

REGULAR MEETING
March 5, 2025
3:00 p.m.

[X] Mailed [] Distributed at meeting



Location: The public meeting will be conducted onsite with limited seating at 200 Kalmus Drive, Costa Mesa, CA 92626 and via YouTube live stream <https://www.youtube.com/live/Xur7053MQqo>.

ORANGE COUNTY BOARD OF EDUCATION
AGENDA

WELCOME

CALL TO ORDER

STATEMENT OF PRESIDING OFFICER: For the benefit of the record, this Regular Meeting of the Orange County Board of Education is called to order.

ROLL CALL

(*) AGENDA

Regular Meeting of March 5, 2025 – Adoption

(*) MINUTES

Regular Meeting of February 3, 2025 – Approval

PUBLIC COMMENTS (related to Closed Session)

TIME CERTAIN

1. Inter-district Appeal Hearing (Closed) – Student #03052025001I - Huntington Beach Union High School District to Newport Mesa Unified School District.
2. Inter-district Appeal Hearing (Closed) – Student #03052025002I - Laguna Beach Unified School District to Newport Mesa Unified School District.

CLOSED SESSION 1

CONFERENCE WITH LEGAL COUNSEL-EXISTING LITIGATION Orange County Board of Education v. OC Superintendent of Schools, Al Mijares, and State Superintendent of Public Instruction, Tony Thurmond Case No 30-2019-01112665-CU-WM-CJC - Government Code §§ 54956.9(a) and (d)(1)

CLOSED SESSION 2

CONFERENCE WITH LEGAL COUNSEL-ANTICIPATED LITIGATION Potential litigation pursuant to (d) (4) of Government Code Section 54956.9

INVOCATION

5:00 p.m.

Pastor Joseph Pedick
Calvary Chapel of the Harbour

PLEDGE OF ALLEGIANCE

INTRODUCTIONS

PUBLIC COMMENTS

CONSENT CALENDAR

- (*) 3. Approve the granting of diplomas to the students listed from Alternative, Community, and Correctional Education Schools and Services, Alternative Education Division.
- (*) 4. Adopt Resolution #03-25 to recognize April 5-11, 2025 as Week of the Young Child.
- (*) 5. Adopt Resolution #04-25 to recognize April 2025 as Public Schools Month.
- (*) 6. Approve invoice #10708 in the amount of \$1,878.30 for the Law Offices of Margaret A. Chidester & Associates.

CHARTER SCHOOLS

- 7. Charter submissions
- (*) 8. Charter School Public Hearing – Tustin International Charter School appeal Aracely Chastain, Director, Charter Schools Unit, will facilitate the public hearing.
Discussion Format:
 - Tustin International Charter School
 - Tustin Unified School District
 - Public Comments
 - Board Questions
- (*) 9. Charter School Public Hearing – Magnolia Science Academy-Orange County Material Revision
Aracely Chastain, Director, Charter Schools Unit, will facilitate the public hearing.

Discussion Format:
 - Magnolia Science Academy-Orange County
 - Public Comments
 - Board Questions
- (*) 10. Board Action on Unity Middle College High School

STAFF RECOMMENDATIONS

- 11. Budget Presentation – Dave Giordano, Associate Superintendent, Administrative Services.
- (*) 12. Approve the Second Interim Report that is certified Positive by the County Superintendent of Schools.
- 13. Presentation – Rancho Sonado Design

- (*) 14. Adopt Resolution No. 05-25, implementing a process for Pre-qualification of Contractors in accordance with Public Contract Code Section 20111.6.
- (*) 15. Adopt Resolution No. 06-25, authorizing the Lease-Leaseback construction delivery method including construction agreement templates, the proposed Request for Proposals (RFP) that will be issued, and the required procedures and guidelines for evaluating the proposals that ensure the “best value” selection (a)(2) process is conducted in a fair and impartial manner in accordance with Education Code section Public Contract Code Section 20111.6, which is attached to, and a part of, this Board Item.

BOARD RECOMMENDATIONS

16. Board update on the President’s Executive Orders by General Counsel. (Valdes)
17. Board discussion on dissemination of Ethnic Studies program. (Valdes)
18. Board discussion on board member stipend. (Valdes)
- (*) 19. Discussion and review of OC Board of Supervisors County Investment Policy.

INFORMATION ITEMS

COMMUNICATION/INFORMATION/DISCUSSION
- Memorial Day Essay Contest Discussion

ANNOUNCEMENTS

- Superintendent
- Deputy Superintendent

LEGISLATIVE UPDATES

COMMITTEE REPORT

BOARD MEMBER COMMENTS

CLOSED SESSION(S) PUBLIC REPORT OUT

ADJOURNMENT


Renee Hendrick
Assistant Secretary, Board of Education

The next Regular Board Meeting will be on Wednesday, April 2, 2025 at 5:00 p.m. The meeting will be held onsite at 200 Kalmus Drive, Costa Mesa, CA 92626 and via YouTube live stream.

Individuals with disabilities in need of copies of the agenda and/or the agenda packet or in need of auxiliary aides and services may request assistance by contacting Darou Sisavath, Board Clerk at (714) 966-4012.

(*) Printed items included in materials mailed to Board Members

MINUTES
Regular Meeting
February 3, 2025

[X] Mailed [] Distributed at meeting

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ORANGE COUNTY BOARD OF EDUCATION
MINUTES

WELCOME

CALL TO ORDER

The Regular Meeting of the Orange County Board of Education was called to order by President Williams at 4:07 p.m., February 3, 2025, in the Board Room, 200 Kalmus Drive, Costa Mesa, CA 92626 and via YouTube live stream https://youtube.com/live/_JDRCoI98kM?feature=share.

ROLL CALL

Present:

Jorge Valdes, Esq.
Tim Shaw
Mari Barke
Ken L. Williams, D.O.
Lisa Sparks, Ph.D.

AGENDA

Motion by Barke, seconded by Sparks and carried by a vote of 5-0 to approve the agenda of the Regular meeting of February 3, 2025.

MINUTES

Motion by Barke, seconded by Sparks and carried by a vote of 5-0 to approve the minutes of the Regular meeting of January 8, 2025.

PUBLIC COMMENTS (related to Closed Session) - None

The Board took a recess from 4:08 p.m. to 5:10 p.m. to go into Closed Session.

CLOSED SESSION 1

CONFERENCE WITH LEGAL COUNSEL-EXISTING LITIGATION Orange County Board of Education v. OC Superintendent of Schools, Al Mijares, and State Superintendent of Public Instruction, Tony Thurmond Case No 30-2019-01112665-CU-WM-CJC - Government Code §§ 54956.9(a) and (d)(1)

INVOCATION

Reverend Nathan Hill
Church of the Foothills, Santa Ana

PLEDGE OF ALLEGIANCE

Captain Wilkerson, U.S. Army

INTRODUCTIONS

Dr. Sandra Lee, Associate Superintendent, Educational Services

Report Out

CLOSED SESSION(S) PUBLIC REPORT OUT

Mr. Brenner reported in closed session 1, the Board had discussions with legal counsel; no action was taken.

PUBLIC COMMENTS

- Stephen
- Heidi
- Lynne
- Captain Wilkerson

CONSENT CALENDAR

Motion by Barke, seconded by Sparks and carried by a vote of 5-0 to approve Consent Calendar items #1, #2, #3, and #4.

1. Approve the granting of diplomas to the students listed from Alternative, Community, and Correctional Education Schools and Services, Alternative Education Division.
2. Accept the 2nd Quarter Report on Williams Uniform Complaints for Orange County Department of Education Student Programs for the period of October 1 to December 31, 2024.
3. Adopt resolution #02-25 to recognize March 2025 as Arts Education Month.
4. Approve invoice #10679 in the amount of \$5,378.25 for the Law Offices of Margaret A. Chidester & Associates.

CHARTER SCHOOLS

5. Charter submissions
 - Magnolia Science Academy

STAFF RECOMMENDATIONS

6. Motion by Barke, seconded by Sparks, and carried by a vote of 5-0 to adopt the proclamation recognizing February 2025 as Career and Technical Education (CTE) Month.

BOARD RECOMMENDATIONS

7. Motion by Valdes, seconded by Barke, and carried by a vote of 5-0 to approve a \$20,000 budget for the social media campaign to distribute the Educational Options flyers.

INFORMATION ITEMS

COMMUNICATION/INFORMATION/DISCUSSION

- Mid-Year Update of the 2024-25 OCDE/Connections Local Control and Accountability Plan
- Mid-Year Update of the 2024-25 CCPA Local Control and Accountability Plan
- Ethnic Studies Curriculum Update by Jonathan Swanson, Director, Educational Services and Trish Walsh, Administrator, Educational Services

- Safety Update by David Giordano, Associate Superintendent, Administrative Services and Dennis Cole, Chief of Staff

ANNOUNCEMENTS

Deputy Superintendent

- Next board meeting is on Wednesday, March 5, 2025; submission deadline is February 19; packet delivery on February 28, 2025
- Office closed on Monday, February 10, Lincoln Day and Monday, February 17, Presidents' Day

COMMITTEE REPORT

- Trustee Shaw – State Budget
- Trustee Barke – Vista Charter

BOARD MEMBER COMMENTS

- Trustee Valdes – Article on declining enrollment and Acknowledged his son's baseball team, ZT Prospects placing first in the nation
- Trustee Shaw – April and June meeting via zoom

ADJOURNMENT

On a motion duly made and seconded, the February 3, 2025, board meeting adjourned at 6:33 p.m.



Renee Hendrick
Assistant Secretary, Board of Education

Ken L. Williams, D.O.
President, Board of Education

The next Regular Board Meeting will be on Wednesday, March 5, 2025, at 5:00 p.m. All meetings will be held onsite at 200 Kalmus Drive, Costa Mesa, CA 92626 and via YouTube live stream.

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ORANGE COUNTY BOARD OF ED

March 5, 2025

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BOARD AGENDA ITEM

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DATE: 03/05/25

TO: Renee Hendrick, Deputy Superintendent

FROM: Analee Kredel, Associate Superintendent, Educational Programs



SUBJECT: Granting of Diplomas

The students listed on the attached pages have been certified for graduation by the Custodian of Records or their designee for the Division of Alternative Education and the Division of Special Education Services of the Orange County Department of Education. These students have met the standards of proficiency in the basic skills prescribed by the governing board in accordance with Education Code 51412. It is requested that the Board approve the granting of diplomas to these students.

RECOMMENDATION:

Approve granting of diplomas to the students listed from Alternative, Community, and Correctional Education Schools and Services, Alternative Education Division and the Division of Special Education Services.

AK:rc

Pages 8-9 removed (CONFIDENTIAL STUDENT INFORMATION)

March 5, 2025

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ORANGE COUNTY BOARD OF EDUCATION

BOARD AGENDA ITEM

DATE: March 5, 2025
TO: Renee Hendrick, Deputy Superintendent
FROM: Darou Sisavath, Recording Clerk
SUBJECT: Resolution #03-25
Week of the Young Child

RECOMMENDATION:

Adopt Resolution #03-25 to recognize April 5-11, 2025 as Week of the Young Child.

**RESOLUTION OF THE BOARD OF EDUCATION
ORANGE COUNTY, CALIFORNIA**

**WEEK OF THE YOUNG CHILD
April 5-11, 2025**

WHEREAS, the Orange County Board of Education and other local organizations, in conjunction with the National Association for the Education of Young Children (NAEYC), are celebrating the Week of the Young Child, with the theme, “Early Years Are Learning Years,” April 5-11, 2025;

WHEREAS, by calling attention to the need for high-quality early childhood services for all children and families within our community, these groups hope to improve the quality of and availability of such services; and

WHEREAS, the future of our community depends on the quality of the early childhood experiences provided to young children today; and

WHEREAS, high-quality early childhood services represent a worthy commitment to our children’s future by promoting school readiness and academic achievement.

NOW, THEREFORE, BE IT RESOLVED, that the Orange County Board of Education joins the National Association for the Education of Young Children (NAEYC) in proclaiming April 5-11, 2025, as the Week of the Young Child, with the theme, “Celebrating our Youngest Learners,” and encourages all residents of Orange County to support the needs of young children in our community.

AYES:

NOES:

ABSENT:

STATE OF CALIFORNIA

COUNTY OF ORANGE

I, Jorge Valdes, Esq., Clerk, Board of Education of Orange County, California hereby certify that the foregoing Resolution was duly and regularly adopted by the said Board at a regular meeting thereof held on the 5th day of March 2025.

IN WITNESS THEREOF, I have hereunto set my hand and seal this 5th day of March 2025.

Jorge Valdes, Esq., Clerk of the Board
Orange County Board of Education

March 5, 2025

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ORANGE COUNTY BOARD OF EDUCATION

BOARD AGENDA ITEM

DATE: March 5, 2025
TO: Renee Hendrick, Deputy Superintendent
FROM: Darou Sisavath, Recording Clerk
SUBJECT: Resolution #04-25
Public Schools Month

RECOMMENDATION:

Adopt Resolution #04-25 to recognize April 2025 as Public Schools Month.

**RESOLUTION OF THE BOARD OF EDUCATION
ORANGE COUNTY, CALIFORNIA**

PUBLIC SCHOOLS MONTH - APRIL 2025

WHEREAS, Public Schools Month has been sponsored and promoted by the Grand Lodge of Free and Accepted Masons of California since 1920; and

WHEREAS, communities and schools are urged to set aside one week during the month of April as a special time for the discussion of public schools and to enlist the support of the general public to the cause of public education; and

WHEREAS, the Public Schools Month affords an excellent opportunity for all Californians to give special recognition to students, parents, teachers, classified staff, administrators, school volunteers, and school board members; and

WHEREAS, the Public Schools Month impels us once again to affirm the success of California's public schools; and

WHEREAS, the theme of the year's Public Schools Month is "together we make a profound difference for public education";

THEREFORE BE IT RESOLVED, that the Orange County Board of Education urges each school district in Orange County to establish a week during the month of April 2025 to promote education as the key to our nation's future and the source of our nation's strength.

AYES:

NOES:

ABSENT:

STATE OF CALIFORNIA

COUNTY OF ORANGE

I, Jorge Valdes, Esq., Clerk of the Board of Education of Orange County, California hereby certify that the foregoing Resolution was duly and regularly adopted by the said Board at a regular meeting thereof held on the 5th day of March 2025 and passed by a vote of said Board Members present.

IN WITNESS THEREOF, I have hereunto set my hand and seal this 5th day of March 2025.

Jorge Valdes, Esq., Clerk of the Board
Orange County Board of Education

March 5, 2025

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ORANGE COUNTY BOARD OF EDUCATION

BOARD AGENDA ITEM

DATE: March 5, 2025

TO: Renee Hendrick, Deputy Superintendent

FROM: Ken L. Williams, D.O., Board President
Mari Barke, Board Vice President

SUBJECT: Law Offices of Margaret A. Chidester & Associates – Invoices

RECOMMENDATION:

Approve invoice #10708 in the amount of \$1,878.30 for the Law Offices of Margaret A. Chidester & Associates.

LAW OFFICES OF
MARGARET A. CHIDESTER & ASSOCIATES
2151 MICHELSON DR, STE 260
IRVINE, CALIFORNIA 92612-1369
(949) 474-5040

February 11, 2025

Orange County Board of Education
200 Kalmus Drive, P.O. Box 9050
Costa Mesa, CA 92628-9050

CONFIDENTIAL
ATTORNEY-CLIENT
PRIVILEGE

Attention: Mari Barke
mari@maribarke.com

Invoice No. 10708
Federal Tax ID# 33-0216030

Professional Services Rendered During January 2025:

MAC	5.2 hrs. at \$360/hr.	\$1,872.00	\$1,872.00
	ATTORNEY TIME:		\$1,872.00
<hr/>			
<u>COSTS ADVANCED</u>			
Mileage		<u>\$6.30</u>	\$6.30
			<hr/>
	TOTAL AMOUNT DUE:		\$1,878.30
			<hr/>

**ORANGE COUNTY BOARD OF
BOARD AGENDA IT**

Item: Charter Schools #8

March 5, 2025

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DATE: March 5, 2025
TO: Renee Hendrick, Deputy Superintendent
FROM: Aracely Chastain, Director, Charter Schools Unit
SUBJECT: Public Hearing – Tustin International Charter School Appeal Charter Petition

DESCRIPTION:

On January 8, 2025, Mandarin Immersion Schools, Inc., a California nonprofit public benefit corporation, submitted an appeal to operate Tustin International Charter School after denial by the Tustin Unified School District governing board. The charter school proposes to operate a classroom-based program serving students in transitional kindergarten through grade five for an initial charter term from 2025 through 2030.

RECOMMENDATION:

Under California Education Code 47605, the Orange County Board of Education will hold a public hearing on the provisions of the Tustin International Charter School petition and consider the level of support for the charter school by teachers employed by the school district, other employees of the school district and parents at the March 5, 2025, board meeting.

**ORANGE COUNTY BOARD OF
EDUCATION
BOARD AGENDA II**

March 5, 2025

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DATE: March 5, 2025

TO: Renee Hendrick, Deputy Superintendent

FROM: Aracely Chastain, Director, Charter Schools

SUBJECT: Public Hearing Magnolia Science Academy-Orange County, Material Revision

DESCRIPTION:

On January 31, 2025, Magnolia Science Academy-Orange County submitted a material revision to open a location within the boundaries of Anaheim Union High School District and Anaheim Elementary School District.

RECOMMENDATION:

Per California Education Code, the Orange County Board of Education shall hold a public hearing on the provisions of the Magnolia Science Academy-Orange County amended charter petition and consider the level of support for the material revision at the March 5, 2025, board meeting.

March 5, 2025

RH

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ORANGE COUNTY BOARD OF EDUCATION

BOARD AGENDA ITEM

DATE: March 5, 2025
TO: Renee Hendrick, Deputy Superintendent
FROM: Greg Rolen, General Counsel
SUBJECT: Approve Agreement for Unity Middle College High School

BACKGROUND:

The closure agreement is made and entered into by and between the Orange County Board of Education ("OCBE") and the Unity Schools SoCal, a nonprofit benefit corporation authorized to operate Unity Middle College High School, a public charter school (collectively referred to herein as "Charter School"). The agreement is in lieu of further revocation procedures, the Parties agree to the terms of this Agreement.

RECOMMENDATION:

Approve the agreement that was approved by the Unity Middle College High School board on 2/18/25.

**AGREEMENT BY AND BETWEEN THE
ORANGE COUNTY BOARD OF EDUCATION AND UNITY SCHOOLS SoCal
FOR CLOSURE OF UNITY MIDDLE COLLEGE HIGH SCHOOL**

This Closure Agreement (“Agreement”) is made and entered into by and between the Orange County Board of Education (“OCBE”) and Unity Schools SoCal, a nonprofit benefit corporation authorized to operate Unity Middle College High School, a public charter school (collectively referred to herein as “Charter School”).

RECITALS

WHEREAS, on August 20, 2015, the OCBE conditionally approved the Charter School’s petition to establish and operate a charter school following a denial by the Orange Unified School District. On March 3, 2021, the OCBE approved the Charter School’s renewal petition for a five (5) year term from July 1, 2021 to June 30, 2026;

WHEREAS, on November 6, 2024, the OCBE issued a Notice of Violation to the Charter School for failure to meet generally accepted accounting principles and fiscal mismanagement, thereby initiating charter revocation procedures under Education Code section 47607(f)(3);

WHEREAS, on January 8, 2025, the Charter School responded to the Notice of Violation;

WHEREAS, pursuant to Education Code section 47607(h) and Cal. Code Regs. Tit. 5 (5 CCR), section 11968.5.2, the OCBE must evaluate the Charter School’s response and, by March 9, 2025, take action to either continue revocation of the Charter School by issuing a Notice of Intent to Revoke or discontinue revocation and provide the Charter School with timely notice; and,

WHEREAS, in lieu of further revocation procedures, the Parties agree to the terms of this Agreement, which are intended to supersede any conflicting provision in the Charter document (“Charter”) or any other agreements between the Parties.

TERMS OF THE AGREEMENT

The Parties agree as follows:

1. Voluntary Closure:

- a. By approving and executing this Agreement, Charter School acknowledges and agrees that it voluntarily surrenders its Charter and will effectively close operations of the Charter School on June 30, 2025.
- b. Charter School understands that the voluntary surrender of its charter is irrevocable and the Charter School waives and forfeits all rights to continue operations after its effective closure date and/or to all appeals to contest the surrender of its Charter.
- c. Charter School relinquishes any and all due process rights under Education Code section 47607 *et. seq.*

2. Effective Date:

- a. The Effective Date of this Agreement shall be the date on which it is fully executed by the Parties.
- b. However, OCBE's consideration of this Agreement is conditioned upon the prior satisfaction of the following terms:
 - i. **Charter School approves and executes this Agreement at an open and public meeting held on or before February 19, 2025.**
 - ii. Written notification is provided to parents by **February 21, 2025**, and to other required entities by **May 31, 2025**, as described in Section 7 of this Agreement.
 - iii. Establish a closure escrow account by **February 24, 2025**, as described in Section 5 of this Agreement.
- c. OCBE shall consider approval of this Agreement at OCBE's Regular Meeting on March 5, 2025, provided that the Charter School has satisfied the prior conditions.

3. Non-Compliance and Revocation Procedures:

- a. The Parties agree that the deadline to remedy the violations outlined in the Notice of Violation is extended from January 8, 2025 to March 5, 2025, thereby extending the timeline in which OCBE may issue a Notice of Intent to Revoke pursuant to Education Code section 47607(h).
- b. Charter School shall be deemed non-compliant if it fails to satisfy any of the terms set forth in this Agreement within the required timelines.
- c. At its sole discretion, OCBE may determine that Charter School is non-compliant and may proceed with revocation procedures by issuing a Notice of Intent to Revoke pursuant to Education Code section 47607.

4. Designation of Responsible Entity to Conduct Closure-Related Activities: Charter School designates the Executive Director as the responsible entity to oversee and manage all closure-related activities until the Charter School is effectively closed on or before June 30, 2025. At that time, the Board President or last remaining Charter School Board member is designated to be the entity responsible to complete all remaining closure-related activities.

5. Closure Escrow Account:

- a. By **February 24, 2025**, Charter School shall establish an escrow account ("Escrow Account") with a financial institution to ensure the availability of funds for all closure-related activities.
- b. Charter School shall deposit and maintain a minimum balance in the Escrow Account sufficient to cover all close-out related expenses, including but not limited to:
 - i. Costs associated with the Final Independent Audit;
 - ii. Employee compensation, including final payroll and benefits;
 - iii. Contributions to the State Teachers' Retirement System ("STRS") and Public Employees' Retirement System ("PERS").
 - iv. Effectuate all closure requirements contained in herein and in 5 CCR section 11962.

- c. All funds received by the Charter School after June 5, 2025, shall be deposited into the Escrow Account until the completion of the final audit and determination of any outstanding financial obligations.
- 6. **Notification to the California Department of Education by OCBE:** Pursuant to Education Code section 47604.32, OCBE will provide timely notification to the California Department of Education ("CDE") regarding the Charter School's closure. In accordance with 5 CCR section 11962.1, within ten (10) calendar days of the effective date of the Agreement, OCBE will notify CDE regarding the circumstances of the Charter School's closure, effective date of the closure, and location of pupil records and personnel records.
- 7. **Written Notification of Closure by Charter School:** Charter School shall provide written notification to each party listed below via first-class mail and email (if available), with a copy of each notification sent to the Orange County Department of Education ("OCDE").
 - a. By **February 21, 2025**, Charter School will provide written notification to the parents (guardians) of pupils via email and first class mail, that will include, at minimum, the following information:
 - i. The effective date of closure;
 - ii. The name(s) of and contact information for the person(s) handling inquiries regarding the closure;
 - iii. The pupil's school districts of residence; and
 - iv. The manner in which parents (guardians) may obtain copies of pupil records, including specific information on completed courses and credits that meet graduation requirements.
 - b. By **May 31, 2025**, Charter School will provide written notification to the Charter School's Special Education Local Plan Area ("SELPA"), retirement systems in which the Charter School's employees participate (e.g., Public Employees' Retirement System ("PERS"), State Teachers' Retirement System ("STRS"), and federal Social Security), and the California Department of Education. Charter School will provide at least the following information:
 - i. The effective date of closure;
 - ii. The name(s) of and contact information for the person(s) handling inquiries regarding the closure;
 - iii. The pupil's school districts of residence; and,
 - iv. The manner in which parents (guardians) may obtain copies of pupil records, including specific information on completed courses and credits that meet graduation requirements.
- 8. **Student and Parent Assistance:** Charter School will work with OCDE to assist families in identifying suitable alternative programs or schools. For students who will not have graduated or transferred to another school as of the effective date of closure, Charter School will provide written notification to the superintendent of the school district of each student's last known address about the Charter School's closure and the name and contact information

of the student returning from the Charter School, with a copy of each notification sent to OCDE.

9. Transfer and Maintenance of All Pupil Records

- a. By May 15, 2025, Charter School will provide OCDE and the designated responsible entity/person a list of all students in each grade level, the classes they have completed, the name of the student's school district of residence, and their home address and contact information.
- b. By May 22, 2025, Pupil Records Transfer:
 - i. Charter School will compile all pupil records, including state assessment results, special education records, and course completion data, in compliance with FERPA and Education Code § 49061(b).
 - ii. Charter School will deliver original records to OCDE and provide copies to parents and new schools.

10. Transfer and Maintenance of Personnel Records: By May 29, 2025, Charter School will transfer personnel records to OCDE in accordance with applicable laws.

11. Reporting and Compliance:

- a. **Annual Reports:** Charter School will complete and file any remaining annual reports required by Education Code section 47604.33:
 - i. Second interim financial report reflecting changes through January 31, 2025, due on or before March 15, 2025.
 - ii. Annual unaudited actual report for the full prior year due on or before September 15, 2025.
- b. **Closure Documentation:** Charter School will require that the designated responsible entity/person will maintain thorough documentation of closure activities for compliance purposes and respond to inquiries from regulatory agencies.

