resolution No. 11187 in the event that there are any outstanding costs or liabilities associated with the actions related to the Project.

7. ATTACHMENTS

- Resolution No. 11344
- Email from Milan REI X, LLC, requesting the City rescind Resolution No. 11187
- Resolution No. 11187



Agenda Item

City Council

Item #: 3.35.

7/13/2021

File #: 21-0381

TO: Honorable Mayor and Members of the City Council

THRU: Rick Otto, City Manager

FROM: Gary Sheatz, City Attorney

1. SUBJECT

Rescind Resolution No. 11187 certifying the EIR for the Trails at Santiago Creek project. Resolution No. 11344.

2. SUMMARY

Discussion and action regarding adoption of a resolution to rescind City Council Resolution No. 11187. Resolution No. 11187 certified the Final Environmental Impact Report for the Project, adopted Findings of Fact, a Statement of Overriding Consideration, a Mitigation Monitoring and Reporting Program, and implemented specific project conditions. With the referendum defeating the passage of the General Plan Amendment for the Project, the EIR is no longer needed due to the lack of underlying Project approvals. As proposed, the indemnity provisions from Resolution No. 11187 would survive in the event that there are any outstanding costs or liabilities associated with the Project.

3. RECOMMENDED ACTION

Adopt Resolution No. 11344. A Resolution of the City Council of the City of Orange rescinding Resolution No. 11187, which certified and adopted Final Environmental Impact Report No. 1857-18 (SCH No. 2017031020), adopted Findings of Fact, a Statement of Overriding Consideration, a Mitigation Monitoring and Reporting Program, and imposed other project conditions for the Trails at Santiago Creek Project.

4. FISCAL IMPACT

None.

5. STRATEGIC PLAN GOALS

Adoption of Resolution No. 11344 is not applicable to the specific goals in the City strategic plan as it relates to the Annual Operating and Capital Improvement Budget.

6. DISCUSSION AND BACKGROUND

Project Background and City Approvals

Project applicant Milan REI X, LLC proposed the Trails at Santiago Creek Project, a residential project involving 128 units and 68.5 acres of open space located at 6145 E. Santiago Canyon Road in the City of Orange ("Project Site"). After entering into a Pre-Development Agreement regarding the

proposed Project with applicants on October 11, 2016, the City began environmental review to analyze the proposed Project's potentially significant environmental impacts. The City issued a Final EIR No. 1857-18 for the Project on July 5, 2019.

At the October 22, 2019 meeting, the City Council adopted two Resolutions related to the Project: (1) Resolution No. 11187, certifying the EIR and related actions, and (2) Resolution No. 11188, approving the General Plan Amendment for the Project.

Shortly thereafter on November 12, 2019, the City adopted subordinate Project approvals including the zoning amendments in Ordinance No. 07-19, and the development agreement in Ordinance No. 08-19. However, Resolution No. 11188 specifically stated that "[t]he other subordinate project entitlements shall not take effect unless this General Plan Amendment becomes effective."

Voter Referendum of Resolution No. 11188

City residents pursued a referendum of Resolution No. 11188 and submitted to the City a "Petition for a Referendum Against Resolution No. 11188 Adopted by the Orange City Council on October 22, 2019" ("Referendum" or "Measure AA"). The Referendum contained the requisite number of signatures to qualify for a public vote.

On February 11, 2020, the City Council submitted Resolution No. 11188 to the voters of the City of Orange. Measure AA was placed on the ballot of the November 3, 2020 General Municipal Election, where a vote "YES" on Measure AA supported authorization of the Project and a vote "NO" opposed authorization of the Project.

The certified results of the election contained in Resolution 11287 show that Measure AA failed to pass, with 39,877 of the City's registered voters voting "NO" on Measure AA, and 23,290 voting "YES."

The electorate's disapproval of Measure AA invalidated Resolution No. 11188 such that the approval of General Plan Amendment No. 2018-0001 never took legal effect. The subordinate project approvals contained in Ordinance Nos. 07-19 and 08-19 therefore also did not become effective.

Certification of the Final EIR contained within Resolution No. 11187 is no longer needed due to the lack of underlying Project approvals (CEQA Guidelines §§ 15090, 15092). Given the lack of Project approvals, the applicant Milan REI X, LLC, submitted a request to the City on July 2, 2021 stating "on behalf of Milan, this email is to request that the City Council rescind Resolution No. 11187 adopted on October 22, 2019." (Attachment B.)

City Staff agree with Milan's request, but suggest that the City maintain the indemnity provisions from Resolution No. 11187 in the event that there are any outstanding costs or liabilities associated with the actions related to the Project.

7. ATTACHMENTS

- Resolution No. 11344
- Email from Milan REI X, LLC, requesting the City rescind Resolution No. 11187
- Resolution No. 11187

RESOLUTION NO. 11344

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ORANGE RESCINDING RESOLUTION NO. 11187, WHICH CERTIFIED AND ADOPTED FINAL ENVIRONMENTAL IMPACT REPORT NO. 1857-18 (SCH NO. 2017031020), ADOPTED FINDINGS OF FACT, A STATEMENT OF OVERRIDING CONSIDERATION, A MITIGATION MONITORING AND REPORTING PROGRAM, AND IMPOSED OTHER PROJECT CONDITIONS FOR THE TRAILS AT SANTIAGO CREEK PROJECT

WHEREAS, project applicant Milan REI X, LLC proposed the Trails at Santiago Creek Project (“Project”), a residential project involving 128 units and 68.5 acres of open space for the site located at 6145 E. Santiago Canyon Road in the City of Orange (“Project Site”); and,

WHEREAS, on March 3, 2017, the City issued a Notice of Preparation for the Project and its intention to prepare an Environmental Impact Report (“EIR”) pursuant to the California Environmental Quality Act (“CEQA”) (Pub. Resources Code, § 21000, et seq.) to analyze the potentially significant environmental impacts of the Project; and,

WHEREAS, the City issued the Final EIR for the Project on July 5, 2019; and,

WHEREAS, on October 22, 2019, the City Council adopted Resolution No. 11187 certifying the adequacy of the Final EIR and adopting Findings of Fact, a Statement of Overriding Considerations, and a Mitigation Monitoring and Reporting Program, and imposing other Project conditions for the Trails at Santiago Creek Project; and,

WHEREAS, on October 22, 2019, the City Council adopted Resolution No. 11188 approving General Plan Amendment No. 2018-0001 requesting to change the General Plan land use designation of the Project Site from low-density residential (approximately 15.4 acres), Resource Area (approximately 77.3 acres), and Open Space (approximately 16.5 acres), to Low-Density Residential (approximately 40.7 acres) and Open Space (approximately 68.5 acres) to allow for the for the Trails at Santiago Creek Project; and,

WHEREAS, the City issued other related Project approvals in Ordinance No. 07-19 [Zoning Amendments] and Ordinance No. 08-19 [Development Agreement]; however, Section II of Resolution No. 11188 stated that “[t]he other subordinate project entitlements shall not take effect unless this General Plan Amendment becomes effective;” and,

WHEREAS, on January 8, 2020, the Orange County Registrar of Voters determined that a referendum petition submitted to the City of Orange entitled “Petition for a Referendum Against

Resolution No. 11188 Adopted by the Orange City Council on October 22, 2019” (“Referendum” or “Measure AA”) contained 7,005 valid signatures and notified the Chief Clerk; and,

WHEREAS, on February 11, 2020, the City Council adopted Resolution Nos. 11213 and 11214 accepting the Chief Clerk’s Declaration of Sufficiency of the Referendum consenting to consolidation of elections and submittal of Resolution No. 11188 to the voters for consideration at the forthcoming November 3, 2020 General Municipal Election, respectively; and,

WHEREAS, Measure AA was placed on the ballot for voter consideration at the November 3, 2020 General Municipal Election; and,

WHEREAS, a vote “YES” on Measure AA supported authorizing the Trails at Santiago Creek Project and a vote “NO” on Measure AA opposed authorizing the Project; and,

WHEREAS, the certified results of the election contained in Resolution 11287 show that Measure AA failed to pass, with 39,877 of the City’s registered voters voting “NO” on Measure AA, and 23,290 voting “YES;” and,

WHEREAS, all of the entitlements for the Trails at Santiago Creek Project have been rescinded pursuant to the voter’s rejection of Measure AA, or by the terms of the effective date language which stated that “[t]he other subordinate project entitlements shall not take effect unless this General Plan Amendment becomes effective,” thereby also nullifying Ordinance No. 07-19 and Ordinance No. 08-19; and

WHEREAS, certification of the Final EIR contained within Resolution 11187 is no longer needed due to the lack of underlying Project approvals for the Trails at Santiago Creek Project (CEQA Guidelines §§ 15090, 15092); and

WHEREAS, given the lack of Project approvals for the Trails at Santiago Creek Project, the applicant Milan REI X, LLC submitted a request to the City, set forth in Attachment B to the accompanying staff report, on July 2, 2021 stating “on behalf of Milan, this email is to request that the City Council rescind Resolution 11187 adopted on October 22, 2019.”

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF ORANGE DOES HEREBY RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

Section 1. The City finds that the above recitals are true and correct, and are incorporated herein by reference.

Section 2. The City of Orange hereby rescinds Resolution No. 11187, except as provided by Section 3 of this Resolution.

Section 3. The indemnity provision, set forth in Attachment C of Resolution No. 11187, “Other Project Related Conditions,” remains effective notwithstanding Section 2 above, to address any outstanding fees, costs, or liabilities associated with the Trails at Santiago Creek Project. That surviving provision states:

“The applicant agrees to indemnify, hold harmless, and defend the City, its officers, agents and employees from any and all liability or claims that may be brought against the City arising out of its approval of this permit, save and except that caused by the City’s active negligence. The City shall promptly notify the applicant of any such claim, action, or proceedings and shall cooperate fully in the defense.”

ADOPTED this _____ day of _____, 2021.

Mark A. Murphy, Mayor of the City of Orange

ATTEST:

Pamela Coleman, City Clerk of the City of Orange

STATE OF CALIFORNIA)
COUNTY OF ORANGE)
CITY OF ORANGE)

I, PAMELA COLEMAN, City Clerk of the City of Orange, California, do hereby certify that the foregoing Resolution was duly and regularly adopted by the City Council of the City of Orange at a regular meeting thereof held on the 13th day of July, 2021, by the following vote:

AYES:	COUNCIL MEMBERS:
NOES:	COUNCIL MEMBERS:
ABSTAIN:	COUNCIL MEMBERS:
ABSENT:	COUNCIL MEMBERS:

Pamela Coleman, City Clerk of the City of Orange

From: Zischke, Michael H.
Sent: Friday, July 2, 2021 10:21 AM
To: Tyson Sohagi; Gary Sheatz
Cc: Gallagher, Morgan L.
Subject: Request to rescind

Tyson and Gary, on behalf of Milan, this email is to request that the City Council rescind Resolution 11187 adopted on October 22, 2019.

Mike Zischke

Michael H. Zischke



Cox, Castle & Nicholson LLP

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RESOLUTION NO. 11187

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ORANGE (A) CERTIFYING THE ADEQUACY OF FINAL ENVIRONMENTAL IMPACT REPORT 1857-18 (SCH NO. 2017031020) (B) ADOPTING FINDINGS OF FACT, (C) ADOPTING A STATEMENT OF OVERRIDING CONSIDERATIONS, (D) ADOPTING A MITIGATION MONITORING AND REPORTING PROGRAM, AND (E) IMPOSING OTHER PROJECT RELATED CONDITIONS FOR RELATED PROJECT ENTITLEMENTS FOR THE CONSTRUCTION OF 128 NEW DETACHED SINGLE-FAMILY RESIDENCES AND APPROXIMATELY 68.5 ACRES OF OPEN SPACE ON A SITE COMMONLY REFERRED TO AS SULLY MILLER, LOCATED AT 6145 EAST SANTIAGO CANYON ROAD, PREVIOUSLY IDENTIFIED AS 6118 EAST SANTIAGO CANYON ROAD.

WHEREAS, the applicant has submitted a project in accordance with requirements of the Municipal Code of the City of Orange and is known as the Trails at Santiago Creek Project which consists of Final Environmental Impact Report 1857-18, General Plan Amendment No. 2018-0001, Zone Change No. 1286-18, Development Agreement No. 0005-18, and adoption of the Trails at Santiago Creek Specific Plan, all of which are collectively referred to herein as the "Project"; and

WHEREAS, the Project, which by necessity includes Environmental Impact Report 1857-18 (SCH No. 2017031020), was filed in accordance with the provisions of the City of Orange Municipal Code; and

WHEREAS, the environmental impacts of the Project have been analyzed through Recirculated Draft Environmental Impact Report No. 1857-18, changes and revisions (Errata) to Recirculated Draft Environmental Impact Report 1857-18, the Response to Comments, technical appendices, and the Mitigation Monitoring Program, pursuant to the provisions of the California Environmental Quality Act (CEQA), local CEQA Guidelines, and the State CEQA Guidelines, a copy of which is on file with the Community Development Department of the City of Orange; and

WHEREAS, Recirculated Draft Environmental Impact Report No. 1857-18 was circulated for public review and comment within a State mandated 45-day public review period as required by CEQA, with a recirculated comment period that occurred between November 14, 2018 and ended on December 31, 2018; and

WHEREAS, responses to the comments received on Recirculated Draft Environmental Impact Report No. 1857-18 have been prepared to the satisfaction of the City; and

WHEREAS, the Planning Commission conducted duly advertised public hearings on July 15, 2019, and August 5, 2019, and adopted Planning Commission Resolution No. PC 07-19 which contains a recommendation that the City Council certify Final Environmental Impact Report No. 1857-18; and

WHEREAS, the City Council has reviewed Final Environmental Impact Report No. 1857-18; and

WHEREAS, the City Council conducted duly advertised public hearings on September 24, 2019 and October 22, 2019, at which time interested persons had an opportunity to testify either in support of or opposition to the Project, including Final Environmental Impact Report No. 1857-18; and

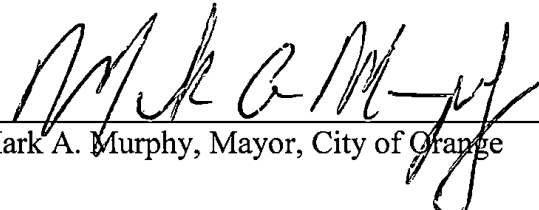
WHEREAS, at said public hearing, upon hearing and considering all testimony and arguments, if any, of all persons desiring to be heard, the City Council considered all factors relating to the proposed Project, including potential environmental impacts addressed in Final Environmental Impact Report No. 1857-18.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Orange finds and declares as follows:

1. Final Environmental Impact Report No. 1857-18 for the Project has been completed in compliance with the California Environmental Quality Act, local CEQA Guidelines, and State CEQA Guidelines; and
2. Final Environmental Impact Report No. 1857-18 reflects the independent judgment and analysis of the City of Orange; and
3. Based on the information contained in Final Environmental Impact Report No. 1857-18, the City Council finds that the environmental impact report provides an adequate assessment of the potentially significant environmental impacts of the proposed project and required discretionary permits; and
4. The City Council adopts the Findings of Fact (Attachment A), the Statement of Overriding Considerations (Attachment B), and Other Conditions (Attachment C) attached hereto and incorporated by this reference, which documents and supports the conclusion that even with the implementation of all feasible mitigation measures recommended in Final Environmental Impact Report No. 1857-18, it is infeasible to reduce the project's impacts on air quality and transportation to a level of insignificance, and which further sets forth the overriding benefits of the project which outweigh the unavoidable environmental impact of the project. Therefore, the City Council finds that the project's benefits outweigh the adverse impacts; and
5. The City Council adopts the Mitigation Monitoring and Reporting Program (included in Final Environmental Impact Report No. 1857-18 and incorporated by this reference) as the mitigation monitoring and reporting program for the Project; and

6. Finds that the proposed development is below greenhouse gas (GHG) thresholds established by the State; and
7. Based on the forgoing, the City Council certifies Final Environmental Impact Report No. 1857-18, and approves the project.

ADOPTED this 22nd day of October 2019.


Mark A. Murphy, Mayor, City of Orange

ATTEST:



Pamela Coleman, City Clerk, City of Orange

11/4/2019
Date

STATE OF CALIFORNIA)
COUNTY OF ORANGE)
CITY OF ORANGE)

I, PAMELA COLEMAN, City Clerk of the City of Orange, California, do hereby certify that the foregoing Resolution was duly and regularly adopted by the City Council of the City of Orange at an adjourned regular meeting thereof held on the 22nd day of October 2019, by the following vote:

AYES: COUNCILMEMBERS: Alvarez, Murphy, Nichols, Monaco
NOES: COUNCILMEMBERS: None
ABSENT: COUNCILMEMBERS: None
ABSTAIN: COUNCILMEMBERS: None


Pamela Coleman, City Clerk, City of Orange

**ATTACHMENT A
TO THE CITY COUNCIL
RESOLUTION OF APPROVAL
ADOPTING FINDINGS PURSUANT TO
THE CALIFORNIA ENVIRONMENTAL
QUALITY ACT
FINDINGS PURSUANT TO
CEQA SECTION 21081**

**Trails at Santiago Creek
Project**

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**FINDINGS AND FACTS IN SUPPORT OF FINDINGS FOR THE
TRAILS AT SANTIAGO CREEK PROJECT
CITY OF ORANGE, CA
STATE CLEARINGHOUSE NO. 2017031020**

I. STATUTE AND GUIDELINES

The California Environmental Quality Act (CEQA), Public Resources Code Section 21081 and Section 15091 of Title 14 of the California Code of Regulations (CEQA Guidelines), provide that:

- (a) No public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale for each finding. The possible findings are:
 - (1) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the Final EIR. (Finding 1)
 - (2) Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency. (Finding 2)
 - (3) Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the Final EIR. (Finding 3)
- (b) The findings required by subsection (a) shall be supported by substantial evidence in the record.

Section 15092 of the State CEQA Guidelines further stipulates that:

- (c) A public agency shall not decide to approve or carry out a project for which an EIR was prepared unless either:
 - (1) The project as approved will not have a significant effect on the environment, or
 - (2) The agency has:
 - (A) Eliminated or substantially lessened all significant effects on the environment where feasible as shown in findings under Section 15091, and

- (B) Determined that any remaining significant effects on the environment found to be unavoidable under Section 15091 are acceptable due to overriding concerns as described in Section 15093.

The City of Orange, as lead agency, prepared a Final Environmental Impact Report (EIR) for the Trails at Santiago Creek Project, State Clearinghouse No. 2017031020. The Project proposes the development of 128 single family residences and 68.5 acres of open space on an approximately 109.2 acre site, and is described in greater detail in Section III, Project Description, below.

The EIR for the Project has been prepared and certified as complete by the City of Orange. The EIR identifies certain significant effects that may occur as a result of the Trails at Santiago Creek Project alone or on a cumulative basis in conjunction with other past, present, and reasonably foreseeable future projects. These Findings are made pursuant to CEQA Section 21081 and CEQA Guidelines Section 15091.

II. RECORD OF PROCEEDINGS

The environmental review process for the Project is summarized below.

1. In accordance with CEQA, a Notice of Preparation (NOP) of a Draft EIR was issued on March 3, 2017 and received by the State Clearinghouse on March 7, 2017. The State Clearinghouse assigned State Clearinghouse Number 2017031020.
2. The NOP was distributed to the State Clearinghouse, responsible agencies, and other interested parties for a 30-day public review in accordance with CEQA Guidelines Section 15082. The review period began on March 3, 2017 and ended on April 3, 2017.
3. The City of Orange distributed the NOP to all property owners within 300 feet of the Project site, which notified nearby property owners that would be most directly affected by implementation of the proposed Project, along with public agencies and interested organizations, that the City was preparing a Draft EIR.
4. In accordance with CEQA Guidelines Section 15083, the City of Orange sought early public consultation and held a scoping meeting to solicit comments from interested parties on preparation of the Draft EIR. The scoping meeting was held on March 16, 2017.
5. A Draft EIR was prepared on February 23, 2018.
6. In accordance with CEQA Guidelines Section 15085, a Notice of Completion (NOC) of the Draft EIR was filed with the State Clearinghouse in February 2018.
7. In accordance with CEQA Guidelines Section 15087, a Notice of Availability (NOA) was published by the City for an NOA comment period between November 14, 2018 and December 31, 2018. The Draft EIR was distributed to agencies,

interested organizations, and individuals by the City of Orange. The distribution list is available at the City of Orange Community Development Department Planning Counter. As required by CEQA Guidelines Section 15087, the NOA was mailed to the last known name and address of all organizations and individuals who previously requested such notice in writing; and notice was also given by the following procedure: newspaper publishing and mail.

8. A forty-five (45) day public review period for the Draft EIR was established pursuant to State law, which commenced on February 23, 2018 and ended on April 9, 2018.
9. A Recirculated Draft EIR was prepared on November 14, 2018.
10. In accordance with CEQA Guidelines Section 15085, a Notice of Completion (NOC) of the Recirculated Draft EIR was filed with the State Clearinghouse on November 9, 2018.
11. In accordance with CEQA Guidelines Section 15087, a Notice of Availability (NOA) was published by the City on November 14, 2018. The Recirculated Draft EIR was distributed to agencies, interested organizations, and individuals by the City of Orange. The distribution list is available at the City of Orange Community Development Department Planning Counter. As required by CEQA Guidelines Section 15087, the NOA was mailed to the last known name and address of all organizations and individuals who previously requested such notice in writing; and notice was also given by the following procedure: newspaper publishing and mail.
12. A forty-five (45) day public review period for the Recirculated Draft EIR was established pursuant to State law, which commenced on November 14, 2018 and ended on December 31, 2018.
13. Comments received during the public review period for the Recirculated Draft EIR were responded to in a Response to Comments document and distributed to each public agency commenter at least 10 days prior to certification of the EIR by the Orange City Council pursuant to CEQA Guidelines Section 15088(b), and were provided to each organization and individual submitting written comments on the Recirculated Draft EIR. Pursuant to CEQA Guidelines Section 15088.5(f)(1), a summary of revisions made to the DEIR is included in the FEIR; also, pursuant to that Guideline, responses to comments are limited to comments received on the RDEIR, although comments on the DEIR will be part of the administrative record.
14. A Final EIR has been prepared for the Trails at Santiago Creek Project.

The following components comprise the Final EIR:

- a) Draft EIR, February 23, 2018;
- b) Comments received on the Draft EIR, April 9, 2018;
- c) Recirculated Draft EIR, November 2018;

- d) Comments received on the Recirculated Draft EIR and responses to those comments, June 2019; and
 - e) All attachments, incorporations, and references to the documents delineated in items “a.” through “d.” above.
15. The documents and other materials which constitute the administrative record for the City’s actions related to the Project are located at the City of Orange, 300 East Chapman Avenue, Orange, California 92866. The City Community Development Department is the custodian of the administrative record for the Project.

The City of Orange is the Lead Agency with respect to the Project pursuant to State CEQA Guidelines Section 15367. As a Lead Agency, the City is required by CEQA to make findings with respect to each significant effect of the Project.

The City of Orange has reviewed the EIR. The following sections make detailed findings with respect to the potential significant environmental effects of the Trails at Santiago Creek Project and refer, where appropriate, to the mitigation measures set forth in the Final EIR.

The Final EIR and the administrative record concerning the Trails at Santiago Creek Project provide additional facts in support of the findings herein. The Final EIR (which includes, among other components, the Draft EIR, Recirculated Draft EIR, and the Response to Comments on the Recirculated Draft EIR) is hereby incorporated into these Findings in its entirety. Furthermore, the mitigation measures set forth in the Mitigation Monitoring and Reporting Program (MMRP) are incorporated by reference in these Findings. The Mitigation Monitoring and Reporting Program was developed in compliance with Public Resources Code Section 21081.6 and is contained in a separate document. Without limitation, these Findings of Fact are intended to elaborate on the scope and nature of mitigation measures, the basis for determining the significance of impacts, the comparative analysis of alternatives, and the reasons for approving the Trails at Santiago Creek Project in spite of associated significant unavoidable adverse impacts.

III. PROJECT DESCRIPTION

The site is approximately 109.2 acres and is located north of the intersection of Santiago Canyon Road and Nicky Way in the City of Orange. The site contains disturbed land that supports a grandfathered sand and gravel operation, as well as undeveloped land. The project site is comprised of 12 parcels and is bisected by Santiago Creek in an east-west direction. The site contains gently sloping terrain, with an overall change in elevation from 456 feet above mean sea level in the northeast corner to 344 feet above mean sea level in the southwest corner. An approximately 10-acre, semi-oval-shaped raised pad is located in the eastern portion of the site. The pad sits roughly 15 feet higher than the former mining area to the west.

Approximately 40 acres between Santiago Creek and East Santiago Canyon Road contains remnants of the mining operation and is the location of the ongoing sand and gravel operation. This area is characterized by soil piles, berms, and unpaved roads. Adjacent to

East Santiago Canyon Road is an approximately 5-acre area that supports a materials recycling operation that included apparatus for the crushing of boulders, bricks, rocks, and similar materials for recycling. Materials used for these operations originated primarily from off-site sources, and the materials generated by these operations have historically been used both on-site and transported off-site. Ancillary uses included administration and maintenance buildings, caretaker residence, material testing laboratory, driver's shack, rock crushing facilities, several aboveground and belowground fuel storage tanks, and two hot-mix asphalt plants.

Milan REI X LLC (Applicant) proposes 128 single-family residences on 40.7 acres on the southern portion of the site and open space on 68.5 acres of the site. The single-family homes would be detached and would range in size from 8,000 square feet to greater than 10,000 square feet.

The majority of the project site (62.7 percent) is intended for the enhancement and preservation of the natural greenway/open space and Santiago Creek environs, as well as re-establishing open grasslands in areas that have been denuded by the project site's history of commercial operations, totaling approximately 68.5 acres. Recreational trails will provide public access to the enhanced revegetated interior of the site.

IV. ADOPTION OF FINDINGS

In this action, the City is certifying Final EIR SCH No. 2017031020. Having received, reviewed and considered the Final EIR and other information in the administrative record, the City adopts the Findings and Statement of Overriding Considerations below in compliance with CEQA, the CEQA Guidelines, and the City's procedures for implementing CEQA. The City certifies that its Findings are based on full appraisal of all viewpoints, including all comments received up to the date of adoption of these Findings, concerning the environmental impacts identified and analyzed in the Final EIR, and are supported by substantial evidence. The City adopts these Findings and Statement of Overriding Considerations in conjunction with its approval of the Project.

V. DISCRETIONARY APPROVALS

Final EIR SCH No. 2017031020 for the Trails at Santiago Creek Project identified (1) impacts that will have no impact or a less than significant impact on the environment; (2) potentially significant impacts that will be reduced to less than significant through implementation of project design features; (3) impacts that are potentially significant prior to mitigation that will be mitigated to a less than significant level; and (4) significant environmental impacts after implementation of mitigation that will occur as a result of implementing the Project. Thus, in accordance with the provisions of CEQA, the Orange City Council hereby adopts these findings as part of its action to certify Final EIR SCH No. 2017031020 and approve the Trails at Santiago Creek Project.

The Project addressed in the Final EIR is defined to include the "whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment," and includes

discretionary approvals by governmental agencies required to implement the Trails at Santiago Creek Project. The following are the discretionary approvals that will be considered by the City:

1. General Plan Amendment No. 2018-0001;
2. Zone Change 1286-18, Trails at Santiago Creek Specific Plan;
3. Development Agreement No. 0005-18;
4. Environmental Impact Report 1857-18.

VI. FINDINGS REGARDING IMPACTS

A. ENVIRONMENTAL IMPACTS DETERMINED TO HAVE NO IMPACT OR A LESS THAN SIGNIFICANT IMPACT

1. Aesthetics

Impact Thresholds:

Threshold AES-1: Would the project have a substantial adverse effect on scenic vista?

Threshold AES-2: Would the project substantially degrade the existing visual character or quality of the site and its surroundings?

Finding: The discussion and analysis provided in the EIR concluded that the Project would have a Less Than Significant Impact on both short-term and long-term aesthetic impacts described under Threshold AES-1 and Threshold AES-2 that were addressed in the EIR, and that no Project Design Features, Standard Conditions of approval, or mitigation measures were required or recommended.

Facts in Support of the Finding: No potential impacts would result from short-term construction activities or long-term operational activities. The only portion of the site that could be considered a scenic vista would be the Santiago Creek Trail along the north bank of Santiago Creek. A greenway would be established along the creek corridor and the undeveloped land along the north bank of the creek would be permanently protected as open space. Thus, scenic views from the Santiago Creek Trail would not be affected by the Project.

While development of the residences onsite would change the character of approximately 40.7 acres of the project site to residential uses, and the remaining acreage to open space and recreation, these uses would be compatible with surrounding uses and City policies.

The project's impacts would be less than significant.

As noted in Section 7 of the EIR, Effects Found Not To Be Significant, the nearest officially designated State Scenic Highway to the site is approximately 5 miles to the north and no impacts would occur regarding scenic resources within view of a State Scenic Highway.

2. Agricultural and Forest Resources

Impact Thresholds:

Threshold AFR-1: Would the project convert Important Farmland to non-agricultural use?

Threshold AFR-2: Would the project conflict with an existing agricultural zoning, agricultural use or with land subject to a Williamson Act contract?

Threshold AFR-3: Would the project conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Govt. Code section 51104(g))?

Threshold AFR-4: Would the project result in the loss of forest land or conversion of forest land to non-forest use?

Threshold AFR-5: Would the project involve other changes in the existing environment which, due to their location or nature, could result in conversion of agricultural land to non-agricultural use or forest land to non-forest use?

Finding: The discussion and analysis provided in the Final EIR conducted for the proposed Project indicated that impacts to agricultural or forest resources would be less than significant. No comments were received in response to the NOP or the Recirculated Draft EIR that would modify this finding.

Facts in Support of Finding: The project site is mapped as containing “Other Land” by the California Department of Conservation Farmland Mapping and Monitoring Program, which is a non-agricultural land use designation. The project site does not support agricultural land use activities and is not eligible for a Williamson Act contract. The zoning for the site is a non-agricultural zoning district. The project would rezone the property to Specific Plan, which would not accommodate agriculture. The project site is not currently zoned for forest land, timberland, or timberland production.

There are 323 trees on the project site; however, the trees do not meet the Public Resources Code criteria for “timberland” or “forest land.” Tree removal would not result in conversion of timberland to non-timber use or forest land to non-forest use. Neither the project site nor surrounding land uses support agricultural land or timberland. Impacts would be less than significant.

3. Air Quality***Impact Thresholds:***

Threshold AIR-5: Would the project create objectionable odors affecting a substantial number of people?

Finding: The discussion and analysis provided in the EIR concluded that the Project would have a Less Than Significant Impact on odors as described in Thresholds AIR-5 that were addressed in the EIR, and that no Project Design Features, Standard Conditions of approval, or mitigation measures were required or recommended.

Facts in Support of the Finding: During construction, various diesel-powered vehicles and equipment onsite would create localized odors. These odors would be temporary and would unlikely be noticeable beyond the site's boundaries. Impacts during construction would be less than significant. During project operation, odors would primarily consist of vehicles traveling to the urban linear park and equipment for landscaping and maintenance. These occurrences would not produce a significant amount of odors; therefore, impacts would be less than significant.

4. Biological Resources

Impact Thresholds:

Threshold BIO-5 Would the project interfere with fish or wildlife movement?

Threshold BIO-6 Would the project conflict with local biological ordinances or policies?

Threshold BIO-7: Would the project conflict with any applicable habitat conservation plan or natural communities conservation plan?

Finding: The discussion and analysis provided in the EIR concluded that the Project would have a Less Than Significant Impact on biological resource impacts described under Thresholds BIO-5, BIO-6, and BIO-7 that were addressed in the EIR, and that no Standard Conditions of approval or mitigation measures were required or recommended. Design features that are part of the project are listed below.

Facts in Support of the Finding: Santiago Creek does not support fish passage because of downstream obstructions including the presence of Santiago Creek Recharge Basin. The project is not anticipated to contribute to avian mortality due to bird strikes resulting from structures because there is already residential development surrounding the creek in all directions and the project does not include high-rise urban buildings.

The project site contains 204 trees. Of those trees, nine are within the fuel modification beyond the limits of grading and subject to thinning but will be left in place. Two trees are within the storm drain outlet footprint and one is within the temporary construction buffer. The City's Tree Preservation Ordinance requires the Applicant to identify the location of trees and for City staff to impose conditions. Removed trees would be conditioned on replacement at a minimum of 1:1 ratio. Impacts would be less than significant.

The site is within the boundaries of the Orange County Central and Coastal Subregion NCCP/HCP. The Santiago Creek corridor and upland areas north of the creek contain riparian habitat; however, these areas are proposed to be preserved. The surface mining

areas onsite do not contain significant biological habitat and would not cause conflicts with the NCCP/HCP. Impacts would be less than significant.

5. Geology and Soils

Impact Thresholds:

Threshold GEO-3: *Would the proposed project be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the proposed project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse?*

Threshold GEO-4: *Would the proposed project be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?*

Finding: The discussion and analysis provided in the EIR concluded that the Project would have a Less Than Significant Impact on short-term and long-term geology and soils impacts described under Thresholds GEO-3 and GEO-4 that were addressed in the EIR, and that no Project Design Features, Standard Conditions of approval, or mitigation measures were required or recommended.

Facts in Support of the Finding: The project site is underlain by terraces and alluvial fans near Santiago Creek, which are considered stable. The project would be required to comply with mandatory building code standards to ensure that there is no risk of failure due to unstable geologic units or soils. Impacts would be less than significant.

The project site is underlain by soils with low clay content. These soils do not retain water such that there would be substantial shrink-swell potential. Building code compliance with reduce any risks. Impacts would be less than significant.

As noted in Section 7 of the EIR, Effects Found Not To Be Significant, the project would be served by sanitary sewer provided by Orange County Sanitation District; no septic or alternative wastewater disposal system would be used and no impacts would occur.

6. Greenhouse Gas Emissions

Impact Thresholds

Threshold GHG-1 *Would the project generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?*

Threshold GHG-2: *Would the project conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?*

Finding: The discussion and analysis provided in the EIR concluded that the Project would have a Less Than Significant Impact on short-term and long-term impacts under Threshold GHG-1 and GHG-22, and that no Project Design Features, Standard Conditions of approval, or mitigation measures were required or recommended.

Facts in Support of Finding: The project would generate a total of 469 MT CO₂e during construction (amortized over 30 years) and a total of 1,921 MT CO₂e per year during operation of the project, primarily due to energy and mobile source emissions. The applicable SCAQMD threshold is 3,500 MT CO₂e per year. The project's emissions would not exceed the threshold. Impacts would be less than significant.

The Project would not conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing GHG emissions. The proposed Project would utilize equipment compliant with state and federal emissions requirements, such as equipment with Tier 4 engines, and adhere to AB 32 Scoping Plan control measures adopted by the State of California during construction and operation. The proposed Project would also be consistent with the RTP/SCS because the Project is consistent with existing general plan and zoning designations for the Project site and consistent with General Plan policies. Consistency with SCAQMD GHG policies would also be met through consistency with the City General Plan and through Project emission levels below the 3,500 MT CO₂e/year SCAQMD threshold. Therefore, a less than significant impact would occur and no mitigation is required. The proposed Project would be consistent with the GHG reduction goals of AB32 as described in the statewide GHG emissions reduction strategy outlined in the Scoping Plan. In addition, GHG emissions would be reduced through the integration of green building practices, the use of renewable energy, reducing per capita water use, adoption of a new low carbon fuel standard and through increased fuel efficiency as mandated in AB 32 and related programs adopted by the State of California.

7. Hazards and Hazardous Materials

Impact Thresholds

Threshold HAZ-1: *Would the project create a significant hazard to the public or the environment through the routine transport, use or disposal of hazardous materials?*

Threshold HAZ-3: *Would the project emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?*

Finding: The discussion and analysis provided in the EIR concluded that the Project would have a Less Than Significant Impact under Thresholds HAZ-1 and HAZ-3, and that no Project Design Features, Standard Conditions of approval, or mitigation measures were required or recommended.

Facts in Support of Finding: Removal and disposal of hazardous materials from the site would be conducted by a licensed contractor in compliance with all applicable laws, policies, and programs. During operation of the project, hazardous materials would be

limited to materials used for daily residential maintenance and operational activities. Impacts would be less than significant.

The project site is located within 0.25 miles of Salem Lutheran Church and School. None of the proposed uses would involve the routine use of hazardous materials near the school. Moreover, the proposed use would not involve activities that routinely emit toxic air contaminants. Impacts would be less than significant.

As noted in Section 7 of the EIR, Effects Found Not To Be Significant, no impacts to airports or private airstrips would occur because the site is 10 miles from the nearest airport and there are no private airstrips in the vicinity.

8. Hydrology and Water Quality

Impact Thresholds:-

Threshold HYD-2: Would the project contribute to groundwater overdraft or impair groundwater recharge?

Threshold HYD-3: Would the project contribute runoff to downstream storm drainage facilities that would result in the potential for flooding?

Threshold HYD-4: Would the project place housing or structures within a 100-year flood hazard area?

Finding: The discussion and analysis provided in the EIR concluded that the Project would have a Less Than Significant Impact under Thresholds HYD-2 through HYD-4 that no Project Design Features, Standard Conditions of approval, or mitigation measures were required or recommended.

Facts in Support of Finding: The Project's water demand would represent a very small percent of total groundwater supply and due to OCWD's groundwater management efforts, impacts on groundwater resources would be less than significant. No infiltration for groundwater recharge will be promoted onsite and incidental infiltration will occur on landscaped areas. The project will not interfere with groundwater recharge efforts.

The project's storm drainage system would slow, reduce, and meter the volume of runoff leaving the site. Downstream facilities would not be inundated with project-related stormwater. The project would not affect two unnamed storm drains in the northwestern portion of the site. Impacts would be less than significant.

The majority of the residential uses will be outside the 100-year flood hazard areas. The onsite areas mapped within 500-year flood hazard areas are mostly open space areas; however, 15 acres of the residential area is within the 500-year flood hazard area. Only "critical facilities" are required to be above the 500-year flood elevation; residential uses are permitted in the 500-year flood elevation. Impacts would be less than significant and no mitigation is required.

As noted in Section 7 of the EIR, Effects Found Not To Be Significant, there are no large inland bodies of water near the site and the site is not susceptible to seiche inundation or tsunami inundation. The site does not contain any steep slopes that may be susceptible to mudflows. No impact regarding these potential hydrological hazards would occur.

9. Land Use

Impact Thresholds:

Threshold LUP-1: Would the project conflict with any of the applicable provisions of the City of Orange General Plan?

Threshold LUP-2: Would the project conflict with any applicable provisions of the Orange Municipal Code?

Threshold LUP-3: Would the project conflict with any applicable habitat conservation plan or natural community conservation plan?

Finding: The discussion and analysis provided in the EIR concluded that the Project would have a Less Than Significant Impact on the three land use impacts that were addressed in the EIR, and that no Project Design Features, Standard Conditions of approval, or mitigation measures were required or recommended.

Facts in Support of the Finding: The project would involve a General Plan Amendment and Zone Change. The proposed General Plan and zoning designations are consistent with the surrounding neighborhood. The project is consistent with General Plan policies and goals.

The project proposes development of 128 dwelling units on approximately 40.7 acres of the approximately 109.2 acre site, with varying lot sizes, including 82 lots of approximately 8,000 square feet, 17 lots of approximately 9,200 square feet, and 29 lots of approximately 10,000 square feet. Thus, the overall density of development on the site would be less than 1.2 dwelling units per acre. Considering only the residential portion of the project site, the density would be 3.1 dwelling units per acre. When considering the acreage of the residential area only, the density of the project (3.1 dwelling units per acre) would be on the low end of the General Plan's allowable density for the "low-density residential" designation, which is 2.1 to 6.0 units per acre. Although the General Plan provides a density range of 2.1-6.0 dwelling units per acre, it notes that the "expected" density for the low-density residential designation is 5.0 dwelling units per acre, which is substantially higher density than the proposed project's density.

The project proposes a zoning designation of single-family residential 8,000 square feet (referring to minimum lot area). The single-family neighborhood to the north of the site is similarly zoned low-density residential 8,000 square feet. The single-family neighborhood that forms the eastern boundary of the site ("The Reserve") is zoned estate low-density residential 40,000 square feet and has typical lot sizes of 20,000-44,000 square feet. Surrounding residential uses to the east have typical lot sizes less than 10,000 square feet. The neighborhoods south of the project site are zoned estate low density residential 40,000

square feet and estate low density residential 20,000 square feet. South of the project site, the Jamestown neighborhood has a typical lot size of 8,000–11,000 square feet, the Orange Park Acres neighborhood has a typical lot size of 50,000 square feet to 1 acre plus, the Eichler Homes neighborhood has a typical lot size of 7,600–12,000 square feet, and The Colony-South neighborhood has a typical lot size of 7,000–10,000 square feet. Refer to RDEIR Section 2, Project Description, Figures 2-5a through 2-5g for the existing lot sizes in surrounding neighborhoods.

The estate low-density residential designations have a density range of 0 to 2.0 dwelling units per acre. While the estate low-density residential neighborhoods have slightly lower densities than the project site, the project's density of 3.1 dwelling units per acre would be substantially similar to the density range of the estate low-density neighborhoods near the project site. In addition, the project would contain a substantial amount of open space, which would counterbalance the density of the residential component of the project. As noted above, while the density of the residential clustered component would be 3.1 dwelling units per acre, the overall density of the project would be less than 1.2 dwelling units per acre when considering the entire site (128 dwelling units on a 109.2-acre site).

The project site is currently designated "Resource Area," "Low Density Residential," and "Open Space" by the City of Orange General Plan. In accordance with the proposed project, the portion of the site north of Santiago Creek, currently designated as "Low Density Residential," is proposed to be re-designated as "Open Space" and the portion of the site currently designated as "Resource Area" is proposed to be re-designated to "Low Density Residential," and "Open Space." The "Resource Area" land use designation reflects the surface mining activities that occurred on the south side of Santiago Creek. General Plan Land Use Element, page LU-23, notes that the "Resource Area designation provides for the continued use of areas for mining and agriculture." The description for the Resource Area designation (General Plan Land Use Element, page LU-16) states that the designation "[a]llows for agricultural uses and continued use of stream and river channels for aggregate mining. Passive and active recreational uses are also permitted. May serve as a holding zone for future uses compatible with established and planned land uses in surrounding areas."

The project is also consistent with the East Orange General Plan and the Orange Park Acres Specific Plan, which will both be amended as part of the Project.

As the RDEIR concluded, the project is consistent with the OPA Plan and East Orange Plan. This consistency is discussed in RDEIR Section 3.10, Land Use, Table 3.10-3, showing the project would be consistent with the East Orange General Plan, and RDEIR Table 3.10-4, showing the project would be consistent with the OPA Plan.

The East Orange General Plan encompasses approximately 1,900 acres. Approximately 37 acres of the project site are located within the boundaries of the East Orange General Plan. While the East Orange General Plan does not outline goals and policies similar to contemporary general plans, the project is consistent with concepts identified in the East Orange General Plan. For example, the East Orange General Plan contains a concept that where possible, new development should be compatible with existing residential densities

and should maintain continuity with architectural style, house size, and price range. The project's residential area would have a density that is similar to or less dense than most nearby residential areas, including the Jamestown neighborhood, which is within the East Orange General Plan area. The East Orange General Plan envisions an "assortment of open space categories." Approximately 37 acres of the project site are located within the boundaries of the East Orange General Plan and are designated "Regional Park." While the project would amend the 37 acres that are within the East Orange General Plan, the 37 acres are approximately 2 percent of the East Orange General Plan area. Additionally, the proposed project includes 68.5 acres of open park space, split into 40.2 acres of Greenway Open Space/Santiago Creek Riparian Corridor and 28.3 acres of Grasslands Open Space. Therefore, the proposed project would include 68.5 acres of open space/park uses adjacent to, and partially within, the East Orange General Plan; creating more open space in the vicinity than the 37 acres of the project site that are within the East Orange General Plan.

The East Orange General Plan references design of the Santiago Creek Greenbelt in the project site area. The project would be consistent with the reference to the Greenbelt because it includes a 40.2-acre Greenway Open Space/Santiago Creek Riparian Corridor. The East Orange General Plan emphasizes pedestrian and equestrian movements between neighborhoods. The project would include a multitude of trails to connect the proposed project and existing community to existing and future trails and bike lanes. The project would also provide a sidewalk for pedestrians along the frontage of East Santiago Canyon Road where one does not currently exist. Lastly, the East Orange General Plan envisions a trail system to include equestrian/hiking trails and bike trails. As mentioned above, the project would include a multitude of trails to connect the project and existing community to existing and future trails and bicycle lanes for recreation and commuting purposes.

The OPA Plan encompasses approximately 1,794 acres, of which 39 acres are located on the project site. The project is consistent with the OPA Plan objectives and policies. For example, the OPA Plan contains an objective to provide a wholesome rural atmosphere emphasizing a quiet seclusion close to nature. The project would retain a wholesome rural atmosphere by separating the residential component of the project from adjacent residential developments by open space, emphasizing a quiet seclusion and closeness to nature and open space. The rural character of the site would also be maintained by inclusion of an equestrian trail system.

An objective of the OPA Plan is to foster compatible residential development within the area both visually and functionally. The project would comply because its residential area has a similar density to nearby residential neighborhoods, including the following neighborhoods located in the OPA Plan area: Broadmoor Homes, Leadership Housing Specific Plan, Pacesetter Homes, and a small portion of the Jamestown neighborhood. The OPA Plan envisions various areas to be linked through a system of trails and streetscape landscaping. Additionally, the project includes a sidewalk for pedestrians along the frontage on East Santiago Canyon Road where a sidewalk does not currently exist.

The OPA Plan promotes a "lifestyle" that allows for diversity of activities. The project would include residential uses, a multitude of trails, bicycle lanes, sidewalks, and equestrian trails. The project would serve a diversity of activities, from walking to

horseback riding. The OPA Plan seeks to preserve positive features of major drainage courses and bodies of water to utilize them for recreational purposes. The project proposes a 40.2 acre Greenway Open Space/Santiago Creek Riparian Corridor, and preserves the Handy Creek drainage area as greenspace. Approximately 39 acres of the project site are located within the boundaries of the OPA Plan and are designated as "Open Space." While the project would amend the approximately 39 acres that are within the OPA Plan, the 39 acres are approximately 3 percent of the OPA Plan total area, and are on the fringe of the OPA Plan area. Additionally, the project would include 68.5 acres of open park space, split into 40.2 acres of Greenway Open Space/Santiago Creek Riparian Corridor and 28.3 acres of Grasslands Open Space. Therefore, the project would include 68.5 acres of open space/park uses adjacent to, and partially within, the OPA Plan, thus creating more open space in the vicinity than the 39 acres of the project site that are within the OPA Plan area.

A policy of the OPA Plan is to provide for continuous trail linkages to connect trails to major land use elements and natural features. Another OPA Plan policy is to preserve Santiago Creek as a balanced ecological system and allow for light recreational use. The project would include a multitude of trails that would connect the proposed residential uses with existing and future trails and bicycle lanes. The project would promote light recreational use. In addition, the project would involve a 40.2 acre greenway along Santiago Creek and preservation of the Handy Creek drainage areas as greenspace. One of the OPA Plan policies is to phase out gravel pit operations to restore natural amenities. The project proposes residential and open space/recreational uses in place of the former mining operations.

A prominent policy of the OPA Plan in its residential designations is the concept of "clustering." The OPA Plan envisions "single-family attached and detached clusters referred to as "rural clusters" within a greenbelt or open space context" for medium-low density residential areas. The proposed project area encompasses approximately 109.2 acres, 68.5 acres of which would be dedicated to open space, and approximately 40.7 acres of which would contain a residential "cluster" of homes. The proposed site design would align with the OPA Plan concept of "clustering" and retaining open space areas near residential "clusters." Although the residential units are "clustered" on approximately 40 acres, each lot is being subdivided to meet the City's R-1-8 standards.

Lastly, one OPA Plan policy is to provide for landscaping, greenbelt, or open space buffers between housing types. The project would encompass approximately 109.2 acres, 68.5 acres of which would be dedicated open space. The project's residential area would be clustered as envisioned by the OPA Plan, and the density of the residential component would be similar to the density of nearby residential neighborhoods, including Jamestown, Mabury Ranch, Broadmoor Homes, Leadership Housing Specific Plan, and Pacesetter Homes. The separation of the project's residential area from existing residential development adjacent to the project site, achieved by the proposed open space, would provide a quiet seclusion and closeness to nature, as envisioned by the OPA Plan. The rural aspect envisioned by the OPA Plan would be maintained, in part, by inclusion of an equestrian trail system. A list of the OPA Plan's goals, objectives, and policies, which the project is consistent with, is included in RDEIR Section 3.10, Land Use, as Table 3.10-4 (page 3.10-26 through page 3.10-28).

In fact, the Orange Park Acres Association previously supported a more intensive development on the project site in a letter dated May 28, 2003 and found it to be compatible with the OPA Plan. Orange Park Acres Association specifically found the more intensely developed project to be consistent with the clustering concept envisioned by the OPA Plan. Orange Park Acres Association has consistently supported a clustered residential concept. This earlier project included the development of a gated residential community with a maximum of 189 single-family homes on lots ranging from 8,000 to 22,000 square feet. The residential development was spread across most of the project site, including both the north and south sides of Santiago Creek encompassing approximately 83 acres. The remaining portion of the site consisted of approximately 26 acres of open space (approximately 31 percent of the site), which did not include a greenway aspect, unlike the proposed Trails of Santiago project. The current project includes less development and sets aside a larger area for open space.

The project site is within the boundaries of the Orange County Central and Coastal Subregion NCCP/HCP. The Santiago Creek corridor riparian habitat and the upland areas north of the creek contain Coastal Sage Scrub habitat, which will be preserved as open space. No conflicts with the NCCP/HCP would occur. Therefore, impacts to land use would be less than significant with Project implementation.

As noted in Section 7 of the EIR, Effects Found Not To Be Significant, the project site contains undeveloped land, remnants of past mining surface operations, and Santiago Creek. There are no dwelling units on the project site. This condition precludes the possibility of division of an established community.

10. Mineral Resources

Impact Thresholds:

Threshold MIN-1: Would the project result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the State?

Threshold MIN-2: Would the project result in the loss of availability of a local-important mineral resource recovery site delineated on a local general plan, specific plan, or other local land use plan?

Finding: The discussion and analysis provided in the EIR concluded that the Project would have a Less Than Significant Impact on impacts for threshold MIN-1 and MIN-2 that were addressed in the EIR, and that no Project Design Features, Standard Conditions of approval, or mitigation measures were required or recommended.

Facts in Support of the Finding: The Project would not result in the loss of availability of a known mineral resource that would be of value to the region of the residents of the State. A permit pursuant to SMARA is not required because the mining operations ceased on the project site prior to January 1, 1976. The General Plan Amendment and Rezone would move the City designations associated with mining ("Resource Area" in the General Plan

and “Sand and Gravel Extraction” in the Zoning Ordinance). Impacts would be less than significant and no mitigation is required.

11. Noise

Impact Thresholds:

Threshold NOI-2: Would the project expose persons to or generate excessive groundborne vibration or groundborne noise levels?

Threshold NOI-3: A substantial permanent increase in ambient noise levels in the project vicinity?

Finding: The discussion and analysis provided in the EIR concluded that the Project would have a Less Than Significant Impact on impacts for Threshold NOI-2 and NOI-3 that were addressed in the EIR, and that no Project Design Features, Standard Conditions of approval, or mitigation measures were required or recommended.

Facts in Support of the Finding: The Project’s construction would generate vibration, primarily during grading. However, vibration levels would be below the FTA threshold and impacts during construction would not be significant.

During operation, vibration levels would be slightly above the level of perception for a person sitting or lying down; however, vibration would be below FTA thresholds. Therefore, operational vibration would be less than significant.

Roadway noise impacts would increase noise in the vicinity of the site; however, no roadways would exceed the 75 dBA CNEL maximum noise exposure level and no roadways would exceed the City’s residential or school noise standard of 65 dBA CNEL. Stationary noise levels would not cause an increase above applicable standards. Impacts would be less than significant and no mitigation is required.

As noted in Section 7 of the EIR, Effects Found Not To Be Significant, the project site is 10 miles from the closest airport and persons would not be exposed to aviation noise. No impact would occur.

12. Population and Housing

Impact Thresholds:

Threshold POP-1: Would the project induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?

Finding: The discussion and analysis provided in the EIR concluded that the Project would have a Less Than Significant Impact on POP-1 addressed in the EIR, and that no Project

Design Features, Standard Conditions of approval, or mitigation measures were required or recommended.

Facts in Support of the Finding: The Project would develop 128 dwelling units, which would increase the City's population by 393 persons. This would represent less than a 1% increase relative to the City's 2016 population. Further, the project site is designated for residential use. This indicates the project site has been contemplated to support future population growth. Therefore, impacts would be less than significant with Project implementation.

As noted in Section 7 of the EIR, Effects Found Not To Be Significant, there are no dwelling units on the project site and no persons or housing would be displaced. No impacts would occur.

13. Public Services

Impact Thresholds:

Threshold PS-2: Would the project result in a need for new or expanded police protection facilities?

Threshold PS-3: Would the project result in a need for new or expanded school facilities?

Threshold PS-4: Would the project result in a need for new or expanded park facilities?

Threshold PS-5: Would the project result in a need for new or expanded public facilities such as libraries?

Finding: The discussion and analysis provided in the EIR concluded that the Project would have a Less Than Significant Impact on Thresholds PS-2 through PS-5 and no Project Design Features, Standard Conditions of approval, or mitigation measures were required or recommended.

Facts in Support of the Finding: The project would add 393 new residents to the City's population, which would result in a minor increase in calls for law enforcement services. The project site is approximately 4.6 miles from the Police Department headquarters. The Police Department provided written comments on the project indicating that payment of the Police Facility Development Fee required by the City's Municipal Code would offset the increase in police services attributable to the project. The City's Code requires design standards to be incorporated into new projects. The project would be required to comply with the City's Code and impacts would be less than significant.

The new residential population would add 64 new students to the School District. The school district assesses development fees to fund capital improvements to school facilities. Payment of fees is full and complete mitigation for impacts to school facilities. Impacts to schools would be less than significant.

The project would increase the demand for parks; however, it would also provide 68.5 acres of open space and recreational uses, which would offset the increased demand for parks because residents would be expected to use the open space and recreational facilities. Impacts would be less than significant.

The increase in population associated with the project would nominally increase demand for local libraries. However, such a nominal increase would not require construction or expansion of library facilities. Impacts would be less than significant.

14. Recreation

Impact Thresholds:

Threshold REC-1: Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?

Threshold REC-2: Would the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?

Finding: The discussion and analysis provided in the EIR concluded that the Project would have a Less Than Significant Impact on Thresholds REC-1 and REC-2, and no Project Design Features, Standard Conditions of approval, or mitigation measures were required or recommended.

Facts in Support of the Finding: Approval of the proposed Project would result in the construction of 128 dwelling units, which would increase demand for recreational facilities. The project would provide 68.5 acres of open space and recreational uses, including active use facilities and passive use areas. This provision would be expected to offset the increased demand for park facilities because future residents would be expected to use facilities closest to where they live. The project would not result in off-site construction of new or expanded existing park facilities. Impacts associated with construction of recreational facilities have been evaluated throughout the RDEIR. Therefore, impacts would be less than significant and no mitigation is required.

15. Transportation and Traffic

Impact Thresholds:

Threshold TRANS-1: Would the project conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system under Existing With Project Traffic Conditions?

Threshold TRANS-3: Would the project conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system under Year 2040 Traffic Conditions?

Threshold TRANS-4: Would the project conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?

Threshold TRANS-6: Would the project result in inadequate emergency access?

Threshold TRANS-7: Would the project conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?

Finding: The discussion and analysis provided in the EIR concluded that the Project would have a Less Than Significant Impact on impacts for Threshold TRANS-1, TRANS-3, TRANS-4, TRANS-6, and TRANS-7 that were addressed in the EIR, and that no Project Design Features, Standard Conditions of approval, or mitigation measures were required or recommended.

Facts in Support of the Finding: The Project proposes construction of 128 single-family homes. Two traffic scenarios were analyzed: With Sand and Gravel traffic conditions and Without Sand and Gravel traffic conditions.

Traffic Without Sand and Gravel Credit will not significant impact any of the 10 key study area intersections. With Sand and Gravel Credit, the project will not significantly impact any of the 10 key study intersections. For roadway segments, traffic associated with the proposed project “Without Sand and Gravel Credit” will not significantly impact any of the 17 key roadway segments. Traffic associated with the project “With Sand and Gravel Credit” will not significantly impact any of the 17 key roadway segments.

In Year 2040 buildout conditions, traffic associated with the project “Without Sand and Gravel Credit” will not significantly impact any of the key 10 study area intersections when compared to standards and impact criteria. Likewise, in the 2040 scenario “With Sand and Gravel Credit,” traffic will not exceed any LOS standards or significant impact criteria. In 2040, roadways would not be significantly impacted under either scenario.

East Santiago Canyon Road is identified in the Orange County Congestion Management Program; however, the project would mitigate all impacts associated with deficient traffic conditions on East Santiago Canyon Road. Therefore, no conflicts with the Congestion Management Plan would occur. Impacts would be less than significant.

The project would take vehicular access from East Santiago Canyon Road via a signalized driveway aligned with Nicky Way. All interior roadways would comply with applicable Fire Code requirements, including for large emergency vehicles. Impacts to emergency access would be less than significant and no mitigation is required.

The closest bus stop is 2 miles from the site and there are no plans to introduce bus service closer to the project site. The project will not preclude or impede bus service. The project would provide a network of trails that link existing trails and street frontages. It would

close a gap in the regional bicycle and pedestrian network. Class II bicycle lanes will be maintained along Santiago Canyon Road and Cannon Street. Impacts would be less than significant and no mitigation is required.

As noted in Section 7 of the EIR, Effects Found Not To Be Significant, the project site is 10 miles from the closest airport and no alterations to air traffic patterns would be required. No impacts would occur.

16. Tribal Cultural Resources

Impact Thresholds:

Threshold TCR-1: Would the project cause a substantial adverse change in the significance of a tribal cultural resource listed or eligible for listing in the California Register of Historic Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k)?

Threshold TCR-2: Would the project cause a substantial adverse change in the significance of a tribal cultural resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1?

Finding: The discussion and analysis provided in the EIR concluded that the Project would have a Less Than Significant Impact on the two thresholds for tribal cultural resources that were addressed in the EIR and that no Project Design Features, Standard Conditions of approval, or mitigation measures were required or recommended.

Facts in Support of the Finding: The project site is not listed on any national, state, or local registers of historic places (including those for tribal cultural resources). No tribal cultural resources were observed during the field survey. The City has not received a tribal consultation request from any of the tribes that were sent notification of the project. Impacts would be less than significant and mitigation is not required.

17. Utilities

Impact Thresholds

Threshold USS-1: Would the project be served with adequate water supplies and not require additional entitlements or the construction or expansion of water facilities?

Threshold USS-2: Would the project be served by a wastewater treatment plant with adequate capacity and not require the construction of new or expanded facilities?

Threshold USS-3: Would the project create a need for new or expanded downstream storm drainage facilities?

Threshold USS-4: Would the project be served with adequate landfill capacity and comply with federal, state, and local statutes and regulations related to solid waste?

Threshold USS-5: Would the project result in the inefficient, unnecessary, or wasteful use of energy?

Finding: The discussion and analysis provided in the EIR concluded that the Project would have a Less Than Significant Impact on the five utility thresholds that were addressed in the EIR and that no Project Design Features, Standard Conditions of approval, or mitigation measures were required or recommended.

Facts in Support of the Finding: The project would be served with potable water provided by the City of Orange. There are two existing water mains within East Santiago Canyon Road. The project would install a network of water lines within the site that would connect to the existing City water mains. The project's water demand is captured in full demand projections set forth in the City's 2015 Urban Water Management Plan and can be met under all scenarios. The City would not need to secure additional water supplies to serve the project. Impacts would be less than significant and no mitigation would be required.

Wastewater for the project would be served and treated by OCSD. There is an existing trunks sewer main in East Santiago Canyon Road and the project would install a network of underground sewer piping on the project site that would connect to the sewer main. The project's wastewater generation would be accommodated by OCSD and OCSD's plants have sufficient capacity to treat the project's wastewater. Impacts would be less than significant and no mitigation is required.

The project would increase the amount of impervious surfaces on the site and would create potential for increased runoff leaving the site. The project would install a system of storm drainage facilities that would be designed to detain flows from a 100-year storm event. The project would result in a net reduction in the 2-year and 100-year storm event discharges into Handy Creek storm drain. The system would slow, reduce, and meter the volume of runoff leaving the site. Impacts would be less than significant and no mitigation would be required.

The project's solid waste would represent a small amount of the total waste going to area landfills during construction and operation of the project. The estimated waste would be accommodated by existing landfills and impacts would be less than significant.

SCE would provide electrical service and SoCalGas would provide natural gas service to the project site. A network of underground electrical lines would be installed within the site and connect to existing SCE facilities along E. Santiago Canyon Road. The project would demand approximately 805,632 kWh of electricity of 4.5 million cubic feet of natural gas at buildout annually. The project would not result in wasteful, unnecessary, or

inefficient use of energy. Impacts would be less than significant and no mitigation would be required.

**B. POTENTIALLY SIGNIFICANT ENVIRONMENTAL IMPACTS
REDUCED TO LESS THAN SIGNIFICANT THROUGH
IMPLEMENTATION OF PROJECT DESIGN FEATURES**

1. Biological Resources

Impact Thresholds:

Threshold BIO-1 Would the project have a substantial adverse effect on special status plant species?

Description of the Impact: Implementation of the project would result in the direct removal of existing vegetation to develop trails. Two sensitive plant species were observed within the site during surveys: the Southern California black walnut and southern tarplant.

Finding: The City determines that this potential impact is Less Than Significant as a result of compliance with the Standard Conditions described below.

Facts in Support of Finding: Impacts to the number of southern tarplants onsite are not expected to threaten regional populations of the species. Moreover, a conservation measure was implemented to preserve southern tarplant by salvaging seeds during backfilling operations. Impacts to southern tarplant are less than significant. One walnut may be potentially impacted by the project; however, the loss of one walnut tree out of 70 in the population is not considered significant. To avoid or minimize trail impacts to sensitive biological resources, the following design features will be incorporated prior to final design of the trails. With implementation of recommended design features, impacts will be less than significant.

1. Trail D should be designed to avoid or minimize impacts to coastal sage scrub and other native habitats, and should be designed to traverse through vegetation communities that already exhibit disturbance. This trail should be a seasonal trail that is closed, or partially closed, adjacent to habitat that may support special-status birds during breeding season. Trail C and Trail E should utilize existing trail alignments and/or areas that already exhibit disturbance to the extent possible.

2. Educational kiosks are recommended to inform the public about the ecology, biological resources, and special-status species of the area, as well as emphasizing the importance of staying on designated trails, respecting seasonal trail closures, and the community's responsibility in protecting the natural resources.

3. Future environmental analysis will be needed at the time trail design is completed and trail implementation is proposed.

