

ORIGINAL

**AMENDED AND RESTATED
NORTH NET JOINT POWERS TRAINING AGREEMENT**

By and Between

CITY OF ANAHEIM, CALIFORNIA

CITY OF GARDEN GROVE, CALIFORNIA

And

CITY OF ORANGE, CALIFORNIA

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**AMENDED AND RESTATED
NORTH NET JOINT POWERS TRAINING
AGREEMENT**

This Amended and Restated Joint Powers Agreement (“Agreement”), dated for purpose of identification this 1st day of November 2012 (the “Effective Date”) is made by and between the following public entities, (collectively, the “Parties”):

- A. City of Anaheim (“Anaheim”)
- B. City of Garden Grove (“Garden Grove”)
- C. City of Orange (“Orange”)

1. RECITALS

A. The Parties to this Agreement each provide fire protection, fire prevention, rescue, emergency medical and related administrative services within their respective boundaries.

B. The Parties have determined that joint use of a consolidated Training Center and record keeping system reduces the administrative costs that would otherwise be incurred by each Party in providing fire suppression, emergency medical assistance, rescue service, and related services.

C. The Parties have determined that the costs associated with maintaining the staff and equipment necessary to operate a consolidated Training Center should be funded by the Parties through a formal Joint Powers Agreement with costs apportioned as outlined by this Agreement..

D. The Parties have determined that joint use of a consolidated Training Center is also intended to foster cooperation among the Parties in the form of other separate written agreements.

E. The Parties each have the power and authority to perform and contract with one another pursuant to the Joint Exercise of Powers Act (Section 6500 et. seq. of the Government Code) for the performance of the duties and functions that form the basis of this Agreement.

F. The Parties have the power to contract with other agencies for training services, equipment and related items.

G. The Parties entered in the initial Joint Powers Agreement on October 5, 1976 (“1976 Agreement”). There is an amendment to the 1976 Agreement dated February 8, 1977, an addendum entered into in 1979, an amendment dated February 23, 1988, and an amendment dated in 1994 (the “Amendments”). The Parties intend that in entering into this Agreement that

this Agreement shall replace in their entirety the 1976 Agreement and all amendments and/or addendums to the 1976 Agreement.

AGREEMENT

In consideration of the foregoing recitals and the mutual covenants contained in this Agreement, it is agreed between and among each of the parties hereto as follows:

CHAPTER 1. DEFINITIONS

- 1.1. "Administrator" shall mean the Training Center Manager.
- 1.2. "Authority" shall mean the Joint Powers Authority known as the North Net Training Authority, created by this Agreement pursuant to the Joint Exercise of Powers Act (Government Code sections 6500 et seq.).
- 1.3. "Board" is the governing body of the Authority.
- 1.4. "Board Director" shall mean the voting representative or alternate appointed by the governing body of each Member agency to represent said agency on the Board.
- 1.5. "Capital Improvement Project" shall mean the acquisition of any piece of Training Equipment or the funding of any Training Center related project that requires an expenditure of \$30,000.00 or more.
- 1.6. "Capital Outlay" shall mean the acquisition of any piece of Training Equipment or the funding of any Training Center related project that requires an expenditure of \$500.00 or more but less than \$30,000.00.
- 1.7. "Fiscal Year" shall mean the twelve month period commencing July 1st and concluding June 30th.
- 1.8. "Member" shall mean any public entity that is a party to this Agreement upon the Effective Date or becomes a party to this Agreement pursuant to the provisions of Section 8.1, and has not withdrawn from such membership or been terminated from such membership pursuant to Sections 8.2 or 8.3.
- 1.9. "Property" shall mean the land described in the legal description and depicted in the map attached hereto as Exhibit "A", commonly referred to as 2400 E. Orangewood Avenue, Anaheim, CA and the Training Center, as defined herein.
- 1.10. "Subscriber Agency" means each of the public agencies that are not Members that wish to contract with the Authority to receive training services, and contribute to the cost of

operating and administrating this Authority by executing and administering a subscriber agreement in a form approved by the Board.

1.11. "Training Center" shall mean that structure or physical facility that houses Training Center Equipment and/or Training Center Staff and any other structures or fixtures, which are located upon the Property.

1.12. "Training Center Equipment" shall mean all equipment utilized for the fire or rescue-related emergency Training Center or other facilities acquired for use by the Authority which are not included within the definition of Training Center.

1.13. "Training Center Staff" or "Staff" shall mean all personnel of the City of Anaheim performing services related to the operations and maintenance of the Training Center, or such agency or individual as may be appointed by the Board to perform these functions.

CHAPTER 2. PURPOSE AND POWERS

2.1. AUTHORITY CREATED

The Authority is formed pursuant to the provision of Article 1, Chapter 5, Division 7 of Title I of the Government Code of the State of California (The Joint Exercise of Powers Act). The Authority shall be considered a public entity separate and apart from the Members. Within thirty (30) days after the Effective Date and after any amendment, the Authority shall cause a notice of this Agreement or amendment to be prepared and filed with the office of the California Secretary of State containing the information required by Government Code 6503.5.

2.2. COMMON POWERS

Each Party has the common power to, inter alia:

- a. Provide fire protection, fire suppression, fire prevention, emergency medical, rescue and related services;
- b. Maintain an effective training system to facilitate and support fire protection, fire suppression, rescue and emergency medical services;
- c. Employ personnel to perform emergency based training, Training Center maintenance and the purchase of training center equipment.

2.3. GENERAL PURPOSE

The general purpose of this Agreement is to provide for the operation, upgrade, maintenance and repair of the Training Center and Training Center Equipment. This Agreement

is intended to provide a formal mechanism by which the Authority can fund these activities to provide the highest possible level of emergency training services.