12. Financial Closeout

- a. Pursuant to Education Code section 47605(c)(5)(l) and (m), by April 1, 2025, Charter School will engage an independent auditor registered with the State Controller's Office ("SCO") to assist in the financial closeout and to complete the final audit.
 - i. A copy of the agreement with the independent auditor and proof of payment or evidence of adequate funds in the Escrow Account will be forwarded to OCDE.
 - ii. The audit reports must be completed in compliance with the K-12 LEA Annual Audit Guide ("Audit Guide"). The Audit Guide is updated every year by the SCO and submitted to the Education Audits Appeal Panel ("EAAP") as described in Education Code section 14502.1 to provide audit steps, reporting requirements, and audit guidance and LEA audits.
 - iii. The closeout audit required pursuant to 5 CCR section 11962 may be included with the school's annual audit provided it meets the requirements of both Education Code section 47605(c)(5)(l) and (m) and 5 CCR section 11962; and submitted to CDE, SCO, and OCDE. If the closeout audit is conducted

separately from the annual audit, the closeout audit should be submitted to OCDE.

- b. **Independent Final Audit:** Charter School will complete a final audit within six (6) months of closure (5 CCR section 11962(f)). Audit to include:
 - i. An accounting of all financial assets, including cash and accounts receivable and an inventory of property, equipment, and other items of material value.
 - ii. An accounting of the liabilities, including accounts payable and any reduction in apportionments as a result of audit findings or other investigations, loans, and unpaid staff compensation.
 - iii. An assessment of the disposition of any restricted funds received by or due to the charter school.

13. Financial Obligations and Payment Prioritization:

- a. Charter School shall prioritize the fulfillment of its financial obligations in accordance with applicable laws and regulations. All wages, salaries, and benefits owed to school employees, including compensation through the end of the school year, shall be paid in full before any payments are made to investors or lenders. Specifically, payments to teachers and classified staff shall take precedence over payments to Charter School administrators or officers.
- b. No lump-sum payments, distributions, or disbursements to investors or other creditors shall be made until all employee compensation obligations have been satisfied. The Charter School shall ensure that all financial commitments are met in a manner that upholds its legal and ethical responsibilities to its staff.

14. Asset Disposition: Charter School will dispose of any net assets remaining after all liabilities of the Charter School have been paid or otherwise addressed, including, but not limited to, the following:

- a. The return of any grant funds and restricted categorical funds to their source in accordance with the terms of the grant or state and federal law, as appropriate, which may include submission of final expenditure reports for entitlement grants and the filing of any required final expenditure reports and final performance reports.
- b. The return of any donated materials and property in accordance with any conditions established when the donation of such materials or property was accepted.

15. Non-Liability of OCBE or OCDE:

- a. Charter School acknowledges and agrees that the Orange County Board of Education and the Orange County Superintendent of Schools, also known as the Orange County Department of Education, including their officers, employees, agents, and representatives (collectively, "Chartering Agency"), shall have no liability of any kind, whether direct or indirect, arising from, related to, or in connection with the surrender of the Charter, this Agreement, or the closure of the Charter School. This includes, but is not limited to, any claims, demands, damages, liabilities, losses, costs, expenses, or causes of action of any nature, whether in law or equity, brought by any party, including, but not limited to students, parents, guardians, employees, creditors, vendors, contractors, or third parties.

- b. The Charter School expressly and irrevocably waives, releases, and discharges the Chartering Agency from any and all claims, obligations, or liabilities of any kind, known or unknown, suspected or unsuspected, arising from or related to the negotiation, execution, implementation, interpretation, or enforcement of this Agreement. The Charter School further agrees to indemnify, defend, and hold harmless the Chartering Agency from any claims or liabilities asserted by third parties arising from or related to the surrender of the Charter, this Agreement, or the closure of the Charter School.
- c. Nothing in this Agreement shall be construed as an admission of liability or wrongdoing by the Chartering Agency, which expressly denies any such liability. This provision shall survive the termination, expiration, or surrender of the Charter and remain in full force and effect.

IN WITNESS WHEREOF, the undersigned represent and warrant that they are duly authorized to execute this Agreement on behalf of their respective entities and have caused this Agreement to be executed as of the dates set forth below.

For Charter School:

Date: 2/18/25

Name: William Zulich

Title: BOARD President

Signature: William Zulich

For the Board:

Date: _____

Name: _____

Title: _____

Signature: _____

March 5, 2025

[X] Mailed [] Distributed at meeting RK

ORANGE COUNTY BOARD OF EDUCATION

BOARD AGENDA ITEM

DATE: March 5, 2025
TO: Renee Hendrick, Deputy Superintendent
FROM: David Giordano, Associate Superintendent, Administrative Services
SUBJECT: 2024-2025 Second Interim Report

As required by Education Code Section 1240 (l) county offices of education are required to submit to the Superintendent of Public Instruction a First Interim Report and a Second Interim Report. The first report shall cover the financial and budgetary status of the county office of education for the period ending October 31. The second report shall cover the period ending January 31. Both reports shall be reviewed by the county board of education and approved by the county superintendent no later than 45 days after the close of the period being reported.

The superintendent shall certify in writing whether or not the county office of education is able to meet its financial obligations for the remainder of the fiscal year and two subsequent years. The certifications shall be classified as positive, qualified, or negative, pursuant to standards prescribed by the Superintendent of Public Instruction.

RECOMMENDATION:

Approve the Second Interim Report that is certified Positive by the County Superintendent of Schools. JR

DG:sh

March 5, 2025

RH

[X] Mailed [] Distributed at meeting

ORANGE COUNTY BOARD OF EDUCATION

BOARD AGENDA ITEM

DATE: March 5, 2025

TO: Renee Hendrick, Deputy Superintendent

FROM: David Giordano, Associate Superintendent, Administrative Services

SUBJECT: Approval of Pre-Qualification (PQ) Procedures and Criteria for Evaluating Qualifications of Construction Contractors for the Rancho Sonado Project

BACKGROUND:

Public Contract Code, Section 20111.6 requires the Board to pre-qualify prime contractors and all electrical, mechanical, and plumbing sub-contractors for all public projects that involve a projected expenditure of one million dollars (\$1,000,000) or more.

In order to obtain a more qualified pool of bidders for the Rancho Sonado Project, the Board must adopt and publish procedures and guidelines for evaluating the qualifications of prospective contractors to ensure that best value selections by the County Superintendent are conducted in a fair and impartial manner. Pursuant to Education Code section 17400(b)(1), "best value" means a competitive procurement process whereby the selected contractor is selected on a basis of objective criteria for evaluating the qualifications of contractor with the resulting selection representing the best combination of price and qualifications.

The enclosed Resolution addresses the requirements for the standardized questionnaires that will be issued and how the responses/submittals will be processed. The complete questionnaire is included as Exhibit "A" to the Resolution. Additionally, the required uniform system of establishing points for evaluating the questionnaires is also included as Exhibit "B" to the Resolution.

The pre-qualification process will begin in March 2025, via a legal advertisement in the Orange County Register. Once the pre-qualification process is completed, potential bidders will be notified of their pre-qualification status. Only those bidders that meet the established criteria will be authorized to bid on the Rancho Sonado Construction Project. Proposals to receive bids for the Rancho Sonado Project will be solicited through a Request for Proposals (RFP) process and such contracts will be brought back to the Board for approval.

RECOMMENDATION:

It is recommended that the Board adopt Resolution No. 05-25, implementing a process for Pre-qualification of Contractors in accordance with Public Contract Code Section 20111.6.

**RESOLUTION IMPLEMENTING PREQUALIFICATION
OF CONSTRUCTION CONTRACTORS UNDER
PUBLIC CONTRACT CODE SECTION 20111.6
ORANGE COUNTY SUPERINTENDENT OF SCHOOLS**

RESOLUTION NO. 05-25

WHEREAS, for construction contracts awarded on or after January 1, 2014, Public Contract Code section 20111.6 requires the governing board of a school district with an average daily attendance over two thousand five hundred (2,500) to prequalify bidders for public works projects using any funds received pursuant to the Leroy F. Greene School Facilities Act of 1998 (Education Code section 17070.10 et seq.) or any funds from any future state school bond for a public project with a projected expenditure of one million dollars (\$1,000,000) or more; and

WHEREAS, for purposes of Public Contract Code section 20111.6 and public projects that fall within its purview, bidders shall include the prime contractor and, if utilized, all electrical, mechanical, and plumbing subcontractors (licensed pursuant to section 7058 of the Business and Professions Code- specifically, contractors holding C-4, C-7, C-10, C-16, C-20, C-34, C-36, C-38, C-42, C-43, and C-46 licenses);

WHEREAS, the standardized questionnaire and financial statement in a form specified by the County Superintendent ("Questionnaire") is required to include a complete statement of the prospective bidder's financial ability and experience in performing public works;

WHEREAS, the Questionnaire and financial statement must be verified under oath by the bidder in the manner in which civil pleadings and civil actions are verified;

WHEREAS, the Questionnaire is not a public record and is not to be opened to public inspection,;

WHEREAS, each Questionnaire submitted by a prospective bidder will be scored in accordance with an established point system;

WHEREAS, Public Contract Code section 20111.6 requires the County Superintendent to adopt and apply a uniform system of rating bidders on the basis of the completed Questionnaire in order to determine if bidders will be deemed qualified to bid;

WHEREAS, the County Superintendent may not accept a proposal from any potential bidder who is required to submit a Questionnaire in accordance with Public Contract Code section 20111.6, but has not done so at least ten (10) business days prior to the date fixed upon the public opening of sealed bids, or has not been prequalified by the County Superintendent in accordance with Public Contract Code section 20111.6(f) at least five (5) business days prior to the opening of sealed bids; and

WHEREAS, the County Superintendent wishes to establish a process for prequalifying prospective bidders pursuant to Public Contract Code section 20111.6 on a yearly basis and such prequalification shall be considered valid for up to one (1) calendar year following the date of initial prequalification.

NOW THEREFORE, THE GOVERNING BOARD OF THE ORANGE COUNTY SUPERINTENDENT OF SCHOOLS DOES HEREBY RESOLVE:

1. In accordance with Public Contract Code section 20111.6, the Governing Board ("Board") of the County Superintendent establishes a prequalification program for construction contracts awarded on or after January 1, 2014 that receive funding pursuant to the Leroy F. Greene School Facilities Act of 1998 (Education Code Section 17070.10 et seq.) or any funds from any future state school bond and involves a projected expenditure of one million dollars (\$1,000,000) or more, ("Prequalification Program").

2. The Prequalification Program shall utilize the Questionnaire attached hereto as Exhibit "A" and incorporated herein.

3. In accordance with Public Contract Code section 20111.6, the County Superintendent adopts the Prequalification Evaluation of allocating points set forth in the document attached hereto as Exhibit "B" with respect to the County Superintendent's review of any submitted Questionnaires. Any potential bidder who submits a Questionnaire that does not meet the above-referenced criteria set forth therein shall be considered not qualified and rejected.

4. The Questionnaire shall be completed by any potential bidder in conformance with Public Contract Code section 20111.6.

5. With respect to construction contracts awarded on or after January 1, 2014 that receive funding pursuant to the Leroy F. Greene School Facilities Act of 1998 or any funds from any future state school bond and involves a projected expenditure of one million dollars (\$1,000,000) or more, each prospective bidder must be prequalified in conformance with the Prequalification Program prior to submitting a bid.

6. In submitting any bids for construction contracts awarded on or after January 1, 2014 that receive funding pursuant to the Leroy F. Greene School Facilities Act of 1998 or any funds from any future state school bond and involves a projected expenditure of one million dollars (\$1,000,000) or more, and any future projects that require prequalification of contractors, the County Superintendent will furnish each prospective bidder a standardized proposal form that when completed and executed, will constitute such potential bidder's bid ("Proposal").

7. A Proposal shall not be accepted from any person or other entity for any construction contracts awarded on or after January 1, 2014 that receive funding pursuant to the Leroy F. Greene School Facilities Act of 1998 or any funds from any future state school bond and involves a projected expenditure of one million dollars (\$1,000,000) or more who: (1) has not submitted a Questionnaire at least ten (10) business days prior to the date fixed for the public opening of the seal bids for such construction contract in accordance with Public Contract Code section 20111.6(f), or (2) who has not been prequalified for at least five (5) business days prior to

the public opening of seal bids for such contract, in accordance with Pubic Contract Code section 20111.6(f).

8. Once prequalified pursuant to this section, such prequalification shall be valid for up to one (1) calendar year following the date of initial prequalification.

9. The Board hereby delegates to the County Superintendent, or Designee, the Associate Superintendent, Administrative Services the authority to determine whether a potential bidder shall be considered prequalified, the authority to hear and oversee prequalification determination appeals, and the authority to make revisions to the Questionnaire and Uniform System of allocating points.

PASSED AND ADOPTED by the Governing Board of the Orange County Superintendent of Schools on March 5, 2025, by the following vote:

AYES: _____
NOES: _____
ABSENT: _____
ABSTAIN: _____

I, Jorge Valdes, Esq., Clerk of the Orange County Board of Education, the Board, do hereby certify that the foregoing is a full, true and correct copy of a resolution passed and adopted by said Board at a regularly scheduled and conducted meeting held on said date, which resolution is on file in office of said Board.

Jorge Valdes, Esq., Clerk of the Board

ANNOUNCEMENT OF PREQUALIFICATION PROCEDURES FOR CONSTRUCTION CONTRACTORS

Notice is hereby given by the Orange County Superintendent of Schools, (“County Superintendent”) that prime contractors and mechanical, electrical and plumbing (“MEP”) subcontractors (as defined in Public Contract Code section 20111.6) planning to participate in bidding on certain public projects to be undertaken by the County Superintendent, must be prequalified prior to submitting bids for such public projects. Pursuant to Public Contract Code Section 20111.6 bidders on all public projects using funds received pursuant to the Leroy F. Greene School Facilities Act of 1998 or any funds from any future state school bond that involves a projected public project expenditure of one million dollars (\$1,000,000) or more, must be prequalified.

Prequalification application packages are available on the County Superintendent’s website www.ocde.us or via email directed to Patricia McCaughey, pmccaughey@ocde.us to obtain a copy.

Timeline

In order to submit a valid bid for any project requiring prequalification, prospective bidders must submit a prequalification questionnaire, a financial statement, and a standardized bidding form at least ten (10) business days prior to the date fixed for the public opening of sealed bids or must be deemed prequalified to bid at least five (5) business days prior to that date.

This prequalification packet includes a questionnaire and financial statement, to be verified under oath. The County Superintendent will use the information and documentation required by the packet to prequalify prime contractors and MEP subcontractors in accordance with Public Contract Code section 20111.6.

Questionnaire

All questions in the questionnaire must be answered. If a question is not applicable, then indicate a response of “N/A”. “You” or “Yours” as used herein refers to the prospective bidders’ firm and any of its owners, officers, principals and qualifying individuals. Any references to owners, officer, principals or partners herein shall include any qualifying individuals including any RME or RMO. If two or more business entities submit a bid on a project as a Joint Venture, or expect to submit a bid as part of a Joint Venture, each entity within the Joint Venture must be separately qualified to bid.

Each questionnaire must be signed under penalty of perjury in the manner designated at the end of the form, by an individual who has the legal authority to bind the contractor on whose behalf that person is signing. If any information provided by a prospective bidder becomes inaccurate, the prospective bidder must immediately notify the County Superintendent and provide updated accurate information in writing, under penalty of perjury. Each prospective bidder shall have a duly authorized owner, officer or principal complete the questionnaire and verify the truth of the information provided therein and in the financial statement.

Financial Statement

In addition to completing the attached questionnaire, each prospective bidder must submit its most current reviewed or year-end audited financial statement, which must have been prepared by a certified public accountant within twelve (12) months of each prospective bidder's submission of the prequalification package. Each prospective bidder must also provide its most current financial statement, which must have been prepared within three (3) months of each prospective bidder's submission of the prequalification package. Finally, each prospective bidder must submit a notarized statement from an admitted surety insurer (approved by the California County Superintendent of Insurance and authorized to issue bonds in the State of California) which states your current bonding capacity.

Financial statements submitted with this prequalification package shall not be prepared by any individual who is in the regular employ of the firm submitting the statement, nor by any individual or entity who has more than a ten percent (10%) financial interest in the firm's business. If the individual or entity that prepared a financial statement submitted with this prequalification package has any financial interest in the firm's business, the firm shall notify the County Superintendent of such financial interest in a separate signed statement accompanying this prequalification package.

Submission

Prospective bidders are encouraged to submit prequalification packages as soon as possible, so that they may be notified of prequalification status well in advance of the bid process. Only electronic submittals will be accepted. Email the file or link to download the file to pmccaughey@ocde.us. If you experience technical difficulties submitting the information due to file size or format, we will make arrangements to submit a flash drive of the file via mail or FedEx.

If prior arrangements are made for the prospective bidder to submit a file via mail or FedEx, the prequalification packages must be sealed, marked "CONFIDENTIAL PREQUALIFICATION," and mailed to the following:

Patricia McCaughey
Orange County Superintendent of Schools
200 Kalmus Drive
Costa Mesa, California 92626

The questionnaire answers and financial statements included in the prequalification packages submitted by prospective bidders are not public records and are not open to public inspection. All such information provided will be kept confidential to the extent permitted by law, although the contents may be disclosed to third parties for the purpose of verification, investigation of substantial allegations, and in the process of any subsequent proceedings. State law requires that the names of contractors applying for prequalification status shall be public records subject to disclosure, and the first page of the questionnaire will be used for that purpose.

Evaluation by the County Superintendent

The County Superintendent will evaluate the information provided and issue each submitting prospective bidder a rating of “Prequalified” or “Not Prequalified.” The County Superintendent’s decision will be based on the information provided, references, and such additional outside information as the County Superintendent in its discretion deems reasonable and necessary to obtain. The County Superintendent may, but is not obligated to, investigate the truth of any statements or information provided by a prospective bidder in response hereto.

Prequalification approval will remain valid for one (1) calendar year from the date of notice of qualification, except that the County Superintendent reserves the right during that calendar year to adjust, increase, limit, suspend or rescind the prequalification ratings based on subsequently learned information and after giving notice of the proposed action to the prospective bidder and an opportunity for a hearing consistent with the hearing procedures described below for appealing a prequalification determination.

While it is the intent of the prequalification questionnaire and documents required herein to assist the County Superintendent in determining bidder responsibility prior to the submission of bids and to aid the County Superintendent in selecting the lowest responsible bidder, neither the fact of prequalification, nor any prequalification rating, will preclude the County Superintendent from a post-bid consideration and determination on a specific project of whether a bidder has the quality, fitness, capacity and experience to satisfactorily perform the proposed work, and has demonstrated the requisite trustworthiness.

Appeal

A prospective bidder who has timely submitted a completed application form, and who receives a rating of “Not Prequalified” from the County Superintendent may appeal that determination. There is no appeal from a finding that a prospective bidder is not prequalified because of a late application or a failure to submit required information. A prospective bidder may appeal the County Superintendent’s decision with respect to its request for prequalification, by giving written notice to the County Superintendent no later than five (5) business days after receipt of notice of its qualification status. Notice shall be sent to the address listed above. Unless a prospective bidder files a timely appeal, the prospective bidder waives any and all rights to challenge the qualification decision of the County Superintendent, whether by administrative process, judicial process or any other legal process or proceeding. The County Superintendent reserves the right to resolve appeals before or after bid opening or award of any contract. The date for submission and opening of bids for a specific project and any subsequent contract award will not be delayed or postponed to allow for completion of an appeal process.

After receipt of a request for appeal, the County Superintendent will provide the prospective bidder any supporting evidence that has been received from others or adduced as a result of an investigation by the County Superintendent. The appealing prospective bidder will be provided an opportunity to rebut any evidence. The County Superintendent, in its sole discretion, may conduct a hearing regarding the prospective bidder’s timely appeal. If such a hearing is conducted, the prospective

bidder consents to the County Superintendent's Associate Superintendent, Administrative Services, or his or her designee, to act as the hearing officer

Bidding

Bids will not be accepted from any prospective bidder that did not timely submit a completed prequalification questionnaire and supporting documents, including financial statements, to the County Superintendent. Omission of requested information, falsification of information, or failing to use the forms provided by the County Superintendent may result in a finding of "not prequalified".

MEP subcontractors (licensed pursuant to Section 7058 of the Business and Professions Code, specifically contractors holding C-4, C-7, C-10, C-16, C-20, C-34, C-36, C-38, C-42, C-43, and C-46 licenses) must also meet prequalification requirements on all projects using funds received pursuant to the Leroy F. Greene School Facilities Act of 1998 or any funds from any future state school bond that involves a projected expenditure of one million dollars (\$1,000,000) or more. If a project includes electrical, mechanical, or plumbing components that will be performed by MEP subcontractors, a list of prequalified prime contractors and MEP subcontractors will be made available by the County Superintendent to all bidders at least five (5) business days prior to the dates fixed for the public opening of sealed bids.

If a prime contractor uses any MEP subcontractor required for any project, such MEP subcontractor must be prequalified pursuant to these prequalification forms and requirements. If a MEP subcontractor in any prime contractor bid is not prequalified, that bid will not be accepted.

Prospective bidders are warned that a project may have specific requirements that differ or are in addition to being properly prequalified pursuant to these documents. A determination that a contractor or MEP subcontractor is prequalified pursuant to these documents does not automatically mean a contractor or MEP subcontractor meets all of the requirements of a specific project. Prospective bidders are instructed to carefully review the requirements for each project before submitting a bid.

The County Superintendent reserves the right to amend the prequalification packet at any time. The County Superintendent reserves the right to waive minor irregularities and omissions in the information contained in the prequalification application submitted and to make all final determinations. Additionally, a determination by the County Superintendent that a prospective bidder is prequalified does not amount to a final determination that such prospective bidder is responsible or responsive for purposes of bid evaluation. The County Superintendent may, in accordance with applicable law reject a prequalified contractor's bid, and the County Superintendent may additionally reject all bids if it determines such action is in the best interest of the public.

EXHIBIT “A”

[INSERT PREQUALIFICATION QUESTIONNAIRE]

**ORANGE COUNTY SUPERINTENDENT OF SCHOOLS
PREQUALIFICATION QUESTIONNAIRE**

IMPORTANT INFORMATION: Please note: Declaration under penalty of perjury (last page of questionnaire) is required under State law. Failure to sign form will invalidate the prequalification packet. A passing score in general for prequalification does not guarantee that bidder will be eligible to bid this particular project. Contractors will receive a separate determination as to the overall prequalification dollar limit.

CONTACT INFORMATION

Contractor _____
(as it appears on license)

Check one of the following:

- ☐ Corporation
☐ Partnership
☐ Sole Proprietorship
☐ Joint Venture

Contact Person: _____

Address (City, State, Zip): _____

Phone: _____ Fax: _____

Email: _____ Company Website: _____

Contractor's License Number(s) and Types (Please include expiration date):

Tax ID Number _____

If firm is a sole proprietor or partnership:

Owner(s) of Company _____

Company Union Status: Union Non-Union

Minority Status: MBE DBE DVBE SBE DBE

Other Minority Certification: _____

<p style="text-align: center;">ORANGE COUNTY SUPERINTENDENT OF SCHOOLS PREQUALIFICATION QUESTIONNAIRE</p>
--

PART I. ESSENTIAL REQUIREMENTS FOR QUALIFICATION

Contractor will be immediately disqualified if the answer to any of questions 1 through 6 is “no.”¹

To Contractors seeking prequalification as a subcontractor only: You must respond to all Part I questions, however your response to Part I, Question Number 5 will not be rated.

Contractor will be immediately disqualified if the answer to any of questions 7, 8, 9 or 10 is “yes.”² If the answer to question 9 is “yes,” and if debarment would be the sole reason for denial of prequalification, any prequalification issued will exclude the debarment period.

1. Contractor possesses a valid and current California Contractor’s license for the project or projects for which it intends to submit a bid.
☐ Yes ☐ No
2. Contractor has a liability insurance policy with a policy limit of at least \$1,000,000 per occurrence and \$2,000,000 aggregate.
☐ Yes ☐ No **(Please provide a current Certificate of Insurance as verification)**
3. Contractor has current workers’ compensation insurance policy as required by the Labor Code or is legally self-insured pursuant to Labor Code section 3700 *et. seq.*
☐ Yes ☐ No ☐ Contractor is exempt from this requirement, because it has no employees
4. Have you attached your latest copy of a reviewed or audited financial statement with accompanying notes and supplemental information.³
☐ Yes ☐ No

NOTE: A financial statement that is not either reviewed or audited is not acceptable. A letter verifying availability of a line of credit may also be attached; however, it will

¹ A “no” answer to Question 4 will not be disqualifying if the contractor is exempt from complying with Question 4, for reasons explained in footnote 3.

² A contractor disqualified solely because of a “Yes” answer given to question 7, 8, or 10 may appeal the disqualification and provide an explanation of the relevant circumstances during the appeal procedure.

³ Public Contract Code section 20101(e) exempts from this requirement a contractor who has qualified as a small business pursuant to Government Code section 14837(d)(1), if the bid is “no more than 25 percent of the qualifying amount provided in section 14837(d)(1).” As of August 12, 2013, the qualifying amount is \$10 million, and 25 percent of that amount, therefore, is \$2.5 million.

be considered as supplemental information only, and is not a substitute for the required financial statement.

5. Have you attached a notarized statement from an admitted surety insurer (approved by the California Department of Insurance) and authorized to issue bonds in the State of California, which states: (a) that your current bonding capacity is sufficient for the project for which you seek prequalification if you are seeking prequalification for a single project; or (if you are seeking prequalification valid for a year) (b) your current available bonding capacity?⁴

☐ Yes ☐ No

NOTE: Notarized statement must be from the surety company, not an agent or broker. Contractors seeking prequalification as a subcontractor only: You must respond to this question, however you will not be rated according to your response.

6. Are you currently registered with the Department of Industrial Relations in accordance with Labor Code section 1725.5?

☐ Yes ☐ No

If yes, what is your registration number _____.

Please submit proof of registration.

7. Has your contractor's license been revoked at any time in the last five years, even if such revocation was stayed at any time?

☐ Yes ☐ No

8. Has a surety firm completed a contract on your behalf, or paid for completion because your firm was default terminated by the project owner within the last five (5) years?

☐ Yes ☐ No

9. At the time of submitting this prequalification form, is your firm ineligible to bid on or be awarded a public works contract, or perform as a subcontractor on a public works contract, pursuant to either Labor Code section 1777.1 or Labor Code section 1777.7?

☐ Yes ☐ No

If the answer is "Yes," state the beginning and ending dates of the period of debarment:

⁴ An additional notarized statement from the surety may be requested by the Orange County Superintendent of Schools at the time of submission of a bid, if this prequalification package is submitted more than 60 days prior to submission of the bid.