The Santiago Creek corridor supports live-in and movement habitat for species. The project was designed to avoid Santiago Creek and associated native habitat that is best

suited to support local and regional wildlife movement along the creek to the maximum extent feasible through the following design features:

1. The proposed project will permanently retain approximately 38 acres of open space located on both sides of Santiago Creek and bordered on the north by Mabury Avenue.
2. The majority of the southern cottonwood-willow riparian forest within the project site will be avoided (i.e., 12.60 acres), with the exception of 0.10 acre of permanent impacts will occur to an isolated patch of southern cottonwood-willow riparian forest on-site, and 0.04 acre of permanent impact and 0.05 acre of temporary impact from the installation of an on-site storm drain outlet.
3. The proposed project will avoid the majority of Santiago Creek and its associated native riparian and upland habitats. Approximately 38 acres of the project site will be avoided, including 14.06 acres of sensitive plant communities, which includes 0.57 acre of coastal sage scrub and 12.60 acres of southern cottonwood-willow riparian forest, within and/or adjacent to Santiago Creek. A total of 0.04 acre of permanent impacts on-site and 0.05 acre of temporary impacts, which will be restored to pre-project conditions, will occur to southern cottonwood-willow riparian forest for the installation of a storm drain outlet.
4. The proposed project will provide a 150-foot limited use (landscaping and fuel modification) time sensitive (breeding season March 15 through September 15) setback area adjacent to the southern cottonwood-willow riparian forest within Santiago Creek, which provides habitat for the least Bell's vireo.
5. The proposed project will provide select landscaping, including native species, within the 150- foot limited use setback area (to the south of Santiago Creek) that is compatible with the adjacent open space area, its habitat, and is considerate of the fire protection (fuel modification) zone (refer to Exhibit 3.4-8).
6. The proposed project establishes development standards in the Specific Plan to reduce sensory stimuli (e.g., noise, light), unnatural predators (e.g., domestic cats and other nonnative animals), and competitors (e.g., exotic plants, non-native animals).
7. Prior to building permit issuance, the proposed project will remove the existing fence on Orange County Flood Control District property.
8. The proposed project will restrict grading and/or construction activities within the 150-foot limited use setback area during the least Bell's vireo breeding season; refer to Exhibit 3.4-8.
9. The proposed project will limit uses within the 150-foot limited use setback area to those as uses identified in the Specific Plan.

With implementation of these design features, impacts would be less than significant.

C. POTENTIAL ENVIRONMENTAL IMPACTS DETERMINED TO BE MITIGATED TO BELOW A LEVEL OF SIGNIFICANCE

1. Aesthetics

Impact Threshold:

Threshold AES-3: Would the project create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?

Description of the Impacts: The project may create a new source of light and glare through construction materials, solar panels, and window glazing that would adversely affect day or nighttime views in the area.

Finding: The City makes Finding 1 that changes or alterations have been required in, or incorporated into the Project which avoid or substantially lessen the potentially significant environmental effect described above and identified in the Final EIR.

Facts in Support of Finding: City of Orange Municipal Code Section 17.12.030 regulates the installation of new exterior lighting fixtures and requires that they be directed, controlled, screened or shaded in such a manner as not to shine directly on surrounding premises. Further, lighting on any residential property must be controlled so as to prevent glare or direct illumination of any public sidewalk or thoroughfare. Nonetheless, the proposed project has the potential to use construction materials, solar panels and window glazing that have potential to increase light and glare in the project vicinity. Mitigation Measure AES-3 is required to reduce impacts to a less than significant level.

MM AES-3: Prior to issuance of building permits, the project applicant shall prepare and submit lighting plans to the City of Orange for review and approval. The plans shall demonstrate that all exterior lighting fixtures comply with Orange Municipal Code Chapter 17.12.030, which requires that new light fixtures be directed, controlled, screened or shaded in such a manner as not to shine directly on surrounding premises. Additionally, lighting on any residential property must be controlled so as to prevent glare or direct illumination of any public sidewalk or thoroughfares.

With implementation of Mitigation Measure AES-3, impacts would be reduced to a less than significant level.

2. Air Quality

Impact Threshold

Threshold AIR-4: Would the project expose sensitive receptors to substantial pollutant concentrations?

Description of the Impacts: During construction of the project, exhaust emissions would be generated and emissions are projected to exceed the cancer risk significance threshold.

Finding. The City makes Finding 1 that changes or alterations have been required in, or incorporated into the Project which avoid or substantially lessen the significant environmental effect described above and identified in the Final EIR.

Facts in Support of Finding. Implementation of the project would result in construction and operational emissions. Nearby sensitive receptors are located in the residential areas within 25 meters of the east edge of the project site. Unmitigated on-site emissions during construction would not exceed Localized Significance Thresholds (“LST”); therefore, the project would not expose receptors to substantial criteria pollutant concentrations from construction activities. For informational purposes, Table 3.3-14 of Section 3.3 of the Recirculated EIR includes emissions with implementation of Mitigation Measures AIR-1a through AIR-1g. With implementation of Mitigation Measures AIR-1a through AIR-1g, LSTs would not be exceeded.

During operation of the project, emissions would not exceed applicable operational LSTs. The project would not expose receptors to substantial criteria pollutant concentrations from operational-related activities.

Carbon monoxide (“CO”) “hot spots” are caused by vehicular emissions. Based on the traffic study prepared for the project, operation of the project would not generate a CO hot spot that would exceed CO ambient air quality standards.

Air dispersion modeling was used to assess the project’s potential health risks. The project’s construction emissions would not exceed non-cancer hazard thresholds. However, construction emissions would exceed the cancer risk significance threshold. However, with implementation of Tier IV Final mitigation, which is required by Mitigation Measures AIR-1a through AIR-1g, the project’s construction emissions would be reduced to below the cancer risk threshold.

3. Biological Resources

Impact Threshold

Threshold BIO-2: Would the project have a substantial adverse effect on special status wildlife species?

Threshold BIO-3: Would the project impact sensitive natural communities?

Threshold BIO-4: Would the project impact federally protected wetlands?

Description of the Impacts: Implementation of the project would result in the direct removal of existing habitat for wildlife species. Biological surveys for the project site indicated that sensitive wildlife species were observed or have at least moderate potential to occur on the project site.

Implementation of the project would result in impacts to coast live oak woodland, mule fat scrub, open water, ornamental, eucalyptus woodland, non-native grassland/non-native herbaceous cover, non-native grassland/disturbed, non-native herbaceous cover, non-

native herbaceous cover/black willow scrub, non-native herbaceous cover/mule fat scrub, non-native herbaceous cover/disturbed, disturbed, disturbed/arroyo willow scrub, disturbed/black willow scrub, disturbed/mule fat scrub, disturbed/non-native herbaceous cover, and developed.

The project would result in impacts to approximately 170 linear feet and 0.01 acre of USACE/RWQCB “waters of the United States”/“waters of the State,” of which less than 0.01 acre is wetland and 0.07 acre is CDFW jurisdictional streambed and associated riparian habitat. In addition, preliminary trails are conceptual in nature and final design will be undertaken at a later date, at which time trail implementation may impact wetland features.

Finding: The City makes Finding 1 that changes or alterations have been required in, or incorporated into the Project which avoid or substantially lessen the significant environmental effect described above and identified in the Final EIR.

Facts in Support of Finding: The Project site contains suitable habitat within Santiago Creek and the northern portion of the project site that has potential to support special-status species. However, the majority of the areas with special status-species will be avoided. The loss of individuals as a result of the project would not be expected to reduce regional population numbers and impacts to special-status wildlife species are less than significant. However, some conditionally covered species in the NCCP/HCP were observed onsite and/or have habitat that support the conditionally covered species onsite, including the least Bell’s vireo.

The following nine project design features serve to avoid or minimize impacts on the least Bell’s vireo:

- DF-BIO-1:** The proposed project will permanently retain approximately 38 acres of open space located on both sides of Santiago Creek and bordered on the north by Mabury Avenue.
- DF-BIO-2:** The majority of the southern cottonwood-willow riparian forest within the project site will be avoided (12.60 acres), with the exception of 0.10 acre of permanent impacts that will occur to an isolated patch of southern cottonwood-willow riparian forest on-site, 0.04 acre of permanent impact, and 0.05 acre of temporary impact from the installation of an on-site storm drain outlet.
- DF-BIO-3:** The proposed project will avoid the majority of Santiago Creek and its associated native riparian and upland habitats. Approximately 38 acres of the project site will be avoided, including 14.06 acres of sensitive plant communities, which includes 0.57 acre of coastal sage scrub, and 12.60 acres of southern cottonwood-willow riparian forest within and/or adjacent to Santiago Creek.
- DF-BIO-4:** The proposed project will provide a 150-foot limited use (landscaping and fuel modification) time sensitive (breeding season March 15 through

September 15) setback area adjacent to the southern cottonwood-willow riparian forest within Santiago Creek, which provides habitat for the least Bell's vireo.

- DF-BIO-5:** The proposed project will provide select landscaping, including native species, within the 150- foot limited use setback area (to the south of Santiago Creek) that is compatible with the adjacent open space area, its habitat, and is considerate of the fire protection (fuel modification) zone (refer to Exhibit 3.4-8).
- DF-BIO-6:** The proposed project establishes development standards in the Specific Plan to reduce sensory stimuli (e.g., noise, light), unnatural predators (e.g., domestic cats and other non- native animals), and competitors (e.g., exotic plants, non-native animals).
- DF-BIO-7:** Prior to building permit issuance, the proposed project will remove the existing fence on Orange County Flood Control District property.
- DF-BIO-8:** The proposed project will restrict grading and/or construction activities within the 150-foot limited use setback area during the least Bell's vireo breeding season; refer to Exhibit 3.4-8.
- DF-BIO-9:** The proposed project will limit uses within the 150-foot limited use setback area to those as uses identified in the Specific Plan.

With implementation of the design features above, impacts would remain potentially significant.

Mitigation Measures BIO-2a through BIO-2c are required to reduce impacts to the least Bell's vireo, raptors and songbirds to a less than significant level.

- MM BIO-2a:** Prior to the issuance of any grading permit for areas supporting least Bell's vireo habitat (such as southern cottonwood-willow riparian forest), the project Applicant shall obtain federal and state take authorizations via regulatory permits (such as a CWA Section 404 permit issued by the USACE), which will require that the USFWS be consulted as provided for by Section 7 of the FESA (for the federally listed least Bell's vireo). The federal regulatory permits (such as CWA Section 404 permit issued by the USACE) provide a "federal nexus" by which Section 7 consultation can occur. This statute imposes the obligation on federal agencies to ensure that their actions (such as issuing federal CWA permits for this project) are not likely to jeopardize the continued existence of a listed species or destroy or adversely modify its designated critical habitat. This obligation is enforced through the procedural requirement that agencies such as the United States Army Corps of Engineers initiate consultation with the USFWS on any actions that may affect a threatened or endangered species. During the FESA Section 7 consultation anticipated for this project, the USFWS will gather all relevant information concerning the proposed project and the

potential project-related impacts on the least Bell's vireo (i.e., the project Applicant will submit a species-specific Biological Assessment), prepare its opinion with respect to whether the project is likely to jeopardize the continued existence of the species (i.e., the USFWS will issue a Biological Opinion), and recommend mitigation/conservation measures where appropriate. Additionally, the need for State regulatory permits (i.e., Fish and Game Code Section 1602 Streambed Alteration Agreement issued by the CDFW) will require a Consistency Determination from the CDFW for the State-listed least Bell's vireo under CESA.

In addition, the following BMPs will ensure that indirect impacts will not occur to the least Bell's vireo within 300 feet of occupied habitat as monitored by a certified biologist:

1. Construction limits in and around least Bell's vireo potential habitat shall be delineated with flags and fencing prior to the initiation of any grading or construction activities.
2. Prior to grading and construction a training program shall be developed and implemented to inform all workers on the project about listed species, sensitive habitats, and the importance of complying with avoidance and minimization measures.
3. All construction work shall occur during the daylight hours. The construction contractor shall limit all construction-related activities that would result in high noise levels according to the construction hours determined by the City of Orange.
4. During all excavation and grading on-site, the construction contractors shall equip all construction equipment, fixed or mobile, with properly operating and maintained mufflers, consistent with manufacturers' standards to reduce construction equipment noise to the maximum extent possible. The construction contractor shall place all stationary construction equipment so that emitted noise is directed away from sensitive receptors (i.e., least Bell's vireo territory within Santiago Creek) nearest the project site.
5. The construction contractor shall stage equipment in areas that will create the greatest distance between construction-related noise sources and noise sensitive receptors nearest the project site during all project construction.
6. Noise from construction activities shall be limited to the extent possible through the maximum use of technology available to reduce construction equipment noise. Project-generated noise, both during construction and after the development has been completed, shall be in compliance with the requirements outlined in the City of Orange General

Plan Noise Element to ensure that noise levels to which the riparian area is exposed do not exceed noise standards for residential areas.

7. The project shall be designed to minimize exterior night lighting while remaining compliant with City of Orange ordinances related to street lighting. Any necessary lighting (e.g., to light up equipment for security measures), both during construction and after the development has been completed, will be shielded or directed away from Santiago Creek and are not to exceed 0.5 foot-candles. Monitoring by a qualified lighting engineer (attained by the project Applicant and subject to spot checking by City Staff) shall be conducted as needed to verify light levels are below 0.5 foot-candles required within identified, occupied least Bell's vireo territories, both during construction and at the onset of operations. If the 0.5 foot-candles requirement is exceeded, the lighting engineer shall make operational changes or install a barrier to alleviate light levels during the breeding season.

8. Two brown-headed cowbird traps shall be installed and maintained within the general vicinity of the habitat for five years. If equestrian trails are proposed within the project site, which may result in increased horse manure and the potential for increased foraging resources for brown-headed cowbirds, an ongoing manure management receptacle/maintenance plan shall be prepared and implemented.

MM BIO-2b: The following shall be incorporated into the Biological Assessment as proposed mitigation for potential impacts to least Bell's vireo, subject to USFWS and CDFW approval:

On- or off-site restoration or enhancement of least Bell's vireo habitat at a ratio no less than 3:1 for permanent grading impacts.

MM BIO-2c: All construction, grading, and fuel modification activities (i.e., thinning) shall take place outside of the least Bell's vireo breeding season (March 15 to September 15) to the greatest extent feasible. If any construction, grading, and fuel modification activities are required during the breeding season within 300 feet of potential least Bell's vireo habitat, and pre-construction surveys determine least Bell's vireo are present, activities may continue in the presence of a biological monitor who will confirm that no work will occur within a 300-foot buffer of least Bell's vireo, and that any least Bell's vireo are not being disturbed by project activities. If any disturbance to the least Bell's vireo is detected by the biological monitor, the buffer will be increased, other disturbance minimizing measures may be implemented (e.g., visual and/or noise barrier), and/or work will cease as recommended by the monitor.

Additional measures to be taken for all construction activities within 300 feet of potential least Bell's vireo habitat during the breeding season (March 15 to September 15):

1. Pre-construction surveys shall be conducted within 1 week prior to initiation of construction activities and all results forwarded to the USFWS and CDFW. Focused surveys shall be conducted for least Bell's vireo during construction activities.
2. If at any time least Bell's vireo are found to occur within 300 feet of construction areas, the monitoring biologist shall inform the appropriate construction supervisor to cease such work and shall consult with the USFWS and CDFW to determine if work shall commence or proceed during the breeding season and, if work may proceed, what specific measures shall be taken to ensure least Bell's vireos are not affected.
3. Installation of any noise barriers and any other corrective actions taken to mitigate noise during the construction period shall be communicated to the USFWS and CDFW.

MM BIO-2d: Prior to the issuance of any grading permit that would remove habitats containing raptor and songbird nests, the project Applicant shall demonstrate to the satisfaction of the City that either of the following have been or will be accomplished.

1. Vegetation removal activities shall be scheduled outside the nesting season (September 1 to February 14 for songbirds; September 1 to January 14 for raptors) to avoid potential impacts to nesting birds.
2. Any construction activities that occur during the nesting season (February 15 to August 31 for songbirds; January 15 to August 31 for raptors) will require that all suitable habitat be thoroughly surveyed for the presence of nesting birds by a qualified biologist before commencement of clearing. If any active nests are detected, a buffer of at least 300 feet (500 feet for raptors) will be delineated, flagged, and avoided until the nesting cycle is complete, or as determined appropriate by the biological monitor, to minimize impacts.

With implementation of the design features and mitigation measures identified above, impacts would be less than significant.

Implementation of the project would potentially impact sensitive natural communities. The project site supports 0.76 acres of coastal sage scrub; however, the project would avoid impacts to coastal sage scrub and no impacts to coastal sage scrub would occur. Nonetheless, sensitive communities that are considered high priority for conservation would potentially be affected by the project, including southern cottonwood-willow riparian forest. Implementation of mitigation measure BIO-3 would reduce impacts to a less than significant level.

MM BIO-3 Prior to the issuance of any grading permit in the areas designated as sensitive riparian communities (e.g., southern cottonwood-willow riparian forest or black willow scrub/ruderal), the project Applicant shall demonstrate to the satisfaction of the City that either of the following have been or will be accomplished:

On- or off-site restoration or enhancement of sensitive riparian communities (e.g., southern cottonwood-willow riparian forest) at a ratio no less than 1:1 for permanent impacts. Temporary impacts will be restored to pre-project conditions (i.e., pre-project contours and revegetate with native species, where appropriate). Off-site restoration or enhancement at a ratio no less than 1:1 may include the purchase of mitigation credits at an agency-approved off-site mitigation bank (e.g., Soquel Canyon Mitigation Bank).

If mitigation is to occur on-site and/or off-site (i.e., not an in-lieu fee program), a mitigation and monitoring plan shall be prepared. The plan shall focus on the creation of equivalent habitats within disturbed habitat areas of the project site and/or off-site. In addition, the plan shall provide details as to the implementation of the plan, maintenance, and future monitoring. Mitigation for impacts to sensitive riparian communities shall be accomplished by on- or off-site restoration and/or enhancement (e.g., transplantation, seeding, and/or planting/staking of sensitive riparian species; salvage/dispersal of duff and seed bank; removal of large stands of giant reed within riparian areas).

The final design of trails will be completed prior to the 60th Certificate of Occupancy. In order to minimize trail impacts to sensitive biological resources, DF-BIO-1 through DF-BIO-9 above would be required. With implementation of DF-BIO-1 through DF-BIO-9 above, impacts to biological resources as a result of trail implementation would be less than significant.

The project will result in impacts to approximately 170 linear feet and 0.01 acre of USACE/RWQCB waters of the United States/waters of the State. Potential impacts to jurisdictional waters will be reduced to a less than significant level with implementation of mitigation measure BIO-4.

MM BIO-4: With implementation of the design features above, trail development will not impact sensitive biological resources. Impacts will be less than significant. Prior to the issuance of any grading permit for permanent impacts in the areas designated as jurisdictional features, the project Applicant shall obtain a CWA Section 404 permit from the USACE, a CWA Section 401 permit from the RWQCB, and Streambed Alteration Agreement permit under Section 1602 of the California Fish and Game Code from the CDFW. The following would be incorporated into the permitting, subject to approval by the regulatory agencies:

1. On- or off-site restoration or replacement of USACE/RWQCB jurisdictional waters of the United States/waters of the State at a ratio no less than 2:1 for permanent impacts, and for temporary impacts, restore impact area to pre-project conditions (i.e., pre-project contours and revegetate with native species, where appropriate). Off-site restoration or enhancement at a ratio no less than 2:1 may include the purchase of mitigation credits at an agency-approved off-site mitigation bank or in-lieu fee program (e.g., Soquel Canyon Mitigation Bank).
2. On- or off-site restoration or enhancement of CDFW jurisdictional streambed and associated riparian habitat at a ratio no less than 2:1 for permanent impacts, and for temporary impacts, restore impact area to pre-project conditions (i.e., pre-project contours and revegetate with native species, where appropriate). Off-site restoration or enhancement at a ratio no less than 2:1 may include the purchase of mitigation credits at an agency-approved off-site mitigation bank (e.g., Soquel Canyon Mitigation Bank).

With implementation of Mitigation Measure BIO-4, impacts would be less than significant.

4. Cultural Resources

Impact Threshold

Threshold CUL-1: Would subsurface construction activities associated with the proposed project damage or destroy previously undiscovered historic resources?

Threshold CUL-2: Would subsurface construction activities associated with the proposed project damage or destroy previously undiscovered archaeological resources?

Threshold CUL-3: Would subsurface construction activities associated with the proposed project damage or destroy previously undiscovered paleontological resources?

Threshold CUL-4: Would subsurface construction activities associated with the proposed project may damage or destroy previously undiscovered human burial sites?

Description of the Impact: The archaeological records search identified one previously recorded resources within the project boundary. Additionally, portions of the concrete and asphalt lot may be of historic age.

Records indicate that portions of Santiago Creek drainage have surficial deposits of older Quaternary alluvium. It is possible that significant paleontological resources may be adversely impacted by development-related ground disturbance.

Project construction has the potential to disturb existing or known formal cemeteries within or adjacent to the project site.

Finding: The City makes Finding 1 that changes or alterations have been required in, or incorporated into the Project which avoid or substantially lessen the significant environmental effect described above and identified in the Final EIR.

Facts in Support of Finding: The project site contains four structures along Santiago Canyon Road along the southern project area boundary. Four additional structures are depicted in the southeastern corner of the project area; however, with the exception of one potentially historic-age foundation and an adjacent concrete and asphalt lot, no evidence of these structures were detected during a pedestrian survey. During the survey, no prehistoric-age resources and one potentially historic-age foundation and an adjacent asphalt and concrete lot were detected. Portions of the concrete and asphalt lot may be of historic age and were recorded in conjunction with the foundation as "Site 001." This resource does not appear to be significant and is not considered historical or archaeological. It could not be relocated during present surveys or previous surveys, presumably due to the negligible surface visibility at the mapped location and collection of some or all of the surface artifacts during a subsurface testing program. Minimal impacts to the remnants of the site would occur, as its location would be avoided by development.

There is a high probability that significant, intact subsurface deposits could be uncovered during development. Therefore, Mitigation Measure CUL-1 is required.

MM CUL-1: In the event that buried cultural resources are discovered during construction, operations shall stop within a 50-foot radius of the find and a qualified archaeologist shall be consulted to determine whether the resource requires further study. The qualified archaeologist shall make recommendations to the Lead Agency on the measures that shall be implemented to protect the discovered resources, including but not limited to excavation of the finds and evaluation of the finds in accordance with Section 15064.5 of the CEQA Guidelines. Potentially significant cultural resources consist of but are not limited to stone, bone, fossils, wood, or shell artifacts or features, including hearths, structural remains, or historic dumpsites. Any previously undiscovered resources found during construction within the project area should be recorded on appropriate Department of Parks and Recreation (DPR) forms and evaluated for significance in terms of CEQA criteria.

If the resources are determined to be unique historic resources as defined under Section 15064.5 of the CEQA Guidelines, mitigation measures shall be identified by the monitor in accordance with Public Resource Code Section 21083.1 and CEQA Guidelines Section 15126.4 and recommended to the Lead Agency. Appropriate mitigation measures for significant resources could include avoidance or capping, incorporation of the site in green space, parks, or open space, or data recovery excavations of the finds.

No further grading shall occur in the area of the discovery until the Lead Agency approves the measures to protect these resources. Any archaeological artifacts recovered as a result of mitigation shall be donated to a qualified scientific institution approved by the Lead Agency where they would be afforded long-term preservation to allow future scientific study.

The 2011 Addendum to the archaeological report prepared by BCR Consulting indicated that archaeological monitoring is required during ground disturbing activities in the areas depicted on Exhibit 3.5-1 in the Final EIR. Mitigation Measure CUL-2 is required within this area during ground disturbing activities.

MM CUL-2: During the ground disturbing activities in the areas depicted in Exhibit 3.5-1, a qualified archaeological and paleontological monitor shall be present on-site to observe earthwork activities. In the event of a discovery of an archaeological or paleontological resource, the monitor shall have the discretion to halt all ground disturbing activities within 50 feet of the find until it has been evaluated for significance. If the find is determined to have archaeological or paleontological significance, the procedures in Mitigation Measure CUL-1 or Mitigation Measure CUL-3 shall be implemented. Monitoring may cease once all of the areas depicted in Exhibit 3.5-1 have been thoroughly disturbed.

With implementation of Mitigation Measure CUL-2, impacts would be less than significant.

Records indicate that it is possible that significant paleontological resources along the Santiago Creek drainage may be adversely impacted by development-related ground disturbance. The project area has varied paleontological sensitivity ranging from low to high. Implementation of Mitigation Measure CUL-3 would reduce potential impacts to a less than significant level.

MM CUL-3 If the subsurface excavations for this project are proposed to exceed depths of 15 feet below surface, a qualified paleontological monitor should be retained to observe such excavations, which may breach the older Quaternary Alluvium deposits. In this situation, a detailed Mitigation Monitoring Plan (MMP) or Paleontological Resource Impact Management Plan (PRIMP) should be prepared in order to set forth the observation, collection, and reporting duties of the paleontological monitor. Additional mitigation measures and procedures will be outlined in the MMP or PRIMP as needed.

In the event that fossils or fossil-bearing deposits are discovered during construction activities that are shallower than 10 feet in depth, excavations within a 50-foot radius of the find shall be temporarily halted or diverted. The project contractor shall notify a qualified paleontologist to examine the discovery. The paleontologist shall document the discovery as needed (in accordance with Society of Vertebrate Paleontology standards), evaluate

the potential resource, and assess the significance of the find under the criteria set forth in CEQA Guidelines Section 15064.5.

The paleontologist shall notify the appropriate agencies to determine procedures that would be followed before construction activities are allowed to resume at the location of the find. If the Applicant determines that avoidance is not feasible, the paleontologist shall prepare an excavation plan for mitigating the effect of construction activities on the discovery. The plan shall be submitted to the Lead Agency for review and approval prior to implementation, and the Applicant shall adhere to the recommendations in the plan.

With implementation of Mitigation Measure CUL-3, impacts would be less than significant.

Ground disturbing activities during construction could possibly uncover previously unknown buried human remains. Mitigation Measure CUL-4 is required to reduce potential impacts.

MM CUL-4: In the event of an accidental discovery or recognition of any human remains, Public Resource Code (PRC) Section 5097.98 must be followed. In this instance, once project-related earthmoving begins and if there is accidental discovery or recognition of any human remains, the following steps shall be taken:

1. There shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until the County Coroner is contacted to determine if the remains are Native American and if an investigation of the cause of death is required. If the coroner determines the remains to be Native American, the coroner shall contact the NAHC within 24 hours, and the Native American Heritage Commission (NAHC) shall identify the person or persons it believes to be the "most likely descendant" of the deceased Native American. The most likely descendant may make recommendations to the landowner or the person responsible for the excavation work, for means of treating or disposing of, with appropriate dignity, the human remains and any associated grave goods as provided in PRC Section 5097.98, or
2. Where the following conditions occur, the landowner or his/her authorized representative shall rebury the Native American human remains and associated grave goods with appropriate dignity either in accordance with the recommendations of the most likely descendant or on the project area in a location not subject to further subsurface disturbance:
 - The NAHC is unable to identify a most likely descendant or the most likely descendant failed to make a recommendation within 48 hours after being notified by the commission;

- The descendent identified fails to make a recommendation; or
- The landowner or his authorized representative rejects the recommendation of the descendent, and the mediation by the NAHC fails to provide measures acceptable to the landowner.

With implementation of Mitigation Measure CUL-4, impacts would be less than significant.

5. Geology and Soils

Impact Threshold

Threshold GEO-1: Would the project expose people or structures to potential substantial adverse effects, including the risk of loss, injury or death involving seismic hazard?

Threshold GEO-2: Would the project result in substantial soil erosion or the loss of topsoil?

Description of the Impacts: Southern California is seismically active and the project site would be subject to moderately strong to strong seismic ground shaking. The potential for liquefaction is considered low to moderate. Project development would involve vegetation removal, grading, and other activities that have the potential to result in erosion.

Findings: The City makes Finding 1 that changes or alterations have been required in, or incorporated into the Project which avoid or substantially lessen the significant environmental effect described above and identified in the Final EIR.

Facts in Support of Findings: The El Modeno and Peralta Hills faults are located less than 0.5 miles from the project site. However, a fault investigation concluded that the El Modeno Fault does not cross the project site. Further, the Peralta Hills Fault is not sufficiently active. For these reasons, fault rupture hazards would not be significant. However, Southern California is seismically active and the site will experience moderately strong to strong ground shaking. In addition, the potential for liquefaction is considered low to moderate. Mitigation Measure GEO-1 is required to mitigate potential impacts. The project would involve development of 40.7 acres of residential development and 68.5 acres of open space. Development would involve vegetation removal, grading, soil engineering, and other activities with the potential to result in erosion. Mitigation Measures GEO-1 and HYD-1a would be required.

MM GEO-1: Prior to the issuance of building permits, the project applicant shall submit a design-level Geotechnical Investigation to City of Orange for review and approval. The investigation shall be prepared by a qualified engineer and identify grading and building practices necessary to achieve compliance with the latest adopted edition of the California Building Standards Code's geologic, soils, and seismic requirements. The measures identified in the approved report shall be incorporated into the Project plans.

MM HYD-1a: Prior to the issuance of grading permits, the project applicant shall file a Notice of Intent with and obtain a facility identification number from the State Water Resources Control Board. The project applicant shall also submit an SWPPP to the California State Water Resources Control Board/Santa Ana Regional Water Quality Control Board. The SWPPP that identifies specific actions and BMPs to prevent stormwater pollution during construction activities. The SWPPP shall identify a practical sequence for BMP implementation, site restoration, contingency measures, responsible parties, and agency contacts. The SWPPP shall include but not be limited to the following elements:

- Comply with the requirements of the State of California's most current Construction Stormwater Permit.
- Temporary erosion control measures shall be implemented on all disturbed areas.
- Sediment shall be retained on-site by a system of sediment basins, traps, or other BMPs.
- The construction contractor shall prepare Standard Operating Procedures for the handling of hazardous materials on the construction site to eliminate discharge of materials to storm drains.
- BMP performance and effectiveness shall be determined either by visual means where applicable (e.g., observation of above-normal sediment release), or by actual water sampling in cases where verification of contaminant reduction or elimination (such as inadvertent petroleum release) is required by the Santa Ana Regional Water Quality Control Board to determine adequacy of the measure.
- In the event of significant construction delays or delays in final landscape installation, native grasses or other appropriate vegetative cover shall be established on the construction site as soon as possible after disturbance, as an interim erosion control measure throughout the wet season.

The project site is not located in the vicinity of large hills or steep mountainsides; therefore, landslide impacts are not anticipated.

With implementation of Mitigation Measure GEO-1 and HYD-1a, impacts would be less than significant.

6. Hazards and Hazardous Materials:

Impact Thresholds:

- Threshold HAZ-2: Would the project create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the likely release of hazardous materials into the environment?*
- Threshold HAZ-4: Would the project be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?*
- Threshold HAZ-5: Would the project impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?*
- Threshold HAZ-6: Would the project expose persons or property to wildland fire hazards?*

Description of the Impacts: The project site previously supported agricultural and mining activities and is adjacent to the closed Villa Park landfill. There is potential that development and operation of the project could expose persons to hazards as a result of these uses.

The Fire Department noted that the project would be required to provide two points of emergency access to comply with Fire Code requirements.

The eastern portion of the site abuts Santiago Oaks Regional Park and contains the wooded Santiago Creek Corridor. The project may expose persons or property to wildland fire hazards.

Findings: The City makes Finding 1 that changes or alterations have been required in, or incorporated into the Project which avoid or substantially lessen the significant environmental effect described above and identified in the Final EIR.

Facts in Support of Findings: A Phase II Environmental Site Assessment was conducted for the project site. The Phase II determined that there was potential for vapor intrusion of TCE and methane into future dwelling units and elevated levels of Total Petroleum Hydrocarbons in soil. Mitigation Measures HAZ-1a through HAZ-2c are required to reduce impacts related to these hazards.

MM HAZ-2a A supplemental Phase II Environmental Site Assessment shall be conducted to further delineate the vertical and lateral extent of the contamination. The proposed enclosed structures shall be situated strategically, using supplemental Phase II Environmental Site Assessment data and DTSC's review thereof, so that structures will not interfere with future remediation of any potential landfill gas migration; this shall be demonstrated in connection with approval of any tentative maps for the project. Prior to issuance of building permits for dwelling units in areas of the project site where vapor intrusion has the potential to occur, the applicant shall prepare

and submit plans to the City of Orange, DTSC, or the Local Enforcement Agency (which is the County of Orange Environmental Health Division) identifying vapor intrusion abatement measures for trichloroethylene (TCE) and methane. Areas where vapor intrusion has the potential to occur are those identified in the Phase II Environmental Site Assessment.

The Phase II Environmental Site Assessment shall be conducted in substantial compliance with applicable guidance documents, including but not limited to the DTSC Advisory—Active Soil Gas Investigation and Final Guidance for Evaluation and Mitigation of Subsurface Vapor Intrusion to Indoor Air. The Phase II Environmental Site Assessment shall use current DTSC HHRA Note 3 and Regional Screening Levels established by the U.S. Environmental Protection Agency. Following preparation of the Phase II Environmental Site Assessment, a soil risk management plan shall be prepared to address any discovery of previously unknown contamination and shall be submitted to DTSC. These reports shall be conducted pursuant to applicable DTSC advisories, and abatement shall be implemented as directed by DTSC. Such abatement measures may include but are not limited to vapor barriers or passive/active venting systems, as determined by the appropriate regulatory agency, unless determined not to be necessary by the City in consultation with the Local Enforcement Agency. All occupied structures within a 1,000 foot radius of the landfill shall include the following structural controls to limit the potential for landfill gas accumulation (unless such controls are determined not to be necessary by the City in consultation with the Local Enforcement Agency): (1) a geomembrane between the slab and the subgrade; (2) a permeable layer with venting pipe between the geomembrane; and (3) automatic methane gas sensors with audible alarms in the permeable layer and inside the structures. The soil risk management plan shall include, among other provisions, worker safety practices and procedures for discoveries of hazardous materials, including those already identified at the site. If DTSC concludes that additional mitigation is needed, the applicant shall work with DTSC and the City to jointly develop additional mitigation measures that meet residential standards.

The approved abatement measures shall be incorporated into project building plans. Design plans for: 1) any occupied structures within 1,000 feet of the landfill boundary; and/or 2) structural systems to prevent gas-related hazards are required to be reviewed and approved by the Local Enforcement Agency (which is the County of Orange Environmental Health Division).

MM HAZ-2b Prior to issuance of grading permit for construction of the residential portion of the project, the project applicant shall retain a qualified hazardous materials contractor to remove all soil containing Total Petroleum Hydrocarbons in excess of residential development standards set forth by the California Department of Toxic Substances Control (DTSC) or other

applicable regulatory agency. Soil removal and disposal shall occur in accordance with DTSC (or other applicable agency) guidelines. Additional groundwater sampling shall be conducted under the guidance of DTSC, focused on the area within 1,000 feet of the Villa Park landfill, to assess whether TPH, methane, and/or VOCs have impacted groundwater at levels that generate either significant human health or ecological risk, which was encountered at depths of 20 to 50 feet bgs. If the groundwater is affected, a multi-media risk assessment shall be conducted under the guidance of DTSC, and abatement measures as required by DTSC shall be implemented, subject to final confirmation by the City.

The applicant shall submit documentation to the City of Orange in the form of confirmatory soil and groundwater sampling results verifying that this mitigation measure was successfully implemented as part of the grading permit application for this property. All environmental investigations, sampling and/or remediation for the project site shall be conducted under a workplan approved and overseen by a regulatory agency with jurisdiction to oversee hazardous substance cleanup, such as DTSC and/or the Regional Water Quality Control Board (RWQCB). As part of proper construction operations and maintenance, any construction areas that are found to contain contaminated soils shall be excluded using a security fence. All contaminated soils shall then be excavated and disposed of off-site in accordance with the rules and regulations of: US Department of Transportation (USDOT), USEPA, CalEPA, CalOSHA, and any local regulatory agencies. All retention and detention features used during construction would be lined to prevent infiltration through contaminated soils. Post-construction retention features shall be lined to prevent infiltration of groundwater.

MM HAZ-2c: Prior to commencement of any construction activities that would impact existing landfill or related gas monitoring equipment, the project applicant shall contact the City Engineer to consult with and obtain approval from the Orange County Integrated Waste Management Department for the relocation of any monitoring wells or probes that would be impacted by development on the project site.

With implementation of Mitigation Measures HAZ-2a through HAZ-2c, impacts related to potentially hazardous materials affecting property or persons would be less than significant.

The project would take vehicular access from E. Santiago Canyon Road via a signalized driveway aligned with Nicky Way. The Fire Department noted that the project would be required to provide two points of emergency access. Mitigation Measure HAZ-5 is therefore required.

MM HAZ-5: Prior to issuance of the first building permit, the applicant shall prepare and submit plans to the City of Orange for review and approval demonstrating

compliance with all applicable emergency access provisions of the Fire Code. The approved plan shall be incorporated into the proposed project.

With implementation of mitigation measure HAZ-5, impacts related to emergency access would be less than significant.

The eastern portion of the project site abuts Santiago Oak Regional Park and contains the wooded Santiago Creek Corridor. The project site is located at the wildlife/urban interface. As discussed in RDEIR Section 3.8, Hazards and Hazardous Materials, page 3.8-16, the project proposes to strategically place approximately 68.5 acres of open space/grasslands and greenway with managed vegetation within the western, northern, and eastern portions of the project site in order to provide sufficient protection from wildland fires and alleviate related impacts. The project's open space areas will constitute a buffer against the spread of fire. Planning Area B, the Grassland area south of Santiago Creek, includes a managed vegetation/fuel modification zone north of and east of Planning Area C that would act as a vegetative buffer between the open space and residential neighborhood. The buffer zone would be 130 feet wide and would include plantings responsive to fuel management policies. In addition, the project proposes a 20-foot wet zone within the rear yard of the residential lots to support fuel management policies. The managed vegetation/fuel modification zones comply with fuel modification requirements in Section 320 of the Orange County Fire Code (as required by City of Orange Municipal Code Section 15.32.020). Upon dedication of the open space in Planning Areas A and B to the City of Orange, County of Orange, or another entity, the applicant/developer will retain an easement for fuel modification zone maintenance.

Orange General Plan, Public Safety Element, page PS-4, notes that "keeping neighborhoods buffered from both urban and wildland fire hazards reduces incidents requiring response, and minimizes damage to property when fires occur." Orange General Plan, Public Safety Element, page PS-19, states that development within or adjacent to an identified wildland fire area ". . . must prepare and implement a comprehensive fuel modification program in accordance with City regulations. The City will review new developments and fire services to ensure adequate emergency services and facilities to residents and businesses."

Orange General Plan, Public Safety Element, Goal 3.0 on page PS-4, is to "[p]rotect lives and property of Orange residents and businesses from urban and wildland fire hazards."

Orange General Plan, Public Safety Element, Policy 3.3 states:

Require planting and maintenance of fire-resistant slope cover to reduce the risk of brush fires within the wildland-urban interface areas located in the northern and eastern portions of the City and in areas adjacent to canyons, and develop and implement stringent site design and maintenance standards for all areas with high wild land fire potential. To the extent possible, native, non-invasive plant materials are encouraged.

The General Plan Public Safety Element goal and policy above would be advanced by incorporating open space and a vegetative buffer as part of the project. The vegetative buffer would include plantings responsive to fuel management policies and all City fuel management standards would be met.

The proposed project would include a robust fire protection system as required by the California Building Code. Fire sprinkler systems and ignition resistant structures have a very high success rate for confining fires or extinguishing them. Additionally, there are two fire stations within 2 miles of the project site: Orange Fire Department Station No. 8, which is 1.75 miles from the project site, and Orange County Fire Authority Station No. 23, which is 0.64 mile from the project site. Emergency response times from the City of Orange Fire Department would be approximately 3 minutes and 45 seconds. Fire stations near the project site would increase the likelihood of successful initial attacks to limit the spread of wildfires. The fire protection system on-site would provide protection from on-site fires spreading to off-site vegetation through the required fuel modification zone. Accidental fires within the landscape or structures in the project area would have limited ability to spread. Landscaping throughout the project site and on its perimeter would be highly maintained, and much of it would be irrigated, which would further reduce its ignition potential.

In addition, RDEIR Section 3.8, Hazards and Hazardous Materials, Mitigation Measure HAZ-6 will be implemented to require the applicant to prepare a Fuel Modification Plan for submission to the City of Orange for review and approval prior to the issuance of building permits, consistent with the Fire Department's recommendation that the project meet the City's fuel modification requirements.

As identified in the RDEIR, with implementation of project features, incorporation of open space areas and vegetative buffers as part of the project, compliance with City requirements for fuel modification, and Mitigation Measure HAZ-6, impacts would be less than significant.

MM HAZ-6: Prior to issuance of the first building permit, the applicant shall retain a qualified fire safety consultant to prepare a Fuel Modification Plan for the proposed project. The plan shall identify defensible space around dwelling units in accordance with City requirements. The plan shall be submitted to the City of Orange for review and approval. The approved plan shall be incorporated into the proposed project.

With implementation of Mitigation Measure HAZ-6, impacts would be less than significant.

7. Hydrology and Water Quality

Impact Thresholds

Threshold HYD-1: *Would construction or operational activities associated with the proposed project potentially degrade water quality in downstream water bodies?*

Threshold HYD-5: Would the project be susceptible to inundation from dam failure?

Description of the Impacts: Construction and operational activities associated with the project may potentially degrade water quality downstream due to construction and operation of residential and open space uses. The project may be susceptible to inundation from dam failure because Santiago Dam is located 1.3 miles upstream of the project site and Villa Park Dam is located 1.5 miles upstream of the project site.

Finding: The City makes Finding 1 that changes or alterations have been required in, or incorporated into the Project which avoid or substantially lessen the significant environmental effect described above and identified in the Final EIR.

Facts in Support of Finding: Project implementation would require grading, building construction, and paving activities. During construction, there is a potential for surface water to carry sediment into local waterways. Mitigation Measure HYD-1a would be required to require the Applicant to implement a Stormwater Pollution Prevention Plan (SWPPP) during construction to minimize pollutants.

MM HYD-1a: Prior to the issuance of grading permits, the project applicant shall file a Notice of Intent with and obtain a facility identification number from the State Water Resources Control Board. The project applicant shall also submit an SWPPP to the California State Water Resources Control Board/Santa Ana Regional Water Quality Control Board. The SWPPP that identifies specific actions and BMPs to prevent stormwater pollution during construction activities. The SWPPP shall identify a practical sequence for BMP implementation, site restoration, contingency measures, responsible parties, and agency contacts. The SWPPP shall include but not be limited to the following elements:

- Comply with the requirements of the State of California's most current Construction Stormwater Permit.
- Temporary erosion control measures shall be implemented on all disturbed areas.
- Sediment shall be retained on-site by a system of sediment basins, traps, or other BMPs.
- The construction contractor shall prepare Standard Operating Procedures for the handling of hazardous materials on the construction site to eliminate discharge of materials to storm drains.
- BMP performance and effectiveness shall be determined either by visual means where applicable (e.g., observation of above-normal sediment release), or by actual water sampling in cases where verification of contaminant reduction or elimination (such as inadvertent petroleum release) is required by the Santa Ana

Regional Water Quality Control Board to determine adequacy of the measure.

- In the event of significant construction delays or delays in final landscape installation, native grasses or other appropriate vegetative cover shall be established on the construction site as soon as possible after disturbance, as an interim erosion control measure throughout the wet season.

Implementation of Mitigation Measure HYD-1a would reduce impacts during construction to a less than significant level.

During operation of the project, pollutants such as sediment, trash and debris, bacteria, oil and grease, pesticides, and metals would potentially enter local waterways. To ensure stormwater quality measures are implemented during operation of the project, Mitigation Measure HYD-1b would be required.

MM HYD-1b: Prior to the issuance of building permits, the project applicant shall submit a WQMP to the City of Orange for review and approval. The plan shall be developed using the Orange County Model Water Quality Management Plan and Technical Guidance Document. The WQMP shall identify pollution prevention measures, low impact development features, and BMPs necessary to control stormwater pollution from operational activities and facilities, identify hydromodification flow controls, and provide for appropriate maintenance over time. The WQMP shall include design concepts and BMPs that are intended to address the Design Capture Volume, more commonly referred to as the “first flush,” and remove pollutants from the design system event before entering the MS4. In accordance with the Regional MS4 Permit and City of Orange WQMP requirements, the use of low impact development features will be consistent with the prescribed hierarchy of treatment provided in the Permit: including techniques to infiltrate, filter, store, evaporate, or retain runoff close to the source of runoff. For those areas of the project where infiltration is not recommended or acceptable and harvest/reuse demands are insufficient, biofiltration features will be designed to treat runoff and discharge controlled effluent flows to downstream receiving waters. The project WQMP shall also include an operations and maintenance plan for the prescribed Low Impact Development (LID) features, structural BMPs, and any hydromodification controls to ensure their long-term performance. A funding mechanism for operations and maintenance shall also be prescribed.

With implementation of Mitigation Measure HYD-1b, impacts during operation would be less than significant.

Santiago Creek Dam was last inspected on May 3, 2018, according to the United States Army Corps of Engineers (USACE) National Inventory of Dams. Its condition assessment

rating is “satisfactory” and its hazard potential rating is “extremely high.” Likewise, Villa Park Dam’s condition assessment rating is “satisfactory” and its hazard potential rating is “extremely high.” It was last inspected on February 21, 2018, according to the USACE website. According to the California Division of Safety of Dams (DSOD) website, a “satisfactory” condition assessment indicates that no existing or potential dam safety deficiencies are recognized. Acceptable performance is expected under all loading conditions (static, hydrologic, and seismic) in accordance with applicable regulatory criteria or tolerable risk guidelines. Hazard classifications are based on the size of the reservoir and the number of people who live downstream of a dam, not the actual conditions of the dam or its critical structures. Therefore, the condition assessment is a better indicator of potential dam deficiencies with the potential to cause downstream flooding.

Pursuant to the California Water Code, dam inspections at Santiago Creek Dam and Villa Park Dam are conducted by the DSOD at least once per year pursuant to laws, regulations, and practices of DSOD to ensure the dam is safe, performing as intended, and is not developing problems. DSOD also reviews the stability of dams and their major appurtenances in light of improved design approaches and requirements, as well as new findings regarding earthquake hazards and hydrologic estimates in California.

The DSOD evaluation program is an ongoing screening process of spillways and other appurtenances at dams throughout the State. Subsequent to the assessment, DSOD works with dam owners to expedite development of required assessments and restore known areas of deficiency. Roughly, a third of DSOD inspections result in in-depth instrumentation reviews. In 2017, the Santiago Creek Dam required an extra spillway assessment in addition to its standard yearly inspection. The evaluation required by DSOD includes assessment of:

- The spillway’s design and construction and geologic attributes while concurrently reviewing the dam owner’s maintenance and inspection program;
- The spillway’s historical performance;
- Any previous spillway repairs.

To conduct the spillway assessment required by DSOD, the owners of Santiago Dam, the Irvine Ranch Water District (IRWD) and Serrano Water District, submitted a workplan to DSOD in 2017. The assessment is in-progress.

In addition to the DSOD inspections, IRWD and Serrano Water District inspect the Santiago Creek Dam and spillway quarterly with a dam safety consultant and bi-annually with the DSOD. In addition, IRWD staff visually inspects the dam daily and has caretakers that live on-site and observe the dam daily. Measurements of drain flows, monitoring wells, and piezometers are taken monthly. Piezometers are used to measure groundwater and other fluid pressure levels. Dam crest survey markers give IRWD the ability to measure horizontal or vertical movement of the dam, which are measured by a licensed surveyor annually to evaluate any adverse trends. With the above safety precautions in place and given the condition rating of both dams as “satisfactory,” dam failure is not anticipated.

In terms of City policy, the General Plan identifies areas downstream of the Santiago Creek and Villa Park dams for potential flooding in the event of a catastrophic dam failure (General Plan, page PS-4). The General Plan characterizes such an event as “unlikely” (page PS-4) and does not prohibit or limit development in these areas.

Maps compiled for potential dam failures are created, in part, in order to implement emergency procedures required under Section 8589.5 of the California Government Code. The Orange County Operational Area Emergency Action Plan Dams/Reservoir Failure Annex indicates that it would take a dam failure flood wave 105 minutes to reach the project site from Villa Park Dam and 255 minutes from Santiago Dam. Emergency procedures that the County and the City have established to protect lives and property in the event of a dam failure would allow persons to be evacuated in the event of a failure of Santiago Creek Dam or Villa Park Dam. Emergency response times for the City of Orange Police Department vary on average from 4 to 7 minutes and emergency response times for the City of Orange Fire Department are, on average, 3 minutes, 45 seconds; therefore flood flows would move at rates which would allow emergency procedures to be implemented and persons to be evacuated. Staff members at both dams are trained in operation of the facilities and would be able to identify and respond to indications of adverse conditions; therefore, initial alerting of a dam failure would occur quickly. Furthermore, the Orange County Sheriff’s Department oversees the County’s Emergency Operations Center and has modeled dam failure scenarios for both Villa Park Dam and Santiago Dam based on Federal Emergency Management Agency (FEMA) Flood Maps (RDEIR Section 3.9, Hydrology and Water Quality, Exhibit 3.9-4). The Sheriff’s Department has developed plans to provide timely notification to affected parties and implement an orderly evacuation in the event dam failure indications are observed, such as the AlertOC mass notification system that provides time-sensitive messages to residents from the City or County in which they live or work. Every method known to warn the public of an impending dam failure, including the following systems, would be utilized by the City and County in the event of a dam failure at Villa Park Dam or Santiago Dam:

- Emergency Alerting System (EAS) on the AM/FM radio
- AlertOC (Service is available to residents and non-residents to receive time-sensitive information in the event of a natural disaster or emergency. Residents should register for this service)
- Police and Fire sirens
- Police helicopter loudspeakers
- Door-to-door canvassing¹

Moreover, the General Plan requires that appropriate flood control measures be implemented along Santiago Creek and throughout the planning area to reduce the risks

¹ Enjoy Orange County, Dams in Orange County. Website: <https://enjoyorangecounty.com/dams-in-orange-county> Site accessed March 6, 2019.

from localized flooding and the General Plan EIR implements the following two mitigation measures specific to flooding that would reduce potential impacts throughout the City:

General Plan EIR Section 5.8, Hydrology and Water Quality, Mitigation Measure 5.8-1 Support efforts by the OCFCD to regularly maintain flood control channels and structures owned by the OCFCD, and to complete necessary repairs in a timely manner. Work with the OCFCD and USACE to identify new flood control improvements and establish installation programs for improvements as needed. Work with the OCFCD to identify opportunities to enhance the natural qualities of Santiago Creek to protect habitat and reintroduce native plants, animals, and fish. (Implementation Program V-11; Responsible Party—Community Development Department, Community Services Department, Public Works Development; Timeframe—Ongoing) (General Plan EIR, page 5.8-25–5.8-26).

General Plan EIR Section 5.8, Hydrology and Water Quality, Mitigation Measure 5.8-2 Continue to inspect storm drains, remove debris from catch basins as needed, and evaluate and monitor water storage facilities to determine if they pose a water inundation hazard. (Implementation Program I-32; Responsible Party—Public Works Development; Timeframe—Ongoing) (General Plan EIR, page 5.8-25.)

As discussed in the City's General Plan EIR, Citywide flood prevention methods, such as provision of detention basins and on-site stormwater drainage, reduce runoff into the City's drainage facilities and provide adequate drainage for new developments. The City minimizes flood-related risks and hazards in the event of dam or reservoir failure by encouraging the County's Flood Control District to continue proper inspection of storm drains, ensuring maintenance of the flood control facilities, and preventing earthquake damage. In addition, the City monitors water storage facilities to determine potential inundation hazards to surrounding properties (General Plan, page PS-19.).

In addition to the emergency procedures, General Plan policies, and mitigation measures listed above, RDEIR Section 3.9, Hydrology and Water Quality, Mitigation Measure HYD-5, requires the applicant to prepare and implement an Emergency Evacuation Plan, which would identify specific procedures for the safe and orderly evacuation of the project. The plan would specifically require the streets to be identified with clear and visible signage and, if necessary, wayfinding signage to identify exit points.

MM HYD-5: Prior to issuance of the first certificate of occupancy, the applicant shall retain a qualified consultant to prepare and implement an Emergency Evacuation Plan. The plan shall identify the various types of emergency that could affect the proposed project (e.g., dam failure, earthquake, flooding, etc.) and identify procedures for the safe and orderly evacuation of the project. The plan shall require that streets be identified with clear and visible signage and, if necessary, wayfinding signage be provided to identify exit points.

Given the fact that the (1) Villa Park Dam and the Santiago Creek Dam are listed as having "satisfactory" conditions, (2) the project is consistent with applicable General Plan policies related to flood prevention, (3) time durations associated with potential dam failures would

provide sufficient response times and resources to evacuate the project site in the event of a dam failure, and (4) Mitigation Measure HYD-5 would be required to reduce impacts related to flooding, impacts associated with dam failure are properly considered less than significant.

8. Noise

Impact Thresholds:

Threshold NOI-1: Would the project result in exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies.

Threshold NOI-4: Would the project result in a substantial temporary increase in ambient noise levels in the project vicinity?

Description of the Impacts: The project would take up to 12 months to construct. Construction could potentially generate noise that would affect nearby sensitive receptors.

Finding: The City makes Finding 1 that changes or alterations have been required in, or incorporated into the Project which avoid or substantially lessen the significant environmental effect described above and identified in the Final EIR.

Facts in Support of Finding: The highest construction-related noise levels would be generated during ground clearing, excavation, and grading. Noise levels would be up to 90 dBA at a distance of 50 feet. The closest sensitive receptors would be exposed to noise levels of up to 84 dBA intermittently during construction. The City's Noise Ordinance requires construction to be between the hours of 7:00 AM and 8:00 PM Monday through Saturday; construction is prohibited on Sundays and federal holidays. Nonetheless, impacts related to construction noise are potentially significant and Mitigation Measure NOI-1a would be required.

With incorporation of MM NOI-1a, short term construction noise impacts would be less than significant.

Traffic noise levels were analyzed for five intersections near the site. In year 2022, noise from traffic at nearby sensitive receptors would be 0.1 dBA CNEL. No sensitive receptors would be exposed to the City's residential or school noise standard of 65 dBA CNEL. In 2040, noise levels at sensitive receptors would range up to 0.1 dBA CNEL. No analyzed sensitive receptors would be exposed to noise in excess of 65 dBA CNEL.

For the majority of future residents, traffic noise levels would attenuate to below 60 dBA CNEL and therefore, interior noise levels would be reduced below the interior residential living space standard of 45 dBA CNEL. For homes closer than 164 feet from the centerline of East Santiago Canyon Road, interior noise standards could exceed 45 dBA. Noise levels from off-site stationary equipment would not exceed the City's standard of 55 dBA Leq and 70 dBA Lmax between 7:00 AM and 10:00 PM or exceed 50 dBA Leq or 65 dBA Lmax between 10:00 PM and 7:00 AM at the exterior façade of nearby sensitive receptors.

Likewise, noise levels from community center activities would not exceed City standards and noise levels from parking lot activities would not exceed City standards.

MM NOI-1a To reduce potential construction noise impacts, the following multi-part mitigation measure shall be implemented for the proposed project:

- The construction contractor shall ensure that all equipment driven by internal combustion engines shall be equipped with mufflers, which are in good condition and appropriate for the equipment.
- The construction contractor shall locate stationary noise-generating equipment as far as possible from sensitive receptors when sensitive receptors adjoin or are near a construction project area. In addition, the project contractor shall place such stationary construction equipment so that emitted noise is directed away from sensitive receptors nearest the project site.
- The construction contractor shall ensure that unnecessary idling of internal combustion engines (i.e., idling in excess of 5 minutes) is prohibited.
- The construction contractor shall utilize “quiet” models of air compressors and other stationary noise sources where technology exists.
- The construction contractor shall, to the maximum extent practical, locate on-site equipment staging areas to maximize the distance between construction-related noise sources and noise-sensitive receptors nearest the project site during all project construction.
- The construction contractor shall ensure that the construction staging areas shall be located to create the greatest feasible distance between the staging area and noise-sensitive receptors nearest the project site.
- The construction contractor shall designate a noise disturbance coordinator who would be responsible for responding to any local complaints about construction noise. The disturbance coordinator would determine the cause of the noise complaints (starting too early, bad muffler, etc.) and establishment reasonable measures necessary to correct the problem. The construction contractor shall visibly post a telephone number for the disturbance coordinator at the construction site.
- All on-site construction activities, including deliveries and engine warm-up, shall be restricted to the hours between 7:00 a.m. and 8:00 p.m. Monday through Saturday. Construction, except emergency work, shall not be permitted on Sunday or federal holidays.

MM NOI-1b: To reduce potential future on-site exterior traffic noise impacts at on-site receptors adjacent to East Santiago Canyon Road, the following multi-part mitigation measure shall be implemented for the proposed project:

- Based on SoundPlan model runs, a 6-foot high noise barrier, relative to the receptor elevation, is required to comply with the City's exterior noise standard for proposed residential uses located adjacent to Santiago Canyon Road. The calculated noise contours are shown in Exhibit 3.12-7. In order to meet the City's exterior noise standard for community uses, a 4-foot high berm would be required along Santiago Canyon Road; or
- A minimum setback distance of 164 feet from the centerline of East Santiago Canyon Road shall be incorporated into the design feature. The first row of residential uses constructed 164 feet from the centerline will also have front yards facing East Santiago Canyon Road.

MM NOI-1c: To reduce potential future on-site interior traffic noise impacts at on-site receptors adjacent to East Santiago Canyon Road, the following multi-part mitigation measure shall be implemented for the proposed project:

- All proposed residential units located within 560 feet of the centerline of East Santiago Canyon Road shall include an alternate form of ventilation, such as an air conditioning system, in order to ensure that windows can remain closed for a prolonged period of time. The building plans approved by the County shall reflect this requirement.
- All second story habitable rooms of proposed residential units located within 164 feet of the centerline of East Santiago Canyon Road shall include STC 30 rated windows in facades that would be parallel and perpendicular to East Santiago Canyon Road; or
- Upon completion of the architectural plans, a detailed acoustical study shall be prepared by a qualified noise analyst that analyzes the interior noise levels of the proposed residential units and provides design features to reduce the interior noise levels to within the 45 dBA CNEL standard.

With implementation of mitigation, impacts would be less than significant.

9. Public Services

Impact Threshold

Threshold PS-1: Would the project result in a need for new or expanded fire protection facilities?

Description of the Impacts: The project would add 393 new residents to the City's population. The project would cause a substantial increase in calls for service compared to the existing use of the site.

Finding: The City makes Finding 1 that changes or alterations have been required in, or incorporated into the Project which avoid or substantially lessen the significant environmental effect described above and identified in the Final EIR

Facts in Support of Finding: The project would generate approximately 393 new residents in the City. The closest fire station is 1.75 miles from the project site. The response time would be approximately 4 minutes, 12 seconds, compared to the average response time of 3 minutes, 45 seconds. The project would take vehicular access from E. Santiago Canyon Road via a driveway aligned with Nicky Way. Mitigation measure HAZ-5 requires the Applicant to demonstrate compliance with all Fire Code emergency access requirements prior to issuance of building permits. Mitigation measure HAZ-6 would require the applicant to prepare a Fuel Modification Plan and submit it to the City to review and approval prior to issuance of building permits. With implementation of mitigation, impacts would be less than significant. The project would not directly create a need to construct new or expanded fire protection or emergency medical service facilities.

D. ENVIRONMENTAL IMPACTS DETERMINED TO BE SIGNIFICANT AND UNAVOIDABLE AFTER MITIGATION

1. Air Quality

Impact Thresholds

Threshold AIR-1: Would the project conflict with or obstruct implementation of the applicable air quality plan?

Threshold AIR-2: Would the project violate any air quality standard or contribute substantially to an existing or projected air quality violation?

Threshold AIR-3: Would the project result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or State ambient air quality standard?

Description of the Impact: The project would have a significant impact on air quality under CEQA.

Finding: The City makes a finding that changes or alterations have been required in, or incorporated into the Project which avoid or substantially lessen the significant environmental effect described above and identified in the Final EIR. However, the City has determined that while the above-described impacts can be partially mitigated by the mitigation measures described below, these impacts cannot be mitigated to a less than significant level. There are no other feasible mitigation measures or alternatives that would reduce this impact to an acceptable level. Therefore, the City hereby also makes a finding

which will require the adoption of a Statement of Overriding Considerations as a condition for Project approval.

Facts in Support of Finding: There are two key indicators for whether or not a project conflicts with, or obstructs implementation of an applicable air quality plan: (1) whether the project will not result in an increase in the frequency or severity of existing air quality violations or cause or contribute to new violations, or delay timely attainment of air quality standards or the interim emission reductions specified in the AQMP; and (2) According to Chapter 12 of the *SCAQMD CEQA Air Quality Handbook*, the purpose of the General Plan consistency findings is to determine whether a project is inconsistent with the growth assumptions incorporated into the air quality plan, and thus, whether it would interfere with the region's ability to comply with federal and California air quality standards.

According to SCAQMD, the project is consistent with the AQMP if the project would not result in an increase in the frequency or severity of existing air quality violations or cause or contribute to new violations, or delay timely attainment of air quality standards. Construction related activities associated with the project would result in emissions of NOx that exceed SCAQMD's thresholds. Therefore, construction would result in potentially significant impacts. The project would not exceed thresholds for any other criteria pollutant (VOC, CO, Sox, or particulate matter).

According to Chapter 12 of the *SCAQMD CEQA Air Quality Handbook*, the purpose of the General Plan consistency finding is to determine whether a project is inconsistent with the growth assumptions incorporated into the air quality plan and thus, whether it would interfere with the region's ability to comply with federal and California air quality standards.

The City of Orange designates the project site "Low Density Residential," "Resource Area" and "Open Space." The City of Orange Zoning Ordinance zones the project site "S-G (Sand and Gravel Extraction)" and "R-1-8 (Single-Family Residential 8,000 square-feet)."

The proposed project involves the development of up to 128 dwelling units on approximately 40.7 acres within the area designated "Resource Area" and the preservation of the remaining 68.5 acres (which overlap with the "Resource Area" and "Low Density Residential" designations) as open space and recreation uses. Accordingly, the applicant is proposing to change the "Resource Area" designation to a combination of "Low Density Residential," and "Open Space," and the "Low Density Residential" designation to "Open Space."

The development of the Air Quality Management Plan (AQMP) is based in part on the land use general plan determinations of the various cities and counties that constitute the SoCAB. A project that is consistent with the general plan is considered to be accounted for in the AQMP. Since the proposed project entitlements would include a General Plan Amendment that would amend both the East Orange General Plan and Orange Park Acres Plan to incorporate the Trails at Santiago Creek Specific Plan, the proposed project would not be consistent with the growth assumptions within the current AQMP. The project would be potentially significant regarding growth assumptions within the current AQMP.