2.4. POWERS

The Authority, through its Board, shall have the power, in its own name, to do any of the following:

- A. To jointly exercise the common powers of the Members;
- B. To make and enter into contracts, including but not limited to, contracting with other public agencies for services, equipment and related items to those agencies;
- C. To retain the services of fire suppression specialists, emergency consultants, and such other persons with specialized knowledge or ability capable of assisting the Members in achieving the purposes of this Agreement;
- D. To acquire, hold or dispose of property by any lawful means, including, without limitation, by gift, purchase or sale;
- E. To incur debts, liabilities or obligations, subject to the limitations specified in this Agreement and, to the extent permitted by law, borrow funds on temporary basis to meet operational expenses until expected revenue are available;
- F. To the extent permitted by law, to enter into equipment lease agreements or lease-purchase agreements or other financial arrangements extending beyond the current budgetary cycle, necessary or convenient to the operation of the Authority (hereinafter collectively "lease") so long as the Agreement contains substantially the following provisions:

The Authority receives its funds on an annual budgetary cycle from its individual Members. The Authority agrees to use its best efforts to obtain authorization and appropriation of funds from its individual Members to pay lease payments due under this Agreement, including, without limitation, the inclusion in its budget request for each fiscal year during the term of this Agreement a request for adequate funds to meet in full its obligation hereunder. The Board may terminate this Agreement in the event funds are not appropriated or appropriations are withdrawn or withheld upon thirty (30) days written notice. Termination under this provision shall not constitute a default or breach. The Authority shall not be obligated to pay any additional lease payments but shall, after written notice from Lessor, deliver the Training Center Equipment to Lessor or its

assignee. Lessor acknowledges that the individual Members shall not be liable for the debts of the Authority.

- G. To enter into leases, agreements and similar transactions that require the Authority to indemnify the person with whom the Board is contracting, so long as the exposure to liability under such indemnification is approved by the Risk Manager of Anaheim and by Legal Counsel of the Authority and so long as the maximum exposure to liability under such transaction does not exceed One Million Dollars (\$1,000,000);
- H. To receive gifts, contributions, grants, and donations of property, funds, services and other forms of assistance from any person, firm, entity, corporation or public agency;
- I. To sue and be sued in its own name;
- J. To apply for any grant or grants offered in conjunction with any Federal, State or local program that is in any way related to the purpose of this Agreement;
- K. To adopt rules, regulations, policies, by-laws and procedures governing the operation of the Authority; and
- L. To exercise any other power in the manner and according to the methods provided by applicable laws, rules or regulations, subject only to the restrictions on the manner of exercising such powers that may be applicable to the Members.

CHAPTER 3. ORGANIZATION

3.1. MEMBERSHIP

The Members of this Authority shall be the public entities which executed this Agreement or a subsequent amendment and have not withdrawn from, or had membership in the Authority terminated, as provided in Sections 8.2 and 8.3 hereof.

3.2. BOARD

- A. The Board shall consist of one (1) voting director and one (1) alternate appointed by the governing body of each Member, which director and alternate shall be selected from the legislative body of each Member.
- B. Each Board Director, which is defined to include the alternate, shall hold office from the first meeting of the Board after appointment and shall serve at the pleasure of the appointing legislative body.

- C. A Board Director shall not receive compensation, but may be reimbursed by the Authority for expenses reasonably incurred while performing duties required by this Agreement and as further specified and limited by resolution of the Board.
- D. Annually, at its first meeting of each new fiscal year, the Board shall select a chairperson and vice chairperson from its members and shall appoint a secretary who may, but need not, be a member of the Board. The chairperson, vice chairperson and secretary shall hold office for one year or until such time as a successor is appointed.

3.3. PRINCIPAL OFFICE

The principal office of the Authority shall be 2400 E. Orangewood Avenue, Anaheim, CA. The Board has the full power and authority to change the principal office from one location to another as long as same is within the Authority's jurisdiction.

3.4. MEETINGS

The Board shall meet at the principal office of the Authority, or at such other place as may be designated by the Board. The time and place of regular meetings of the Board shall be determined by resolution. Regular, adjourned and special meetings of the Board shall be called, noticed and conducted in accordance with the Ralph M. Brown Act or other relevant open meeting law. Each Member shall only be entitled to have one Board Director in attendance to establish a quorum or to vote upon matters coming before the Board.

3.5. QUORUM

Attendance by a majority of the Board Directors at a meeting shall constitute a quorum for the purpose of transacting business relating to the Authority.

3.6. POWERS AND LIMITATIONS

All of the powers of the Authority are reserved to it and may be exercised by the Board, unless otherwise limited by law. Each Board Director shall be entitled to one vote and, except as expressly provided in this Agreement, including Sections 9.2 and 10.1, the affirmative vote of the majority of those present and qualified shall effect adoption of any motion, resolution, order or action the Board deems appropriate.

3.7. AGENDAS-SECRETARY DUTIES

The secretary of the Authority shall provide notice of, prepare and post agendas for, and keep minutes of, each regular, adjourned and special meeting of the Board and other records, as necessary, of the Board. The secretary shall send a copy of the minutes to each Board member

and otherwise perform the duties necessary to ensure compliance with provisions of law including, without limitations, any applicable "open meeting law" such as the Ralph M Brown Act.

3.8. RULES

The Board may adopt rules and regulations for the conduct of its affairs that are not in conflict with this Agreement.

3.9. TREASURER

The Treasurer of the City of Anaheim shall hold the office of treasurer and auditor, in accordance with Government Code Section 6505.6, and shall perform the duties as authorized in Section 6505 et seq. of the Government Code. The treasurer shall cause an independent audit to be made by a Certified Public Accountant in compliance with Section 6505 of the Government Code. The Certified Public Accountant shall be annually appointed by the Board. The treasurer shall keep all revenues of the Authority in a separate account, and, if available, an interest bearing account, and otherwise perform the duties and responsibilities of that office as specified in Sections 6505 et seq. of Government Code. Any surplus funds not immediately needed may be invested in accordance with the investment policy annually adopted by the Board, as required by Government Code Section 53646, and consistent with Government Code Sections 53601, 53635, 16429.1 and 53684, as may be amended.