10. At any time during the last five years, has your firm or any of its owners or officers been convicted of a crime involving the awarding of a contract of a government construction project, or the bidding or performance of a government contract?

☐ Yes ☐ No

**ORANGE COUNTY SUPERINTENDENT OF SCHOOLS
PREQUALIFICATION QUESTIONNAIRE**

**PART II. ORGANIZATION, HISTORY, ORGANIZATIONAL PERFORMANCE,
COMPLIANCE WITH CIVIL AND CRIMINAL LAWS**

A. Current Organization and Structure of the Business

For Firms That Are Corporations:

- 1a. Date incorporated : _____
- 1b. Under the laws of what state: _____
- 1c. Provide all the following information for each person who is either (a) an officer of the corporation (president, vice president, secretary, treasurer), or (b) the owner of at least ten percent of the corporation's stock.

Name	Position	Years with Co.	% Ownership	Last four Social Security *

- 1d. Identify every construction firm that any person listed above has been associated with (as owner, general partner, limited partner or officer) at any time during the last five years.
NOTE: For this question, "owner" and "partner" refer to ownership of ten percent or more of the business, or 10 percent or more of its stock, if the business is a corporation.

Person's Name	Construction Firm	Dates of Person's Participation with Firm

For Firms That Are Partnerships:

- 1a. Date of formation: _____
- 1b. Under the laws of what state: _____
- 1c. Provide all the following information for each partner who owns 10 percent or more of the firm.

Name	Position	Years with Co.	% Ownership	Last four Social Security #'s

*last four numbers of Social Security is suitable.

- 1d. Identify every construction company that any partner has been associated with (as owner, general partner, limited partner or officer) at any time during the last five years. **NOTE: For this question, “owner” and “partner” refer to ownership of ten percent or more of the business, or ten percent or more of its stock, if the business is a corporation.**

Person’s Name	Construction Firm	Dates of Person’s Participation with Firm

For Firms That Are Sole Proprietorships:

- 1a. Date of commencement of business. _____
- 1b. Social security number of company owner. _____
- 1c. Identify every construction firm that the business owner has been associated with (as owner, general partner, limited partner or officer) at any time during the last five years. **NOTE: For this question, “owner” and “partner” refer to ownership of ten percent or more of the business, or ten percent or more of its stock, if the business is a corporation.**

Person’s Name	Construction Company	Dates of Person’s Participation with Company

For Firms That Intend to Make a Bid as Part of a Joint Venture:

- 1a. Date of commencement of joint venture. _____
- 1b. Provide all of the following information for each firm that is a member of the joint venture that expects to bid on one or more projects:

Name of firm	% Ownership of Joint Venture

B. History of the Business and Organizational Performance

2. How many years has your organization completed work for public agencies?

Years: _____

3. Has your organization ever been licensed in California under a different name or different license number?

☐ Yes ☐ No

If “yes,” please list all name(s) and license number(s), on a separate signed page.

4. Are you currently prequalified with any other school district?

☐ Yes ☐ No

If yes, please identify the school district(s), with contact information and the dollar rating that you have been prequalified for at such school district(s), on a separate signed page.

5. Has there been any change in ownership of the firm at any time during the last three years?

NOTE: A corporation whose shares are publicly traded is not required to answer this question.

☐ Yes ☐ No

If “yes,” explain on a separate signed page.

6. Is the firm a subsidiary, parent, holding company or affiliate of another construction firm?

NOTE: Include information (including license number(s) about other firms if one firm owns 50 percent or more of another, or if an owner, partner, or officer of your firm holds a similar position in another firm.

☐ Yes ☐ No

If “yes,” explain on a separate signed page. Please include all name(s) and license number(s)

7. Are any corporate officers, partners or owners connected to any other construction firms?

NOTE: Include information about other firms if an owner, partner, or officer of your firm holds a similar position in another firm.

☐ Yes ☐ No

If “yes,” explain on a separate signed page.

List your firm's gross revenues for each of the last three years:

Year: _____ \$ _____

Year: _____ \$ _____

Year: _____ \$ _____

8. How many years has your organization been in business in California as a contractor under your present business name and license number? _____ Years

9. Is your firm currently the debtor in a bankruptcy case?

☐ Yes ☐ No

If "yes," please attach a copy of the bankruptcy petition, showing the case number, and the date on which the petition was filed.

10. If your firm is not currently in bankruptcy, was your firm in bankruptcy at any time during the last five years?

☐ Yes ☐ No

If "yes," please attach a copy of the bankruptcy petition, showing the case number and the date on which the petition was filed, and a copy of the Bankruptcy Court's discharge order, or of any other document that ended the case, if no discharge order was issued.

In what type of construction do you specialize?: _____

What was the largest amount of work completed in one year: _____

Number of projects: _____ Year: _____ Amount of Largest Project: _____

C. Licenses

List all California construction license numbers, classifications and expiration dates of the California contractor licenses held by your firm:

If any of your firm's license(s) are held in the name of a corporation or partnership, list below the names of the qualifying individual(s) listed on the CSLB records who meet(s) the experience and examination requirements for each license.

11. Has your firm changed names or license number in the past five years?

☐ Yes ☐ No

If "yes," explain on a separate signed page, including the reason for the change.

12. Has any owner, partner or (for corporations) officer of your firm operated a construction firm under any other name in the last five years?

☐ Yes ☐ No

If "yes," explain on a separate signed page, including the reason for the change.

13. Has any CSLB license held by your firm or its Responsible Managing Employee (RME) or Responsible Managing Officer (RMO) been suspended within the last five years?

☐ Yes ☐ No

If "yes," please explain on a separate signed sheet.

D. Surety and Bonding Information

Bonding capacity: **Please provide a letter stating bondability from current surety company.** Also, please provide documentation from your surety (not agency) identifying the following:
NOTE: Contractors seeking prequalification as a subcontractor only: You must respond to this question, however you will not be rated according to your response.

Name of bonding company/surety: _____

Name of surety agent/contact person, address and telephone number:

14. If your firm was required to pay a premium of more than one percent for a performance and payment bond on any project(s) on which your firm worked at any time during the last three years, state the percentage that your firm was required to pay. You may provide an explanation for a percentage rate higher than one percent, if you wish to do so.

NOTE: Contractors seeking prequalification as a subcontractor only: You must respond to this question, however you will not be rated according to your response.

(NOTE: Contractors seeking prequalification as a subcontractor only: Response will not be rated.)

List all other sureties, not agencies (name, contact person, full address, phone number, largest bond obtained) that have written bonds for your firm during the last five years, including the dates during which each wrote the bonds (If necessary, list on separate signed sheet) **NOTE: Contractors seeking prequalification as a subcontractor only: You must respond to this question, however you will not be rated according to your response.:**

15. During the last five years, has your firm ever been denied bond coverage by a surety company, or has there ever been a period of time when your firm had no surety bond in place during a public construction project when one was required? **NOTE: Contractors seeking prequalification as a subcontractor only: You must respond to this question, however you will not be rated according to your response.**

☐ Yes ☐ No

If yes, provide details on a separate signed sheet indicating the date when your firm was denied coverage and the name of the company or companies which denied coverage; and the period during which you had no surety bond in place.

(NOTE: Contractors seeking prequalification as a subcontractor only: Response will not be rated.)

16. At any time during the past five years, has any surety company made any payments on your firm's behalf as a result of a default, to satisfy any claims made against a performance or payment bond issued on your firm's behalf, in connection with a construction project, either public or private? **NOTE: Contractors seeking prequalification as a subcontractor only: You must respond to this question, however you will not be rated according to your response.**

☐ Yes ☐ No

If “yes,” explain on a separate signed page the amount of each such claim, the name and telephone number of the claimant, the date of the claim, the grounds for the claim, the present status of the claim, the date of resolution of such claim if resolved, the method by which such was resolved if resolved, the nature of the resolution and the amount, if any, at which the claim was resolved.

(NOTE: Contractors seeking prequalification as a subcontractor only: Response will not be rated.)

17. Has your firm ever failed to complete a contract?

☐ Yes ☐ No

If “yes,” explain on a separate signed page.

How many projects is your firm currently bonded for? _____

What are the contract amounts your firm has currently bonded?

Contracts	Amount Bonded

E. Insurance

Insurance Company: _____

Address: _____

City, State, Zip: _____

Phone Number: _____ Facsimile Number: _____

Contact Person: _____

18. How long have you been with this insurance company?

If less than two years, please list prior insurance companies below:

Insurance Company	Address	Phone	Contact Person	Year(s)

19. In the last five years has any insurance carrier, for any form of insurance, refused to renew the insurance policy for your firm?

☐ Yes ☐ No

If “yes,” explain on a separate signed page. Name the insurance carrier, the form of insurance and the year of the refusal.

20. Has your organization ever had insurance terminated by a carrier in the past five (5) years due to an excessive claims history and/or nonpayment of premium?

If “yes,” explain on a separate signed sheet. Name the insurance carrier, the form of insurance, and year of termination.

F. Safety Program & Workers’ Compensation

Each bidder shall submit a copy of the Table of Contents from bidder’s established safety/injury prevention program which complies with the Contract Documents and all applicable governmental regulations. After determination of the successful bidder, its subcontractors must submit a copy of their respective safety/injury prevention programs within five (5) days of the County Superintendent’s request.

Bidder: _____

Signature: _____

By: _____

Date: _____

Each bidder shall submit its workers’ compensation experience modification factor. After determination of the successful bidder, its subcontractors must submit their workers compensation modification factor within five (5) days of County Superintendent’s request.

21. List your firm's Experience Modification Rate (EMR) (California Workers' Compensation Insurance) for each of the past premium years:

Current Year: _____

Previous Year: _____

Year Prior to Previous Year: _____

If your EMR for any of these three years is or was 1.25 or higher you may, if you wish, attach a letter of explanation.

22. Within the last five years has there ever been a period when your firm had employees but was without workers' compensation insurance or state-approved self-insurance?

☐ Yes ☐ No

If "yes," please explain the reason for the absence of workers' compensation insurance on a separate signed page. If "No," please provide a statement by your current workers' compensation insurance carrier that verifies periods of workers' compensation insurance coverage for the last five years. (If your firm has been in the construction business for less than five years, provide a statement by your workers' compensation insurance carrier verifying continuous workers' compensation insurance coverage for the period that your firm has been in the construction business.)

G. Compliance with Occupational Safety and Health Laws and with Other Labor Legislation Safety

Each bidder, and its subcontractors, must declare any serious or willful violations of Part 1 (commencing with Section 6300) of Division 5 of the California Labor Code received during the last five years. This information must include all construction work undertaken in the United States by the bidder and any affiliate of the bidder. Separate information shall be submitted for each particular partnership, joint venture, corporation, Limited Liability Company or individual bidder or subcontractor. The bidder or its subcontractors may be requested to submit additional information or explanation of data, which County Superintendent may require for evaluating the safety record. The term "affiliate" shall mean any firm, corporation, partnership, joint venture, limited liability company or association which is a member, joint venturer or partner of the bidder, or any such entity which owns a substantial interest in, or is owned in common with, the bidder, its subcontractor or any of its members, joint venturers or partners, or any such entity in which the bidder, its subcontractor, or any of their members, joint venturers or partners own a substantial interest.

23. Has your firm ever received a serious or willful safety violation during the last five (5) years?

☐ Yes ☐ No

If “yes,” attach a separate signed page describing the violation, including information about the dates, the nature of the violation, the project on which the citation(s) was or were issued, the amount of penalty paid, if any.

24. Has CAL OSHA cited and assessed penalties against your firm for any “serious,” “willful” or “repeat” violations of its safety or health regulations in the past five years? **NOTE: If you have filed an appeal of a citation, and the Occupational Safety and Health Appeals Board has not yet ruled on your appeal, you need not include information about it.**

☐ Yes ☐ No

If “yes,” attach a separate signed page describing the citations, including information about the dates of the citations, the nature of the violation, the project on which the citation(s) was or were issued, the amount of penalty paid, if any. If the citation was appealed to the Occupational Safety and Health Appeals Board and a decision has been issued, state the case number and the date of the decision.

25. Has the federal Occupational Safety and Health Administration cited and assessed penalties against your firm in the past five years? **NOTE: If you have filed an appeal of a citation and the Appeals Board has not yet ruled on your appeal, or if there is a court appeal pending, you need not include information about the citation.**

☐ Yes ☐ No

If “yes,” attach a separate signed page describing each citation.

26. Has the EPA or any Air Quality Management District or any Regional Water Quality Control Board or any local authorities cited and assessed penalties against either your firm or the owner of a project on which your firm was the contractor, in the past five years? **NOTE: If you have filed an appeal of a citation and the Appeals Board has not yet ruled on your appeal, or if there is a court appeal pending, you need not include information about the citation.**

☐ Yes ☐ No

If “yes,” attach a separate signed page describing each citation.

27. How often do you require documented safety meetings to be held for construction employees and field supervisors during the course of a project?

28. How often do you conduct documented safety inspections on a construction site?

Daily _____ Weekly _____ Quarterly _____

29. Does your firm currently have a safety plan which complies with the current OSHA standards?

☐ Yes ☐ No

30. Have any of your subcontractors you retained ever received a serious or willful industrial safety violation during the last five (5) years?

☐ Yes ☐ No

If "yes," attach a separate signed page listing each subcontractor, its license number and provide a brief explanation.

H. Prevailing Wage and Apprenticeship Compliance Record

31. Has there been more than one occasion during the last five years in which your firm was required to pay either back wages or penalties for your own firm's failure to comply with the state's prevailing wage laws? **NOTE: This question refers only to your own firm's violation of prevailing wage laws, not to violations of the prevailing wage laws by a subcontractor.**

☐ Yes ☐ No

If "yes," attach a separate signed page or pages, describing the nature of each violation, identifying the name of the project, the date of its completion, the public agency for which it was constructed; the number of employees who were initially underpaid and the amount of back wages and penalties that you were required to pay.

32. During the last five years, has there been more than one occasion in which your own firm has been penalized or required to pay back wages for failure to comply with the **federal** Davis-Bacon prevailing wage requirements?

☐ Yes ☐ No

If "yes," attach a separate signed page or pages describing the nature of the violation, identifying the name of the project, the date of its completion, the public agency for which it was constructed; the number of employees who were initially underpaid, the amount of back wages you were required to pay along with the amount of any penalty paid.

33. Provide the **name, address and telephone number** of the apprenticeship program (approved by the California Apprenticeship Council) from whom you intend to request the dispatch of apprentices to your company for use on any public work project for which you are awarded a contract by the County Superintendent.

34. If your firm operates its own State-approved apprenticeship program:

- (a) Identify the craft or crafts in which your firm provided apprenticeship training in the past year.
- (b) State the year in which each such apprenticeship program was approved, and attach evidence of the most recent California Apprenticeship Council approval(s) of your apprenticeship program(s).
- (c) State the number of individuals who were employed by your firm as apprentices at any time during the past three years in each apprenticeship and the number of persons who, during the past three years, completed apprenticeships in each craft while employed by your firm.

35. At any time during the last five years, has your firm been found to have violated any provision of California apprenticeship laws or regulations, or the laws pertaining to use of apprentices on public works? **NOTE: You may omit reference to any incident that occurred prior to January 1, 1998, if the violation was by a subcontractor and your firm, as general contractor on a project, had no knowledge of the subcontractor's violation at the time they occurred.**

☐ Yes ☐ No

If "yes," provide the date(s) of such findings, and attach copies of the County Superintendent's final decision(s)

I. Disputes

36. At any time in the last five years has your firm been assessed and paid liquidated damages after completion of a project under a construction contract with either a public or private owner?

☐ Yes ☐ No

If yes, explain on a separate signed page, identifying all such projects by owner, owner's address, the date of completion of the project, amount of liquidated damages assessed and all other information necessary to fully explain the assessment of liquidated damages.

37. In the last five years has your firm, or any firm with which any of your company's owners, officers or partners was associated, been debarred, disqualified, removed or otherwise prevented from bidding on, or completing, any government agency or public

works project for any reason? **NOTE: “Associated with” refers to another construction firm in which an owner, partner or officer of your firm held a similar position, and which is listed in response to question 1c or 1d on this form.**

☐ Yes ☐ No

If “yes,” explain on a separate signed page. State whether the firm involved was the firm applying for prequalification here or another firm. Identify by name of the company, the name of the person within your firm who was associated with that company, the year of the event, the owner of the project, the project and the basis for the action.

38. In the last five years has your firm been denied an award of a public works contract based on a finding by a public agency that your company was not a responsible bidder?

☐ Yes ☐ No

If “yes,” explain on a separate signed page. Identify the year of the event, the owner, the project and the basis for the finding by the public agency.

* * * * *

NOTE: The following two questions refer only to disputes between your firm and the owner of a project. You need not include information about disputes between your firm and a supplier, another contractor, or subcontractor. You need not include information about “pass-through” disputes in which the actual dispute is between a sub-contractor and a project owner. Also, you may omit reference to all disputes about amounts of less than \$50,000.

39. In the past five years has any claim **against** your firm concerning your firm’s work on a construction project in California been **filed in court or arbitration**?

☐ Yes ☐ No

If “yes,” on separate signed sheets of paper identify the claim(s) by providing the project name, date of the claim, name of the claimant, a brief description of the nature of the claim, the court in which the case was filed and a brief description of the status of the claim (pending or, if resolved, a brief description of the resolution).

40. In the past five years has your firm made any claim against a project owner concerning work on a project in California or payment for a contract in California and **filed that claim in court or arbitration**?

☐ Yes ☐ No

If “yes,” on separate signed sheets of paper identify the claim by providing the project name, date of the claim, name of the entity (or entities) against whom the claim was filed, a brief description of the nature of the claim, the court in which the case was filed and a

brief description of the status of the claim (pending, or if resolved, a brief description of the resolution).

J. Criminal Matters and Related Civil Suits

41. Has your firm or any of its owners, officers or partners ever been found liable in a civil suit or found guilty in a criminal action for making any false claim or material misrepresentation to any public agency or entity?

☐ Yes ☐ No

If “yes,” explain on a separate signed page, including identifying who was involved, the name of the public agency, the date of the investigation and the grounds for the finding.

42. Has your firm or any of its owners, officers or partners ever been convicted of a crime involving any federal, state, or local law related to construction?

☐ Yes ☐ No

If “yes,” explain on a separate signed page, including identifying who was involved, the name of the public agency, the date of the conviction and the grounds for the conviction.

43. Has your firm or any of its owners, officers or partners ever been convicted of a federal or state crime of fraud, theft, or any other act of dishonesty?

☐ Yes ☐ No

If “yes,” identify on a separate signed page the person or persons convicted, the court (the county if a state court, the County Superintendent or location of the federal court), the year and the criminal conduct.

<p style="text-align: center;">ORANGE COUNTY SUPERINTENDENT OF SCHOOLS PREQUALIFICATION QUESTIONNAIRE</p>
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PART III. FINANCIAL INFORMATION

Audited or reviewed statements are required for all construction projects totaling over \$1,000,000 or more (A certificate of a licensed accountant will be required in all cases).

1. COMPLETE THIS CERTIFICATE FOR A REVIEW ONLY OF FINANCIAL STATEMENT

We have reviewed the accompanying financial statement of _____
_____ as of _____. The information included
in the financial statement is the representation of the management of the above firm.

Based on our review with the exception of the matter(s) described in the following paragraph(s), we are not aware of any material modifications that should be made to the accompanying financial statements in order for them to be in conformity with generally accepted accounting principles.

(Type Name of Firm)

(Accountant Signature)

(Telephone Number)

(License Number)

(NOTE THIS REVIEW CONSISTS PRINCIPALLY OF INQUIRIES OF MANAGEMENT AND APPROPRIATE ANALYTICAL PROCEDURES APPLIED TO THIS FINANCIAL DATA. IT IS SUBSTANTIALLY LESS IN SCOPE THAN AN EXAMINATION IN ACCORDANCE WITH GENERALLY ACCEPTED AUDITING STANDARDS, THE OBJECTIVE OF WHICH IS THE EXPRESSION OF AN OPINION REGARDING THE FINANCIAL STATEMENTS TAKEN AS A WHOLE. ACCORDINGLY, WE HAVE NOT EXPRESSED SUCH AN OPINION.)

**ORANGE COUNTY SUPERINTENDENT OF SCHOOLS
PREQUALIFICATION QUESTIONNAIRE**

PART IV. FINANCIAL INFORMATION

Audited or reviewed statements are required for all construction projects totaling over \$1,000,000 or more (A certificate of a licensed accountant will be required in all cases)

1. COMPLETE THIS CERTIFICATE FOR AN AUDIT OF FINANCIAL STATEMENT

STATE OF: _____

We have examined the Financial Statement of _____
as of _____. Our examination was made in accordance with generally
accepted auditing standards, and accordingly included such tests of the accounting records and
such other auditing procedures as we considered necessary in the circumstances.

In our opinion, the accompanying financial statement included on pages _____ to _____,
inclusive, sets forth fairly, in all material respects, the financial condition of
_____ as of _____, in conformity with
generally accepted accounting principles.

(Type Name of Firm)

(Accountant Signature)

(Telephone Number)

(License Number)

Special Note to Accountant: the above Certificate of Accountant shall not be made by any individual who is in the regular employ of the individual, partnership or corporation submitting the statement; or by any individual who is a member of the firm with more than ten percent financial interest.

<p>ORANGE COUNTY SUPERINTENDENT OF SCHOOLS PREQUALIFICATION QUESTIONNAIRE</p>
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ACCOUNTANT'S RELEASE LETTER

By signing the form below, I authorize the Orange County Superintendent of Schools to contact our company's licensed accounting firm to verify our most recent audited or reviewed financial statement. I understand the financial statement is confidential information and is not open to public inspection.

Signature

Printed Name / Title

Company Name

Date

<p style="text-align: center;">ORANGE COUNTY SUPERINTENDENT OF SCHOOLS PREQUALIFICATION QUESTIONNAIRE</p>
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**PREQUALIFICATION STATEMENT FOR
ORANGE COUNTY SUPERINTENDENT OF SCHOOLS**

Each prospective bidder must have a current and active license at the time of the award and must submit the following information on this form.

DECLARATION

I, _____ (printed name) hereby declare that I am the
_____ (title) of _____ (name of
bidder) submitting this Prequalification Statement; that I am duly authorized to execute this
Prequalification Statement on behalf of the above-named company; and that all information set
forth in this Prequalification Statement and all attachments hereto are, to the best of my knowledge,
true, accurate, and complete as of its submission date. I acknowledge that any false statements,
inaccuracies or failure to disclose are grounds for disqualification. In executing this Declaration,
I hereby permit the Orange County Superintendent of Schools to contact any owner, school
district, contractor, subcontractor, supplier or any other party that the Orange County
Superintendent of Schools deems relevant for purposes of verifying or gathering any information
necessary to complete the evaluation of this prequalification submittal.

I declare, under penalty of perjury, that the foregoing is true and correct and that this declaration
was

Subscribed at _____ (location and city), County of
_____, State of _____,
on _____ (date).

(Signature)

(If signed by other than the sole proprietor, a general partner, or corporate officer, attach original
notarized power of attorney or corporate resolution.)

All information submitted for prequalification evaluation will be considered official information
acquired in confidence and the County Superintendent will maintain its confidentiality to the extent
permitted by law.

EXHIBIT “B”

[INSERT UNIFORM SYSTEM OF ALLOCATING POINTS/SCORING]

**ORANGE COUNTY SUPERINTENDENT OF SCHOOLS PREQUALIFICATION
QUESTIONNAIRE SCORING**

IMPORTANT INFORMATION: Please note: Declaration under penalty of perjury (last page of questionnaire) is required under State law. Failure to sign form will invalidate the prequalification packet. A passing score in general for prequalification does not guarantee that bidder will be eligible to bid this particular project. Contractors will receive a separate determination as to the overall prequalification dollar limit.

CONTACT INFORMATION

Contractor _____
(as it appears on license)

Check one of the following:

- ☐ Corporation
☐ Partnership
☐ Sole Proprietorship
☐ Joint Venture

Contact Person: _____

Address (City, State, Zip): _____

Phone: _____ Fax: _____

Email: _____ Company Website: _____

Contractor's License Number(s) and Types (Please include expiration date):

Tax ID Number _____

If firm is a sole proprietor or partnership:

Owner(s) of Company _____

Company Union Status: Union Non-Union

Minority Status: MBE DBE DVBE SBE DBE

Other Minority Certification: _____

**ORANGE COUNTY SUPERINTENDENT OF SCHOOLS
PREQUALIFICATION QUESTIONNAIRE SCORING**

PART I. ESSENTIAL REQUIREMENTS FOR QUALIFICATION

Contractor will be immediately disqualified if the answer to any of questions 1 through 6 is “no.”¹

To Contractors seeking prequalification as a subcontractor only: You must respond to all Part I questions, however your response to Part I, Question Number 5 will not be rated.

Contractor will be immediately disqualified if the answer to any of questions 7, 8, 9 or 10 is “yes.”² If the answer to question 9 is “yes,” and if debarment would be the sole reason for denial of prequalification, any prequalification issued will exclude the debarment period.

1. Contractor possesses a valid and current California Contractor’s license for the project or projects for which it intends to submit a bid.

☐ Yes ☐ No

2. Contractor has a liability insurance policy with a policy limit of at least \$1,000,000 per occurrence and \$2,000,000 aggregate.

☐ Yes ☐ No **(Please provide a current Certificate of Insurance as verification)**

3. Contractor has current workers’ compensation insurance policy as required by the Labor Code or is legally self-insured pursuant to Labor Code section 3700 *et. seq.*

☐ Yes ☐ No ☐ Contractor is exempt from this requirement, because it has no employees

4. Have you attached your latest copy of a reviewed or audited financial statement with accompanying notes and supplemental information.³

☐ Yes ☐ No

NOTE: A financial statement that is not either reviewed or audited is not acceptable. A letter verifying availability of a line of credit may also be attached; however, it will be considered as supplemental information only, and is not a substitute for the

¹ A “no” answer to Question 4 will not be disqualifying if the contractor is exempt from complying with Question 4, for reasons explained in footnote 3.

² A contractor disqualified solely because of a “Yes” answer given to question 7, 8, or 10 may appeal the disqualification and provide an explanation of the relevant circumstances during the appeal procedure.

³ Public Contract Code section 20101(e) exempts from this requirement a contractor who has qualified as a small business pursuant to Government Code section 14837(d)(1), if the bid is “no more than 25 percent of the qualifying amount provided in section 14837(d)(1).” As of August 12, 2013, the qualifying amount is \$10 million, and 25 percent of that amount, therefore, is \$2.5 million.

required financial statement.