The proposed project would comply with all applicable rules and regulations of the AQMP. Because of the nature of the proposed project, which includes earthmoving activity, SCAQMD Rule 403 applies. Rule 403 governs emissions of fugitive dust during construction and operation activities. The rule requires that fugitive dust be controlled with best available control measures so that the presence of such dust does not remain visible in the atmosphere beyond the property line of the emission source. In addition, SCAQMD Rule 403 requires implementation of dust suppression techniques to prevent fugitive dust from creating a nuisance off-site. Compliance with this rule is achieved through application of standard Best Management Practices (BMPs). These BMPs include application of water or chemical stabilizers to disturbed soils; covering haul vehicles; restricting vehicle speeds on unpaved roads to 15 miles per hour; sweeping loose dirt from paved site access roadways; cessation of construction activity when winds exceed 25 miles per hour; and establishing a permanent ground cover on finished sites. The project's compliance with SCAQMD Rule 403 would result in consistency with the applicable AQMP control measures. As such, emissions from fugitive dust during construction would be reduced to less than significant levels.

Because emissions of NO_x would exceed thresholds, Mitigation Measure AIR-1a through AIR-1g would be required to reduce construction emissions.

MM AIR-1a During construction, all equipment shall be maintained in good operating condition so as to reduce emissions. The construction contractor shall ensure that all construction equipment is properly serviced and maintained in accordance with the manufacturer's specifications. Maintenance records shall be available at the construction site for City verification.

MM AIR-1b All paints and coatings shall meet or exceed performance standards noted in SCAQMD Rule 1113. To ensure compliance with SCAQMD Rule 1113, the following volatile organic compound (VOC) control measures shall be implemented during architectural coating activities:

- a) Use paints with a VOC content of no more than 50 grams per liter for both interior and exterior coatings.
- b) Keep lids closed on all paint containers when not in use to prevent VOC emissions and excessive odors.
- c) Use compliant low VOC cleaning solvents to clean paint application equipment.
- d) Keep all paint and solvent laden rags in sealed containers to prevent VOC emissions.

MM AIR-1c Prior to the issuance of grading permits for the project, the project applicant shall include a dust control plan as part of the construction contract standard specifications. The dust control plan shall include measures to meet the requirements of SCAQMD Rules 402 and 403. Such basic measures may include but are not limited to the following:

- a) All haul trucks shall be covered prior to leaving the site to prevent dust from impacting the surrounding areas.
- b) Moisten soil each day prior to commencing grading to depth of soil cut.
- c) Water exposed surfaces at least three times a day under calm conditions, and as often as needed on windy days or during very dry weather in order to maintain a surface crust and minimize the release of visible emissions from the construction site.
- d) Treat any area that will be exposed for extended periods with a soil conditioner to stabilize soil or temporarily plant with vegetation.
- e) Use street sweepers that comply with SCAQMD Rules 1186 and 1186.1.
- f) All contractors shall turn off all construction equipment and delivery vehicles when not in use, or limit on-site idling to no more than 5 minutes in any one hour.
- g) On-site electrical hook ups to a power grid shall be provided for electric construction tools including saws, drills, and compressors, where feasible, to reduce the need for diesel powered electric generators.
- h) Traffic speeds on all unpaved roads to be reduced to 15 miles per hour or less.
- i) Sweep streets at the end of the day if visible soil is carried onto adjacent public paved roads.

MM AIR-1d Prior to and during grading activities, the project applicant shall comply with South Coast Air Quality Management District Rule 403 as follows:

- The applicant shall submit a fully executed Large Operation Notification (Form 403 N) to the SCQAMD Executive Officer within 7 days of qualifying as a large operation. The form shall include the name(s), address(es), and phone number(s) of the person(s) responsible for the submittal, and a description of the operation(s), including a map depicting the location of the site.
- Maintain daily records to document the specific dust control actions taken, maintain such records for a period of not less than three years; and make such records available to the Executive Officer upon request

- Install and maintain project signage with project contact signage that meets the minimum standards of the Rule 403 Implementation Handbook, prior to initiating any earthmoving activities
- Identify a dust control supervisor that (1) is employed by or contracted with the property owner or developer; (2) is on the site or available on-site within 30 minutes during working hours; (3) has the authority to expeditiously employ sufficient dust mitigation measures to ensure compliance with all Rule requirements; (4) has completed the AQMD Fugitive Dust Control Class and has been issued a valid Certificate of Completion for the class; and (5) will notify the Executive Officer in writing within 30 days after the site no longer qualifies as a large operation.

MM AIR-1e Prior to and during grading activities, the project applicant shall implement the following dust control measures for large operations, as applicable, pursuant to South Coast Air Quality Management District Rule 403:

Earth Moving (except construction cutting and filling areas, and mining operations)

- 1a. Maintain soil moisture content at a minimum of 12 percent, as determined by ASTM method D-2216, or other equivalent method approved by the Executive Officer, the California Air Resources Board, and the U.S. EPA. Two soil moisture evaluations must be conducted during the first three hours of active operations during a calendar day, and two such evaluations each subsequent four-hour period of active operations; or
- 1a-1. For any earth-moving which is more than 100 feet from all property lines, conduct watering as necessary to prevent visible dust emissions from exceeding 100 feet in length in any direction.

Earth Moving-Construction Fill Areas

- 1b. Maintain soil moisture content at a minimum of 12 percent, as determined by ASTM method D-2216, or other equivalent method approved by the Executive Officer, the California Air Resources Board, and the U.S. EPA. For areas which have an optimum moisture content for compaction of less than 12 percent, as determined by ASTM Method 1557 or other equivalent method approved by the Executive Officer and the California Air Resources Board and the U.S. EPA, complete the compaction process as expeditiously as possible after achieving at least 70 percent of the optimum soil moisture content. Two soil moisture evaluations must be conducted during the first three hours of active operations during

a calendar day, and two such evaluations during each subsequent four-hour period of active operations.

Earth Moving—Construction Cut Areas and Mining Operations

- 1c. Conduct watering as necessary to prevent visible emissions from extending more than 100 feet beyond the active cut or mining area unless the area is inaccessible to watering vehicles due to slope conditions or other safety factors.

Disturbed Surface Areas—Completed Grading Areas

- 2a/b. Apply dust suppression in sufficient quantity and frequency to maintain a stabilized surface. Any areas which cannot be stabilized, as evidenced by wind driven fugitive dust must have an application of water at least twice per day to at least 80 percent of the unstabilized area.
- 2c. Apply chemical stabilizers within five working days of grading completion; OR
- 2d. Take actions (3a) or (3c) specified for inactive disturbed surface areas.

Inactive Disturbed Surface Areas

- 3a. Apply water to at least 80 percent of all inactive disturbed surface areas on a daily basis when there is evidence of wind driven fugitive dust, excluding any areas which are inaccessible to watering vehicles due to excessive slope or other safety conditions; or
- 3b. Apply dust suppressants in sufficient quantity and frequency to maintain a stabilized surface; or
- 3c. Establish a vegetative ground cover within 21 days after active operations have ceased. Ground cover must be of sufficient density to expose less than 30 percent of unstabilized ground within 90 days of planting, and at all times thereafter; OR
- 3d. Utilize any combination of control actions (3a), (3b), and (3c) such that, in total, these actions apply to all inactive disturbed surface areas.

Unpaved Roads

- 4a. Water all roads used for any vehicular traffic at least once per every two hours of active operations [3 times per normal 8-hour work day]; or

- 4b. Water all roads used for any vehicular traffic once daily and restrict vehicle speeds to 15 miles per hour; or
- 4c. Apply a chemical stabilizer to all unpaved road surfaces in sufficient quantity and frequency to maintain a stabilized surface.

Open Storage Piles

- 5a. Apply chemical stabilizers; or
- 5b. Apply water to at least 80 percent of the surface area of all open storage piles on a daily basis when there is evidence of wind driven fugitive dust; or
- 5c. Install temporary coverings; or
- 5d. Install a three-sided enclosure with walls with no more than 50 percent porosity which extend, at a minimum, to the top of the pile. This option may only be used at aggregate-related plants or at cement manufacturing facilities.

All Categories

- 6a. Any other control measures approved by the Executive Officer and the U.S. EPA as equivalent to the methods specified in this mitigation measure may be used.

MM AIR-1f Prior to and during grading activities, the project applicant shall implement the following contingency control measures for large operations, as applicable, pursuant to South Coast Air Quality Management District Rule 403:

Earth Moving

- 1A. Cease all active operations; or
- 2A. Apply water to soil not more than 15 minutes prior to moving such soil.
- 0B. On the last day of active operations prior to a weekend, holiday, or any other period when active operations will not occur for not more than four consecutive days: apply water with a mixture of chemical stabilizer diluted to not less than 1/20 of the concentration required to maintain a stabilized surface for a period of six months; OR
- 1B. Apply chemical stabilizers prior to wind event; or

- 2B. Apply water to all unstabilized disturbed areas 3 times per day. If there is any evidence of wind driven fugitive dust, watering frequency is increased to a minimum of four times per day; or
- 3B. Establish a vegetative ground cover within 21 days after active operations have ceased. Ground cover must be of sufficient density to expose less than 30 percent of unstabilized ground within 90 days of planting, and at all times thereafter; or
- 4B. Utilize any combination of control actions (1B), (2B), and (3B) such that, in total, these actions apply to all disturbed surface areas.

Unpaved Roads

- 1C. Apply chemical stabilizers prior to wind event; or
- 2C. Apply water twice per hour during active operation; or
- 3C. Stop all vehicular traffic.

Open Storage Piles

- 1D. Apply water twice per hour; or
- 2D. Install temporary coverings.

Paved Road Track Out

- 1E. Cover all haul vehicles; or
- 2E. Comply with the vehicle freeboard requirements of Section 23114 of the California Vehicle Code for both public and private roads.

All Categories

- 1F. Any other control measures approved by the Executive Officer and the U.S. EPA as equivalent to the methods specified in this mitigation measure may be used.

MM AIR-1g During construction activities, all off-road equipment with engines greater than 50 horsepower shall meet either EPA or ARB Tier IV Final off-road emission standards. The construction contractor shall maintain records concerning its efforts to comply with this requirement, including equipment lists. Off-road equipment descriptions and information may include but are not limited to equipment type, equipment manufacturer, equipment identification number, engine model year, engine certification (Tier rating), horsepower, and engine serial number.

If engines that comply with Tier IV Final off-road emission standards are not commercially available, then the construction contractor shall use the next cleanest piece of off-road equipment (e.g., Tier IV Interim) available. For purposes of this mitigation measure, "commercially available" shall mean the availability of Tier IV Final engines taking into consideration factors such as (i) critical-path timing of construction; and (ii) geographic proximity to the project site of equipment. The contractor can maintain records for equipment that is not commercially available by providing letters from at least two rental companies for each piece of off-road equipment where the Tier IV Final engine is not available.

With implementation of mitigation, construction emissions would continue to exceed SCAQMD's regional significance thresholds. There are no additional feasible mitigation measures available to reduce emissions. The project's regional emissions of NOx would continue to exceed applicable SCAQMD regional construction significance thresholds after implementation of mitigation. Construction would generate a maximum of 199.47 pounds of NOx per day after implementation of mitigation. This exceeds the threshold of 100 pounds per day. Impacts are significant and unavoidable and require a statement of overriding consideration.

The project's construction-related emissions would exceed the applicable SCAQMD significance threshold for NOX with implementation of all feasible mitigation measures. The thresholds of significance represent the allowable amount of emissions each project can generate without generating a cumulatively considerable contribution to regional air quality impacts. If an area is in non-attainment for a criteria pollutant, then the background concentration of that pollutant has historically exceeded the ambient air quality standard. It follows that if a project exceeds the regional thresholds for that non-attainment pollutant, then it would result in a cumulatively considerable net increase of that pollutant and result in a significant cumulative impact. As such, cumulative construction impacts (Impact AIR-3) are significant and unavoidable and require a statement of overriding consideration.

The region is non-attainment for the federal and state ozone standards, the state PM10 standards, and the federal and state PM2.5 standards. Therefore, a project that would not exceed the SCAQMD thresholds of significance on a project-level would also not result in a cumulatively considerable contribution to these regional air quality impacts. The impacts from the project would, therefore, be cumulatively less than significant during project operations and significant and unavoidable during project construction.

Operational emissions generated by area, energy, and mobile sources would result in the following emissions:

Category	Mass Daily Emissions (pounds per day)					
	VOC	NO _x	CO	SO _x	PM ₁₀	PM _{2.5}
Area	6.15	0.12	10.66	0.00	0.06	0.06
Energy	0.10	0.84	0.36	0.01	0.07	0.07
Mobile	0.80	3.31	10.98	0.04	3.96	1.08
Total Emissions	7.05	4.27	21.99	0.05	4.08	1.20
SCAQMD Significance Thresholds (lbs/day)	55	55	550	150	150	55
Exceed Threshold?	No	No	No	No	No	No
Notes: VOC = Volatile Organic Compounds NO _x = nitrogen oxides CO = carbon monoxide PM ₁₀ = particulate matter with an aerodynamic resistance diameter of 10 micrometers or less; PM _{2.5} = particulate matter with an aerodynamic resistance diameter of 2.5 micrometers Source: CalEEMod and FCS 2018, see Appendix F—For each source, the maximum emissions between summer and winter are shown.						

As shown in the table, emissions would not exceed thresholds. Therefore, the project's operational emissions would result in less than significant impacts.

2. Transportation and Traffic

Impact Threshold:

Threshold TRANS-2 Would the project conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system under Year 2022 Traffic Conditions?

Description of the Impact: The project would have a significant impact on traffic under CEQA.

Finding: The City makes a finding that changes or alterations have been required in, or incorporated into the Project which avoid or substantially lessen the significant environmental effect described above and identified in the Final EIR. However, the City has determined that while the above-described impact can be partially mitigated by the mitigation measures described below, this impact cannot be mitigated to a less than significant level. There are no other feasible mitigation measures or alternatives that would reduce this impact to an acceptable level. Therefore, the City hereby also makes a finding

which will require the adoption of a Statement of Overriding Considerations as a condition for Project approval.

Facts in Support of Finding: Ten key study area intersections and 17 key roadway segments were analyzed under Year 2022 traffic conditions.

Intersection Year 2022 With Project Traffic Conditions

Year 2022 With Project Traffic Conditions (Without Sand and Gravel Credit)

Review of Columns (3) and (4) of Table 3.16-16 in the Final EIR indicates that traffic associated with the proposed project “Without Sand and Gravel Credit” will significantly impact one of the 10 key study intersections, when compared to the LOS standards and significant impact criteria specified in the TIA. Although the intersections of Cannon Street/Serrano Avenue and Cannon Street/Taft Avenue are forecast to operate at unacceptable LOS E or LOS F during the AM and/or PM peak-hours with the addition of project traffic, the proposed project “Without Sand and Gravel Credit” is expected to add less than 0.010 to the ICU value. The remaining seven key study intersections and the proposed project driveway are forecast to continue to operate at an acceptable LOS with the addition of project generated traffic in the Year 2022 “Without Sand and Gravel Credit.” The location significantly impacted by the proposed project in the Year 2022 is as shown in Row 5 of Table 3.16-16 of the Final EIR. As shown in Column (5), the implementation of improvements at the impacted key study intersections completely offsets the impact of project traffic “Without Sand and Gravel Credit” and the key study intersection is forecast to operate at an acceptable LOS during the AM and PM peak-hours. *Appendix C and D* presents the Year 2022 With Project ICU/LOS calculations for the 10 key study intersections and the proposed project driveway “Without Sand and Gravel Credit.”

Year 2022 With Project Traffic Conditions (With Sand and Gravel Credit)

Review of Columns (3) and (4) of Table 3.16-17 of the Final EIR indicates that traffic associated with the proposed project “With Sand and Gravel Credit” will significantly impact one of the 10 key study intersections, when compared to the LOS standards and significant impact criteria specified in the TIA. Although the intersections of Cannon Street/Serrano Avenue and Cannon Street/Taft Avenue are forecast to operate at unacceptable LOS E or LOS F during the AM and/or PM peak-hours with the addition of project traffic, the proposed project “With Sand and Gravel Credit” is expected to add less than 0.010 to the ICU value. The remaining seven key study intersections and the proposed project driveway are forecast to continue to operate at an acceptable LOS with the addition of project generated traffic in the Year 2022 “With Sand and Gravel Credit.” The location significantly impacted by the proposed project in the Year 2022 is as shown in Row 5 of Table 3.16-17.

As shown in Column (5), the implementation of improvements at the impacted key study intersections completely offsets the impact of project traffic “With Sand and Gravel Credit” and the key study intersection is forecast to operate at an acceptable LOS during the AM

and PM peak-hours. *Appendix C and D* presents the Year 2022 With Project ICU/LOS calculations for the 10 key study intersections and the proposed project driveway “With Sand and Gravel Credit.”

Roadway Segments Year 2022 Without Project Traffic Conditions

Year 2022 Without Project Traffic Conditions (Without Sand and Gravel Credit)

An analysis of future (Year 2022) cumulative traffic conditions “Without Sand and Gravel Credit” indicates that with the addition of ambient traffic growth and cumulative project traffic, two of the 17 key roadway segments are forecast to operate at unacceptable levels of service. Roadway Segment B (Cannon Street between Serrano Avenue and Taft Avenue) and Roadway Segment C (Cannon Street between Taft Avenue and East Santiago Canyon Road) are forecast to operate at unacceptable LOS E and/or LOS F on a daily basis in the Year 2022. The remaining 15 key roadway segments are forecast to continue to operate at acceptable levels of service on a daily basis with the addition of ambient traffic growth and cumulative project traffic “Without Sand and Gravel Credit.”

Year 2022 Without Project Traffic Conditions (With Sand and Gravel Credit)

An analysis of future (Year 2022) cumulative traffic conditions “With Sand and Gravel Credit” indicates that with the addition of ambient traffic growth and cumulative project traffic, two of the 17 key roadway segments are forecast to operate at unacceptable levels of service. Roadway Segment B (Cannon Street between Serrano Avenue and Taft Avenue) and Roadway Segment C (Cannon Street between Taft Avenue and East Santiago Canyon Road) are forecast to operate at unacceptable LOS E and/or LOS F on a daily basis in the Year 2022. The remaining 15 key roadway segments are forecast to continue to operate at acceptable levels of service on a daily basis with the addition of ambient traffic growth and cumulative project traffic “With Sand and Gravel Credit.”

Year 2022 With Project Traffic Conditions

Year 2022 With Project Traffic Conditions (Without Sand and Gravel Credit)

Review of Column (5) of Table 3.16-18 indicates that traffic associated with the proposed project “Without Sand and Gravel Credit” **will not** significantly impact any of the 17 key roadway segments, when compared to the LOS standards and significant impact criteria specified in the TIA. Although Roadway Segment B (Cannon Street between Serrano Avenue and Taft Avenue) is forecast to operate at unacceptable LOS F on a daily basis in the Year 2022 without project traffic, the level of service for this key roadway segment improves to LOS E with the proposed project “Without Sand and Gravel Credit” (with inclusion of the project-specific improvements). Although Roadway Segment C (Cannon Street between Taft Avenue and East Santiago Canyon Road) is forecast to operate at unacceptable LOS E on a daily basis in the Year 2022 without project traffic, this key roadway segment is forecast to operate at acceptable LOS C with the proposed project “Without Sand and Gravel Credit” (with inclusion of the project-specific improvements). The remaining 15 key roadway segments are forecast to continue to operate at an

acceptable service level on a daily basis with the addition of project generated traffic in the Year 2022 traffic condition “Without Sand and Gravel Credit.”

Year 2022 With Project Traffic Conditions (With Sand and Gravel Credit)

Review of Column (5) of Table 3.16-19 indicates that traffic associated with the proposed project “With Sand and Gravel Credit” **will not** significantly impact any of the 17 key roadway segments, when compared to the LOS standards and significant impact criteria specified in the TIA. Although Roadway Segment B (Cannon Street between Serrano Avenue and Taft Avenue) is forecast to operate at unacceptable LOS F on a daily basis in the Year 2022 without project traffic, the level of service for this key roadway segment improves to LOS E with the proposed project “With Sand and Gravel Credit” (with inclusion of the project-specific improvements). Although Roadway Segment C (Cannon Street between Taft Avenue and East Santiago Canyon Road) is forecast to operate at unacceptable LOS E on a daily basis in the Year 2022 without project traffic, this key roadway segment is forecast to operate at acceptable LOS C with the proposed project “With Sand and Gravel Credit” (with inclusion of the project-specific improvements). The remaining 15 key roadway segments are forecast to continue to operate at an acceptable service level on a daily basis with the addition of project generated traffic in the Year 2022 traffic condition “With Sand and Gravel Credit.”

As discussed above, the project would result in an impact at Orange Park Boulevard/East Santiago Canyon Road. To mitigate the proposed project’s impacts at Orange Park Boulevard/East Santiago Canyon Road, Mitigation Measure TRANS-2 would require improvements to each intersection. The improvements are depicted in Exhibit 3.16-21. Because the project contributes to pre-existing deficient conditions, it is only required to mitigate for its fair share of the impact. The fair share calculations are summarized in Table 3.16-20.

Key Intersection	Impact ed Time Period	(1) Projec t Only Volum e	(2) Existi ng Volum e	(3) Year 2022 With Project Volume	(4) Project Fair Share Responsibi lity
Orange Park Boulevard at East Santiago Canyon Road (Without Sand and Gravel Credit)	AM PM	— 68	— 3,436	— 3,810	— 18.2 percent
Orange Park Boulevard at East Santiago Canyon Road (With Sand and Gravel Credit)	AM PM	— 51	— 3,447	— 3,805	— 14.2 percent
Notes: Net Project Percent Increase (4) = Column (1)/[Column (3)–Column (2)] Bold Project Fair Share Responsibility is based on worst-case scenario. Source: Linscott, Law & Greenspan, Engineers, 2017.					

MM TRANS-2: Prior to issuance of building permits, the project Applicant shall provide the City of Orange with fair share fees to restripe the northbound approach of Orange Park Boulevard at East Santiago Canyon Road to provide one exclusive left-turn lane and one shared left-turn/right-turn lane. The Applicant's fair share responsibility for these improvements is 18.2 percent.

Despite the fair share contribution provided through Mitigation Measure TRANS-2 mitigating the proposed project's impacts at Orange Park Boulevard/East Santiago Canyon Road, impacts would be significant and unavoidable as the Orange Park Boulevard/East Santiago Canyon Road intersection is not listed in the City of Orange MPAH, or any similar plans. There are no other feasible mitigation measures that would reduce the project's impacts to a less than significant level.

VII. FINDINGS REGARDING IRREVERSIBLE AND IRRETRIEVABLE COMMITMENT OF RESOURCES

Implementation of the proposed Project would require the commitment of building materials such as lumber and other forest products, sand and gravel, photochemical construction materials, steel, copper, lead, and water for construction of the proposed 40 residential home development. Given the level of building materials necessary to sustain ongoing regional development, the commitment of such materials to the proposed Project is insignificant by comparison.

There would be an irretrievable commitment of energy resources such as gasoline and diesel fuel for the operation of construction equipment. Because these types of resources are available in sufficient quantities in this region and the proposed Project encompasses a very limited scope, these impacts would be temporary and are not considered significant. In addition, up to 90 percent of the demolished material would be reused on site, resulting in a significant reduction in fuel consumption that would otherwise be required for hauling large volumes of import material from offsite locations to the site and required for hauling large volumes of export material to an offsite recycling facility or landfill. In addition, multiple green building strategies would be implemented in order to reduce the amount resources committed. The project would be required to comply with Title 24 of the California Building Standards Code, which is referred to as the California Green Building Standards Code.

Based on, (1) the relatively small-scale of the Project and (2) the Project's obligation to meet current energy efficiency standards and requirements, the change in energy consumption resulting from Project implementation would be considered less than significant.

In addition, the proposed Project would not significantly alter the consumption of and/or demand for non-renewable resources over that anticipated by the City of Orange General Plan. Although Project implementation would result in an increased demand for some non-renewable resources, the demands are consistent with the long-range plans for the City of Orange. Demand and consumption of non-renewable resources would be within the limits

anticipated for residential development in the long-term. The proposed development of the Project site would not result in any adverse impacts related to the commitment of resources in the immediate or distant future.

VIII. FINDINGS REGARDING GROWTH INDUCING IMPACTS

The following four criteria were considered with regard to the Project's potential growth-inducing impacts:

- *Would the proposed Project result in the removal of an impediment to growth such as the establishment of an essential public service or the provision of new access to an area?*
- *Would the proposed Project result in economic expansion or growth such as changes in the revenue base or employment expansion?*
- *Would the proposed Project result in the establishment of a precedent setting action such as an innovation, a radical change in zoning or a General Plan amendment approval?*
- *Would the proposed Project result in development or encroachment in an isolated or adjacent area of open space, as opposed to an infill type of project in an area that is already largely developed?*

The analysis of growth-inducing impacts concludes that based on the four criteria analyzed in the EIR, the proposed Project would not result in any potentially significant growth-inducing impacts. Implementation of the proposed Project would be consistent with the City of Orange General Plan and Zoning Ordinance, thus meeting the long-range plans adopted by the City of Orange. Further, the proposed uses (i.e., single-family residential and open space) are not characterized by features that attract or facilitate new, unanticipated development that would ordinarily be considered growth-inducing. Conventionally, growth inducement is measured by the potential of a project or a project's secondary effects (i.e. provision of new infrastructure which supports housing or creation of jobs) to facilitate development of housing. Further, all of the infrastructure that exists in the Project area can provide an adequate level of service, including sewer and water; storm drainage improvements would be made as part of the Project. Circulation or other infrastructure improvements are not required as a result of project implementation.

Project implementation would not result in any significant direct or indirect additional residential development that would generate unanticipated new residents or employment that would be an "attractor" of residents to the area that are not already anticipated. The site is not located in an isolated area that is constrained by the absence of infrastructure where the provision of infrastructure would promote further development. None of the accepted standards that distinguish growth-inducing projects characterize the proposed Project; therefore, no significant growth-inducing impacts are anticipated as a result of project implementation.

IX. FINDINGS REGARDING CUMULATIVE IMPACTS

Cumulative impacts analysis requires consideration of the impacts of other projects in an area, in conjunction with the proposed Project, to assess the potential for significant cumulative impacts. For this EIR, the potential environmental effects of the proposed Project were considered in conjunction with the potential environmental effects of buildout anticipated for the project area. The project's cumulative impacts were considered in conjunction with other proposed and approved projects in the City, which are listed in Table 4-1 in the EIR.

Agriculture Resources and Forest Resources

There are no agricultural or forestry resources within the project site or on surrounding land uses. This condition precludes the possibility of the proposed project contributing to a cumulative impact in this regard. No impacts would occur.

Air Quality

The geographic scope of the cumulative greenhouse gas emissions analysis is the South Coast Air Basin, which encompasses Orange County, Los Angeles County (excluding the Antelope Valley), Ventura County, Riverside County (excluding the Coachella Valley and the desert region) and San Bernardino County (excluding the desert region). Air quality is impacted by topography, dominant air flows, atmospheric inversions, location, and season; therefore, using the Air Basin represents the area most likely to be impacted by air emissions.

All of the projects listed in Table 4-1 would result in new air emissions, during construction or operations (or both). The air basin is currently in non-attainment of the federal standards for ozone, PM10 and PM2.5, and is in nonattainment of the state standards for ozone and PM2.5. Therefore, there is an existing cumulatively significant air quality impact with respect to these pollutants.

The proposed project would emit construction and operational criteria pollutant emissions at levels that would exceed the South Coast Air Quality Management District (SCAQMD) thresholds. Mitigation is proposed requiring the implementation of criteria pollutant emissions (i.e., ozone precursors) reduction measures and would serve to reduce construction and operational emissions to below SCAQMD thresholds. Thus, the proposed project would not have a cumulatively considerable contribution to criterial pollutant emissions.

As discussed in Section 3.3, Air Quality, cumulative cancer, non-cancer chronic and acute health impacts, and PM2.5 concentrations were evaluated at the most impacted off-site sensitive receptor from all sources of toxic air contaminant (TAC) emissions located within 1,000 feet of the project site. The project's individual contribution to cancer risk for all phases is below the SCAQMD's 10 in a million threshold for individual project impacts; therefore, the project would not result in a cumulatively considerable contribution to the existing, cumulatively significant TAC cancer risk.

All other project-related air quality impacts were found to be less than significant and did not require mitigation. Other projects that result in similar impacts would be required to mitigate for their impacts. Because the proposed project can mitigate all of these remaining air quality impacts to a level of less than significant, it would not have a related cumulatively significant impact with respect to these impact areas.

Biological Resources

The geographic scope of the cumulative biological resources analysis is the region surrounding the project site. The project site is located in an area characterized by urban development and infrastructure; accordingly, habitats in these areas tend to be characterized as highly disturbed, and impacts would be localized. Recent development patterns and anticipated future growth in the Orange region is considered an existing cumulatively significant impact to biological resources due to the loss of potential habitat for rare species.

The proposed project has the potential to have a significant impact on the least Bell's vireo and nesting birds. Mitigation Measures BIO-2a through BIO-2d are proposed requiring pre-construction surveys for these species and implementation of protection measures if they are found to be present. Some of the other projects listed in Table 4-1 are located on sites with similar biological attributes and, therefore, would be required to mitigate for impacts on special-status wildlife species in a manner similar to the proposed project. The required mitigation would reduce the project's contribution to any significant cumulative impact on special-status wildlife species to less than cumulatively considerable.

The proposed project has the potential to have a significant impact on sensitive riparian communities and wetlands. Mitigation Measures BIO-3 and BIO-4 are proposed requiring restoration or replacement of disturbed features. Some of the other projects listed in Table 4-1 are located on sites with similar biological attributes and, therefore, would be required to mitigate for impacts on sensitive riparian communities and wetlands. The required mitigation would reduce the project's contribution to any significant cumulative impact on sensitive riparian communities and wetlands to less than cumulatively considerable.

All other project-related biological resource impacts (e.g., wildlife movement, conservation plans) were found to be less than significant and did not require mitigation. Other projects that result in similar impacts would be required to mitigate for their impacts. Because the proposed project's impact on all of these remaining biological resources is less than significant, it would not have a cumulatively considerable contribution to any existing significant cumulative impact.

Cultural Resources

The geographic scope of the cumulative cultural resources analysis is the project vicinity. Cultural resource impacts tend to be localized because the integrity of any given resource depends on what occurs only in the immediate vicinity around that resource, such as disruption of soils; therefore, in addition to the project site itself, the area near the project

site would be the area most affected by project activities (generally within a 500-foot radius).

Construction activities associated with development projects in the project vicinity may have the potential to encounter undiscovered cultural resources. These projects would be required to mitigate for impacts through compliance with applicable federal and state laws governing cultural resources. Even if a significant cumulative impact could be found, the proposed project would not make a cumulatively considerable impact with required mitigation. The likelihood of any significant cultural resources on the project site are very low given the developed nature of the site, previous disruptions to its ground and the lack of any known resource within its boundaries. Although there is the possibility that previously undiscovered resources could be encountered by subsurface earthwork activities, the implementation of standard construction mitigation measures would ensure that undiscovered cultural resources are not adversely affected by project-related construction activities, which would prevent the destruction or degradation of potentially significant cultural resources in the project vicinity. Given the low potential for disruption, and the comprehensiveness of mitigation measures that would apply to this project and those in the vicinity, the proposed project would not make a cumulatively considerable contribution to any potentially significant cumulative impact on cultural resources.

Therefore, the proposed project, in conjunction with other planned and approved projects, would not have a cumulatively significant impact related to cultural resources.

Geology and Soils

The geographic scope of the cumulative geology, soils, and seismicity analysis is the project vicinity. Adverse effects associated with geologic, soil, and seismic hazards tend to be localized, and the area near the project site would be the area most affected by project activities (generally within a 0.25-mile radius). Development in the project vicinity has not included any uses or activities which would result in geology, soils or seismicity impacts (such as mining or other extraction activities), and there is no existing cumulatively significant impact.

Development projects in the project vicinity may have the potential to be exposed to seismic hazards. However, there is a less than significant potential of the projects in combination to expose people or structure to substantial adverse effects, including the risk of loss, injury, or death in the event of a major earthquake; fault rupture; ground shaking; seismic-related ground failure; landslide; or liquefaction. Some or all of the other projects listed in Table 4-1 would be exposed to similar seismic hazards and, therefore, would be expected to implement similar regulatory requirements and mitigation measures. As such, the proposed project, in conjunction with other projects, would not have a cumulatively significant impact associated with seismic hazards.

Regarding soil erosion, development activities could lead to increased erosion rates on-site soils, which could cause unstable ground surfaces and increased sedimentation in nearby streams and drainage channels. Mitigation Measure HYD-1a requires implementation of standard stormwater pollution prevention measures to ensure that earthwork activities do

not result in substantial erosion off-site. This mitigation, in turn, would have to comply with the National Pollution Discharge Elimination System (NPDES) stormwater permitting program, which regulates water quality originating from construction sites. The NPDES program, which governs projects statewide (and nationwide), requires the preparation and implementation of Stormwater Pollution Prevention Programs for construction activities that disturb more than 1 acre, and the implementation of Best Management Practices that ensure the reduction of pollutants during stormwater discharges, as well as compliance with all applicable water quality requirements. Since the proposed project would have to comply with federal and state regulations and required mitigation measures that are designed to minimize impacts to projects on a wide geographic scale, the project's contribution to any significant cumulative erosion impact would be less than cumulatively considerable.

Finally, the project site contains fill soils that that may not be suitable to support urban development. Standard grading and soil engineering practices would abate these issues. Some or all of the other projects listed in Table 4-1 would be exposed to expansive soil hazards or unstable geologic units and, therefore, would be expected to implement similar grading and soil engineering practices to address those impacts. The proposed project would not contribute to any significant cumulative impact due to expansive soils or unstable soil units.

Therefore, the proposed project, in conjunction with other planned and approved projects, would not have a cumulatively significant impact related to geology, soils, and seismicity, assuming compliance with regulatory requirements.

Greenhouse Gas Emissions

The geographic scope of the cumulative greenhouse gas emissions analysis is the South Coast Air Basin, which encompasses Orange County, Los Angeles County (excluding the Antelope Valley), Ventura County, Riverside County (excluding the Coachella Valley and the desert region) and San Bernardino County (excluding the desert region). Air quality is impacted by topography, dominant air flows, atmospheric inversions, location, and season; therefore, using the Air Basin represents the area most likely to be impacted by air emissions.

Greenhouse gas emissions are inherently cumulative in nature, and the appropriate scope of analysis is the global climate. The proposed project and other projects would emit new greenhouse gas emissions. The proposed project's greenhouse gas emissions would not exceed the SCAQMD threshold of 3,500 metric tons of carbon dioxide equivalents after implementation of mitigation measures and project design features. Therefore, the project's contribution of greenhouse gas emissions would not be cumulatively significant.

Hazards and Hazardous Materials

The geographic scope of the cumulative hazards and hazardous materials analysis is the project area. Adverse effects of hazards and hazardous materials tend to be localized; therefore, the area near the project area would be most affected by project activities.

Hazards and hazardous materials are extensively regulated at the federal, state and local levels. There are no land uses in the project vicinity that are known to utilize large quantities of hazardous materials or involve hazardous activities, and there is no existing cumulatively significant impact.

The project site is adjacent to the closed Villa Park Landfill and previously supported uses that involved regular petroleum usage. Thus, the proposed would implement mitigation for vapor intrusion and remediation of petroleum-impacted soils. Other projects listed in Table 4-1 that have become contaminated from past uses or possess characteristics that involve the routine handling of large quantities of hazardous materials, would be required to mitigate for their impacts. Because hazards and hazardous materials exposure is generally localized and development activities associated with the other projects listed in Table 4-1 may not coincide with the proposed project, this effectively precludes the possibility of cumulative exposure.

The project site is adjacent to Santiago Oaks Regional Park and contains the wooded Santiago Creek Corridor. Thus, it is susceptible to wildland fires and would need to provide adequate emergency access. The proposed project would be required to prepare and implement a fuel modification plan and comply with all applicable Fire Code requirements for emergency access. Other projects listed in Table 4-1 that are susceptible to wildland fires would be required to implement similar mitigation. Because wildland fire exposure is dependent on location and development activities associated with the other projects listed in Table 4-1 may not occur in areas susceptible to such hazards, this effectively precludes the possibility of cumulative exposure.

Because the proposed project's impact due to hazards and hazardous materials is less than significant, it would not have a cumulatively considerable contribution to any significant cumulative impact.

Hydrology and Water Quality

The geographic scope of the cumulative hydrology and water quality analysis is the project vicinity, generally areas within 0.5 mile of the project site for stormwater impacts due to natural drainage patterns, drainage infrastructure, and impervious surfaces, which all contribute to limit the distance of stormwater flows. Hydrologic and water quality impacts tend to be localized; therefore, the area near the project site would be most affected by project activities. The nature and types of surrounding development, existing stormwater infrastructure and regulatory requirements have ensured that no cumulatively significant impacts related to water pollutants or flooding exist within the project vicinity.

The proposed project would involve short-term construction and long-term operational activities that would have the potential to degrade water quality in downstream water bodies. Mitigation Measures HYD-1a and HYD-1b are proposed that would require implementation of various construction and operational water quality control measures to prevent the release of pollutants into downstream waterways. Other projects that propose new development are required to implement similar mitigation measures in accordance

with adopted regulations. The required mitigation would reduce the project's contribution to any significant cumulative water quality impact to less than cumulatively considerable.

The project site is within the dam failure inundation area of Villa Park Dam and Santiago Dam. Mitigation Measure HYD-5 is proposed requiring the applicant to implement an Emergency Evacuation Plan that identifies procedures for an orderly evacuation of the project in the event indications of failure occur at either facility. Other projects that are within the dam failure inundation area would be required to comply with applicable emergency evacuation regulations. The required mitigation would reduce the project's contribution to any significant cumulative dam failure impact to less than cumulatively considerable.

All other project-related hydrology impacts (e.g., groundwater, drainage and 100-year flood hazards) were found to be less than significant and do not require mitigation. Because all project-related hydrology impacts are less than significant, the project would not have a cumulatively considerable contribution to any significant cumulative impact for these impacts.

Land Use and Planning

The geographic scope of the cumulative land use analysis is the Orange area. Land use decisions are made at the city level; therefore, the Orange area is an appropriate geographic scope. Development within Orange is governed by the City's General Plan and the Municipal Code, which ensure logical and orderly development and require discretionary review to ensure that projects do not result in land use impacts due to inconsistency with the General Plan and other regulations. As a result, there is no existing cumulatively significant land use impact.

The project site is currently designated for LDR, RA, and OS by the General Plan and zoned S-G and R-1-8. The proposed project involves the development of up to 128 dwelling units on 40.7 acres within the area designated RA and the preservation of the remaining 68.5 acres (which overlap with the RA and LDR designations) as open space and recreation uses. Accordingly, the applicant is proposing to change the RA designation to a combination of LDR and OS; and the LDR designation to OS. Thus, the proposed land use changes would serve to relocate the residential use and replace the resource use with open space use, which was found to be a less than significant impact.

Development projects in the Orange area would continue to be required to demonstrate consistency with all applicable City of Orange General Plan and Municipal Code requirements. This would ensure that these projects comply with applicable planning regulations. Those projects listed in Table 4-1 that have been previously approved have been deemed consistent with all applicable General Plan and Specific Plan requirements. For pending projects, the lead agency would be required to issue findings demonstrating consistency with the applicable General Plan and Municipal Code requirements if they are ultimately approved.

Therefore, the proposed project, in conjunction with other planned and approved projects, would not have a cumulatively significant impact related to land use.

Mineral Resources

The geographic scope of the cumulative mineral resource analysis is Orange County-Temescal Valley Region, which encompasses Orange County and western Riverside County. This region was defined by the California State Mining and Geology Board for the purposes of identifying mineral resource zones.

The Orange County-Temescal Valley Region was identified by the California Geological Survey as having only an 11 to 20 year supply of aggregate left in 2012. Thus, there is an existing cumulative impact in terms of regional availability of aggregate resources.

The project site was surfaced mined for aggregate between 1919 and 1995. Following the cessation of mining activities, mined areas of the site have been backfilled, which effectively precludes the resumption of aggregate mining operations. Furthermore, the Geotechnical Investigation prepared for the project site indicates that it has been mined of economic aggregate deposits and the remaining deposits that are of potential economic value are infeasible to mine, due to limited volume of the localized deposits, expense of removing the overburden (pond deposits), and difficulty associated with excavation logistics. Thus, resuming aggregate mining operations on the project site would not be economically feasible and the resource is effectively depleted. Accordingly, the conversion of the project site to residential and open space/recreational use would not cumulatively contribute to the loss of mineral resources of value to the State or region because the site has been depleted of all economically recoverable aggregate materials.

Noise

The geographic scope of the cumulative noise analysis is the project vicinity, including surrounding sensitive receptors. Noise impacts tend to be localized; therefore, the analysis in Section 3.12, Noise includes a cumulative analysis of existing, proposed, and anticipated future noise levels near the project site. Outdoor noise measurements taken at the project site indicate that the average ambient noise levels are within the “normally acceptable” or “conditionally acceptable” range for all land uses. Therefore, there is no existing cumulatively significant noise impact in the project vicinity.

The proposed project’s construction noise levels may cause a temporary substantial increase in noise levels at nearby receptors. Mitigation is included that would require implementation of construction noise attenuation measures to reduce noise levels; however, construction noise levels may exceed adopted standards at certain nearby receptors and, therefore, is considered a significant unavoidable impact. Other projects listed in Table 4-1 would be required to implement similar mitigation and adhere to Municipal Code restrictions regarding construction noise. It is highly unlikely that a substantial number of the cumulative projects would be constructed simultaneously and close enough to one another for noise impacts to be compounded, given that the projects are at widely varying stages of approval and development. Therefore, it is reasonable to

conclude that construction noise from the proposed project would not combine with noise from other development projects to cause cumulatively significant noise impacts.

The proposed project's construction and operational vibration levels would not exceed annoyance thresholds, and impacts would be less than significant. Because vibration is a highly localized phenomenon, there would be no possibility for vibration associated with the project to combine with vibration from other projects because of their distances from the project site. Therefore, the proposed project would not contribute to a cumulatively significant vibration impact.

The proposed project's contribution to vehicular noise levels would not exceed the applicable thresholds of significance, which take into account existing noise levels as well as noise from trips associated with other planned or approved projects. Thus, the proposed project would not combine with other projects to cause a cumulatively considerable increase in ambient roadway noise.

Other projects listed in Table 4-1 would be required to evaluate noise and vibration impacts and implement mitigation, if necessary, to minimize noise impacts pursuant to local regulations. Therefore, the proposed project, in conjunction with other planned and approved projects, would not have a cumulatively significant impact related to noise.

Population and Housing

The geographic scope of the cumulative population and housing analysis is the City of Orange. Population growth is typically measured in relation to the size of the applicable jurisdiction and, thus, the City of Orange is appropriate geographical area. No existing cumulatively significant impacts have been identified for this topic.

The proposed project would develop 128 dwelling units, which would add 393 persons to the City of Orange's population, which represents an increase of 0.3 percent relative to the City's population of 141,420. The project site is currently designated for residential use by the City of Orange General Plan and Orange Zoning Ordinance and, thus, is contemplated to support population growth. Growth inducement impacts were found to be less than significant. Other development projects in the City of Orange would be reviewed for impacts on population growth and would be required to address any potential impacts with mitigation. Therefore, the proposed project, in conjunction with other future projects, would not have a cumulatively significant impact related to growth inducement.

Public Services

The geographic scope of the cumulative public services analysis is the service area of each of the providers serving the proposed project. Because of differences in the nature of the public service and utility topical areas, they are discussed separately. No existing cumulatively significant impacts have been identified for any of these areas, as all service providers are able to achieve the requisite level of service, capacity or response times.

Fire Protection and Emergency Medical Services

The geographic scope of the cumulative fire protection and emergency medical services analysis is the Orange Fire Department's service area, which consists of the Orange city limits.

The proposed project would develop 128 dwelling units on 40.7 acres of the project site and preserve the remaining acreage as open space. The proposed project is estimated to add 393 new residents to the City's population. The project site is located within 1.75 miles of the nearest fire station and is within an acceptable response time for fire protection. As such, the proposed project would not create a need for new or expanded fire protection facilities and would not result in a physical impact on the environment.

The project site is adjacent to Santiago Oaks Regional Park and contains the wooded Santiago Creek Corridor. Thus, it is susceptible to wildland fires and would need to provide adequate emergency access. The proposed project would be required to prepare and implement a fuel modification plan and comply with all applicable Fire Code requirements for emergency access. Other projects listed in Table 4-1 that are susceptible to wildland fires would be required to implement similar mitigation. Because wildland fire exposure is dependent on location and development activities associated with the other projects listed in Table 4-1 may not occur in areas susceptible to such hazards, this effectively precludes the possibility of cumulative exposure.

Other development projects in the Fire Department's service area would be reviewed for impacts on fire protection and emergency medical services and would be required to address any potential impacts with mitigation. According to the Fire Department, existing facilities are sufficient to serve the proposed project in conjunction with existing and cumulative projects. Therefore, the proposed project, in conjunction with other future projects, would not have a cumulatively significant impact related to fire protection and emergency medical services.

Police Protection

The geographic scope of the cumulative police protection analysis is the service area of the Orange Police Department, which consist of the Orange city limits.

The proposed project would develop 128 dwelling units on 40.7 acres of the project site and preserve the remaining acreage as open space. The proposed project is estimated to add 363 new residents to the City's population. The Police Department indicated that it could serve the proposed project without needing new or expanded police protection facilities. Other development projects within the Police Department service area would be reviewed for impacts on police protection and would be required to address any potential impacts with mitigation. According to the Police Department, existing facilities are sufficient to serve the proposed project in conjunction with existing and cumulative projects. Therefore, the proposed project, in conjunction with other future projects, would not have a cumulatively significant impact related to police protection.

Schools

The geographic scope of the cumulative school analysis is the Orange Unified School District (OUSD), which encompasses the City of Orange, and all or portions of Anaheim, Garden Grove, Santa Ana, and Villa Park.

The proposed project would develop 128 dwelling units on 40.7 acres of the project site and preserve the remaining acreage as open space. The proposed project is estimated to add 64 new students to OUSD. The proposed project would pay development fees to OUSD to fund capital improvements to school facilities. Other development projects within OUSD would be reviewed for impacts on schools and would be required to pay development fees. Therefore, the proposed project, in conjunction with other future projects, would not have a cumulatively significant impact related to schools.

Parks

The geographic scope of the cumulative park analysis is the Orange city limits. Within the city limits are neighborhood parks, community parks, regional parks, trails, community gardens, and historic sites.

The proposed project would develop 128 dwelling units on 40.7 acres of the project site and preserve the remaining acreage as open space. The proposed project is estimated to add 393 new residents to the City's population. The proposed project would provide a trail network and passive use areas (open space and greenway). The provision of these facilities would be expected to offset the increased demand for such facilities because project residents would be expected to use the facilities closest to where they live. Other development projects within the city limits would be reviewed for impacts on parks and would be required to dedicate new public facilities or pay development fees. Therefore, the proposed project, in conjunction with other future projects, would not have a cumulatively significant impact related to parks.

Recreation

The geographic scope of the cumulative recreation analysis is the Orange city limits. Within the city limits are neighborhood parks, community parks, regional parks, trails, community gardens, and historic sites.

The proposed project would develop 128 dwelling units on 40.7 acres of the project site and preserve the remaining acreage as open space. The proposed project is estimated to add 393 new residents to the City's population. The proposed project would provide a trail network and passive use areas (open space and greenway). The provision of these facilities would be expected to offset the increased demand for such facilities because project residents would be expected to use the facilities closest to where they live. Other development projects within the city limits would be reviewed for impacts on parks and would be required to dedicate new public facilities or pay development fees. Therefore, the proposed project, in conjunction with other future projects, would not have a cumulatively significant impact related to recreation.

Transportation and Traffic

The geographic scope of the cumulative transportation analysis is the roadway network within the eastern portion of the City of Orange. As discussed in the Transportation Section 3.16 of this EIR, study facilities consist of ten study intersections and 17 roadway segments.

All of the new development projects listed in Table 4-1 would generate new vehicle trips that may trigger or contribute to unacceptable intersection operations and freeway operations. All projects would be required to mitigate for their fair share of impacts. The proposed project would result in 542 net new daily trips, including 34 net new trips during the weekday morning peak hour, and 97 net new trips during the weekday afternoon peak hour. Project-related trips would not cause any facilities operating at deficient levels to significantly deteriorate further under With Trip Credit Existing Traffic Conditions, Existing Plus Project Traffic Conditions, and Cumulative (2040) conditions. Project-related trips would cause one facility operating at deficient levels to significantly deteriorate further under Year 2022 conditions. While the proposed project would have a significant and unavoidable impact due to the facility not being in a City of Orange plan, such as the MPAH, mitigation is proposed that would require the project applicant to contribute to planned improvements at this location that would restore operations to acceptable levels. Therefore, the proposed project, in conjunction with other projects, would not result in a cumulatively significant impact to unacceptable traffic operations.

For other transportation-related areas (roadway safety; emergency access; public transit, bicycles and pedestrians), the proposed project would have potentially significant impacts related to roadway hazards, but after the implementation of mitigation, these impacts would be reduced to a level of less than significant. Other projects that result in similar impacts would be required to mitigate for their impacts. Because the proposed project can mitigate all other transportation impacts to a level of less than significant, it would not have a related cumulatively significant impact with respect to these other topics.

Tribal Cultural Resources

The geographic scope of the cumulative registered historical resources analysis is the project vicinity. Registered historical resource impacts tend to be localized because the integrity of any given resource depends on what occurs only in the immediate vicinity around that resource, such as construction; therefore, in addition to the project site itself, the area near the project site would be the area most affected by project activities (generally within a 500-foot radius).

Construction activities associated with development projects in the project vicinity may have the potential to remove or damage registered historical resources. Given that neither the project site nor any other project site in the vicinity is listed on any national, state, or local registers of historic places (including those for tribal cultural resources), the proposed project would not make a cumulatively considerable contribution to any potentially significant cumulative impact or registered historical resources.

Therefore, the proposed project, in conjunction with other planned and approved projects, would not have a cumulatively significant impact related to registered historical resources.

The geographic scope of the cumulative tribal cultural resources analysis is the project vicinity. Tribal cultural resource impacts tend to be localized because the integrity of any given resource depends on what occurs only in the immediate vicinity around that resource, such as disruption of soils; therefore, in addition to the project site itself, the area near the project site would be the area most affected by project activities (generally within a 500-foot radius).

Construction activities associated with development projects in the project vicinity may have the potential to encounter undiscovered tribal cultural resources. These projects would be required to mitigate for impacts through compliance with applicable federal and state laws governing tribal cultural resources. Even if a significant cumulative impact could be found, the proposed project would not make a cumulatively considerable impact with required compliance. The likelihood of any significant tribal cultural resources on the project site are very low given the developed nature of the site, previous disruptions to its ground, and the lack of any known resource within its boundaries. Although there is the possibility that previously undiscovered resources could be encountered by subsurface earthwork activities, the implementation of standard construction mitigation measures would ensure that undiscovered tribal cultural resources are not adversely affected by project-related construction activities, which would prevent the destruction or degradation of potentially significant tribal cultural resources in the project vicinity. Given the low potential for disruption, and compliance with construction best management practices that would apply to this project and those in the vicinity, the proposed project would not make a cumulatively considerable contribution to any potentially significant cumulative impact on tribal cultural resources.

Therefore, the proposed project, in conjunction with other planned and approved projects, would not have a cumulatively significant impact related to tribal cultural resources.

Utilities and Service Systems

Water

The geographic scope of the cumulative potable water analysis is the City of Orange Water Division service area, which encompasses the Orange city limits and nearby unincorporated areas of Orange County. The City of Orange water service area has 36,347 customer accounts. Water supply impacts are analyzed in Section 3.17, Utilities and Service Systems of this EIR, which concluded that the City of Orange has adequate potable water supplies to serve the proposed project, as well as other existing and future users. Therefore, there is no existing cumulatively significant impact related to potable water supply.

The proposed project is estimated to demand 99.5 acre-feet per year of potable water. The City of Orange 2015 Urban Water Management Plan indicates that potable water supplies were estimated to be 28,000 acre-feet in 2020 and are expected to increase to 29,500 acre-feet in 2040. The City of Orange has two supply sources (groundwater and imported water) and thus does not rely on a single water source. The proposed project's increase in demand would represent less than 1 percent of potable water supplies under all scenarios between

2015 and 2035. Furthermore, the City of Orange 2015 Urban Water Management Plan assumed that 460 dwelling units and open space uses would be developed on the project site and, therefore, accounted for demand from the proposed project in its long-term demand projections.

It should be noted that not all of the projects listed in Table 4-1 are located within the City of Orange water service area. However, for those projects that are located within the City of Orange water service area, the 2015 Urban Water Management Plan anticipates adequate water supplies for all water year scenarios through 2040. These projects also would be required to demonstrate that they would be served with potable water service as a standard requirement of the development review process, and these projects may be required to implement water conservation measures to the extent they are required. Therefore, the proposed project, in conjunction with other planned and approved projects, would not have a cumulatively significant impact related to water supply.

Wastewater

The geographic scope of the cumulative wastewater analysis is the areas tributary to Orange County Sanitation District (OCSd) Plant No. 1 and Plant No. 2. The two plants treat all of the effluent generated within the OCSd service area, which covers 479 square miles of central and northwest Orange County.

All future projects would be required to demonstrate that sewer service is available to ensure that adequate sanitation can be provided. The proposed project is estimated to generate 74,400 gallons of wastewater on a daily basis (0.060 million gallons per day [mgd]). Plant No. 1 and Plant No. 2 have a combined treatment capacity of 366 mgd of primary treatment capacity and 200 mgd of secondary treatment capacity. The increase of 0.060 mgd attributable to the proposed project represents less than 1 percent of available primary or secondary treatment capacity at the two plants and, thus, would not exceed the capacity of either plant. As such, the plants would be expected to accept the proposed project's increase in effluent without needing to expand existing or construct new facilities, as the treatment capacity is sufficient to serve both the project and planned future development in the area. Therefore, the proposed project, in conjunction with other planned and approved projects, would not have a cumulatively significant impact related to wastewater.

Storm Drainage

The geographic scope of the cumulative storm drainage analysis is Santiago Creek, which currently receives runoff from the project site and would continue to do so in the future.

All future development projects in the project vicinity would be required to provide drainage facilities that collect and detain runoff such that off-site releases are controlled and do not create flooding. The proposed project would install a network of storm drainage facilities within the project site consisting of inlets, underground piping, and basins. This system would serve 72.58 acres of the site and direct runoff to a 3-acre on-site stormwater detention basin in the western portion of the site. A flow control structure will be installed

within the detention system to meter the outflow from the site to below predevelopment levels. Catch basins will be located at various points within the site to capture subarea flows. The system is designed to detain flows from a 100-year storm event as required by the Orange County Hydrology Manual. Two sub drainage areas will flow directly to Santiago Creek without detention. One of these areas is approximately 1.46 acres directly over the Handy Creek Channel. This flow will be directed to the Handy Creek Channel. The other area is the trail system adjacent to Santiago Creek and totals 6.20 acres. This flow will be picked up via a storm drain system, which will outlet at the same location as the detention basin outlet. The outlet structure from the detention basin to Santiago Creek will be protected by riprap and an energy dissipater. This would ensure that the proposed project would not contribute to downstream flooding conditions during peak storm events and would avoid cumulatively significant stormwater impacts to downstream waterways at times when capacity is most constrained. The proposed project would also implement pollution prevention measures during construction and operations to ensure that downstream water quality impacts are minimized to the greatest extent possible. Therefore, the proposed project, in conjunction with other planned and approved projects, would not have a cumulatively significant impact related to storm drainage.

Solid Waste

The geographic scope of the cumulative solid waste analysis is the areas served by the Frank Bowerman Sanitary Landfill, Olinda Alpha Sanitary Landfill, and the El Sobrante Landfill. The three landfills have a combined remaining capacity of 384.7 million cubic yards.

Future development projects would generate construction and operational solid waste and, depending on the volumes and end uses, would be required to implement recycling and waste reduction measures. The proposed project is anticipated to generate 1,380 cubic yards of solid waste during construction and a net increase of 142.1 cubic yards annually during operations. Both waste generation values represent less than 1 percent of the remaining capacity figure at the three landfills. As such, sufficient capacity is available to serve the proposed project as well as existing and planned land uses in the City of Orange for the foreseeable future. Accordingly, the proposed project, in conjunction with other future projects, would not have a cumulatively significant impact related to solid waste.

Energy

The geographic scope of the cumulative energy analysis is the Southern California Edison (SCE) service area (electricity) and the Southern California Gas Company service area (natural gas). SCE's electrical service area consists of approximately 50,000 square miles and 5 million metered customers. The Gas Company's natural gas service area encompasses the southern San Joaquin Valley, the Los Angeles Basin, the Inland Empire, and the Coachella Valley, and has approximately 5.9 million metered customers.

The proposed project would demand an estimated 805,632 million kilowatt-hours (kWh) of electricity and 4.5 million cubic-feet of natural gas on an annual basis. The proposed project's structures would be designed in accordance with Title 24, California's Energy

Efficiency Standards for Residential and Nonresidential Buildings. These standards include minimum energy efficiency requirements related to building envelope, mechanical systems (e.g., HVAC and water heating systems), indoor and outdoor lighting, and illuminated signs. The incorporation of the Title 24 standards into the project would ensure that the project would not result in the inefficient, unnecessary, or wasteful consumption of energy. Therefore, the proposed project, in conjunction with other future projects, would not have a cumulatively significant impact related to energy consumption.

X. FINDINGS REGARDING ALTERNATIVES TO THE PROPOSED PROJECT

CEQA requires that an EIR describe a range of reasonable alternatives to the project, or to the location of the project, which could feasibly attain most of the basic objectives of the project and to evaluate the comparative merits of the alternatives. Section 15126(d)(1) of the State CEQA Guidelines states that the “. . . discussion of alternatives shall focus on alternatives to the project or its location which are capable of avoiding or substantially lessening any significant effects of the project, even if these alternatives would impede to some degree the attainment of the project objectives, or would be more costly.”

The proposed Project has been compared to four alternatives, including (1) Development within the Existing Land Use Designations Alternative, (2) No Project Alternative/Existing Land Use Activities Alternative; (3) Collaborative Group Alternative; and (4) 122-Unit Alternative.

The analysis contained within the EIR concludes that the proposed Project would result in long-term project-specific significant unavoidable adverse impacts to air quality and traffic that cannot be mitigated to a less than significant level. The following discussion summarizes the potential environmental consequences and highlights the comparative merits associated with each alternative identified as “potentially feasible” and analyzed in the EIR as well as the “No Project” alternative.

A. ALTERNATIVES

1. Development within the Existing Land Use Designations

Overview: CEQA Guidelines Section 15126.6(e) requires that an EIR evaluate a “No Project Alternative,” which is intended to allow decision-makers to compare the impacts of approving the proposed project with the impacts of not approving the proposed project. In cases where the project constitutes a land development project, the No Project Alternative is the “circumstance under which the project does not proceed.” For many projects, the No Project Alternative represents a “No Development” or an “Existing Conditions” scenario, in which the project site remains in its existing condition and no new development occurs for the foreseeable future. However, CEQA Guidelines Section 15126.6(e)(3)(B) establishes that “If disapproval of the project under consideration would result in predictable actions by others such as the proposal of some other project, this ‘no project’ consequence should be discussed.”

In this case, the No Project Alternative consists of development and land use activities that would occur pursuant to the existing City of Orange General Plan land use designations of low-density residential, resource, and open space for the project site.

Residential uses would be developed on 15.4 acres north of Santiago Creek, with resource land use activities (sand, gravel, and materials recycling) occurring on 77.3 acres on both sides of the waterway. Consistent with the City of Orange General Plan's density range of 2.1 to 6.0 units per acre, there is an allowable range of 32 to 92 residential homes. The existing R-1-8 Zoning for the residential area would yield approximately 40 to 50 single-family dwelling units.² Vehicular access would be taken from two points on Mabury Drive.

Resource land use activities would be located on 77.3 acres on both sides of the waterway. These activities would consist of the continuation of the existing materials recycling and backfilling operation.

The Santiago Creek corridor would be designated for open space (16.5 acres). However, no community or recreational uses would be developed.

Summary of Major Environmental Effects: This alternative would have greater aesthetic, biological resources, cultural resources, geology and soils, and tribal cultural impacts than the project.

The alternative would result in fewer impacts to air quality, GHG, land use and planning, mineral resources, noise, population and housing, public services, recreation, transportation and utilities and service systems. Hazardous materials and hydrology impacts would be similar to the project.

Ability to Achieve Project Objectives: This alternative would advance some, but not all of the project objectives. This alternative would advance the objectives that concern clustering residential development in the most suitable areas of the project site; and promoting land use compatibility with surrounding land uses. However, none of these objectives would be advanced to the same degree as the proposed project because (1) fewer dwelling units would be developed; (2) the resource extraction land use activities would be retained; (3) less open space would be provided; and (4) no public recreational facilities would be provided.

² The Recirculated Draft EIR Alternatives Section erroneously noted that the total number of dwelling units that would be developed under Alternative 1 would be 90 units, 77 units, and 40 units. It also erroneously noted that Alternative 1 would require a General Plan Amendment to remove the project site from the East Orange General Plan and the Orange Park Acres Plan and noted that Alternative 1 would require improvements to East Santiago Canyon Road/Nicky Way. However, the analysis of Alternative 1 was conducted assuming 40-50 single-family residential units would be developed under Alternative 1. No General Plan Amendment would be required. In addition, no improvements to East Santiago Canyon Road/Nicky Way would be required. Therefore, the erroneous statements in the RDEIR have been revised in the Errata Section of the Final EIR to clarify that Alternative 1 would yield 40-50 single-family dwelling units, Alternative 1 would not require a General Plan Amendment, and Alternative 1 would not require improvements to East Santiago Canyon Road/Nicky Way.

Furthermore, this alternative would not advance the objectives that concern facilitating the redevelopment of an unsightly, underused resource extraction site; guiding the transition of an infill site with a Specific Plan; protecting Santiago Creek by abating the remnants of the resource extraction activities; strategically locating the adjoining Villa Park Landfill and the proposed residential uses; and developing a logical internal circulation system for pedestrians, bicyclists, equestrians, and motorists.

Elimination/Reduction of Significant Impacts: This alternative would reduce the project's significant impacts to air quality and traffic.

Comparative Merits: This alternative would not achieve all of the Project objectives, although it would reduce the project's significant impacts. This alternative would have greater environmental impacts in the areas of aesthetics, light, and glare; biological resources; cultural resources; geology and soils; tribal cultural resources; and hydrology and water quality.

Finding: The Development within the Existing Land Use Designations Alternative would reduce the Project's significant and unavoidable impacts to air quality and traffic. However, it would increase the severity of the proposed project's aesthetics, light, and glare; biological resources; cultural resources; geology and soils; tribal cultural resources; and hydrology and water quality. This alternative would also not achieve all of the Project objectives. For these reasons, the City rejects this alternative in favor of the proposed Project.