3.10. LEGAL COUNSEL

The Board shall contract with independent legal counsel to serve as general counsel to the Authority to provide routine legal counsel services as may be required from time to time, including, attendance of Board meetings when deemed necessary. In the absence of a contract for independent counsel, the Anaheim City Attorney's Office shall serve as general counsel. Extraordinary legal services (for example prosecuting or defending the Authority, its officers, and agents in a legal action) shall be considered additional expenses and not covered by the administrative fee set forth in Section 5.2 of this Agreement.

3.11. BOND

The treasurer, auditor and such other persons who may have access to, or handle, any revenue of the Authority shall be required to file an official bond in an amount determined by the Board and consistent with the provisions of Section 6505.1 of the Government Code. This bonding requirement shall be satisfied if an existing bond is extended to cover the duties required by this Agreement. The costs of complying with the requirements of this Section shall be considered an administrative expense of the Authority.

3.12. STATUS OF OFFICERS AND EMPLOYEES

In accordance with the Joint Exercise of Powers Act, all of the privileges and immunities from liability, exemptions from laws, ordinances and rules, and all pension, relief, disability, workers compensation and other benefits which apply to the activities of officers, agents, or employees of any of the Member's agency when performing their respective duties or functions for that agency, shall apply to each of them to the same degree and extent while engaged in the performance of any activity, function or duty pursuant to the Agreement.

3.13. POLITICAL REFORM ACT

The Board Directors, and their alternates, shall be considered public officials within the meaning of the Political Reform Act of 1974, as amended, and its regulations, for the purposes of financial disclosure, conflict of interest and other requirements of such Act and regulations and shall file annual statements of economic interest as required, along with any other officers of the Authority who may be required to do so. Other persons working for or on behalf of the Authority may be required to file such statements in accordance with the Authority's conflict of interest code.

CHAPTER 4. BASIC SERVICES

4.1. TRAINING CENTER – OPERATIONS

- A. The Training Center shall be maintained and operated by the Authority, pursuant to this Agreement, for the use and benefit of all Members. The Administrator of the Training Center shall be an at-will employee of Anaheim so long as Anaheim operates and administers the Training Center; provided that any appointment of the Administrator and any compensation to be paid to the Administrator from the Authority's budget are subject to final approval of the Board. General Counsel shall be responsible for placing the annual performance evaluation of the Administrator on the Board's agenda for closed session at the Board's first meeting in each calendar year, although the Board may at any other time place the Administrator's performance evaluation on the agenda.
- B. Unless otherwise provided for by the Board, Anaheim shall, through use of Anaheim employees, fill all positions and provide all services required to operate, maintain and administer the Training Center and shall be responsible for the day-to-day administration and operation of the Training Center. The Authority shall pay the actual costs of such operation and administration, plus an administrative overhead fee as provided herein. The costs of such operation and administration, including administrative overhead, shall be borne by each Member according to its Fair Share Percentage as determined pursuant to Chapter 5 of this Agreement.

- C. The Board is empowered to develop and establish the budget, staffing and service levels for the Training Center operation and maintenance. No Member may create any staff position or be entitled to receive any reimbursement for any staff time or costs related to the operation and maintenance of the Training Center unless the position and/or reimbursement falls within the budget approved by the Board or otherwise has received the prior approval of the Board.
- D. Each Member shall provide training officers from each Member's Fire Department, whose compensation and cost reimbursements, if any, shall be the sole obligation of the employing Member. Except as is specifically provided herein, employees working in or otherwise utilizing the Training Center shall be governed by the same personnel rules, regulations, bargaining agreements, terms and conditions of employment, administrative regulations and other related matters as apply to them with respect to their employment with a Member or a Subscriber.
- E. In performing the day-to-day administration and operation of the Training Center, Anaheim will determine the procedures and standards of selection for employment and promotion, direct its employees, take disciplinary action, relieve its employees from duty, and determine the methods, means and personnel by which it will meet the service levels established by the Authority; provided that Anaheim shall solicit and consider input from the Members with respect to these decisions, although final authority rests with Anaheim, except to the extent specifically provided in this Agreement.
- F. Anaheim may elect to discontinue providing services for the operations and administration of the Training Center by giving notice of such election in writing to the Board a minimum of six (6) months prior to such discontinuance. In the event of such discontinuance by Anaheim, the Board may appoint another Member to perform such duties or contract with another provider of such services. Anaheim's election to discontinue providing the services set forth herein does not constitute withdrawal from the Authority.
- G. The Board may elect to terminate Anaheim's services as operator and administrator of the Training Center by giving notice of such election in writing to Anaheim a minimum of six (6) months prior to the date of such termination. In the event of such termination, the Board may appoint another Member as the administrator or contract with another provider of such services. Such termination of Anaheim's services does not in and of itself constitute either withdrawal or termination of Anaheim from the Authority or any other Member of the Authority.

4.2. MAINTENANCE OF EQUIPMENT

- A. The Authority through the Board shall maintain and repair the Training Center.
- B. The Authority through the Board shall purchase new or used Training Equipment as necessary to replace existing equipment or upon a determination by the Board that additional Training Equipment will facilitate emergency training.

4.3. SERVICES TO AND REIMBURSEMENT FROM SUBSCRIBER AGENCIES

- A. Public agencies in Orange County may receive training services, (hereinafter "Training Services") from the Authority by executing a "Subscription Agreement" in the form approved by the Board and by paying the annual fee and/or other costs, as determined by the Board. Such Subscriber Agencies must sign the Subscription Agreement prior to receiving services or sharing equipment or other items. Thereafter, a Subscriber Agency must pay its annual fee by July 30 of the fiscal year for which subscription is desired. Subscription Agreements shall renew automatically from year to year unless otherwise specified in the Subscription Agreement. Subscriber Agencies which subscribe for an entire fiscal year may, at their option, elect to pay their fee in four equal installments due and owing on or before July 30, October 1, January 1 and April 1. Subscriber Agencies which choose to become Subscriber Agencies after the commencement of the fiscal year must sign the Subscription Agreement and the full amount of the annual fee prior to seeking services. Fees for subsequent fiscal years may be revised by the Board.
- B. The Board may, without cause or reason, terminate any or all Subscription Agreements by giving the affected Subscriber Agency ninety (90) days prior written notice. If the termination occurs prior to the end of fiscal year, the terminated Subscriber Agency's annual fee shall be prorated and refunded if such a refund is owed.
- C. Revenue from Subscription Agencies shall be allocated as directed by the Board.