5. Have you attached a notarized statement from an admitted surety insurer (approved by the California Department of Insurance) and authorized to issue bonds in the State of California, which states: (a) that your current bonding capacity is sufficient for the project for which you seek prequalification if you are seeking prequalification for a single project; or (if you are seeking prequalification valid for a year) (b) your current available bonding capacity?⁴

☐ Yes ☐ No

NOTE: Notarized statement must be from the surety company, not an agent or broker. Contractors seeking prequalification as a subcontractor only: You must respond to this question, however you will not be rated according to your response.

6. Are you currently registered with the Department of Industrial Relations in accordance with Labor Code section 1725.5?

☐ Yes ☐ No

If yes, what is your registration number _____.

Please submit proof of registration.

7. Has your contractor's license been revoked at any time in the last five years, even if such revocation was stayed at any time?

☐ Yes ☐ No

8. Has a surety firm completed a contract on your behalf, or paid for completion because your firm was default terminated by the project owner within the last five (5) years?

☐ Yes ☐ No

9. At the time of submitting this prequalification form, is your firm ineligible to bid on or be awarded a public works contract, or perform as a subcontractor on a public works contract, pursuant to either Labor Code section 1777.1 or Labor Code section 1777.7?

☐ Yes ☐ No

If the answer is "Yes," state the beginning and ending dates of the period of debarment:

⁴ An additional notarized statement from the surety may be requested by Orange County Superintendent of Schools at the time of submission of a bid, if this prequalification package is submitted more than 60 days prior to submission of the bid

10. At any time during the last five years, has your firm, or any of its owners or officers been convicted of a crime involving the awarding of a contract of a government construction project, or the bidding or performance of a government contract?

☐ Yes ☐ No

**ORANGE COUNTY SUPERINTENDENT OF SCHOOLS
PREQUALIFICATION QUESTIONNAIRE SCORING**

**PART II. ORGANIZATION, HISTORY, ORGANIZATIONAL PERFORMANCE,
COMPLIANCE WITH CIVIL AND CRIMINAL LAWS**

A. Current Organization and Structure of the Business

For Firms That Are Corporations:

- 1a. Date incorporated : _____
- 1b. Under the laws of what state: _____
- 1c. Provide all the following information for each person who is either (a) an officer of the corporation (president, vice president, secretary, treasurer), or (b) the owner of at least ten percent of the corporation's stock.

Name	Position	Years with Co.	% Ownership	Last four Social Security *

- 1d. Identify every construction firm that any person listed above has been associated with (as owner, general partner, limited partner or officer) at any time during the last five years.
NOTE: For this question, "owner" and "partner" refer to ownership of ten percent or more of the business, or 10 percent or more of its stock, if the business is a corporation.

Person's Name	Construction Firm	Dates of Person's Participation with Firm

For Firms That Are Partnerships:

- 1a. Date of formation: _____
- 1b. Under the laws of what state: _____
- 1c. Provide all the following information for each partner who owns 10 percent or more of the firm.

Name	Position	Years with Co.	% Ownership	Last four Social Security #'s

*last four numbers of Social Security is suitable.

- 1d. Identify every construction company that any partner has been associated with (as owner, general partner, limited partner or officer) at any time during the last five years. **NOTE: For this question, “owner” and “partner” refer to ownership of ten percent or more of the business, or ten percent or more of its stock, if the business is a corporation.**

Person's Name	Construction Company	Dates of Person's Participation with Company

For Firms That Are Sole Proprietorships:

- 1a. Date of commencement of business. _____
- 1b. Social security number of company owner. _____
- 1c. Identify every construction firm that the business owner has been associated with (as owner, general partner, limited partner or officer) at any time during the last five years. **NOTE: For this question, “owner” and “partner” refer to ownership of ten percent or more of the business, or ten percent or more of its stock, if the business is a corporation.**

Person's Name	Construction Company	Dates of Person's Participation with Company

For Firms That Intend to Make a Bid as Part of a Joint Venture:

- 1a. Date of commencement of joint venture. _____
- 1b. Provide all of the following information for each firm that is a member of the joint venture that expects to bid on one or more projects:

Name of firm	% Ownership of Joint Venture

B. History of the Business and Organizational Performance

2. How many years has your organization completed work for public agencies? Years:_____

6 or more years=5

5 years=4

4 years=3

3 years=2

1 full year =1

3. Has your organization ever been licensed in California under a different name or different license number?

☐ Yes ☐ No

If “yes,” please list all name(s) and license number(s), on a separate signed page.

No=3; Yes= (Adjustment to 2 if reason for different name or different license number is a because of a legal merger.)

4. Are you currently prequalified with any other school district?

☐ Yes ☐ No

If yes, please identify the school district(s), with contact information and the dollar rating that you have been prequalified for at such school district(s), on a separate signed page.

No=0; Yes=3

5. Has there been any change in ownership of the firm at any time during the last three years? **NOTE: A corporation whose shares are publicly traded is not required to answer this question.**

☐ Yes ☐ No

If “yes,” explain on a separate signed page.

No=3; Yes=0

6. Is the firm a subsidiary, parent, holding company or affiliate of another construction firm?

NOTE: Include information (including license number(s)) about other firms if one firm owns 50 percent or more of another, or if an owner, partner, or officer of your firm holds a similar position in another firm.

☐ Yes ☐ No

If “yes,” explain on a separate signed page. Please include all name(s) and license number(s)

No=3; Yes=0 (Adjustment to 2 if reason firm is a subsidiary, parent, holding company or affiliate of another construction firm is because of a legal merger.)

7. Are any corporate officers, partners or owners connected to any other construction firms?
NOTE: Include information about other firms if an owner, partner, or officer of your firm holds a similar position in another firm.

☐ Yes ☐ No

If "yes," explain on a separate signed page.

No=3; Yes =0 (Adjustment to 2 if the name of other construction firms corporate officers, partners or owners are connected to, are connected to current applicant firm by way of legal merger.)

List your firm's gross revenues for each of the last three years:

Year: _____ \$ _____

Year: _____ \$ _____

Year: _____ \$ _____

8. How many years has your organization been in business in California as a contractor under your present business name and license number? _____ Years

6 or more years=5

5 years=4

4 years=3

2-3 years=2

1 full year=1

9. Is your firm currently the debtor in a bankruptcy case?

☐ Yes ☐ No

If "yes," please attach a copy of the bankruptcy petition, showing the case number, and the date on which the petition was filed.

No=3; Yes=0

10. If your firm is not currently in bankruptcy, was your firm in bankruptcy at any time during the last five years?

☐ Yes ☐ No

If "yes," please attach a copy of the bankruptcy petition, showing the case number and the date on which the petition was filed, and a copy of the Bankruptcy Court's discharge order, or of any other document that ended the case, if no discharge order was issued.

In what type of construction do you specialize?: _____

No=3; Yes=0

What was the largest amount of work completed in one year: _____

Number of projects: _____ Year: _____ Amount of Largest Project: _____

C. Licenses

List all California construction license numbers, classifications and expiration dates of the California contractor licenses held by your firm:

If any of your firm's license(s) are held in the name of a corporation or partnership, list below the names of the qualifying individual(s) listed on the CSLB records who meet(s) the experience and examination requirements for each license.

11. Has your firm changed names or license number in the past five years?

☐ Yes ☐ No

If "yes," explain on a separate signed page, including the reason for the change.

No=3; Yes=0 (Adjustment to 2 if reason for changed name or license number because of a legal merger)

12. Has any owner, partner or (for corporations) officer of your firm operated a construction firm under any other name in the last five years?

☐ Yes ☐ No

If "yes," explain on a separate signed page, including the reason for the change.

No=3; Yes =0 (Adjustment to 2 if name of other firm operated by any owner, partner or (for corporations) officer was or is a firm that legally merged with current applicant firm.)

13. Has any CSLB license held by your firm or its Responsible Managing Employee (RME) or Responsible Managing Officer (RMO) been suspended within the last five years?

☐ Yes ☐ No

If “yes,” please explain on a separate signed sheet.

No=5; Yes=0

D. Surety and Bonding Information

Bonding capacity: **Please provide a letter stating bondability from current surety company.** Also, please provide documentation from your surety (not agency) identifying the following: **NOTE: Contractors seeking prequalification as a subcontractor only: You must respond to this question, however you will not be rated according to your response.**

Name of bonding company/surety: _____

Name of surety agent/contact person, address and telephone number:

14. If your firm was required to pay a premium of more than one percent for a performance and payment bond on any project(s) on which your firm worked at any time during the last three years, state the percentage that your firm was required to pay. You may provide an explanation for a percentage rate higher than one percent, if you wish to do so. **NOTE: Contractors seeking prequalification as a subcontractor only: You must respond to this question, however you will not be rated according to your response.**

No=5

Over 1% but not over 1.25%=4

Over 1.25% but not over 1.5%=3

Over 1.5%=0

(NOTE: Contractors seeking prequalification as a subcontractor only: Response will not be rated.)

List all other sureties, not agencies (name, contact person, full address, phone number, largest bond obtained) that have written bonds for your firm during the last five years, including the dates during which each wrote the bonds (If necessary, list on separate signed sheet) **NOTE: Contractors seeking prequalification as a subcontractor only: You must respond to this question, however you will not be rated according to your response.**

-
15. During the last five years, has your firm ever been denied bond coverage by a surety company, or has there ever been a period of time when your firm had no surety bond in place during a public construction project when one was required? **NOTE: Contractors seeking prequalification as a subcontractor only: You must respond to this question, however you will not be rated according to your response.**

☐ Yes ☐ No

If yes, provide details on a separate signed sheet indicating the date when your firm was denied coverage and the name of the company or companies which denied coverage; and the period during which you had no surety bond in place.

No=5; Yes=0

(NOTE: Contractors seeking prequalification as a subcontractor only: Response will not be rated.)

16. At any time during the past five years, has any surety company made any payments on your firm's behalf as a result of a default, to satisfy any claims made against a performance or payment bond issued on your firm's behalf, in connection with a construction project, either public or private? **NOTE: Contractors seeking prequalification as a subcontractor only: You must respond to this question, however you will not be rated according to your response.**

☐ Yes ☐ No

If "yes," explain on a separate signed page the amount of each such claim, the name and telephone number of the claimant, the date of the claim, the grounds for the claim, the present status of the claim, the date of resolution of such claim if resolved, the method by which such was resolved if resolved, the nature of the resolution and the amount, if any, at which the claim was resolved.

No=5

Yes (1 claim)=5

Yes (2 claims)=3

Yes (more than 2 claims)=SUBTRACT 5 points

(NOTE: Contractors seeking prequalification as a subcontractor only: Response will not be rated.)

17. Has your firm ever failed to complete a contract?

☐ Yes ☐ No

If "yes," explain on a separate signed page.

No=3; Yes=0

How many projects is your firm currently bonded for? _____

What are the contract amounts your firm has currently bonded?

Contracts	Amount Bonded

E. Insurance

Insurance Company:

Address: _____

City, State, Zip: _____

Phone Number: _____ Facsimile Number: _____

Contact Person: _____

18. How long have you been with this insurance company?

5 or more years=3

2 to 4 years=1

1 year or less=0

If less than two years, please list prior insurance companies below:

Insurance Company	Address	Phone	Contact Person	Year(s)

19. In the last five years has any insurance carrier, for any form of insurance, refused to renew the insurance policy for your firm?

☐ Yes ☐ No

If "yes," explain on a separate signed page. Name the insurance carrier, the form of

insurance and the year of the refusal.

No=5

Yes (1 instance)=5

Yes (2 instances)=3

Yes (more than 2 instances)=0

20. Has your organization ever had insurance terminated by a carrier in the past five (5) years due to an excessive claims history and/or nonpayment of premium?

If “yes,” explain on a separate signed sheet. Name the insurance carrier, the form of insurance, and year of termination.

No=3; Yes=0

F. Safety Program & Workers’ Compensation

Each bidder shall submit a copy of the Table of Contents from bidder’s established safety/injury prevention program which complies with the Contract Documents and all applicable governmental regulations. After determination of the successful bidder, its subcontractors must submit a copy of their respective safety/injury prevention programs within five (5) days of the County Superintendent’s request.

Bidder: _____

Signature: _____

By: _____

Date: _____

Each bidder shall submit its workers’ compensation experience modification factor. After determination of the successful bidder, its subcontractors must submit their workers compensation modification factor within five (5) days of County Superintendent’s request.

21. List your firm's Experience Modification Rate (EMR) (California Workers' Compensation Insurance) for each of the past premium years:

Current Year: _____

Previous Year: _____

Year Prior to Previous Year: _____

If your EMR for any of these three years is or was 1.25 or higher you may, if you wish, attach a letter of explanation.

3 year average EMR of .95 or less=5 points

3 year average EMR of over .95 but no more than 1.0=3 points

Over 1.0=0

22. Within the last five years has there ever been a period when your firm had employees but was without workers' compensation insurance or state-approved self-insurance?

☐ Yes ☐ No

If "yes," please explain the reason for the absence of workers' compensation insurance on a separate signed page. If "No," please provide a statement by your current workers' compensation insurance carrier that verifies periods of workers' compensation insurance coverage for the last five years. (If your firm has been in the construction business for less than five years, provide a statement by your workers' compensation insurance carrier verifying continuous workers' compensation insurance coverage for the period that your firm has been in the construction business.)

No=5

Yes (1 instance)=5

Any other answer=0

G. Compliance with Occupational Safety and Health Laws and with Other Labor Legislation Safety

Each bidder, and its subcontractors, must declare any serious or willful violations of Part 1 (commencing with Section 6300) of Division 5 of the California Labor Code received during the last five years. This information must include all construction work undertaken in the United States by the bidder and any affiliate of the bidder. Separate information shall be submitted for each particular partnership, joint venture, corporation, Limited Liability Company or individual bidder or subcontractor. The bidder or its subcontractors may be requested to submit additional information or explanation of data, which County Superintendent may require for evaluating the safety record. The term "affiliate" shall mean any firm, corporation, partnership, joint venture, limited liability company or association which is a member, joint venturer or partner of the bidder, or any such entity which owns a substantial interest in, or is owned in common with, the bidder, its subcontractor or any of its members, joint venturers or partners, or any such entity in which the

bidder, its subcontractor, or any of their members, joint venturers or partners own a substantial interest.

23. Has your firm ever received a serious or willful safety violation during the last five (5) years?

☐ Yes ☐ No

If “yes,” attach a separate signed page describing the violation, including information about the dates, the nature of the violation, the project on which the citation(s) was or were issued, the amount of penalty paid, if any.

No=3

Yes=1

Yes=0 (more than 1 occasion)

24. Has CAL OSHA cited and assessed penalties against your firm for any “serious,” “willful” or “repeat” violations of its safety or health regulations in the past five years?

NOTE: If you have filed an appeal of a citation, and the Occupational Safety and Health Appeals Board has not yet ruled on your appeal, you need not include information about it.

☐ Yes ☐ No

If “yes,” attach a separate signed page describing the citations, including information about the dates of the citations, the nature of the violation, the project on which the citation(s) was or were issued, the amount of penalty paid, if any. If the citation was appealed to the Occupational Safety and Health Appeals Board and a decision has been issued, state the case number and the date of the decision.

If the firm’s average gross revenues for the last three years were less than \$50 million, scoring is as follows:

No=5

Yes = (1 instance)=5

Yes = (2 instance)=3

Yes=(more than 2 instances)=0

If the firm’s average gross revenues for the last three years were more than \$50 million, scoring is as follows:

No =5

Yes (1,2, or 3 such instances)=5

Yes (4 or 5 such instances)=3

Yes (more than 5 instances)=0

25. Has the federal Occupational Safety and Health Administration cited and assessed penalties against your firm in the past five years? **NOTE: If you have filed an appeal of a citation and the Appeals Board has not yet ruled on your appeal, or if there is a court appeal pending, you need not include information about the citation.**

☐ Yes ☐ No

If “yes,” attach a separate signed page describing each citation.

If the firm’s average gross revenues for the last three years were less than \$50 million, scoring is as follows:

No=5

Yes=(1 instance)=5

Yes (2 instances)=3

Yes (more than 2 instances)=0

If the firm’s average gross revenues for the last three years were more than \$50 million, scoring is as follows:

No=5

Yes (1, 2, or 3 such instances)=5

Yes (4 or 5 such instances)=3

Yes (more than 5 instances)=0

26. Has the EPA or any Air Quality Management District or any Regional Water Quality Control Board or any local authorities cited and assessed penalties against either your firm or the owner of a project on which your firm was the contractor, in the past five years? **NOTE: If you have filed an appeal of a citation and the Appeals Board has not yet ruled on your appeal, or if there is a court appeal pending, you need not include information about the citation.**

☐ Yes ☐ No

If “yes,” attach a separate signed page describing each citation.

If the firm’s average gross revenues for the last three years were less than \$50 million, scoring is as follows:

No=5

Yes= (1 instance)=5

Yes (2 instances)=3

Yes (more than 2 instances)=0

If the firm’s average gross revenues for the last three years were more than \$50 million, scoring is as follows:

No=5

Yes (1, 2, or 3 such instances)=5

Yes (4 or 5 such instances)=3

Yes (more than 5 instances)=0

27. How often do you require documented safety meetings to be held for construction employees and field supervisors during the course of a project?

Meeting once a week or more=3

Any other=0

28. How often do you conduct documented safety inspections on a construction site?

Daily _____ Weekly _____ Quarterly _____

Meeting daily=3

Meeting weekly=1

Any other=0

29. Does your firm currently have a safety plan which complies with the current OSHA standards?

☐ Yes ☐ No

Yes=3; No=0

30. Have any of your subcontractors you retained ever received a serious or willful industrial safety violation during the last five (5) years?

☐ Yes ☐ No

If “yes,” attach a separate signed page listing each subcontractor, its license number and provide a brief explanation.

No=3; Yes=1 (1 occasion); Yes=0 (more than 1 occasion)

H. Prevailing Wage and Apprenticeship Compliance Record

31. Has there been more than one occasion during the last five years in which your firm was required to pay either back wages or penalties for your own firm’s failure to comply with the state’s prevailing wage laws? **NOTE: This question refers only to your own firm’s violation of prevailing wage laws, not to violations of the prevailing wage laws by a subcontractor.**

☐ Yes ☐ No

If “yes,” attach a separate signed page or pages, describing the nature of each violation, identifying the name of the project, the date of its completion, the public agency for which

it was constructed; the number of employees who were initially underpaid and the amount of back wages and penalties that you were required to pay.

If the firm's average gross revenues for the last three years were less than \$50million, scoring is as follows:

No=5

Yes (1 or 2 such instances)=5

Yes (3 instances)=3

Yes (more than 3 instances)=0

If the firm's average gross revenues for the last three years were more than \$50million, scoring is as follows:

No=5

Yes (no more than 4 instances)=5

Yes (5 or 6 instances)=3

Yes (more than 6 instances)=0

32. During the last five years, has there been more than one occasion in which your own firm has been penalized or required to pay back wages for failure to comply with the **federal** Davis-Bacon prevailing wage requirements?

☐ Yes ☐ No

If "yes," attach a separate signed page or pages describing the nature of the violation, identifying the name of the project, the date of its completion, the public agency for which it was constructed; the number of employees who were initially underpaid, the amount of back wages you were required to pay along with the amount of any penalty paid.

If the firm's average gross revenues for the last three years were less than \$50million, scoring is as follows:

No=5

Yes (1 or 2 such instances)=5

Yes (3 instances)=3

Yes (more than 3 instances)=0

If the firm's average gross revenues for the last three years were more than \$50million, scoring is as follows:

No=5

Yes (no more than 4 instances)=5

Yes (5 or 6 instances)=3

No=5; Yes (1 or 2 such instances)=5; Yes (3 instances)=3

Yes (more than 3 instances)=0

33. Provide the **name, address and telephone number** of the apprenticeship program (approved by the California Apprenticeship Council) from whom you intend to request the dispatch of apprentices to your company for use on any public work project for which you are awarded a contract by the County Superintendent.

If at least one approved apprenticeship program listed=5 points
Any other answer=0

34. If your firm operates its own State-approved apprenticeship program:
- (a) Identify the craft or crafts in which your firm provided apprenticeship training in the past year.
 - (b) State the year in which each such apprenticeship program was approved, and attach evidence of the most recent California Apprenticeship Council approval(s) of your apprenticeship program(s).
 - (c) State the number of individuals who were employed by your firm as apprentices at any time during the past three years in each apprenticeship and the number of persons who, during the past three years, completed apprenticeships in each craft while employed by your firm.

If one or more persons completed an approved apprenticeship program while employed by the firm=5 points;
If no persons completed an approved apprenticeship while employed by the firm=0 points

35. At any time during the last five years, has your firm been found to have violated any provision of California apprenticeship laws or regulations, or the laws pertaining to use of apprentices on public works? **NOTE: You may omit reference to any incident that occurred prior to January 1, 1998, if the violation was by a subcontractor and your firm, as general contractor on a project, had no knowledge of the subcontractor's violation at the time they occurred.**

☐ Yes ☐ No

If "yes," provide the date(s) of such findings, and attach copies of the County Superintendent's final decision(s)

If the firm's average gross revenues for the last three years were less than \$50 million, scoring is as follows:

No=5

Yes (1 or 2 such instances)=5

Yes (3 instances)=3

Yes (more than 3 instances)=0

If the firm's average gross revenues for the last three years were more than \$50million, scoring is as follows:

No =5

Yes (no more than 4 such instances)=5

Yes (5 or 6 such instances)=3

Yes (more than 6 instances)=0

I. Disputes

36. At any time in the last five years has your firm been assessed and paid liquidated damages after completion of a project under a construction contract with either a public or private owner?

☐ Yes ☐ No

If yes, explain on a separate signed page, identifying all such projects by owner, owner's address, the date of completion of the project, amount of liquidated damages assessed and all other information necessary to fully explain the assessment of liquidated damages.

No projects with liquidated damages of more than \$50,000=5 points

One project with liquidated damages=5 points

Two projects with liquidated damages of more than \$50,000=3 points

Any other answer=0 points

37. In the last five years has your firm, or any firm with which any of your company's owners, officers or partners was associated, been debarred, disqualified, removed or otherwise prevented from bidding on, or completing, any government agency or public works project for any reason? **NOTE: "Associated with" refers to another construction firm in which an owner, partner or officer of your firm held a similar position, and which is listed in response to question 1c or 1d on this form.**

☐ Yes ☐ No

If "yes," explain on a separate signed page. State whether the firm involved was the firm applying for prequalification here or another firm. Identify by name of the company, the name of the person within your firm who was associated with that company, the year of the event, the owner of the project, the project and the basis for the action.

No=5; Yes=0

38. In the last five years has your firm been denied an award of a public works contract based on a finding by a public agency that your company was not a responsible bidder?

☐ Yes ☐ No

If “yes,” explain on a separate signed page. Identify the year of the event, the owner, the project and the basis for the finding by the public agency.

No=5; Yes=0

* * * * *

NOTE: The following two questions refer only to disputes between your firm and the owner of a project. You need not include information about disputes between your firm and a supplier, another contractor, or subcontractor. You need not include information about “pass-through” disputes in which the actual dispute is between a sub-contractor and a project owner. Also, you may omit reference to all disputes about amounts of less than \$50,000.

39. In the past five years has any claim **against** your firm concerning your firm’s work on a construction project in California been **filed in court or arbitration**?

☐ Yes ☐ No

If “yes,” on separate signed sheets of paper identify the claim(s) by providing the project name, date of the claim, name of the claimant, a brief description of the nature of the claim, the court in which the case was filed and a brief description of the status of the claim (pending or, if resolved, a brief description of the resolution).

If the firm’s average gross revenues for the last three years were less than \$50 million, scoring is as follows:

No=5

Yes (1 such instances)=5

Yes (2 instances)=3

Yes (more than 2 instances)=0

If the firm’s average gross revenues for the last three years were more than \$50 million, scoring is as follows:

No=5

Yes (1, 2, or 3 such instances)=5

Yes (4 or 5 such instances)=3

Yes (more than 5 instances)=0

40. In the past five years has your firm made any claim against a project owner concerning work on a project in California or payment for a contract in California and **filed that claim in court or arbitration**?

☐ Yes ☐ No

If “yes,” on separate signed sheets of paper identify the claim by providing the project name, date of the claim, name of the entity (or entities) against whom the claim was filed, a brief description of the nature of the claim, the court in which the case was filed and a brief description of the status of the claim (pending, or if resolved, a brief description of the resolution).

If the firm’s average gross revenues for the last three years were less than \$50 million, scoring is as follows:

No=5

Yes (1 such instance)=5

Yes (2 instances)=3

Yes (more than 2 instances)=0

If the firm’s average gross revenues for the last three years were more than \$50 million, scoring is as follows:

No=5

Yes (1, 2, or 3 such instances)=5

Yes (4, or 5 such instances)=3

Yes (more than 5 instances)=0

J. Criminal Matters and Related Civil Suits

41. Has your firm or any of its owners, officers or partners ever been found liable in a civil suit or found guilty in a criminal action for making any false claim or material misrepresentation to any public agency or entity?

☐ Yes ☐ No

If “yes,” explain on a separate signed page, including identifying who was involved, the name of the public agency, the date of the investigation and the grounds for the finding.

No=5; Yes=SUBTRACT 5 points

42. Has your firm or any of its owners, officers or partners ever been convicted of a crime involving any federal, state, or local law related to construction?

☐ Yes ☐ No

If “yes,” explain on a separate signed page, including identifying who was involved, the name of the public agency, the date of the conviction and the grounds for the conviction.

No=5; Yes=SUBTRACT 5 points

43. Has your firm or any of its owners, officers or partners ever been convicted of a federal or state crime of fraud, theft, or any other act of dishonesty?

☐ Yes ☐ No

If “yes,” identify on a separate signed page the person or persons convicted, the court (the county if a state court, the County Superintendent or location of the federal court), the year and the criminal conduct.

No=5; Yes=SUBTRACT 5 points

March 5, 2025

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[X] Mailed [] Distributed at meeting

ORANGE COUNTY BOARD OF EDUCATION

BOARD AGENDA ITEM

DATE: March 5, 2025

TO: Renee Hendrick, Deputy Superintendent

FROM: Dave Giordano, Associate Superintendent, Administrative Services

SUBJECT: Approval of Lease-Leaseback (LLB) Construction Delivery Method including approval of Lease-Leaseback Agreement Templates, Request for Proposals (RFP) for Pre-Construction, and Lease-Leaseback Services for the Rancho Sonado Project

Due to the property damage sustained during the 2020 Bond Fire, the Board and the County Superintendent have determined that it is necessary to construct new buildings and structures on the Rancho Sonado property.