2. No Project Alternative/Existing Land Use Activities Alternative

Overview: The No Project Alternative/Existing Land Use Activities Alternative consists of the continuation of the existing sand and gravel operations on approximately 77.3 acres of the project site. Approximately 40 acres between Santiago Creek and East Santiago Canyon Road are characterized by soil piles and berms, unpaved roads. An approximately 5-acre area near East Santiago Canyon Road supports a materials recycling operation that includes apparatus for crushing boulders, bricks, rocks, and similar materials for recycling. Since 2015, backfilling operations have been limited to 15 consecutive business days in any 6-month period; this alternative would allow backfilling operations to resume year-round as allowed by the current grading permit. The project site would remain inaccessible to the public under this alternative.

Summary of Major Environmental Effects: The No Project Alternative/Existing Land Use Activities Alternative would increase the severity of the proposed project's aesthetics, light, and glare; biological resources; cultural resources; geology and soils; noise and utilities and service systems impacts. However, it would lessen the severity of the proposed project's air quality, GHGs, hydrology and water quality, mineral resources, population and housing, public services, recreation, and transportation and traffic impacts. This alternative would yield similar impacts for agricultural resources and hazards and hazardous materials.

The No Project Alternative/Existing Land Use Activities Alternative would advance some, but not all, of the project objectives. This alternative would advance the objectives that concern positively contributing to the local economy through ongoing mineral extraction. However, none of the objectives would be advanced to the same degree as the proposed project because (1) no dwelling units would be developed; (2) the resource extraction land use activities would be retained; (3) less open space would be provided; and (4) no public recreational facilities would be provided.

Furthermore, this alternative would not advance the objectives that concern facilitating the redevelopment of an unsightly, underused resource extraction site; guiding the transition of an infill site with a Specific Plan; protecting Santiago Creek by abating the remnants of the resource extraction activities; strategically locating the adjoining Villa Park Landfill and the proposed residential uses; and developing a logical internal circulation system for pedestrians, bicyclists, equestrians, and motorists.

Ability to Achieve Project Objectives: The No Project Alternative/Existing Land Use Activities Alternative would advance some, but not all, of the project objectives. This alternative would advance the objectives that concern positively contributing to the local economy through ongoing mineral extraction. However, none of the objectives would be advanced to the same degree as the proposed project because (1) no dwelling units would be developed; (2) the resource extraction land use activities would be retained; (3) less open space would be provided; and (4) no public recreational facilities would be provided.

Furthermore, this alternative would not advance the objectives that concern facilitating the redevelopment of an unsightly, underused resource extraction site; guiding the transition of an infill site with a Specific Plan; protecting Santiago Creek by abating the remnants of the resource extraction activities; strategically locating the adjoining Villa Park Landfill and the proposed residential uses; and developing a logical internal circulation system for pedestrians, bicyclists, equestrians, and motorists.

Comparative Merits: This alternative would partially achieve the Project objectives, but would increase the severity of the proposed project's aesthetics, light, and glare; biological resources; cultural resources; geology and soils; noise and utilities and service systems impacts. On balance, the merits of this alternative are similar to the project; however, it does not advance all of the project objectives.

Finding: The potential impacts identified for this alternative results in similar environmental effects due to the reduction in the Project's significant and unavoidable impacts. However, this alternative would increase the severity of some impacts and would not satisfy all Project objectives. Therefore, the City Council rejects this alternative in favor of the proposed Project.

3. Collaborative Group Alternative

Overview: The Collaborative Group Alternative was developed in response to meetings between the Applicant representatives and the Collaborative Group, consisting of representatives from Orange Park Acres, Mabury Ranch, and The Reserve.

The Collaborative Group Alternative consists of 47 lots and 47 dwelling units of varying sizes, on approximately 40 acres. The remaining 69.2 acres would be turned into Santiago Greenway Open Space area. Overall, the Collaborative Group Alternative would have 81 fewer dwellings and would develop the residential on approximately 0.7 less acres than the proposed project.

This alternative would not permit all items listed in the preface to the Recirculated Draft EIR, which are a part of the proposed project. These items include the following improvements and related considerations:

1. The Specific Plan and associated project accommodates a maximum number of 128 single-family detached lots located in the southerly portion of the property and will consist of housing types and lot sizes compatible with the surrounding neighborhoods as depicted in the Trails at Santiago Creek Specific Plan, Exhibits 3.1-3.4 and consistent with the development standards and guidelines set forth in the Specific Plan.
2. The implementation of the Specific Plan and associated project will fund up to \$1,000,000.00 for traffic improvements to widen East Santiago Canyon Road and restripe Cannon Road prior to the issuance of the first Certificate of Occupancy of any housing units for the project. Please refer to the Trails at Santiago Creek Specific Plan, Exhibit 4.1, Areas of Traffic Congestion—Pre-Project, Exhibit 4.2, Area of Project Related Traffic Improvements, and Exhibit 4.3, Additional Project Related Traffic Improvements, and Section 4.2.3, Circulation Plan.
3. The implementation of the Specific Plan and associated project will fund approximately up to a maximum of \$4,100,000.00 in landscape and other improvements for the Santiago Creek Greenway. Said Improvements are to be completed or funded prior to the issuance of the 60th Certificate of Occupancy for the Project. Please refer to the Trails at Santiago Creek Specific Plan, Section 4.2.4, Trails, Open Space and Recreation Plan, and Exhibit 4.14, Preliminary Greenway, Open Space and Trails Plan.
4. The implementation of the Specific Plan and associated project will fund \$1,000,000.00 to be used for in local area-wide equestrian trail purposes prior to the issuance of the first Certificate of Occupancy for the project.
5. The implementation of the Specific Plan and associated project will finance and fund the City's acquisition of the Ridgeline Property, which will provide the community an additional 50 acres of public open space to the

issuance of the first Certificate of Occupancy for the Project. Please refer to the Trails at Santiago Creek Specific Plan, Exhibit 4.4, Sully Miller, Arena and Ridgeline Properties.

6. The implementation of the Specific Plan and associated project will provide \$2,000,000.00 for equestrian and recreational purposes in the East Orange Area as determined by the City prior to the issuance of the first Certificate of Occupancy for the project.

This alternative would require the same discretionary permits as the proposed project.

Summary of Major Environmental Effects: The Collaborative Group Alternative would lessen the severity of the proposed project's air quality, GHG, population and housing, noise, public services, recreation, transportation, and utilities and service systems impacts. This alternative would yield similar impacts for all other topics.

The Collaborative Group Alternative would advance some, but not all of the project objectives. This alternative would advance the objectives that concern clustering residential development in the most suitable areas of the project site; and promoting land use compatibility with surrounding land uses.

This alternative would not advance the objectives that concern guiding the transition of an infill site with a Specific Plan; developing a logical internal circulation system for pedestrians, bicyclists, equestrians, and motorists; and would not include the Development Agreement benefits to the community.

Ability to Achieve Project Objectives: The Collaborative Group Alternative would advance some, but not all of the project objectives. This alternative would advance the objectives that concern clustering residential development in the most suitable areas of the project site; and promoting land use compatibility with surrounding land uses.

This alternative would not advance the objectives that concern guiding the transition of an infill site with a Specific Plan; developing a logical internal circulation system for pedestrians, bicyclists, equestrians, and motorists; and would not include the Development Agreement benefits to the community.

Comparative Merits: This alternative would partially achieve the Project objectives, but would not achieve all of the project objectives. On balance, the merits of this alternative are incrementally lower than the project; however, it does not advance all of the project objectives.

Finding: The potential impacts identified for this alternative results in slightly reduced environmental effects due to the reduction in the Project's significant and unavoidable impacts. However, this alternative would not satisfy all Project objectives. Therefore, the City Council rejects this alternative in favor of the proposed Project.

4. 122-Unit Alternative

Overview: The 122-Unit Alternative was developed in response to a series of meetings between the Applicant representatives and the Collaborative Group, consisting of representatives from Orange Park Acres, Mabury Ranch, and The Reserve.

The 122-Unit Alternative consists of 122 lots with an average lot size of 11,200-square-feet on 40.9 acres of the project site. The remaining 68.3 acres of the project site would be turned into 68.3 acres of open space consisting of 40.2 acres of Greenway Open Space, and 28.1 acres of Grasslands Open Space. This alternative differs from the proposed project in that it would develop ten 0.5-acre equestrian lots on the eastern border of the residential envelope and twenty-four 10,000-square-foot lots adjacent to East Santiago Canyon Road. Moreover, in response to input, the Applicant representatives received during meetings with the Collaborative Group, this alternative proposes larger lot sizes adjacent to The Preserve and portions of Orange Park Acres.

Overall, the 122-Unit Alternative would have six less dwellings than the proposed project, but would develop, approximately, an additional 0.2 acres of the project site for residential, reducing open space by approximately 0.2 acres in comparison to the proposed project.

Additionally, this alternative would have \$1,000,000 less in local trail improvements from the Development Agreement.

This alternative would require the same discretionary permits as the proposed project.

Summary of Major Environmental Effects: The 122-Unit Alternative would yield similar impacts to the proposed project for all topics, and fewer impacts for Air Quality and GHG impacts.

Ability to Achieve Project Objectives: The 122-Unit Alternative would advance all of the project objectives, similar to the proposed project. This alternative would advance the objectives that concern guiding the transition of an infill site with a Specific Plan; developing a logical internal circulation system for pedestrians, bicyclists, equestrians, and motorists; clustering residential development in the most suitable areas of the project site; and promoting land use compatibility with surrounding land uses. However, this alternative would have \$1,000,000 less in community benefits from the Development Agreement.

Comparative Merits: This alternative would achieve the Project objectives. However, this alternative would have \$1,000,000 less in community benefits from the Development Agreement.

Finding: The potential impacts identified for this alternative results in \$1,000,000 less in community benefits from the Development Agreement. Therefore, the City Council rejects this alternative in favor of the proposed Project.

**ATTACHMENT B
TO THE CITY COUNCIL
RESOLUTION OF APPROVAL ADOPTING
FINDINGS PURSUANT TO THE
CALIFORNIA ENVIRONMENTAL
QUALITY ACT**

**STATEMENT OF OVERRIDING
CONSIDERATIONS**

Trails at Santiago Project

**STATEMENT OF OVERRIDING CONSIDERATIONS FOR
THE TRAILS AT SANTIAGO CREEK PROJECT
ORANGE, CA**

I. Introduction

The City of Orange is the Lead Agency under the California Environmental Quality Act (CEQA) for preparation, review and certification of the revised final Environmental Impact Report (EIR) for the Trails at Santiago Creek Project ("Project"). As the Lead Agency, the City is also responsible for determining the potential environmental impacts of the proposed action and which of those impacts are significant, and which can be mitigated through imposition of mitigation measures to avoid or minimize those impacts to a level of less than significant. CEQA then requires the Lead Agency to balance the benefits of a proposed action against its significant unavoidable adverse environmental impacts in determining whether or not to approve the proposed project.

If the lead agency determines that the Project will result in significant, unmitigable impacts, CEQA Guidelines Section 15093 requires the following:

- a) CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits of a proposed project against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered "acceptable."
- b) When the lead agency approves a project which will result in the occurrence of significant effects which are identified in the final EIR but are not avoided or substantially lessened, the agency shall state in writing the specific reasons to support its action based on the final EIR and/or other information in the record. The statement of overriding considerations shall be supported by substantial evidence in the record.
- c) If an agency makes a statement of overriding considerations, the statement should be included in the record of the project approval and should be mentioned in the notice of determination. This statement does not substitute for, and shall be in addition to, findings required pursuant to Section 15091.

Public Resources Code Section 21081(b) requires that where a public agency finds that specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in an EIR and thereby leave significant unavoidable effects, the public agency must also find that overriding economic, legal, social, technological, or other benefits of the project outweigh the significant effects of the project.

Pursuant to Public Resources Code Section 21081(b) and the State CEQA Guidelines Section 15093, the City has balanced the benefits of the proposed Project against the

following unavoidable adverse impacts associated with the proposed Project and has adopted all feasible mitigation measures with respect to these impacts. The City also has examined alternatives to the proposed Project, none of which both meet the Project objectives and is environmentally preferable to the proposed Project for the reasons discussed in the Findings of Fact.

The Orange City Council, acting as Lead Agency, and having reviewed the Final EIR for the Trails at Santiago Creek Project, and reviewed all written materials within the City's public record and heard all oral testimony presented at public hearings, adopts this Statement of Overriding Considerations, which has balanced the benefits of the Project against its significant unavoidable adverse environmental impacts in reaching its decision to approve the Project.

II. Significant Unavoidable Adverse Environmental Impacts

Although most potential Project impacts have been substantially avoided or mitigated, as described in the Findings of Fact, complete mitigation is not feasible for Air Quality and Transportation and Traffic impacts. The City finds that the following impacts would have a significant impact under CEQA that cannot be reduced to a level of less than significant, despite implementation of design features and mitigation measures.

AIR-1: The project may conflict with or obstruct implementation of the applicable air quality plan.

AIR-2: The project may violate any air quality standard or contribute substantially to an existing or projected air quality violation.

AIR-3: The project may result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or State ambient air quality standard.

TRANS-2: The project may conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system under Year 2022 Traffic Conditions.

III. Overriding Considerations

The City, after balancing the specific economic, legal, social, technological, and other benefits of the proposed Trails at Santiago Creek Project, has determined that the unavoidable adverse environmental impact identified above may be considered acceptable due to the following specific considerations that outweigh the unavoidable, adverse environmental impact of the proposed Project, each of which standing alone is sufficient to support approval of the Project, in accordance with CEQA Section 21081(b) and CEQA Guideline Section 15093.

1. The Project provides 128 single-family housing units in the City of Orange which will assist the City in meeting its fair-share housing allocation imposed by the Southern California Association of Governments. The Project will locate

residential units on the southern portion of the site, thereby preserving the majority of the site for open space, recreation, and greenway uses.

2. The Project provides approximately 68.5 acres of open space and recreation, including open space improvements, which will increase recreational opportunities in the City. On the Property, 12.6 acres that are currently zoned low density residential will be rezoned to open space as part of the Project. The Project will enhance and protect the Santiago Creek corridor and will provide a network of interconnected trails that provide access to Santiago Creek and Santiago Oaks Regional Park. Trails will be preserved and will be open to the public. The Development Agreement specifies that the Applicant will contribute \$4.1 million to construct greenway improvements for Santiago Creek, \$1 million for trail improvements in East Orange, and \$2 million for equestrian and recreational purposes.
3. The Project, pursuant to the Development Agreement, provides funding for the community's acquisition of the Ridgeline property, which will provide the community with an additional approximately 50 acres of open space.
4. The Project is consistent with the goals and policies of the City's General Plan, the Orange Park Acres Plan, and the East Orange Plan.
5. Project implementation would eliminate the sand and gravel operation on the property and abate potentially hazardous soil conditions on the Property.
6. Project implementation would provide a circulation system that minimizes adverse effects on local residential neighborhoods. Project implementation would improve local circulation by widening East Santiago Canyon Road and restriping Cannon Road.
7. Project implementation would generate revenue to the City of Orange as a result of property taxes and related fees from the proposed residential development. The revenue could be used by the City to provide public services and facilities, including fire and police protection and other amenities and services available to the residents of the City. Project implementation would result in school impact fees to the City to fund capital improvements to school facilities. Further, Project implementation will provide the City with fair share fees to restripe the northbound approach of Orange Park Boulevard at East Santiago Canyon Road to provide one exclusive left-turn lane and one shared left-turn/right-turn lane.
8. Project implementation would slow, reduce, and meter the volume of runoff leaving the site.

ATTACHMENT C

OTHER PROJECT RELATED CONDITIONS

Trails at Santiago Project

1. The applicant agrees to indemnify, hold harmless, and defend the City, its officers, agents and employees from any and all liability or claims that may be brought against the City arising out of its approval of this permit, save and except that caused by the City's active negligence. The City shall promptly notify the applicant of any such claim, action, or proceedings and shall cooperate fully in the defense.
2. The applicant shall comply with all federal, state, and local laws, including all City regulations. Violation of any of those laws in connection with the use may be cause for revocation of this permit.
3. Within two days of final approval of this project, the applicant shall deliver to the Planning Division a cashier's check payable to the Orange County Clerk in an amount required to fulfill the fee requirements of Fish and Game Code Section 711.4(d) (2) and the County administrative fee, to enable the City to file the Notice of Determination required under Public Resources Code 21152 14 Cal. Code Regulations 15075. If it is determined that there will be no impact upon wildlife resources, the fee shall be as required based on the current fee schedule.
4. Within two days of final approval of this project, the applicant shall submit a \$3,000.00 deposit to the Planning Division for the Mitigation Monitoring and Reporting Program. Time spent by City staff to complete the project will be charged to the applicant. When more than 50% of the deposit has been credited toward hourly services provided, the applicant will be billed directly for actual time spent on the project. At the completion of the project, a final accounting of deposit posted and amounts charged toward the project will be calculated and any charges due to the City or refunds due to the applicant will be processed.
5. The project approval includes certain fees and/or other exactions. Pursuant to Government Code Section 66020, these conditions or requirements constitute written notice of the fees and/or exactions. The applicant is hereby notified that the ninety (90) day protest period commencing from the date of approval of the project has begun. If the applicant fails to file a protest regarding these conditions or requirements, the applicant is legally barred from later challenging such exactions per Government Code Section 66020.
6. Prior to issuance of building permits for each parcel, the applicant shall pay all applicable development fees, including but not limited to: City sewer connection, Orange County Sanitation District Connection Fee, Transportation System Improvement Program, Fire Facility, Police Facility, Park Acquisition, Sanitation District, and School District, as required.
7. Building permits shall be obtained for all construction work, as required by the City of Orange, Community Development Department's Building Division. Failure to obtain the required building permits may be cause for revocation of this entitlement.
8. All construction activities shall conform to the City's Noise Ordinance, OMC Section 8.24, and shall be limited to the hours between 7:00 a.m. and 8:00 p.m. Monday through Saturday. No construction activity will be permitted on Sundays and Federal holidays.

9. Prior to the issuance of any regulatory permits, the developer shall submit for review and approval a habitat mitigation and monitoring plan or ongoing maintenance plan for the open space areas associated with the long term stewardship of the Greenway Open Space, Santiago Creek, the Grassland, and trails to the City of Orange, Orange County Parks, the Department of Fish and Wildlife, and any other regulatory agency having jurisdiction over the affected open space area.
10. Prior to development plan submittal and approval, the developer shall coordinate with the Irvine Ranch Water District's Planning and Technical Services Division to develop a technical memorandum or Sub-Area Master Plan Addendum for the project.
11. Prior to development plan submittal and approval, the developer shall coordinate with the Metropolitan Water District to avoid potential conflicts with the Metropolitan Water District's rights-of-way by following Metropolitan Water District established requirements, including the submittal of design plans for any activity in the area of the Metropolitan Water District's pipelines or facilities.
12. Prior to issuance of any regulatory permits, the developer shall submit for review and approval signal modifications and lane configuration improvements to the City of Orange. In the case of Orange Park Boulevard and Santiago Canyon Road (project impacted intersection #5), the applicant shall also submit signal modifications and lane configuration improvements for review and approval to the County of Orange. The County of Orange will participate in the review and approval process of any mitigation design.
13. Prior to the approval of a tentative tract map, the applicant shall enter into a Pre-Development Memorandum of Understanding with the City of Orange, County of Orange, or any other agency/organization for the long term stewardship of the of the Greenway Open Space, Santiago Creek, the Grassland, and trails. The Pre-Development Memorandum of Understanding shall include, but not be limited to provisions for design requirements and standards, long-term maintenance, habitat protection, and establishment of an endowment or other funding mechanism for the management and maintenance of such facilities in perpetuity.
14. Prior to the issuance of grading permits, the developer shall submit to County of Orange Public Works and County of Orange Flood Control for review and comment on the adequacy/inadequacy of existing facilities to accept storm water and urban runoff flows to Santiago Creek.
15. All project Mitigation Measures shall be complied with and implemented as stated in the Mitigation Monitoring and Reporting Program.
16. Traffic control for any street closure, detour, or other disruption to traffic circulation.

17. Identify the routes that construction vehicles will utilize for the delivery of construction materials to access the site, traffic controls and detours, and proposed construction-phasing plan for the project. A targeted average of 75% of truck traffic related to hauling construction materials and the soils remediation, based upon the current project estimates in the RDEIR, will be prohibited from travelling westbound on Santiago Canyon Road/Villa Park Road through the City of Villa Park and City of Orange. At no time will the average truck traffic vary more than 10% above or below the target of 75%. The Developer will assist in monitoring usage by providing the City of Villa Park and City of Orange a log of actual truck hauling traffic on a quarterly basis.
18. Cooperate with the City of Villa Park related to monitoring and repair of construction-related wear and tear on Santiago Canyon Road/Villa Park Road caused by any direct damage resulting from the Projects construction activity.
19. Require the Applicant to keep all haul routes clean and free of debris, including but not limited to gravel and dirt as a result of its operations. The Applicant shall clean adjacent streets, as directed by the City Engineer (or representative of the City Engineer), of any material which may have been spilled, tracked, or blown onto adjacent streets or areas.
20. Oversized vehicles hauling or transporting material related to construction and/or soils remediation will be allowed between the hours of 9:00 AM and 4:00 PM only, Monday through Friday, unless approved otherwise by the City Engineer. No hauling or transport will be allowed during nighttime/early morning hours, weekends, or Federal holidays.
21. Use of local residential streets within the surrounding neighborhoods shall be prohibited.
22. All construction-related parking and staging of vehicles will be kept out of the adjacent public roadways and will occur on-site.
23. Providing a crossing guard at the intersection of Villa Park Road and Center Drive during construction periods during the school year.
24. Contributing \$25,000 toward the reconditioning project for the greenbelt adjacent to Wanda Drive and Villa Park Road prior to issuance of the Grading Permit for the Project.



Agenda Item

City Council

Item #: 7.1.

7/13/2021

File #: 21-0237

TO: Honorable Mayor and Members of the City Council

THRU: Rick Otto, City Manager

1. SUBJECT

Orange Plaza Paseo.

2. SUMMARY

On July 1, 2020, the Governor issued an executive order prohibiting restaurants from operating indoor dining spaces to prevent the spread of the COVID-19 virus. In response, at their Special Meeting on July 2, 2020, the City Council directed the closure of the 100 blocks of North and South Glassell Street to create the Orange Plaza Paseo, where restaurants and shops in the Plaza area could provide outdoor dining and shopping to their customers. As the executive order continued through all of 2020 and into 2021, the City Council approved extensions of the Paseo on July 28, 2020, September 8, 2020, and December 8, 2020 until such time that State or local restrictions are lifted or by City Council direction.

On June 15, 2021, the Governor terminated the Stay Home Executive Order and phased out the Blueprint for a Safer Economy to fully reopen the economy. As a result, staff is providing options and seeking City Council direction on the immediate future and long-term strategy of the Paseo.

3. RECOMMENDED ACTION

Provide direction in relation to the closure of the Paseo by August 16, 2021, as well as provide direction related to long-term use of the Paseo for seasonal or permanent use.

4. FISCAL IMPACT

The positive fiscal impact to the restaurants and shops in the Plaza has been significant. The fiscal impact to the City of implementing and operating the temporary closure is approximately \$50,000 per month and an additional cost of \$30,000 for set-up and take down.

5. STRATEGIC PLAN GOALS

Goal 1: Be a fiscally healthy community

D: Effectively manage and develop city assets

6. DISCUSSION AND BACKGROUND

On July 1, 2020 due to the number of positive COVID-19 cases in California, the Governor issued an executive order that prohibited restaurants from operating indoor dining spaces. In response, at their Special Meeting of July 2, 2020, the City Council directed the closure of the 100 blocks of North and South Glassell Street and issued a citywide outdoor dining and retail program so businesses could

provide outdoor services to their customers. The Orange Plaza Paseo (100 blocks of North and South Glassell Street) and the outdoor dining and retail program began on July 8, 2020 and initial costs were minimal to the City and businesses.

On August 28, 2020, the Governor introduced the State's "Blueprint for a Safer Economy" which delegates each county into a four-tiered system. Through the next several months, the County of Orange moved between the most restricted tiers, which limited in-door dining and retail opportunities. As a result, subsequent meetings of the City Council extended the Paseo and on December 8, 2020, the City Council extended the Paseo and the citywide outdoor dining and retail program until such time that the State or local restrictions are completely lifted or by City Council direction.

On April 6, 2021, the Governor announced the State's plan to fully reopen the economy on June 15, 2021 if certain criteria were met. With COVID-19 cases significantly dropping and vaccination numbers increasing, the Governor terminated the Stay Home Executive Order and fully reopened the economy effective June 15, 2021. In anticipation of the June 15th reopening date, at their June 8, 2021 City Council meeting, the City Council agendaized this item for the July 13, 2021 meeting to discuss the short and long-term strategy of the Orange Plaza Paseo. In this report, staff will provide the following:

- Feedback from Old Towne merchants, property owners and stakeholders
- Fiscal outcomes including sales tax revenue analysis and fiscal impacts to city resources
- Options for City Council consideration

The Orange Plaza Paseo continues to be a popular and successful destination. The response from the businesses, residents, and visitors has been very positive and many have expressed their appreciation and continued support. A large part of the success can be attributed to the partnerships established between the merchants, city staff, and the Orange Chamber of Commerce. Staff remains in close contact with the businesses to quickly address any issues as well as looking for ways to improve the patron experience with open communication, as well as being flexible with conditions that promote all businesses in the downtown area.

Feedback

In anticipation of City Council's consideration of the Paseo, staff held a virtual meeting with the merchants along Glassell Street on November 19, 2020. The purpose of this meeting was to gather feedback, inquiries, and opinions of the Paseo and its future with the understanding that some form of the Paseo could return but limited to Glassell Street. Thirteen attendees participated and expressed their appreciation and support of the Paseo along with recommendations to enhance the area.

Furthermore, in preparation of this report, staff reached out to Old Towne merchants, property owners, and stakeholders to include their feedback on the future of the Paseo. At final editing of this report, fourteen responses were received. Of the fourteen, thirteen were supportive of continuing some form of the Paseo (permanent or seasonal) and one was against. Furthermore, of the thirteen that were supportive, seven were retail stores and four were restaurants. All in favor of the Paseo confirmed positive impacts to their businesses and offered recommendations on how to improve the customer experience.

In addition to the direct outreach made by staff, several other restaurants, property owners, and the

public have contacted the City directly to provide their support in the continuation of the Paseo since its onset. In the last few months, the Orange Chamber of Commerce also performed their own engagement with the downtown merchants and received very positive input and support of a permanent or seasonal Paseo.

Furthermore, the City has received significant positive feedback from our residents and visitors about the Paseo. The public has thoroughly enjoyed the safe, family friendly environment. As a result, the Paseo further enhanced the Plaza area as a top dining and shopping destination in Orange County. That said, the City has also received negative feedback from nearby residents who have been impacted by the change in traffic patterns caused by the closure of Glassell.

Finally, the Orange International Street Fair Board (Board) has advised the City that any closure of the Plaza quadrants or the 100 blocks of North and South Glassell Street, will negatively impact their execution and operation of the Orange International Street Fair (OISF), scheduled for Labor Day weekend. The Board indicated that the continued closure of the Plaza or Glassell would require them to significantly change the fair footprint which would be an extreme hardship at such a late notice. As such, they have indicated that conducting the OISF would be very difficult, if not impossible, if the footprint was restricted to Chapman Avenue only.

Fiscal Outcomes

In reviewing sales tax information for the Paseo (100 blocks of Glassell and 200 blocks of Chapman), comparing July 2020 - March 2021 to July 2019 - March 2020, there was an overall increase of 3.6% with both restaurants and retailers slightly exceeding the prior year in spite of the pandemic. While sales tax figures reflect an overall increase in the first nine months of the Paseo compared to the previous year, without the Paseo the losses by the Plaza area merchants would have been significant.

The fiscal impact to the City is approximately \$50,000 per month. The initial cost to mobilize and set-up the Paseo was \$20,000. The ongoing operating costs of \$50,000 per month include staff time, contractual service, supplies and equipment. Staff and resources have been adjusted to accommodate the ongoing management of the Paseo to maintain the streets, sidewalks, and trash service. Staff is on-hand seven days a week for daily cleaning and responding to calls for service. Should the Paseo become permanent or seasonal, additional resources would be required to maintain current service levels at an annual cost to be determined based on City Council direction.

With dining and retail restrictions lifted by the State of California, the initial nexus for the establishment of the Paseo has ended. That said, as noted in the sales tax figures above, our Plaza area restaurants and retail establishments continue to feel the impact of the COVID-19 pandemic.

Paseo Options

Per City Council direction at the December 8, 2020 and June 8, 2021 meetings, provided below for City Council consideration are short and long-term options for the Paseo:

Option 1 - Keep Paseo Open

Direct staff to study a permanent closure of the 100 blocks of North and South Glassell Street. As part of the study, staff will redesign and prepare a cost estimate for the permanent traffic control, lighting, fire access to the adjacent buildings, police patrolling, and maintenance cost. Staff would coordinate with OCTA with this option due to a closure of a section of a major arterial street system. There will be a small potential (negligible) loss of Measure M tax as a result of a permanent closure.

In addition, bus routes would be permanently detoured to either Grand Street and Lemon Street for north and south bound movements. An environmental study (CEQA) would be performed to determine what, if any, impacts a permanent closure would cause to the area. Considerations of the historic designation of the area would be examined and deliberated, a more formal permit process would be established, and operational impacts and contractual obligations of annual events would be determined. In addition, staff would work closely with Old Towne merchants to develop comprehensive outdoor dining and retail standards for outdoor dining and retail equipment including canopies, signage, furniture, lighting, and public spaces as well as the possible addition of live entertainment. These standards would create a cohesive look to the Paseo and increase the overall appearance and safety of the area. Staff would also develop a more formal permit process to include, but not limited to, defined criteria, liability assurance, and a potential permit fee. Finally, a permanent street closure system will be evaluated and costs identified. The operational cost is approximately \$50,000 per month. Staff would return at a later date with a more comprehensive report on a permanent closure. As part of this option, it is recommended that the Paseo be closed by August 16th so that the OISF can be conducted using its traditional footprint. If the Paseo becomes permanent, the City will need to work with the OISF Board to address possible footprint and/or optional changes.

Option 2 - Close Paseo permanently

Close the Paseo and reopen the Plaza and the 100 blocks of North and South Glassell Street resuming vehicular traffic. Such closure should occur by August 16, 2021 to ensure adequate preparation for the OISF.

Option 3 - Close Paseo However Reopen Seasonally

Close the Paseo and reopen the Plaza and the 100 blocks of North and South Glassell Street by August 16, 2021, however approve an annual seasonal closure of the 100 blocks of North and South Glassell Street. Seasonal closures could be from late Spring/early Summer and through three weeks prior to the OISF and/or during the winter holiday season. It is recommended that Chapman Avenue, the Plaza quadrants, and spoke streets would not be included in the seasonal Paseo closure. The estimated cost for a seasonal Paseo, which includes mobilization, set-up, and demobilization is \$20,000 per closure with a monthly labor and equipment cost of approximately \$50,000. Staff would need to consult and coordinate with OCTA to determine a bus detour route. Similar to the above option for a permanent Paseo, staff would work closely with Old Towne merchants to develop comprehensive outdoor dining and retail standards for outdoor dining and retail equipment including canopies, signage, furniture, lighting, and public spaces as well as the possible addition of live entertainment. These standards would create a cohesive look to the Paseo and increase the overall appearance and safety of the area. Staff would also develop a more formal permit process to include, but not limited to, defined criteria, liability assurance, and a potential permit fee. Finally, an environmental study (CEQA) would be conducted to determine what impacts a seasonal closure would cause to the area. Staff would return at a later date with a more detailed report on the establishment of a seasonal Paseo.

Option 4 - Alternatives to expand outdoor dining and retail

Direct staff to research and report alternatives to expand dining and retail along North and South Glassell Street and East and West Chapman including, but not limited to, removing on-street parking and extending sidewalk areas. Considerations to take into account are the permanent reduction of on-street parking, operational impacts and contractual obligations to annual events, the

establishment of a more formal permit process, and the development of standards for a more cohesive look. Staff would return at a later date with a more comprehensive report to provide alternatives to extend outdoor dining and retail space along Glassell Street.

As noted above, staff is assessing a more efficient approach to overall Plaza closures. As such, staff is also assessing enhanced methods of closing all or portions of the Plaza area streets, including retractable bollards or a similar infrastructure for a more aesthetically pleasing look during street closures.

Conclusion

The Orange Plaza Paseo has been extremely successful. It helped Plaza area merchants weather the pandemic as well as became the safe and family friendly place for people to gather. On June 15, 2021, the Governor terminated the Stay Home Executive Order and phased out the Blueprint for a Safer Economy to fully reopen the economy. As a result, staff is requesting City Council direction in relation to the closure of the Paseo by August 16, 2021 as well as provide direction related to short and long-term use of the Paseo for seasonal or permanent use. Staff will return at a later date with a more comprehensive report should the City Council wish to keep the Paseo open, either permanently or on a seasonal basis.

7. ATTACHMENTS

- None



Agenda Item

City Council

Item #: 7.1.

7/13/2021

File #: 21-0237

TO: Honorable Mayor and Members of the City Council

THRU: Rick Otto, City Manager

1. SUBJECT

Orange Plaza Paseo.

2. SUMMARY

On July 1, 2020, the Governor issued an executive order prohibiting restaurants from operating indoor dining spaces to prevent the spread of the COVID-19 virus. In response, at their Special Meeting on July 2, 2020, the City Council directed the closure of the 100 blocks of North and South Glassell Street to create the Orange Plaza Paseo, where restaurants and shops in the Plaza area could provide outdoor dining and shopping to their customers. As the executive order continued through all of 2020 and into 2021, the City Council approved extensions of the Paseo on July 28, 2020, September 8, 2020, and December 8, 2020 until such time that State or local restrictions are lifted or by City Council direction.

On June 15, 2021, the Governor terminated the Stay Home Executive Order and phased out the Blueprint for a Safer Economy to fully reopen the economy. As a result, staff is providing options and seeking City Council direction on the immediate future and long-term strategy of the Paseo.

3. RECOMMENDED ACTION

Provide direction in relation to the closure of the Paseo by August 16, 2021 as well as provide direction related to long-term use of the Paseo for seasonal or permanent use.

4. FISCAL IMPACT

The positive fiscal impact to the restaurants and shops in the Plaza has been significant. The fiscal impact to the City of implementing and operating the temporary closure is approximately \$50,000 per month and an additional cost of \$30,000 for set-up and take down.

5. STRATEGIC PLAN GOALS

Goal 1: Be a fiscally healthy community

D: Effectively manage and develop city assets

6. DISCUSSION AND BACKGROUND

On July 1, 2020 due to the number of positive COVID-19 cases in California, the Governor issued an executive order that prohibited restaurants from operating indoor dining spaces. In response, at their Special Meeting of July 2, 2020, the City Council directed the closure of the 100 blocks of North and South Glassell Street and issued a citywide outdoor dining and retail program so businesses could provide outdoor services to their customers. The Orange Plaza Paseo (100 blocks of North and

South Glassell Street) and the outdoor dining and retail program began on July 8, 2020 and initial costs were minimal to the City and businesses.

On August 28, 2020, the Governor introduced the State's "Blueprint for a Safer Economy" which delegates each county into a four-tiered system. Through the next several months, the County of Orange moved between the most restricted tiers, which limited in-door dining and retail opportunities. As a result, subsequent meetings of the City Council extended the Paseo and on December 8, 2020, the City Council extended the Paseo and the citywide outdoor dining and retail program until such time that the State or local restrictions are completely lifted or by City Council direction.

On April 6, 2021, the Governor announced the State's plan to fully reopen the economy on June 15, 2021 if certain criteria were met. With COVID-19 cases significantly dropping and vaccination numbers increasing, the Governor terminated the Stay Home Executive Order and fully reopened the economy effective June 15, 2021. In anticipation of the June 15th reopening date, at their June 8, 2021 City Council meeting, the City Council agendaized this item for the July 13, 2021 meeting to discuss the short and long-term strategy of the Orange Plaza Paseo. In this report, staff will provide the following:

- Feedback from Old Towne merchants, property owners and stakeholders
- Fiscal outcomes including sales tax revenue analysis and fiscal impacts to city resources
- Options for City Council consideration

The Orange Plaza Paseo continues to be a popular and successful destination. The response from the businesses, residents, and visitors has been very positive and many have expressed their appreciation and continued support. A large part of the success can be attributed to the partnerships established between the merchants, city staff, and the Orange Chamber of Commerce. Staff remains in close contact with the businesses to quickly address any issues as well as looking for ways to improve the patron experience with open communication, as well as being flexible with conditions that promote all businesses in the downtown area.

Feedback

In anticipation of City Council's consideration of the Paseo, staff held a virtual meeting with the merchants along Glassell Street on November 19, 2020. The purpose of this meeting was to gather feedback, inquiries, and opinions of the Paseo and its future with the understanding that some form of the Paseo could return but limited to Glassell Street. Thirteen attendees participated and expressed their appreciation and support of the Paseo along with recommendations to enhance the area.

Furthermore, in preparation of this report, staff reached out to Old Towne merchants, property owners, and stakeholders to include their feedback on the future of the Paseo. At final editing of this report, fourteen responses were received. Of the fourteen, thirteen were supportive of continuing some form of the Paseo (permanent or seasonal) and one was against. Furthermore, of the thirteen that were supportive, seven were retail stores and four were restaurants. All in favor of the Paseo confirmed positive impacts to their businesses and offered recommendations on how to improve the customer experience.

In addition to the direct outreach made by staff, several other restaurants, property owners, and the public have contacted the City directly to provide their support in the continuation of the Paseo since

its onset. In the last few months, the Orange Chamber of Commerce also performed their own engagement with the downtown merchants and received very positive input and support of a permanent or seasonal Paseo.

Furthermore, the City has received significant positive feedback from our residents and visitors about the Paseo. The public has thoroughly enjoyed the safe, family friendly environment. As a result, the Paseo further enhanced the Plaza area as a top dining and shopping destination in Orange County. That said, the City has also received negative feedback from nearby residents who have been impacted by the change in traffic patterns caused by the closure of Glassell.

Finally, the Orange International Street Fair Board (Board) has advised the City that any closure of the Plaza quadrants or the 100 blocks of North and South Glassell Street, will negatively impact their execution and operation of the Orange International Street Fair (OISF), scheduled for Labor Day weekend. The Board indicated that the continued closure of the Plaza or Glassell would require them to significantly change the fair footprint which would be an extreme hardship at such a late notice. As such, they have indicated that conducting the OISF would be very difficult, if not impossible, if the footprint was restricted to Chapman Avenue only.

Fiscal Outcomes

In reviewing sales tax information for the Paseo (100 blocks of Glassell and 200 blocks of Chapman), comparing July 2020 - March 2021 to July 2019 - March 2020, there was an overall increase of 3.6% with both restaurants and retailers slightly exceeding the prior year in spite of the pandemic. While sales tax figures reflect an overall increase in the first nine months of the Paseo compared to the previous year, without the Paseo the losses by the Plaza area merchants would have been significant.

The fiscal impact to the City is approximately \$50,000 per month. The initial cost to mobilize and set-up the Paseo was \$20,000. The ongoing operating costs of \$50,000 per month include staff time, contractual service, supplies and equipment. Staff and resources have been adjusted to accommodate the ongoing management of the Paseo to maintain the streets, sidewalks, and trash service. Staff is on-hand seven days a week for daily cleaning and responding to calls for service. Should the Paseo become permanent or seasonal, additional resources would be required to maintain current service levels at an annual cost to be determined based on City Council direction.

With dining and retail restrictions lifted by the State of California, the initial nexus for the establishment of the Paseo has ended. That said, as noted in the sales tax figures above, our Plaza area restaurants and retail establishments continue to feel the impact of the COVID-19 pandemic.

Paseo Options

Per City Council direction at the December 8, 2020 and June 8, 2021 meetings, provided below for City Council consideration are short and long-term options for the Paseo:

Option 1 - Keep Paseo Open

Direct staff to study a permanent closure of the 100 blocks of North and South Glassell Street. As part of the study, staff will redesign and prepare a cost estimate for the permanent traffic control, lighting, fire access to the adjacent buildings, police patrolling, and maintenance cost. Staff would coordinate with OCTA with this option due to a closure of a section of a major arterial street system. There will be a small potential (negligible) loss of Measure M tax as a result of a permanent closure. In addition, bus routes would be permanently detoured to either Grand Street and Lemon Street for

north and south bound movements. An environmental study (CEQA) would be performed to determine what, if any, impacts a permanent closure would cause to the area. Considerations of the historic designation of the area would be examined and deliberated, a more formal permit process would be established, and operational impacts and contractual obligations of annual events would be determined. In addition, staff would work closely with Old Towne merchants to develop comprehensive outdoor dining and retail standards for outdoor dining and retail equipment including canopies, signage, furniture, lighting, and public spaces as well as the possible addition of live entertainment. These standards would create a cohesive look to the Paseo and increase the overall appearance and safety of the area. Staff would also develop a more formal permit process to include, but not limited to, defined criteria, liability assurance, and a potential permit fee. Finally, a permanent street closure system will be evaluated and costs identified. The operational cost is approximately \$50,000 per month. Staff would return at a later date with a more comprehensive report on a permanent closure. As part of this option, it is recommended that the Paseo be closed by August 16th so that the OISF can be conducted using its traditional footprint. If the Paseo becomes permanent, the City will need to work with the OISF Board to address possible footprint and/or optional changes.

Option 2 - Close Paseo permanently

Close the Paseo and reopen the Plaza and the 100 blocks of North and South Glassell Street resuming vehicular traffic. Such closure should occur by August 16, 2021 to ensure adequate preparation for the OISF.

Option 3 - Close Paseo However Reopen Seasonally

Close the Paseo and reopen the Plaza and the 100 blocks of North and South Glassell Street by August 16, 2021, however approve an annual seasonal closure of the 100 blocks of North and South Glassell Street. Seasonal closures could be from late Spring/early Summer and through three weeks prior to the OISF and/or during the winter holiday season. It is recommended that Chapman Avenue, the Plaza quadrants, and spoke streets would not be included in the seasonal Paseo closure. The estimated cost for a seasonal Paseo, which includes mobilization, set-up, and demobilization is \$20,000 per closure with a monthly labor and equipment cost of approximately \$50,000. Staff would need to consult and coordinate with OCTA to determine a bus detour route. Similar to the above option for a permanent Paseo, staff would work closely with Old Towne merchants to develop comprehensive outdoor dining and retail standards for outdoor dining and retail equipment including canopies, signage, furniture, lighting, and public spaces as well as the possible addition of live entertainment. These standards would create a cohesive look to the Paseo and increase the overall appearance and safety of the area. Staff would also develop a more formal permit process to include, but not limited to, defined criteria, liability assurance, and a potential permit fee. Finally, an environmental study (CEQA) would be conducted to determine what impacts a seasonal closure would cause to the area. Staff would return at a later date with a more detailed report on the establishment of a seasonal Paseo.

Option 4 - Alternatives to expand outdoor dining and retail

Direct staff to research and report alternatives to expand dining and retail along North and South Glassell Street and East and West Chapman including, but not limited to, removing on-street parking and extending sidewalk areas. Considerations to take into account are the permanent reduction of on-street parking, operational impacts and contractual obligations to annual events, the establishment of a more formal permit process, and the development of standards for a more

cohesive look. Staff would return at a later date with a more comprehensive report to provide alternatives to extend outdoor dining and retail space along Glassell Street.

As noted above, staff is assessing a more efficient approach to overall Plaza closures. As such, staff is also assessing enhanced methods of closing all or portions of the Plaza area streets, including retractable bollards or a similar infrastructure for a more aesthetically pleasing look during street closures.

Conclusion

The Orange Plaza Paseo has been extremely successful. It helped Plaza area merchants weather the pandemic as well as became the safe and family friendly place for people to gather. On June 15, 2021, the Governor terminated the Stay Home Executive Order and phased out the Blueprint for a Safer Economy to fully reopen the economy. As a result, staff is requesting City Council direction in relation to the closure of the Paseo by August 16, 2021 as well as provide direction related to short and long-term use of the Paseo for seasonal or permanent use. Staff will return at a later date with a more comprehensive report should the City Council wish to keep the Paseo open, either permanently or on a seasonal basis.

7. ATTACHMENTS

- None



Agenda Item

City Council

Item #: 9.1.

7/13/2021

File #: 20-350

TO: Honorable Mayor and Members of the City Council

THRU: Rick Otto, City Manager

FROM: Gary A. Sheatz, City Attorney

1. SUBJECT

Introduction and First Reading of three separate Ordinances relating to City Council reimbursement, City Council compensation, and health and welfare benefits for City Councilmembers.

2. SUMMARY

The proposed ordinances provide for City Council members to: 1) receive reimbursement for actual and necessary expenses incurred in the performance of their official duties, as provided for in state law; 2) receive salary compensation in the amount of \$600 per month, as determined by state law; and 3) receive \$2,115 per month for health and welfare benefits, commensurate with those offered to the Executive Management employees of the City. These ordinances are presented individually for City Council discussion and consideration.

3. RECOMMENDED ACTION

A separate motion to introduce and conduct First Reading of each ordinance is required.

1. Ordinance No. 09-21. An Ordinance of the City Council of the City of Orange amending Title 2 of the Orange Municipal Code adding Chapter 2.07, relating to City Council reimbursement for actual and necessary expenses incurred in the performance of their official duties.
2. Ordinance No. 10-21. An Ordinance of the City Council of the City of Orange amending Title 2, Chapter 2.08 of the Orange Municipal Code relating to City Council compensation.
3. Ordinance No. 11-21. An Ordinance of the City Council of the City of Orange amending Title 2 of the Orange Municipal Code by adding Chapter 2.09, relating to Health and Welfare Benefits for City Council Members.

4. FISCAL IMPACT

The fiscal impact from Ordinance No. 09-21 would only occur on an as needed basis, depending on the location and duration of City business conducted out of County. Any expenditures will be funded through General Fund (100).

Assuming all seven Councilmembers accept the salary benefit, the total expenditure for Ordinance No. 10-21 is \$50,400 the first year, potentially increasing by 5% per year thereafter, if amended by ordinance, and will be funded through General Fund (100).

Assuming all seven Councilmembers accept health and welfare benefits, the total expenditure for

Ordinance No. 11-21 is \$177,660 annually, and will be funded through General Fund (100).

5. STRATEGIC PLAN GOALS

Goal 4: Provide Outstanding Public Service

e: Attract, retain and develop quality employees dedicated to public service.

6. DISCUSSION AND BACKGROUND

Three ordinances are proposed for City Council consideration addressing reimbursement for expenses incurred while performing official duties, the ability to receive monthly salary compensation, and the ability to receive health and welfare benefits equivalent to those offered to the Executive Management employees.

The ordinances for City Council consideration are summarized as follows:

1. Add Chapter 2.07 to the Orange Municipal Code.

In November, 2011, the City Council adopted an ordinance eliminating reimbursement for the Mayor and City Council members for actual and necessary expenses incurred in the performance of official duties, or to otherwise have such actual and necessary expenses paid for by the City. Since the adoption of that ordinance, no Mayor or City Council member has been able to receive reimbursement for City related travel, nor have they been able to have the City pay for travel expenses incurred in the performance of official City business. This ordinance has significantly hindered the City's ability to have representation of elected officials participate in any hearings or attend any meetings outside Orange County.

A recent example was the need for a City representative to appear before a Senate Policy Committee in Sacramento to answer questions related to the City's desire to acquire the Hart and Handy Park properties from Cal-Trans. Additionally, with catastrophic events such as the COVID-19 pandemic and civil unrest, there may be a need for elected officials to attend meetings or hearings for legislative purposes outside of Orange County. This ordinance would allow reimbursement of travel related expenses subject to provisions of the Government Code.

If adopted, the ordinance would allow the City Council members to follow the City's travel and reimbursement policy currently applicable to City employees. In addition, it would require City Council members to produce written documentation and an expense report detailing all expenditures, and require those receiving reimbursement to provide a brief report to the City Council of all legislative advocacy meetings attended on behalf of the City. Finally, before becoming effective, the travel and reimbursement policy to reflect the inclusion of the City Council, would return to the City Council for adoption by resolution. Should a City Council member decline reimbursement from the City the provisions of this ordinance would not apply.

2. Delete Orange Municipal Code Chapter 2.08. in its entirety and adopt new Chapter 2.08.

As part of the November, 2011, action referenced above, the City Council eliminated salary and retirement benefits for the Mayor and City Council members. This action applied prospectively to all Council members elected after the date of the adoption of the ordinance.

Most citizens are likely unaware that their elected officials served without any form of compensation whatsoever. In Orange County, only elected officials in the cities of Orange and Villa Park serve without compensation.

As part of the transition from an at-large electoral system to a by-district electoral system, questions often arose regarding City Council compensation. When citizens were informed that no compensation was provided to the Mayor or City Council members, several members of the public indicated that the lack of compensation could be a significant financial barrier to serving as an elected official.

The proposed ordinance would provide salary compensation for the Mayor and City Council members. The amount of salary is determined by the Government Code. In cities with a population between 75,000 and 150,000, like Orange, salary is set by statute at \$600 per month. This amount may increase by 5% each year, however, an ordinance amendment reflecting the new salary amount must be adopted by City Council. If approved, salary compensation would be offered to the Mayor and City Council members following the November 8, 2022 general municipal election. It should be noted that a council member may waive any or all compensation permitted by this ordinance.

If approved the monthly salary compensation would not be subject to benefits from the California Public Employees' Retirement System (CALPERS). Should the City Council desire to enroll in CALPERS a separate action, amending the contract between CALPERS and the City, would be required.

3. Add Chapter 2.09 to the Orange Municipal Code.

The last ordinance proposes to reinstate health and welfare benefits for City Council members commensurate with those received by the City's Executive Management employees. Currently that amount is \$2,115 per month. Under this plan City Council members may use the money to purchase various optional health plans, dental plans, vision plans, or life insurance that is offered to the Executive Management employees. Pursuant to the Resolution governing the flexible benefits plan for Executive Management employees, employees who waive medical benefits or fail to use the entire amount of the benefit offered are limited to receiving a cash payout of \$750 per month, with any remainder over that amount being forfeited. However, due to restrictions in State law, a Council member may not accept cash in lieu of purchasing one of the aforementioned plans. As such, any unused money, up to \$750, may be placed in a deferred compensation retirement account for the benefit of the Council member after they leave public service. Another alternative is for the Council member to waive any excess benefit above and beyond what is purchased from the benefits offered.

7. ATTACHMENTS

- Ordinance No. 09-21
- Ordinance No. 10-21
- Ordinance No. 11-21



Agenda Item

City Council

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7/13/2021

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THRU: Rick Otto, City Manager

FROM: Gary A. Sheatz, City Attorney

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A recent example was the need for a City representative to appear before a Senate Policy Committee in Sacramento to answer questions related to the City's desire to acquire the Hart and Handy Park properties from Cal-Trans. Additionally, with catastrophic events such as the COVID-19 pandemic and civil unrest, there may be a need for elected officials to attend meetings or hearings for legislative purposes outside of Orange County. This ordinance would allow reimbursement of travel related expenses subject to provisions of the Government Code.

If adopted, the ordinance would allow the City Council members to follow the City's travel and reimbursement policy currently applicable to City employees. In addition, it would require City Council members to produce written documentation and an expense report detailing all expenditures, and require those receiving reimbursement to provide a brief report to the City Council of all legislative advocacy meetings attended on behalf of the City. Finally, before becoming effective, the travel and reimbursement policy to reflect the inclusion of the City Council, would return to the City Council for adoption by resolution. Should a City Council member decline reimbursement from the City the provisions of this ordinance would not apply.

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If approved the monthly salary compensation would not be subject to benefits from the California Public Employees' Retirement System (CALPERS). Should the City Council desire to enroll in CALPERS a separate action, amending the contract between CALPERS and the City, would be required.

3. Add Chapter 2.09 to the Orange Municipal Code.

The last ordinance proposes to reinstate health and welfare benefits for City Council members commensurate with those received by the City's Executive Management employees. Currently that amount is \$2,115 per month. Under this plan City Council members may use the money to purchase various optional health plans, dental plans, vision plans, or life insurance that is offered to the Executive Management employees. Pursuant to the Resolution governing the flexible benefits plan for Executive Management employees, employees who waive medical benefits or fail to use the entire amount of the benefit offered are limited to receiving a cash payout of \$750 per month, with any remainder over that amount being forfeited. However, due to restrictions in State law, a Council member may not accept cash in lieu of purchasing one of the aforementioned plans. As such, any unused money, up to \$750, may be placed in a deferred compensation retirement account for the benefit of the Council member after they leave public service. Another alternative is for the Council member to waive any excess benefit above and beyond what is purchased from the benefits offered.

7. ATTACHMENTS

- Ordinance No. 09-21
- Ordinance No. 10-21
- Ordinance No. 11-21

ORDINANCE NO. 09-21

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ORANGE AMENDING TITLE 2 OF THE ORANGE MUNICIPAL CODE BY ADDING CHAPTER 2.07, RELATING TO CITY COUNCIL REIMBURSEMENT FOR ACTUAL AND NECESSARY EXPENSES INCURRED IN THE PERFORMANCE OF THEIR OFFICIAL DUTIES.

WHEREAS, in November, 2011, the City Council adopted an ordinance eliminating reimbursement for the Mayor and City Council members for actual and necessary expenses incurred in the performance of official duties, or to otherwise have such actual and necessary expenses paid for by the City, which applied prospectively to future Mayors and City Council members; and

WHEREAS, in an effort to enhance the stature and presence of the City throughout the State, and necessitated by recent events such as the COVID-19 pandemic and civil unrest, the City is unable to reimburse any elected officials for travel outside of Orange County to conduct official business and advance the legislative and financial interest of the City of Orange; and

WHEREAS, Government Code Section 36514.5 provides the authority for the City Council to be reimbursed for actual and necessary expenses incurred in the performance of their duties; and

WHEREAS, Government Code Section Sections 53232.2 requires the City Council to adopt a written policy for the reimbursement of actual and necessary expenses incurred in the performance of official duties; and

WHEREAS, Government Code Section Sections 53232.3 requires the City Council members to provide documentation and an expense report, and report out on the meetings attended at the expense of the local agency, following reimbursement for expenses incurred on behalf of the local agency; and

WHEREAS, a City Council member may waive any or all of the reimbursement permitted by this ordinance.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ORANGE DOES HEREBY ORDAIN AS FOLLOWS:

SECTION I:

The Ordinance is not a project under the California Environmental Quality Act (CEQA) per State CEQA Guidelines Section 15378, because it involves administrative activities of the City that will not result in direct or indirect physical changes in the environment.

SECTION II:

Title 2, of the Orange Municipal Code is hereby amended to add Chapter 2.07 entitled “City Council Reimbursement for Actual and Necessary Expenses”, which shall read as follows:

Chapter 2.07 – CITY COUNCIL REIMBURSEMENT FOR ACTUAL AND NECESSARY EXPENSES

2.07.010 - Authority.

The authority for the City Council to be reimbursed for actual and necessary expenses incurred in the performance of their duties is set forth in Government Code Section 36514.5, subject to Government Code Sections 53232.2 and 53232.3.

2.07.020 – Reimbursement.

Notwithstanding any other provision of Title 2 of the Orange Municipal Code, members of the City Council may receive reimbursement for actual and necessary expenses incurred in the performance of their official duties for the City, pursuant to state law and City Council adopted policies.

2.07.030 – Waiver.

A City Council member may waive any or all reimbursement for actual and necessary expenses incurred in the performance of their official duties provided by this Chapter.

SECTION III:

To the extent required to implement the provisions of this Ordinance, City staff is directed to modify any Administrative Policies in conflict herewith and return to the City Council for any City Council approvals deemed necessary.

SECTION IV:

If any section, subdivision, paragraph, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance, and each section, subdivision, paragraph, sentence, clause and phrase thereof, irrespective of the fact that any one (or more) section, subdivision, paragraph, sentence, clause or phrase had been declared invalid or unconstitutional.

SECTION V:

The City Clerk is hereby directed to certify the adoption of this Ordinance and cause the same to be published as required by law. This Ordinance shall take effect thirty (30) days from and after the date of its final passage.

ADOPTED this _____ day of _____, 2021.

Mark A. Murphy, Mayor, City of Orange

ATTEST:

Pamela Coleman, City Clerk, City of Orange

STATE OF CALIFORNIA)
COUNTY OF ORANGE)
CITY OF ORANGE)

I, PAMELA COLEMAN, City Clerk of the City of Orange, California, do hereby certify that the foregoing Ordinance was introduced at the regular meeting of the City Council held on the ____ day of _____, 2021, and thereafter at the regular meeting of said City Council duly held on the ____ day of _____, 2021 was duly passed and adopted by the following vote, to wit:

AYES:	COUNCILMEMBERS:
NOES:	COUNCILMEMBERS:
ABSENT:	COUNCILMEMBERS:
ABSTAIN:	COUNCILMEMBERS:

Pamela Coleman, City Clerk, City of Orange

ORDINANCE NO. 10-21

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ORANGE AMENDING TITLE 2, CHAPTER 2.08 OF THE ORANGE MUNICIPAL CODE RELATING TO CITY COUNCIL COMPENSATION.

WHEREAS, in November, 2011, the City Council adopted an ordinance eliminating all salary, health and retirement benefits for the Mayor and City Council members, which applied prospectively, to future Mayors and City Council members; and

WHEREAS, the lack of salary or compensation offered to City Council members often dissuades interest or ability for citizens to serve as elected officials; and

WHEREAS, nearly every city in Orange County offers compensation to the City Council members, who serve as an elected official; and

WHEREAS, Government Code Section 36516 provides that a city council may enact an ordinance providing that each member of the city council receive a salary based on the population of the city; and

WHEREAS, in cities like Orange, with a population between 75,000 and 150,000, the salary is set by statute at \$600 per month; and

WHEREAS, in accordance with state law, the salary benefits apply to each member of city council who begins a new term of office after the effective date of the ordinance; and

WHEREAS, a city council member may waive any or all of the compensation permitted by this ordinance.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ORANGE DOES
HEREBY ORDAIN AS FOLLOWS:**

SECTION I:

The Ordinance is not a project under the California Environmental Quality Act (CEQA) per State CEQA Guidelines Section 15378, because it involves administrative activities of the City that will not result in direct or indirect physical changes in the environment.

SECTION II:

Title 2, Chapter 2.08 of the Orange Municipal Code, "City Council, Mayor and Redevelopment Agency Compensation", is hereby deleted in its entirety and replaced with Chapter 2.08, "City Council Compensation", which shall read as follows:

Chapter 2.08 – City Council Compensation.

2.08.010 - Authority.

The authority for the City Council to receive salary benefits is set forth in Government Code Section 36516.

2.08.020 – Compensation.

Pursuant to California Government Code Section 36516 (a) (2) (D), the compensation for City Council members shall be \$600.00 per month. Such compensation shall be payable at the same time salaries are paid to other officers and employees of the city.

2.08.030 – Waiver.

A City Council member may waive any or all compensation provided by this Chapter.

2.08.040 – Prospective Application.

Notwithstanding the provisions contained in California Government Code Section 36516.5, salary benefits shall apply to a member of the City Council who begins a new term in office as a member of the City Council after the adoption of this ordinance.

SECTION III:

To the extent required to implement the provisions of this Ordinance, City staff is directed to modify any Administrative Policies in conflict herewith and return to the City Council for any City Council approvals deemed necessary.

SECTION IV:

If any section, subdivision, paragraph, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance, and each section, subdivision, paragraph, sentence, clause and phrase thereof, irrespective of the fact that any one (or more) section, subdivision, paragraph, sentence, clause or phrase had been declared invalid or unconstitutional.

SECTION V:

The City Clerk is hereby directed to certify the adoption of this Ordinance and cause the same to be published as required by law. This Ordinance shall take effect thirty (30) days from and after the date of its final passage.

ADOPTED this _____ day of _____, 2021.

Mark A. Murphy, Mayor, City of Orange

ATTEST:

Pamela Coleman, City Clerk, City of Orange

STATE OF CALIFORNIA)
COUNTY OF ORANGE)
CITY OF ORANGE)

I, PAMELA COLEMAN, City Clerk of the City of Orange, California, do hereby certify that the foregoing Ordinance was introduced at the regular meeting of the City Council held on the ____ day of _____, 2021, and thereafter at the regular meeting of said City Council duly held on the ____ day of _____, 2021 was duly passed and adopted by the following vote, to wit:

AYES:	COUNCILMEMBERS:
NOES:	COUNCILMEMBERS:
ABSENT:	COUNCILMEMBERS:
ABSTAIN:	COUNCILMEMBERS:

Pamela Coleman, City Clerk, City of Orange

ORDINANCE NO. 11-21

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ORANGE AMENDING TITLE 2 OF THE ORANGE MUNICIPAL CODE BY ADDING CHAPTER 2.09, RELATING TO CITY COUNCIL HEALTH AND WELFARE BENEFITS.

WHEREAS, in November, 2011, the City Council adopted an ordinance eliminating health and welfare benefits, which applied prospectively to future Mayors and City Council members; and

WHEREAS, most cities in Orange County offer health and welfare benefits to the City Council members, as part of a flexible benefits plan, equivalent to, and under the same conditions, as those received by the Executive Management employee group; and

WHEREAS, the lack of health and welfare benefits offered to City Council members often dissuades interest or ability for citizens to serve as elected officials; and

WHEREAS, Government Code Sections 53201 and 53208 provide the authority for the City Council to receive health and welfare benefits that are also available and paid by the City for its employees; and

WHEREAS, Government Code Section 53207 permits a City Council member to waive any or all of the health and welfare benefits permitted by this ordinance.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ORANGE DOES HEREBY ORDAIN AS FOLLOWS:

SECTION I:

The Ordinance is not a project under the California Environmental Quality Act (CEQA) per State CEQA Guidelines Section 15378, because it involves administrative activities of the City that will not result in direct or indirect physical changes in the environment.

SECTION II:

Title 2, of the Orange Municipal Code is hereby amended to add Chapter 2.09 entitled “City Council Health and Welfare Benefits”, which shall read as follows:

Chapter 2.09 – CITY COUNCIL HEALTH AND WELFARE BENEFITS

2.09.010 - Authority.

The authority for the City Council to receive health and welfare benefits is set forth in Government Code Sections 53201 and 53208.

2.09.020 – Health and Welfare Benefits.

Notwithstanding any other provision of Title 2 of the Orange Municipal Code, members of the City Council may receive health and welfare benefits equivalent to those received by the Executive Management employee group flexible benefits plan.

2.09.030 – Waiver.

A City Council member may waive any or all health and welfare benefits provided under the flexible benefits plan permitted by this Chapter.

SECTION III:

To the extent required to implement the provisions of this Ordinance, City staff is directed to modify any Administrative Policies in conflict herewith and return to the City Council for any City Council approvals deemed necessary.

SECTION IV:

If any section, subdivision, paragraph, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance, and each section, subdivision, paragraph, sentence, clause and phrase thereof, irrespective of the fact that any one (or more) section, subdivision, paragraph, sentence, clause or phrase had been declared invalid or unconstitutional.