CHAPTER 5. FUNDING AND ADMINISTRATION

5.1 FUNDING

- A. Each Member shall pay a portion of the costs incurred by the Authority in administering this Agreement in relationship to that Member's "Fair Share Percentage", which shall be determined every calendar year beginning on January

1, 2014. Each Member's Fair Share Percentage shall be calculated by dividing the total number of sworn firefighter positions of all Members divided by the number of sworn firefighter positions of each Member as same existed on January 1 of each calendar year.

- B. Each Member's Fair Share Contribution shall be multiplied by the adopted budget amount for the upcoming Fiscal Year to determine the Fair Share Contribution amount. Anaheim shall bill each Member on a quarterly basis beginning July 1 of each fiscal year and payment shall be due within 30 days after receipt of each invoice.
- C. The Administrator, or his or her designee, shall invoice each Member that Member's Fair Share Percentage of the budget in accordance with the payment schedule set in Section 5.1B above or as otherwise adopted by Resolution of the Board. For the fiscal year 2013-2014, each Member's Fair Share Percentage shall be as follows:

| | |
|--------------|-------|
| Anaheim | 49.6% |
| Garden Grove | 22.0% |
| Orange | 28.4% |

- D. Final year-end adjustments of a Member's costs representing the difference between estimated annual expenditures and actual annual expenditures shall be calculated no later than the last day of the first quarter following the fiscal year in which such costs were incurred.

5.2 ADMINISTRATIVE SERVICES

As compensation for providing services under this Agreement, Members shall pay Anaheim an administrative fee of twelve percent (12%) of their Fair Share Percentage. Anaheim shall perform administrative services which include, but are not limited to general accounting of funds received and disbursed, preparation of invoices to Members, preparation of documents relative to any grant program, routine services from various departments within Anaheim as may be necessary from time to time, including but not limited to Human Resources and Labor Management Departments, Finance Department, Purchasing, Legal (if the Board has not contracted for General Counsel services), and such other functions as may be required by this Agreement or the provisions of any law including, without limitation, the Joint Exercise of Powers Act.

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5.3 EMERGENCY REPAIRS

In the event the Training Center suffers damage which requires emergency repairs, the Administrator is authorized without prior Board approval to expend funds to have the necessary emergency repairs made so that services are resumed as soon as possible, but in no event shall such expenditures exceed \$20,000 without prior Board approval. The Board shall convene as soon as reasonably practical to ratify any such expenditure and to approve any expenditure above that amount. The cost of such repairs shall be borne by each Member in accordance with its Fair Share Percentage.

5.4 CAPITAL IMPROVEMENTS-FUNDING

In the event the Training Center and/or Training Center Equipment is in need of repair or improvement, the Administrator shall solicit bids for such work from at least three (3) responsible firms, whenever practicable, in accordance with applicable state law. The Administrator shall then present said bids to the Board to award the contract to the lowest responsible bidder and to direct the accepted responsible bidder to make the repairs or improvements.

CHAPTER 6. BUDGETARY PROVISIONS

6.1 ANNUAL BUDGET

The Board shall adopt an annual budget pursuant to this Agreement and procedures adopted by the Board. A preliminary draft of the budget shall be presented to the Members by the last business day in March of each year for their review. Said budget shall be submitted to the Board for consideration and adoption.

6.2 SPECIAL BUDGETARY CONSIDERATION

- A. The budget adopted by the Board shall include but not be limited to:
1. A Training Center operations and Capital Outlay component, which shall provide for the personnel, maintenance and operations support, and capital acquisitions necessary for the joint operation of the Training Center as described in Sections 4.1 and 4.2.
 2. A Capital Improvement Project component, which shall provide for the acquisition or replacement of major Training Equipment items or fund major Training Center related projects.
 3. A Training Equipment capital reserve component, which shall be deposited into a common designated reserve account designed to defray

future replacement costs of major components of Training Center Equipment.

6.3 DISBURSEMENTS

The treasurer shall draw checks in accordance with policies and/or procedures established by the Member which employs the treasurer and as otherwise established by Resolution of the Board. A summation of such payments shall be presented to the Board as part of the treasurer's quarterly reports.

6.4 ACCOUNTS

All funds shall be placed in accounts and the receipt, transfer or disbursement of funds during the term of this Agreement shall be accounted for in accordance with generally accepted accounting principles applicable to government entities. There shall be strict accountability for all funds. All interest earnings, revenues and expenditures shall be reported quarterly to the Board.

6.5 EXPENDITURES WITHIN APPROVED ANNUAL BUDGET

All expenditures shall be within the limitations of the approved annual budget or as such budget is amended by the Board.

CHAPTER 7. LIABILITY/INSURANCE

7.1 LIABILITY

The debts, liabilities and obligations of the Authority shall not be considered the debts, liabilities or obligations of any Member, except as otherwise provided in this Chapter.