The overall budget for the Project is \$17.5 million dollars which will be funded by insurance proceeds received from the fire, California School Facilities funding and designated general fund reserves. Such funding will be available to build the Project, unless other resources such as donations are received. Work on the Project can start as early as September, 2025. The construction of the Project is anticipated to take approximately 18 months and will not affect any ongoing educational operations.

Superintendent's staff has evaluated the best construction delivery methods for getting the Project built on time and within the budget. In consultation with legal counsel, staff have determined the best construction delivery method is the Lease-leaseback delivery method. The lease-leaseback delivery method is authorized by Section 17406 of the California Education Code, providing for the construction of such improvements during the term of the lease of Rancho Sonado. The lease-leaseback construction delivery method has been recognized by the State Legislature as a proven method to deliver school facilities on time, on budget, and with reduced risk associated with design conflicts, delays and costs overruns and provides more certainty to the final cost of the Project.

California Education Code section 17406 authorizes the Board, following completion of a competitive solicitation process, to lease property currently owned by the Board to any firm for a minimal consideration (not less than \$1) a year to construct buildings/structures, under which title to the property and buildings returns to the Board at the expiration of the lease. The Agreements between the Board and the contractor must provide for the construction of an improvement on the Board's property. The Contractor will be responsible for financing

construction of the Project. During construction, the Department will pay the Contractor tenant improvement payments. Once the Project is complete, the Contractor shall lease the facilities constructed back to the Board for a pre-determined monthly lease payment amount and lease period.

The County Superintendent will issue a Request for Proposals (RFP) seeking experienced lease-leaseback contractors that have been prequalified by the County Superintendent in accordance with California Education Code section 17406(a)(2)(C), and California Public Contracts Code section 20111.6 to provide preconstruction phase work, including but not limited to, design-constructability review of the design documents and value engineering of the Project, and to provide the construction phase of the Project.

After evaluating the proposals received in response to the RFP, the County Superintendent's staff will utilize the rating criteria set forth in the RFP document and will select a qualified contractor that provides the best value to the Board. All lease-leaseback agreements will be submitted to the Board for final approval.

RECOMMENDATION:

It is recommended that the Governing Board adopt Resolution No. 06-25, authorizing the Lease-Leaseback construction delivery method including construction agreement templates, the proposed Request for Proposals (RFP) that will be issued, and the required procedures and guidelines for evaluating the proposals that ensure the "best value" selection (a)(2) process is conducted in a fair and impartial manner in accordance with Education Code section Public Contract Code Section 20111.6, which is attached to, and a part of, this Board Item.

**AUTHORIZE THE EXECUTION OF A LEASE-LEASEBACK CONSTRUCTION
DELIVERY METHOD FOR THE RANCHO SONADO PROJECT INCLUDING
APPROVAL OF LEASE-LEASEBACK SERVICE AGREEMENT TEMPLATES, AND
REQUEST FOR PROPOSALS (RFP) FOR PRE-CONSTRUCTION AND LEASE-
LEASEBACK SERVICES**

RESOLUTION NO. 06-25

WHEREAS, the County Superintendent desires to utilize the lease-leaseback delivery method for the construction of buildings and structures that were destroyed in the 2020 Bond Fire on the Rancho Sonado property (“Project”);

WHEREAS, because of the limited availability of funding with which to construct this Project, County Superintendent’s staff has evaluated the best construction delivery methods for getting the Project built within the limited budget. The best delivery method to have the Project built within the budget constraints is the lease/leaseback method using the authority provided in Education Code section 17406.

WHEREAS, the lease-leaseback delivery method has been recognized by the State Legislature as a proven method to deliver school facilities on time, on budget, and with reduced risk associated with design conflicts, delays and costs overruns and provides more certainty to the final cost of the Project.

WHEREAS, Education Code section 17406 authorizes the governing board of a school district to let to any person, firm, or corporation any real property belonging to the Board if the instrument by which the property is let requires the lessee therein to construct on the demised premises, or provide for the construction thereon of, a building or buildings for the use of the school district during the term of the lease and provides that title to that building shall vest in the Board at the expiration of that term;

WHEREAS, the selection of any lease-leaseback proposer pursuant to Education Code section 17406 shall be based on a competitive solicitation process and a contract shall be awarded to the proposer providing the “best value” to the County Superintendent, taking into consideration the proposer’s demonstrated competence and professional qualifications necessary for the satisfactory performance of the services required;

WHEREAS, pursuant to Education Code section 17400(b)(1), “best value” means a competitive procurement process whereby the selected proposer is selected on the basis of objective criteria for evaluating the qualifications of proposers with the resulting selection representing the best combination of price and qualifications;

WHEREAS, the County Superintendent may not accept a proposal from any potential bidder who is required to submit a Questionnaire in accordance with Public Contract Code section 20111.6, but has not done so at least ten (10) business days prior to the date fixed upon the public opening of sealed bids, or has not been prequalified by the County Superintendent in accordance

with Public Contract Code section 20111.6(f) at least five (5) business days prior to the opening of sealed bids; and

WHEREAS, the County Superintendent has established a process for prequalifying prospective bidders pursuant to Public Contract Code section 20111.6 on a yearly basis and such prequalification shall be considered valid for up to one (1) calendar year following the date of the initial prequalification.

WHEREAS, in order to construct the Project using the lease-leaseback construction delivery method, it is necessary that the County Superintendent enter into a site lease, in which the site will be leased to the Contractor; a sublease which provides for the sublease of the site and the lease of the Project by the Contractor back to the Board; and a construction services agreement that contains construction provisions with which Contractor shall comply with respect to the construction of the Project (collectively, "Lease-Leaseback Agreements").

WHEREAS, the County Superintendent has been presented with the form of each document referred to herein relating to the transaction contemplated hereby and the County Superintendent has examined and approved each document as to form and desires to authorize and direct evaluation of proposals in accordance with Education Code section 17406;

WHEREAS, the County Superintendent desires pursuant to Education Code section 17406 and similar statutes, to delegate authority to the County Superintendent's Associate Superintendent, Administrative Services to evaluate the qualifications of the proposers based solely upon the criteria and evaluation methodology set forth in the attached Request for Proposals, to assign a best value score to each proposal, and once the evaluation process is complete, to rank all responsive proposals from the highest best value to the lowest best value to the Superintendent, and to otherwise carry out the intent of this Resolution.

NOW, THEREFORE, THE ORANGE COUNTY SUPERINTENDENT OF SCHOOLS DOES HEREBY RESOLVE, DETERMINE, DECLARES AND ORDERS AS FOLLOWS:

Section 1. Recitals. All of the recitals herein contained are true and correct.

Section 2. Request for Proposals. The form of the Request for Proposals (RFP) to be issued to proposers meeting the requirements set forth in Education Code section 17406 and attached hereto as Exhibit "A" is hereby approved and adopted by the County Superintendent subject to any revisions which are acceptable to both the County Superintendent and County Superintendent's legal counsel.

Section 3. Lease-Leaseback Agreements. The form of agreements entitled "Pre-construction Services Agreement", "Site Lease", "Sublease Agreement" and "Construction Services Agreement", each attached to the Request for Proposals and presented and each to be entered into by and between the County Superintendent and the proposer providing the best value to the County Superintendent, are hereby approved and adopted subject to any revisions which are acceptable to both County Superintendent and County Superintendent's legal counsel.

Section 4. Approval of Process. The County Superintendent hereby approves the lease-leaseback process and the competitive solicitation process as set forth herein and the documents attached hereto as Exhibit “A”.

Section 5. Other Acts; Delegation. The County Superintendent hereby approves a delegation of authority and appoints its Associate Superintendent, Administrative Services, who is hereby authorized and directed, to evaluate the qualifications of the proposers based solely upon the criteria and evaluation methodology set forth in the attached Request for Proposals, to assign a best value score to each proposal, and once the evaluation process is complete, to rank all responsive proposals from the highest best value to the lowest best value to the County Superintendent, and to otherwise carry out the intent of this Resolution. Said delegation shall be valid until otherwise rescinded by the Board.

Section 6. Effective Date. This Resolution shall take effect upon adoption.

PASSED AND ADOPTED by the Governing Board of the Orange County Superintendent of Schools on March 5, 2025, by the following vote:

AYES: _____
NOES: _____
ABSENT: _____
ABSTAIN: _____

I, Jorge Valdes, Esq., Clerk of the Orange County Board of Education, the Board, do hereby certify that the foregoing is a full, true and correct copy of a resolution passed and adopted by said Board at a regularly scheduled and conducted meeting held on said date, which resolution is on file in office of said Board.

Jorge Valdes, Esq., Clerk of the Board

March 5, 2025

☒ Mailed ☐ Distributed at meeting

RH

ORANGE COUNTY BOARD OF EDUCATION

BOARD AGENDA ITEM

DATE: March 5, 2025
TO: Renee Hendrick, Deputy Superintendent
FROM: Ken L. Williams, D.O., Board President
SUBJECT: Discussion – Investment Policy

RECOMMENDATION:

Discussion and review of Orange County Board of Supervisors County Investment Policy.



County Executive Office

Memorandum

S31K

RECEIVED
2025 FEB - 6 PM 2: 00
CLERK OF THE BOARD
COUNTY OF ORANGE
BOARD OF SUPERVISORS
Digitally signed by Michelle Aguirre
DN: cn=Michelle Aguirre,
o=County of Orange, ou=CEO,
email=Michelle.Aguirre@ocgov.
com, c=US
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February 6, 2025

To: Clerk of the Board of Supervisors

From: Michelle Aguirre, Interim County Executive Officer

Subject: Exception to Rule 21

The Office of County Counsel is requesting a Supplemental Agenda Staff Report for the February 11, 2025 Board Hearing.

Agency: County Counsel

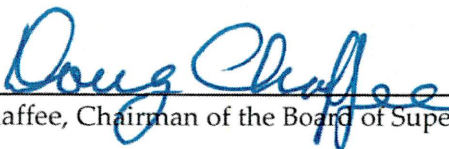
Subject: Amend Investment Authority Ordinance and Approve Investment Policy

Districts: All Districts

Reason Item is Supplemental: This item is to be placed on the agenda based on direction from the Board given at the January 14, 2025, Board meeting. This Agenda Staff Report and attachments were finalized after the filing deadline to the Clerk of the Board.

Justification: This item is to be placed on the agenda at the direction of the Board and is intended to provide guidance regarding the exercise of the Board's investment authority and to remove inapplicable restrictions on the exercise of that authority by the County Chief Financial Officer.

Concur:


Doug Chaffee, Chairman of the Board of Supervisors

cc: Board of Supervisors
County Executive Office
County Counsel



SUPPLEMENTAL AGENDA ITEM AGENDA STAFF REPORT

MEETING DATE: 2/11/25
LEGAL ENTITY TAKING ACTION: Board of Supervisors
BOARD OF SUPERVISORS DISTRICT(S): All Districts
SUBMITTING AGENCY/DEPARTMENT: County Counsel
DEPARTMENT HEAD REVIEW: Leon Page
Department Head Signature
DEPARTMENT CONTACT PERSON(S): Leon Page (714) 834-3300
Mark Servino (714) 834-3300

SUBJECT: Amend Investment Authority Ordinance and Approve Investment Policy

<p>CEO CONCUR</p> <p><i>Maquine</i></p> <p><small>Digitally signed by Michelle Aquino DN: cn=Michelle Aquino, o=County of Orange, ou=CEO, c=US Date: 2025.02.06 10:36:43 -0800</small></p> <p style="text-align: center;">CEO Signature</p>	<p>COUNTY COUNSEL REVIEW</p> <p><u>Approved ordinance to form</u></p> <p style="text-align: center;">Action</p> <p><i>R</i></p> <p style="text-align: center;">County Counsel Signature</p>	<p>CLERK OF THE BOARD</p> <p style="text-align: center;">Discussion</p> <p style="text-align: center;">3 Votes Board Majority</p>
<p>Budgeted: N/A Current Year Cost: N/A Annual Cost: N/A</p> <p>Staffing Impact: N/A # of Positions: N/A Sole Source: N/A</p> <p>Current Fiscal Year Revenue: N/A</p> <p>Funding Source: N/A County Audit in last 3 years: 2022, 2023, 2024</p> <p>Levine Act Review Completed: N/A</p> <p>Prior Board Action: 12/19/2023 #17, 12/20/2022 #15, 12/14/2021 #15, 11/17/2020 #12</p>		

RECOMMENDED ACTION(S)

1. Read title of ordinance.
2. Order further reading of ordinance be waived.
3. Consider the matter.
4. Direct ordinance be placed on agenda of the next regularly scheduled board meeting for adoption.
5. At the next regularly scheduled meeting, consider the matter, and adopt the ordinance.
6. Approve the Orange County Investment Policy.
7. Direct staff to annually review and submit the Orange County Investment Policy as a receive and file item as part of the Strategic Financial Plan and that any changes to the Policy be presented for review and approval by the Board of Supervisors.

SUMMARY:

Adoption of the Ordinance to amend Section 1-2-320, Subsection (d), of the Orange County Codified Ordinances ("OCCO") will remove the prohibition that prevents the County Chief Financial Officer from exercising the Board of Supervisors' ("Board") investment authority. Approval of the Orange County Investment Policy ("Policy") is necessary to establish investment guidelines to govern the Board's investment authority.

BACKGROUND INFORMATION:**Orange County Codified Ordinance**

California law vests the authority to invest monies deposited in the County treasury with the Board. Section 1-2-320 of the OCCO generally governs the Board's delegation of its investment authority. As currently written, OCCO Section 1-2-320, Subsection (d), states that the County Chief Financial Officer shall no longer exercise the Board's investment authority. In 2010, the Board had repealed the prior County ordinance delegating investment authority to the Treasurer in the middle of the calendar year and directed the County Chief Financial Officer to exercise investment authority on behalf of the Board. When the Board subsequently delegated investment authority to the Treasurer, Subsection (d) was included to effectuate the delegation at that time. Adoption of the proposed ordinance to amend OCCO Section 1-2-320, Subsection (d), will remove the prohibition upon the County Chief Financial Officer from exercising the Board's investment authority.

County Investment Policy

County investments must comply with the restrictions on permissible investments outlined in the Government Code. See Gov't Code §§ 53601, 53601.6, 53635. However, the Board may develop an investment policy to guide its investment authority in a manner that is more restrictive than is permitted under state law. In several respects, the proposed Policy is more restrictive than state law and will govern the investment of the funds of the County and the funds of other depositors in the County treasury. For example, while Government Code section 53601(j) permits local agencies to invest in reverse repurchase agreements, the County is prohibited from investing in such securities pursuant to the Policy. Similarly, with respect to diversification, while the Government Code section 53601(e) allows 100 percent of a portfolio to be invested in municipal debt issued by California local agencies, the Policy limits such investment to 20 percent of the County portfolio. The Policy will not govern the investment of voluntary pool participants, as defined in Government Code section 53684.

The Policy includes a list of authorized investments, diversification, maturity, and duration restrictions, and a list of prohibited transactions. The Policy will be maintained by the County Investment Manager, defined for purposes of the Policy as the County official or individual who is authorized by the Board to invest the funds of the County and the funds of other depositors in the County treasury. The Policy will be reviewed on an annual basis and submitted to the Board annually, as a receive and file item as part of the County's Strategic Financial Plan. Any changes to the Policy shall be presented to the Board for review and approval.

Prior Board Actions:

Board Date	Board Action
12/19/2023	Approved the 2024 Investment Policy Statement (IPS) and the delegation of investment authority to the Treasurer for calendar year 2024.

12/20/2022	Approved the 2023 IPS and the delegation of investment authority to the Treasurer for calendar year 2023.
12/14/2021	Approved the 2022 IPS, the Treasury Oversight Committee (TOC) Bylaws, the delegation of investment authority to the Treasurer for calendar year 2022 and delegated the deposit for safekeeping authority to the Treasurer-Tax Collector.
11/17/2020	Approved the 2021 IPS, the TOC Bylaws and the delegation of investment and depository authority to the Treasurer for calendar year 2021.
11/19/2019	Approved the 2020 IPS, the amended TOC Bylaws and the delegation of investment and depository authority to the Treasurer for calendar year 2020.
12/18/2018	Approved the 2019 IPS, the amended TOC Bylaws and the delegation of investment and depository authority to the Treasurer for calendar year 2019.

County Audits in Last Three Years:

The Auditor-Controller Internal Audit Division (A-C IAD) conducts quarterly and annual audits of the Treasury pursuant to Government Code sections 26920 and 27134. The table below summarizes the results of the most recently completed audits.

Audit	Most Recent Report	Finding
Quarterly Statement of Assets	September 30, 2023	No material modifications required.
Annual Statement of Assets	June 30, 2022*	No findings.
Quarterly Portfolio Compliance	June 30, 2024	No compliance exceptions.
Annual Portfolio Compliance	June 30, 2022*	No compliance exceptions.

* The fiscal year 2022-23 reports are in progress.

FINANCIAL IMPACT:

N/A

STAFFING IMPACT:

N/A

ATTACHMENT(S):

Attachment A – Ordinance Amending OCCO Section 1-2-320, Subsection (d)
Attachment B – OCCO Section 1-2-320
Attachment C – Orange County Investment Policy
Attachment D – Government Code sections 53601, 53601.6, 53635
Attachment E – Government Code sections 26920, 27134
Attachment F - Government Code section 53684

ORDINANCE NO. _____

AN ORDINANCE OF THE COUNTY OF ORANGE,
CALIFORNIA AMENDING SECTION 1-2-320, SUBSECTION
(d) OF THE CODIFIED ORDINANCES OF THE COUNTY OF
ORANGE REGARDING INVESTMENT AUTHORITY

The Board of Supervisors of the County of Orange ordains as follows:

SECTION 1. Section 1-2-320, Subsection (d) of the Codified Ordinances of the County of Orange is hereby amended to read as follows:

(d) Reserved.

Sec. 1-2-320. Investment authority.

- (a) In accordance with California Government Code Section 27000.1, and any amendments or successors thereto, and subject to delegation pursuant to California Government Code Section 53607, and any amendments or successors thereto, this Board of Supervisors does hereby delegate its authority to invest and reinvest the funds of the County of Orange and all other depositors in the County treasury (pursuant to Chapter 4 of Part 1 of Division 2 of Title 5 of the California Government Code) to the Orange County Treasurer-Tax Collector who shall thereafter assume full responsibility for such transactions.
- (b) In accordance with California Government Code Section 53607, and any amendments or successors thereto, this Board of Supervisors does hereby delegate its authority to invest and reinvest funds of the County of Orange, and funds under the control of the Board of Supervisors, and to sell and exchange securities so purchased, to the Orange County Treasurer-Tax Collector who shall thereafter assume full responsibility for such transactions. The Treasurer-Tax Collector shall make a monthly report to this Board of Supervisors of all transactions subject to this delegation.
- (c) In accordance with California Government Code Section 53608, and any amendments or successors thereto, this Board of Supervisors does hereby delegate its authority to deposit for safekeeping, in those institutions permitted by Section 53608, the bonds, notes, bills, debentures, obligations, certificates of indebtedness, warrants, or other evidences of indebtedness, in which the money of the county is invested pursuant to Article 1 of Chapter 4 of Division 2 of Title 5 of the California Government Code or pursuant to other legislative authority to the Orange County Treasurer-Tax Collector who shall thereafter assume full responsibility for such transactions.
- (d) Upon the effective date of this ordinance, the County Chief Financial Officer shall no longer exercise the Board of Supervisor's investment duties and the Treasurer-Tax Collector shall assume full responsibility for all investment transactions covered by this article and California Government Code Section 27000.1 and 53607.
- (e) The adoption of this article shall not effect or otherwise limit the Treasurer-Tax Collector's authority pursuant to California Government Code Section 53636 and 53684.
- (f) All delegations made herein are subject to the Treasurer's submission, as required by California law, to this Board of Supervisors of any and all investment policies, including, but not limited to, the Orange County Treasurer Investment Policy Statement Money Market Investment Pool, for review and approval annually and as such policy or policies may be amended from time to time.
- (g) The Board of Supervisors may withdraw any and all investment authority delegated by this ordinance by adopting a subsequent ordinance revoking such delegations. Notwithstanding any provisions to the contrary herein, the authority delegated under subdivisions (a) and (b) above shall expire, unless renewed by resolution annually for each calendar year in accordance with the provision of California Government Code sections 27000.1 and 53607.

(Ord. No. 10-019, § 1, 12-14-10)

Orange County California



Investment Policy

(Approved By B.O.S. TBD)

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ORANGE COUNTY INVESTMENT POLICY

PURPOSE

The Orange County Investment Policy ("Policy") provides the structure for the prudent investment of the funds of the County of Orange ("County") and the funds of other depositors in the County treasury.

I. POLICY STATEMENT

The Policy is prepared in accordance with California State law and based on prudent money management practices. The primary goal is to invest public funds in a manner that will provide the maximum security of principal invested with secondary emphasis on providing adequate liquidity to pool participants and lastly to achieve a market rate of return within the parameters of prudent risk management while conforming to all applicable statutes and resolutions governing the investment of public funds.

The Orange County Investment Fund (OCIF), which includes all cash balances deposited into the Treasury, is designed to meet both the investment and cash requirements of our participants.

II. SCOPE

This Policy governs the investment of funds deposited into the County treasury. This Policy is more restrictive than State law in certain areas. Funds from bond proceeds may be invested in accordance with Government Code section 53601(m), which authorizes investment in accordance with the statutory provisions governing the issuance of the bonds, or to the extent not inconsistent therewith or if there are no specific statutory provisions, in accordance with the approved documents providing for the issuance.

1. Pooled Funds:

The County will maintain a pooled investment fund. The pooled fund's name is the Orange County Treasury Pool (OCTP). Government Code Sections 53600 *et seq.*, 53630 *et seq.* and 27000.3 guide the investment requirements of the OCTP, and, if applicable, the OCTP may be a permitted investment for bond proceeds.

2. Specific Investment Accounts:

The County or a participant that deposits funds in the County treasury may request a specific investment account to invest funds pursuant to a specific investment objective. Such investments may include cash required for future long-term needs. All new specific investment accounts require the written approval of the County Investment Manager, as defined in Section IV (Investment Authority). If approved, the investments will be matched to the time-horizon for their future use or to an identified liability. The County or the governing body of any participating agencies will be required to sign a written agreement acknowledging that there may be risk to principal should they desire to redeem funds early.

In addition, no investment will be made in any security that at the time of the investment has a term remaining to maturity in excess of five years, unless the appropriate legislative body has granted express authority either specifically or as part of an investment program approved by that legislative body no less than three months prior to the investment.

III. PRUDENT INVESTOR STANDARD

The Board of Supervisors, as a fiduciary of public funds adheres to the “prudent investor” standard as stated in Government Code sections 27000.3 and 53600.3. When investing, reinvesting, purchasing, acquiring, exchanging, selling, or managing public funds, the Board of Supervisors shall act with care, skill, prudence and diligence under the circumstances then prevailing, specifically including, but not limited to, the general economic conditions and the anticipated needs of the County and other depositors that a prudent person acting in a like capacity and familiarity with those matters would use in the conduct of funds of a like character and with like aims, to safeguard the principal and maintain the liquidity needs of the County and the other depositors. Within the limitation of this section and considering individual investments as part of an overall investment strategy, investments may be acquired as authorized by law.

The Board of Supervisors and those delegated staff shall act in accordance with written procedures and the Policy, exercise due diligence, report in a timely fashion and implement appropriate controls to mitigate adverse developments

IV. INVESTMENT AUTHORITY

The authority to invest the funds of the County and the funds of other depositors in the County Treasury rests with the Board of Supervisors. The Board may delegate its investment authority as it determines appropriate. Throughout this Policy, the “County Investment Manager” shall be defined as the County official or individual who is authorized by the Board to invest the funds of the County and the funds of other depositors in the County treasury.

V. OBJECTIVES

The primary investment objectives, presented in their absolute order of priority, are:

1. SAFETY

Safety of principal is the foremost investment objective. Investments shall be undertaken in a manner that seeks to ensure the preservation of capital.

The County Investment Manager shall seek to preserve principal and minimize capital losses by mitigating credit risk and market risk as follows:

- a) **Credit Risk:** Defined as an issuer’s ability and willingness to repay interest and principal. Credit risk shall be mitigated by diversifying the fund among issues and issuers so that the failure of any one issue or issuer would not result in a significant loss of income or principal to participants.
- b) **Market Risk:** Defined as the risk of market value fluctuations due to changes in the general level of interest rates. Because longer-term securities generally have greater market risk than shorter-term securities, market risk will be mitigated by establishing a maximum duration for OCTP. Occasional market losses on individual securities may occur with portfolio management and they must be considered within the context of the overall investment return.

2. LIQUIDITY

Liquidity refers to the ability to sell an investment at any moment with a minimal chance of principal loss. OCIF will maintain sufficient liquidity for the purpose of meeting all daily operating requirements based on reasonably anticipated cash flow needs.

3. YIELD

Yield refers to the objective of attaining a market rate of return commensurate with the risk profile and cash flow characteristics of the portfolio throughout budgetary and economic cycles. Although the County Investment Manager may employ certain indices to gauge the funds' rate of return, such indices shall be used solely for comparative purposes and do not constitute a warranty or guarantee of actual fund performance. The core investments are limited to relatively low risk securities in anticipation of earning a fair return relative to the risk being assumed. As noted in Government Code Section 53601.6, securities issued by, or backed by, the United States government can result in zero or negative interest accrual if held to maturity, in the event of, and for the duration of, a period of negative market interest rates.

MARK-TO-MARKET

The OCTP and Specific Investment Accounts investments are marked to market daily. The OCTP will attempt to maintain a \$1.00 net asset value (NAV) to the extent reasonably possible and consistent with the Board of Supervisors' trust and fiduciary duty. If the ratio of the market value of OCTP divided by the book value of OCTP is less than \$.9975, then the variance will be reported as well as any expected impact on the OCTP ability to meet forecasted cash outflows. In addition, the County Investment Manager may decide to sell holdings as necessary to maintain the OCTP's NAV above \$.9975. However, the OCTP \$1.00 NAV is not guaranteed or insured by the Board of Supervisors nor is OCTP registered with the Securities Exchange Commission (SEC).