SECTION V:

The City Clerk is hereby directed to certify the adoption of this Ordinance and cause the same to be published as required by law. This Ordinance shall take effect thirty (30) days from and after the date of its final passage.

ADOPTED this _____ day of _____, 2021.

Mark A. Murphy, Mayor, City of Orange

ATTEST:

Pamela Coleman, City Clerk, City of Orange

STATE OF CALIFORNIA)
COUNTY OF ORANGE)
CITY OF ORANGE)

I, PAMELA COLEMAN, City Clerk of the City of Orange, California, do hereby certify that the foregoing Ordinance was introduced at the regular meeting of the City Council held on the ____ day of _____, 2021, and thereafter at the regular meeting of said City Council duly held on the ____ day of _____, 2021 was duly passed and adopted by the following vote, to wit:

AYES:	COUNCILMEMBERS:
NOES:	COUNCILMEMBERS:
ABSENT:	COUNCILMEMBERS:
ABSTAIN:	COUNCILMEMBERS:

Pamela Coleman, City Clerk, City of Orange



City Council

File #: 21-0355

FROM: Pamela Coleman, City Clerk

- Ordinance No. 07-21



Item #: 10.1.

7/13/2021

File #: 21-0355

TO: Honorable Mayor and Members of the City Council

THRU: Rick Otto, City Manager

FROM: Pamela Coleman, City Clerk

1. SUBJECT

Public Hearing to consider Second Reading and adoption of an Ordinance adopting the 2021 Edition of the “Standard Specifications for Public Works Construction” (commonly referred to as the “Greenbook”) by reference. Ordinance No. 07-21.

2. SUMMARY

The Introduction and First Reading of the above-entitled Ordinance was approved at a Regular Council Meeting on June 8, 2021.

The Ordinance is now presented for Second Reading by title only, and adoption.

Vote at First Reading: AYES: Murphy, Nichols, Monaco, Barrios, Dumitru,
Tavoularis, and Gutierrez
NOES: None
ABSENT: None

3. RECOMMENDED ACTION

1. Conduct and close the Public Hearing; and
2. Adopt Ordinance No. 07-21. An Ordinance of the City Council of the City of Orange amending Chapter 12.02 of the Orange Municipal Code to adopt the 2021 Edition of the “Standard Specifications for Public Works Construction.”

4. ATTACHMENTS

- Ordinance No. 07-21

ORDINANCE NO. 07-21

**AN ORDINANCE OF THE CITY COUNCIL OF
THE CITY OF ORANGE AMENDING CHAPTER
12.02 OF THE ORANGE MUNICIPAL CODE TO
ADOPT THE 2021 EDITION OF THE
"STANDARD SPECIFICATIONS FOR PUBLIC
WORKS CONSTRUCTION"**

WHEREAS, the Standard Specifications for Public Works Construction, commonly known as the "Greenbook," provides specifications that have general applicability to public works projects; and

WHEREAS, the Greenbook has been adopted by more than 200 cities, counties and agencies in the Southern California area, including the City of Orange; and

WHEREAS, the Greenbook, first published in 1967, is updated and republished every three years; and

WHEREAS, Public Works Standards, Inc., a California nonprofit mutual benefit corporation, is the current publisher of the Greenbook and has revised and promulgated the 2021 edition thereof; and

WHEREAS, the City Council of the City of Orange desires to adopt the 2021 edition of the Greenbook for the purpose of providing specifications that have general applicability to the City's public works projects.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ORANGE DOES ORDAIN AS FOLLOWS:

SECTION I:

Section 12.02.010 of the Orange Municipal Code, "Streets, Sidewalks and Public Places – Standard Specifications for Public Works Construction – Adopted by Reference," is hereby amended in its entirety to read as follows:

"12.02.010 Adopted by Reference. Except as may otherwise be provided herein, the provisions of the 2021 edition of the "Standard Specifications for Public Works Construction" (commonly known as the "Greenbook"), written and promulgated by Public Works Standards, Inc., together with such changes as may be published in pamphlet form as amendments to the 2021 edition in each of the three years between publications of a new edition of the Greenbook, are adopted and applicable to all public works construction undertaken after the effective date of this ordinance. One copy of the 2021 Standard Specifications for Public Works Construction has been and is now filed with the Office of the City Clerk, and said Standard Specifications for Public Works Construction is adopted by reference as if incorporated and set out in full in this chapter."

SECTION II:

If any section, subdivision, paragraph, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance, and each section, subdivision, paragraph, sentence, clause and phrase thereof, irrespective of the fact that any one (or more) section, subdivision, paragraph, sentence, clause or phrase had been declared invalid or unconstitutional.

SECTION III:

The City Clerk is hereby directed to certify the adoption of this Ordinance and cause the same to be published as required by law. This Ordinance shall take effect thirty (30) days from and after the date of its final passage.

ADOPTED this ____ day of _____, 2021.

Mark A. Murphy, Mayor, City of Orange

ATTEST:

Pamela Coleman, City Clerk, City of Orange

STATE OF CALIFORNIA)
COUNTY OF ORANGE)
CITY OF ORANGE)

I, PAMELA COLEMAN, City Clerk of the City of Orange, California, do hereby certify that the foregoing Ordinance was introduced at the regular meeting of the City Council held on the ____ day of _____, 2021, and thereafter at the regular meeting of said City Council duly held on the ____ day of _____, 2021 was duly passed and adopted by the following vote, to wit:

AYES: COUNCILMEMBERS:
NOES: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:
ABSTAIN: COUNCILMEMBERS:

Pamela Coleman, City Clerk, City of Orange



Agenda Item

City Council

Item #: 10.2.

7/13/2021

File #: 21-0346

TO: Honorable Mayor and Members of the City Council

THRU: Rick Otto, City Manager

FROM: Christopher Cash, Public Works Director

1. SUBJECT

Continued Public Hearing to consider approval of the Landscape Maintenance Assessment Districts 86-2 (Santiago Hills), and 15-1 (Santiago Hills Overlay) Final Engineer's Reports for Fiscal Year 2021-2022. Resolution No. 11329. (Continued from June 8, 2021).

2. SUMMARY

Resolution 11329 is the second step and will complete the process of the annual assessment for Landscape Maintenance Assessment Districts 86-2 (Santiago Hills), and 15-1 (Santiago Hills Overlay). The total assessment to be levied from 86-2 and 15-1 for Fiscal Year 2021-2022 are \$533,651 and \$346,478, respectively. The assessment per unit for 86-2 will remain at \$369.44. For 15-1, staff recommends a 1.5% CPI adjustment which slightly increases per unit assessment for a single family detached unit from \$244.49 to \$248.16. The assessment for 15-1 for condominiums will increase from \$173.59 to \$176.19.

3. RECOMMENDED ACTION

1. Adopt Resolution No. 11329. A Resolution of the City Council of the City of Orange approving the Engineer's Reports and providing for the annual assessment for Landscape Maintenance Districts 86-2 (Santiago Hills) and 15-1 (Santiago Hills Overlay).
2. Establish the assessment per single family detached unit per year for Fiscal Year 2021-2022 for Landscape Maintenance Districts 86-2 (Santiago Hills) and 15-1 (Santiago Hills Overlay) at \$369.44, and \$248.16, respectively.

4. FISCAL IMPACT

The total expenditure for this assessment is \$1,232,694 and will be funded through Santiago Hills and Santiago Hills Overlay Landscape Maintenance Districts (291).

5. STRATEGIC PLAN GOALS

Goal 3: Enhance and promote quality of life in the community

a: Renovate, maintain, develop and/or expand public use places and spaces.

6. DISCUSSION AND BACKGROUND

In 1987, Landscape Maintenance District 86-2 (LMD 86-2) was established to maintain the landscape improvements constructed by Assessment District 86-1 in Santiago Hills. Annually, a detailed accounting of expenses is compiled and a new assessment is calculated for the benefiting property

owners.

This year's assessment for a single family detached unit is \$369.44. This is the same as last year and the largest assessment currently allowed. Revenue in the District is derived from assessments paid by property owners, both residential and commercial, as well as Rancho Santiago Community College District who reimburses the District for the cost to maintain the parkways adjacent to the school.

On April 14, 2015, the City Council approved the formation of a new district (LMD 15-1) to exactly overlay the existing LMD 86-2 and to provide additional funding necessary to serve the District. The annual assessment for LMD 15-1 was approved by the property owners on June 9, 2015.

The proposed Fiscal Year 2021-2022 (FY22) budget for the combined LMD 86-2 and LMD 15-1 indicates the amount of funding required to maintain District landscape and provides a capital budget to replace aging landscaping and infrastructure over time. Additional revenues to fully fund the District would be obtained through the overlay district, LMD 15-1, and a separate agreement with Rancho Santiago Community College District. The existing LMD 86-2 will stay at the maximum assessment; however, the assessment for LMD 15-1 will include a 1.5% Consumer Price Index (CPI) increase. The Assessment for LMD 15-1 is permitted to increase annually consistent with CPI increases for the Los Angeles-Long Beach-Anaheim area. Community Services Department staff recommended assessing the CPI adjustment, which for FY 22 is 1.5%, to continue capital renovations of the aging landscape. The assessment for 15-1 for a single family detached unit will slightly increase by \$3.67 from \$244.49 to \$248.16. The assessment for 15-1 for condominiums will increase by \$2.60 from \$173.59 to \$176.19.

The maximum assessment total for LMD 86-2 for FY22 is \$533,651. The assessment total for LMD 15-1 for FY22 is \$346,478 including the 1.5% CPI adjustment. Revenues of \$30,466 from Rancho Santiago Community College District are included as a reimbursement for landscape maintenance costs paid by LMD 86-2 and LMD 15-1. This totals to \$910,595 in revenue. Expenditures in FY22 are anticipated to be approximately \$1,232,694 which is \$322,099 over revenues. Reserve funds will be used to supplement the deficit in FY22 expenditures. These expenditures include \$364,008 to be used towards capital improvement projects proposed in the FY22 budget. The City continues to actively work with District residents on developing a renovation plan for their 30 year old landscape that is both fiscally and environmentally sustainable. The projected year-end reserve fund balance is \$478,870.

The attached Final Engineer's Report contains detailed information about the assessment.

Each year, the process for setting the assessment of the Landscape Maintenance Districts is initiated. The process began on May 11, 2021 with the City Council Approval of Resolution No. 11324 which approved the Preliminary Engineer's Reports for LMD 86-2, and 15-1, and set July 13, 2021 as the date for the public hearing. This public hearing is the second step in the process and is held in accordance with the Lighting and Landscape Maintenance Act of 1972 as outlined in the "Order of Procedure." At this time, property owners will have an opportunity to be heard on this issue.

7. ATTACHMENTS

- Resolution No. 11329 - Landscape Maintenance Assessment District 86-2 (Santiago Hills), and 15-1 (Santiago Hills Overlay).
- Final Engineer's Report for the Annual Levy - Assessment Landscape Maintenance District No. 86-2 - Fiscal Year 2021-2022.

- Final Engineer's Report for the Annual Levy - Assessment Landscape Maintenance District No. 15-1 - Fiscal Year 2021-2022.]



Agenda Item

City Council

Item #: 10.2.

7/13/2021

File #: 21-0346

TO: Honorable Mayor and Members of the City Council

THRU: Rick Otto, City Manager

FROM: Christopher Cash, Public Works Director

1. SUBJECT

Continued Public Hearing to consider approval of the Landscape Maintenance Assessment Districts 86-2 (Santiago Hills), and 15-1 (Santiago Hills Overlay) Final Engineer's Reports for Fiscal Year 2021-2022. Resolution No. 11329. (Continued from June 8, 2021).

2. SUMMARY

Resolution 11329 is the second step and will complete the process of the annual assessment for Landscape Maintenance Assessment Districts 86-2 (Santiago Hills), and 15-1 (Santiago Hills Overlay). The total assessment to be levied from 86-2 and 15-1 for Fiscal Year 2021-2022 are \$533,651 and \$346,478, respectively. The assessment per unit for 86-2 will remain at \$369.44. For 15-1, staff recommends a 1.5% CPI adjustment which slightly increases per unit assessment for a single family detached unit from \$244.49 to \$248.16. The assessment for 15-1 for condominiums will increase from \$173.59 to \$176.19.

3. RECOMMENDED ACTION

1. Adopt Resolution No. 11329. A Resolution of the City Council of the City of Orange approving the Engineer's Reports and providing for the annual assessment for Landscape Maintenance Districts 86-2 (Santiago Hills) and 15-1 (Santiago Hills Overlay).
2. Establish the assessment per single family detached unit per year for Fiscal Year 2021-2022 for Landscape Maintenance Districts 86-2 (Santiago Hills) and 15-1 (Santiago Hills Overlay) at \$369.44, and \$248.16, respectively.

4. FISCAL IMPACT

The total expenditure for this assessment is \$1,232,694 and will be funded through Santiago Hills and Santiago Hills Overlay Landscape Maintenance Districts (291).

5. STRATEGIC PLAN GOALS

Goal 3: Enhance and promote quality of life in the community

a: Renovate, maintain, develop and/or expand public use places and spaces.

6. DISCUSSION AND BACKGROUND

In 1987, Landscape Maintenance District 86-2 (LMD 86-2) was established to maintain the landscape improvements constructed by Assessment District 86-1 in Santiago Hills. Annually, a detailed accounting of expenses is compiled and a new assessment is calculated for the benefiting property

owners.

This year's assessment for a single family detached unit is \$369.44. This is the same as last year and the largest assessment currently allowed. Revenue in the District is derived from assessments paid by property owners, both residential and commercial, as well as Rancho Santiago Community College District who reimburses the District for the cost to maintain the parkways adjacent to the school.

On April 14, 2015, the City Council approved the formation of a new district (LMD 15-1) to exactly overlay the existing LMD 86-2 and to provide additional funding necessary to serve the District. The annual assessment for LMD 15-1 was approved by the property owners on June 9, 2015.

The proposed Fiscal Year 2021-2022 (FY22) budget for the combined LMD 86-2 and LMD 15-1 indicates the amount of funding required to maintain District landscape and provides a capital budget to replace aging landscaping and infrastructure over time. Additional revenues to fully fund the District would be obtained through the overlay district, LMD 15-1, and a separate agreement with Rancho Santiago Community College District. The existing LMD 86-2 will stay at the maximum assessment; however, the assessment for LMD 15-1 will include a 1.5% Consumer Price Index (CPI) increase. The Assessment for LMD 15-1 is permitted to increase annually consistent with CPI increases for the Los Angeles-Long Beach-Anaheim area. Community Services Department staff recommended assessing the CPI adjustment, which for FY 22 is 1.5%, to continue capital renovations of the aging landscape. The assessment for 15-1 for a single family detached unit will slightly increase by \$3.67 from \$244.49 to \$248.16. The assessment for 15-1 for condominiums will increase by \$2.60 from \$173.59 to \$176.19.

The maximum assessment total for LMD 86-2 for FY22 is \$533,651. The assessment total for LMD 15-1 for FY22 is \$346,478 including the 1.5% CPI adjustment. Revenues of \$30,466 from Rancho Santiago Community College District are included as a reimbursement for landscape maintenance costs paid by LMD 86-2 and LMD 15-1. This totals to \$910,595 in revenue. Expenditures in FY22 are anticipated to be approximately \$1,232,694 which is \$322,099 over revenues. Reserve funds will be used to supplement the deficit in FY22 expenditures. These expenditures include \$364,008 to be used towards capital improvement projects proposed in the FY22 budget. The City continues to actively work with District residents on developing a renovation plan for their 30 year old landscape that is both fiscally and environmentally sustainable. The projected year-end reserve fund balance is \$478,870.

The attached Final Engineer's Report contains detailed information about the assessment.

Each year, the process for setting the assessment of the Landscape Maintenance Districts is initiated. The process began on May 11, 2021 with the City Council Approval of Resolution No. 11324 which approved the Preliminary Engineer's Reports for LMD 86-2, and 15-1, and set July 13, 2021 as the date for the public hearing. This public hearing is the second step in the process and is held in accordance with the Lighting and Landscape Maintenance Act of 1972 as outlined in the "Order of Procedure." At this time, property owners will have an opportunity to be heard on this issue.

7. ATTACHMENTS

- Resolution No. 11329 - Landscape Maintenance Assessment District 86-2 (Santiago Hills), and 15-1 (Santiago Hills Overlay).
- Final Engineer's Report for the Annual Levy - Assessment Landscape Maintenance District No. 86-2 - Fiscal Year 2021-2022.

- Final Engineer's Report for the Annual Levy - Assessment Landscape Maintenance District No. 15-1 - Fiscal Year 2021-2022.]

RESOLUTION NO. 11329

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ORANGE APPROVING THE ENGINEER'S REPORTS AND PROVIDING FOR THE ANNUAL ASSESSMENT FOR LANDSCAPE MAINTENANCE DISTRICTS 86-2 (SANTIAGO HILLS) AND 15-1 (SANTIAGO HILLS OVERLAY)

WHEREAS, the City Council of the City of Orange has previously formed a special maintenance district pursuant to the terms of the "Landscaping and Lighting Act of 1972" being Part 2 of Division 15 of the California Streets and Highways Code, in what is known and designated as Landscape Maintenance District Nos. 86-2 and 15-1 ("Assessment Districts"); and

WHEREAS, the City Council has initiated proceedings for the levy of the annual assessment for the Assessment Districts; and

WHEREAS, at this time a public hearing has been held in the manner and form as required by law, and the City Council has considered all oral statements and written protests made or filed by all interested persons; and

WHEREAS, this City Council is now satisfied with the assessment and diagram and all other matters as contained in the Engineer's Reports as now submitted for final consideration and approval, and is now desirous of proceeding with the levy of the annual assessment.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Orange as follows:

Section I:

That the above recitals are all true and correct.

Section II:

That all protests and objections of every kind and nature be, and the same hereby are, overruled and denied.

Section III:

That the Final Engineer's Reports consisting of the final submitted assessment and diagram for the proceedings, are hereby approved and confirmed and a copy of said Reports is hereby filed with the City Clerk.

Section IV:

That the assessments for fiscal year 2021-2022 be established as approved by the City Council, and are hereby confirmed and levied upon the respective subdivisions of land in the Assessment Districts in the amounts as set forth in said final approved Engineer's Reports.

Section V:

The City Clerk shall immediately accomplish the following:

A. Deliver to the City Engineer the assessment, together with the diagram attached thereto and made a part thereof, as confirmed, with a Certificate of Confirmation attached and the date thereof. Said City Engineer shall then immediately place for a record said diagram and assessment in his/her office in a suitable book as a permanent record and attach a Certificate of Recordation.

B. Cause to be filed a certified copy of a diagram and assessment with the County Auditor, said filing to be completed no later than the 3rd Monday in August.

Section VI:

That the above confirmed assessments shall be collected at the same time and in the same manner as County property taxes are collected, and all laws providing for the collection and enforcement of these assessments.

ADOPTED this 8th day of June 2021.

Mark A. Murphy, Mayor, City of Orange

ATTEST:

Pamela Coleman, City Clerk, City of Orange

STATE OF CALIFORNIA)
COUNTY OF ORANGE)
CITY OF ORANGE)

I, PAMELA COLEMAN, City Clerk of the City of Orange, California, do hereby certify that the foregoing Resolution was duly and regularly adopted by the City Council of the City of Orange at a regular meeting thereof held on the 8th day of June 2021, by the following vote:

AYES: COUNCILMEMBERS:
NOES: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:
ABSTAIN: COUNCILMEMBERS:

Pamela Coleman, City Clerk, City of Orange

CITY OF ORANGE
FINAL ENGINEER'S REPORT
FOR THE ANNUAL LEVY
ASSESSMENT LANDSCAPE MAINTENANCE
DISTRICT NO. 86-2
FISCAL YEAR 2021-2022



LANDSCAPE MAINTENANCE DISTRICT NO. 86-2
SANTIAGO HILLS

Intent Meeting:	May	11, 2021
Public Hearing:	June	8, 2021

AFFIDAVIT FOR THE ENGINEER'S REPORT

This Report describes the City of Orange Landscape Maintenance District No. 86-2 and proposed changes or modifications related thereto including the improvements, budgets, parcels and assessments to be levied for Fiscal Year 2021-2022, pursuant to the City's Resolution of Intention. Reference is hereby made to the Orange County Assessor's maps for a detailed description of the lines and dimensions of parcels within the District. The undersigned respectfully submits the enclosed Report as directed by the City Council.

Dated this 19th day of May, 2021.

By: Frank Sun
Frank Sun
Assistant Public Works Director / City Engineer



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INTRODUCTION

Pursuant to the provisions of the *Landscaping and Lighting Act of 1972, being Part 2 of Division 15 of the California Streets and Highways Code, commencing with Section 22500* (hereafter referred to as the "1972 Act"), and in compliance with the substantive and procedural requirements of the *California State Constitution Articles XIII C and XIII D* (hereafter referred to as the "California Constitution"), the City Council of the City of Orange, County of Orange, State of California (hereafter referred to as "City"), in connection with the annual levy and collection of assessments of the special benefit assessment district designated as:

Landscape Maintenance District No. 86-2

(hereafter referred to as the "District"), which includes all lots and parcels of land that specially benefit from the improvements within the District. This Engineer's Report (hereafter referred to as "Report") has been prepared in connection with the annual levy and collections of assessments for said District pursuant to Chapter 1, Article 4 of the 1972 Act.

The City Council proposes to levy and collect annual assessments on the County tax rolls to provide ongoing funding for the costs and expenses required to service and maintain the landscaping improvements originally installed in connection with the development of properties within the District. The improvements to be provided by the District and the assessments described herein are made pursuant to the 1972 Act.

This Report describes the District, the improvements, and the proposed assessments to be levied in Fiscal Year 2021-2022 against properties in connection with the special benefits the properties will receive from the maintenance and servicing of the District improvements. The annual assessments to be levied on properties within the District will provide a funding source for the continued operation and maintenance of local landscaping improvements installed in connection with the development of properties within the District. The assessments described in this Report are based on an estimate of the direct expenditures, incidental expenses, and fund balances that will be necessary to maintain and service the improvements.

The word "parcel," for the purposes of this Report, refers to an individual property assigned its own Assessor's Parcel Number (APN) by the Orange County Assessor's Office. The Orange County Auditor/Controller uses Assessor's Parcel Numbers and specific Fund Numbers to identify properties to be assessed on the tax roll for the special benefit assessments.

This Report has been prepared and presented to the City Council to address any proposed changes to the District or improvements, if any, and the proposed budget and assessments for Fiscal Year 2021-2022. The City Council will conduct a noticed public hearing to consider public testimonies, comments and written protests regarding the levy and collection of assessments for Fiscal Year 2021-2022. Upon conclusion of the public hearing, if majority protest does not exist the City Council may approve this Report (as submitted or amended) and levy the assessments for Fiscal Year 2021-2022. In such case, the assessments for fiscal year 2021-2022 shall be submitted to the Orange County Auditor/Controller for inclusion on the property tax roll for each parcel. If the proposed annual assessments for this District exceed the maximum assessment described herein (as approved by the property owners), the new or increased assessment must be confirmed through another property owner protest ballot proceeding before such an assessment may be imposed.

This Report consists of five (5) parts:

Part I

Plans and Specifications: A description of the District boundaries and the improvements associated with the District. The District is being formed as a single benefit zone encompassing all properties within the territory identified as Landscape and Maintenance District No 86-2.

Part II

The Method of Apportionment: A discussion of benefits the improvements and services provide to properties within the District and the method of calculating each property's proportional special benefit and annual assessment.

Part III

The District Budget: An estimate of the annual costs to operate, maintain and service the landscaping and appurtenant facilities installed and constructed as part of the development of properties within the District. This budget includes an estimate of anticipated direct maintenance costs and incidental expenses. The special benefit assessments are based on the overall operation costs minus any costs that are considered general benefit. The proposed assessments for Fiscal Year 2021-2022, and each subsequent year shall be based on the estimated net annual cost of operating, maintaining and servicing the improvements for that fiscal year as well as funds to be collected in installments to perform maintenance activities that cannot be reasonably collected in a single fiscal year's assessments.

Part IV

District Diagram: A Diagram showing the exterior boundaries of the District is provided in this Report and includes all parcels that will receive special benefits from the improvements. Reference is hereby made to the Orange County Assessor's Parcel Maps for a detailed description of the lines and dimensions of each lot and parcel of land within the District.

Part V

Assessment Roll: A listing of the proposed assessment amounts to be levied on Assessor's Parcel within the District for Fiscal Year 2021-2022. The proposed assessment amount for each parcel is based on the parcel's proportional special benefit as outlined in the method of apportionment.

PART I — PLANS AND SPECIFICATIONS

A. Description of the District

The assessment district boundary is shown on a map entitled Assessment Diagram, Landscape Maintenance District No. 86-2, City of Orange, which is on file with the City Clerk of the City of Orange. A reduced scale copy of the Diagram can be found in Part IV of this document.

B. Improvements and Services

Improvements and Services Permitted Pursuant to the 1972 Act

As generally defined by the Landscaping and Lighting Act of 1972 and applicable to this District, the improvements and associated assessments may include one or more of the following:

- 1) The installation or planting of landscaping;
- 2) The installation or construction of statuary, fountains, and other ornamental structures and facilities;
- 3) The installation or construction of any facilities which are appurtenant to any of the foregoing or which are necessary or convenient for the maintenance or servicing thereof;
- 4) The installation of park or recreational improvements, including, but not limited to, all of the following:
 - a) Land preparation, such as grading, leveling, cutting and filling, sod, landscaping, irrigation systems, sidewalks, and drainage.
 - b) Lights, playground equipment, play courts, and public restrooms.
- 5) The maintenance or servicing, of any of the foregoing including the furnishing of services and materials for the ordinary and usual maintenance, operation, and servicing of any improvement including but not limited to:
 - a) Repair, removal, or replacement of all or any part of any improvements;
 - b) Grading, clearing, removal of debris, the installation or construction of curbs, gutters, walls, sidewalks, or paving, or water, irrigation, drainage, or electrical facilities;
 - c) Providing for the life, growth, health, and beauty of landscaping, including cultivation, irrigation, trimming, spraying, fertilizing, or treating for disease or injury;
 - d) The removal of trimmings, rubbish, debris, and other solid waste;
 - e) The cleaning, sandblasting, and painting of walls and other improvements to remove or cover graffiti;
 - f) Electric current or energy, gas, or other illuminating agent for any public lighting facilities or for the lighting or operation of any other improvements;
 - g) Water for the irrigation of any landscaping, the operation of any fountains, or the maintenance of any other improvements.
- 6) Incidental expenses associated with the improvements including, but not limited to:

- a) The cost of preparation of the report, including plans, specifications, estimates, diagram, and assessment;
- b) Compensation payable to the County for collection of assessments;
- c) Compensation of any engineer or attorney employed to render services;
- d) Any other expenses incidental to the construction, installation, or maintenance and servicing of the improvements;

Description of Planned Improvements

The landscape improvements are generally described as follows:

a) Parkway and Recreation Areas:

- Newport Boulevard - approximately 18-foot wide zone (including the width of the sidewalk) from the back of the curb to the property line, and corner cutoffs at intersections, on the east side from Chapman Avenue to 312 feet south of the centerline of Skylark Place.
- Chapman Avenue - approximately 18-foot wide zone (including the width of the sidewalk) from the back of the curb to the property line, and corner cutoffs at intersections, on south side from Newport Boulevard to Jamboree Road.
- Canyon View Avenue - approximately 30-foot wide zones (including the width of the sidewalk) from the back of the curb to the property line, and corner cutoffs at intersections, on both sides from Newport Boulevard to Jamboree Road.
- White Oak Ridge – approximately 17-foot wide zones (including the width of the sidewalk) from the back of the curb to the property line, and corner cutoffs at intersections, on both sides from Newport Boulevard to Canyon View Avenue.
- Trails End Lane - approximately 17-foot wide zone on the west side and approximately 28- to 32-foot wide zone on the east side (including the width of the sidewalks), both zones from the back of the curb to the property line, and corner cutoffs at intersections, from White Oak Ridge to Chapman Avenue.
- Handy Creek Corridor - from the intersection of Chapman Avenue and Newport Boulevard to White Oak Ridge and from White Oak Ridge to the intersection of Canyon View Avenue and Handy Creek Road (Lot 20, a portion of Lot 11, and Lot D of Tract No. 12417) including concrete walkways which also serve as emergency access ways.
- Paseo - approximately 50-foot wide zone from the Park to White Oak Ridge and from White Oak Ridge to Old Camp Road (Lots A and B of Tract No. 12417) and approximately 35-foot wide zone from the Paseo to White Oak Ridge (Lot C of Tract No. 12417) including surface and subsurface drainage facilities and concrete walkways which also serve as emergency access ways.
- Handy Creek Road - approximately 10-foot wide zone (including the width of the sidewalks) on south side from the back of the curb to the property line from the end of Handy Creek Corridor (Lot D, Tract No. 12417) near Canyon View Avenue to the northerly terminus of the street.

- Fort Road - approximately 17-foot wide zones (including the width of the sidewalks) from the back of the curb to the property line on south side from White Oak Ridge to Jamboree Road.
- Santiago Canyon Road - approximately 18-foot wide zone (including the width of the sidewalk) from back of curb to back of sidewalk on north and south sides from Newport Boulevard to Jamboree Road.
- Old Camp Road - approximately 4-foot wide zones from back of curb to property line on both sides from Canyon View Avenue to the northerly terminus of the street.
- Skylark Place - approximately 18-foot wide zones (including the width of the sidewalk) from back of the curb to the property line on both sides from White Oak Ridge to Newport Boulevard.
- Jamboree Road - variable width zone (including the width of the bike trail-sidewalk) from the back of the curb to the property line on the west side from Canyon View Avenue to Chapman Avenue.
- Additional Areas - areas adjacent to the 18-foot wide zones along Skylark Place, Chapman Avenue, and Jamboree Road have been dedicated to the City with tracts 12672,12741,12711,15398 and PM 92-195. Such areas have been landscaped by the developers and the sprinkler systems tied into the District's.

b) Medians

- Chapman Avenue - 14-foot wide median from Newport Boulevard to Jamboree Road.
- White Oak Ridge - 14-foot wide medians at Newport Boulevard and Canyon View Avenue.
- Trails End Lane - 14-foot wide median from White Oak Ridge to Chapman Avenue.
- Jamboree Road - 24-foot wide median from southerly City limits to Santiago Canyon Road.
- Santiago Canyon Road - Variable width from Newport Boulevard to Jamboree Road.
- Newport Boulevard - 22-foot wide median from Chapman Avenue to Santiago Canyon Road.

c) The following items are excluded from the Maintenance District:

- The 8 +/- acre park is excluded from this Landscape Maintenance District.
- Sidewalks along all Maintenance District streets are excluded from this Landscape Maintenance District.
- The equestrian trail along Canyon View Avenue is excluded from this Landscape Maintenance District.

d) Maintenance shall include, but not be limited to:

- repair, removal, replacement or installation of all or any part of any included improvement such as storm drains and pedestrian walkways in the paseos;
- providing for the life, growth, health, and beauty of landscaping, including cultivation, irrigation, trimming, spraying, fertilizing, and treating for disease or injury; and
- the removal of trimmings, rubbish, debris, and other solid waste.

The maintenance of the District improvements generally include, but are not limited to all materials, equipment, utilities, labor and incidental expenses including administrative expenses for annual operation of the District as well as the performance of occasional repairs, replacement and expanded maintenance activities associated with those improvements. Detailed maps and descriptions of the location and extent of the improvements to be maintained by the District are on file at the City and by reference are made part of this Report.

The estimated annual cost to provide and maintain the improvements within the District shall be allocated to each property in proportion to the special benefits received. The Method of Apportionment described in this Report utilizes commonly accepted assessment engineering practices and has been established pursuant to the 1972 Act and the provisions of the California Constitution.

PART II — METHOD OF APPORTIONMENT

A. General

The 1972 Act permits the establishment of assessment districts by agencies for the purpose of providing certain public improvements, which include the construction, maintenance, and servicing of public landscaping and appurtenant facilities. The 1972 Act further requires that the cost of these improvements be levied according to benefit rather than assessed value:

"The net amount to be assessed upon lands within an assessment district may be apportioned by any formula or method which fairly distributes the net amount among all assessable lots or parcels in proportion to the estimated benefits to be received by each such lot or parcel from the improvements."

The method of apportionment described in this Report for allocation of special benefit assessments utilizes commonly accepted engineering practices and have been established pursuant to the 1972 Act and the provisions of the California Constitution. The formula used for calculating assessments in this District reflect the composition of the parcels, and the improvements and services provided, to fairly apportion the costs based on benefit to each parcel.

B. Benefit Analysis

Each of the proposed improvements, the associated costs and assessments have been carefully reviewed, identified and allocated based on special benefit pursuant to the provisions of the California Constitution and 1972 Act. The improvements provided by this District and for which properties will be assessed have been identified as necessary, required and/or desired for the orderly development of the residential properties within the District to their full potential. As such, the ongoing operation, servicing and maintenance of these improvements would be the financial obligation of those properties. Therefore, the improvements and the annual costs of ensuring the maintenance and operation of the improvements are a distinct and special benefit to the residential properties within the District.

Special Benefit

The method of apportionment (method of assessment) established herein is based on the premise that each assessed parcel within the District receives special benefits from the improvements and the desirability and security of those properties is enhanced by the presence of well-maintained landscaping in close proximity to those properties.

The special benefits associated with the landscaping and open space improvements are specifically:

- Enhanced desirability of properties through association with the improvements.
- Improved aesthetic appeal of properties providing a positive representation of the area and properties.
- Enhanced adaptation of the urban environment within the natural environment from adequate green space and landscaping.
- Environmental enhancement through improved erosion resistance, dust and debris control, and fire prevention.
- Increased sense of pride in ownership of property within the District resulting from well-maintained improvements associated with the properties.

- Enhanced quality of life through well-maintained green space and landscaped areas.
- Reduced criminal activity and property-related crimes (especially vandalism) against properties in the District through well-maintained surroundings and amenities including abatement of graffiti.
- Enhanced environmental quality of the parcels by moderating temperatures, providing oxygenation and attenuating noise.

The parkways and medians consist of landscaped areas along the edge of or within the middle of streets and highways in the District. The District also has landscaped corridors extending through the developed area, which provide access to Santiago Hills Park. The improvements in these areas consist of trees, shrubs, ornamental vegetation, and appurtenant improvements.

The improvements extend throughout the development area and serve several purposes. The landscaped parkways along the streets and highways enhance the public walkways throughout the District and allow pedestrian access to the residents in the area. These parkways also provide passive and active recreational uses as well as the aesthetic enhancement for the total development area. Landscaped median islands also provide similar enhancements for the residents in the area.

The landscaped recreation/pedestrian corridors throughout the District provide for open space and recreational uses, which connect to the park site throughout the development area. Besides contributing to the active and passive recreation use in the area, the corridors aesthetically enhance the area within the District.

Maintenance of these public improvements primarily renders a people oriented benefit to the properties within the boundaries of the District and, as such, relates to the number of persons in each dwelling unit on each property. These benefits are direct and special to the properties within the District.

The preceding special benefits all contribute to the overall esthetic value and desirability of each of the assessed parcels within the District and thereby provide a special enhancement to these properties. Furthermore, it has been determined that the lack of funding to properly service and maintain the improvements would likely have a direct negative impact on the properties within the District.

General Benefit

In reviewing the District improvements, the proximity of those improvements to both properties within the District and those outside the District as well as the reasons for installing and constructing such improvements, it is evident that the improvements are solely the result of developing properties within the District and the ongoing maintenance and operation of these improvements will directly affect the properties within the District. Although the improvements are visible to the public at large, the construction and installation of these improvements were necessary for the development of properties within the District and are not required nor necessarily desired by any properties or developments outside the District boundary and any public access or use of the improvements by others is incidental. Therefore, it has been determined that the improvements and the ongoing maintenance, servicing and operation of those improvements provide no measurable general benefit to properties outside the District or to the public at large, but clearly provide distinct and special benefits to properties within the District.

C. Assessment Methodology

The benefit formula used to determine the assessment obligation for each parcel should be based upon both the improvements that benefit the parcels as well as the use of each property as compared to other parcels that benefit from those specific improvements. The method of apportionment established for most benefit assessment districts utilizes a weighted method of apportionment known as an Equivalent Benefit Unit (EBU) methodology. The Equivalent Benefit Unit method of apportionment uses the single-family home site as the basic unit of assessment. A single-family residential property equals one Equivalent Benefit Unit ("EBU"). Every other land use is converted to EBUs based on an assessment formula that equates the property's specific development status, type of development (land use), and size of the property, as compared to a single-family home site.

The EBU method of apportioning benefit is typically seen as the most appropriate and equitable assessment methodology for districts formed under the 1972 Act, as the benefit to each parcel from the improvements are apportioned as a function of land use type, size and development.

EBU Application by Land Use:

Single-Family Residential — This land use is defined as a fully subdivided residential home site with or without a structure. This land use is assessed 1.0 EBU per lot or parcel. This is the base value that the other land use types are compared and weighted against (i.e. Equivalent Benefit Unit or EBU).

Multi-Family Residential — This land use is defined as a fully subdivided residential parcel that has more than one residential unit developed on the property. This land use is assessed 0.6 EBU per dwelling unit.

Mixed Use Property — This land use is defined as property developed for either commercial or industrial use. This land use type is assessed at 11.0 EBUs per gross acre.

Exempt Parcels — This land use identifies properties that are not assessed and are assigned 0.0 EBU. This land use classification may include, but is not limited, to lots or parcels identified as public streets and other roadways (typically not assigned an APN by the County); dedicated public easements, open space areas and right-of-ways including greenbelts and parkways; utility right-of-ways; common areas, sliver parcels and bifurcated lots or any other property that cannot be developed; park properties and other publicly owned properties that are part of the District improvements or that have little or no improvement value. These types of parcels are considered to receive little or no benefit from the improvements and are therefore exempted from assessment.

Lots 9, 10, 11, 15, and 19 of Tract No. 12417 have been assigned 0.0 EBU because they have been excluded from the District. The cost of maintaining the landscape improvements on these publicly owned parcels is not paid by the District but rather from the general fund of the public agency owning the parcel. Therefore, these publicly owned parcels do not receive any special benefit from the District.

The following table provides a listing of land use types, land use code designations, the Equivalent Benefit Unit factor applied to that land use type, and the multiplying factor used to calculate each parcel's individual EBU.

Land Use Codes and Equivalent Benefit Units

Property Type	Equivalent Benefit Unit	Multiplier
Single-family Residential	1.000	Unit/Lot/Parcel
Multi-family Residential	0.600	Units/Dwelling Units
Mixed Use	11.000	Acreage
Exempt	0.000	Parcel

The benefit formula applied to parcels within the District is based on the preceding Equivalent Benefit Unit (EBU) table. Each parcel's EBU correlates the parcel's special benefit received as compared to the other parcels benefiting from the improvements.

The following formula is used to calculate each parcel's EBU (proportional benefit).

$$\text{Parcel Type EBU} \times \text{Multiplier (Acres or Unit)} = \text{Parcel's EBU}$$

The total number of Equivalent Benefit Units (EBUs) is the sum of all individual EBUs applied to parcels that receive a special benefit from the improvement. An assessment amount per EBU (Rate) for each improvement is established by taking the total cost of the improvement and dividing that amount by the total number of EBUs of parcels benefiting from the improvement. This Rate is then applied back to each parcel's individual EBU to determine the parcel's proportionate benefit and assessment obligation for that improvement.

The Maximum allowable assessment rate of \$369.44 EBU (single family) generates an assessment total of \$533,650.77.

$$\begin{aligned} \text{Total Balance to Levy} / \text{Total EBU} &= \text{Assessment Rate per EBU} \\ \text{Assessment Rate per EBU} \times \text{Parcel's EBU} &= \text{Parcel's Assessment} \end{aligned}$$

PART III — DISTRICT BUDGET

The following budget outlines the estimated costs to maintain the improvements for 2021-2022.

ANNUAL LEVY OF ASSESSMENT
LANDSCAPE MAINTENANCE DISTRICT NO. 86-2
City of Orange
ESTIMATED COSTS

OPERATION & MAINTENANCE FUND BALANCE FROM PRIOR YEARS

Estimated Fund Balance (Includes 15-1 & 86-2) as of March 2021 \$478,870

The estimated budget necessary for the 2021-2022 Fiscal Year for the District is as follows:

BUDGET ITEM	COST
ANNUAL MAINTENANCE	
Landscaping	\$329,340
Tree Trimming	\$165,000
Electrical Maintenance	\$40,000
Misc. Contract Services	\$10,000
Repair/ Maintenance Services	\$57,051
Supplies	\$8,500
Other Professional Services	\$2,000
Telephone	\$1,400
Electricity	\$20,000
Water	\$168,000
Salaries & Benefits	\$47,622
City Administrative Services	\$19,773
Capital Replacement/ Dedicated Reserves	\$364,008
TOTAL EST. LANDSCAPE MAINTENANCE EXPENTITURES	\$1,232,694
ESTIMATED REVENUE	
Landscape Maintenance District No. 86-2	\$533,651
Rancho Santiago Community College District	\$30,466
Proposed Benefit Assessment FY 2021/22 (LMD 15-1)	
(See LMD 15-1 Engineer's Report for specifics)	\$341,358
• CPI Adjustment (Current Year 1.5%)	\$5,120
• Unused CPI Adjustment (Carry over from prior years)	\$0
TOTAL ESTIMATED REVENUE	\$910,595

RESERVE FUNDS USED TO SUPPLEMENT EXPENDITURES ¹ (\$322,099)

●This Budget Estimate is for the purpose of establishing an Annual Assessment. It may vary from the adopted City Budget. All assessments collected by the District may only be used for District expenditures regardless of the Budget Estimate.

BALANCE TO LEVY

\$533,651

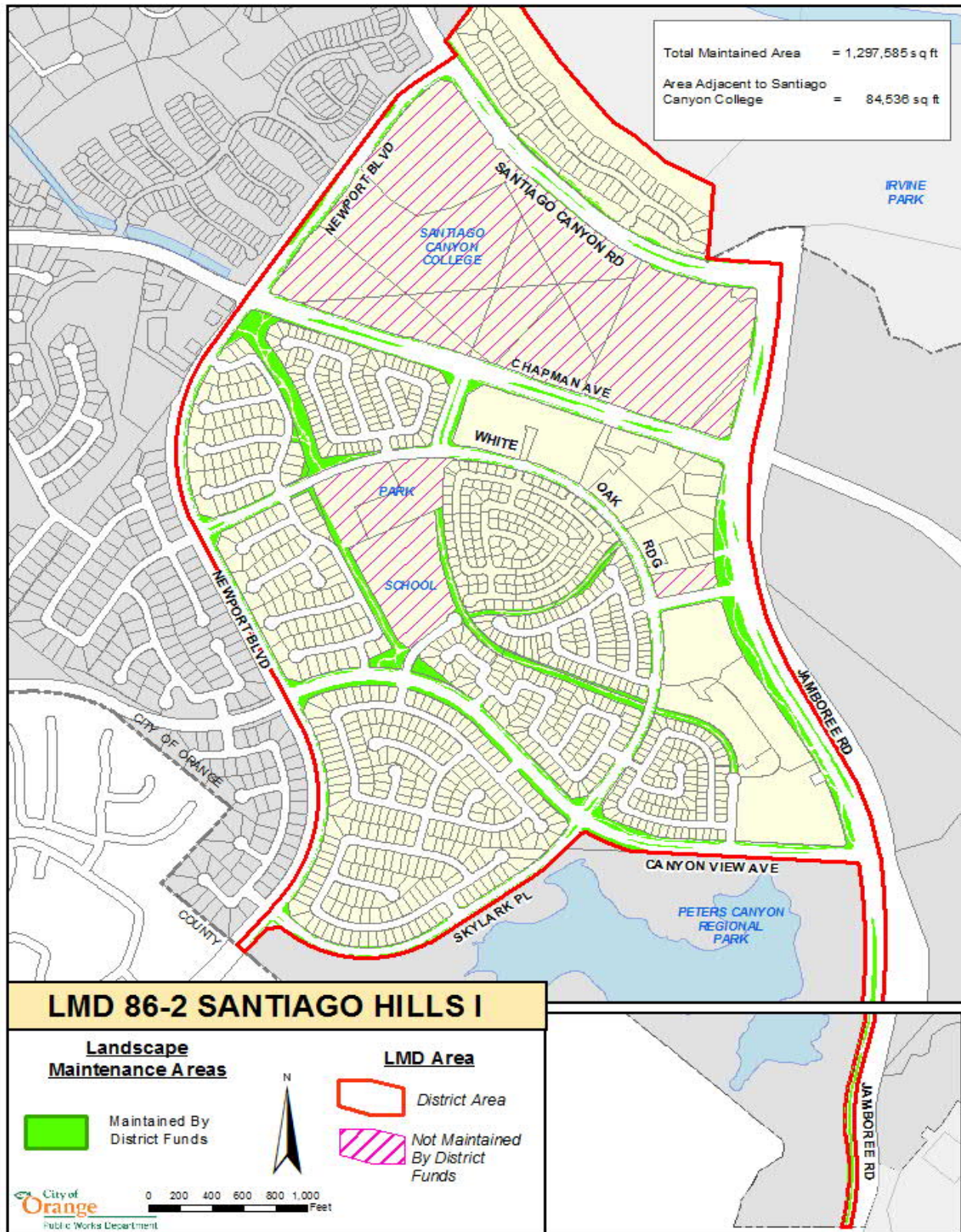
Notes to Estimate of Costs:

1. Since expenditures in FY22 are anticipated to exceed revenues, the fund balance will be used to offset additional expenditures. In future years, the City will continue to work with District residents on developing a renovation plan that is both fiscally and environmentally sustainable.

PART IV — DISTRICT DIAGRAMS

The parcels within the Landscape Maintenance District No 86-2 consist of all lots, parcels and subdivisions of land located in the planned residential development known as Santiago Hills.

The following diagram incorporates all parcels within the District, as the same existed at the time this Report was prepared. The combination of this map and the Assessment Roll contained in this Report constitute the Assessment Diagram for the Landscape and Maintenance District No. 86-2.



PART V — ASSESSMENT ROLL

Parcel identification for each lot or parcel within the District is based on available parcel maps and property data from the Orange County Assessor's Office, as they existed at the time this Engineer's Report was prepared and the City Council adopted the Resolution of Intention. A listing of the lots and parcels to be assessed within this District along with the assessment amounts is provided herein.

If any parcel submitted for collection is identified by the County Auditor/Controller to be an invalid parcel number for the fiscal year, a corrected parcel number and/or new parcel numbers will be identified and resubmitted to the County Auditor/Controller. The assessment amount to be levied and collected for the resubmitted parcel or parcels shall be based on the method of apportionment and assessment rate described in this Report as approved by the City Council. Therefore, if a single parcel is subdivided to multiple parcels, the assessment amount applied to each of the new parcels shall be recalculated and applied according to the approved method of apportionment and assessment rate rather than a proportionate share of the original assessment.

The following is a list of the parcels and proposed assessment amounts for Fiscal Year 2021-2022 for each of the parcels within the District as determined by the assessment rates and method of apportionment described herein:

CITY OF ORANGE
FINAL ENGINEER'S REPORT
FOR THE ANNUAL LEVY
ASSESSMENT LANDSCAPE MAINTENANCE
DISTRICT NO. 15-1
FISCAL YEAR 2021-2022



LANDSCAPE MAINTENANCE DISTRICT NO. 15-1
SANTIAGO HILLS

Intent Meeting:	May	11, 2021
Public Hearing:	June	8, 2021

AFFIDAVIT FOR THE ENGINEER'S REPORT

This Report describes the City of Orange Landscape Maintenance District No. 15-1 and proposed changes or modifications related thereto including the improvements, budgets, parcels and assessments to be levied for Fiscal Year 2021-2022, pursuant to the City's Resolution of Intention. Reference is hereby made to the Orange County Assessor's maps for a detailed description of the lines and dimensions of parcels within the District. The undersigned respectfully submits the enclosed Report as directed by the City Council.

Dated this 19th day of May, 2021.

By: Frank Sun
Frank Sun
Assistant Public Works Director / City Engineer



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INTRODUCTION

Overview

The City of Orange (the "City") services and maintains perimeter and median landscaping, interior walkways and paseos, and other improvements ("Improvements") in the Santiago Hills neighborhoods in the eastern part of the City. This Engineer's Report ("Report") was prepared to establish the budget for the Improvements (as described below) that will be funded by the new 2021-2022 assessments, if approved, and other revenue, to determine the general and special benefits received from the Improvements by property within the Improvement District ("District"), and to determine the method of assessment apportionment to lots and parcels. This Report and the assessments have been made pursuant to the Landscaping and Lighting Act of 1972, Part 2 of Division 15 of the California Streets and Highways Code (the "Act") and Article XIID of the California Constitution (the "Article").

Landscape Maintenance District (LMD) No. 15-1 was formed in 2015. This assessment district is identical to the existing Landscape Maintenance District No. 86-2 in its geographic boundaries, parcels to be assessed, Improvements to be serviced, maintained, or repaired and budgeted cost centers. The assessments collected, if approved, will be in addition to those collected for Landscape Maintenance District 86-2.

District's Facilities

The City's landscape facilities to be funded by assessments within this District are located in the Santiago Hills neighborhoods of the City. The Improvements generally include entrance signs, traffic islands and medians, parkways, recreation areas, paseos, lighting, and the infrastructure required to support these Improvements.

Assessment Background

The City formed Landscape Maintenance District No. 86-2 in 1987 to service and maintain the specific landscape facilities and improvements relevant to this report. Revenues from that district remain relatively flat, there is not an inflation adjustment provision, while the costs to maintain and service these facilities and improvements have risen steadily. In 2007 the City began to decrease service levels in an effort to contain costs within available revenues. The service levels continued to decrease to offset the effects of rising utilities, labor and materials costs until the creation of LMD No. 15-1.

In order to restore service levels and make needed repairs and improvements to the District's facilities, the LMD No. 15-1 that exactly overlaid the existing assessment district, was formed.

PLANS & SPECIFICATIONS

The City maintains landscaping and other improvements in locations within the proposed Assessment District's boundaries. The work and improvements proposed to be undertaken by the Landscape Maintenance District No. 15-1 and the cost thereof paid from the levy of the annual Assessment provide special benefit to Assessor Parcels within the District as defined in the Method of Assessment herein. In addition to the definitions provided by the Landscaping and Lighting Act of 1972, (the "Act") the work and improvements are generally described as follows:

Entrance Sign

The entrance signs with landscape improvements to be maintained are to be located at the following locations within the District:

- Chapman Avenue at Newport Boulevard (southeast corner)
- Newport Boulevard at Canyon View Avenue (northeast corner)

Parkways and Recreation Areas

The landscaped parkways and recreation areas to be maintained by the District are located as follows:

- Newport Boulevard – approximately 18-foot wide zone (including the width of the sidewalk) from the back of the curb to the property line, and corner cutoffs at intersections, on the east side from Santiago Canyon Road to 312 feet south of the centerline of Skylark Place.
- Chapman Avenue – approximately 18-foot wide zone (including the width of the sidewalk) from the back of the curb to the property line, and corner cutoffs at intersections, on both sides from Newport Boulevard to Jamboree Road.
- Canyon View Avenue – approximately 30-foot wide zone (including the width of the sidewalk) from the back of the curb to the property line, and corner cutoffs at intersections, on both sides from Newport Boulevard to Jamboree Road.
- White Oak Ridge – approximately 17-foot wide zone (including the width of the sidewalk) from the back of the curb to the property line, and corner cutoffs at intersections, on both sides from Newport Boulevard to Canyon View Avenue.
- Trails End Lane – approximately 17-foot wide zone on the west side and approximately 28- to 32-foot wide zone on the east side (including the width of the sidewalk), both zones from the back of the curb to the property line, and corner cutoffs at intersections, from White Oak Ridge to Chapman Avenue.
- Handy Creek Corridor – from the intersection of Chapman Avenue and Newport Boulevard to White Oak Ridge, and from White Oak Ridge to the intersection of Canyon View Avenue and Aspen Street (Lot 20, a portion of Lot 11, and Lot D of Tract 12417) including concrete walkways which also serve as emergency access ways.
- Paseo – approximately 50-foot wide zone from Santiago Hills Park to White Oak Ridge and from White Oak Ridge to Old Camp Road (Lots A and B of tract No. 12417) and approximately 35-foot wide zone from the Paseo to White Oak Ridge (Lot C of Tract No. 12417) including surface and subsurface drainage facilities and concrete walkways which also serve as emergency access ways.
- Aspen Street – approximately 10-foot wide zone (including the width of the sidewalk) on south side from the back of the curb to the property line from the end of Handy Creek

Corridor (Lot D, Tract No. 12417) near Canyon View Avenue to the northerly terminus of the street.

- Fort Road – approximately 17-foot wide zone (including the width of the sidewalk) from the back of the curb to the property line on south side from White Oak Ridge to Jamboree Road.
- Santiago Canyon Road – approximately 18-foot wide zone (including the width of the sidewalk) from the back of the curb to the property line on north and south sides from Newport Boulevard to Jamboree Road.
- Old Camp Road – approximately 4-foot wide zone from the back of the curb to the property line on both sides from Canyon View Avenue to northerly terminus of the street.
- Skylark Place – approximately 18-foot wide zone (including the width of the sidewalk) from the back of the curb to the property line on both sides from White Oak Ridge to Newport Boulevard.
- Jamboree Road – variable width zone (including width of the bike trail-sidewalk) from back of the curb to the property line on the west side from Canyon View Avenue to Santiago Canyon Road.
- Additional Areas – areas adjacent to the 18-foot wide zones along Skylark Place, Chapman Avenue, and Jamboree Road have been dedicated to the City with tracts 12672, 12741, 12711, 15398 and PM 92-195. Such areas have been landscaped by the developers and the sprinkler systems tied to the District's.

Traffic Islands and Medians

- The landscaped islands and medians to be maintained by the District are located as follows:
- Chapman Avenue – 14-foot wide median from Newport Boulevard to Jamboree Road.
- White Oak Ridge – 14-foot wide medians at Newport Boulevard and Canyon View Avenue.
- Trails End Lane – 14-foot wide median from White Oak Ridge to Chapman Avenue.
- Jamboree Road – 24-foot wide median from southerly City limits to Santiago Canyon road.
- Santiago Canyon Road – Variable width from Newport Boulevard to Jamboree Road.
- Newport Boulevard – 22-foot wide median from Chapman Avenue to Santiago Canyon Road.

Excluded Improvements

The following items are excluded from the District:

- The 8+/- acre park is excluded from this District
- The City's public safety facility on East Fort Road is excluded from this District
- Chapman Hills Elementary School is excluded from this District
- Santiago Canyon College is excluded from this District (Note that while some public improvements along the College frontage are maintained along with District Improvements, the College pays directly into the District's fund to compensate for that work)
- Sidewalks along all streets within the District are excluded
- The Equestrian trail along Canyon View Avenue is excluded from this District

Definitions

Installation, maintenance and servicing of Improvements, may include, but are not limited to, turf and play areas, landscaping, ground cover, shrubs and trees, irrigation systems, sidewalks, parking

lots, drainage systems, lighting, fencing, entry monuments, recreational facilities, security patrols to protect the Improvements, graffiti removal and repainting, and labor, materials, supplies, utilities and equipment, as applicable, at each of the locations owned, operated or maintained by the District.

As applied herein, "Installation" means the construction of Improvements, including, but not limited to, land preparation (such as grading, leveling, cutting and filling), sod, landscaping, irrigation systems, walkways and drainage, lights, and recreational facilities.

"Maintenance" means the furnishing of services and materials for the ordinary and usual maintenance, operation and servicing of any Improvement, including repair, removal or replacement of all or any part of any Improvement; providing for the life, growth, health, and beauty of landscaping, including cultivation, irrigation, trimming, spraying, fertilizing, or treating for disease or injury; the removal of trimmings, rubbish, debris, and other solid waste, and the cleaning, sandblasting, and painting of walls and other Improvements to remove or cover graffiti.

"Servicing" means the furnishing of electric current, or energy, gas or other illuminating agent for any public lighting facilities or for the lighting or operation of any other Improvements; or water for the irrigation of any landscaping, the operation of any fountains, or the maintenance of any other Improvements.

Incidental expenses include all of the following: (a) The costs of preparation of the report, including plans, specifications, estimates, diagram, and Assessment; (b) the costs of printing, advertising, and the giving of published, posted, and mailed notices; (c) compensation payable to the County for collection of Assessments; (d) compensation of any engineer or attorney employed to render services in proceedings pursuant to this part; (e) any other expenses incidental to the construction, installation, or maintenance and servicing of the Improvements; (f) any expenses incidental to the issuance of bonds or notes pursuant to Streets & Highways Code Section 22662.5; and (g) costs associated with any elections held for the approval of a new or increased assessment (Streets & Highways Code §22526).

Modifications to the District structure could include, but are not limited to, substantial changes or expansion of the Improvements provided, substantial changes in the service provided, modifications or restructuring of the District including annexation or detachment of specific parcels, revisions in the method of apportionment, or proposed new or increased assessments.

The Assessment proceeds will be exclusively used for Improvements within the District plus incidental expenses.

FISCAL YEAR 2021-22 ESTIMATE OF COST AND BUDGET

Budget for Fiscal Year 2021-22

The following budget shows the cost of the Improvements that would be funded by the District in Fiscal Year 2021-22. This table shows the total combined expenditures associated with the Improvements for both Landscape Maintenance Districts (No. 15-1 and No. 86-2). Accordingly, revenues from both Districts are also shown.

OPERATION & MAINTENANCE FUND BALANCE FROM PRIOR YEARS

Estimated Fund Balance (Includes 15-1 & 86-2) as of March 2021 \$478,870

The estimated budget necessary for the 2021-2022 Fiscal Year for the District is as follows:

BUDGET ITEM	COST
ANNUAL MAINTENANCE	
Landscaping	\$329,340
Tree Trimming	\$165,000
Electrical Maintenance	\$40,000
Misc. Contract Services	\$10,000
Repair/ Maintenance Services	\$57,051
Supplies	\$8,500
Other Professional Services	\$2,000
Telephone	\$1,400
Electricity	\$20,000
Water	\$168,000
Salaries & Benefits	\$47,622
City Administrative Services	\$19,773
Capital Replacement/ Dedicated Reserves	\$364,008
TOTAL EST. LANDSCAPE MAINTENANCE EXPENDITURES	\$1,232,694

ESTIMATED REVENUE

Landscape Maintenance District No. 86-2	\$533,651
(See LMD 86-2 Engineer's Report for specifics)	
Rancho Santiago Community College District	\$30,466
Proposed Benefit Assessment FY 2021-22 (LMD 15-1)	
(See LMD 15-1 Engineer's Report for specifics)	
• CPI Adjustment (Current Year 1.5%) ⁴	\$5,120
• Unused CPI Adjustment (Carry over from prior years)	\$0
TOTAL ESTIMATED REVENUE	\$910,595

RESERVE FUNDS USED TO SUPPLEMENT EXPENDITURES ⁵

(\$322,099)

District Expenditures will be adjusted to match the maximum allowable assessment.

●This Budget Estimate is for the purpose of establishing an Annual Assessment. It may vary from the adopted City Budget. All assessments collected by the District may only be used for District expenditures regardless of the Budget Estimate.

BALANCE TO LEVY

\$346,478

Notes to Estimate of Costs:

1. The Act requires that proceeds from the Assessments must be deposited into a special fund that has been set up for the revenues and expenditures of the District. Moreover, funds raised by the Assessment shall be used only for the purposes stated within this Report. Any balance remaining at the end of the Fiscal Year, June 30, must be carried over to the next Fiscal Year. The District may also establish a dedicated reserve fund for contingencies and special projects as well as a dedicated capital improvement fund for accumulating funds for larger capital improvement projects or capital renovation needs. Any remaining balance would either be placed in the dedicated reserve fund, the capital improvement fund, or would be used to reduce future years' Assessments.
2. The rate shown here is for a single family home or its equivalent. For the definition of the term SFE and rates for other types of property, see the section titled, "Method of Assessment Apportionment" and the sections following it in this report.
3. The total cost of the services and Improvements is the total assessment amount of \$341,358 plus the value of the general benefit contributions from the City described in the section titled, "Method of Assessment Apportionment."
4. The Assessment allows for an annual adjustment tied to the Consumer Price Index (the "CPI"), as detailed in the section titled "Method of Apportionment – Annual Cost Indexing." For Fiscal Year 2021-2022, the CPI is 1.5% for the Los Angeles-Long Beach-Anaheim area as of December 2020. Due to the remaining fund balance from Fiscal Year 2020-21, the Community Services Department staff recommends setting the CPI adjustment at 1.5% for Fiscal Year 2021-2022.
5. Since expenditures in FY22 are anticipated to exceed revenues, the fund balance will be used to offset additional expenditures. In future years, the City will work with the District to evaluate options to ensure fiscal sustainability.

METHOD OF APPORTIONMENT

Method of Apportionment

This section of the Engineer's Report explains the benefits to be derived from the Improvements and the methodology used to apportion the total assessment to properties within the District.

The method used for apportioning the Assessment is based upon the relative special benefits to be derived by the properties in the District over and above general benefits conferred on real property or to the public at large. The Assessment is apportioned to lots and parcels in proportion to the relative special benefit from the Improvements. The apportionment of special benefit is a two-step process: the first step is to identify the types of special benefit arising from the Improvements and the second step is to allocate the Assessments to property based on the estimated relative special benefit for each type of property.

This section of the Engineer's report includes a discussion of the benefits to be provided by the proposed Improvements and the method of apportionment of assessments within the District. The formula below identifies the final level of service as the sum of the baseline level of service (without this proposed Assessment) and the enhanced level of service to be funded by the proposed Assessment.

Final Level of Service	=	Baseline Level of Service	+	Enhanced Level of Service
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Discussion of Benefit

In summary, the Assessments can only be levied based on the special benefit to property. This benefit is received by property over and above any general benefits. With reference to the requirements for assessments, Section 22573 of the Landscaping and Lighting Act of 1972 states:

"The net amount to be assessed upon lands within an assessment district may be apportioned by any formula or method which fairly distributes the net amount among all assessable lots or parcels in proportion to the estimated benefits to be received by each such lot or parcel from the improvements."

Proposition 218, as codified in Article XIID of the California Constitution, has confirmed that assessments must be based on the special benefit to property and that the value of the special benefits must be equal to or exceed the cost of the assessment:

"No assessment shall be imposed on any parcel which exceeds the reasonable cost of the proportional special benefit conferred on that parcel."

The following benefit categories summarize the types of special benefit to residential, commercial, industrial and other lots and parcels resulting from the Improvements to be provided with the assessment proceeds. These types of special benefits are summarized as follows:

- A. Proximity to Improved Landscaped Areas and Other Public Improvements within the District.
- B. Access to Improved landscaped areas and Other Public Improvements within the District.

- C. Improved Views within the District.
- D. Extension of a property's outdoor areas and green spaces for properties within close proximity to the Improvements.
- E. Creation of individual lots for residential and commercial use that, in absence of the Assessments, would not have been created.