7.2 INDEMNIFICATION/HOLD HARMLESS/INSURANCE

- A. Except as specifically provided in this Subsection, the Authority shall defend, indemnify and hold harmless each Member, its officers, agents, employees, representatives and volunteers from and against any loss, injury, damage, claim, lawsuit, liability, expense, or damages of any kind or nature arising out of or in connection with the performance of services pursuant to this Agreement. The Authority shall finance its obligation pursuant to this Subsection by establishing a liability reserve fund, by purchasing commercial insurance, and/or by joining a joint powers insurance authority (JPIA). In the event that the Authority's financial obligations to indemnify, defend and hold harmless, pursuant to this Subsection, exceed the liability reserve fund and the proceeds from any applicable insurance or JPIA coverage maintained by the Authority (hereinafter "Unfunded

Liability”), the Members may agree to indemnify and hold harmless the Authority for such deficiency in accordance with the following: In the event an Unfunded Liability arises, the contribution of each Member shall be in an amount equal to the total Unfunded Liability multiplied by that Member’s Fair Share Percentage for the year in which the Unfunded Liability is to be paid. A Member shall not be liable for such deficiency unless it agrees to be bound by this provision. Other Members may, at their sole and complete discretion, agree to pick up the Fair Share Percentage of a Member who determines not to be liable for such deficiency, but absent such an agreement no Member shall be liable for such deficiency unless all Members unanimously agree to make a contribution as set forth herein.

- B. The Authority, its officers, agents, contractors, employees, representatives, Staff and volunteers, shall not be liable, in any manner, to any Member, or to an officer, official, or employee of any Member, for any loss, injury, damage, claim, lawsuit, liability, expense, or damages which may be incurred by, or brought against a Member which is providing any type of emergency response training undertaken by any Member pursuant to this Agreement, regardless of whether or not such liability may have arisen, in whole or in part, by the negligent acts, conduct, or omissions of one or more of the staff at the Training Center.
- C. Each Member shall assign to the Authority its rights, title, and interest to recover damages from any third party, to the extent that the Authority has met its obligations to such Member pursuant to this Section.
- D. Should any Member utilize the Training Center for its own individual purposes, outside the scope of the Authority, such Member shall indemnify, defend, and hold harmless the Authority and other Members from all claims, demands, actions, liability, or damages of any kind or nature, arising out of such use.
- E. Each Member shall defend, indemnify and hold harmless the Authority, its officers, agents, and representatives from and against any loss, injury, damage, claim, lawsuit, liability, expense, or damages of any kind or nature arising out of or in connection with any conduct of its employees while utilizing the Training Center to the extent that any such loss, injury, damage, claim, lawsuit, liability, expense or damages is caused by the negligence or willful misconduct of the Member’s employees.
- F. Subject to the limitation set forth in Section 7.2.B, the Authority shall purchase insurance and/or Anaheim may provide coverage through its existing JPIA, for the Property and Training Center which covers any damages or loss to the

Property and Training Center as well as any loss, injury, damage, claim, lawsuit, liability, expense, or damages alleging a dangerous condition of the Property and Training Center. The cost of such insurance shall be an expense of the Authority. A certificate of insurance evidencing such coverage or such other proof as may be reasonable acceptable to the Authority's General Counsel, shall be provided to the Clerk of the Board by June 30 of each year.

- G. No provisions of this Agreement shall be construed as to require any party to obtain or maintain liability or other insurance coverage not otherwise required by law.

7.3 WAIVER

Except as provided in Section 7.2 each Member waives any claim against, or right to sue, the Authority, or its respective officers, employees, staff, agents, contractors, representatives or volunteers for any loss, damage or injury that arises out of, or is any way related to, such Member providing any type of emergency training service. This waiver extends to liability for bodily injury or property damage that may be sustained by any Member or its officers, employees, contractors, or agents, and which was proximately caused, in whole or in part, by the negligent act, conduct, or omission of the Authority, its respective officers, employees, staff, agents, contractors, representatives or volunteers. However, this waiver does not extend to bodily injury or property damage caused by an unlawful, fraudulent or willful act or omission of the Authority or its officers or employees.

7.4 CLAIMS

- A. To the extent authorized by Government Code section 935 and any other laws, any and all claims against the Authority for money or damages, including any claims otherwise excepted from the claims filing requirement by Government Code Section 905, shall be subject to and presented within the time and manner prescribed in Part 3 of Division 3.6 of Title 1 of the Government Code. A signed written claim shall be presented to the Administrator by mail or personal delivery by the claimant or a person authorized by claimant to act on his or her behalf. The claim shall conform to the requirements of Government Code section 910.
- B. Unless otherwise designated by the Board, the Fire Chief of Each Member, or their designees shall comprise a Claims Committee. The Claims Committee shall, in consultation with legal counsel for the Authority, review all claims and make recommendations to the Board concerning their disposition.

CHAPTER 8. ADMISSION OR WITHDRAWAL OF MEMBERS

8.1 NEW MEMBERS

Public entities may become Members in the Authority upon such terms and conditions as may be specified by the Board. New Members shall pay a surcharge to be determined by the Board at the time of application.

8.2 WITHDRAWAL

A Member may withdraw from the Authority at the end of any fiscal year and terminate its rights and obligations pursuant to this Agreement by giving written notice of its intention to terminate to the secretary of the Board no later than December 31 prior to the fiscal year in which the Member intends to withdraw. The written notice shall be accompanied by a resolution or minute order of the legislative body of the Member specifying its intent to withdraw from the Authority. Withdrawal of a Member shall not relieve the withdrawing Member of its proportionate share of any debts or other liabilities incurred by the Authority prior to the effective date of such withdrawal, or any liabilities imposed upon or incurred by the Member pursuant to this Agreement prior to the effective date of such withdrawal. Any such withdrawal shall result in the forfeiture of all rights and claims of the withdrawing Member to any repayment of contributions or advances or other distribution of funds or property after withdrawal, including distribution in the event of termination of the Authority. Notwithstanding the foregoing, the forfeiture provision set forth in this Section shall not apply to the distribution of proceeds from the sale of the Property pursuant to Section 9.2C.