The County Investment Manager will provide the NAV of OCTP and each Specific Investment Account in the investment report.

VI. AUTHORIZED INVESTMENTS

The County is authorized to invest in specific types of securities as provided in the Government Code. Investments not specifically listed below are prohibited. All securities must be United States dollar denominated. The County Investment Manager may place orders for the execution of transactions with or through such broker/dealers, banks or counterparties as may be selected from time to time at his/her discretion, consistent with legal requirements and this Policy.

The OCTP and Specific Investment Accounts may invest in the following areas to the extent they are consistent with the investment objectives, do not violate the investment restrictions, and adhere to limitations specified in this section, and Sections VII and VIII.

1. U. S. TREASURY SECURITIES

United States Treasury bills, notes, bonds, or certificates of indebtedness, for which the full faith and credit of the United States are pledged for the payment of principal and interest.

2. U. S. GOVERNMENT AGENCY SECURITIES

Obligations, participations, or other instruments of, or issued by, a federal agency or a United States government-sponsored enterprise (GSE). There is no limit on the percentage of OCTP that can be invested in this category including no issuer limit.

3. COMMERCIAL PAPER

Commercial Paper of "prime" quality of the highest ranking or of the highest letter and number rating as provided for by a Nationally Recognized Statistical Rating Organization

("NRSRO"). The entity that issues the commercial paper shall meet either of the following conditions in paragraph (a) or paragraph (b):

- a) Has total assets in excess of five hundred million dollars (\$500,000,000), is organized and operating within the United States as a general corporation and has debt other than commercial paper, if any, that is rated "A" or higher by a NRSRO.
- b) Is organized in the United States as a special purpose corporation, trust, or limited liability company, has program-wide credit enhancements including, but not limited to overcollateralization, letters of credit or a surety bond, and has commercial paper that is rated "A-1" or higher, or the equivalent, by an NRSRO.

4. NEGOTIABLE CERTIFICATES OF DEPOSIT

Negotiable certificates of deposit issued by a nationally or state-chartered bank, savings association, or a federal association (as defined by Section 5102 of the California Financial Code), or by a federally licensed or state-licensed branch of a foreign bank.

5. REPURCHASE AGREEMENTS

Investments in repurchase agreements for the purpose of this Policy means a purchase of securities by the County Investment Manager pursuant to an agreement by which the seller will repurchase the securities on or before a specified date and for a specified amount and will deliver the underlying securities to the County by book entry, physical delivery, or by third party custodial agreement. The term of a repurchase agreement shall not exceed one year and have capital of not less than \$500,000,000. The term "securities," for the purpose of repurchase agreements, means securities of the same issuer, description, issue date and maturity.

To participate in repurchase agreements, a master repurchase agreement must be completed and signed by all parties involved. The County will maintain a signed copy of the agreement. Repurchase agreements are required to be collateralized by securities or cash.

Collateralization:

In order to anticipate market changes and provide a level of security for all repurchase agreement transactions, the market value of securities that underlie a repurchase agreement shall be valued at 102% or greater of the funds borrowed against those securities and the value shall be adjusted no less frequently than weekly. Since the market value of the underlying securities is subject to daily market fluctuations, the investments in repurchase agreements shall comply with the market value requirement if the value of the underlying securities is brought back up to 102% no later than the next business day.

Collateral will be limited to cash, and U.S. Treasury and U.S. Government Agency securities. For compliance purposes, U.S. Treasury and U.S. Government Agency collateral are exempt from the issuer limits as stated in Section VIII.1. Collateral will be held by an independent third party with whom the County Investment Manager has a current custodial agreement. A clearly marked evidence of ownership (safekeeping/custody receipt) must be supplied to the County and retained. No collateral substitutions may be made without prior approval of the County Investment Manager.

Agreements are subject to Government Code Section 53601 and must comply with the delivery requirements and the maturity provision from Section 53601.

6. BANKERS' ACCEPTANCES

Bankers' acceptances, also known as time drafts or bills of exchange that are drawn on and accepted by a commercial bank. Purchases of bankers' acceptances shall not exceed 180 days maturity.

7. MONEY MARKET MUTUAL FUNDS

Shares of beneficial interest issued by diversified management companies that are money market mutual funds registered with the Securities and Exchange Commission under the Investment Company Act of 1940 (15 U.S.C. Sec. 80a-1 et seq.), which only invest in direct obligations in U.S. Treasury bills, notes, and bonds, U.S. Government Agencies, Municipal Debt, and repurchase agreements with a weighted average maturity of 60 days or less. Money Market Mutual Funds that do not maintain a constant Net Asset Value (NAV) are prohibited. The County Investment Manager shall be required to investigate money market mutual funds prior to investing and perform a periodic review, but at least annually thereafter while the funds are invested in the money market mutual fund. Approved money market mutual funds shall meet either of the following criteria:

- a) Attained the highest ranking or the highest letter and numerical rating provided by no less than two NRSROs.
- b) Retained an investment advisor registered or exempt from registration with the Securities and Exchange Commission with not less than five years' experience managing money market mutual funds with assets under management in excess of \$500,000,000.
- c) Money market mutual funds will not exceed 20 percent of the agency's moneys. No more than 10 percent of the agency's moneys may be invested in shares of beneficial interest of any one mutual fund. For specific investment accounts, this constraint will apply to the agency's total balances in both OCTP and the specific investment account (s).

8. STATE POOL – LOCAL AGENCY INVESTMENT FUND

The County Investment Manager may invest in the Local Agency Investment Fund (LAIF) established by the State Treasurer under Government Code Section 16429.1. LAIF has no final stated maturity and will be reported as a one-day maturity.

9. MUNICIPAL DEBT

Such instruments are defined as being issued by a local or state agency, including:

- a) Bonds issued by the local agency, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the local agency or by a department, board, agency or authority of the local agency.
- b) Registered state warrants or treasury notes or bonds of this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the state or by a department, board, agency, or authority of a state.
- c) Bonds, notes, warrants, or other evidences of indebtedness of a local agency within this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the local agency, or by a department, board, agency, or authority of the local agency.

10. MEDIUM-TERM NOTES

Medium-term notes are defined as all corporate and depository institution debt securities with a maximum remaining maturity of two years. Medium-term notes must be issued by

corporations organized and operating within the United States or by depository institutions licensed by the United States or any state and operating within the United States.

11. INVESTMENT POOLS

Shares of beneficial interest issued by a joint powers authority organized pursuant to Government Code Section 6509.7, which invests in the securities and obligations as authorized under 53601 (a) to (o), inclusive, and that comply with the investment restrictions of Government Code Sections 53600 through 53610 and Section 53630. The County Investment Manager shall be required to investigate all local government investment pools prior to investing and perform a quarterly review thereafter while the funds are invested in the pool. The analysis shall include, but is not limited to, the following characteristics of a pool/fund as part of its investigation and quarterly review:

- Eligible securities
- Maximum maturity
- REPO collateral/counter-party
- Size of the pool/fund
- Limits on withdrawal/deposit
- Expense ratio

12. SUPRANATIONAL SECURITIES

Supranational securities are defined as United States dollar denominated senior unsecured unsubordinated obligations issued or unconditionally guaranteed by the International Bank for Reconstruction and Development, International Finance Corporation, or Inter-American Development Bank, with a maximum remaining maturity five years or less, and eligible for purchase and sale within the United States.

VII. INVESTMENT CREDIT RATING RESTRICTIONS

For OCTP and Specific Investment Accounts, credit ratings will be applied at the time of purchase of a security and monitored for changes while owned. A downgrade subsequent to purchase in a security's credit rating will not constitute a violation of the Policy. Securities that are downgraded below the minimum acceptable rating levels must be reviewed for possible sale by the County Investment Manager within a reasonable amount of time. The credit ratings referenced in this policy must be assigned by one of the following NRSROs: Standard & Poor's Corporation (S&P), Moody's Investors Service, Inc. (Moody's) and Fitch Ratings (Fitch).

All investments, except those noted below in a) and b): 1) must have the minimum ratings required below by at least two NRSROs, and 2) the lowest rating of any NRSRO must meet or exceed the minimum rating required in the table below:

NRSRO	Short-Term	Long-Term
S&P	A-1	AA
Moody's	P-1/MIG 1/VMIG 1	Aa
Fitch	F-1	AA

If an issuer of Long-term debt has a Short-term debt rating, then the Long-Term rating may not be less than the minimum required Short-term debt ratings in the table above.

Any issuer, and all related entities, that have been placed on “Credit Watch-Negative” or downgraded by a NRSRO will be placed on hold and current holdings reviewed for possible sale within a reasonable period of time unless the following criteria are met and are also approved in writing by the County Investment Manager prior to purchase:

The issuer has:

- (a) an A-1+ or F1+ short-term rating; and
- (b) at least an AA or Aa2 or higher long-term rating from each of the NRSROs that rate the issuer.

Exceptions to the Rating Policy above:

- a) Municipal debt issued by the County of Orange, California (as defined in Section VI.9), U.S. Government obligations (as defined in Section VI.1 and VI.2) and State Pool (as defined in Section VI.8), are exempt from the credit rating requirements listed above.
- b) Money Market Mutual funds satisfying the requirements of Section VI.7 and Investment Pools (as defined in Section VI.11) require the highest ranking or the highest letter and numerical rating provided by at least one NRSRO.

VIII. INVESTMENT TYPE, DIVERSIFICATION, MATURITY AND DURATION RESTRICTIONS

It is best practice to diversify the OCTP and Specific Investment Accounts. Investments diversification is required to minimize the risk of loss resulting from assets off a specific maturity, issuer or a specific class of securities. The diversification strategies shall be established by the County Investment Manager and periodically reviewed.

1. ISSUER CONCENTRATION

Only debt of issuers listed on the Approved Issuer List may be purchased. The following diversification limits will also apply at the time of purchase of a security.

Investment Type	California Government Code			The Policy		
	Investment Limit	Issuer Limit	Max Maturity	Investment Limit	Issuer Limit	Max Maturity
U.S. Treasury Securities	100%	None	5 Years	100%	None	5 Years
U.S. Government Agency Securities (GSE's)	100%	None	5 Years	100%	None	5 Years
Municipal Debt	100%	None	5 Years	20%	5% except OC at 10%	3 Years
Medium-Term Notes	30%	None	5 Years	20%	5%	2 Years
Bankers Acceptances	40%	30%	180 Days	40%	5%	180 Days
Commercial Paper	40%	10%	270 Days	40%	5%	270 Days
Negotiable Certificates of Deposits	30%	None	5 Years	20%	5%	18 months
State of California Local Agency Investment Fund	\$75 million per account	N/A	N/A	\$75 million per account	N/A	N/A
Repurchase Agreements	100%	None	1 Year	20%	10%	180 Days
Money Market Mutual Funds (MMMF)	20% of total agency funds	10% of total agency funds	N/A	20% (same)	10% (same)	N/A
Joint Power Authority Investment Pools (JPA)	100%	None	N/A	20%	10%	N/A
Supranationals	30%	None	5 Years	30%	5%	5 Years

2. MATURITY

- a) The maximum maturity of any investment purchased will be five years with the exception of Specific Investment Accounts and any investment in the OCTP that is expressly authorized by the Board of Supervisors or the appropriate legislative body to be invested in longer than five-year maturities. The settlement date will be used as the date of purchase for measuring maturity limitations.
- b) For calculating the weighted average maturity of the portfolio, the maturity of a variable-rate security will be considered its next interest rate reset date, if there is a reasonable expectation that the security will maintain an approximate value of par upon each adjustment of the security's interest rate at any time until final maturity.

3. DURATION

The OCTP shall have a maximum duration of 1.50 years. There are no duration requirements for the Specific Investment Accounts.

IX. PROHIBITED TRANSACTIONS

All permitted investments shall conform in all respects with this Policy and applicable provisions of the Government Code, as may be amended from time to time. Investments prohibited by the Government Code are not permitted.

The County Investment Manager must approve in writing as soon as possible any investment transactions that violates a credit risk criterion or an allocation limitation. Thereafter, action shall be taken by the County Investment Manager to correct such matter as soon as practical. If an investment is in compliance at the time of purchase, a subsequent violation resulting from a change in market values will not constitute a violation of that restriction.

1. The following transactions are prohibited:

- a) Borrowing for investment purposes ("Leverage").
- b) Reverse Repurchase Agreements, as defined by Government Code Section 53601(j)(3) and (j)(4).
- c) Structured Notes (e.g. inverse floaters, leveraged floaters, structured certificates of deposit, equity-linked securities, event-linked securities). This includes all floating-rate, adjustable-rate or variable-rate securities in which a change in interest rates or other variables that can reasonably be foreseen to occur during their term would result in their market value not returning to par at the time of each interest rate adjustment.

Simple "floating rate notes," whose periodic coupon adjustment is based on a short-term (one-year or less) rate index (such as Treasury bills, federal funds, prime rate, or SOFR) and which have a reasonable expectation of maintaining a value of par at each interest rate adjustment through final maturity, are exempt from this definition. Additionally, U.S. Treasury and Agency zero coupon bonds or callable securities that otherwise meet the quality, maturity and percent limitations assigned to their respective security category, are exempt from this section.

- d) Structured Investment Vehicles (SIV).
- e) Derivatives (e.g., options, futures, swaps, swap options, spreads, straddles, caps, floors, collars).
- f) Money Market Mutual Funds that do not maintain a constant Net Asset Value (NAV).

X. ETHICS AND CONFLICT OF INTEREST

The County Investment Manager and all persons involved in the investment process shall refrain from personal business activity, which could create a conflict with proper execution of the investment program, or which could impair the ability to execute impartial investment decisions. The County Investment Manager and investment personnel shall disclose to the applicable oversight body any material financial interests in financial institutions, broker dealers, and vendors ("Outside Entities") that conduct business with the County of Orange and shall disclose any material financial investment positions in such Outside Entities.

1. STATEMENT OF ECONOMIC INTEREST FORM 700

County officers, public officials and all designated employees must annually file a Form 700 (Statement of Economic Interests) in accordance with the County's Conflict-of-Interest Code.

2. COUNTY'S GIFT BAN ORDINANCE – SEC. 1-3-22 THE CODIFIED ORDINANCES, ORANGE COUNTY, CALIF.

The County's Gift Ban Ordinance prohibits the receipt of specified gifts to the County officers, public officials and "designated employees" from business entities and individuals that "do business with the County" as that term is defined in the Ordinance. Under the Ordinance, the term "designated employee" includes every employee of the County who is designated in the County's Conflict-of-Interest Code to file a Form 700 and every member of a board or commission under the jurisdiction of the Board of Supervisors required to file such a form. The County Investment Manager will review this list of "designated employees" periodically and submit any proposed changes to the Board of Supervisors for approval.

XI. AUTHORIZED BROKER/DEALERS AND FINANCIAL INSTITUTIONS

The County Investment Manager will maintain a list of broker/dealers and financial institutions authorized to provide investment and/or depository services and products. Any permitted investment, not purchased directly from an approved issuer, shall be purchased either from a "primary" or regional securities broker/dealer qualifying under SEC Rule 15c3-1 (uniform net capital rule) and licensed by the state as a broker/dealer as defined in Section 25004 of the Corporations Code or a "well capitalized" national bank or Federal savings association as defined in Title 12 of the Code of Federal Regulations (CFR) Part 6.4 or a savings association or Federal association as defined by Section 5102 of the California Financial Code. To be eligible to receive local agency money, a bank, savings association, federal association or federally insured industrial loan company shall have received an overall rating of not less than "satisfactory" in its most recent evaluation by the appropriate federal financial supervisory agency of its record of meeting the credit needs of California's communities, including low- and moderate-income neighborhoods, pursuant to Section 2906 of Title 12 of the United States Code. Government Code sections 53601.5 and 53601.6 shall apply to all investments that are acquired pursuant to this section.

Broker/dealers must comply with the political contribution limitations contained in Rule G-37 of the Municipal Securities Rulemaking Board. Any broker, brokerage, dealer, or securities firm that contributed to the County Investment Manager, Treasurer, any member of the Board of Supervisors, or any candidate for those offices, within any consecutive 48-month period, are prohibited from selection onto the list of authorized security broker/dealers.

The County Investment Manager shall conduct an annual review of each broker/dealer and financial institution's financial condition and registrations to determine whether it should remain on the approved broker/dealer list for investment and/or depository services and require annual audited financial statements to be on file for each firm. The County Investment Manager shall strive to open an application period every two years for all new broker/dealers and financial institutions submitting a questionnaire or being reviewed if an existing broker/dealer to determine if they should be added to or removed from the approved broker/dealer list. This detailed questionnaire is required to be completed by broker/dealers and financial institutions seeking to provide investment services.

The County Investment Manager shall annually send a copy of the current Policy to all broker/dealers and financial institutions approved to provide investment services to the County, and they shall notify the County Investment Manager in writing of receipt and that they have received it.

XII. PERFORMANCE EVALUATION

The County Investment Manager shall either coordinate with the Treasurer, or submit its own investment report to the pool participants, the County Executive Officer, the Director of Internal Audit, the Auditor-Controller and the Board of Supervisors. The investment reports shall be issued no less frequently than within 45 days of the end of the quarter.

The investment report shall contain sufficient information to permit an informed outside reader to evaluate the performance of the investment program and shall include the type of investment, issuer, date of maturity, par and dollar amount invested on all securities, investments and moneys held, and shall additionally include a description of any of the funds, investments, or programs, that are under the management of contracted parties, including lending programs. With respect to securities held by the County Investment Manager, and under management any outside party that is not a local agency or LAIF, the report shall also include a current market value as of the date of the report and shall include the source of the valuation. The report shall also state compliance of the portfolio to the Policy, or the manner in which the portfolio is not in compliance. The investment report shall include a statement denoting the ability of the local agency to meet its pool expenditure requirements for the next six months, or an explanation as to why sufficient money shall, or may not be available.

The County Investment Manager shall provide financial information on investments for disclosure in the County's ACFR, in accordance with GASB Statements 31, 40, 72 and 84. In addition, the County Investment Manager shall either coordinate with the Treasurer, or submit its own report on monthly investment transactions to the Board of Supervisors.

XIII. SAFEKEEPING

All security transactions, including collateral for repurchase agreements, entered into by the County Investment Manager shall be conducted on a delivery-versus-payment (DVP) basis. All investments shall have the County of Orange and either the OCTP or the Specific Investment Account name as its registered owner except, if applicable, for municipal debt issued by the County of Orange through a private placement, in which case the name of the registered owner shall be determined by written agreement between the parties.

All securities shall be held by a third-party custodian designated by the Treasurer or applicable County officer (this does not apply to money market funds or investment pools). The third-

party custodian shall be required to issue a safekeeping statement to the Treasurer or applicable County officer listing the specific instrument, rate, maturity, and other pertinent information.

XIV. MAINTAINING THE PUBLIC TRUST

All participants in the investment process shall act as custodians of the public trust. The overall program shall be designed and managed with a degree of professionalism that is worthy of the public trust.

XV. INTERNAL CONTROLS

The County Investment Manager shall establish a system of written internal controls, which will be reviewed annually with the County's independent (external) auditor. The controls shall be designed to prevent loss of public funds due to fraud, employee error, and misrepresentation by third parties, unanticipated market changes, or imprudent actions by employees of the County Investment Manager. All agreements, statements, and investment trade packets will be subject to review annually by auditors in conjunction with their audit. The County Investment Manager shall evaluate audit reports in a timely manner with any applicable oversight body. Daily compliance of the investment portfolio shall be performed by the applicable County department. Compliance will be determined on a fair market value basis. Except for emergencies or previous authorization by the County Investment Manager, all investment transactions are to be entered daily into the appropriate Investment Accounting System.

1. INVESTMENT PROCEDURES

The County Investment Manager shall develop and maintain written administrative procedures for the operation of the investment program that are consistent with this Policy. Procedures will include reference to safekeeping, Master Repurchase Agreements, wire transfer agreements, collateral and depository agreements, banking service contracts, and other investment and banking related activities. Such procedures shall include explicit delegation of authority to personnel responsible for investment transactions.

The County Investment Manager shall be responsible for all transactions undertaken and shall establish a system of controls to regulate investment related activities. No investment personnel may engage in an investment transaction except as provided under terms of this Policy and the procedures established by the County Investment Manager.

XVI. EARNINGS AND COSTS APPORTIONMENT

The County Investment Manager determines the interest earnings for the OCTP and then allocates them to each individual pool participant based upon their average daily balance.

Any authorized officer who invests, deposits or otherwise handles funds for public agencies for the purpose of earning interest or other income on such funds as permitted by law, may deduct from such interest or income, before distribution thereof, the actual administrative cost of such investing, depositing or handling of funds and of distribution of such interest or income, as authorized by Government Code Section 27013. Such cost reimbursement shall be paid into the county general fund. In addition, if applicable, the costs of compliance with Government Code section 27130, *et seq.* shall be included as an eligible administrative cost. The County Investment Manager shall annually prepare a proposed budget revenue estimate and estimated

basis fee charge of this investment administrative fee charged in accordance with Government Code Section 27013. The County Investment Manager must annually reconcile the estimated charges and actual costs incurred and adjust participant accounts accordingly.

Investment earnings, including any gains or losses, less the above estimated fee charge will be allocated to the pool participants on at least a quarterly basis. The applicable investment report will state the current estimated investment administrative fee charged to participants.

XVII. PERFORMANCE STANDARDS

The investment portfolio shall be designed with the objective of obtaining a market rate of return throughout budgetary and economic cycles, commensurate with the investment risk constraints and the cash flow needs, while focusing on, in order of importance, preservation of capital, liquidity and yield.

The investment strategy is to manage the portfolios with less risk than a comparable benchmark index while using economies of scale to administer the program at a reasonable cost. The County Investment Manager shall determine whether market yields are achieved using the indices most comparable to the fund, such as money rate data published in Barron's, The Wall Street Journal, Bloomberg, the local government investment pool index or other bond fund indices. The standards enumerated herein do not constitute a guarantee of the fund's performance.

The County Investment Manager's investment strategy is to hold purchased securities until maturity. Changing economic conditions, interest rates, and credit quality may dictate a sale in advance to minimize market and credit risks or enhance yield. Such sales should consider the short- and long-term impact on the portfolio. The County Investment Manager must approve in advance the sale of all securities prior to maturity.

XVIII. INVESTMENT POLICY REVIEW

This Policy shall be reviewed on an annual basis by the County Investment Manager and any applicable oversight body. The Policy shall be submitted annually to the Board as a receive and file item as part of the County's Strategic Financial Plan. However, any changes to the Policy shall be presented for review and approval by the Board of Supervisors.

XIX. FINANCIAL REPORTING

All applicable investment reports and all investment compliance Audit Reports shall be provided to the Orange County Board of Supervisors, the County Executive Officer, the Chief Financial Officer, the Director of Internal Audit, the Auditor-Controller, any applicable oversight body, and the presiding judge of the Superior Court. All reports filed by the County Investment Manager shall, among other matters, state compliance of the portfolio with the Policy, or the manner in which the portfolio is not in compliance. A statement will also be filed by the denoting the ability of OCTP to meet its expenditure requirements for the next six months or provide an explanation of why sufficient money may not be available.

XX. LEGISLATIVE CHANGES

Any State of California law that further restricts allowable maturities, investment type, percentage allocations, or any other provision of this Policy will, upon effectiveness, be incorporated into this Policy and supersede any and all previous applicable language.

XXI. DISASTER RECOVERY PROGRAM

The Disaster Plan includes critical phone numbers and addresses of key treasury and investment personnel as well as currently approved bankers and broker/dealers. The Disaster Plan is distributed to key County and investment personnel. The plan provides for an offsite location to be communicated at the time of readiness if our offices are uninhabitable. In the event the County Investment Manager or authorized staff is unable to invest the portfolio, the Treasurer, or applicable County officer, has an agreement with the custodian for a daily sweep of uninvested cash with the custody bank into a money market mutual fund. Until normal operations of the County Investment Manager's office have been restored, the limitations on the size of an individual issuer and the percentage restrictions by investment type would be allowed to exceed those approved in this Policy and would be required to be reported to the Board of Supervisors and pool participants in a timely manner.

XXII. INVESTMENT POLICY GLOSSARY

This Glossary is for general reference purposes only and does not constitute an exhaustive or exclusive list of terms and definitions applicable to this Investment Policy. The definitions included herein do not modify any of the terms of this Investment Policy or applicable law.

ACCREDITED INVESTOR: Defined in the Code of Federal Regulations (CFR) 230.501 (a)(9) as any entity, including a government body that owns “investments”, as defined in the CFR 270.2A51-1(b)(7)(i), such as cash and cash equivalents, for investment purposes under the Investment Company Act in excess of \$5 million.

ACCRUED INTEREST: The amount of interest that is earned but unpaid since the last interest payment date.

ADJUSTABLE RATE NOTE: (See Floating Rate Note)

AGENCY SECURITIES: (See U.S. Government Agency Securities)

AMORTIZATION: The systematic reduction of the amount owed on a debt issue through periodic payments of principal.

AVERAGE LIFE: The average length of time that an issue of serial bonds and/or term bonds with a mandatory sinking fund feature is expected to be outstanding.

ASKED PRICE: The price at which securities are offered from a seller.

ASSET BACKED SECURITIES (ABS): (See Receivable-Backed Securities)

BANKERS' ACCEPTANCE (BA): Negotiable money market instruments issued primarily to finance international trade. These are time drafts in which a bank “accepts” as its financial responsibility to pay the principal at maturity even if the importer does not. In essence, these are bank obligations collateralized by goods being shipped between an exporter and an importer.

BASIS POINT: When a yield is expressed as 7.32%, the digits to the right of the decimal point are known as basis points. One basis point equals 1/100 of one percent. Basis points are used more often to describe changes in yields on bonds, notes and other fixed-income securities.

BID PRICE: The price at which a buyer offers to buy a security.

BOOK ENTRY: The system, maintained by the Federal Reserve, by which most money market securities are “delivered” to an investor’s custodian bank. The Federal Reserve maintains a computerized record of the ownership of these securities, and records any changes in ownership corresponding to payments made over the Federal Reserve wire (delivery versus payment). The owners of these securities do not receive physical certificates.

BOOK VALUE: The original cost of the investment, plus accrued interest and amortization of any premium or discount.

BROKER: A broker brings buyers and sellers together and is compensated for his/her service.