In this case, the recent *Silicon Valley Taxpayers Association, Inc. v. Santa Clara County Open Space Authority (SVTA)* decision in 2008 provides enhanced clarity to the definitions of special benefits to properties from similar improvements in three distinct areas:

- Proximity
- Expanded or improved access
- Views

The *SVTA* decision also clarifies that a special benefit is a service or improvement that provides a direct advantage to a parcel and that indirect or derivative advantages resulting from the overall public benefits from a service or improvement are general benefits. The *SVTA* decision also provides specific guidance that Improvements are a direct advantage and special benefit to property that is proximate to a facility that is improved by an assessment:

The characterization of a benefit may depend on whether the parcel receives a direct advantage from the improvement (e.g. proximity to a park) or receives an indirect, derivative advantage resulting from the overall public benefits of the improvement (e.g. general enhancement of the district's property values).

Proximity, improved access and views, in addition to the other special benefits listed herein further strengthen the basis of these Assessments.

Moreover, the *Dahms v. Downtown Pomona Prop. & Bus. Improvement Dist. (Dahms)* decision in 2009 further clarified that certain services and Improvements funded by assessments, that are over and above what otherwise would be provided and that other property in general and the public do not share or receive are 100% special benefit. The assessment-funded services upheld by *Dahms* included streetscape maintenance and security services.

Benefit Factors

The special benefits from the Improvements are further detailed below:

Proximity to Improved Landscaped Areas within the District

The boundaries of the District were developed in conjunction and concurrent with the planning and design of the subdivisions and Improvements, and thus have been carefully drawn to only include the properties in the City of Orange that are proximate to the Improvements and that would materially benefit from the Improvements. In other words, the District has been narrowly drawn to include the properties that receive special benefits from the Improvements. Therefore, property in the District enjoys unique and valuable proximity to the Improvements that the public at large and property outside the District do not share.

In the absence of the Assessments, the Improvements would not be provided and the public improvements funded in the District would be degraded due to insufficient funding for maintenance, upkeep and repair. Therefore, the Assessments provide Improvements that are over and above what otherwise would be provided. Improvements that are over and above what otherwise would be provided do not by themselves translate into special benefits but when

combined with the unique proximity and access enjoyed by parcels in the District, they provide a direct advantage and special benefit to property in the District.

Access to Improved Landscaped Areas within the District

Since the parcels in the District are nearly the only parcels that enjoy close access to the Improvements, they directly benefit from the unique close access to improved landscaping areas and other public improvements that are provided by the Assessments. This is a direct advantage and special benefit to property in the District.

Improved Views within the Assessment Districts

The City, by maintaining permanent public improvements funded by the Assessments in the District, provides improved views to properties in the District. The properties in the District enjoy close and unique proximity, access and views of the specific Improvements funded in the District; therefore, the improved and protected views provided by the Assessments are another direct and tangible advantage that is uniquely conferred upon property in the District.

Extension of a Property's Outdoor Areas and Green Spaces for Properties within Close Proximity to the Improvements

In large part because it is cost prohibitive to provide large open land areas on property in the District, the residential, commercial and other benefiting properties in the District do not have large outdoor areas and green spaces. The Improvements within the District provide additional outdoor areas that serve as an effective extension of the land area for proximate properties because the Improvements are uniquely proximate and accessible to property in close proximity to the Improvements. The Improvements, therefore, provide an important, valuable and desirable extension of usable land area for the direct advantage and special benefit of properties in the District because such properties have uniquely good and close proximity to the Improvements.

Creation of Individual Lots for Residential and Commercial Use that, in Absence of the Assessments, Would Not Have Been Created

In most of the District, the original owner/developer(s) of the property within the District agreed unanimously to the Assessments. The Assessments provide the necessary funding for public improvements that were approved as a condition of development and subdivision approval. Therefore, such Assessments allowed the original property to be subdivided and for development of the parcels to occur. As parcels were sold, new owners were informed of the Assessments through the title reports, and in some cases, through Department of Real Estate "White Paper" reports that the parcels were subject to assessment. Purchase of property was also an "agreement" to pay the Assessment. Therefore, in the absence of the Assessments, the lots within most of the District would not have been created. These parcels, and the Improvements that were constructed on the parcels, receive direct advantage and special benefit from the Assessments.

Summary of Relative Weight of Benefit Factors

A solid argument could be made that the Creation of Individual Lots benefit comprises 100% of the benefit because the Improvements were incorporated into the original planning and design of the subdivision, and thus were deemed to be necessary and required for the development of the lot. Without those Improvements and associated benefit, the lots would not have been created in the first place. Nevertheless, four other definitive benefits accruing to the parcels within the District are identified, and an allowance should be made within the overall relative importance of benefits. The table below illustrates the relative benefit level of the five identified benefits used in this Report.

<u>Benefit Factor</u>	<u>Relative Weight</u>
Proximity	10%
Access	10%
Views	10%
Outdoor Area or Green Space Extension	10%
Creation of Individual Lots for Development	60%
Total Benefit	100%

General Versus Special Benefit

Article XIIC of the California Constitution requires any local agency proposing to increase or impose a benefit assessment to "separate the general benefits from the special benefits conferred on a parcel." The rationale for separating special and general benefits is to ensure that property owners subject to the benefit assessment are not paying for general benefits. An assessment can fund special benefits but cannot fund general benefits. Accordingly, a separate estimate of the special and general benefit is given in this section.

In other words:

$$\text{Total Benefit} = \text{General Benefit} + \text{Special Benefit}$$

There is no widely-accepted or statutory formula for general benefit. General benefits are benefits from improvements or services that are not special in nature, are not "particular and distinct" and are not "over and above" benefits received by other properties. *SVTA* provides some clarification by indicating that general benefits provide "an indirect, derivative advantage" and are not necessarily proximate to the improvements.

In this Report, the general benefit is liberally estimated and described, and then budgeted so that it is funded by sources other than the Assessment.

The starting point for evaluating general and special benefits is the current, baseline level of service. The Assessment will fund Improvements "over and above" this general, baseline level and the general benefits estimated in this section are over and above the baseline.

A formula to estimate the general benefit is listed below:

General Benefit	=	Benefit to Real Property Outside the Assessment District	+	Benefit to Real Property Inside the Assessment District that is Indirect and Derivative	+	Benefit to the Public at Large
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Special benefit, on the other hand, is defined in the state constitution as "a particular and distinct benefit over and above general benefits conferred on real property located in the district or to the public at large." The *SVTA* decision indicates that a special benefit is conferred to a property if it "receives a direct advantage from the improvement (e.g., proximity to a park)." In these Assessments, as noted, properties in the District have close and unique proximity, views and access to the Improvements and uniquely improved desirability from the Improvements and other properties and the public at large do not receive significant benefits because they do not have proximity, access or views of the Improvements. Therefore, the overwhelming proportion of the benefits conferred to property is special, and is only minimally received by property outside the Assessment Districts or the public at large.

Benefit Finding

Quantification of General Benefit

In this section, the general benefit from landscaping and other types of Improvements is liberally estimated and described, and then budgeted so that it is funded by sources other than the Assessment.

Benefit to Property Outside the Assessment Districts

Properties within the District receive almost all of the special benefits from the Improvements because properties in the District enjoy unique close proximity and access to the Improvements that are not enjoyed by other properties or the public at large. However, certain properties within the proximity/access radius of the Improvements, but outside of the boundaries of the District, may receive some benefit from the Improvements. Since this benefit is conferred to properties outside the District boundaries, it contributes to the overall general benefit calculation and will not be funded by the Assessments. The general benefit to property outside of the District is calculated with the parcel and data analysis performed by SCI Consulting Group.

Since the properties outside the District but with frontage abutting the Improvements receive benefit but cannot be assessed by the District, this is a form of general benefit to other property. The primary ways that parcels outside the district benefit by the Improvements is from proximity,

access, views and extension of outdoor space, which account for 40% of the available benefit. Therefore, parcels that abut the landscape areas and are not separated from the Improvements by a privacy fence are counted for this general benefit. The general benefit to property outside of the District is calculated as follows.

Assumptions:

47 parcel outside the District

1517 parcels in the District

Calculation:

General Benefit to property outside the District =

$$47/(47+1517) * 40\% = 1.20\%$$

Note: in previous reports, the number of parcels in the District was incorrectly stated as "1571." The parcel count and associated calculations have been adjusted to reflect the correct number of parcels in the District as "1517."

Benefit to Property *Inside* the Assessment Districts that is *Indirect and Derivative*

The "indirect and derivative" benefit to property within the District is particularly difficult to calculate. A solid argument can be presented that all benefit within the District is special, because the Improvements are clearly "over and above" and "particular and distinct" when compared with the baseline level of service and the unique proximity, access and views of the Improvements enjoyed by benefiting properties in the District.

Nevertheless, the *SVTA* decision indicates there may be general benefit "conferred on real property located in the district." A measure of the general benefits to property within the Assessment area is the percentage of land area within the District that is publicly owned and used for regional purposes such as major roads, rail lines and other regional facilities because such properties used for regional purposes could provide indirect benefits to the public at large. Approximately 7.15% of the land area in the District is used for such regional purposes, so this is a measure of the general benefits to property within the District.

Benefit To The Public At Large

The general benefit to the public at large can be estimated by the proportionate amount of time that the District's Improvements including landscaping are used and enjoyed by individuals who are not residents, employees, customers or property owners in the District. It should be noted that these Improvements do not attract the public at large in the same way as park improvements – and they confer far less benefit to the public at large than do similar park improvements.

One way to measure the special benefit to the general public is by the car trips through an area with Improvements. Of the five ways benefits are conferred (proximity, access, views, extension of a property's green space, and creation of lots), the only benefit that is conferred by way of pass-by car trips is views, which accounts for 10% of the total benefits. For pass-by car trips, the benefit of

views is found to be approximately half that of residents, employees, customers or property owners in the District due to the brevity of the views. Therefore the relative benefit factor is reduced to 5%.

Next, the views factors are weighted by the relevant number of car trips. Using the lane miles as representative of pass-by traffic, an analysis shows that 60% of the lane miles are on arterial or collector streets where the general public has views of the landscaping. Therefore (60% of 5% =) 3.0% of the benefits from the Improvements are general benefits to the public at large.

Special Considerations of Improvements Outside of District

The benefits are categorized into to two geographic groupings of Improvements: In-District Improvements that include parkways, medians and paseos that are either inside the district boundaries, or are traffic medians that directly abut or front the district; and Out-of-District Improvements that are parkways or medians that are both outside the District boundaries and are not abutting, fronting or lying adjacent to the District. Based on weighted square footage of the various types of Improvements, Out-of-District Improvements count for approximately 11.6% of the total benefits. These Out-of-District benefits are found to be entirely General Benefit. For example some Improvements at Santiago Canyon College are maintained, but the funding for this work comes entirely from the College as general benefit funds.

The In-District Improvements, conversely, provide approximately 88.4% of the total benefits. The general benefits provided by these Improvements are discussed above.

Total General Benefits

Using a sum of these three measures of general benefit plus the special considerations of general benefit from Out-of-District benefits (both weighted accordingly), we find that approximately 21.6% of the benefits conferred by the Improvements may be general in nature and should be funded by sources other than the Assessment. This calculation is shown below.

		<u>Relative General Benefit</u>		<u>Percent of Overall Benefit</u>		<u>General Benefit</u>
In-District General Benefits						
Outside the District	1.20%					
Property within the District	7.15%					
Public at Large	<u>3.00%</u>					
Total In-District	11.35%	11.4%	x	88.4%	=	10.0%
Out-of-District General Benefits		100.0%	x	11.6%	=	<u>11.6%</u>
		TOTAL GENERAL BENEFIT				21.6%

Although this analysis finds that 21.6% of the Assessment may provide general benefits from the Improvements, the Assessment Engineer establishes a requirement for a minimum contribution from sources other than the Assessments of 22%. This minimum contribution above the measure of general benefits will serve to provide additional coverage for any other general benefits.

Final Step – Calculate the Current General Benefit Contribution from the City

This general benefit cannot be funded from the Assessments; it must be funded from other sources such as the City's General Fund or other non-District funds. These contributions can also be in the form of in-lieu contributions to the installation and maintenance of the Improvements such as other City assets that support and protect the Improvements. The City of Orange will contribute both monetary and in-lieu resources to ensure that the general benefits conferred by the proposed Improvements are not funded by the District's property owners.

A summary and quantification of these other contributions from the City is discussed below:

The City of Orange owns, maintains, rehabilitates and replaces curb and gutter along the border of the District Improvements. This curb and gutter serves to support, contain, retain, manage irrigation flow and growth, and provide a boundary for the Improvements. The contribution from the City towards general benefit from the maintenance, rehabilitation, and replacement of the curb and gutter is conservatively estimated to be 5%.

The City owns and maintains a storm drainage system along the border of the District Improvements. This system serves to prevent flooding and associated damage to the Improvements, and manage urban runoff including local pollutants loading from the Improvements. The contribution from the City towards general benefit from the maintenance, and operation of the local storm drainage system is conservatively estimated to be 5%.

The City owns and maintains local public streets along the border of the District Improvements. These public streets provide access to the Improvements for residents' enjoyment as well as efficient maintenance. The contribution from the City towards general benefit from the maintenance of local public streets is conservatively estimated to be 5%.

The value of the construction of the Improvements can be quantified and monetized as an annuity. Since this construction was performed and paid for by non-assessment funds, this "annuity" can be used to offset general benefit costs, and is conservatively estimated to contribute 10%.

The total General Benefit is liberally quantified at 22% which is entirely offset by the conservatively quantified total non-Assessment contribution towards general benefit described above of 25%. Therefore, no additional General Benefit must be funded by the City.

Zones of Benefit

The boundaries of the District were developed in conjunction and concurrent with the planning and design of the subdivisions and Improvements, and thus include only the properties in the City of Orange that are proximate to the Improvements and that would materially benefit from the Improvements. Certain other properties surrounding the District were not part of the designed association between the Improvements and the assessed areas, and are generally less proximate to the Improvements. In other words, the boundaries of the District have been narrowly drawn to include only properties that will specially benefit from the Improvements, and would receive a declining level of service if the Assessments were not approved.

The SVTA decision indicates:

In a well-drawn district — limited to only parcels receiving special benefits from the improvement — every parcel within that district receives a shared special benefit. Under section 2, subdivision (i), these benefits can be construed as being general benefits since they are not "particular and distinct" and are not "over and above" the benefits received by other properties "located in the district."

We do not believe that the voters intended to invalidate an assessment district that is narrowly drawn to include only properties directly benefiting from an improvement. Indeed, the ballot materials reflect otherwise. Thus, if an assessment district is narrowly drawn, the fact that a benefit is conferred throughout the district does not make it general rather than special. In that circumstance, the characterization of a benefit may depend on whether the parcel receives a direct advantage from the improvement (e.g., proximity to park) or receives an indirect, derivative advantage resulting from the overall public benefits of the improvement (e.g., general enhancement of the district's property values).

In the District, the advantage that each parcel receives from the Improvements is direct, and the boundaries are narrowly drawn to include only parcels that benefit from the Assessment. Therefore, the even spread of Assessment throughout the narrowly drawn district is indeed consistent with the SVTA decision. For the most part, the benefits from the Improvements within the District do not vary further based on proximity of the parcels to the Improvements because the increased benefits of greater proximity to the Improvements are generally offset by a parallel increase in negative factors such as higher levels of traffic, noise, etc. that comes with increased proximity.

There are two distinct neighborhoods within the District: Santiago Hills and Hillsdale. Santiago Hills is a complex neighborhood with arterial and collector streets traversing the residential areas and a commercial area on the northeast portion. In addition, Santiago Hills has a system of walking paths, or paseos, that provide additional benefits not found in the Hillsdale neighborhood. Hillsdale is a relatively small neighborhood, linear in shape centered on one residential street (Hillsdale Drive) with Improvements along only one exterior frontage (Santiago Canyon Road).

In order to most conservatively assure that Assessments are proportional to the relative level of special benefits in the District, two zones have been created. Zone of Benefit A (or "Zone A") consists of all of the parcels that lie within the Santiago Hills neighborhood bounded generally by Chapman Avenue, Jamboree Road, Canyon View Avenue, Skylark Lane and Newport Boulevard. Zone A receives the full complement of special benefits.

Zone of Benefit B ("Zone B") consists of all the parcels that lie within the Hillsdale neighborhood lying generally north of Santiago Canyon Road. A detailed analysis of the proportionate benefits received by the Hillsdale neighborhood as compared to the Santiago Hills neighborhood based on the weighted areas of parkways, paseos, and traffic medians within or proximate to the two zones shows that the Hillsdale neighborhood (Zone B) receives approximately 75% as much special benefit as the Santiago neighborhood (Zone A). Therefore Assessments for parcels in Zone B are reduced approximately 20% from the rates for Zone A (see Assessment Diagram).

Method of Assessment

As previously discussed, the proposed Assessments will provide comprehensive Improvements that will clearly confer special benefits to properties in the District. The allocation of special benefits to property is partially based on the type of property and the size of property. These benefits can also partially be measured by the occupants on property in the District because such parcel population density is a measure of the relative benefit a parcel receives from the Improvements. It should be noted that many other types of "traditional" assessments also use parcel population densities to apportion the Assessments. For example, the assessments for sewer systems, roads and water systems are typically allocated based on the population density of the parcels assessed. Therefore, the apportionment of benefit is reasonably based on the type of parcel, the size of parcels and the population density of parcels.

The next step in apportioning Assessments is to determine the relative special benefit for each property. This process involves determining the relative benefit received by each property in relation to a single family home, or, in other words, on the basis of Single Family Equivalents (SFE). This SFE methodology is commonly used to distribute Assessments in proportion to estimated special benefit and is generally recognized as providing the basis for a fair and appropriate distribution of Assessments. For the purposes of this Engineer's Report, all properties are designated a SFE value, which is each property's relative benefit in relation to a single family home on one parcel. In this case, the "benchmark" property is the single family detached dwelling which is one Single Family Equivalent or one SFE.

Not only residential improved property will be assessed, because commercial and other properties may also receive direct benefits from the Improvements, and will be assessed.

A fixed or flat Assessment is proposed for all single family residential properties regardless of occupancy or parcel size. Assessments on multi-family residential parcels vary based on the number of dwelling units. Assessments on commercial property are levied on an acreage basis because larger properties generally support larger buildings and have higher numbers of employees, customers and guests who would benefit from proximity and improved access to well-maintained and improved landscaping.

Finally, the special benefits to be derived from the proposed Assessments will be conferred on property and are not based on a specific property owner's use of the improvements, a specific property owner's occupancy of property, or the property owner's demographic status such as age or number of dependents. The benefits conferred to property are related to the average number of people who could potentially live on, work at, or otherwise could occupy a property, not how the property is currently used by the present owner. Therefore, the number of people who could or potentially live on, work at or otherwise occupy a property is one indicator of the relative level of benefit received by a property.

In conclusion, the Assessment Engineer determined that the appropriate method of assessment apportionment should be based on the type of property, the relative size of the property, property location, its relative population and its proximity to Improvements. This method is further described below.

Residential Properties

Certain residential properties in the District that contain a single residential dwelling unit are assigned one Single Family Equivalent or 1.0 SFE. Detached or attached houses and zero-lot line houses are included in this category of single family residential property. If there is more than one single family detached dwelling on a parcel, it will be charged one SFE per single family detached dwelling.

Properties with more than one residential unit (other than parcels with more than one detached single family dwelling as described above) are designated as multi-family residential properties. These properties benefit from the Improvements in proportion to the number of dwelling units that occupy each property, the average number of people who reside in multi-family residential units versus the average number of people who reside in a single family home (Population Density Factor) and the relative size of each type of residential dwelling unit (Square Foot Factor). The population density factors for the area in Orange County encompassing the District, as depicted in the following table, provide the basis for determining the SFE factors for residential properties. Using the total population in a certain property type in the area of the District from the 2010 Census and

dividing it by the total number of such households, finds that approximately 3.21 persons occupy each single family residence, whereas an average of 2.93 persons occupy each condominium. The ratio of 3.21 people on average for a single family residence and 2.93 people per dwelling unit in a condominium unit results in a population density equivalent of 0.91 for condominiums. Next, the relative building areas are factored into the analysis because special benefits are related to the average size of a property, in addition to average population densities. For a condominium, this calculation results in an SFE factor of 0.71 per dwelling unit.

Table 1 – Residential Density and Assessment Factors

Type of Residential Property	Pop. Density Equivalent	SqFt Factor	SFE Factor
Single Family Residential	1.00	1.00	1.00
Condominium	0.91	0.78	0.71

There are no other multi-family property types (e.g., duplex, triplex, fourplex, apartments) in the District, and none are foreseen in the future. Therefore no SFE-based assessment rate is calculated.

Commercial Properties

SFE values for commercial land uses are based on the equivalence of special benefit on a land area basis between single family residential property and the average commercial property. The SFE values for various commercial land uses are further defined by using average employee densities because the special benefit factors described previously can be measured by the average number of people who work at commercial properties.

In order to determine employee density factors, the findings from the San Diego Association of Governments Traffic Generators Study (the "SANDAG Study") are used because these findings were approved by the State Legislature as being a good representation of the average number of employees per acre of land area for commercial properties. As determined by the SANDAG Study, the average number of employees per acre for general commercial property is 24.

In comparison, the average number of people residing in a single family home in the area is 3.21. Since the average lot size for a single family home in the District is approximately 0.12 acres, the average number of residents per acre of residential property is 26.8.

The employee density per acre is roughly equal to (or 0.9 times) the population density of single family residential property per acre (24 employees per acre / 26.8 residents per acre). However, the benefit derived by employees on commercial properties is less than that derived by a resident on residential property, generally due to less time of use of services and Improvements. The Assessment Engineer determines that this factor is 0.5 for commercial to 1 for residential. Table 2 below shows the average employees per acre of land area or portion thereof for various types of commercial properties and lists the relative SFE factors per 0.12 acre for properties in each land use category.

Commercial properties in excess of 5 acres generally involve uses that are more land intensive relative to building areas and number of employees (lower coverage ratios). As a result, the benefit factors for commercial property land area in excess of 5 acres is determined to be the SFE rate per 0.12 acre for the first 5 acres and the relevant SFE rate per each additional acre over 5 acres.

Table 2 – Commercial Density and Assessment Factors

<i>Type of Commercial Land Use</i>	<i>Average Employees per Acre¹</i>	<i>SFE Units per 0.12 Acre²</i>
General Commercial	24	0.500
Office ³	68	1.420
Shopping Center	24	0.500

1. Source: San Diego Association of Governments Traffic Generators Study.
2. The SFE factors for commercial and industrial parcels are applied by the 0.12 acre of land area or portion thereof. (Therefore, the minimum assessment for any assessable parcel in these categories is the SFE Units listed herein.) The rates apply up to first 5 acres of parcel size. Additional acreage is benefited at the rate shown above per acre or portion thereof.
3. Currently there are no parcels in the District in the Office category. This rate is included in the event General Commercial space is converted to Office space.

Vacant/Undeveloped Properties

The benefit to undeveloped properties is determined to be proportional to the corresponding benefits for similar type developed properties, but at a lower rate due to the lack of improvements on the property. A measure of the benefits accruing to the underlying land is the average value of land in relation to Improvements for developed property. An analysis of the assessed valuation data from the County of Orange found that approximately 55% of the assessed value of improved properties is classified as the land value. It is reasonable to assume, therefore, that approximately 55% of the benefits are related to the underlying land and 45% are related to the improvements and the day-to-day use of the property. Using this ratio, the SFE factor for vacant/undeveloped parcels is 0.55 per parcel.

Other Properties

Article XIIID stipulates that publicly owned properties must be assessed unless there is clear and convincing evidence that those properties receive no special benefit from the Assessment.

All properties that are specially benefited are assessed. Certain other publicly owned property that lie within the District boundaries, including Santiago Canyon College, Chapman Hills Elementary School, Santiago Hills Park, and City of Orange public safety facility on East Fort Road, are not assessed. These are discussed below.

Santiago Canyon College: The College lies within the District and certain Improvements lie on their property. Although the College is not assessed in this District, the College pays for any special

benefit through a separate agreement with the City, and that monetary contribution is shown in Table 1. In addition, all benefit attributable for the College property is included in the General Benefit calculation shown above.

Chapman Hills Elementary School: Any special benefit attributable to the School buildings and parking lots are entirely offset by the benefit provided to the neighborhood by the outdoor fields. This facility was also included in the list of regional facilities in the calculation of general benefit to properties inside the district that is indirect and derivative above.

Santiago Hills Park: Any special benefit attributable to the Park is entirely offset by the benefit provided to the neighborhoods by park facilities. This facility was also included in the list of regional facilities in the calculation of general benefit to properties inside the district that is indirect and derivative above.

City of Orange Public Safety Facility on East Fort Road: Any special benefit received by this facility is entirely offset by the benefit provided back to the neighborhood similar to other in-lieu contributions to the General Benefit contributions that are funded by the City's General Fund or other non-District funds.

Miscellaneous, small and other parcels such as roads, right-of-way parcels, and common areas typically do not generate significant numbers of employees, residents, customers or guests, and have limited economic value. These miscellaneous parcels receive minimal, if any, benefit from the Improvements and are assessed an SFE benefit factor of zero SFEs.

Annual Cost Indexing

The Assessment is subject to an annual adjustment tied to the Consumer Price Index-U for the Los Angeles-Long Beach-Anaheim area as of December of each succeeding year (the "CPI"), with a maximum annual adjustment not to exceed 3%. Any change in the CPI in excess of 3% shall be cumulatively reserved as the "Unused CPI" and shall be used to increase the maximum authorized assessment rate in years in which the CPI is less than 3%. The maximum authorized assessment rate is equal to the maximum assessment rate in the first fiscal year the Assessment was levied adjusted annually by the minimum of either 3% or the change in the CPI plus any Unused CPI as described above.

Appeals of Assessments Levied to Property

Any property owner who feels that the Assessment levied on the subject property is in error as a result of incorrect information being used to apply the foregoing method of assessment may file a written appeal with the City of Orange City Manager or his or her designee. Any such appeal is limited to correction of an Assessment during the then-current Fiscal Year and applicable law. Upon the filing of any such appeal, the City Manager or his or her designee will promptly review the appeal and any information provided by the property owner. If the City Manager or his or her designee finds that the Assessment should be modified, the appropriate changes shall be made to the Assessment Roll. If any such changes are approved after the Assessment Roll has been filed with the County for collection, the City Manager or his or her designee is authorized to refund to the property owner the amount of any approved reduction. Any dispute over the decision of the City Manager or his or her designee shall be referred to the Orange City Council, and the decision of the City Council shall be final.

Assessment Funds Must Be Expended Within the District Area

The net available Assessment funds, after incidental, administrative, financing and other costs shall be expended exclusively for Improvements within the boundaries of the District or as described herein, and appropriate incidental and administrative costs as defined in the Plans and Specifications section.

ASSESSMENT

The amount to be paid for said Improvements and the expense incidental thereto, to be paid by the District for the Fiscal Year 2021-22 is generally as follows:

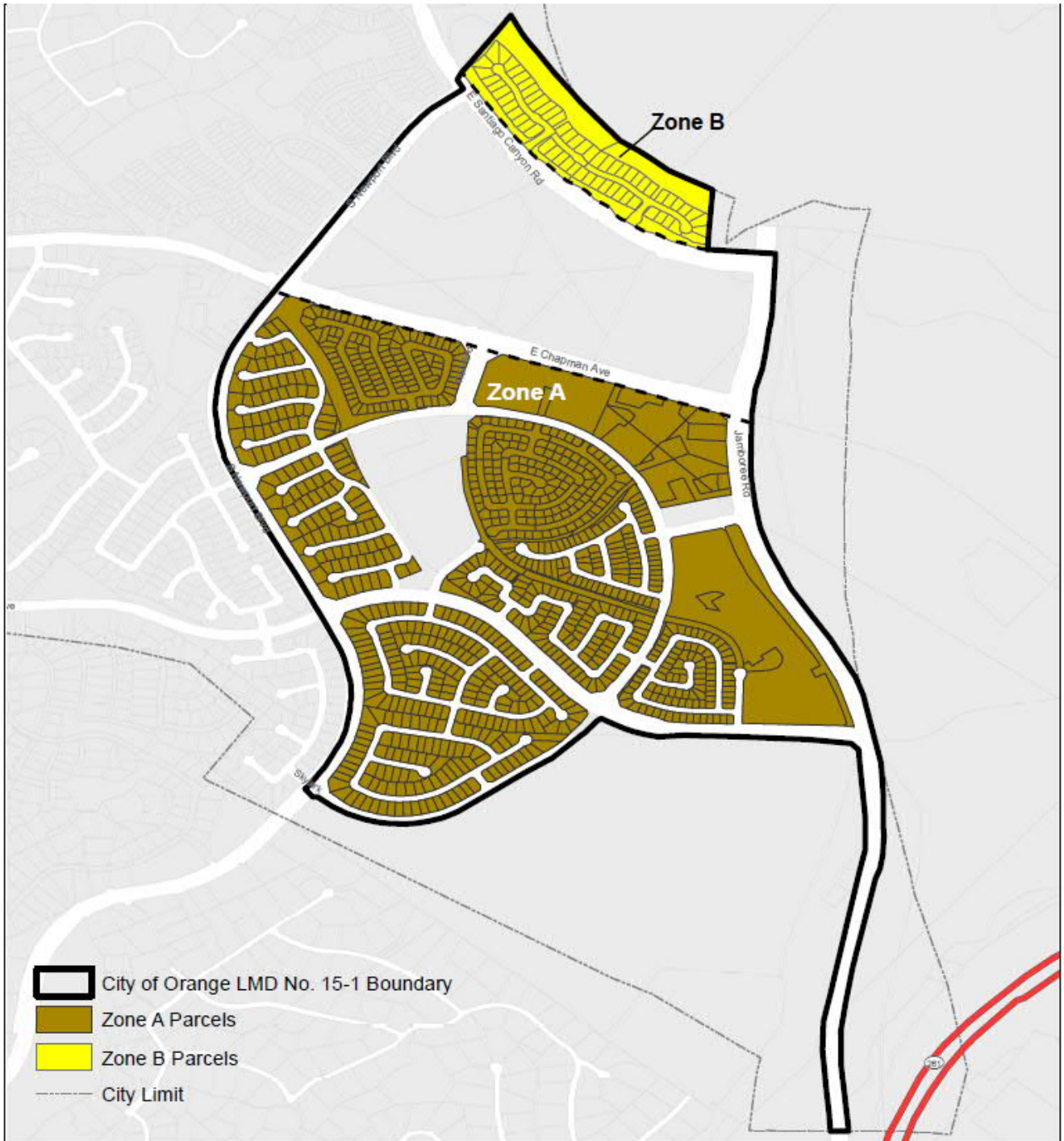
Table 3 – Summary Cost Estimate
For Landscape Maintenance District No. 15 -1
For Fiscal Year 2021-22

BUDGET ITEM	COST
ANNUAL MAINTENANCE	
Operating Expenses	\$801,291
Salaries & Benefits	\$47,622
Administration and Project Management	\$19,773
Capital Expenses/ Revenues	\$364,008
Total for Services	\$1,232,694
Less Other Revenue	(\$564,117)
Reserve Funds	(\$322,099)
Net Amount of Assessment	\$346,478

As required by the Act, an Assessment Diagram showing the exterior boundaries of the Improvement District is hereto attached and incorporated herein by reference. The distinctive number of each parcel or lot of land in the District is its Assessor Parcel Number appearing on the Assessment Roll.

ASSESSMENT DIAGRAM

The parcels proposed to be assessed in Landscape Maintenance District No. 15-1 are shown on the Assessment Diagram, which is on file with the City Clerk of the City of Orange, and includes all those properties included in the original formation of LMD No. 86-2. The following Assessment Diagram is for general location only and is not to be considered the official boundary map. The lines and dimensions of each lot or parcel within the District are those lines and dimensions as shown on the maps of the Assessor of the County of Orange, for Fiscal Year 2021-22, and are incorporated herein by reference, and made a part of this Diagram and this Report.



CITY OF ORANGE LANDSCAPING MAINTENANCE DISTRICT No. 15-1 ASSESSMENT DIAGRAM

PREPARED BY SCI CONSULTING GROUP
4745 MANGELS BLVD
FAIRFIELD CA 94534
(707)430-4300

ASSESSMENT ROLL

An Assessment Roll (a listing of all parcels assessed within the Assessment District and the amount of the Assessment) will be filed with the City Clerk and is, by reference, made part of this Report and is available for public inspection during normal office hours at the City Hall at 300 East Chapman Avenue, Orange, California 92866.

Each lot or parcel listed on the Assessment Roll is shown and illustrated on the latest County Assessor records and these records are, by reference made part of this Report. These records shall govern for all details concerning the description of the lots or parcels.



Agenda Item

City Council

Item #: 10.3.

7/13/2021

File #: 21-0335

TO: Honorable Mayor and Members of the City Council

THRU: Rick Otto, City Manager

FROM: Susan Galvan, Interim Community Development Director

1. SUBJECT

Continued Public Hearing to consider Appeal No. 0555-21, Shannon Family Mortuary, 1005 E. Chapman Avenue. (Continued from June 8, 2021)

2. SUMMARY

An appeal of the Planning Commission denial of Conditional Use Permit No. 3121-20 to establish a chapel in conjunction with a mortuary office for Shannon Family Mortuary, located at 1005 E. Chapman Avenue. This project was continued from the May 11, 2021 City Council meeting.

3. RECOMMENDED ACTION

The City Council shall consider the record and such additional evidence as may be offered and may affirm, reverse or modify, in whole or in part, the action that was appealed.

4. FISCAL IMPACT

None.

5. DISCUSSION AND BACKGROUND

Project Description

The applicant, Shannon Family Mortuary, proposes to convert a portion of an existing 1,320 square foot professional office building into a chapel in conjunction with a mortuary office. Parking for visitors will be provided in the existing nine-space parking lot on-site and across N. Waverly Street at 911 E. Chapman Avenue, where the applicant has leased five parking spaces from Pacific Bell Telephone Company for overflow parking.

The subject property is zoned Office Professional (O-P). The property is located at the northeast corner of the intersection of E. Chapman Avenue and N. Waverly Street. It is adjacent to single-family residential properties to the north on Waverly Street, with offices and institutional use properties to the south, east, and west along Chapman Avenue (Attachment 2).

Shannon Family Mortuary has operated at their current location since March 2020. A Conditional Use Permit (CUP) was not required for the relocation of the business from its original location at 137 E. Maple Avenue to E. Chapman Avenue because the scope of business services provided was limited to administrative office services only, consistent with the allowable office uses in the Office Professional zone. At the time the business relocated, it was understood between City staff and the proprietor that no preparations of the deceased or memorial services would take place at this

location, as these services would require approval of a CUP. Following relocation, Shannon Mortuary returned to the City to initiate the Conditional Use Permit process in order to convert a portion of the office space to a chapel for on-site memorial services.

Summary of Hearings

The proposal went before the Planning Commission on December 7, 2020, February 1, 2021, and April 5, 2021. Detailed information on the proceedings can be found in the staff reports and minutes for each meeting, included as Attachments 5 through 7.

At the December 7, 2020 meeting, the applicant presented their initial request for a 25-seat chapel in their building, allowing up to three memorial services per week from 9 a.m. to 7 p.m. (Attachment 5). The addition of the chapel within the existing building would increase the parking demand of the business, as the additional service will bring more visitors to the site above what is typical for an administrative office. Based on the floor plan and seating number presented at the meeting, the adjusted parking requirement was for twelve off-street parking spaces.

The project property has nine existing parking spaces. The applicant contracted with Pacific Bell Telephone Company to lease five parking spaces at 911 E. Chapman Avenue (a.k.a. the AT&T site) to provide additional parking for memorial services. The leased spaces are available at all times for use by Shannon Family Mortuary clients and visitors. Therefore, fourteen parking spaces would be available for the business.

The Planning Commission stated concerns that the frequency and size of the proposed memorial service use would have negative impacts to the residents living along N. Waverly Street. In the past, staff has received concerns from neighborhood residents about the potential for business parking encroaching into the residential areas adjacent to E. Chapman Avenue. The Planning Commission continued the application to the February 1, 2021 meeting and directed the applicant to revisit its proposed operation plan and perform additional outreach to the nearby residents to address neighbor concerns regarding on-street parking that were brought up during the public hearing. Two public comments were received regarding this item.

At the February 1, 2021 meeting, the applicant requested a continuance of the project to the April 5, 2021 meeting. The Planning Commission granted this request (Attachment 6). Three public comments were received regarding the item.

At the April 5, 2021 meeting, the applicant presented a revised request for the use of the chapel (Attachment 7). Instead of memorial services, the applicant proposed to use the chapel for private family ID viewings, with twelve fixed seats total. The hours of operation for the chapel were reduced to 8 a.m. to 5 p.m. Monday through Friday, with a maximum of two viewings allowed per week.

Based on the proposed floor plan and seating number, the adjusted parking requirements were for nine total off-street parking spaces. As proposed, the property meets the code required parking demand for the proposed mix of services, with nine parking spaces existing on the property and five additional leased parking spaces at the AT&T property.

It was the final opinion of the Planning Commission that, despite the proposed operational changes from the initial application, the proposed use was not compatible with the residential character of N. Waverly Street and that negative impacts to residences were unavoidable if the application was approved. The Planning Commission voted 5-0 to deny the project as presented. Eleven public comments were received regarding this item.

At the April 12, 2021 meeting, the Planning Commission approved Resolution No. PC 34-20 denying the project request on the Consent Calendar, with no additional discussion or public comment (Attachment 4).

Public Notification and Comment

On November 25, 2020, the City mailed a Public Hearing Notice to a total of 76 property owners/tenants within a 300-foot radius of the project site and persons specifically requesting notice. The project site was posted in two locations with the notification on that same date. Given that the Planning Commission continuances were to a date certain, there was no additional direct notification mailed for subsequent Planning Commission hearing dates.

Over the course of the Planning Commission hearing dates, staff received letters of opposition from three residents on N. Waverly Street, four letters of support from residents on N. Waverly Street, and five letters of support from business owners on E. Chapman Avenue (Attachment 8).

On May 3, 2021, the City mailed a Public Hearing Notice for the May 11th City Council meeting to 76 property owners/tenants within a 300-foot radius of the project site and persons specifically requesting notice. A legal notice was also published in the Orange City News on April 29, 2021.

Appeal

On April 20, 2021, the Planning Division received an appeal application from Councilmember Arianna Barrios, District 1 (Attachment 1). The following reasons were given for the appeal request:

- There are concerns the Commission may not have considered all the facts and may have erred in the denial.
- It is unclear if the denial was for a fifteen-seat or twelve-seat chapel.
- There is a similar use operating in the area that may provide facts helpful to this request that were not included in the use analysis. It may also provide additional options or conditions of approval helpful in making the findings to approve the CUP.
- The public record indicates some of the facts used to make the denial findings may not be correct and the Commission deliberation on this matter was confusing and conflicting.

Pursuant to OMC Section 17.08.050.F, the City Council has the authority to consider the record and such additional evidence as may be offered and may affirm, reverse or modify, in whole or in part, the action that was appealed. The Council may also make or substitute additional decisions or determinations as it finds warranted under the provisions of the municipal code.

The applicant, Shannon Family Mortuary has submitted a letter on July 8th (the day of the posting of the July 13th agenda) requesting a temporary alternative to the CUP process. After meeting with the neighborhood, the applicant is seeking a Temporary Use Permit (TUP) with a number of new conditions. Given the late date of the letter, staff will assess whether a TUP is a viable alternative to the entitlements. A memo will be provided to the City Council prior to the meeting.

6. ATTACHMENTS

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- Attachment 2 - Vicinity Map
- Attachment 3 - Site Plan and Floor Plan

- Attachment 4 - Planning Commission Resolution No. PC 34-20
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Agenda Item

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City of Orange
Community Development Department
300 E. Chapman Avenue
Orange, CA 92866
714-744-7220

APPEAL APPLICATION

APPEAL APPLICATION NO. _____

This application must be filled out completely. Any appeal shall be filed with the Community Development Department Planning Division *within fifteen (15) calendar days after the hearing or action from which the appeal is made* (OMC Section 17.08.050 C). The \$1000.00 filing fee (initial deposit – actual cost required) must accompany the appeal.

Name of Appellant(s) Councilmember Arianna Barrios, District 1

Address of Appellant(s) 300 E. Chapman Avenue, Orange, CA 92866

Phone No. (day) 714-878-4864 (cell) 714-878-4864

PROJECT INFORMATION:


Appeal of action on case number: CUP No. 3121-20 | Resolution No. PC 34-20

Project address: 1005 E. Chapman Avenue, Orange, CA 92866

REASON FOR REQUEST: Please specify and explain WHY you are appealing the decision or determination and indicate specifically the error or abuse of discretion (OMC Section 17.08.050 C).

- There are concerns the Commission may not have considered all the facts and may have erred in the denial.
- It is unclear if the denial was for a 15 seat or 12 seat chapel.
- There is a similar use operating in the area that may provide facts helpful to this request that were not included in the use analysis. It may have also provide additional options or conditions of approval helpful in making the findings to approve the CUP.
- The public record indicates some of the facts used to make the denial findings may not be correct and the Commission deliberation on this matter was confusing and conflicting.

I call this item up for Council consideration to give the applicant the opportunity for reconsideration of the request and to better determine if a denial is appropriate.

 4-20-2021
 Signature of Appellant (or representative) Date

PLANNING DIVISION USE ONLY: Date of hearing or decision and hearing body _____

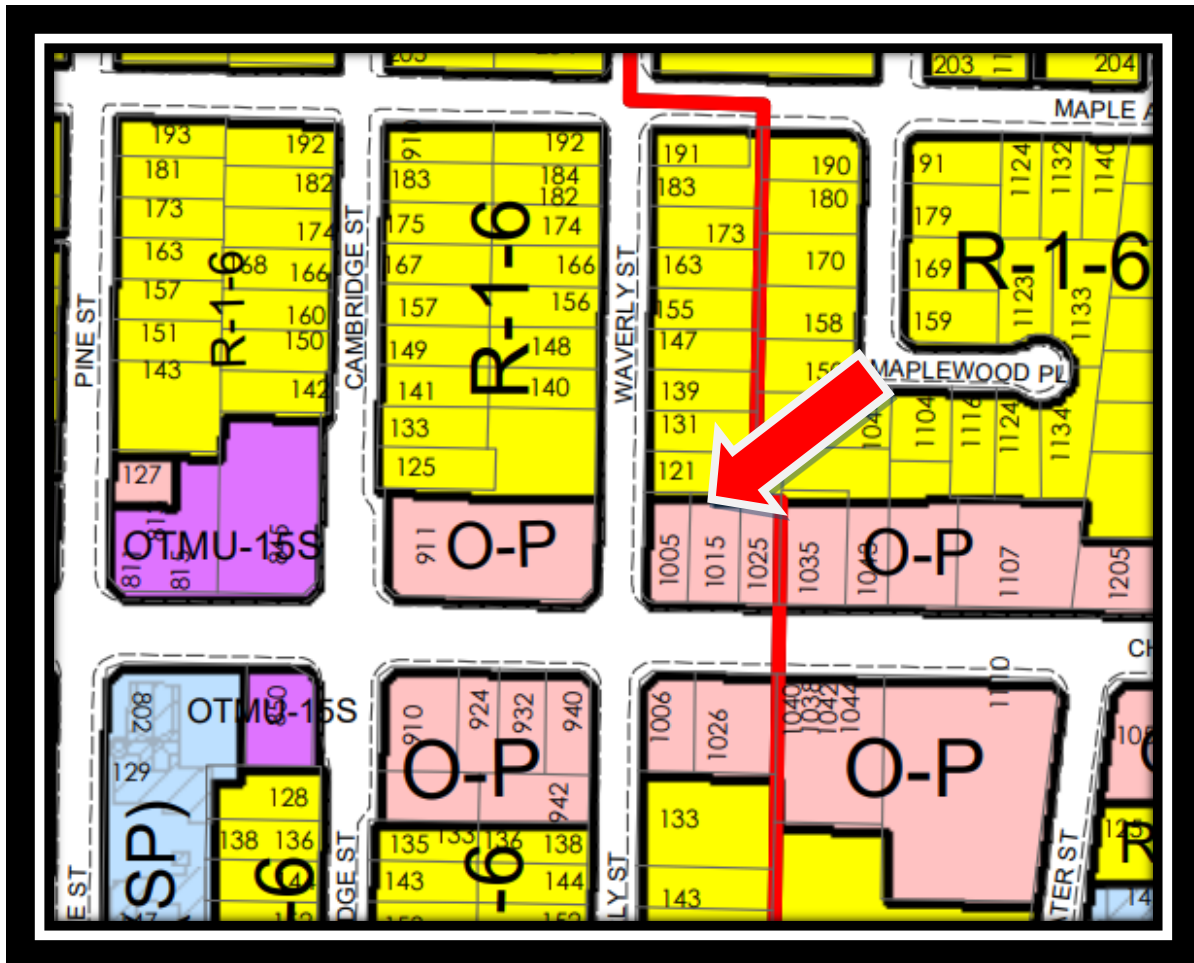
Application checked by _____ Date & Time Received _____

Vicinity Map

Conditional Use Permit No. 3121-20

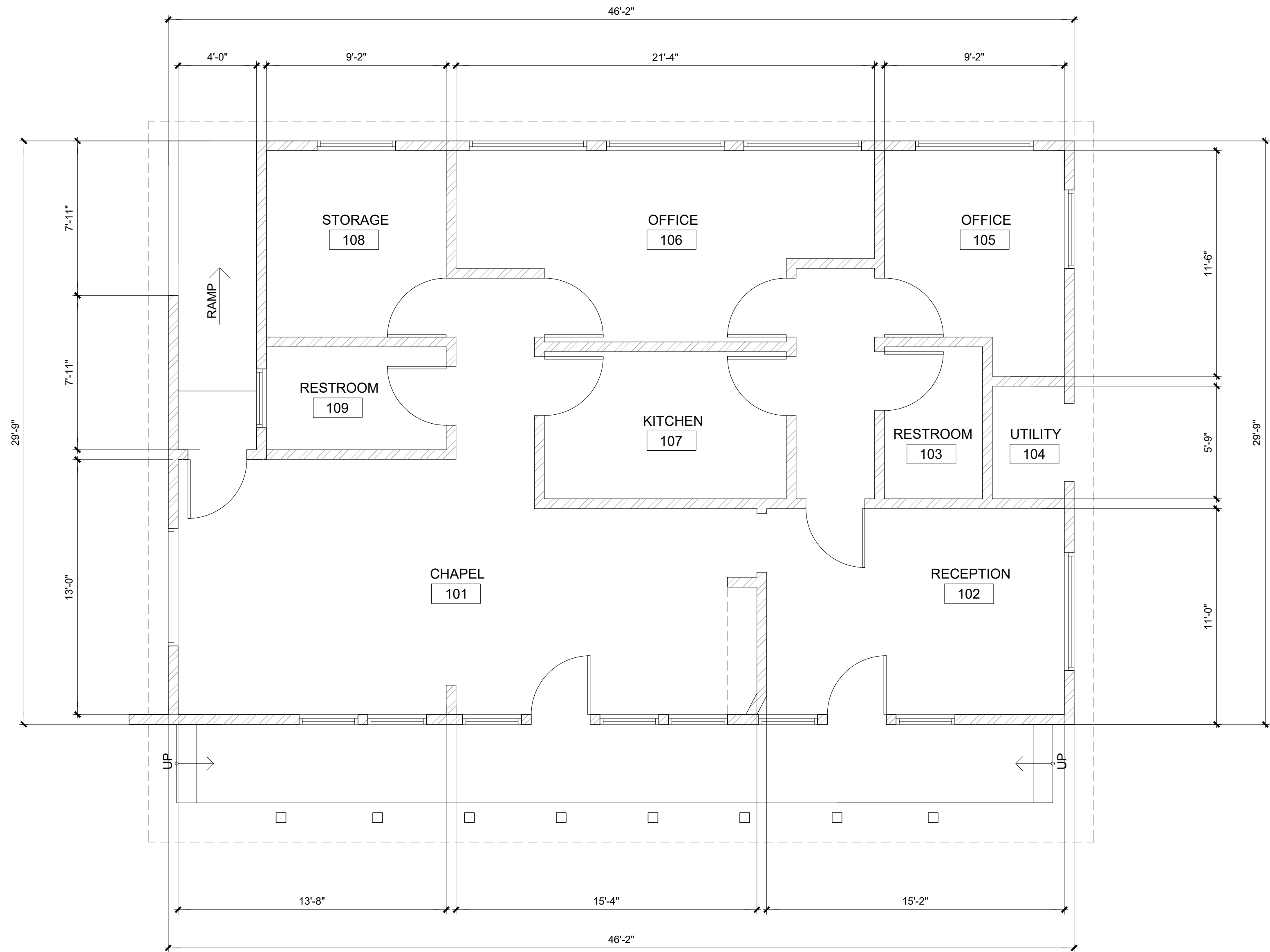
Shannon Family Mortuary

1005 E. Chapman Avenue



CITY OF ORANGE
COMMUNITY DEVELOPMENT DEPARTMENT

01/15/2020
Revised: November 13, 2017
MAHD Design + Planning, LLC
134 S Glassell Unit #E, Orange, CA 92666, USA
Phone: +1 (657) 223-6828 | Email: info@mahdp.com
Website: www.mahdp.com



N 1- FLOOR PLAN - FOR REFERENCE ONLY

SCALE: 1/4" = 1' - 0"

SHANNON FAMILY MORTUARY

1005 E CHAPMAN AVE
ORANGE, CA 92666

MAHD | DESIGN +
| PLANNING

134 S GLASSSELL UNIT #E, ORANGE CA 92666, USA
PHONE: +1 (657) 223-6828 | EMAIL: INFO@MAHDP.COM
WEBSITE: WWW.MAHDP.COM

00-00-00	Plan Check
00-00-00	Set Set
20301	Project Number
AR-PLAN	Drawing Name
06/17/2020	Plot Date
	Plot Scale
	Plot Date

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SHEET TITLE

**FLOOR
PLAN**

SHEET

A1.0

CONDITIONAL USE PERMIT NO. 3121-20

RESOLUTION NO. PC 34-20

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ORANGE DENYING CONDITIONAL USE PERMIT NO. 3121-20 FOR A 15-SEAT CHAPEL AND SHARED PARKING IN CONJUNCTION WITH A MORTUARY OFFICE AT 1005 E. CHAPMAN AVENUE

APPLICANT: SHANNON FAMILY MORTUARY

WHEREAS, the Planning Commission has authority per Orange Municipal Code (OMC) Table 17.08.020, and Sections 17.10.030.C and 17.30.030 to take action on Conditional Use Permit No. 3121-20 for a mortuary with a chapel and shared parking in an existing professional office building in the Office Professional (O-P) zone, located at 1005 E. Chapman Avenue; and

WHEREAS, Conditional Use Permit No. 3121-20 was filed by the applicant in accordance with the provisions of the City of OMC; and

WHEREAS, Conditional Use Permit No. 3121-20 was processed in the time and manner prescribed by state and local law; and

WHEREAS, Conditional Use Permit No. 3121-20 is Categorically Exempt from the provisions of the California Environmental Quality Act per State CEQA Guidelines Section 15301 (Class 1 – Existing Facilities); and

WHEREAS, the Planning Commission conducted two duly advertised public hearings on December 7, 2020 and April 5, 2021 at which time interested persons had an opportunity to testify either in support of or opposition to Conditional Use Permit No. 3121-20 upon property described in Exhibit A, attached hereto and incorporated herein.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission denies Conditional Use Permit No. 3121-20 for a 15-seat chapel in conjunction with a mortuary office, located at 1005 E. Chapman Avenue, with shared parking at 911 E. Chapman Avenue, based on the following findings:

SECTION 1 – FINDINGS

General Plan Finding:

- 1. The project must be consistent with the goals and policies stated within the City's General Plan.*

The City of Orange General Plan Land use Element requires the City make land use decisions that protect and maintain vibrancy and livability of the City's historic core. The subject property is located within the northeast quadrant of the Old Towne Historic District in downtown Orange. The E. Chapman Avenue corridor consists of small office buildings and residences converted to commercial uses directly adjacent to an established residential neighborhood. Intensification of the mortuary office use at this location has the potential to cause encroachment of a commercial use, especially parking, into an established single-family neighborhood, disrupting the balance of low intensity office uses and residential character in this quadrant of the historic district.

This finding cannot be made.

Conditional Use Permit Findings:

1. *A Conditional Use Permit shall be granted upon sound principles of land use and in response to services required by the community.*

The applicant proposes to provide services that are customary for city residents related to all aspects of end-of-life arrangements. However, the subject property is located within the northeast quadrant of the Old Towne Historic District in downtown Orange. The E. Chapman Avenue corridor consists of small office buildings and residences converted to commercial uses directly adjacent to an established residential neighborhood. Intensification of the mortuary office use at this location has the potential to cause encroachment of a commercial use, especially parking, into an established single-family neighborhood, disrupting the balance of low intensity office uses and residential character in this quadrant of the historic district.

This finding cannot be made.

2. *A Conditional Use Permit shall not be granted if it will cause deterioration of bordering land uses or create special problems for the area in which it is located.*

The subject property is located within the northeast quadrant of the Old Towne Historic District in downtown Orange. The E. Chapman Avenue corridor consists of small office buildings and residences converted to commercial uses directly adjacent to an established residential neighborhood. Intensification of the mortuary office use at this location has the potential to cause encroachment of commercial parking into the neighborhood, causing a deterioration of the residential character of this quadrant of the historic district due to increased noise, traffic, and parking demand on N. Waverly Street beyond that customary for a single-family neighborhood.

This finding cannot be made.

3. *A Conditional Use Permit must be considered in relationship to its effect on the community or neighborhood plan for the area in which it is located.*

The subject property is located within the northeast quadrant of the Old Towne Historic District in downtown Orange. The E. Chapman Avenue corridor consists of small office buildings and residences converted to commercial uses directly adjacent to an established

residential neighborhood. Intensification of the mortuary office use at this location has the potential to cause encroachment of commercial parking into the neighborhood, causing a deterioration of the residential character of this quadrant of the historic district through addition of commercial levels of traffic and parking demand to N Waverly Street.

This finding cannot be made.

4. *A Conditional Use Permit, if granted, shall be made subject to those conditions necessary to preserve the general welfare, not the individual welfare of any particular applicant.*

The conditions for the Conditional Use Permit are put forth with the purpose of preserving the general welfare of the city and community. The proximity of the proposed use to single-family residential uses on N. Waverly Street has the potential to cause encroachment of commercial parking into the neighborhood, causing a deterioration of the residential character of this quadrant of the historic district. This would be detrimental to the welfare of the residents of the surrounding neighborhood, who would deal with increased traffic, noise, and parking issues on N. Waverly Street.

This finding cannot be made.

SECTION 2 – ENVIRONMENTAL REVIEW

The proposed project is statutorily exempt from the provisions of the California Environmental Quality Act per State CEQA Guidelines 15270(a), because CEQA does not apply to projects which a public agency rejects or disapproves.

I hereby certify that the foregoing Resolution was adopted on April 5, 2021 by the Planning Commission of the City of Orange by the following vote:

AYES: Simpson, Vazquez, Glasgow, Martinez and Willits

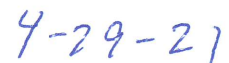
NOES: None

ABSTAIN: None

ABSENT: None



Dave Simpson, Planning Commission Chair



Date



Agenda Item

Planning Commission

Item #: 5.4.

12/7/2020

File #: 20-271

TO: Chair and Members of the Planning Commission

THRU: Anna Pehoushek, Assistant Community Development Director

FROM: Kelly Ribuffo, Associate Planner

1. SUBJECT

Public Hearing: Conditional Use Permit No. 3121-20, Shannon Family Mortuary, 1005 E. Chapman Avenue

2. SUMMARY

The applicant proposes to add a chapel within an existing professional office building to provide memorial services for Shannon Family Mortuary.

3. RECOMMENDED ACTION

Staff recommends that the Planning Commission review the proposal and take the appropriate action. The Planning Commission can take one of the following actions:

- Adopt Planning Commission Resolution No. PC 34-20 entitled:

A Resolution of the Planning Commission of the City of Orange approving Conditional Use Permit No. 3121-20 for a 25-seat chapel and shared parking in conjunction with a mortuary office at 1005 E. Chapman Avenue

- Adopt Planning Commission Resolution No. PC 34-20 entitled:

A Resolution of the Planning Commission of the City of Orange denying Conditional Use Permit No. 3121-20 for a 25-seat chapel and shared parking in conjunction with a mortuary office at 1005 E. Chapman Avenue

4. AUTHORIZING GUIDELINES

Orange Municipal Code (OMC) Table 17.08.020 and Sections 17.10.030.C and 17.30.030 authorize the Planning Commission to review and take action on Conditional Use Permits. A Conditional Use Permit is required for a Mortuary in the Office Professional (O-P) zone.

5. PROJECT BACKGROUND

<i>Applicant:</i>	Shannon Family Mortuary, Charles Link
<i>Property Owner</i>	Elizabeth Khorey
<i>Property Location</i>	1005 E. Chapman Avenue
<i>Existing General Plan Land Use Element Designation</i>	Neighborhood Office Professional (NOP)
<i>Existing Zoning Classification</i>	Office Professional (O-P)
<i>Old Towne</i>	Yes
<i>Specific Plan/PC</i>	None
<i>Site Size</i>	0.17 acres
<i>Circulation</i>	Located at the northeast intersection of E. Chapman Avenue and Waverly Street, with vehicular access of N. Waverly Street.
<i>Existing Conditions</i>	The property is developed with a 1,320 square foot professional office building and a nine-space parking lot.
<i>Surrounding Land Uses and Zoning</i>	Single-family residential (R-1-6) to the north on N. Waverly Street, offices and institutional uses (O-P and OTMU-15S) along E. Chapman Avenue to the south, east, and west.
<i>Previous Applications/Entitlements</i>	None

6. PROJECT DESCRIPTION

The applicant, Shannon Family Mortuary, proposes to convert a portion of an existing 1,320 square foot professional office building into a 25-seat chapel for memorial services in conjunction with a mortuary office. A floor plan is provided as Attachment 4.

Memorial services will be held one to three times per week between 9:00 AM and 7:00 PM. Services last between one to three hours each, including set-up and breakdown of the chapel space. One to two staff members will be present to facilitate the service. Transport of the decedent to and from an off-site mortuary is provided by the business using a company vehicle. Decedents are not stored on the property before or after the service.

Parking for visitors will be provided in the existing nine-space parking lot on-site and across N. Waverly Street at 911 E. Chapman Avenue, where the applicant has leased five parking spaces from Pacific Bell Telephone Company for overflow parking.

More information on the business operations is provided in Attachment 3.

7. ANALYSIS AND STATEMENT OF THE ISSUES

Issue 1: Categorization as a Mortuary

OMC Table 17.13.030 specifies that a Conditional Use Permit (CUP) is required for a mortuary in the Office Professional (O-P) zone. The OMC does not have a definition for "mortuary". A mortuary, also known as a funeral home or funeral parlor, is a business that provides interment and funeral services for the dead and their families. These services may include a prepared memorial service and funeral,

and the provision of a chapel for the funeral. A mortuary may or may not also include storage and preparation of the dead prior to the funeral.

Shannon Family Mortuary has operated at its current location since March 2020. A CUP was not required for the relocation of the business from E. Maple Avenue to E. Chapman Avenue because the scope of services provided was limited to administrative office activities only. No preparations or memorial services currently take place at this location. Therefore, the potential parking demands for the business are less than a full-service mortuary.

However, with the addition of a chapel for on-site memorials the business will function more like a full-service mortuary. The addition of this service triggers the requirement for a CUP.

Issue 2: Vehicular Parking Requirements

Shannon Family Mortuary currently operates as an administrative office. The property has an existing nine-space parking lot, which provides adequate parking to meet code requirement per OMC Section 17.34.060.

<u>Use</u>	<u>Parking Rate</u>	<u>Parking Required</u>
Professional or administrative office	4 spaces/1,000 SF gross floor area	6 spaces (1,320 SF)
Company vehicle	1 space/1 vehicle	2 spaces (2 vehicles)
Total Required Spaces: 8		

Addition of the chapel within the existing building will increase the parking demand of the business, as the additional service will bring more visitors to the site above what is typical for an administrative office. Based on the proposed floor plan and seating number, the adjusted parking requirements are:

<u>Use</u>	<u>Parking Rate</u>	<u>Parking Required</u>
Professional or administrative office	4 spaces/1,000 SF gross floor area	4 spaces (991 SF)
Company vehicle	1 space/1 vehicle	2 spaces (2 vehicles)
Church, chapel, religious facility, cemetery, mortuary	1 space/4 seats	6 spaces (25 seats)
Total Required Spaces: 12		

The applicant has contracted with Pacific Bell Telephone Company to lease five parking spaces at 911 E. Chapman Avenue (a.k.a. the AT&T site) to provide additional parking for memorial services. The AT&T site has eighteen parking spaces available, with only three to four spaces utilized by employees at the property. The leased spaces are available at all times for use by Shannon Family Mortuary clients and visitors. With the parking spaces available at the AT&T site, there are fourteen parking spaces available for clients of Shannon family Mortuary, more than the minimum twelve spaces required by the parking code for the mix of uses proposed at the property.

Per the lease agreement provided to staff, the AT&T site parking spaces are only being leased on a year-to-year basis at this time. Since there is no recorded access agreement proposed between Pacific Bell and the applicant there is no guarantee the spaces will be available in perpetuity for the

chapel. Should the Planning Commission approve the proposed CUP, staff recommends a condition of approval to address the potential loss of the leased parking in the future (Attachment 1A, Condition #8). This condition requires that alternative parking equal or greater to the number of parking spaces must be provided at a location approved by the Community Development Director to allow memorial services to continue on the property.

Issue 3: Potential Parking Impacts to Surrounding Properties

The subject property is directly adjacent to single-family residential properties on N. Waverly Street, located in the northeast quadrant of the Old Towne Historic District. In the past, staff has heard concerns from neighborhood residents about the potential for business parking encroaching into the residential areas adjacent to E. Chapman Avenue. Many buildings along this corridor are converted residences that now operate and professional offices, medical offices, and similar uses.

It could be concluded that so long as the leased parking agreement is in effect, the proposed use has a low chance of creating chronic parking issues for residents on N. Waverly Street for the following reasons:

- The chapel is less than 400 square feet in size, allowing for a minimal number of visitors at a time.
- The applicant has provided for more parking spaces than required by the OMC, and the hours of operation for the chapel are regular business hours.
- There is approximately 218 lineal feet, equivalent to nine parallel spaces, of on-street parking available on N. Waverly Street adjacent to the AT&T site, not directly in front of residential properties on the street.

At the time of publication of this staff report, no public comment has been received from residents of N. Waverly Street regarding this application.

8. PUBLIC NOTICE

On November 25, 2020, the City sent a Public Hearing Notice to a total of 76 property owners/tenants within a 300-foot radius of the project site and persons specifically requesting notice. The project site has been posted in two locations with the notification on that same date.

9. ENVIRONMENTAL REVIEW

Categorical Exemption: The proposed project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) per State CEQA Guideline 15301 (Class 1 - Existing Facilities) because the project consists of the licensing of an existing professional office building, consistent with the property's zoning and General Plan designation. No public review is required.

10. ADVISORY BOARD ACTION

None required.