8.3 BREACH

The Board shall have the authority to terminate the membership of any Member in the event the Member materially breaches its duties pursuant to this Agreement. For the purposes of this Section, the term "material breach" shall include, without limitation, a failure to fund the budget in accordance with Chapter 6, the failure to make any contributions or pay any assessment when due, and the failure to defend or indemnify other Members as required in Chapter 7. The Board shall give the Member notice of the breach and the right to cure the breach within thirty (30) days of the notice. In the event the Member fails to cure breach within thirty (30) days when it is reasonably practical to do so, the Board shall have the right to immediately terminate the Membership. Termination of a Member for breach shall not relieve the terminated Member of its proportionate share of any debts or other liabilities incurred by the Authority or any liabilities imposed upon or incurred by the Member pursuant to this Agreement prior to the effective date of such termination. However, such termination shall result in the forfeiture of all rights and claims of the terminated Member to any repayment of contributions or advances or other distribution of funds or property after termination, including distributions in the event of termination of the Authority. Notwithstanding the foregoing, the forfeiture provision set forth in

this Section shall not apply to the distribution of proceeds from the sale of the Property pursuant to Section 9.2C.

8.4 PENALTIES

Notwithstanding Section 8.3, and without waiving any other remedies available by law or through this Agreement, the Board shall adopt policies and procedures imposing penalties and/or interest for the failure of any Member to pay any amounts due under this Agreement.

CHAPTER 9. TERMINATION AND DISPOSITION OF ASSETS

9.1 TERMINATION

The Authority shall continue to exercise the joint power specified in this Agreement until termination of this Agreement. This Agreement shall terminate if the majority of Members give the Authority written notice of their intention to withdraw as specified in Section 8.2 or if the Members mutually agree to terminate this Agreement. No termination of the Authority shall occur until all of its debts, liabilities, and obligations and other payment is made in accordance with the resolution of the Authority. No termination of the Authority shall occur which is contrary to the language, spirit or intent of any contract or agreement entered into by the Authority with the United States., the State of California, or any department, administration or agency of either.

9.2 DISTRIBUTION OF PROPERTY

- A. Upon termination of this Agreement, all Training Center Equipment shall be assigned an "operating life" by the Board. The Board shall also designate equipment which is critical or non-critical to the operation of the facilities. All Training Center Equipment either functioning within its operating life or beyond, shall be appraised by an independent appraiser retained by the Board and equipment designated as critical may be purchased first by Anaheim and then by any Member who is interested and who, having submitted a sealed bid, is the highest bidder. Such sealed bid shall not be lower than the appraised value. Non-critical equipment may be purchased by any Member based on procedures adopted by the Board. Training Center Equipment not purchased by a Member shall be sold to the public at appraised value or at public auction. The proceeds of all sales shall be paid to each Member pursuant to their Fair Share Percentage in the year the Training Center Equipment was purchased. Only those Members who paid a Fair Share Percentage when the Training Center Equipment was purchased or upon becoming a Member, shall be entitled to share in the proceeds of the sale.

- B. Upon termination of this Agreement, all Training Center Equipment solely purchased and maintained at the Training Center by a Member(s) shall be returned to the Member or Members holding title to the equipment.

- C. Anaheim is shown as the owner of record of the Property. Pursuant to Section 7 of the 1976 Agreement, the cities of Garden Grove and Orange paid Anaheim a pro rata share of the value of the Property based upon a appraisal of the Property performed in 1976, which valued the property at \$52,250 per acre. In the sole event of termination of this Agreement pursuant to Section 9.1, the Property shall be sold by Anaheim in accordance with Anaheim's then existing policies for the sale of its real property; provided that the Property shall be sold in a manner to achieve a sales price of at least fair market value which shall determined by a MAI appraiser selected by the Board. The net proceeds of the sale shall, within 35 days of receipt thereof, be distributed in relationship to the pro rata payments made by the cities of Garden Grove and Orange to Anaheim in or about 1976 for site acquisition costs, which distributions of proceeds shall be as follows: Anaheim – 46.66%; Garden Grove – 26.67%; and Orange—26.67%. In the event there is an escrow associated with the sale, the escrow shall include instructions directing that the net proceeds of the sale be distributed in accordance with this Section 9.2C. Notwithstanding the foregoing, Anaheim shall have the right to purchase Garden Grove's and Orange's interest in the Property in lieu of any sale thereof. If Anaheim exercises its right of first refusal and retains the Property, the Board shall direct an appraisal to be done by an MAI appraiser selected by the Board. Anaheim shall pay 26.67% of the appraised value to Garden Grove and 26.67% of the appraised value to Orange. This Section 9.2C shall apply irrespective of whether or not Anaheim, Garden Grove or Orange is a Member at the time this Agreement is terminated and this Section 9.2C is implemented.

- D. Upon termination of the Authority, any remaining funds, property or other assets of the Authority, following discharge of all debts, liabilities and obligations of the Authority, shall be distributed to the Members for any un-reimbursed advances, contributions, or in-lieu contributions made or given to the Authority by such Members, and distributed to all Members on the same basis as the annual distributions to Members under this Agreement.

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CHAPTER 10. MISCELLANEOUS

10.1 AMENDMENTS

Except for sections 9.2 and 10.1 herein, this Agreement may be amended with the approval of a majority of the Members. Amendments to Sections 9.2 and 10.1 shall require the unanimous approval of Members Anaheim, Garden Grove and Orange.

10.2 NOTICE

Any notice or instrument required to be given or delivered pursuant to this Agreement shall be deemed given when personally delivered to the Member of the Authority, or deposited in the United States mail, first class postage pre-paid, and properly addressed to the principal office of the Member or the Authority, which may be changed upon written notice as provided herein to all other Members. The principal office for each Member, which may be changed upon 30 days written notice to all Members, are as follows:

City of Anaheim:

Anaheim West Tower
201 South Anaheim Boulevard, Suite 300
Anaheim, CA 92805
Attn: Randy Bruegman, Fire Chief

With a copy to:

City of Anaheim
200 South Anaheim Boulevard
Anaheim, CA 92805
Attn: City Attorney

City of Garden Grove:

11301 Acacia Parkway
Garden Gove, CA 92840
Attn: Dave Bertka, Fire Chief

With a copy to:

City of Garden Grove
11222 Acacia Parkway
Garden Grove, CA 92840
Attn: City Attorney

City of Orange:

Orange Fire Department Headquarters
176 South Grand Street
Orange, CA 92866
Attn: Pat Dibb, Fire Chief

With a copy to:
City of Orange
300 East Chapman Avenue
Orange, CA 92866
Attn: City Attorney

10.3 PARTIAL INVALIDITY

If one or more of the Chapters, Sections, paragraphs or provisions of this Agreement is determined to be invalid or unenforceable by a court of competent jurisdiction, each and all of the remaining Chapters, Sections, paragraphs or provisions shall not be affected and shall continue to be valid and enforceable to the fullest extent permitted by law, provided, the remaining Chapters, Sections, paragraphs or provisions can be construed in substance to constitute the Agreement the Parties intended in the first instance.