CALLABLE BONDS: Bonds that may be redeemed by the issuing company prior to the maturity date.

CALL PRICE: The price at which an issuer may redeem a bond prior to maturity. The price is usually at a slight premium to the bond's original issue price to compensate the holder for loss of income and ownership.

CALL RISK: The risk to a bondholder that a bond may be redeemed prior to maturity.

CAPITAL GAIN/LOSS: The profit or loss realized from the sale of a capital asset.

COUNTY INVESTMENT MANAGER: The County official or individual authorized by the Board of Supervisors to invest the funds of the County and the funds of other depositors in the County treasury.

CERTIFICATE OF DEPOSIT (CD or NCD): A deposit of funds at a bank for a specified period of time that earns interest at a specified rate. Commonly known as "CDs" or "negotiable CDs."

COLLATERAL: Securities or cash pledged by a borrower to secure repayment of a loan or repurchase agreement. Also, securities pledged by a financial institution to secure deposits of public moneys.

COMMERCIAL PAPER (CP): Short-term unsecured promissory notes issued by corporations for maturities of 270 days or less.

CONSUMER RECEIVABLE-BACKED BONDS: (See Receivable-Backed Securities)

CONVEXITY: A measure of a bond's price sensitivity to changing interest rates. A high convexity indicates greater sensitivity of a bond's price to interest rate changes.

CREDIT OUTLOOK: (See Rating Outlook)

CREDIT QUALITY: The measurement of the financial strength of a bond issuer. This measurement helps an investor to understand an issuer's ability to make timely interest payments and repay the loan principal upon maturity. Generally, the higher the credit quality of a bond issuer, the lower the interest rate paid by the issuer because the risk of default is lower. Credit quality ratings are provided by nationally recognized statistical rating organizations.

CREDIT RISK: The risk to an investor that an issuer will default in the payment of interest and/or principal on a security.

CREDIT WATCH: indicates that a company's credit is under review and credit ratings are subject to change.

*+ (positive) Credit is under review for possible upgrade.

*- (negative) Credit is under review for possible downgrade.

* Credit is under review, direction uncertain.

COUPON: The rate at which a bond pays interest.

CURRENT YIELD: The annual income from an investment divided by the current market value. Since the mathematical calculation relies on the current market value rather than the investor's cost, current yield is unrelated to the actual return the investor will earn if the security is held to maturity.

CUSTODIAN: A bank or other financial institution that keeps custody of stock certificates and other assets.

DEALER: A dealer, as opposed to a broker, acts as a principal in all transactions, buying and selling for

his own account.

DELIVERY VERSUS PAYMENT (DVP): Delivery of securities with a simultaneous exchange of money for the securities.

DERIVATIVE: A security whose interest rate or principal amount may vary and are determined by a market index or a combination of market indexes.

DISCOUNT: The difference between the par value of a bond and the cost of the bond, when the cost is below par. Some short-term securities, such as Treasury bills and bankers acceptances, are known as discount securities. They sell at a discount from par, and return the par value to the investor at maturity without additional interest. Other securities, which have fixed coupons, trade at a discount when the coupon rate is lower than the current market rate for securities of that maturity and/or quality.

DIVERSIFICATION: An investment principle designed to spread the risk in a portfolio by dividing investments among different sectors, industries and companies.

DOLLAR-WEIGHTED AVERAGE MATURITY: A calculation that expresses the “average maturity” of an investment portfolio using each investment’s maturity weighted by the size of that investment.

DURATION: A measure of the timing of the cash flows, such as the interest payments and the principal repayment, to be received from a given fixed-income security. This calculation is based on three variables: term to maturity, coupon rate and yield to maturity. The duration of a security is a useful indicator of its price volatility for given changes in interest rates.

FEDERAL FUNDS RATE: Interest rate charged by banks with excess reserves at a Federal Reserve district bank to banks needing overnight loans to meet reserve requirements. A target rate is set by the FOMC.

FEDERAL OPEN MARKET COMMITTEE (FOMC): This committee sets Federal Reserve guidelines regarding purchases and sales of government securities in the open market as a means of influencing the volume of bank credit and money.

FEDERAL RESERVE SYSTEM: A U.S. centralized banking system, which has supervisory powers over the 12 Federal Reserve banks and about 6,000 member banks.

FITCH, INC: (see Nationally Recognized Statistical Rating Organization)

FIXED-INCOME SECURITIES: Securities that return a fixed income over a specified period.

FLOATING RATE NOTE: A debt security whose interest rate is reset periodically (monthly, quarterly, annually) and is based on a market index (e.g. Treasury bills, Secured Overnight Financing Rate (SOFR), etc.).

INTEREST: The amount earned while owning a debt security, generally calculated as a percentage of the principal amount.

INTERNAL CONTORLS: An internal control structure designed to ensure that the assets of the entity are protected from loss, theft, or misuse. The internal control structure is designed to provide reasonable assurance that these objectives are met. The concept of reasonable assurance recognizes that 1) the cost of a control should not exceed the benefits likely to be derived and 2) the valuation of costs and benefits requires estimates and judgments by management.

INVESTMENT COMPANY ACT OF 1940: Federal legislation which sets the standards by which investment companies, such as mutual funds, are regulated in the areas of advertising, promotion, performance reporting requirements, and securities valuations.

LIQUIDITY: The speed and ease with which an investment can be converted to cash.

LOCAL AGENCY: County, city, city and county, including a chartered city or county, school district, community college district, public district, county board of education, county superintendent of schools, or any public or municipal corporation.

MARK-TO-MARKET: The market valuation for every security in a portfolio used in determining Net Asset Value (NAV).

MARKET RISK: The risk that changes in overall market conditions or interest rate may adversely affect current market prices.

MARKET VALUE: The price at which a security is trading and could presumably be purchased or sold.

MASTER REPURCHASE AGREEMENT: A written contract between the parties of a repurchase agreement establishing each party's rights in all current and future transactions until termination of the contract by either party.

MATURITY: The date upon which the principal or stated value of an investment becomes due and payable.

MEDIUM TERM NOTES (MTN): Debt securities issued by a corporation or depository institution with a maturity ranging from nine months to five years. The term "medium-term note" refers to the time it takes for an obligation to mature, and includes other corporate debt securities originally issued for maturities longer than five years, but which have now fallen within the five- year maturity range. MTNs issued by banks are also called "bank notes."

MONEY MARKET: The market in which short-term debt instruments (Treasury bills, discount notes, commercial paper, bankers acceptances, etc.) are issued and traded.

MONEY MARKET MUTUAL FUNDS: An investment company that pools money from investors and invest in a variety of short-term money market instruments

MOODY'S INVESTORS SERVICE, INC: (See Nationally Recognized Rating Services)

MUNICIPAL DEBT: Bonds, notes and other securities issued by a state, municipality or county.

NATIONALLY RECOGNIZED STATISTICAL RATING ORGANIZATION (NRSRO): Firms that review the creditworthiness of the issuers of debt securities, and express their opinion in the form of letter ratings (e.g. AAA, AA, A, BBB, etc.). The primary rating agencies are the following: Standard & Poor's Corporation; Moody's Investor Services, Inc.; and Fitch, Inc.

NEGOTIABLE CD: (See Certificates of Deposit)

NET ASSET VALUE (NAV): A per-share valuation of a mutual fund based on total assets minus total liabilities.

NON-CALLABLE: Bond that cannot be called at the option of the issuer.

OFFER PRICE: The price asked by a seller of securities.

PAR or PAR VALUE: The amount of principal that must be paid at maturity. Also referred to as the face amount of a bond, normally quoted in \$1,000 increments per bond.

PHYSICAL DELIVERY: The delivery of an investment to a custodian bank in the form of a physical certificate and/or supporting documents evidencing the investment (as opposed to “book entry” delivery).

PORTFOLIO: A group of securities held by an individual or institutional investor.

PREMIUM: The difference between the par value of a bond and the market value of the bond, when the market value is above par.

PRICE RISK: The risk that the price of a bond sold prior to maturity will be less than the price at which the bond was originally purchased.

PRIMARY DEALER: Banks and securities brokerages authorized to buy and sell government securities in direct dealings with the Federal Reserve Bank of New York in its execution of Federal Open Market Operations.

PRIME RATE: The base rate that banks use in pricing commercial loans to their best and most creditworthy customers.

PRINCIPAL: The face value or par value of an investment.

PROSPECTUS: A legal document that must be provided to any prospective purchaser of a new securities offering registered with the SEC. This can include information of the issuer, the issuer’s business, the proposed use of proceeds, the experience of the issuer’s management, and certain certified financial statements.

QUALIFIED INSTITUTIONAL BUYER (QIB): Defined in CFR Section 230.144A as a class of investors that can be conclusively assumed to be sophisticated and in little need of the protection afforded by the Securities Act’s registration provisions. They must own and invest on a discretionary basis at least \$100 million in securities of issuers that are not affiliated with the QIB to qualify for qualified institutional buyer status. This includes any institutional investors included in the accredited investor definition, provided they satisfy the \$100 million threshold.

RATING OUTLOOK: The potential direction of the credit rating assigned by a NRSRO for a specific company.

REINVESTMENT RISK: The risk that coupon payments (or other payments received) cannot be reinvested at the same rate as the initial investment.

RECEIVABLE-BACKED SECURITIES: Securities collateralized with consumer receivables, such as automobile loans, credit card receivables, or home equity loans, which are owned by the issuer, but placed with a trustee for the benefit of the investor.

RECEIVABLE PASS-THROUGH CERTIFICATE: A debt obligation that is backed by a portfolio of receivables, normally issued by a bank or financial institution. The interest and principal of the obligation is paid out of the cash flow generated by the receivables portfolio.

REFUNDED BOND: A bond secured by an escrow fund that is sufficient to pay off the entire issue of bonds at the next call date (pre-funded) or maturity (escrowed to maturity).

REGISTERED STATE WARRANT: A short-term obligation of a state governmental body issued in anticipation of revenue.

REPURCHASE AGREEMENT (REPO): The purchase of securities, on a temporary basis, with the seller's simultaneous agreement to repurchase the securities back at a later date at a specified price that includes interest for the buyer's holding period.

RULE 2a-7 OF THE INVESTMENT COMPANY ACT: Applies to all money market mutual funds and mandates such funds to maintain certain standards.

RULE G-37 OF THE MUNICIPAL SECURITIES RULEMAKING BOARD: Federal regulations to sever any connection between the making of political contributions and the awarding of municipal securities business.

SAFEKEEPING: Storage and protection of a customer's financial assets, valuables, or documents, provided as a service by an institution serving as Agent or Custodian and, where control is delegated by the customer.

SECURITIES & EXCHANGE COMMISSION (SEC): The federal agency responsible for supervising and regulating the securities industry.

SINKING FUND: Money accumulated on a regular basis in a separate custodial account that is used to redeem debt securities or preferred stock issues.

STANDARD & POOR'S CORPORATION: (See Nationally Recognized Rating Services)

STRUCTURED INVESTMENT VEHICLE (SIV): A pool of investment assets that attempts to profit from credit spreads between short-term debt and long-term structured finance products such as asset-backed securities (ABS). Funding for SIVs comes from the issuance of commercial paper that is continuously renewed or rolled over; the proceeds are then invested in longer maturity assets that have less liquidity but pay higher yields. SIVs often employ great amounts of leverage to generate returns.

SUPRANATIONAL: An entity that is formed by two or more central governments with the purpose of promoting economic development for the member countries. Examples include the International Bank for Reconstruction and Development, International Finance Corporation, and the Inter-American Development Bank.

THIRD-PARTY CUSTODIAL AGREEMENT: (See Custodian)

TOTAL RETURN: The sum of all investment income plus changes in the capital value of the portfolio. For mutual funds, return on an investment is composed of share price appreciation plus any realized dividends or capital gains. This is calculated by taking the following components during a certain time period.

$$(\text{Price appreciation}) + (\text{Dividends paid}) + (\text{Capital gains}) = \text{Total Return}$$

TRADE DATE: The date and time corresponding to an investor's commitment to buy or sell a security.

U. S. GOVERNMENT AGENCY SECURITIES: Debt securities issued by U.S. Government sponsored enterprises and federally related institutions. These government agencies include: Federal Home Loan Banks (FHLB), Federal Home Loan Mortgage Corporation (FHLMC or Freddie Mac), Federal National Mortgage Association (FNMA or Fannie Mae), Federal Farm Credit Banks (FFCB) and Tennessee Valley Authority (TVA).

U.S. TREASURY SECURITIES: Securities issued by the U.S. Treasury and backed by the full faith and credit of the United States. Treasuries are considered to have no credit risk, and are the benchmark for interest rates on all other securities in the U.S. and overseas. The Treasury issues both discounted securities and fixed coupon notes and bonds.

Treasury bills: non-interest-bearing discount securities with maturities under one year issued by the U.S. Treasury to finance the national debt.

Treasury notes: interest-bearing obligations of the U.S. Treasury with maturities ranging from two to ten years from date of issue.

Treasury bonds: interest-bearing obligations issued by the U.S. Treasury with maturities that range from ten to thirty years from date of issue.

UNIFORM NET CAPITAL RULE: SEC Rule 15C3-1 outlining capital requirements for broker/dealers.

VARIABLE RATE NOTE: (See Floating Rate Note)

VOLATILITY: A degree of fluctuation in the price and valuation of securities.

WEIGHTED AVERAGE MATURITY (WAM): The average maturity of all the securities that comprise a portfolio. According to SEC rule 2a-7, the WAM for SEC registered money market mutual funds may not exceed 60 days and no one security may have a maturity that exceeds 397 days.

WHEN ISSUED (WI): A conditional transaction in which an authorized new security has not been issued. All “when issued” transactions are settled when the actual security is issued.

YIELD: The annual rate of return on a debt investment computed as though held to maturity expressed as a percentage.

YIELD TO CALL (YTC): The rate of return an investor earns from a bond assuming the bond is redeemed (called) prior to its nominal maturity date.

YIELD TO MATURITY (YTM): The rate of return earned on an investment considering all cash flows and timing factors: interest earnings, discounts, and premiums above par.

ZERO-COUPON BONDS/U.S. TREASURY STRIPS: A bond which represents ownership of a single coupon or principal payment due on a U.S. Treasury bond. Zeros or strips mature at face value at a specified date in the future and make no payments until that date. They always sell at a discount from face value.

West's Annotated California Codes

Government Code (Refs & Annos)

Title 5. Local Agencies (Refs & Annos)

Division 2. Cities, Counties, and Other Agencies (Refs & Annos)

Part 1. Powers and Duties Common to Cities, Counties, and Other Agencies (Refs & Annos)

Chapter 4. Financial Affairs (Refs & Annos)

Article 1. Investment of Surplus (Refs & Annos)

West's Ann.Cal.Gov.Code § 53601

§ 53601. Local agencies; authorized investments

Currentness

<Section operative until Jan. 1, 2026. See, also, § 53601 operative Jan. 1, 2026.>

This section shall apply to a local agency that is a city, a district, or other local agency that does not pool money in deposits or investments with other local agencies, other than local agencies that have the same governing body. However, [Section 53635](#) shall apply to all local agencies that pool money in deposits or investments with other local agencies that have separate governing bodies. The legislative body of a local agency having moneys in a sinking fund or moneys in its treasury not required for the immediate needs of the local agency may invest any portion of the moneys that it deems wise or expedient in those investments set forth below. A local agency purchasing or obtaining any securities prescribed in this section, in a negotiable, bearer, registered, or nonregistered format, shall require delivery of the securities to the local agency, including those purchased for the agency by financial advisers, consultants, or managers using the agency's funds, by book entry, physical delivery, or by third-party custodial agreement. The transfer of securities to the counterparty bank's customer book entry account may be used for book entry delivery.

For purposes of this section, "counterparty" means the other party to the transaction. A counterparty bank's trust department or separate safekeeping department may be used for the physical delivery of the security if the security is held in the name of the local agency. Where this section specifies a percentage limitation for a particular category of investment, that percentage is applicable only at the date of purchase. For purposes of compliance with this section, an investment's term or remaining maturity shall be measured from the settlement date to final maturity. A security purchased in accordance with this section shall not have a forward settlement date exceeding 45 days from the time of investment. Where this section does not specify a limitation on the term or remaining maturity at the time of the investment, no investment shall be made in any security, other than a security underlying a repurchase or reverse repurchase agreement or securities lending agreement authorized by this section, that at the time of the investment has a term remaining to maturity in excess of five years, unless the legislative body has granted express authority to make that investment either specifically or as a part of an investment program approved by the legislative body no less than three months prior to the investment:

(a) Bonds issued by the local agency, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the local agency or by a department, board, agency, or authority of the local agency.

(b) United States Treasury notes, bonds, bills, or certificates of indebtedness, or those for which the faith and credit of the United States are pledged for the payment of principal and interest.

(c) Registered state warrants or treasury notes or bonds of this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the state or by a department, board, agency, or authority of the state.

(d) Registered treasury notes or bonds of any of the other 49 states in addition to California, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by a state or by a department, board, agency, or authority of any of the other 49 states, in addition to California.

(e) Bonds, notes, warrants, or other evidences of indebtedness of a local agency within this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the local agency, or by a department, board, agency, or authority of the local agency.

(f) Federal agency or United States government-sponsored enterprise obligations, participations, or other instruments, including those issued by or fully guaranteed as to principal and interest by federal agencies or United States government-sponsored enterprises.

(g) Bankers' acceptances otherwise known as bills of exchange or time drafts that are drawn on and accepted by a commercial bank. Purchases of bankers' acceptances shall not exceed 180 days' maturity or 40 percent of the agency's moneys that may be invested pursuant to this section. However, no more than 30 percent of the agency's moneys may be invested in the bankers' acceptances of any one commercial bank pursuant to this section.

This subdivision does not preclude a municipal utility district from investing moneys in its treasury in a manner authorized by the Municipal Utility District Act (Division 6 (commencing with [Section 11501](#)) of the [Public Utilities Code](#)).

(h) Commercial paper of "prime" quality of the highest ranking or of the highest letter and number rating as provided for by a nationally recognized statistical rating organization (NRSRO). The entity that issues the commercial paper shall meet all of the following conditions in either paragraph (1) or (2):

(1) The entity meets the following criteria:

(A) Is organized and operating in the United States as a general corporation.

(B) Has total assets in excess of five hundred million dollars (\$500,000,000).

(C) Has debt other than commercial paper, if any, that is rated in a rating category of "A" or its equivalent or higher by an NRSRO.

(2) The entity meets the following criteria:

(A) Is organized within the United States as a special purpose corporation, trust, or limited liability company.

(B) Has programwide credit enhancements including, but not limited to, overcollateralization, letters of credit, or a surety bond.

(C) Has commercial paper that is rated “A-1” or higher, or the equivalent, by an NRSRO.

Eligible commercial paper shall have a maximum maturity of 270 days or less. Local agencies, other than counties or a city and county, that have less than one hundred million dollars (\$100,000,000) of investment assets under management, may invest no more than 25 percent of their moneys in eligible commercial paper. Local agencies, other than counties or a city and county, that have one hundred million dollars (\$100,000,000) or more of investment assets under management may invest no more than 40 percent of their moneys in eligible commercial paper. A local agency, other than a county or a city and a county, may invest no more than 10 percent of its total investment assets in the commercial paper and the medium-term notes of any single issuer. Counties or a city and county may invest in commercial paper pursuant to the concentration limits in [subdivision \(a\) of Section 53635](#).

(i) Negotiable certificates of deposit issued by a nationally or state-chartered bank, a savings association or a federal association (as defined by [Section 5102 of the Financial Code](#)), a state or federal credit union, or by a federally licensed or state-licensed branch of a foreign bank. Purchases of negotiable certificates of deposit shall not exceed 30 percent of the agency's moneys that may be invested pursuant to this section. For purposes of this section, negotiable certificates of deposit do not come within Article 2 (commencing with [Section 53630](#)), except that the amount so invested shall be subject to the limitations of [Section 53638](#). The legislative body of a local agency and the treasurer or other official of the local agency having legal custody of the moneys are prohibited from investing local agency funds, or funds in the custody of the local agency, in negotiable certificates of deposit issued by a state or federal credit union if a member of the legislative body of the local agency, or a person with investment decisionmaking authority in the administrative office manager's office, budget office, auditor-controller's office, or treasurer's office of the local agency also serves on the board of directors, or any committee appointed by the board of directors, or the credit committee or the supervisory committee of the state or federal credit union issuing the negotiable certificates of deposit.

(j)(1) Investments in repurchase agreements or reverse repurchase agreements or securities lending agreements of securities authorized by this section, as long as the agreements are subject to this subdivision, including the delivery requirements specified in this section.

(2) Investments in repurchase agreements may be made, on an investment authorized in this section, when the term of the agreement does not exceed one year. The market value of securities that underlie a repurchase agreement shall be valued at 102 percent or greater of the funds borrowed against those securities and the value shall be adjusted no less than quarterly. Since the market value of the underlying securities is subject to daily market fluctuations, the investments in repurchase agreements shall be in compliance if the value of the underlying securities is brought back up to 102 percent no later than the next business day.

(3) Reverse repurchase agreements or securities lending agreements may be utilized only when all of the following conditions are met:

(A) The security to be sold using a reverse repurchase agreement or securities lending agreement has been owned and fully paid for by the local agency for a minimum of 30 days prior to sale.

(B) The total of all reverse repurchase agreements and securities lending agreements on investments owned by the local agency does not exceed 20 percent of the base value of the portfolio.

(C) The agreement does not exceed a term of 92 days, unless the agreement includes a written codicil guaranteeing a minimum earning or spread for the entire period between the sale of a security using a reverse repurchase agreement or securities lending agreement and the final maturity date of the same security.

(D) Funds obtained or funds within the pool of an equivalent amount to that obtained from selling a security to a counterparty using a reverse repurchase agreement or securities lending agreement shall not be used to purchase another security with a maturity longer than 92 days from the initial settlement date of the reverse repurchase agreement or securities lending agreement, unless the reverse repurchase agreement or securities lending agreement includes a written codicil guaranteeing a minimum earning or spread for the entire period between the sale of a security using a reverse repurchase agreement or securities lending agreement and the final maturity date of the same security.

(4)(A) Investments in reverse repurchase agreements, securities lending agreements, or similar investments in which the local agency sells securities prior to purchase with a simultaneous agreement to repurchase the security may be made only upon prior approval of the governing body of the local agency and shall be made only with primary dealers of the Federal Reserve Bank of New York or with a nationally or state-chartered bank that has or has had a significant banking relationship with a local agency.

(B) For purposes of this chapter, "significant banking relationship" means any of the following activities of a bank:

(i) Involvement in the creation, sale, purchase, or retirement of a local agency's bonds, warrants, notes, or other evidence of indebtedness.

(ii) Financing of a local agency's activities.

(iii) Acceptance of a local agency's securities or funds as deposits.

(5)(A) "Repurchase agreement" means a purchase of securities by the local agency pursuant to an agreement by which the counterparty seller will repurchase the securities on or before a specified date and for a specified amount and the counterparty will deliver the underlying securities to the local agency by book entry, physical delivery, or by third-party custodial agreement. The transfer of underlying securities to the counterparty bank's customer book-entry account may be used for book-entry delivery.

(B) "Securities," for purposes of repurchase under this subdivision, means securities of the same issuer, description, issue date, and maturity.

(C) "Reverse repurchase agreement" means a sale of securities by the local agency pursuant to an agreement by which the local agency will repurchase the securities on or before a specified date and includes other comparable agreements.

(D) "Securities lending agreement" means an agreement under which a local agency agrees to transfer securities to a borrower who, in turn, agrees to provide collateral to the local agency. During the term of the agreement, both the securities and the collateral are held by a third party. At the conclusion of the agreement, the securities are transferred back to the local agency in return for the collateral.

(E) For purposes of this section, the base value of the local agency's pool portfolio shall be that dollar amount obtained by totaling all cash balances placed in the pool by all pool participants, excluding any amounts obtained through selling securities by way of reverse repurchase agreements, securities lending agreements, or other similar borrowing methods.

(F) For purposes of this section, the spread is the difference between the cost of funds obtained using the reverse repurchase agreement and the earnings obtained on the reinvestment of the funds.

(k) Medium-term notes, defined as all corporate and depository institution debt securities with a maximum remaining maturity of five years or less, issued by corporations organized and operating within the United States or by depository institutions licensed by the United States or any state and operating within the United States. Notes eligible for investment under this subdivision shall be rated in a rating category of "A" or its equivalent or better by an NRSRO. Purchases of medium-term notes shall not include other instruments authorized by this section and shall not exceed 30 percent of the agency's moneys that may be invested pursuant to this section. A local agency, other than a county or a city and a county, may invest no more than 10 percent of its total investment assets in the commercial paper and the medium-term notes of any single issuer.

(l)(1) Shares of beneficial interest issued by diversified management companies that invest in the securities and obligations as authorized by subdivisions (a) to (k), inclusive, and subdivisions (m) to (q), inclusive, and that comply with the investment restrictions of this article and Article 2 (commencing with [Section 53630](#)). However, notwithstanding these restrictions, a counterparty to a reverse repurchase agreement or securities lending agreement is not required to be a primary dealer of the Federal Reserve Bank of New York if the company's board of directors finds that the counterparty presents a minimal risk of default, and the value of the securities underlying a repurchase agreement or securities lending agreement may be 100 percent of the sales price if the securities are marked to market daily.

(2) Shares of beneficial interest issued by diversified management companies that are money market funds registered with the United States Securities and Exchange Commission under the Investment Company Act of 1940 ([15 U.S.C. Sec. 80a-1 et seq.](#)).

(3) If investment is in shares issued pursuant to paragraph (1), the company shall have met either of the following criteria:

(A) Attained the highest ranking or the highest letter and numerical rating provided by not less than two NRSROs.

(B) Retained an investment adviser registered or exempt from registration with the United States Securities and Exchange Commission with not less than five years' experience investing in the securities and obligations authorized by subdivisions (a) to (k), inclusive, and subdivisions (m) to (q), inclusive, and with assets under management in excess of five hundred million dollars (\$500,000,000).

(4) If investment is in shares issued pursuant to paragraph (2), the company shall have met either of the following criteria:

(A) Attained the highest ranking or the highest letter and numerical rating provided by not less than two NRSROs.

(B) Retained an investment adviser registered or exempt from registration with the United States Securities and Exchange Commission with not less than five years' experience managing money market mutual funds with assets under management in excess of five hundred million dollars (\$500,000,000).