11. ATTACHMENTS

- Attachment 1A - Planning Commission Resolution No. PC 34-20 Approval Draft
- Attachment 1B - Planning Commission Resolution No. PC 34-20 Denial Draft

- Attachment 2 - Vicinity Map
- Attachment 3 - Applicant Letter of Explanation
- Attachment 4 - Site Plan and Floor Plan
- Attachment 5 - Site Photographs
- Attachment 6 - Location of Leased Parking Spaces

adopt Planning Commission Resolution No. 30-20 entitled:

A Resolution of the Planning Commission of the City of Orange approving Conditional Use Permit No. 3129-20 for an Alcoholic Beverage Control Type 47 License (On-Sale General - Eating Place) for an event center located at 146 N. Grand Street.

The motion carried by the following vote:

Ayes: Simpson, Glasgow, Martinez, Vazquez, and Willits

Noes: None

Absent: None

5.3. Public Hearing: Conditional Use Permit No. 3124-20, Ramen Mura ABC Type 41 License, 130 S. Main Street Suite G

Alex Woo, applicant, spoke on behalf of the project.

Chair Simpson opened the public hearing.

Anna Pehoushek, Assistant Community Development Director stated no comments were received for this item.

Chair Simpson closed public hearing.

During discussion, Investigator Jimmy Phan, Orange Police Department, answered the Commissioners' questions about crime statistics. He spoke about the transient population and alcohol related crimes in that area.

Mr. Woo agreed with a continuance to work with the Police Department to mitigate some of their concerns.

A motion was made by Vice Chair Glasgow, seconded by Chair Simpson to continue the item to the February 1, 2021, Regular Planning Commission meeting. The motion carried by the following vote:

Ayes: Simpson, Glasgow, Martinez, Vazquez, and Willits

Noes: None

Absent: None

5.4. Public Hearing: Conditional Use Permit No. 3121-20, Shannon Family Mortuary, 1005 E. Chapman Avenue

Julie and Charles Link, applicants, spoke on behalf of the project.

Chair Simpson opened the public hearing.

Jessica Wang, Administrative Specialist, stated staff received phone calls as well as an email that was submitted beyond the deadline, expressing opposition of the project.

Chair Simpson closed the public hearing.

Commissioners had questions and comments regarding parking and how the project would affect nearby neighborhoods; and requested that applicants reach out to nearby residents regarding the project before granting approval.

A motion was made by Vice Chair Glasgow, seconded by Commission Vazquez to

continue the item to the February 1, 2021, Regular Planning Commission meeting. The motion carried by the following vote:

Ayes: Simpson, Glasgow, Martinez, Vazquez, and Willits

Noes: None

Absent: None

6. ADJOURNMENT

There being no further business, the meeting was adjourned at 9:34 p.m.

The next regular scheduled Planning Commission meeting will be held on December 21, 2020 at 7:00 p.m. via various teleconference locations.



Anna Pehoushek

Assistant Community Development Director



Agenda Item

Planning Commission

Item #:

2/1/2021

File #: 21-0021

TO: Chair and Members of the Planning Commission

THRU: Anna Pehoushek, Assistant Community Development Director

FROM: Kelly Ribuffo, Associate Planner

1. SUBJECT

Public Hearing: Conditional Use Permit No. 3121-20, Shannon Family Mortuary, 1005 E. Chapman Avenue

2. SUMMARY

At the December 7, 2020 Planning Commission meeting the Commission voted 5-0 to continue consideration of Conditional Use Permit No. 3121-20 to the February 1, 2021 regular meeting.

The applicant, Charles Link, is requesting that the Planning Commission continue consideration of this application to the April 5, 2021, Regular Planning Commission meeting.

3. RECOMMENDED ACTION

Continue consideration of Conditional Use Permit No. 3121-20, Shannon Family Mortuary, to the April 5, 2021 Regular Planning Commission meeting.

4. ATTACHMENTS

- Email from Charles Link, Shannon Family Mortuary, dated January 13, 2021

to approve the Consent Calendar as recommended.

The motion carried by the following vote:

Ayes: Simpson, Vazquez, Glasgow, Martinez, and Willits

Noes: None

Absent: None

3. COMMISSION BUSINESS

Election of Chair and Vice-Chair

A motion was made by Vice-Chair Glasgow and seconded by Commissioner Vazquez to re-elect Dave Simpson as Chair of the 2021 calendar year Planning Commission.

The motion carried by the following vote:

Ayes: Simpson, Glasgow, Martinez, Vazquez, and Willits

Noes: None

Absent: None

A motion was made by Vice-Chair Glasgow and seconded by Commissioner Willits to elect David Vazquez as Vice-Chair of the 2021 calendar year Planning Commission.

The motion carried by the following vote:

Ayes: Simpson, Vazquez, Glasgow, Martinez, and Willits

Noes: None

Absent: None

4. CONTINUED HEARINGS

4.1. Public Hearing: Conditional Use Permit No. 3121-20, Shannon Family Mortuary, 1005 E. Chapman Avenue

Chair Simpson opened the public comment.

Anna Pehoushek, Assistant Community Development Director and Jessica Wang, Administrative Specialist read public comments from the following:

Opposed: Doug Ely and Laura Ely

In Favor: None

Chair Simpson closed the public comment.

The Commission discussed limiting the current activity to office use only until such time a Conditional Use Permit is approved to allow services at the site, and how that activity could be monitored.

A motion was made by Vice Chair Glasgow and seconded by Commissioner Martinez to continue Conditional Use Permit No. 3121-20, Shannon Family Mortuary to April 5, 2021 per the applicant's request. Applicant shall continue to operate with administrative office uses only.

The motion carried by the following vote:

Ayes: Simpson, Glasgow, Martinez, Vazquez, and Willits

Noes: None

Absent: None

4.2. Public Hearing: Conditional Use Permit No. 3124-20, Ramen Mura ABC Type 41 License, 130 S. Main Street Suite G

Chair Simpson opened the public comment.

Anna Pehoushek, Assistant Community Development Director stated no comments were received for this item.

Chair Simpson closed the public comment.

A motion was made by Vice Chair Glasgow seconded by Commissioner Martinez to continue Conditional Use Permit No. 3124-20, Ramen Mura ABC Type 41 License to a date uncertain per the applicant's request.

The motion carried by the following vote.

Ayes: Simpson, Glasgow, Martinez, Vazquez, and Willits

Noes: None

Absent: None

5. NEW HEARINGS

None

6. ADJOURNMENT

There being no further business, the meeting was adjourned at 7:28 p.m.

The next Regular Planning Commission Meeting will be held on Wednesday, February 17, 2021 at 7:00 p.m. (pursuant to OMC 2.64.040) via various teleconference locations.



Anna Pehoushek

Assistant Community Development Director



Agenda Item

Planning Commission

Item #: 4.1.

4/5/2021

File #: 21-0159

TO: Chair and Members of the Planning Commission

THRU: Anna Pehoushek, Assistant Community Development Director

FROM: Kelly Ribuffo, Associate Planner - Historic Preservation

1. SUBJECT

Public Hearing: Conditional Use Permit No. 3121-20, Shannon Family Mortuary, 1005 E. Chapman Avenue

2. SUMMARY

The applicant proposes to add a chapel within an existing professional office building to provide memorial services for Shannon Family Mortuary. The project was continued from the December 7, 2020 and February 1, 2021 Planning Commission meetings.

3. RECOMMENDED ACTION

Adopt Planning Commission Resolution No. 34-20 entitled:

A Resolution of the Planning Commission of the City of Orange approving Conditional Use Permit No. 3121-20 for a twelve seat chapel in conjunction with a mortuary office at 1005 E. Chapman Avenue.

4. AUTHORIZING GUIDELINES

Orange Municipal Code (OMC) Table 17.08.020 and Sections 17.10.030.C and 17.30.030 authorizes the Planning Commission to review and take action on Conditional Use Permits. A Conditional Use Permit is required for a mortuary in the Office Professional (O-P) zone.

5. PROJECT BACKGROUND

<i>Applicant:</i>	Shannon Family Mortuary, Charles Link
<i>Property Owner</i>	Elizabeth Khorey
<i>Property Location</i>	1005 E. Chapman Avenue
<i>Existing General Plan Land Use Element Designation</i>	Neighborhood Office Professional (NOP)
<i>Existing Zoning Classification</i>	Office Professional (O-P)
<i>Old Towne</i>	Yes
<i>Specific Plan/PC</i>	None
<i>Site Size</i>	0.17 acres

<i>Circulation</i>	Located at the northeast intersection of E. Chapman Avenue and Waverly Street, with vehicular access from N. Waverly Street.
<i>Existing Conditions</i>	The property is developed with a 1,320 square foot professional office building and a nine-space parking lot.
<i>Surrounding Land Uses and Zoning</i>	Single-family residential (R-1-6) to the north on N. Waverly Street, offices and institutional uses (O-P and OTMU-15S) along E. Chapman Avenue
<i>Previous Applications/Entitlements</i>	None

6. PROJECT DESCRIPTION

The applicant, Shannon Family Mortuary, proposes to convert a portion of an existing 1,320 square foot professional office building into a twelve-seat chapel for private memorial services in conjunction with a mortuary office. A floor plan is provided as Attachment 4.

Memorial services will be held one to two times per week between 8 a.m. and 5 p.m. Services last a maximum of two hours each. One to two staff members will be present to facilitate the service. Transport of the decedent to and from an off-site mortuary is provided by the business using a company vehicle. Decedents are not stored on the property before or after the service.

Parking for visitors will be provided in the existing nine-space parking lot on-site and across N. Waverly Street at 911 E. Chapman Avenue, where the applicant has leased five parking spaces from Pacific Bell Telephone Company for overflow parking.

More information on the business operations is provided in Attachment 3.

7. ANALYSIS AND STATEMENT OF THE ISSUES

Issue 1: Response to Planning Commission Comments

At the December 7, 2020 meeting, the Planning Commission stated concerns that the frequency and size of the proposed memorial service use would have negative impacts to the residents living along N. Waverly Street. In the past, staff has received concerns from neighborhood residents about the potential for business parking encroaching into the residential areas adjacent to E. Chapman Avenue. The Planning Commission continued the application to the February 1, 2021 meeting and directed the applicant to revisit its proposed operation plan and perform additional outreach to the nearby residents to address neighbor concerns regarding on-street parking that were brought up during the public hearing.

The applicant requested a continuance to the April 5, 2021 meeting to allow additional time to revise its application.

The applicant has provided a revised request for memorial services, included as Attachment 3. The original request was for use of the chapel from 9 a.m. to 7 p.m., seven days a week, up to three services per week. The hours of operation for the chapel have been reduced to 8 a.m. to 5 p.m. Monday through Friday, with a maximum of two services or viewings allowed per week. In addition, the number of attendants allowed at memorial services will be capped at twelve individuals, versus the original request for 25 individuals, to be managed by employees of the business.

Because the public hearing for the application was continued to a date certain, no additional mailed or posted public notice was required for this hearing by the City. However, the applicant has stated

that prior to the public hearing on April 5, 2021 it will provide the revised letter of explanation to all property owners within 300 feet of the property and answer any questions that they may have regarding the business operations.

Based on the proposed floor plan and seating number, the adjusted parking requirements are:

Use	Parking Rate	Parking Required
Professional or administrative office	4 spaces/1,000 SF gross floor area	4 spaces (991 SF)
Company vehicle	1 space/1 vehicle	2 spaces (2 vehicles)
Church, chapel, religious facility, cemetery, mortuary	1 space/4 seats	3 spaces (12 seats)
Total Required Spaces:		9

As proposed, the property meets the code required parking demand for the proposed mix of services, with nine parking spaces existing on the property. However, the applicant has contracted with Pacific Bell Telephone Company to lease five parking spaces at 911 E. Chapman Avenue (a.k.a. the AT&T site) to provide overflow parking for memorial services. The leased spaces are available at all times for use by Shannon Family Mortuary clients and visitors. This makes fourteen parking spaces available to fulfill the parking demands for the business, in excess of the code-required parking.

It is the opinion of staff that with the proposed operational changes the use has a low chance of creating chronic parking issues for residents on N. Waverly Street. The chapel is less than 400 square feet in size, the applicant has provided for more parking spaces than required by the OMC, and the hours of operation for the chapel are regular business hours. In the future, should parking spaces no longer be available at the AT&T site, staff has proposed Condition No. 9. This condition requires that alternative parking equal or greater to the number of parking spaces must be provided to allow memorial services to continue on the property at a location approved by and at the discretion of the Community Development Director.

8. PUBLIC NOTICE

On November 25, 2020, the City sent a Public Hearing Notice to a total of 76 property owners/tenants within a 300-foot radius of the project site and persons specifically requesting notice. The project site has been posted in two locations with the notification on that same date. Two comment letters were received prior to the public hearing in opposition to the project.

As the proposed project was continued to a date certain, no additional public notice was required.

9. ENVIRONMENTAL REVIEW

Categorical Exemption: The proposed project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) per State CEQA Guidelines 15301 (Class 1 - Existing Facilities) because the project consists of the licensing of an existing professional office building, consistent with the property's zoning and General Plan designation. No public review is required.

10. ADVISORY BOARD ACTION

None required.

11. ATTACHMENTS

- Attachment 1 Planning Commission Resolution No. PC 34-20 draft
- Attachment 2 Vicinity Map
- Attachment 3 Applicant Letter of Explanation date stamped March 22, 2021
- Attachment 4 Site Plan and Floor Plan
- Attachment 5 Site Photographs
- Attachment 6 Location of Leased Parking Spaces
- Attachment 7 Staff Report and Minutes from the December 7, 2020 Meeting

MINUTES - FINAL

City of Orange

Planning Commission

April 05, 2021

1. OPENING

1.1 CALL TO ORDER

Chair Simpson called the meeting to order at 7:03 p.m.

1.2 PLEDGE OF ALLEGIANCE

Chair Simpson led the flag salute

1.3 ROLL CALL

Present: Simpson, Vazquez, Glasgow, Martinez, and Willits

Absent: None

1.4 PUBLIC COMMENTS

None

1.5 Continued or Withdrawn Items

Anna Pehoushek, Assistant Community Development Director, stated staff would like to continue Item 2.2, St. Joseph Medical Office Building, to a date uncertain in order to review correspondence that was received late in the day.

A motion was made by Commissioner Glasgow, seconded by Commissioner Martinez, to continue item 2.2 to a date uncertain.

The motion carried by the following vote:

Ayes: Simpson, Vazquez, Glasgow, Martinez, and Willits

Noes: None

Absent: None

1.6 Assistant Community Development Director Reports

None

1.7 Announcement of Appeal Procedures.

2. CONSENT CALENDAR

All matters listed under the Consent Calendar are considered to be routine by the Planning Commission and will be enacted by one motion. There will be no separate discussion of said items unless members of the Planning Commission, staff or the public request specific items removed from the Consent Calendar for separate action.

2.1. Approval of meeting minutes of the Planning Commission of the City of Orange for the March 15, 2021 Regular Meeting.

ACTION: Approve minutes as amended.

A motion was made by Commissioner Willits, seconded by Commissioner Martinez to approve the March 15, 2021 minutes as amended.

The motion carried by the following vote:

Ayes: Simpson, Vazquez, Glasgow, Martinez, and Willits

Noes: None

Absent: None

2.2. Major Site Plan Review No. 1017-20, Tentative Parcel Map No. 0019-20, Design Review No. 5014-20, and Mitigated Negative Declaration No. 1872-20 St. Joseph Medical Office Building located at 331, 353, and 393 S. Main Street.

ACTION: Item 2.2 was continued to a date uncertain under item 1.5.

3. COMMISSION BUSINESS

None

4. CONTINUED HEARINGS

4.1. Public Hearing: Conditional Use Permit No. 3121-20, Shannon Family Mortuary, 1005 E. Chapman Avenue (CONTINUED FROM THE FEBRUARY 1, 2021 PLANNING COMMISSION MEETING)

Commissioner Martinez disclosed he met with the applicant and toured the facility.

Commissioner Glasgow disclosed he met with some of the neighbors on Waverly Street.

Charles Link spoke on behalf of the project.

The Commissioners had questions about the following:

- Parking lease agreement with AT&T
- Seating capacity
- Neighborhood outreach
- Frequency of services

Chair Simpson opened the public hearing.

Nine letters were received in favor, and five emails were received in opposition of the application.

Chair Simpson closed the public hearing.

A motion was made by Chair Simpson, seconded by Commissioner Martinez to adopt Planning Commission Resolution No. 34-20 with the following modifications and additions to the Conditions of approval:

- Replace “memorial services” with “private ID viewing” throughout Resolution PC 13-21.
- Revise Condition 7 to read “The hours of operation shall be Monday through Friday 8:00 AM to 5:00 PM. No private ID viewings shall be conducted past 5:00 PM.”
- Revise Condition 8 to read “A maximum of two small private ID viewings may be conducted per week, not to exceed two hours each.”
- A new condition 9 stating “There shall be no more than 12 attendees allowed at any one private ID viewing.”
- Revise Condition 10 to include “Staff member of the business shall direct parking during viewings.”
- Revise Condition 11 to change the term “memorial services” to “private ID viewings.”
- Revise Condition 12 to read “The Conditional Use Permit shall be reviewed six months from the date of approval and may be reviewed each year thereafter by the Community Development Director who will present his or her findings to the Planning Commission.

The motion failed by the following vote:

Ayes: Simpson, and Martinez

Noes: Vazquez, Glasgow, and Willits

Absent: None

4.1. Public Hearing: Conditional Use Permit No. 3121-20, Shannon Family Mortuary, 1005 E. Chapman Avenue (CONTINUED FROM THE FEBRUARY 1, 2021 PLANNING COMMISSION MEETING)

During the Commissioners discussion, the following concerns were considered in their decision:

- Potential neighborhood parking impacts
- Potential challenges limiting the number of guests
- Public comment on recent neighborhood conflicts associated with on-site gatherings

A Motion was made by Commissioner Glasgow and seconded by Chair Simpson, to deny Planning Commission Resolution No. 13-21 entitled:

A Resolution of the Planning Commission of the City of Orange approving Conditional Use Permit No. 3121-20 for a twelve seat chapel in conjunction with a mortuary office at 1005 E. Chapman Avenue.

The motion carried by the following vote:

Ayes: Simpson, Vazquez, Glasgow, Martinez, and Willits

Noes: None
Absent: None

5. NEW HEARINGS

None

6. ADJOURNMENT

There being no further business, the meeting was adjourned at 8:33 p.m.

The next Regular Planning Commission Meeting will be held on Monday, April 19, 2021 at 7:00 p.m. in the City Council Chamber and various teleconference locations.



s/Anna Pehoushek
Community Development Assistant Director

Appeal No. 0555-21

Shannon Family Mortuary

Planning Commission Public Hearing Comments from December 7, 2020

Kelly Ribuffo

From: Aleta Bryant [REDACTED]
Sent: Monday, December 7, 2020 5:24 PM
To: Kelly Ribuffo
Subject: Fwd: Shannon Mortuary Application

Sent from my iPhone

Begin forwarded message:

From: Aleta Bryant [REDACTED]
Date: December 7, 2020 at 3:11:05 PM PST
To: kribuffo@cityofirange.org
Subject: Shannon Mortuary Application

Dear Ms. Buffo,

I was just informed by my neighbor of a meeting before the CityCouncil tonight regarding an application by Shannon Mortuary for a use permit to enable it to build a chapel inside their offices at the end of North Waverly Street.

I am in great opposition to such a request, unless the business can show adequate parking off of Waverly Street. As I knew nothing of the meeting until a few moments ago, all I know from my neighbor is that the business owners have represented that they have five parking spaces that they are leasing from the AT&T building. This will be a grossly inadequate amount of parking to accommodate the kind of traffic that this business is anticipating bringing to our residential street.

Again, I am hoping that there will be adequate opportunity for the council to hear from the residents on Waverly Street. If the other residents, like myself, have received no notice of this issue being brought before the City Council tonight, I am afraid that our voices will go unheard if this matter is addressed tonight.

Thank you for your consideration of my request to delay any such hearing until adequate notice is provided to all of the residents on N. Waverly St.; and until our concerns can appropriately be addressed to the forum.

Warm regards,
Aleta Bryant

[REDACTED]

Sent from my iPhone

Kelly Ribuffo

From: Doug Ely [REDACTED]
Sent: Monday, December 7, 2020 3:43 PM
To: Kelly Ribuffo
Cc: Aleta Bryant; Laura Ely
Subject: Shannon Family Mortuary CUP No. 3121-20

Importance: High

Hi Kelly (and to Whoever It May Concern),

I am contacting you regarding Agenda Item 5.4 in tonight's Planning Commission hearing regarding the Shannon Family Mortuary. I was thinking that I would be able to address my comments via a web call in service as I have experienced at other city's public meetings but see that Orange is not set up that way and that we need to send in our comments ahead of time. When Shannon Mortuary moved in, their representative assured residents on our street that he would simply be conducting administrative functions at the location where he moved their offices to. Since then there have been numerous gatherings in his parking lot that have disrupted parking on our street, the 100 block of North Waverly Street. The proposal to convert a space into a chapel violates what they informed us and the leasing of 5 spaces across the street in the AT&T parking lot is not enough to handle the amount of parking that this use will generate and it will affect the residents along the entire north block of the street. Additionally, the parking lot also has a lockable gate on it and parking may not always be available, although it is often left open and unlocked. From the crowds that have been gathering to date, I believe they will generate at least 10-15 vehicles, in addition to their 6 regular office administrative functions.

Additionally, Shannon should be conditioned that they cannot take over their own parking lot with tents for gatherings as this restricts the use of the few parking spaces that they already have.

Orange Municipal Code 17.34.060.B states:

Church, chapel, religious facility, cemetery, mortuary	1 space/4 seats, or 1 space/30 sq. ft. of gross assembly area, whichever is greater (18 inches of continuous bench area = 1 seat)
	Additional facilities and activities other than the church sanctuary shall be parked on an individual basis in accordance with this section. Shared parking conditions that reflect a staggered occurrence of activities require approval of a conditional use permit.

It appears that the size of the chapel is 329sf from the reduction of area of administrative office. Per the above table the greater parking requirement is 1 space/30 sf = 11 spaces – not 6. This is more in keeping with actual gatherings observed.

I encourage the city to require the applicant to meet the actual code requirements based upon the actual area of the chapel used and to meet with the residents of North Waverly Street prior to the Planning Commission taking decisive action on this proposal. The hours of potential use of 9am-7pm up to three times per week has the potential of severely affecting parking along the street that has a number of people working from home now and using street parking due to remote work requirements. We have not had any contact with Shannon Mortuary and at the very least there should be a coordinated effort to see what we can work out that benefits Shannon Mortuary as well as supports the existing uses and functions of the residents on the street.

Respectfully submitted,
Doug Ely
[REDACTED]



Appeal No. 0555-21

Shannon Family Mortuary

Planning Commission Public Hearing Comments from February 1, 2021

Kelly Ribuffo

From: Aleta Bryant [REDACTED]
Sent: Monday, February 1, 2021 12:16 PM
To: Kelly Ribuffo; PCpubliccomment
Cc: Doug Ely; Laura Ely [REDACTED]
Subject: Fwd: Shannon Mortuary Application

Follow Up Flag: Follow up
Flag Status: Completed

Dear Ms. Ribuffo and Members of the Orange Planning Commission ,

I just became aware - having received copies of the e-mail communications sent to you by my neighbors Doug Ely and Laura Ely - that the matter of the Shannon Mortuary CUP is once again on the agenda of the Orange Planning Commission this evening. Although it seems that there may be a request to continue the matter until April, I wanted to make sure to, once again, advise you of my continuing opposition to the current proposal of Shannon Mortuary. Below is the e-mail which I sent to you back on December 7, 2020, when I first learned of Shannon Mortuary's application. (Please excuse the misspelling of your last name in the e-mail greeting, Ms. Ribuffo - I was dictating it while driving, and was in such a hurry to get it to you before the submission deadline, I did not check the spelling.) The opposition I expressed in that first email remains my position.

Next, I would like to state my absolute support for and adoption of all of the outstanding issues and concerns expressed by Laura Ely and Doug Ely in their emails to you yesterday and this morning in opposition to the proposed Shannon Mortuary CUP. The Elys' statements eloquently and fully express my own views and concerns on the matters they raised. Rather than repeat what they have already said, I would like you to be aware that I join in everything they have stated.

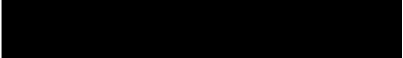
I would like, however, to advise you of an additional conversation I had with Charles Link following the last Planning Commission meeting. Several weeks ago, Mr. Link stopped by my house in the evening to warn me about some ongoing criminal trespass and vandalism behavior of which he and his business had been the recent victim. During the course of that conversation, the issue of Shannon Mortuary's expansion proposal - and my opposition to it - came up. I explained to Mr. Link that, while I appreciated the services he provided to the community, and his business objectives and goals, I remained in staunch opposition to his proposal because of my concerns regarding inadequate parking and the impact of his business on the residents and residential nature of North Waverly Street. We disagreed about whether his proposed leasing of spaces from AT&T would be adequate to address the problem. I told Mr. Link that I was open to discussing the matter further with him alone, and suggested that there also needed to be a meeting with him and all of the affected North Waverly neighbors so that we could seek some agreeable joint resolution and compromise, taking into consideration everyone's interest and concerns. I reiterated to him, however, that my greatest interest and concern was in maintaining the residential nature of the block, and protecting the interest of the residents, particularly as they related to concerns of parking problems, increased transient foot traffic and noise. To date, Mr. Link has not reached out to me to engage in any further discussions.

I have owned my house on North Waverly for over 24 years. I have invested, and am continuing to invest, hundreds of thousands of dollars in its restoration and maintenance. This is a very special block, inhabited by many longtime owner residents - such as myself. Maintaining the peace and security of North Waverly, and protecting it from the threat of creeping commercialization from the surrounding Chapman Avenue area is a

high priority and of paramount concern for the residents. Thank you very much in advance for your consideration of our concerns, and for permitting us to have the forum in which to express them.

Aleta Bryant


Begin forwarded message:

From: Aleta Bryant 
Subject: Shannon Mortuary Application
Date: December 7, 2020 at 3:11:05 PM PST
To: kribuffo@cityofirange.org

Dear Ms. Buffo,

I was just informed by my neighbor of a meeting before the CityCouncil tonight regarding an application by Shannon Mortuary for a use permit to enable it to build a chapel inside their offices at the end of North Waverly Street.

I am in great opposition to such a request, unless the business can show adequate parking off of Waverly Street. As I knew nothing of the meeting until a few moments ago, all I know from my neighbor is that the business owners have represented that they have five parking spaces that they are leasing from the AT&T building. This will be a grossly inadequate amount of parking to accommodate the kind of traffic that this business is anticipating bringing to our residential street.

Again, I am hoping that there will be adequate opportunity for the council to hear from the residents on Waverly Street. If the other residents, like myself, have received no notice of this issue being brought before the City Council tonight, I am afraid that our voices will go unheard if this matter is addressed tonight.

Thank you for your consideration of my request to delay any such hearing until adequate notice is provided to all of the residents on N. Waverly St.; and until our concerns can appropriately be addressed to the forum.

Warm regards,
Aleta Bryant


Sent from my iPhone

Kelly Ribuffo

From: Doug Ely [REDACTED]
Sent: Monday, February 1, 2021 8:40 AM
To: Kelly Ribuffo
Cc: Laura Ely; Aleta Bryant; [REDACTED] Anna Pehoushek
Subject: RE: Shannon Family Mortuary CUP No. 3121-20

Hi Kelly,
My questions are within the email to you so I am hoping you can respond to those. Thank you for forwarding my comments to the Planning Commission.
Doug

Douglas S. Ely, Principal
DSEA, Inc.

[REDACTED]

From: Kelly Ribuffo <kribuffo@cityoforange.org>
Sent: Monday, February 1, 2021 8:00 AM
To: Doug Ely [REDACTED]
Cc: Laura Ely [REDACTED] Anna Pehoushek <apehoushek@cityoforange.org>
Subject: RE: Shannon Family Mortuary CUP No. 3121-20

Good morning, Doug,

We will ensure that your comment letter is forwarded to the Planning Commission ahead of tonight's meeting. Please let me know if you have any questions.

Regards,

Kelly Christensen Ribuffo
Associate Planner - Historic Preservation
City of Orange | Community Development
300 East Chapman Avenue, Orange, CA 92866
(714) 744-7223 phone

From: Doug Ely [REDACTED]
Sent: Sunday, January 31, 2021 10:33 PM

To: Kelly Ribuffo <kribuffo@cityoforange.org>

Cc: Laura Ely [REDACTED] Aleta Bryant [REDACTED]
[REDACTED]

Subject: FW: Shannon Family Mortuary CUP No. 3121-20

Importance: High

Hi Kelly,

I am contacting you regarding Planning Commission Item #4 which I see is being continued until April 5. To date, since the initial Planning Commission hearing on this item on December 7, Charles Link did come and speak with me a few weeks ago and explained that the type of activities he plans on holding in the chapel if approved is small family viewing and will not generate a lot of vehicles. I informed Charles that the residents on North Waverly Street can only evaluate his request based upon the services he has been holding whether they are legally authorized or not. These have not been frequent but when they are held they add a substantial amount of parking and pedestrian traffic to the street, so much so that it is difficult to see how this project will be found acceptable to the residents of North Waverly Street. There was a service on January 15 and my wife counted up to 20 cars parked including ones in the AT&T parking lot with parked cars extending up the street. I have included a few of these photos.

I encouraged Charles to conduct a meeting with residents on the street and describe his operations and his plan. To date, no such meeting has been scheduled. I have spoken with a number of residents on our street and most were unaware of the proposal. Shannon Mortuary has not reviewed this with residents on our street contrary to what he and his wife implied in the last public hearing. I encourage the Planning Commission to take no action on this until Charles meets with the residents and presents his proposal, and the residents be given an opportunity to voice their opinions.

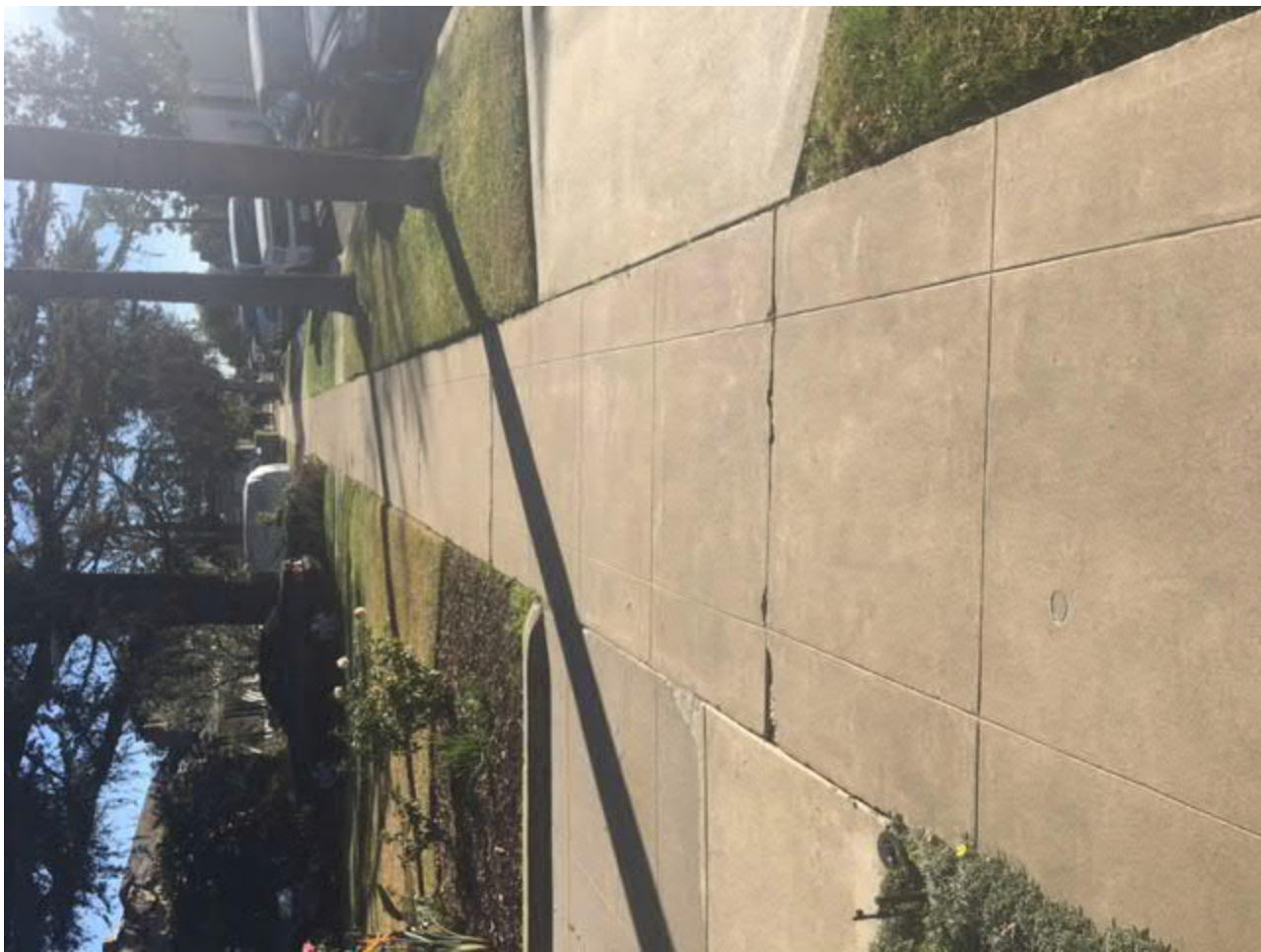
I emailed you regarding this item on December 7 and do not believe I received a reply (see thread below). The comments I had regarding their parking load demand in my previous email still stand as I believe the amount of parking they should be required to provide was incorrectly tabulated in the staff report. Since they do not have fixed seats it is 30sf/occupant which is the standard I have had to adhere to when I have worked with similar functions as an architect and I believe Shannon Mortuary should be held to the same standard.

With the observations of how Shannon Mortuary's services actually impact the street, it is difficult to see how this is an acceptable use for our neighborhood. The previous location of Shannon Mortuary was across the street from a public parking lot and this type of function should only be permitted where on site parking can be provided for their functions with little or no impact to the adjoining residential neighborhood.

I look forward to your reply.

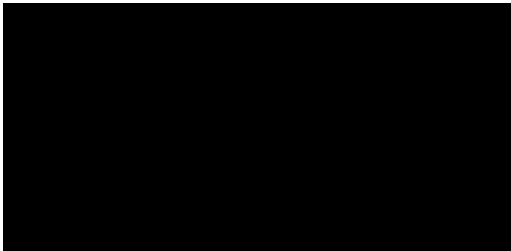
Best Regards,

Doug





Douglas S. Ely, Principal
DSEA, Inc.



From: Doug Ely
Sent: Monday, December 7, 2020 3:29 PM
To: kribuffo@cityoforange.org
Cc: Aleta Bryant [REDACTED]
Subject: Shannon Family Mortuary CUP No. 3121-20
Importance: High

Hi Kelly (and to Whoever It May Concern),
I am contacting you regarding Agenda Item 5.4 in tonight's Planning Commission hearing regarding the Shannon Family Mortuary. I was thinking that I would be able to address my comments via a web call in service as I have experienced at other city's public meetings but see that Orange is not set up that way and that we need to send in our comments ahead of time. When Shannon Mortuary moved in, their representative assured residents on our street that he would simply be conducting administrative functions at the location where he moved their offices to. Since then there have been

numerous gatherings in his parking lot that have disrupted parking on our street, the 100 block of North Waverly Street. The proposal to convert a space into a chapel violates what they informed us and the leasing of 5 spaces across the street in the AT&T parking lot is not enough to handle the amount of parking that this use will generate and it will affect the residents along the entire north block of the street. Additionally, the parking lot also has a lockable gate on it and parking may not always be available, although it is often left open and unlocked. From the crowds that have been gathering to date, I believe they will generate at least 10-15 vehicles, in addition to their 6 regular office administrative functions.

Additionally, Shannon should be conditioned that they cannot take over their own parking lot with tents for gatherings as this restricts the use of the few parking spaces that they already have.

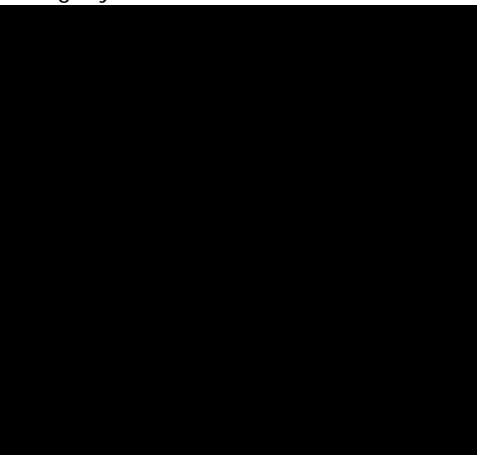
Orange Municipal Code 17.34.060.B states:

Church, chapel, religious facility, cemetery, mortuary	1 space/4 seats, or 1 space/30 sq. ft. of gross assembly area, whichever is greater (18 inches of continuous bench area = 1 seat)
	Additional facilities and activities other than the church sanctuary shall be parked on an individual basis in accordance with this section. Shared parking conditions that reflect a staggered occurrence of activities require approval of a conditional use permit.

It appears that the size of the chapel is 329sf from the reduction of area of administrative office. Per the above table the greater parking requirement is 1 space/30 sf = 11 spaces – not 6. This is more in keeping with actual gatherings observed.

I encourage the city to require the applicant to meet the actual code requirements based upon the actual area of the chapel used and to meet with the residents of North Waverly Street prior to the Planning Commission taking decisive action on this proposal. The hours of potential use of 9am-7pm up to three times per week has the potential of severely affecting parking along the street that has a number of people working from home now and using street parking due to remote work requirements. We have not had any contact with Shannon Mortuary and at the very least there should be a coordinated effort to see what we can work out that benefits Shannon Mortuary as well as supports the existing uses and functions of the residents on the street.

Respectfully submitted,
Doug Ely



E-mail correspondence, along with any attachments, may be subject to the California Public Records Act; and as such may be subject to public disclosure unless otherwise exempt under the Act.

Kelly Ribuffo

From: Laura Ely [REDACTED]
Sent: Monday, February 1, 2021 9:41 AM
To: Kelly Ribuffo
Cc: Doug Ely; [REDACTED]
Subject: Shannon Mortuary CUP No. 3121-20

Follow Up Flag: Follow up
Flag Status: Completed

Good morning Kelly,

I wanted to add on to my husband, Doug's, comments regarding the Conditional Use Permit for Shannon Mortuary and have them added to the information to be shared with the Planning Commission for tonight's meeting or, if the continuance is given, for the April Planning Commission Meeting.

These are my concerns regarding the CUP:

1. It is my understanding that once a CUP is given to a property that it is forever attached to that property. Whereas we (the neighbors) have an ability to voice our concerns now, we would not have that in the future with other occupants of that building. We would most likely as residents then have to come back to the city to ask that the street be for permit parking only.
2. There are no RSVPs for funeral/visitation ceremonies so while Shannon Mortuary is stating that these will be small groups - no more than 20, there is no way to guarantee this number. And if more come, they will most certainly park up and down Waverly Street.. If the occupant receives the CUP, what requires them to stay in compliance for the years to come? Is there city monitoring of compliance? What happens if after the one year contract with AT&T to allow Shannon Mortuary to use their parking lot, it is cancelled? Who will follow up on these temporary solutions to make sure that another solution is found?
3. Prior to the pandemic the employees of the medical building on Chapman and Cambridge as well as AT&T parked their cars/trucks along both sides of the street where the AT&T building sits. We expect that when the pandemic eases up and most employees are back to work in their offices, that this parking will once again start up. This is the same parking area that Shannon Mortuary is claiming that they want to use.
4. The applicant early on expressed interest in a potential purchase of the residential home adjacent to the mortuary office building. We have concerns about office buildings continuing to encroach on otherwise residential streets. The applicant has apparently made some kind of an agreement with this neighbor, who is only periodically there at the home, to park occasionally one of the two hearses that the mortuary has.

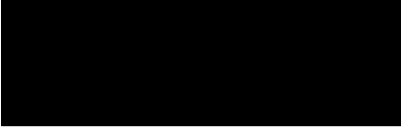
We have lived on North Waverly St. for over 35 years and in all those years the previous occupant of the Shannon Mortuary building was a Chiropractor who had a small clientele and rarely if ever did you see his patients use the street parking. This is what we expected from Shannon Mortuary when they moved in and told us that it would be used as their office and that no bodies would be managed/stored at their site. There was no mention of holding services. But over the period of time that Shannon Mortuary has occupied the premises we have seen a variety of group activities, large and small, that have been held in their parking lot and in their building. Including the one held on January 15th.

There is no intent on our part to single out Shannon Mortuary, as we are sympathetic toward small growing businesses and want to see them promoted but our concern for our neighborhood and for this CUP would have happened regardless of who the occupant was if their intent was to increase both the traffic and the parking on our street. For myself, I do not think that a meeting between the applicant and the neighbors will change or alleviate concerns about this issue and I would ask that the Planning Commission deny the Conditional Use Permit at this location.

Thank you for your time and attention to this matter.

With kind regard,

Laura Ely



Appeal No. 0555-21

Shannon Family Mortuary

Planning Commission Public Hearing Comments from April 5, 2021

Kelly Ribuffo

From: wja845 Bryan [REDACTED]
Sent: Sunday, April 4, 2021 8:10 PM
To: Planning Commission Public Comment
Cc: Kelly Ribuffo; Anna Pehoushek
Subject: April 5, 2021 Agenda Item 4.1 - CUP No. 3120-20 - Shannon Family Mortuary, 1005 E. Chapman Avenue
Attachments: Video.MOV

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Members of the Planning Commission,

I am writing to you to document my concerns regarding the revised proposal by Shannon Mortuary to conduct services on their property located at 1005 E. Chapman Ave. I am a nearby resident to the mortuary, and have submitted statements in opposition to Shannon Mortuary's previous proposals on the two prior occasions they were calendared as items on the Agenda of this Commission. Most of my previously-stated concerns made in those prior e-mail submissions remain in regard to the current requested conditional use permit (CUP).

Initially, I would like to state that I have had the occasion to have a couple of in-person conversations with Charles Link, the owner of the business, over the past couple of weeks, when he came to my home and knocked on my door. We discussed his revised plans for the in-person viewings at the mortuary, and his plans for assuring minimal disruptions to the adjoining residential neighborhood on North Waverly Street. My discussions with Charles were very cordial, and I believe that he and his wife, Julie, are committed to the goals and success of their business, to serving their community and clientele, and have good intentions regarding wanting to be good neighbors. However, many of my concerns remain unaddressed; and I believe probably can never be adequately addressed, notwithstanding the Links' good intentions. Shannon Mortuary is simply a business model that does not fit well in this part of the Old Towne Orange neighborhood, given that the Links have expanded what the neighborhood anticipated being merely administrative offices for Shannon Mortuary, into a location for family and friends of a deceased to gather.

Notwithstanding that Shannon Mortuary's revised CUP proposal appears to reduce and promise to limit the number of visitors and attendees at the viewing events planned at the funeral home, the larger issues of concern remain, namely: the likely potential for unplanned and unanticipated disruptions to the adjoining residential neighborhood regardless of the mortuary's intentions; the failure of guests of the business to follow the rules and guidelines; the inability to enforce the breached guidelines in any meaningful way given that, once the breach occurs, the damage to the surrounding neighborhood is already done notwithstanding efforts to remedy it once it is discovered; and, perhaps most significant, the permanent change to the use and nature of any business that may replace Shannon Mortuary in the future as a result of the granting of the CUP, given that the CUP attaches to the property for good once it is granted.

I would like you to know that I have had the opportunity to read the statements of my neighbors, the Arkins and the Elys, in opposition to Shannon Mortuary's CUP application for this hearing. Rather than re-state in my letter all that they have included in their letters, I represent to you that I wholeheartedly agree with and share their concerns, and ask that you consider them to be likewise set forth herein on my behalf, in opposition. I would also like to add a couple of things. First, with regard to the events of Saturday morning, February 27, 2021, described by Doug Ely, wherein a large group of funeral goers in cars utilized North Waverly Street as a gathering and staging ground for their procession to the cemetery, I am attaching a video that was taken of the incident. I was drawn outside of my house by the loud music being played and the revving of vintage muscle car engines that was happening. When I discussed this incident with

Charles, he stated that it may sometimes happen that people will gather at Shannon Mortuary to stage the funeral procession to the cemetery; but he noted that the event on February 27 did not last very long. I do beg to differ with Charles in regard to the disruption caused by such gathering of vehicles from both the noise and the manner of the staging; and feel that the length of the event was significant enough if you are a resident of North Waverly Street. Please refer to the attached video.

Secondly, just last week Charles came by my house to see if I had noticed the six police cars that had just responded to Shannon Mortuary to deal with an intra-family physical fight that had broken out in the street. Not only were some of his clients physically fighting in the street; but he mentioned that at least one family member had gone up the driveway of the adjoining house, taken one of the lawn chairs off the property and carried it down to the sidewalk, where he sat in it smoking, surrounded by other smoking families members. Charles also described the unruly and threatening nature of the clients which they had exhibited to his staff and which had caused him to call the police; and also mentioned that even the 6 police officers who responded to the scene seemed threatened by the situation. Charles described the chaos and trash that those clients had scattered around his property, and, while standing on my front porch, showed me a "loaded" baby's diaper he was holding that he saw on my front lawn parkway, and which he suspected had been left there by those unruly clients.

Although I appreciated the fact that Charles came over to tell me about the incident and to pick up the diaper, this incident created additional concerns for me about the ability of Shannon Mortuary to control its clientele BEFORE a disruption to the adjoining neighborhood occurs. I know that Charles and his staff were apparently equally rattled by this violent and threatening incident, and he was not happy about it. But, once again, it demonstrates the potential disconnect between what the Links may envision for the way their business is run and their desire to limit disruptions to North Waverly Street, and their ability actually to control and achieve this. I am reminded of the earlier out-of-control Memorial Day weekend event at Shannon's, when a large crowd of mourners descended upon North Waverly Street with coolers of beer, the remnants of which they left scattered all along the block. Although Charles insists this will not happen because he is reducing the number of people who can gather, I reiterate the reality of the limitations of his actual ability to prevent even unintended (by Shannon) disruptions and breaches in behavior by his clientele from happening before the disruptions and breaches of conduct have already occurred and impacted the residents of North Waverly Street.

I closing, I want to again acknowledge that the Links seem very nice, and have expressed the best of intentions. This opposition to their proposed CUP, however, is not about whether they are engaged in a worthy and important enterprise. It is, rather, about the fact that they have chosen to engage in it in an unsuitable location.

Thank you very much for the opportunity to address my concerns to this Commission.

Aleta Bryant



Sent from my iPad

From: Doug Ely [REDACTED]
Sent: Sunday, April 4, 2021 6:14 PM
To: Planning Commission Public Comment
Cc: Kelly Ribuffo; Anna Pehoushek; Laura Ely
Subject: Public Comment 4.1: Shannon Mortuary (April 5, 2021 Planning Commission)

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Members of the Planning Commission,

I am writing to you to document our concerns regarding the revised proposal by Shannon Mortuary to conduct services on their property. On the surface it appears they have tried to limit the size of their services by reducing viewings to a maximum of 12 people to minimize the impact on the 100 block of North Waverly Street. While these efforts are appreciated, the fact of the matter is that a mortuary conducting services should not be located in this area adjacent to a residential neighborhood in the first place. It is not a right provided by the current zoning regulations and only by the granting of a conditional use permit is it permitted. This conditional use should not be granted as it opens the door for a variety of services that Shannon Mortuary has demonstrated a willingness to conduct in the past without proper legal approvals. Mr. Charles Link has proven by his previous actions that what he says and what they do are often in conflict.

Here are some of the issues why we take little comfort in the promises Shannon Mortuary is making in their revised proposal:

- Charles told us when he moved in that they were not going to hold services in their location and it was only going to be for administrative purposes. I know this is what the city told them. As you are likely aware, they have been conducting services in their location without legal approval and these have been disruptive to our neighborhood. They have fortunately not been very frequent but they have been disruptive.
- Charles and his wife Julie represented at the last Planning Commission meeting that they always intended on having services but again this is in conflict to what we were told by Charles when he originally introduced himself into the neighborhood.
- Charles and Julie also informed the Planning Commission at the last public meeting that they had met with the neighbors of our street and informed them of their expansion plans when in fact they had not. Charles did attend a Memorial Day function on the street speaking with a few neighbors but the neighbors were not informed of these plans. Shannon has still not had a neighborhood meeting and I believe all residents of our street should be invited to participate not just the few adjacent to their location who were given a letter.
- We observed a service on February 27 where a number of hot rods lined up causing noise and circulation problems on our street. When the funeral procession began with a hearse pulling out of Shannon Mortuary, the lead car behind it went out into Chapman Avenue and blocked traffic so the vehicle procession could leave and continue with everyone following behind. I am sure the Orange PD would not have been happy about this. By approving this use, the city is inviting this activity to continue by supporting this proposal.
- We are disappointed that now when we turn on our street that the first thing we see is a hearse and often two. This is not the vibe we prefer on the street, and it is disappointing as it diminishes the appeal of our neighborhood and our property. We recognize they do have a right to conduct an administrative business in their building, but does this mean they have to store hearses there? Could they be required to build a garage for their hearses if those vehicles have to be there?
- Their current proposal is to limit the attendees to 12, and that they will be informing their attendees they cannot park in front of residences. They will only have services between 8am-5pm and a maximum of a couple of times a week. This all sounds better than the last proposal but how is this going to be controlled? 12 members from a family could potentially all come in individual cars which is an observed likelihood and still park

throughout the neighborhood. How are additional attendees going to be turned away at a viewing when the excess limits are realized?

- The current parking lot cannot fit the quantity of cars into it that they claim without some creative maneuvering, as it does not have the required 26' backup space required for circulation between double loaded parking stalls. The Staff Report does not point this out. I do not believe they can legally claim the number of cars they are stating they can park as it does not meet development standards and it is not even close.
- Shannon plans to use parking spaces they are leasing from the AT&T Building. Where is the control to assure people park there? What happens when their year-to-year lease ends?

My wife and I recognize Shannon Mortuary is doing a great service to heartbroken families and helping them through personal loss. Even though we are compassionate to this cause, it seems inappropriate to force that type of use right at the entrance to our residential neighborhood. We have lived here for over 35 years and now our peaceful neighborhood is threatened by a use that should not be there. We encourage Shannon's long term plans to include finding a permanent location with ample parking and no disruption to neighborhoods. Conducting services no matter how small in that building is currently not permitted without the approval of a conditional use permit. Zoning controls are there for a reason and that is to protect residential neighborhoods like ours from development that may be deemed detrimental.

We cannot support this proposal and thank you for your care in protecting our neighborhoods.

Best regards,
Doug Ely

Please return this one

PLANNING DIVISION
RECEIVED
APR 01 2021
CITY OF ORANGE

SHANNON FAMILY MORTUARY

I, Nathan McGorney am a resident or business owner
here at address [REDACTED] Orange,
CA 92866

I support Shannon Family Mortuary occasionally using their facility as a small chapel for private ID viewings at their location on 1005 East Chapman Avenue Orange, California 92866.

Shannon Family Mortuary has introduced themselves to me and explained what they intend to do inside their building. They have told us of their pending application for a conditional use permit with the city of Orange and that it entails having 15 people or less inside of their building to hold private ID viewings. Up to 12 immediate family members can attend these ID viewing at most, with 3 full time staff members in the mortuary. Furthermore, it was explained to us that this will only take place at a maximum of 1-2 times per week between 8 a.m. to 5 p.m Monday thru Friday, with a duration of 1-2 hours.

The owners Charles and Julie Link have assured us that they will do their very best to ensure these small groups do not create any parking issues and that they intend to use the parking lot currently beside their business, as well as 5 parking spaces in the AT&T parking lot where they have secured a contractual agreement for. I understand what was explained to me by Shannon Family Mortuary and strongly believe they will continue to be an asset to our community and a good neighbor as well.

Print Nathan McGorney
Sign [Signature]
Date 3/22/21

1005 E Chapman Ave
Orange, CA 92866
FD 1772

PHONE 714-771-1000
FAX 714-771-1038
EMAIL info@shannonfamilymortuary.com
WEBSITE www.shannonfamilymortuary.com

PLANNING DIVISION
RECEIVED

MAR 01 2021

CITY OF ORANGE

SHANNON FAMILY MORTUARY

I Sylvia Sanchez am a resident or business owner
here at address [REDACTED] Orange,
CA 92666.

I support Shannon Family Mortuary occasionally using their facility as a small chapel for private ID viewings at their location on 1005 East Chapman Avenue Orange, California 92866.

Shannon Family Mortuary has introduced themselves to me and explained what they intend to do inside their building. They have told us of their pending application for a conditional use permit with the city of Orange and that it entails having 15 people or less inside of their building to hold private ID viewings. Up to 12 immediate family members can attend these ID viewing at most, with 3 full time staff members in the mortuary. Furthermore, it was explained to us that this will only take place at a maximum of 1-2 times per week between 8 a.m. to 5 p.m Monday thru Friday, with a duration of 1-2 hours.

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Print Sylvia Sanchez
Sign [Signature]
Date 3/22/21

1005 E Chapman Ave
Orange, CA 92866
FD 1772

PHONE 714-771-1000
FAX 714-771-1038
EMAIL info@shannonfamilymortuary.com
WEBSITE www.shannonfamilymortuary.com

PLANNING DIVISION
RECEIVED

APR 01 2021

CITY OF ORANGE

SHANNON FAMILY MORTUARY

I, Tom Bornhop am a resident or business owner
here at address [REDACTED] Orange,
CA 92866.

I support Shannon Family Mortuary occasionally using their facility as a small chapel for private ID viewings at their location on 1005 East Chapman Avenue Orange, California 92866.

Shannon Family Mortuary has introduced themselves to me and explained what they intend to do inside their building. They have told us of their pending application for a conditional use permit with the city of Orange and that it entails having 15 people or less inside of their building to hold private ID viewings. Up to 12 immediate family members can attend these ID viewing at most, with 3 full time staff members in the mortuary. Furthermore, it was explained to us that this will only take place at a maximum of 1-2 times per week between 8 a.m. to 5 p.m Monday thru Friday, with a duration of 1-2 hours.

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Print Tom Bornhop
Sign [Signature]
Date 4/1/21

1005 E Chapman Ave
Orange, CA 92866
FD 1772

PHONE 714-771-1000
FAX 714-771-1038
EMAIL info@shannonfamilymortuary.com
WEBSITE www.shannonfamilymortuary.com

PLANNING DIVISION
RECEIVED
APR 01 2021

CITY OF ORANGE

SHANNON FAMILY MORTUARY

I, Stephanie Morasco am a resident or business owner
here at address [REDACTED] Orange,
CA 92866.

I support Shannon Family Mortuary occasionally using their facility as a small chapel for private
ID viewings at their location on 1005 East Chapman Avenue Orange, California 92866.

Shannon Family Mortuary has introduced themselves to me and explained what they intend to
do inside their building. They have told us of their pending application for a conditional use permit with
the city of Orange and that it entails having 15 people or less inside of their building to hold private ID
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beside their business, as well as 5 parking spaces in the AT&T parking lot where they have secured a
contractual agreement for. I understand what was explained to me by Shannon Family Mortuary and
strongly believe they will continue to be an asset to our community and a good neighbor as well.

Print Stephanie Morasco
Sign [Signature]
Date 3.25.21

1005 E Chapman Ave
Orange, CA 92866
FD 1772

PHONE 714-771-1000
FAX 714-771-1038
EMAIL info@shannonfamilymortuary.com
WEBSITE www.shannonfamilymortuary.com

PLANNING DIVISION
RECEIVED
FEB 01 2021
CITY OF ORANGE

SHANNON FAMILY MORTUARY

I, MARY LING / AT&T am a resident or business owner
here at address 911 E. CHAPMAN AVE Orange,
CA _____.

I support Shannon Family Mortuary occasionally using their facility as a small chapel for private ID viewings at their location on 1005 East Chapman Avenue Orange, California 92866.

Shannon Family Mortuary has introduced themselves to me and explained what they intend to do inside their building. They have told us of their pending application for a conditional use permit with the city of Orange and that it entails having 15 people or less inside of their building to hold private ID viewings. Up to 12 immediate family members can attend these ID viewing at most, with 3 full time staff members in the mortuary. Furthermore, it was explained to us that this will only take place at a maximum of 1-2 times per week between 8 a.m. to 5 p.m Monday thru Friday, with a duration of 1-2 hours.

The owners Charles and Julie Link have assured us that they will do their very best to ensure these small groups do not create any parking issues and that they intend to use the parking lot currently beside their business, as well as 5 parking spaces in the AT&T parking lot where they have secured a contractual agreement for. I understand what was explained to me by Shannon Family Mortuary and strongly believe they will continue to be an asset to our community and a good neighbor as well.

Print MARY LING
Sign Mary Ling
Date 3/24/2021

1005 E Chapman Ave
Orange, CA 92866
FD 1772

PHONE 714-771-1000
FAX 714-771-1038
EMAIL info@shannonfamilymortuary.com
WEBSITE www.shannonfamilymortuary.com

PLANNING DIVISION
RECEIVED
AUG 01 2021
CITY OF ORANGE

PLANNING DIVISION
RECEIVED
AUG 01 2021
CITY OF ORANGE

SHANNON FAMILY MORTUARY

I Janice Swift am a resident or business owner
here at address 1006 E. Chapman Ave Orange,
CA 92866.

I support Shannon Family Mortuary occasionally using their facility as a small chapel for private ID viewings at their location on 1005 East Chapman Avenue Orange, California 92866.

Shannon Family Mortuary has introduced themselves to me and explained what they intend to do inside their building. They have told us of their pending application for a conditional use permit with the city of Orange and that it entails having 15 people or less inside of their building to hold private ID viewings. Up to 12 immediate family members can attend these ID viewing at most, with 3 full time staff members in the mortuary. Furthermore, it was explained to us that this will only take place at a maximum of 1-2 times per week between 8 a.m. to 5 p.m Monday thru Friday, with a duration of 1-2 hours.

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Print Janice Swift
Sign Janice Swift
Date 7/1/21

1005 E Chapman Ave
Orange, CA 92866
FD:1772

PHONE 714-771-1000
FAX 714-771-1038
EMAIL info@shannonfamilymortuary.com
WEBSITE www.shannonfamilymortuary.com

SHANNON FAMILY MORTUARY

PLANNING DIVISION
APPROVED
AUG 10 2021
CITY OF ORANGE

I, Kelly Borgen am a resident or business owner
here at address 1015 E Chapman Avenue Orange,
CA 92866

I support Shannon Family Mortuary occasionally using their facility as a small chapel for private ID viewings at their location on 1005 East Chapman Avenue Orange, California 92866.

Shannon Family Mortuary has introduced themselves to me and explained what they intend to do inside their building. They have told us of their pending application for a conditional use permit with the city of Orange and that it entails having 15 people or less inside of their building to hold private ID viewings. Up to 12 immediate family members can attend these ID viewing at most, with 3 full time staff members in the mortuary. Furthermore, it was explained to us that this will only take place at a maximum of 1-2 times per week between 8 a.m. to 5 p.m Monday thru Friday, with a duration of 1-2 hours.

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Print Kelly Borgen
Sign Kelly Borgen
Date 3-25-21

1005 E Chapman Ave
Orange, CA 92866
FD 1772

PHONE 714-771-1000
FAX 714-771-1038
EMAIL info@shannonfamilymortuary.com
WEBSITE www.shannonfamilymortuary.com

SHANNON FAMILY MORTUARY

I Karen A. Proescholdt, O.C. am a resident or business owner
here at address 1025 E Chapman Ave Orange,
CA 92866

I support Shannon Family Mortuary occasionally using their facility as a small chapel for private
ID viewings at their location on 1005 East Chapman Avenue Orange, California 92866.

Shannon Family Mortuary has introduced themselves to me and explained what they intend to
do inside their building. They have told us of their pending application for a conditional use permit with
the city of Orange and that it entails having 15 people or less inside of their building to hold private ID
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beside their business, as well as 5 parking spaces in the AT&T parking lot where they have secured a
contractual agreement for. I understand what was explained to me by Shannon Family Mortuary and
strongly believe they will continue to be an asset to our community and a good neighbor as well.

Print Karen A. Proescholdt, O.C.
Sign Karen A. Proescholdt
Date 03/29/2021

1005 E Chapman Ave
Orange, CA 92866
FD-1772

PHONE 714-771-1000
FAX 714-771-1038
EMAIL info@shannonfamilymortuary.com
WEBSITE www.shannonfamilymortuary.com

APR 01 2021

CITY OF ORANGE

SHANNON FAMILY MORTUARY

I Peter Baskells am a resident or business owner
here at address 1035 E Chapman Ave Orange,
CA 92867.

I support Shannon Family Mortuary occasionally using their facility as a small chapel for private ID viewings at their location on 1005 East Chapman Avenue Orange, California 92866.

Shannon Family Mortuary has introduced themselves to me and explained what they intend to do inside their building. They have told us of their pending application for a conditional use permit with the city of Orange and that it entails having 15 people or less inside of their building to hold private ID viewings. Up to 12 immediate family members can attend these ID viewing at most, with 3 full time staff members in the mortuary. Furthermore, it was explained to us that this will only take place at a maximum of 1-2 times per week between 8 a.m. to 5 p.m Monday thru Friday, with a duration of 1-2 hours.

The owners Charles and Julie Link have assured us that they will do their very best to ensure these small groups do not create any parking issues and that they intend to use the parking lot currently beside their business, as well as 5 parking spaces in the AT&T parking lot where they have secured a contractual agreement for. I understand what was explained to me by Shannon Family Mortuary and strongly believe they will continue to be an asset to our community and a good neighbor as well.

Print

Sign

Date

Peter Baskells[Signature]3-24-21

1005 E Chapman Ave
Orange, CA 92866
FD 1772

PHONE 714-771-1000
FAX 714-771-1038
EMAIL info@shannonfamilymortuary.com
WEBSITE www.shannonfamilymortuary.com

Appeal No. 0555-21

Shannon Family Mortuary

Planning Commission Public Hearing Comments from December 7, 2020

Kelly Ribuffo

From: Aleta Bryant <aletalb@sbcglobal.net>
Sent: Monday, December 7, 2020 5:24 PM
To: Kelly Ribuffo
Subject: Fwd: Shannon Mortuary Application

Sent from my iPhone

Begin forwarded message:

From: Aleta Bryant <aletalb@sbcglobal.net>
Date: December 7, 2020 at 3:11:05 PM PST
To: kribuffo@cityofirange.org
Subject: Shannon Mortuary Application

Dear Ms. Buffo,

I was just informed by my neighbor of a meeting before the CityCouncil tonight regarding an application by Shannon Mortuary for a use permit to enable it to build a chapel inside their offices at the end of North Waverly Street.

I am in great opposition to such a request, unless the business can show adequate parking off of Waverly Street. As I knew nothing of the meeting until a few moments ago, all I know from my neighbor is that the business owners have represented that they have five parking spaces that they are leasing from the AT&T building. This will be a grossly inadequate amount of parking to accommodate the kind of traffic that this business is anticipating bringing to our residential street.