10.4 GOVERNING LAW

This Agreement shall be construed in accordance with and governed by the laws of the State of California and the Members agree to submit to the jurisdiction of California courts.

10.5 INTEGRATION

This Agreement constitutes the entire agreement of the Members. No other agreement, oral or written, pertaining to the work to be performed under this Agreement shall be of any force or effect unless it is in writing and signed by the all Members. This Agreement supersedes, in their entirety the original 1976 Agreement establishing the Authority and any amendments entered into up to the effective date of this Agreement.

10.6 RECORDATION

Upon this Agreement being approved and fully executed, the Clerk of the Board shall cause this Agreement to be recorded and provide the Board with evidence of such recordation.

[Signatures on next page]

Exhibit A

DESCRIPTION:

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

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

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

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

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

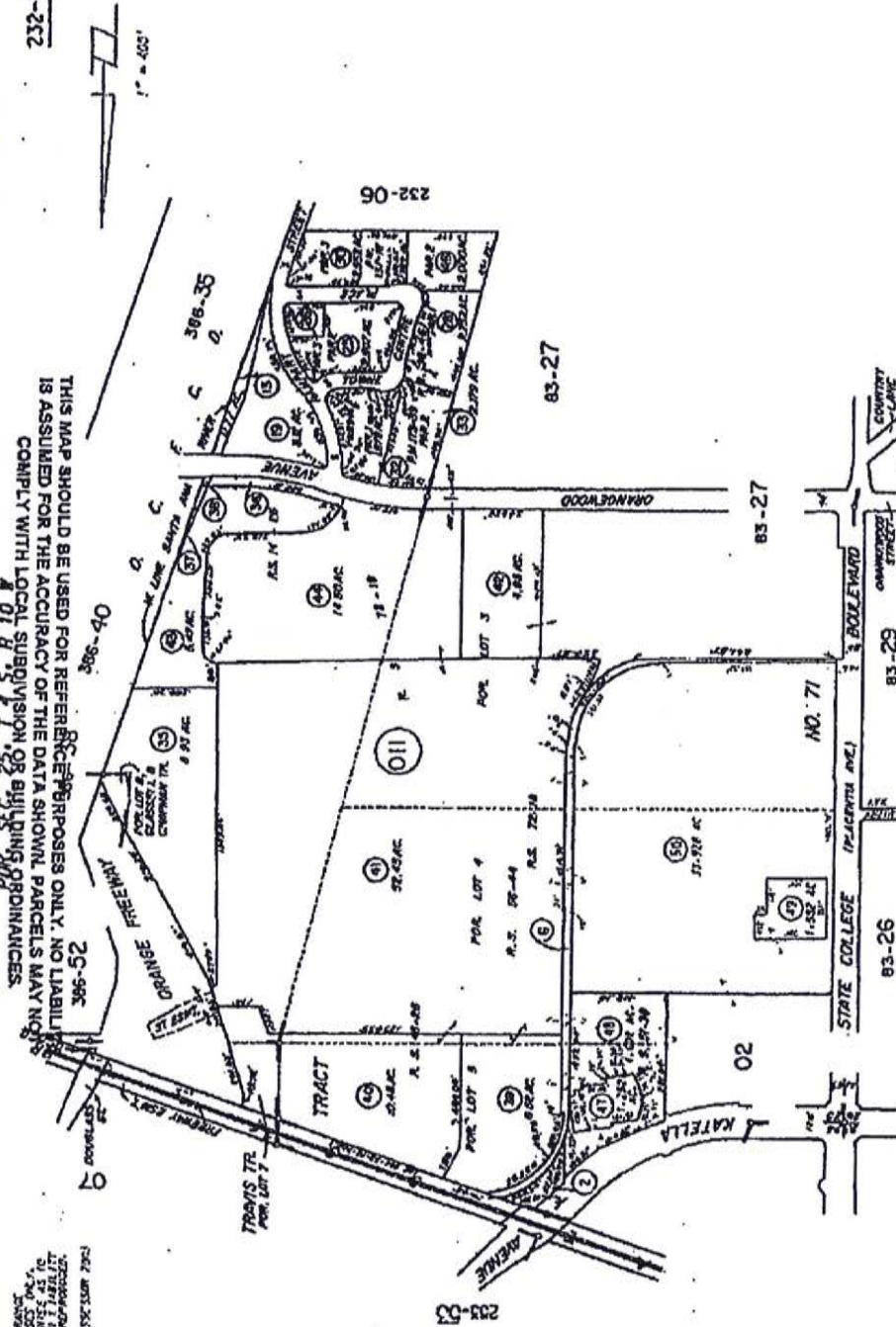
EXCEPTING THEREFROM ALL OIL, GAS, ASPHALTUM AND OTHER HYDROCARBON SUBSTANCES AND WATER, OTHER THAN SANTA ANA VALLEY IRRIGATION COMPANY'S WATER FROM ON OR UNDER A PORTION OF SAID LAND, AS RESERVED BY MARY M. PARKER, A WIDOW, IN A DEED RECORDED JUNE 26, 1943 IN BOOK 1194, PAGE 466 OF OFFICIAL RECORDS.

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

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

MAP

232-01



THIS MAP SHOULD BE USED FOR REFERENCE PURPOSES ONLY. NO LIABILITY IS ASSUMED FOR THE ACCURACY OF THE DATA SHOWN. PARCELS MAY NOT COMPLY WITH LOCAL SUBDIVISION OR BUILDING ORDINANCES.