(5) The purchase price of shares of beneficial interest purchased pursuant to this subdivision shall not include commission that the companies may charge and shall not exceed 20 percent of the agency's moneys that may be invested pursuant to this section. However, no more than 10 percent of the agency's funds may be invested in shares of beneficial interest of any one mutual fund pursuant to paragraph (1).

(m) Moneys held by a trustee or fiscal agent and pledged to the payment or security of bonds or other indebtedness, or obligations under a lease, installment sale, or other agreement of a local agency, or certificates of participation in those bonds, indebtedness, or lease installment sale, or other agreements, may be invested in accordance with the statutory provisions governing the issuance of those bonds, indebtedness, or lease installment sale, or other agreement, or to the extent not inconsistent therewith or if there are no specific statutory provisions, in accordance with the ordinance, resolution, indenture, or agreement of the local agency providing for the issuance.

(n) Notes, bonds, or other obligations that are at all times secured by a valid first priority security interest in securities of the types listed by [Section 53651](#) as eligible securities for the purpose of securing local agency deposits having a market value at least equal to that required by [Section 53652](#) for the purpose of securing local agency deposits. The securities serving as collateral shall be placed by delivery or book entry into the custody of a trust company or the trust department of a bank that is not affiliated with the issuer of the secured obligation, and the security interest shall be perfected in accordance with the requirements of the Uniform Commercial Code or federal regulations applicable to the types of securities in which the security interest is granted.

(o)(1) A mortgage passthrough security, collateralized mortgage obligation, mortgage-backed or other pay-through bond, equipment lease-backed certificate, consumer receivable passthrough certificate, or consumer receivable-backed bond.

(2) For securities eligible for investment under this subdivision not issued or guaranteed by an agency or issuer identified in subdivision (b) or (f), the following limitations apply:

(A) The security shall be rated in a rating category of "AA" or its equivalent or better by an NRSRO and have a maximum remaining maturity of five years or less.

(B) Purchase of securities authorized by this paragraph shall not exceed 20 percent of the agency's surplus moneys that may be invested pursuant to this section.

(p) Shares of beneficial interest issued by a joint powers authority organized pursuant to [Section 6509.7](#) that invests in the securities and obligations authorized in subdivisions (a) to (r), inclusive. Each share shall represent an equal proportional interest in the underlying pool of securities owned by the joint powers authority. To be eligible under this section, the joint powers authority issuing the shares shall have retained an investment adviser that meets all of the following criteria:

- (1) The adviser is registered or exempt from registration with the United States Securities and Exchange Commission.
- (2) The adviser has not less than five years of experience investing in the securities and obligations authorized in subdivisions (a) to (q), inclusive.
- (3) The adviser has assets under management in excess of five hundred million dollars (\$500,000,000).
- (q) United States dollar denominated senior unsecured unsubordinated obligations issued or unconditionally guaranteed by the International Bank for Reconstruction and Development, International Finance Corporation, or Inter-American Development Bank, with a maximum remaining maturity of five years or less, and eligible for purchase and sale within the United States. Investments under this subdivision shall be rated in a rating category of “AA” or its equivalent or better by an NRSRO and shall not exceed 30 percent of the agency's moneys that may be invested pursuant to this section.
- (r) Commercial paper, debt securities, or other obligations of a public bank, as defined in [Section 57600](#).

This section shall remain in effect only until January 1, 2026, and as of that date is repealed.

Credits

(Added by Stats.1949, c. 81, p. 289, § 1. Amended by Stats.1951, c. 1643, p. 3697, § 1; Stats.1953, c. 537, p. 1798, § 2; Stats.1954, 1st Ex.Sess., c. 10, p. 257, § 1, eff. April 6, 1954; Stats.1967, c. 275, p. 1433, § 1; Stats.1967, c. 1316, p. 3140, § 2; Stats.1974, c. 1354, p. 2938, § 1; Stats.1975, c. 649, p. 1406, § 1; Stats.1977, c. 1138, p. 3657, § 1.5; Stats.1978, c. 65, p. 181, § 1; Stats.1979, c. 158, p. 354, § 1; Stats.1979, c. 275, p. 942, § 2.5; Stats.1981, c. 185, § 2; Stats.1982, c. 508, § 2; Stats.1983, c. 550, § 1; Stats.1983, c. 567, § 1.5; Stats.1984, c. 659, § 2; Stats.1984, c. 741, § 1; Stats.1985, c. 983, § 14, eff. Sept. 26, 1985; Stats.1985, c. 983, § 15, eff. Sept. 26, 1985, operative Jan. 1, 1988; Stats.1985, c. 1526, § 1; Stats.1985, c. 1526, § 1.5, operative Jan. 1, 1988; Stats.1986, c. 784, § 1; Stats.1986, c. 784, § 2, operative Jan. 1, 1988; Stats.1986, c. 853, § 1, eff. Sept. 17, 1986; Stats.1986, c. 853, § 2, operative Jan. 1, 1987; Stats.1986, c. 853, § 1.5; Stats.1986, c. 853, § 2.5, operative Jan. 1, 1988; Stats.1987, c. 446, § 1; Stats.1987, c. 887, § 3.5; Stats.1988, c. 294, § 1, eff. July 7, 1988; Stats.1988, c. 491, § 1; Stats.1992, c. 173 (A.B.3576), § 1; Stats.1994, c. 705 (S.B.1804), § 10; Stats.1995, c. 784 (S.B.866), § 14; Stats.1996, c. 156 (S.B.864), § 7, eff. July 12, 1996; Stats.1998, c. 588 (S.B.1793), § 1; Stats.1999, c. 643 (A.B.1679), § 9; Stats.1999, c. 644 (A.B.530), § 1.5; Stats.2000, c. 135 (A.B.2539), § 80; Stats.2000, c. 339 (A.B.2220), § 1; Stats.2001, c. 57 (A.B.609), § 1; Stats.2002, c. 664 (A.B.3034), § 120; Stats.2002, c. 454 (S.B.1326), § 20; Stats.2003, c. 197 (S.B.787), § 1; Stats.2004, c. 470 (A.B.969), § 4; Stats.2007, c. 340 (A.B.1745), § 1; Stats.2008, c. 179 (S.B.1498), § 106; Stats.2008, c. 709 (S.B.1124), § 10.5; Stats.2010, c. 328 (S.B.1330), § 91; Stats.2011, c. 382 (S.B.194), § 3; Stats.2014, c. 59 (A.B.1933), § 1, eff. Jan. 1, 2015; Stats.2016, c. 366 (S.B.974), § 12, eff. Jan. 1, 2017; Stats.2018, c. 271 (A.B.1770), § 1, eff. Jan. 1, 2019; Stats.2019, c. 442 (A.B.857), § 11, eff. Jan. 1, 2020; Stats.2020, c. 235 (S.B.998), § 2, eff. Jan. 1, 2021; Stats.2022, c. 427 (S.B.1489), § 8, eff. Jan. 1, 2023; Stats.2023, c. 187 (S.B.882), § 5, eff. Jan. 1, 2024.)

Editors' Notes

REPEAL

<For repeal of this section, see its terms.>

[Notes of Decisions \(15\)](#)

West's Ann. Cal. Gov. Code § 53601, CA GOVT § 53601

Current with Ch. 1 of 2023-24 2nd Ex.Sess, and all laws through Ch. 1017 of 2024 Reg.Sess.

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West's Annotated California Codes

Government Code (Refs & Annos)

Title 5. Local Agencies (Refs & Annos)

Division 2. Cities, Counties, and Other Agencies (Refs & Annos)

Part 1. Powers and Duties Common to Cities, Counties, and Other Agencies (Refs & Annos)

Chapter 4. Financial Affairs (Refs & Annos)

Article 1. Investment of Surplus (Refs & Annos)

West's Ann.Cal.Gov.Code § 53601.6

§ 53601.6. Prohibited investments

Currentness

<Section operative until Jan. 1, 2026. See, also, § 53601.6 operative Jan. 1, 2026.>

(a) A local agency shall not invest any funds pursuant to this article or pursuant to Article 2 (commencing with [Section 53630](#)) in inverse floaters, range notes, or mortgage-derived, interest-only strips.

(b)(1) Except as provided in paragraph (2), a local agency shall not invest any funds pursuant to this article or pursuant to Article 2 (commencing with [Section 53630](#)) in any security that could result in zero-interest accrual if held to maturity. However, a local agency may hold prohibited instruments until their maturity dates. The limitation in this subdivision shall not apply to local agency investments in shares of beneficial interest issued by diversified management companies registered under the Investment Company Act of 1940 ([15 U.S.C. Sec. 80a-1 et seq.](#)) that are authorized for investment pursuant to [subdivision \(f\) of Section 53601](#).

(2) Notwithstanding the prohibition in paragraph (1), a local agency may invest in securities issued by, or backed by, the United States government that could result in zero- or negative-interest accrual if held to maturity, in the event of, and for the duration of, a period of negative market interest rates. A local agency may hold these instruments until their maturity dates.

(c) This section shall remain in effect only until January 1, 2026, and as of that date is repealed.

Credits

(Added by [Stats.1995, c. 784 \(S.B.866\)](#), § 15. Amended by [Stats.1996, c. 156 \(S.B.864\)](#), § 8, eff. July 12, 1996; [Stats.2001, c. 57 \(A.B.609\)](#), § 4; [Stats.2009, c. 332 \(S.B.113\)](#), § 68.1; [Stats.2020, c. 235 \(S.B.998\)](#), § 4, eff. Jan. 1, 2021.)

Editors' Notes**REPEAL**

<For repeal of this section, see its terms.>

West's Ann. Cal. Gov. Code § 53601.6, CA GOVT § 53601.6

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Part 1. Powers and Duties Common to Cities, Counties, and Other Agencies (Refs & Annos)

Chapter 4. Financial Affairs (Refs & Annos)

Article 2. Deposit of Funds (Refs & Annos)

West's Ann.Cal.Gov.Code § 53635

§ 53635. Local agency investments; commercial paper; concentration limits

Currentness

(a) This section shall apply to a local agency that is a county, a city and county, or other local agency that pools money in deposits or investments with other local agencies, including local agencies that have the same governing body. However, [Section 53601](#) shall apply to all local agencies that pool money in deposits or investments exclusively with local agencies that have the same governing body.

This section shall be interpreted in a manner that recognizes the distinct characteristics of investment pools and the distinct administrative burdens on managing and investing funds on a pooled basis pursuant to Article 6 (commencing with [Section 27130](#)) of Chapter 5 of Division 2 of Title 3.

A local agency that is a county, a city and county, or other local agency that pools money in deposits or investments with other agencies may invest in commercial paper pursuant to [subdivision \(h\) of Section 53601](#), except that the local agency shall be subject to the following concentration limits:

(1) No more than 40 percent of the local agency's money may be invested in eligible commercial paper.

(2) No more than 10 percent of the total assets of the investments held by a local agency may be invested in any one issuer's commercial paper.

(b) Notwithstanding [Section 53601](#), the City of Los Angeles shall be subject to the concentration limits of this section for counties and for cities and counties with regard to the investment of money in eligible commercial paper.

(c) A local agency subject to this section may invest in commercial paper, debt securities, or other obligations of a public bank, as defined in [Section 57600](#).

Credits

(Added by Stats.1949, c. 81, p. 290, § 1. Amended by Stats.1967, c. 1026, p. 2626, § 1; Stats.1975, c. 643, p. 1396, § 1; Stats.1976, c. 349, p. 986, § 18, eff. July 9, 1976; Stats.1977, c. 1138, p. 3658, § 2; Stats.1978, c. 65, p. 182, § 2; Stats.1979, c. 158, p. 355, § 2; Stats.1979, c. 275, p. 945, § 3.5; Stats.1981, c. 185, § 3; Stats.1982, c. 508, § 3; Stats.1983, c. 550, § 2; Stats.1983, c. 567, § 2.5; Stats.1984, c. 659, § 4; Stats.1984, c. 741, § 2; Stats.1985, c. 983, § 19, eff. Sept. 26, 1985; Stats.1985, c. 1526, § 2; Stats.1986, c. 784, § 3; Stats.1986, c. 853, § 3, eff. Sept. 17, 1986; Stats.1986, c. 853, § 3.5, eff. Sept. 17, 1986,

operative Jan. 1, 1987; Stats.1983, c. 597, § 2.5, operative Jan. 1, 1988; Stats.1985, c. 983, § 20, eff. Sept. 26, 1985, operative Jan. 1, 1988; Stats.1985, c. 1526, § 2.5, operative Jan. 1, 1988; Stats.1986, c. 784, § 4, operative Jan. 1, 1988; Stats.1986, c. 853, § 4; Stats.1986, c. 853, § 4.5; Stats.1987, c. 446, § 2; Stats.1987, c. 887, § 5.5; Stats.1988, c. 294, § 2, eff. July 7, 1988; Stats.1988, c. 491, § 2; Stats.1988, c. 1004, § 2; Stats.1992, c. 173 (A.B.3576), § 2; Stats.1995, c. 784 (S.B.866), § 18; Stats.1996, c. 156 (S.B.864), § 9, eff. July 12, 1996; Stats.1996, c. 800 (S.B.1836), § 2; Stats.1998, c. 81 (A.B.1874), § 1; Stats.1998, c. 588 (S.B.1793), § 2; Stats.1999, c. 643 (A.B.1679), § 10; Stats.1999, c. 644 (A.B.530), § 2.5; Stats.2000, c. 135 (A.B.2539), § 81; Stats.2000, c. 339 (A.B.2220), § 3; Stats.2000, c. 1036 (A.B.2708), § 3; Stats.2001, c. 57 (A.B.609), § 6; Stats.2002, c. 83 (A.B.2122), § 1; Stats.2002, c. 454 (S.B.1326), § 21.5; Stats.2003, c. 62 (S.B.600), § 158; Stats.2003, c. 197 (S.B.787), § 2; Stats.2005, c. 22 (S.B.1108), § 97; Stats.2006, c. 164 (A.B.1794), § 2; Stats.2008, c. 709 (S.B.1124), § 10.7; Stats.2019, c. 442 (A.B.857), § 12, eff. Jan. 1, 2020.)

Notes of Decisions (7)

West's Ann. Cal. Gov. Code § 53635, CA GOVT § 53635

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West's Annotated California Codes

Government Code (Refs & Annos)

Title 3. Government of Counties (Refs & Annos)

Division 2. Officers (Refs & Annos)

Part 3. Other Officers (Refs & Annos)

Chapter 4. Auditor (Refs & Annos)

Article 2. Counting Money in County Treasury (Refs & Annos)

West's Ann.Cal.Gov.Code § 26920

§ 26920. Quarterly review of statement of assets; annual audit of assets; reports

Currentness

(a) At least once in each quarter, the county auditor shall perform, or cause to be performed, a review of the treasurer's statement of assets in the county treasury. Each county shall fund and allocate the cost of the review in accordance with that county's established budgetary practice. The auditor's review shall be accomplished in accordance with the appropriate professional standards, as determined by the county auditor. The treasurer shall prepare a statement showing the amount and type of assets in the county treasury as of the date of the review. The review shall include:

(1) Counting cash in the county treasury.

(2) Verifying that the records of the county treasurer and auditor are reconciled pursuant to [Section 26905](#).

(3) A report to the board of supervisors issued in accordance with the appropriate professional standards, as determined by the county auditor.

(b) The auditor shall, at least annually, perform or cause to be performed an audit of the assets in the county treasury and express an opinion whether the treasurer's statement of assets is presented fairly and in accordance with generally accepted accounting principles. The audit report shall be addressed to the board of supervisors. The review required by subdivision (a) need not be performed for the period when an audit is conducted in accordance with this subdivision.

Credits

(Added by Stats.1947, c. 424, p. 1150, § 1. Amended by Stats.1981, c. 311, p. 1452, § 1; [Stats.2002, c. 454 \(S.B.1326\)](#), § 10; [Stats.2006, c. 643 \(S.B.1196\)](#), § 4.)

West's Ann. Cal. Gov. Code § 26920, CA GOVT § 26920

Current with Ch. 1 of 2023-24 2nd Ex.Sess, and all laws through Ch. 1017 of 2024 Reg.Sess.

West's Annotated California Codes

Government Code (Refs & Annos)

Title 3. Government of Counties (Refs & Annos)

Division 2. Officers (Refs & Annos)

Part 3. Other Officers (Refs & Annos)

Chapter 5. County Treasurer (Refs & Annos)

Article 6. County Treasury Oversight Committees (Refs & Annos)

West's Ann.Cal.Gov.Code § 27134

§ 27134. Periodic audits by committee; article compliance

Currentness

The county treasury oversight committee shall cause an annual audit to be conducted to determine the county treasury's compliance with this article. The audit may include issues relating to the structure of the investment portfolio and risk.

Credits

(Added by Stats.1995, c. 784 (S.B.866), § 10.)

Notes of Decisions (1)

West's Ann. Cal. Gov. Code § 27134, CA GOVT § 27134

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West's Annotated California Codes

Government Code (Refs & Annos)

Title 5. Local Agencies (Refs & Annos)

Division 2. Cities, Counties, and Other Agencies (Refs & Annos)

Part 1. Powers and Duties Common to Cities, Counties, and Other Agencies (Refs & Annos)

Chapter 4. Financial Affairs (Refs & Annos)

Article 2. Deposit of Funds (Refs & Annos)

West's Ann.Cal.Gov.Code § 53684

§ 53684. Local agencies; excess funds; investment by county treasurer

Currentness

(a) Unless otherwise provided by law, if the treasurer of any local agency, or other official responsible for the funds of the local agency, determines that the local agency has excess funds which are not required for immediate use, the treasurer or other official may, upon the adoption of a resolution by the legislative or governing body of the local agency authorizing the investment of funds pursuant to this section and with the consent of the county treasurer, deposit the excess funds in the county treasury for the purpose of investment by the county treasurer pursuant to [Section 53601](#) or [53635](#), or [Section 20822 of the Revenue and Taxation Code](#).

(b) The county treasurer shall, at least quarterly, apportion any interest or other increment derived from the investment of funds pursuant to this section in an amount proportionate to the average daily balance of the amounts deposited by the local agency and to the total average daily balance of deposits in the investment pool. In apportioning and distributing that interest or increment, the county treasurer may use the cash method, the accrual method, or any other method in accordance with generally accepted accounting principles.

Prior to distributing that interest or increment, the county treasurer may deduct the actual costs incurred by the county in administering this section in proportion to the average daily balance of the amounts deposited by the local agency and to the total average daily balance of deposits in the investment pool.

(c) The county treasurer shall disclose to each local agency that invests funds pursuant to this section the method of accounting used, whether cash, accrual, or other, and shall notify each local agency of any proposed changes in the accounting method at least 30 days prior to the date on which the proposed changes take effect.

(d) The treasurer or other official responsible for the funds of the local agency may withdraw the funds of the local agency pursuant to the procedure specified in [Section 27136](#).

(e) Any moneys deposited in the county treasury for investment pursuant to this section are not subject to impoundment or seizure by any county official or agency while the funds are so deposited.

(f) This section is not operative in any county until the board of supervisors of the county, by majority vote, adopts a resolution making this section operative in the county.

(g) It is the intent of the Legislature in enacting this section to provide an alternative procedure to [Section 51301](#) for local agencies to deposit money in the county treasury for investment purposes. Nothing in this section shall, therefore, be construed as a limitation on the authority of a county and a city to contract for the county treasurer to perform treasury functions for a city pursuant to [Section 51301](#).

Credits

(Added by Stats.1986, c. 582, § 1, eff. Aug. 26, 1986. Amended by Stats.1996, c. 81 (A.B.2845), § 1, eff. July 1, 1996; Stats.1997, c. 204 (S.B.1287), § 2; Stats.2000, c. 168 (S.B.1493), § 1; Stats.2011, c. 369 (A.B.1090), § 2.)

Notes of Decisions (1)

West's Ann. Cal. Gov. Code § 53684, CA GOVT § 53684

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ORANGE COUNTY

DEPARTMENT OF EDUCATION

INVESTMENT POLICY

MAY 1, 2024

ORANGE COUNTY DEPARTMENT OF EDUCATION

INVESTMENT POLICY

I. PURPOSE:

To establish a policy for investment of funds held by the Orange County Department of Education (the “Department”). The policy also governs the issuance of debt by the Department. This policy is based upon federal, state, and local laws, and prudent money management practices. To the extent that this policy conflicts with applicable law, the applicable law shall prevail. The primary goals of this policy are:

- To assure compliance with all federal, state and local laws governing the investment of monies and the issuance of debt;
- To protect the principal deposits of the Department; and
- To generate investment income within the parameters of this policy.

II. POLICY:

The Department’s primary investment objective shall be to maintain the safety and liquidity of its funds. Safety of principal is the foremost objective of the Department. The investment factors the Department shall consider, in order of descending importance, are the following:

- Safety of invested funds;
- Sufficient liquidity to meet future cash flow requirements; and
- Attain maximum yield consistent with the aforementioned requirements.

In addition, the Department shall adopt measures as set forth herein to ensure that the issuance of debt by the Department complies with all applicable state and federal laws, including federal and state securities laws.

The County Superintendent of Schools (“County Superintendent”), or his designee, under the direction of the Board of Education, shall have the responsibility for all decisions and activities performed under the Department’s investment policy. The County Superintendent shall have the ability to allocate resources or delegate responsibility as necessary to optimize the safety and liquidity of the investment portfolio and to implement this investment policy.

III. LEGAL CONSTRAINTS:

Pursuant to California Education Code Section 41001, the Department shall deposit all funds received or collected from any source into the Orange County Treasury, to be placed to the credit of the proper fund of the Department, except as otherwise provided herein. Pursuant to California Education Section 41015, the Department may invest all or part of funds deposited in a Special Reserve Fund or any surplus monies not required for the immediate necessities of the Department in any of the investments specified in California Government Code Sections 16430 or 53601. Special Reserve Funds are defined as those funds which the Board of Education has designated for capital outlay or other purposes where an accumulation over a period of fiscal years is desired.

IV. AUTHORIZED INVESTMENTS:

The Department shall make investments in the context of the “Prudent Investor Rule” (Probate Code Section 16045 et seq.), which in substance states that:

Investment shall be made with the judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence, exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived.

The Department shall deposit all funds received or corrected from any source into the Orange County Treasury, except as provided for through the California Education Code. Those funds maintained in a Special Reserve Fund or any surplus funds not required for the immediate necessities of the Department shall be available for investment (“funds available for investment”) under the conditions set forth in the policy.

1. The Orange County Investment Pool(s) established by the Orange County Treasurer for the benefit of local agencies and/or schools. The Department may invest up to one-hundred percent (100%) of its funds available for investment in the Orange County Investment Pool(s).
2. The Local Agency Investment Fund (LAIF) established by the California State Treasurer for the benefit of local agencies. The Department may invest up to the current LAIF limit of seventy-five million dollars (\$75,000,000) of its funds available for investment in the Local Agency Investment Fund.

3. To the extent that the Department directs the investment of its funds to specific securities, those securities shall be limited to the securities identified in California Government Code Section 53601. However, the Department will not, under any circumstances, direct the investment of its funds to reverse repurchase agreements unless such transactions are matched to maturity.

Monies received from the sources, or for the purposes, listed below may be deposited in a bank or other financial institution. Monies so deposited shall be in a fully-insured or collateralized account(s) or instruments(s). Bank accounts maintained outside the County Treasury shall be limited to the following purposes:

- (a) Cash Clearing Account
Purpose: To deposit accounts receivable checks then write check to County Superintendent once checks have cleared.
- (b) Revolving Cash
Purpose: Emergency transactions and accounts payable.
- (c) Payroll Revolving Cash
Purpose: Emergency transactions for payroll.
- (d) County Superintendent of Schools – Golden West Adult Transition Program
Purpose: This account was created to help with a special education program that is funded from the Medi-Cal Health Collaborative.
- (e) TRANS Proceeds
Purpose: In the event that Tax Revenue Anticipation Notes (TRANS) are issued, the proceeds would be deposited into this account.

V. COMPLIANCE WITH STATE AND FEDERAL SECURITIES LAWS:

The Department will take reasonable steps to ensure that any debt offerings issued by the Department comply fully with all applicable state and federal securities laws. In connection with all debt offerings issued by the Department, the Department will retain bond counsel and disclosure counsel to review the offering materials prepared in connections with the debt offering to ensure that disclosures contained in offering materials comply with federal and state securities laws. The Associate Superintendent for Business shall be responsible for reviewing the offering materials regarding the accuracy of information disclosed in such materials.

VI. DEPOSIT OF PROCEEDS FROM THE ISSUANCE OF DEBT:

The Department shall not issue debt, for the sole purpose of generating funds for investment. The Department shall limit the issuance of debt for the purposes of meeting short-term cash flow needs to fund capital projects.

When depositing proceeds from the issuance of debt into the County Treasury, the Department shall limit such investments to those authorized investment identified in this policy. Should a trust agreement of a particular debt issued by the Department be more restrictive than the Department's policy on authorized investments, then the trust agreement will take precedence.

VII. INVESTMENT REVIEW:

The Associate Superintendent for Business will review monthly reports on investment performance, with the objectives of safety, liquidity and yield.

VIII. CHANGES TO INVESTMENT POLICY:

This policy dated May 1, 2024, has been submitted to the Board of Education for review and approval. This policy will be reviewed at least annually to ensure its consistency with the objectives of income, growth and safety, and changes in applicable laws and financial trends. Any proposed amendments to the Investment Policy will require approval by the Board of Education.

IX. FINANCIAL PROFESSIONAL'S COMPLIANCE WITH INVESTMENT POLICY:

All outside investment advisors/managers, attorneys and other financial professionals employed or retained by the Department and/or its representatives, including without limitation financial advisors, underwriters, bond counsel, and disclosure counsel, must review this policy and sign a statement of compliance confirming that they have reviewed this investment policy and will fully comply with these policies. A copy of this Statement of Compliance is attached as Exhibit "A."

EXHIBIT "A"

STATEMENT OF COMPLIANCE WITH INVESTMENT POLICIES

ADOPTED BY THE ORANGE COUNTY DEPARTMENT OF EDUCATION

The undersigned has been retained to perform services for the Orange County Department of Education. The undersigned has been provided with a copy of the Orange County Department of Education Investment Policies and has reviewed the Investment Policy thoroughly. In providing services to the Department, the undersigned agrees to comply fully with all of the policies and procedures set forth in the Investment Policies.

Date: _____

BY: _____