Again, I am hoping that there will be adequate opportunity for the council to hear from the residents on Waverly Street. If the other residents, like myself, have received no notice of this issue being brought before the City Council tonight, I am afraid that our voices will go unheard if this matter is addressed tonight.

Thank you for your consideration of my request to delay any such hearing until adequate notice is provided to all of the residents on N. Waverly St.; and until our concerns can appropriately be addressed to the forum.

Warm regards,
Aleta Bryant
148 North Waverly Street
Orange
(714) 315-6363

Sent from my iPhone

Kelly Ribuffo

From: Doug Ely <dely@dseainc.com>
Sent: Monday, December 7, 2020 3:43 PM
To: Kelly Ribuffo
Cc: Aleta Bryant; Laura Ely
Subject: Shannon Family Mortuary CUP No. 3121-20

Importance: High

Hi Kelly (and to Whoever It May Concern),

I am contacting you regarding Agenda Item 5.4 in tonight's Planning Commission hearing regarding the Shannon Family Mortuary. I was thinking that I would be able to address my comments via a web call in service as I have experienced at other city's public meetings but see that Orange is not set up that way and that we need to send in our comments ahead of time. When Shannon Mortuary moved in, their representative assured residents on our street that he would simply be conducting administrative functions at the location where he moved their offices to. Since then there have been numerous gatherings in his parking lot that have disrupted parking on our street, the 100 block of North Waverly Street. The proposal to convert a space into a chapel violates what they informed us and the leasing of 5 spaces across the street in the AT&T parking lot is not enough to handle the amount of parking that this use will generate and it will affect the residents along the entire north block of the street. Additionally, the parking lot also has a lockable gate on it and parking may not always be available, although it is often left open and unlocked. From the crowds that have been gathering to date, I believe they will generate at least 10-15 vehicles, in addition to their 6 regular office administrative functions.

Additionally, Shannon should be conditioned that they cannot take over their own parking lot with tents for gatherings as this restricts the use of the few parking spaces that they already have.

Orange Municipal Code 17.34.060.B states:

Church, chapel, religious facility, cemetery, mortuary	1 space/4 seats, or 1 space/30 sq. ft. of gross assembly area, whichever is greater (18 inches of continuous bench area = 1 seat)
	Additional facilities and activities other than the church sanctuary shall be parked on an individual basis in accordance with this section. Shared parking conditions that reflect a staggered occurrence of activities require approval of a conditional use permit.

It appears that the size of the chapel is 329sf from the reduction of area of administrative office. Per the above table the greater parking requirement is 1 space/30 sf = 11 spaces – not 6. This is more in keeping with actual gatherings observed.

I encourage the city to require the applicant to meet the actual code requirements based upon the actual area of the chapel used and to meet with the residents of North Waverly Street prior to the Planning Commission taking decisive action on this proposal. The hours of potential use of 9am-7pm up to three times per week has the potential of severely affecting parking along the street that has a number of people working from home now and using street parking due to remote work requirements. We have not had any contact with Shannon Mortuary and at the very least there should be a coordinated effort to see what we can work out that benefits Shannon Mortuary as well as supports the existing uses and functions of the residents on the street.

Respectfully submitted,
Doug Ely
139 N Waverly Street

(714) 875-5705

Douglas S. Ely, Principal
DSEA, Inc.



145 S. Olive Street / Orange, CA 92866
(714) 639-3958
www.dseainc.com

Appeal No. 0555-21

Shannon Family Mortuary

Planning Commission Public Hearing Comments from February 1, 2021

Kelly Ribuffo

From: Aleta Bryant <aletalb@sbcglobal.net>
Sent: Monday, February 1, 2021 12:16 PM
To: Kelly Ribuffo; PCpubliccomment
Cc: Doug Ely; Laura Ely; kenidaelaine@yahoo.com; 2fspurny@gmail.com
Subject: Fwd: Shannon Mortuary Application

Follow Up Flag: Follow up
Flag Status: Completed

Dear Ms. Ribuffo and Members of the Orange Planning Commission ,

I just became aware - having received copies of the e-mail communications sent to you by my neighbors Doug Ely and Laura Ely - that the matter of the Shannon Mortuary CUP is once again on the agenda of the Orange Planning Commission this evening. Although it seems that there may be a request to continue the matter until April, I wanted to make sure to, once again, advise you of my continuing opposition to the current proposal of Shannon Mortuary. Below is the e-mail which I sent to you back on December 7, 2020, when I first learned of Shannon Mortuary's application. (Please excuse the misspelling of your last name in the e-mail greeting, Ms. Ribuffo - I was dictating it while driving, and was in such a hurry to get it to you before the submission deadline, I did not check the spelling.) The opposition I expressed in that first email remains my position.

Next, I would like to state my absolute support for and adoption of all of the outstanding issues and concerns expressed by Laura Ely and Doug Ely in their emails to you yesterday and this morning in opposition to the proposed Shannon Mortuary CUP. The Elys' statements eloquently and fully express my own views and concerns on the matters they raised. Rather than repeat what they have already said, I would like you to be aware that I join in everything they have stated.

I would like, however, to advise you of an additional conversation I had with Charles Link following the last Planning Commission meeting. Several weeks ago, Mr. Link stopped by my house in the evening to warn me about some ongoing criminal trespass and vandalism behavior of which he and his business had been the recent victim. During the course of that conversation, the issue of Shannon Mortuary's expansion proposal - and my opposition to it - came up. I explained to Mr. Link that, while I appreciated the services he provided to the community, and his business objectives and goals, I remained in staunch opposition to his proposal because of my concerns regarding inadequate parking and the impact of his business on the residents and residential nature of North Waverly Street. We disagreed about whether his proposed leasing of spaces from AT&T would be adequate to address the problem. I told Mr. Link that I was open to discussing the matter further with him alone, and suggested that there also needed to be a meeting with him and all of the affected North Waverly neighbors so that we could seek some agreeable joint resolution and compromise, taking into consideration everyone's interest and concerns. I reiterated to him, however, that my greatest interest and concern was in maintaining the residential nature of the block, and protecting the interest of the residents, particularly as they related to concerns of parking problems, increased transient foot traffic and noise. To date, Mr. Link has not reached out to me to engage in any further discussions.

I have owned my house on North Waverly for over 24 years. I have invested, and am continuing to invest, hundreds of thousands of dollars in its restoration and maintenance. This is a very special block, inhabited by many longtime owner residents - such as myself. Maintaining the peace and security of North Waverly, and protecting it from the threat of creeping commercialization from the surrounding Chapman Avenue area is a

high priority and of paramount concern for the residents. Thank you very much in advance for your consideration of our concerns, and for permitting us to have the forum in which to express them.

Aleta Bryant
148 N. Waverly Street

Begin forwarded message:

From: Aleta Bryant <aletalb@sbcglobal.net>
Subject: Shannon Mortuary Application
Date: December 7, 2020 at 3:11:05 PM PST
To: kribuffo@cityofirange.org

Dear Ms. Buffo,

I was just informed by my neighbor of a meeting before the CityCouncil tonight regarding an application by Shannon Mortuary for a use permit to enable it to build a chapel inside their offices at the end of North Waverly Street.

I am in great opposition to such a request, unless the business can show adequate parking off of Waverly Street. As I knew nothing of the meeting until a few moments ago, all I know from my neighbor is that the business owners have represented that they have five parking spaces that they are leasing from the AT&T building. This will be a grossly inadequate amount of parking to accommodate the kind of traffic that this business is anticipating bringing to our residential street.

Again, I am hoping that there will be adequate opportunity for the council to hear from the residents on Waverly Street. If the other residents, like myself, have received no notice of this issue being brought before the City Council tonight, I am afraid that our voices will go unheard if this matter is addressed tonight.

Thank you for your consideration of my request to delay any such hearing until adequate notice is provided to all of the residents on N. Waverly St.; and until our concerns can appropriately be addressed to the forum.

Warm regards,
Aleta Bryant
148 North Waverly Street
Orange
(714) 315-6363

Sent from my iPhone

Kelly Ribuffo

From: Doug Ely <dely@dseainc.com>
Sent: Monday, February 1, 2021 8:40 AM
To: Kelly Ribuffo
Cc: Laura Ely; Aleta Bryant; kenidaelaine@yahoo.com; 2fspurny@gmail.com; Anna Pehoushek
Subject: RE: Shannon Family Mortuary CUP No. 3121-20

Hi Kelly,
My questions are within the email to you so I am hoping you can respond to those. Thank you for forwarding my comments to the Planning Commission.
Doug

Douglas S. Ely, Principal
DSEA, Inc.



145 S. Olive Street / Orange, CA 92866
(714) 639-3958
www.dseainc.com

From: Kelly Ribuffo <kribuffo@cityoforange.org>
Sent: Monday, February 1, 2021 8:00 AM
To: Doug Ely <dely@dseainc.com>
Cc: Laura Ely <lcely2@gmail.com>; Aleta Bryant <aletalb@sbcglobal.net>; kenidaelaine@yahoo.com; 2fspurny@gmail.com; Anna Pehoushek <apehoushek@cityoforange.org>
Subject: RE: Shannon Family Mortuary CUP No. 3121-20

Good morning, Doug,

We will ensure that your comment letter is forwarded to the Planning Commission ahead of tonight's meeting. Please let me know if you have any questions.

Regards,

Kelly Christensen Ribuffo

Associate Planner - Historic Preservation
City of Orange | Community Development
300 East Chapman Avenue, Orange, CA 92866
(714) 744-7223 phone

From: Doug Ely <dely@dseainc.com>
Sent: Sunday, January 31, 2021 10:33 PM

To: Kelly Ribuffo <kribuffo@cityoforange.org>
Cc: Laura Ely <lcfely2@gmail.com>; Aleta Bryant <aletalb@sbcglobal.net>; kenidaelaine@yahoo.com;
2fspurny@gmail.com
Subject: FW: Shannon Family Mortuary CUP No. 3121-20
Importance: High

Hi Kelly,

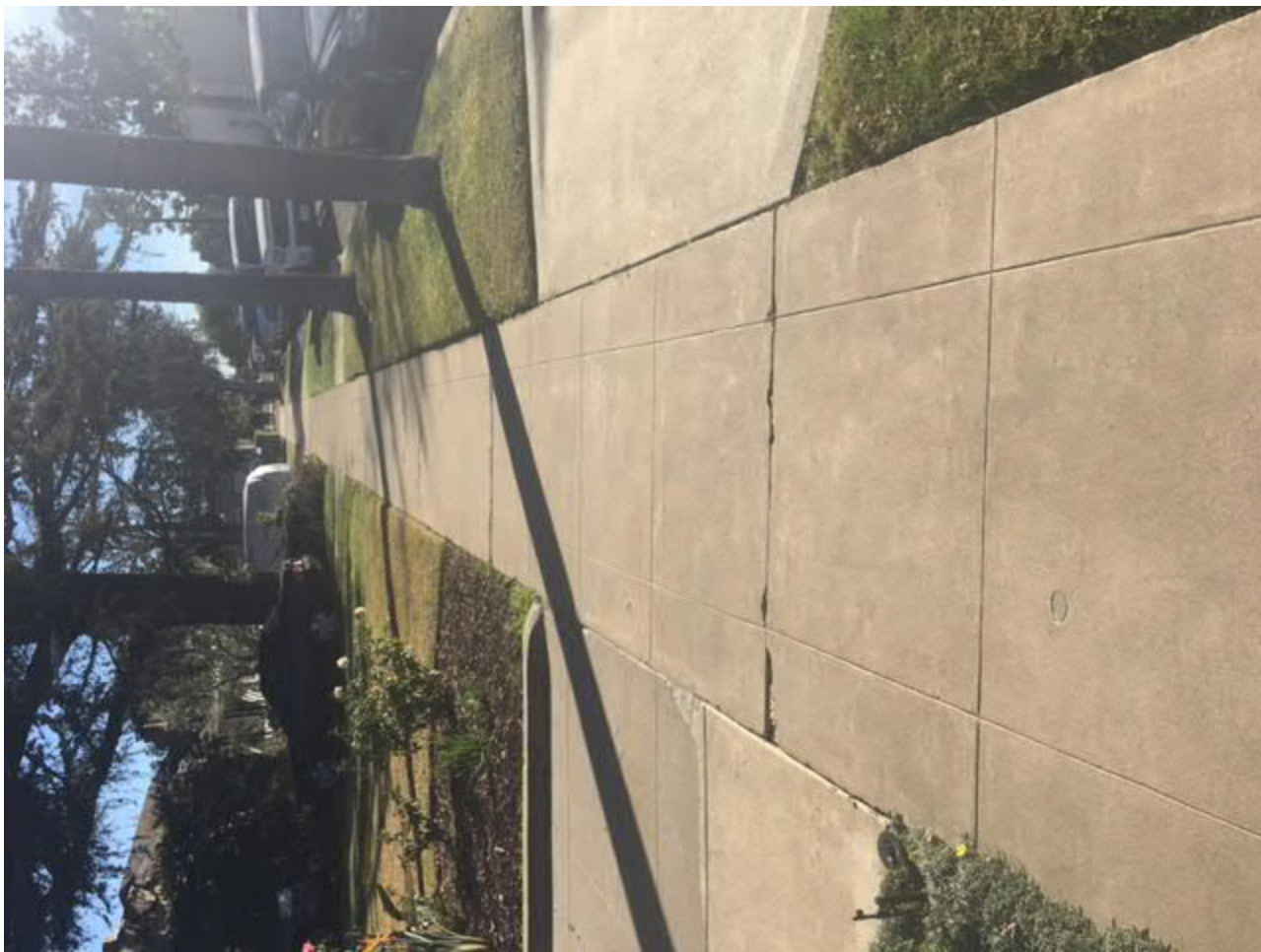
I am contacting you regarding Planning Commission Item #4 which I see is being continued until April 5. To date, since the initial Planning Commission hearing on this item on December 7, Charles Link did come and speak with me a few weeks ago and explained that the type of activities he plans on holding in the chapel if approved is small family viewing and will not generate a lot of vehicles. I informed Charles that the residents on North Waverly Street can only evaluate his request based upon the services he has been holding whether they are legally authorized or not. These have not been frequent but when they are held they add a substantial amount of parking and pedestrian traffic to the street, so much so that it is difficult to see how this project will be found acceptable to the residents of North Waverly Street. There was a service on January 15 and my wife counted up to 20 cars parked including ones in the AT&T parking lot with parked cars extending up the street. I have included a few of these photos.

I encouraged Charles to conduct a meeting with residents on the street and describe his operations and his plan. To date, no such meeting has been scheduled. I have spoken with a number of residents on our street and most were unaware of the proposal. Shannon Mortuary has not reviewed this with residents on our street contrary to what he and his wife implied in the last public hearing. I encourage the Planning Commission to take no action on this until Charles meets with the residents and presents his proposal, and the residents be given an opportunity to voice their opinions.

I emailed you regarding this item on December 7 and do not believe I received a reply (see thread below). The comments I had regarding their parking load demand in my previous email still stand as I believe the amount of parking they should be required to provide was incorrectly tabulated in the staff report. Since they do not have fixed seats it is 30sf/occupant which is the standard I have had to adhere to when I have worked with similar functions as an architect and I believe Shannon Mortuary should be held to the same standard.

With the observations of how Shannon Mortuary's services actually impact the street, it is difficult to see how this is an acceptable use for our neighborhood. The previous location of Shannon Mortuary was across the street from a public parking lot and this type of function should only be permitted where on site parking can be provided for their functions with little or no impact to the adjoining residential neighborhood.

I look forward to your reply.
Best Regards,
Doug





Douglas S. Ely, Principal
DSEA, Inc.



145 S. Olive Street / Orange, CA 92866
(714) 639-3958
www.dseainc.com

From: Doug Ely
Sent: Monday, December 7, 2020 3:29 PM
To: kribuffo@cityoforange.org
Cc: Aleta Bryant <aletalb@sbcglobal.net>; Laura Ely <lcfely2@gmail.com>
Subject: Shannon Family Mortuary CUP No. 3121-20
Importance: High

Hi Kelly (and to Whoever It May Concern),
I am contacting you regarding Agenda Item 5.4 in tonight's Planning Commission hearing regarding the Shannon Family Mortuary. I was thinking that I would be able to address my comments via a web call in service as I have experienced at other city's public meetings but see that Orange is not set up that way and that we need to send in our comments ahead of time. When Shannon Mortuary moved in, their representative assured residents on our street that he would simply be conducting administrative functions at the location where he moved their offices to. Since then there have been

numerous gatherings in his parking lot that have disrupted parking on our street, the 100 block of North Waverly Street. The proposal to convert a space into a chapel violates what they informed us and the leasing of 5 spaces across the street in the AT&T parking lot is not enough to handle the amount of parking that this use will generate and it will affect the residents along the entire north block of the street. Additionally, the parking lot also has a lockable gate on it and parking may not always be available, although it is often left open and unlocked. From the crowds that have been gathering to date, I believe they will generate at least 10-15 vehicles, in addition to their 6 regular office administrative functions.

Additionally, Shannon should be conditioned that they cannot take over their own parking lot with tents for gatherings as this restricts the use of the few parking spaces that they already have.

Orange Municipal Code 17.34.060.B states:

Church, chapel, religious facility, cemetery, mortuary	1 space/4 seats, or 1 space/30 sq. ft. of gross assembly area, whichever is greater (18 inches of continuous bench area = 1 seat)
	Additional facilities and activities other than the church sanctuary shall be parked on an individual basis in accordance with this section. Shared parking conditions that reflect a staggered occurrence of activities require approval of a conditional use permit.

It appears that the size of the chapel is 329sf from the reduction of area of administrative office. Per the above table the greater parking requirement is 1 space/30 sf = 11 spaces – not 6. This is more in keeping with actual gatherings observed.

I encourage the city to require the applicant to meet the actual code requirements based upon the actual area of the chapel used and to meet with the residents of North Waverly Street prior to the Planning Commission taking decisive action on this proposal. The hours of potential use of 9am-7pm up to three times per week has the potential of severely affecting parking along the street that has a number of people working from home now and using street parking due to remote work requirements. We have not had any contact with Shannon Mortuary and at the very least there should be a coordinated effort to see what we can work out that benefits Shannon Mortuary as well as supports the existing uses and functions of the residents on the street.

Respectfully submitted,
Doug Ely
139 N Waverly Street
(714) 875-5705

Douglas S. Ely, Principal
DSEA, Inc.



145 S. Olive Street / Orange, CA 92866
(714) 639-3958
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E-mail correspondence, along with any attachments, may be subject to the California Public Records Act; and as such may be subject to public disclosure unless otherwise exempt under the Act.

From: Laura Ely <lcfely2@gmail.com>
Sent: Monday, February 1, 2021 9:41 AM
To: Kelly Ribuffo
Cc: Doug Ely; aletalb@sbcglobal.net; kenidaelaine@yahoo.com
Subject: Shannon Mortuary CUP No. 3121-20

Follow Up Flag: Follow up
Flag Status: Completed

Good morning Kelly,

I wanted to add on to my husband, Doug's, comments regarding the Conditional Use Permit for Shannon Mortuary and have them added to the information to be shared with the Planning Commission for tonight's meeting or, if the continuance is given, for the April Planning Commission Meeting.

These are my concerns regarding the CUP:

1. It is my understanding that once a CUP is given to a property that it is forever attached to that property. Whereas we (the neighbors) have an ability to voice our concerns now, we would not have that in the future with other occupants of that building. We would most likely as residents then have to come back to the city to ask that the street be for permit parking only.
2. There are no RSVPs for funeral/visitation ceremonies so while Shannon Mortuary is stating that these will be small groups - no more than 20, there is no way to guarantee this number. And if more come, they will most certainly park up and down Waverly Street.. If the occupant receives the CUP, what requires them to stay in compliance for the years to come? Is there city monitoring of compliance? What happens if after the one year contract with AT&T to allow Shannon Mortuary to use their parking lot, it is cancelled? Who will follow up on these temporary solutions to make sure that another solution is found?
3. Prior to the pandemic the employees of the medical building on Chapman and Cambridge as well as AT&T parked their cars/trucks along both sides of the street where the AT&T building sits. We expect that when the pandemic eases up and most employees are back to work in their offices, that this parking will once again start up. This is the same parking area that Shannon Mortuary is claiming that they want to use.
4. The applicant early on expressed interest in a potential purchase of the residential home adjacent to the mortuary office building. We have concerns about office buildings continuing to encroach on otherwise residential streets. The applicant has apparently made some kind of an agreement with this neighbor, who is only periodically there at the home, to park occasionally one of the two hearses that the mortuary has.

We have lived on North Waverly St. for over 35 years and in all those years the previous occupant of the Shannon Mortuary building was a Chiropractor who had a small clientele and rarely if ever did you see his patients use the street parking. This is what we expected from Shannon Mortuary when they moved in and told us that it would be used as their office and that no bodies would be managed/stored at their site. There was no mention of holding services. But over the period of time that Shannon Mortuary has occupied the premises we have seen a variety of group activities, large and small, that have been held in their parking lot and in their building. Including the one held on January 15th.

There is no intent on our part to single out Shannon Mortuary, as we are sympathetic toward small growing businesses and want to see them promoted but our concern for our neighborhood and for this CUP would have happened regardless of who the occupant was if their intent was to increase both the traffic and the parking on our street. For myself, I do not think that a meeting between the applicant and the neighbors will change or alleviate concerns about this issue and I would ask that the Planning Commission deny the Conditional Use Permit at this location.

Thank you for your time and attention to this matter.

With kind regard,

Laura Ely
139 N Waverly St.
Orange, CA
714.454.7139

Appeal No. 0555-21

Shannon Family Mortuary

Planning Commission Public Hearing Comments from April 5, 2021

Kelly Ribuffo

From: wja845 Bryan <aletalb@sbcglobal.net>
Sent: Sunday, April 4, 2021 8:10 PM
To: Planning Commission Public Comment
Cc: Kelly Ribuffo; Anna Pehoushek
Subject: April 5, 2021 Agenda Item 4.1 - CUP No. 3120-20 - Shannon Family Mortuary, 1005 E. Chapman Avenue
Attachments: Video.MOV

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Members of the Planning Commission,

I am writing to you to document my concerns regarding the revised proposal by Shannon Mortuary to conduct services on their property located at 1005 E. Chapman Ave. I am a nearby resident to the mortuary, and have submitted statements in opposition to Shannon Mortuary's previous proposals on the two prior occasions they were calendared as items on the Agenda of this Commission. Most of my previously-stated concerns made in those prior e-mail submissions remain in regard to the current requested conditional use permit (CUP).

Initially, I would like to state that I have had the occasion to have a couple of in-person conversations with Charles Link, the owner of the business, over the past couple of weeks, when he came to my home and knocked on my door. We discussed his revised plans for the in-person viewings at the mortuary, and his plans for assuring minimal disruptions to the adjoining residential neighborhood on North Waverly Street. My discussions with Charles were very cordial, and I believe that he and his wife, Julie, are committed to the goals and success of their business, to serving their community and clientele, and have good intentions regarding wanting to be good neighbors. However, many of my concerns remain unaddressed; and I believe probably can never be adequately addressed, notwithstanding the Links' good intentions. Shannon Mortuary is simply a business model that does not fit well in this part of the Old Towne Orange neighborhood, given that the Links have expanded what the neighborhood anticipated being merely administrative offices for Shannon Mortuary, into a location for family and friends of a deceased to gather.

Notwithstanding that Shannon Mortuary's revised CUP proposal appears to reduce and promise to limit the number of visitors and attendees at the viewing events planned at the funeral home, the larger issues of concern remain, namely: the likely potential for unplanned and unanticipated disruptions to the adjoining residential neighborhood regardless of the mortuary's intentions; the failure of guests of the business to follow the rules and guidelines; the inability to enforce the breached guidelines in any meaningful way given that, once the breach occurs, the damage to the surrounding neighborhood is already done notwithstanding efforts to remedy it once it is discovered; and, perhaps most significant, the permanent change to the use and nature of any business that may replace Shannon Mortuary in the future as a result of the granting of the CUP, given that the CUP attaches to the property for good once it is granted.

I would like you to know that I have had the opportunity to read the statements of my neighbors, the Arkins and the Elys, in opposition to Shannon Mortuary's CUP application for this hearing. Rather than re-state in my letter all that they have included in their letters, I represent to you that I wholeheartedly agree with and share their concerns, and ask that you consider them to be likewise set forth herein on my behalf, in opposition. I would also like to add a couple of things. First, with regard to the events of Saturday morning, February 27, 2021, described by Doug Ely, wherein a large group of funeral goers in cars utilized North Waverly Street as a gathering and staging ground for their procession to the cemetery, I am attaching a video that was taken of the incident. I was drawn outside of my house by the loud music being played and the revving of vintage muscle car engines that was happening. When I discussed this incident with

Charles, he stated that it may sometimes happen that people will gather at Shannon Mortuary to stage the funeral procession to the cemetery; but he noted that the event on February 27 did not last very long. I do beg to differ with Charles in regard to the disruption caused by such gathering of vehicles from both the noise and the manner of the staging; and feel that the length of the event was significant enough if you are a resident of North Waverly Street. Please refer to the attached video.

Secondly, just last week Charles came by my house to see if I had noticed the six police cars that had just responded to Shannon Mortuary to deal with an intra-family physical fight that had broken out in the street. Not only were some of his clients physically fighting in the street; but he mentioned that at least one family member had gone up the driveway of the adjoining house, taken one of the lawn chairs off the property and carried it down to the sidewalk, where he sat in it smoking, surrounded by other smoking families members. Charles also described the unruly and threatening nature of the clients which they had exhibited to his staff and which had caused him to call the police; and also mentioned that even the 6 police officers who responded to the scene seemed threatened by the situation. Charles described the chaos and trash that those clients had scattered around his property, and, while standing on my front porch, showed me a "loaded" baby's diaper he was holding that he saw on my front lawn parkway, and which he suspected had been left there by those unruly clients.

Although I appreciated the fact that Charles came over to tell me about the incident and to pick up the diaper, this incident created additional concerns for me about the ability of Shannon Mortuary to control its clientele BEFORE a disruption to the adjoining neighborhood occurs. I know that Charles and his staff were apparently equally rattled by this violent and threatening incident, and he was not happy about it. But, once again, it demonstrates the potential disconnect between what the Links may envision for the way their business is run and their desire to limit disruptions to North Waverly Street, and their ability actually to control and achieve this. I am reminded of the earlier out-of-control Memorial Day weekend event at Shannon's, when a large crowd of mourners descended upon North Waverly Street with coolers of beer, the remnants of which they left scattered all along the block. Although Charles insists this will not happen because he is reducing the number of people who can gather, I reiterate the reality of the limitations of his actual ability to prevent even unintended (by Shannon) disruptions and breaches in behavior by his clientele from happening before the disruptions and breaches of conduct have already occurred and impacted the residents of North Waverly Street.

I closing, I want to again acknowledge that the Links seem very nice, and have expressed the best of intentions. This opposition to their proposed CUP, however, is not about whether they are engaged in a worthy and important enterprise. It is, rather, about the fact that they have chosen to engage in it in an unsuitable location.

Thank you very much for the opportunity to address my concerns to this Commission.

Aleta Bryant
148 North Waverly Street
(714) 288-1541

Sent from my iPad

From: Doug Ely <dely@dseainc.com>
Sent: Sunday, April 4, 2021 6:14 PM
To: Planning Commission Public Comment
Cc: Kelly Ribuffo; Anna Pehoushek; Laura Ely
Subject: Public Comment 4.1: Shannon Mortuary (April 5, 2021 Planning Commission)

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Members of the Planning Commission,

I am writing to you to document our concerns regarding the revised proposal by Shannon Mortuary to conduct services on their property. On the surface it appears they have tried to limit the size of their services by reducing viewings to a maximum of 12 people to minimize the impact on the 100 block of North Waverly Street. While these efforts are appreciated, the fact of the matter is that a mortuary conducting services should not be located in this area adjacent to a residential neighborhood in the first place. It is not a right provided by the current zoning regulations and only by the granting of a conditional use permit is it permitted. This conditional use should not be granted as it opens the door for a variety of services that Shannon Mortuary has demonstrated a willingness to conduct in the past without proper legal approvals. Mr. Charles Link has proven by his previous actions that what he says and what they do are often in conflict.

Here are some of the issues why we take little comfort in the promises Shannon Mortuary is making in their revised proposal:

- Charles told us when he moved in that they were not going to hold services in their location and it was only going to be for administrative purposes. I know this is what the city told them. As you are likely aware, they have been conducting services in their location without legal approval and these have been disruptive to our neighborhood. They have fortunately not been very frequent but they have been disruptive.
- Charles and his wife Julie represented at the last Planning Commission meeting that they always intended on having services but again this is in conflict to what we were told by Charles when he originally introduced himself into the neighborhood.
- Charles and Julie also informed the Planning Commission at the last public meeting that they had met with the neighbors of our street and informed them of their expansion plans when in fact they had not. Charles did attend a Memorial Day function on the street speaking with a few neighbors but the neighbors were not informed of these plans. Shannon has still not had a neighborhood meeting and I believe all residents of our street should be invited to participate not just the few adjacent to their location who were given a letter.
- We observed a service on February 27 where a number of hot rods lined up causing noise and circulation problems on our street. When the funeral procession began with a hearse pulling out of Shannon Mortuary, the lead car behind it went out into Chapman Avenue and blocked traffic so the vehicle procession could leave and continue with everyone following behind. I am sure the Orange PD would not have been happy about this. By approving this use, the city is inviting this activity to continue by supporting this proposal.
- We are disappointed that now when we turn on our street that the first thing we see is a hearse and often two. This is not the vibe we prefer on the street, and it is disappointing as it diminishes the appeal of our neighborhood and our property. We recognize they do have a right to conduct an administrative business in their building, but does this mean they have to store hearses there? Could they be required to build a garage for their hearses if those vehicles have to be there?
- Their current proposal is to limit the attendees to 12, and that they will be informing their attendees they cannot park in front of residences. They will only have services between 8am-5pm and a maximum of a couple of times a week. This all sounds better than the last proposal but how is this going to be controlled? 12 members from a family could potentially all come in individual cars which is an observed likelihood and still park

throughout the neighborhood. How are additional attendees going to be turned away at a viewing when the excess limits are realized?

- The current parking lot cannot fit the quantity of cars into it that they claim without some creative maneuvering, as it does not have the required 26' backup space required for circulation between double loaded parking stalls. The Staff Report does not point this out. I do not believe they can legally claim the number of cars they are stating they can park as it does not meet development standards and it is not even close.
- Shannon plans to use parking spaces they are leasing from the AT&T Building. Where is the control to assure people park there? What happens when their year-to-year lease ends?

My wife and I recognize Shannon Mortuary is doing a great service to heartbroken families and helping them through personal loss. Even though we are compassionate to this cause, it seems inappropriate to force that type of use right at the entrance to our residential neighborhood. We have lived here for over 35 years and now our peaceful neighborhood is threatened by a use that should not be there. We encourage Shannon's long term plans to include finding a permanent location with ample parking and no disruption to neighborhoods. Conducting services no matter how small in that building is currently not permitted without the approval of a conditional use permit. Zoning controls are there for a reason and that is to protect residential neighborhoods like ours from development that may be deemed detrimental.

We cannot support this proposal and thank you for your care in protecting our neighborhoods.

Best regards,
Doug Ely
139 North Waverly Street
(714) 875-5705

Douglas S. Ely, Principal
DSEA, Inc.



145 S. Olive Street / Orange, CA 92866
(714) 639-3958
www.dseainc.com

Please return this one

PLANNING DIVISION
RECEIVED
APR 01 2021
CITY OF ORANGE

SHANNON FAMILY MORTUARY

I, Nathan McGorney am a resident or business owner
here at address 121 N Waverly St Orange,
CA 92866

I support Shannon Family Mortuary occasionally using their facility as a small chapel for private ID viewings at their location on 1005 East Chapman Avenue Orange, California 92866.

Shannon Family Mortuary has introduced themselves to me and explained what they intend to do inside their building. They have told us of their pending application for a conditional use permit with the city of Orange and that it entails having 15 people or less inside of their building to hold private ID viewings. Up to 12 immediate family members can attend these ID viewing at most, with 3 full time staff members in the mortuary. Furthermore, it was explained to us that this will only take place at a maximum of 1-2 times per week between 8 a.m. to 5 p.m Monday thru Friday, with a duration of 1-2 hours.

The owners Charles and Julie Link have assured us that they will do their very best to ensure these small groups do not create any parking issues and that they intend to use the parking lot currently beside their business, as well as 5 parking spaces in the AT&T parking lot where they have secured a contractual agreement for. I understand what was explained to me by Shannon Family Mortuary and strongly believe they will continue to be an asset to our community and a good neighbor as well.

Print Nathan McGorney
Sign [Signature]
Date 3/22/21

1005 E Chapman Ave
Orange, CA 92866
FD 1772

PHONE 714-771-1000
FAX 714-771-1038
EMAIL info@shannonfamilymortuary.com
WEBSITE www.shannonfamilymortuary.com

PLANNING DIVISION
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MAR 01 2021

CITY OF ORANGE

SHANNON FAMILY MORTUARY

I Sylvia Sanchez am a resident or business owner
here at address 131 N. Waverly St Orange,
CA 92668.

I support Shannon Family Mortuary occasionally using their facility as a small chapel for private ID viewings at their location on 1005 East Chapman Avenue Orange, California 92866.

Shannon Family Mortuary has introduced themselves to me and explained what they intend to do inside their building. They have told us of their pending application for a conditional use permit with the city of Orange and that it entails having 15 people or less inside of their building to hold private ID viewings. Up to 12 immediate family members can attend these ID viewing at most, with 3 full time staff members in the mortuary. Furthermore, it was explained to us that this will only take place at a maximum of 1-2 times per week between 8 a.m. to 5 p.m Monday thru Friday, with a duration of 1-2 hours.

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Print Sylvia Sanchez
Sign [Signature]
Date 3/22/21

1005 E Chapman Ave
Orange, CA 92866
FD 1772

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FAX 714-771-1038
EMAIL info@shannonfamilymortuary.com
WEBSITE www.shannonfamilymortuary.com

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APR 01 2021

CITY OF ORANGE

SHANNON FAMILY MORTUARY

I, Tom Barnhop am a resident or business owner
here at address 140 N Waverly Orange,
CA 92866.

I support Shannon Family Mortuary occasionally using their facility as a small chapel for private ID viewings at their location on 1005 East Chapman Avenue Orange, California 92866.

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Print Tom Barnhop
Sign [Signature]
Date 4/1/21

1005 E Chapman Ave
Orange, CA 92866
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PHONE 714-771-1000
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EMAIL info@shannonfamilymortuary.com
WEBSITE www.shannonfamilymortuary.com

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APR 01 2021

CITY OF ORANGE

SHANNON FAMILY MORTUARY

I, Stephanie Morasco am a resident or business owner
here at address 147 N Waverly St Orange,
CA 92846.

I support Shannon Family Mortuary occasionally using their facility as a small chapel for private ID viewings at their location on 1005 East Chapman Avenue Orange, California 92866.

Shannon Family Mortuary has introduced themselves to me and explained what they intend to do inside their building. They have told us of their pending application for a conditional use permit with the city of Orange and that it entails having 15 people or less inside of their building to hold private ID viewings. Up to 12 immediate family members can attend these ID viewing at most, with 3 full time staff members in the mortuary. Furthermore, it was explained to us that this will only take place at a maximum of 1-2 times per week between 8 a.m. to 5 p.m Monday thru Friday, with a duration of 1-2 hours.

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Print Stephanie Morasco
Sign [Signature]
Date 3.25.21

1005 E Chapman Ave
Orange, CA 92866
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FAX 714-771-1038
EMAIL info@shannonfamilymortuary.com
WEBSITE www.shannonfamilymortuary.com

PLANNING DIVISION
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FEB 01 2021
CITY OF ORANGE

SHANNON FAMILY MORTUARY

I, MARY LING / AT&T am a resident or business owner
here at address 911 E. CHAPMAN AVE Orange,
CA _____.

I support Shannon Family Mortuary occasionally using their facility as a small chapel for private ID viewings at their location on 1005 East Chapman Avenue Orange, California 92866.

Shannon Family Mortuary has introduced themselves to me and explained what they intend to do inside their building. They have told us of their pending application for a conditional use permit with the city of Orange and that it entails having 15 people or less inside of their building to hold private ID viewings. Up to 12 immediate family members can attend these ID viewing at most, with 3 full time staff members in the mortuary. Furthermore, it was explained to us that this will only take place at a maximum of 1-2 times per week between 8 a.m. to 5 p.m Monday thru Friday, with a duration of 1-2 hours.

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Print MARY LING
Sign Mary Ling
Date 3/24/2021

1005 E Chapman Ave
Orange, CA 92866
FD 1772

PHONE 714-771-1000
FAX 714-771-1038
EMAIL info@shannonfamilymortuary.com
WEBSITE www.shannonfamilymortuary.com

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AUG 01 2021
CITY OF ORANGE

PLANNING DIVISION
RECEIVED
AUG 01 2021
CITY OF ORANGE

SHANNON FAMILY MORTUARY

I Janice Swift am a resident or business owner
here at address 1006 E. Chapman Ave Orange,
CA 92866.

I support Shannon Family Mortuary occasionally using their facility as a small chapel for private ID viewings at their location on 1005 East Chapman Avenue Orange, California 92866.

Shannon Family Mortuary has introduced themselves to me and explained what they intend to do inside their building. They have told us of their pending application for a conditional use permit with the city of Orange and that it entails having 15 people or less inside of their building to hold private ID viewings. Up to 12 immediate family members can attend these ID viewing at most, with 3 full time staff members in the mortuary. Furthermore, it was explained to us that this will only take place at a maximum of 1-2 times per week between 8 a.m. to 5 p.m Monday thru Friday, with a duration of 1-2 hours.

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Print Janice Swift
Sign Janice Swift
Date 7/1/21

1005 E Chapman Ave
Orange, CA 92866
FD:1772

PHONE 714-771-1000
FAX 714-771-1038
EMAIL info@shannonfamilymortuary.com
WEBSITE www.shannonfamilymortuary.com

SHANNON FAMILY MORTUARY

PLANNING DIVISION
APPROVED
AUG 10 2021
CITY OF ORANGE

I, Kelly Borgen am a resident or business owner
here at address 1015 E Chapman Avenue Orange,
CA 92866

I support Shannon Family Mortuary occasionally using their facility as a small chapel for private ID viewings at their location on 1005 East Chapman Avenue Orange, California 92866.

Shannon Family Mortuary has introduced themselves to me and explained what they intend to do inside their building. They have told us of their pending application for a conditional use permit with the city of Orange and that it entails having 15 people or less inside of their building to hold private ID viewings. Up to 12 immediate family members can attend these ID viewing at most, with 3 full time staff members in the mortuary. Furthermore, it was explained to us that this will only take place at a maximum of 1-2 times per week between 8 a.m. to 5 p.m Monday thru Friday, with a duration of 1-2 hours.

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Print Kelly Borgen
Sign Kelly Borgen
Date 3-25-21

1005 E Chapman Ave
Orange, CA 92866
FD 1772

PHONE 714-771-1000
FAX 714-771-1038
EMAIL info@shannonfamilymortuary.com
WEBSITE www.shannonfamilymortuary.com

SHANNON FAMILY MORTUARY

I Karen A. Proescholdt, O.C. am a resident or business owner
here at address 1025 E Chapman Ave Orange,
CA 92866

I support Shannon Family Mortuary occasionally using their facility as a small chapel for private
ID viewings at their location on 1005 East Chapman Avenue Orange, California 92866.

Shannon Family Mortuary has introduced themselves to me and explained what they intend to
do inside their building. They have told us of their pending application for a conditional use permit with
the city of Orange and that it entails having 15 people or less inside of their building to hold private ID
viewings. Up to 12 immediate family members can attend these ID viewing at most, with 3 full time staff
members in the mortuary. Furthermore, it was explained to us that this will only take place at a maximum
of 1-2 times per week between 8 a.m. to 5 p.m Monday thru Friday, with a duration of 1-2 hours.

The owners Charles and Julie Link have assured us that they will do their very best to ensure
these small groups do not create any parking issues and that they intend to use the parking lot currently
beside their business, as well as 5 parking spaces in the AT&T parking lot where they have secured a
contractual agreement for. I understand what was explained to me by Shannon Family Mortuary and
strongly believe they will continue to be an asset to our community and a good neighbor as well.

Print Karen A. Proescholdt, O.C.
Sign Karen Proescholdt
Date 03/29/2021

1005 E Chapman Ave
Orange, CA 92866
FD-1772

PHONE 714-771-1000
FAX 714-771-1038
EMAIL info@shannonfamilymortuary.com
WEBSITE www.shannonfamilymortuary.com

APR 01 2021

CITY OF ORANGE

SHANNON FAMILY MORTUARY

I Peter Baskells am a resident or business owner
here at address 1035 E Chapman Ave Orange,
CA 92867.

I support Shannon Family Mortuary occasionally using their facility as a small chapel for private ID viewings at their location on 1005 East Chapman Avenue Orange, California 92866.

Shannon Family Mortuary has introduced themselves to me and explained what they intend to do inside their building. They have told us of their pending application for a conditional use permit with the city of Orange and that it entails having 15 people or less inside of their building to hold private ID viewings. Up to 12 immediate family members can attend these ID viewing at most, with 3 full time staff members in the mortuary. Furthermore, it was explained to us that this will only take place at a maximum of 1-2 times per week between 8 a.m. to 5 p.m Monday thru Friday, with a duration of 1-2 hours.

The owners Charles and Julie Link have assured us that they will do their very best to ensure these small groups do not create any parking issues and that they intend to use the parking lot currently beside their business, as well as 5 parking spaces in the AT&T parking lot where they have secured a contractual agreement for. I understand what was explained to me by Shannon Family Mortuary and strongly believe they will continue to be an asset to our community and a good neighbor as well.

Print

Sign

Date

Peter Baskells[Signature]3-24-21

1005 E Chapman Ave
Orange, CA 92866
FD 1772

PHONE 714-771-1000
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EMAIL info@shannonfamilymortuary.com
WEBSITE www.shannonfamilymortuary.com

Kelly Ribuffo

From: Charles Link <Charles.Link@shannonfamilymortuary.com>
Sent: Monday, May 3, 2021 8:05 AM
To: Kelly Ribuffo
Subject: Re: CUP Appeal

Follow Up Flag: Follow up
Flag Status: Completed

Good morning

If I could I'd just like to correct the following information in regards to our application for CUP.

The letter we have received states that we applied for a 15-seat Conditional Use Permit to hold memorial services.

In the justification letter I mentioned only 12-person and had totaled the amount in building at 15 including employees.

Can we please correct this to 12-people.

Also I don't want any confusion and want everyone to be able to understand there is a large difference between a (memorial service) and an (ID viewing).

We are asking ONLY to hold ID viewings.

One includes anyone who would wish to attend the gathering when losing a loved one and the other is a PRIVATE and SMALL group of family members saying goodbye to their loved one without the typical gathering of people that normally come to a funeral or memorial service.

Currently Shannon Family Mortuary has two arrangement offices located inside of its building where 1-2 times per week we meet with families and have 8-10 family members at one time inside of our building for 1-2 hours at a time.

We are permitted to do this with the current city permit allowing us to be an office and arrangement facility.

I'd like to just remind anyone who is considering our application that what we are asking for is exactly what we have already been doing for the last 14-months.

We have no longer requested to hold memorial services and have no need for 25-people gatherings in our building and only would like a permit granting us permission to have the same allowance of people we currently have in our building weekly with the city permit as an office.

The only difference is that these families would have the chance to see their loved one privately before a church or graveside service elsewhere.

Asking for this gives our local families closure at the time when it's needed the most.

I ask the council to think of the families who experience loss of a loved one and to please understand what we are asking for.

Shannon Mortuary has been serving the city of Orange since 1933 and we plan to continue to be here at those difficult times for decades to come.

Thank you

Charles Link
(714)883-8653

On Apr 19, 2021, at 8:29 AM, Kelly Ribuffo <kribuffo@cityoforange.org> wrote:

Good morning, Charles,

Your appeal application has been received. I will begin processing and let you know when the hearing before the City Council will be scheduled as soon as possible. If you would like to submit any additional written statement in support of the appeal you are also welcome to do so. You can email me at your convenience.

Regards,

Kelly Christensen Ribuffo

Associate Planner - Historic Preservation
City of Orange | Community Development
300 East Chapman Avenue, Orange, CA 92866
(714) 744-7223 phone

From: Charles Link <Charles.Link@shannonfamilymortuary.com>
Sent: Monday, April 19, 2021 7:15 AM
To: Kelly Ribuffo <kribuffo@cityoforange.org>
Subject: CUP Appeal

Charles Link
(714)883-8653

E-mail correspondence, along with any attachments, may be subject to the California Public Records Act; and as such may be subject to public disclosure unless otherwise exempt under the Act.



SHANNON FAMILY MORTUARY

July 7, 2021

City of Orange
Rick Otto, City Manager
Kelly Ribuffo, Planning Department
300 E. Chapman Avenue
Orange CA 92866

RE: Shannon Family Mortuary CUP Application

Dear Kelly Ribuffo,

We are writing to request an alternative pathway for our Conditional Use Permit (CUP) that will be considered by the Orange City Council at the regularly scheduled meeting on July 13, 2021.

After the appeal submitted by Councilmember Barrios we had the opportunity to meet with many of the residents on Waverly Street and discuss their opposition to our CUP application. In doing so, we understand that a compromise was indeed possible.

To that end, we would like to request that our current CUP Application be put on-hold for the period of one year, and that we instead be granted a Temporary Use Permit (TUP) for that term. The following conditions are laid out below that we have discussed with our neighbors on the residential block adjacent to our commercial location.

In granting a TUP for a term of one (1) year, Shannon Family Mortuary will have the opportunity to move forward as a business while demonstrating to our neighbors that we are a good partner and will abide by the conditions with minimal impact to their daily lives.

It is our hope that, following the one-year period, we may have our CUP application reinstated for consideration by the City Council, or Planning Commission. Should our compliance with the parameters of the TUP be found acceptable, that can move forward with the CUP without further incident.

1005 E Chapman Ave
Orange, CA 92866
FD 1772

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FAX 714-771-1038
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WEBSITE www.shannonfamilymortuary.com

Similar to the CUP, the terms of the CUP would be as follows:

- Shannon Family Mortuary requests a **Temporary Use Permit (TUP)**.
- Term of the Permit would be one (1) year from date of approval.
- The original CUP request would be put on-hold until that TUP year completes and is reviewed for compliance.
- The TUP would be for Private ID Viewings events only.
- Private ID Viewings would be for no more than 12 guests total and 3 staff members.
- Private ID Viewings will be for a duration of two (2) hours only.
- Private ID Viewings to take place only during regular business hours Monday thru Friday, 8 am to 5 pm.
- No guests allowed onsite past 5 pm.
- No more than two (2) Private ID Viewings per week.
- Onsite and Off-site parking to be available through our agreement with ATT and must remain in place at all times during the TUP year.
- No processions to be allowed from the business location.
- At the end of the TUP term, the business will be evaluated for compliance and, if there are no complaints, the original CUP application will be reinstated for Council consideration with all the TUP requirements made part of the renewed CUP application.

In addition to the above, The Shannon Family Mortuary utilize a simple **Operating Plan** for the Private ID Viewings that outlines how our staff will inform clients of various aspects of a Private ID Viewing and how we would operate such events. These will include such items as street signage on event days to limit parking errors and maps to appropriate parking locations for clients.

With the City Council's approval of this compromise that was reached with consensus from our neighbors, we believe we have a pathway forward toward a responsible relationship with the residents of Waverly Street that, in time, may grow into a permanent solution.

We will attend the upcoming Council Meeting in person so that we may answer any questions that may arise.

Thank you for your assistance in this matter. We look forward to a good resolution.

Sincerely,



Charles Link

Shannon Family Mortuary

1005 E Chapman Ave Orange CA 92866

(714) 883-5653

1005 E Chapman Ave
Orange, CA 92866
FD 1772

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STATE OF CALIFORNIA
PARTICIPATING ADDENDUM NO. 7-16-58-15
AMENDMENT NO. 2

Public Safety Communication Equipment-Radio
Washington NASPO ValuePoint Master Agreement No. 06913
RELM Wireless Corporation (Contractor)

The parties hereto mutually agree to amend Participating Addendum No. 7-16-58-15 as follows:

Section 2. Term, subparagraph A. is amended to now read as follows:

- A. The term of this Participating Addendum shall begin upon signature approval by the State and will end June 30, 2021, or upon termination by the State, whichever occurs first.

Section 15. Contract Management, subparagraph C. is amended to now read as follows:

- C. The State Contract Administrator for this Participating Addendum shall be as follows:

Name: Stacy Jarvis
Phone: (916) 375-4378
E-Mail: Stacy.Jarvis@dgs.ca.gov
Address: State of California
Department of General Services
Procurement Division
707 Third Street, 2nd Floor, MS 2-202
West Sacramento, CA 95605

Section 19. Authorized Resellers is added as follows:

- A. Contractor may use State-approved Authorized Resellers under this Participating Addendum for sales and service functions as defined herein.
 - 1) Authorized Resellers must accept purchase orders and accept payment from ordering agencies for products offered under this Participating Addendum.
 - 2) Authorized Resellers are responsible for sending a copy of all purchase orders and invoices to the Contractor for compliance with quarterly usage reporting and administrative fee requirements.
 - 3) All purchase documents to Authorized Resellers shall reference the Participating Addendum Number and Contractor Name.
- B. Contractor shall be responsible for successful performance and compliance with all requirements in accordance with the terms and conditions under this Participating Addendum, even if work is performed by Authorized Resellers. All State policies, guidelines, and requirements shall apply to Authorized Resellers.
- C. Contractor will be the sole point of contact with regard to Participating Addendum contractual matters, reporting, and administrative fee requirements.
- D. Subject to the approval of the State, Authorized Resellers may be added on a quarterly basis during the term of the contract. Contractors shall notify the State of any deleted

**STATE OF CALIFORNIA
PARTICIPATING ADDENDUM NO. 7-16-58-15
AMENDMENT # 1**

Public Safety Communication Equipment-Radio
Washington NASPO VALUEPOINT Master Price Agreement No. 06913
RELM Wireless Corporation (Contractor)

The Parties hereto mutually agree to amend Participating Addendum Number **7-16-58-15** as follows:

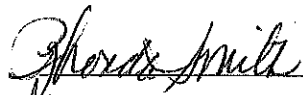
1. Term:

Participating Addendum term is extended from June 30, 2016 to June 30, 2018.

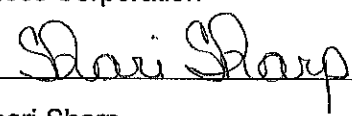
All other terms and conditions shall remain the same.

IN WITNESS WHEREOF, the parties have executed this Participating Addendum as of the date of execution by both parties below.

STATE OF CALIFORNIA

By: 
Name: Jim Butler
Title: Deputy Director
Date: 6/30/16

RELM Wireless Corporation

By: 
Name: Shari Sharp
Title: Director of Business Operations
Date: 6-30-16

STATE OF CALIFORNIA
PARTICIPATING ADDENDUM NO. 7-16-58-15

Public Safety Communication Equipment-Radio
Washington NASPO VALUEPOINT Master Price Agreement No. 06913
RELM Wireless Corporation (Contractor)

This Participating Addendum Number **7-16-58-15** is entered into between the State of California, Department of General Services (hereafter referred to as "State" or "DGS") and RELM Wireless Corporation (hereafter referred to as "Contractor") under the lead State of Washington NASPO ValuePoint Cooperative Purchasing Organization Master Price Agreement Number 06913.

1. Scope

- A. This Participating Addendum covers the purchase of Public Safety Communication Equipment-Radios under the State of Washington NASPO ValuePoint Master Price Agreement Number 06913. The NASPO ValuePoint Master Price Agreement is hereby incorporated by reference and shall apply to the purchase of goods and services made under this Participating Addendum.
- B. This Participating Addendum is available for use by all State Departments and California political subdivisions/local governments. A political subdivision/local government is defined as any city, county, city and county, district, or other local governmental body or corporation, including the California State Universities (CSU) and University of California (UC) systems, K-12 schools and community colleges empowered to expend public funds.
- C. Each political subdivision/local government is to make its own determination whether this Participating Addendum and the NASPO ValuePoint Master Price Agreement are consistent with its procurement policies and regulations.

2. Term

- A. The term of this Participating Addendum shall begin upon signature approval by the State and will end June 30, 2016, or upon termination by the State, whichever occurs first.
- B. Lead State amendments to extend the Master Price Agreement term date are not automatically incorporated into this Participating Addendum. Extension(s) to the term of this Participating Addendum will be through a written amendment upon mutual agreement between the State and the Contractor.

3. Mandatory Statewide Contracts

Product and service categories that are available on mandatory California statewide contracts for Public Safety Communication Equipment contract cannot be purchased from this Participating Addendum by State Departments without an exemption. State Departments are responsible for obtaining an exemption from CAL OES Governor's Office of Emergency Services prior to issuing a purchase order.

This restriction is not applicable to political subdivisions/local governments.

14. Administrative Fee

- A. Contractor shall submit a check, payable to the State of California, remitted to the Department of General Services, Procurement Division, Masters Unit 2 for the calculated amount equal to one percent (0.01) of the sales for the quarterly period.
- B. Contractor must include the Participating Addendum Number on the check. Those checks submitted to the State without the Participating Addendum Number will be returned to Contractor for additional identifying information.
- C. Administrative fee checks shall be submitted to:

State of California
Department of General Services, Procurement Division
Attention: Master Unit 2
707 3rd Street, 2nd Floor, MS 2-202
West Sacramento, CA 95605
- D. The administrative fee shall not be included as an adjustment to Contractor's NASPO ValuePoint Master Price Agreement pricing.
- E. The administrative fee shall not be invoiced or charged to the ordering agency.
- F. Payment of the administrative fee is due irrespective of payment status on orders or service contracts from a purchasing entity.
- G. Administrative fee checks are due for each quarter as follows:

Reporting Period	Due Date
JUL 1 to SEP 30	OCT 31
OCT 1 to DEC 31	JAN 31
JAN 1 to MAR 31	APR 30
APR 1 to JUN 30	JUL 31

- H. Failure to meet administrative fee requirements and submit fees on a timely basis shall constitute grounds for suspension of this contract.

17. Amendment

No amendment or variation of the terms of this Participating Addendum shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or agreement not incorporated in the Participating Addendum is binding on any of the parties.

18. Agreement

- A. This Participating Addendum and the Master Price Agreement together with its exhibits and/or amendments, set forth the entire agreement between the parties with respect to the subject matter of all previous communications, representations or agreements, whether oral or written, with respect to the subject matter hereof. Terms and conditions inconsistent with, contrary or in addition to the terms and conditions of this Participating Addendum and the Master Price Agreement, together with its exhibits and/or amendments, shall not be added to or incorporated into this Participating Addendum or the Master Price Agreement and its exhibits and/or amendments, by any subsequent purchase order or otherwise, and any such attempts to add or incorporate such terms and conditions are hereby rejected. The terms and conditions of this Participating Addendum and the Master Price Agreement and its exhibits and/or amendments shall prevail and govern in the case of any such inconsistent or additional terms.
- B. By signing below Contractor agrees to offer the same products/and or services as on the Washington NASPO ValuePoint Master Price Agreement Number 06913, at prices equal to or lower than the prices on that contract.
- C. IN WITNESS WHEREOF, the parties have executed this Participating Addendum as of the date of execution by both parties below.

STATE OF CALIFORNIA

RELM Wireless Corporation

By: 

By: 

 Name: Jim Butler

Name: Shari Sharp

Title: Deputy Director

Title: Director of Business Operations

Date: March 25, 2016

Date: 3/3/16



State of California
California Governor's Office of Emergency Services
**PUBLIC SAFETY RADIO GOODS
SPECIAL PROVISIONS**
TDe-947 (REV. 02/2015)



PUBLIC SAFETY COMMUNICATIONS

1. TECHNICAL STANDARDS

- a) Where applicable, all goods delivered shall meet or exceed the requirements contained in the Code of Federal Regulations, Title 47 Telecommunication, Chapter I Federal Communications Commission Rules and Regulations, in particular:
 - i) Part 2, Subpart I, "Marketing of Radio Frequency Devices" (47CFR2.803). All goods offered shall be authorized by the FCC by the bid due date.
 - ii) Part 15, Radio Frequency Devices (47CFR15).
 - iii) Part 90, Private Land Mobile Radio Service (47CFR90).
 - iv) Part 101, Fixed Microwave Services (47CFR101).
- b) Where applicable, all goods operating in the analog mode shall meet or exceed all applicable performance standards listed in TIA/EIA-603-C, "Land Mobile FM and PM Communications Equipment Measurement and Performance Standards", unless otherwise stated in the specification.
 - i) The State may consider goods operating within 30-50 MHz that are tested under comparable performance standards listed in TIA-603 and possibly EIA-152-C, "Minimum Standards for Land Mobile Communication FM or PM Transmitters, 25-866 MHz" and EIA/TIA-204-D, "Minimum Standards for Land Mobile Communication FM or PM Receivers, 25-866 MHz (which were superseded by TIA/EIA-603).
 - ii) Specification compliance testing conducted by the State, however, will be conducted in accordance with the methods, procedures, and requirements of TIA/EIA-603-C, unless otherwise stated in the specification. All measurements of transmitter radio frequency specifications shall be made at the transmitter chassis antenna connector. All measurements of receiver radio frequency specifications shall be made at the receiver chassis antenna connector. Measurements of received audio response and distortion shall be made at the speaker output.
 - iii) The performance requirements contained within the technical specifications further define and, in some cases, exceed the requirements contained in TIA/EIA-603-C. In the event of a conflict between performance requirements contained in TIA/EIA-603-C and the performance requirements contained in the specification, the requirements contained in the specification shall prevail.

- c) Where applicable, all goods operating in the digital mode shall meet or exceed all applicable APCO Project 25 system standards listed in the TIA/EIA 102 series of standards, interim standards and technical bulletins.
- d) Where applicable, all goods operating within 806-809 / 821-824 MHz and 851-854 / 866-869 MHz shall comply with the recommendations set forth in the National Public Safety Planning Advisory Committee 800 MHz NPSPAC Channel Regional Communications Plan for Regions 5 and 6 approved by the Federal Communications Commission (FCC) in 47CFR90.621(g).

2. SPECIAL ORDERING PROVISIONS

During the thirty-calendar day period immediately following purchase order issuance, the State reserves the right to increase the quantity ordered by up to twenty-five percent, or as otherwise specified, at rates not to exceed those contained herein.

3. SPECIFICATION COMPLIANCE TESTING

- a) Goods may be inspected before acceptance for workmanship, appearance, and conformance to all other requirements of the specifications. The State may reject any shipment or item of a shipment that is not in compliance with specification requirements or is otherwise defective in any manner.
- b) Within fifteen calendar days after contractor first receives notice of rejection, contractor shall, if requested by the State, remove rejected goods from the State's facilities. Upon failure of contractor to remove such goods from the State's facilities within the specified period, the State may forward such goods to contractor by common carrier, at contractor's expense and risk.
- c) Unless otherwise specified at time of rejection, and at no cost to the State, all rejected goods shall be repaired or replaced by contractor and shall be returned to the State within thirty calendar days from the date the goods are made available on, or removed from, the State's facilities, whichever occurs first.
- d) Unless otherwise specified at time of rejection, if contractor does not deliver goods meeting specifications within sixty calendar days from the date the goods are made available on, or removed from, State's facilities, whichever occurs first, contractor shall be deemed to be in default, and the State will terminate the purchase order in whole or in part in accordance with the Termination for Default provision contained in the General Provisions.

- e) At the State's option, contractor may be permitted to make repairs of rejected goods at the State's facilities.

4. MINIMUM GUARANTEES AND WARRANTIES

- a) Contractor is responsible for all guarantees and warranties required herein. Any guarantee/warranty offered by the original goods manufacturer shall not relieve contractor of this responsibility.
- b) If contractor is other than the manufacturer of goods delivered, contractor warrants that the manufacturer has authorized contractor to sell goods delivered. At the request of the State, written verification by manufacturer of such authorization shall be immediately provided.
- c) All goods delivered shall be guaranteed by contractor against defects for eighteen months from date of acceptance.
- d) During the guarantee period, contractor shall repair or replace, at its option and expense, all defective goods, or refund the purchase price thereof.
- e) Unless otherwise specified at time of requested repair, if contractor has not completed guarantee repair within thirty calendar days after notification of a malfunction, the State may effect such repairs and bill contractor for material cost and labor cost at the State technician current hourly rate.
- f) Workmanship and materials provided by contractor in the performance of any installation work required shall be guaranteed for ninety calendar days after installation. Workmanship or materials which are found to be defective during this period shall be promptly corrected at contractor's expense.
- g) During the Warranty Period, Contractor shall manage the individual warranties and maintenance services (if any) of the third-party Goods. If the third-party Goods do not function as warranted during the Warranty Period, Contractor will correct the deficiency

5. DESIGN DEFECT

- a) A design defect shall be defined as identical failures occurring within five years after delivery in at least five units or five percent, whichever is larger, of identical assemblies, subassemblies, or parts supplied.
- b) Delivered goods shall be guaranteed by contractor against design defects for five years from date of acceptance. Upon written notification to and confirmation by contractor of design defects evidenced within the five-year guarantee period, contractor shall take prompt corrective action, at no cost to the State.
- c) Whenever it is necessary for contractor to take corrective action of design defects, contractor shall take the same corrective action in all identical goods supplied.

- d) All parts and materials used in corrective action for design defects shall be guaranteed by contractor against defects for one year from date of such corrective action.

6. SERVICE PROVISIONS

- a) Contractor shall provide the following services that will repair or exchange, in the times indicated, all defective goods returned by the State for repair.
 - i) Emergency no-charge warranty service within five calendar days, excluding shipping time, for defective goods returned within the guarantee period.
 - ii) Non-emergency no-charge warranty service within twenty calendar days, excluding shipping time, for defective goods returned within the guarantee period.
 - iii) Emergency full-charge nonwarranty service within five calendar days, excluding shipping time, for defective goods returned after expiration of the guarantee period.

7. AVAILABILITY OF REPAIR PARTS

- a) Contractor shall notify State of the date of last manufacture for all goods delivered.
- b) For a period of seven years from the notice of last manufacture, contractor shall make available to the State exact replacement parts for use in the delivered goods.
- c) If exact replacement parts are not available, contractor may substitute equal or similar parts which do not deteriorate performance and which will continue to meet all specifications in effect at the time of purchase.

8. SOFTWARE USAGE/LICENSE REQUIREMENT

- a) The California Governor's Office of Emergency Services, Public Safety Communications, and/or the purchasing agency shall be permitted to make unlimited copies of any software required for installation and maintenance of goods supplied. Such copies shall be for the sole and exclusive use of the State designated maintenance and engineering personnel in the installation, maintenance, and operation of the delivered goods.
- b) Any need for a separate software license agreement to reflect the scope and/or limitations of this usage shall be negotiated to the mutual agreement of the parties, including Department of General Services, Procurement Division and Public Safety Communications Agency.