THIS MAP WAS PREPARED BY THE COUNTY ASSESSOR'S OFFICE IN ACCORDANCE WITH THE PROVISIONS OF THE CALIFORNIA REVENUE AND TAX CODE, SECTION 402.1, AND THE LOCAL GOVERNMENT CODE, SECTION 54.001. THE ASSESSOR'S OFFICE HAS CONDUCTED A VISUAL INSPECTION OF THE PROPERTY AND HAS FOUND THAT THE INFORMATION SHOWN ON THIS MAP IS CORRECT AND ACCURATE.

TRAVIS TRACT
GLASSSELL & CHAPMAN TR.
TRACT NO. 71
PARCEL MAP

MARCH 1965

NOTE - ASSESSOR'S BLOCK & PARCEL NUMBERS SHOWN IN CIRCLES

ASSESSOR'S MAP BOOK 232 PAGE 01 COUNTY OF ORANGE

IN WITNESS WHEREOF, the Members have caused this Agreement to be executed by their duly authorized officers, and to have their official seals affixed hereto as of the date first stated above.

Dated: _____, 2012

ATTEST:

By: _____
Linda N. Andral, CMC
City Clerk

Dated: _____, 2012

ATTEST:

By: _____
Kathleen Bailor
City Clerk

Dated: _____, 2012

ATTEST:

By: Mary E. Murphy chief fir
Mary E. Murphy
City Clerk

CITY OF ANAHEIM

By _____
Tom Tait, Mayor

APPROVED AS TO FORM:

By: _____
Cristina Talley
City Attorney

CITY OF GARDEN GROVE

By _____
William J. Dalton, Mayor

APPROVED AS TO FORM:

By: _____
Thomas Nixon
City Attorney

CITY OF ORANGE

By Carolyn V. Cavecche
Carolyn V. Cavecche, Mayor

APPROVED AS TO FORM:

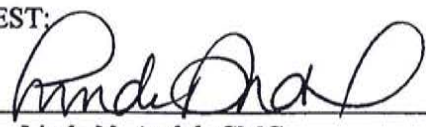
By: Wayne Winthers
Wayne Winthers
City Attorney

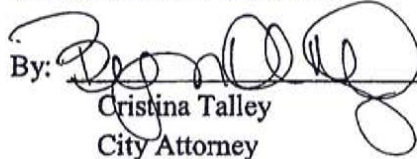
IN WITNESS WHEREOF, the Members have caused this Agreement to be executed by their duly authorized officers, and to have their official seals affixed hereto as of the date first stated above.

Dated: 11/6, 2012

CITY OF ANAHEIM

By: 
Tom Tait, Mayor

ATTEST:
By: 
Linda N. Andal, CMC
City Clerk

APPROVED AS TO FORM:
By:  for
Cristina Talley
City Attorney

Dated: _____, 2012

CITY OF GARDEN GROVE

By: _____
William J. Dalton, Mayor

ATTEST:
By: _____
Kathleen Bailor
City Clerk

APPROVED AS TO FORM:
By: _____
Thomas Nixon
City Attorney

Dated: _____, 2012

CITY OF ORANGE

By: _____
Carolyn V. Cavecche, Mayor

ATTEST:
By: _____
Mary E. Murphy
City Clerk

APPROVED AS TO FORM:
By: _____
Wayne Winthers
City Attorney

IN WITNESS WHEREOF, the Members have caused this Agreement to be executed by their duly authorized officers, and to have their official seals affixed hereto as of the date first stated above.

Dated: _____, 2012

CITY OF ANAHEIM

By _____
Tom Tait, Mayor

ATTEST:

APPROVED AS TO FORM:

By: _____
Linda N. Andal, CMC
City Clerk

By: _____
Cristina Talley
City Attorney

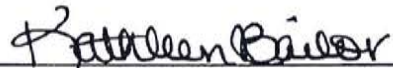
Dated: _____, 2012

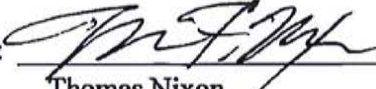
CITY OF GARDEN GROVE

By 
William J. Dalton, Mayor

ATTEST:

APPROVED AS TO FORM:

By: 
Kathleen Bailor
City Clerk

By: 
Thomas Nixon
City Attorney

Dated: 11/20/2012, 2012

CITY OF ORANGE

By _____
Carolyn V. Cavecche, Mayor

ATTEST:

APPROVED AS TO FORM:

By: _____
Mary E. Murphy
City Clerk

By: _____
Wayne Winthers
City Attorney



COUNCIL AGENDA REPORT

City of Anaheim FIRE DEPARTMENT

DATE: OCTOBER 23, 2012

FROM: FIRE DEPARTMENT

SUBJECT: AMENDED AND RESTATED NORTH NET JOINT POWERS
TRAINING AGREEMENT BETWEEN THE CITIES OF
ANAHEIM, ORANGE, AND GARDEN GROVE TO LEASE AND
OPERATE A JOINT TRAINING CENTER

ATTACHMENT (Y/N): YES **ITEM # 19**

RECOMMENDATION:

That the City Council, by Motion, approve and authorize the Mayor and City Clerk to execute the Amended and Restated North Net Joint Powers Training Agreement.

DISCUSSION:

The member agencies of the North Net Joint Powers Authority (JPA) established the North Net Training Authority by an agreement entered into in 1976, along with four amendments to the 1976 Agreement dated in 1977, 1979, 1988 and 1994. The JPA Board and Member Fire Chiefs are proposing that each City adopt the attached "Amended and Restated North Net Joint Powers Training Agreement", which would supersede and replace the 1976 Agreement and all amendments thereto. The proposed Agreement is being patterned after the Metro Net Joint Powers Authority model. The Fire Chiefs are in agreement that the Metro Net model has served the member agencies well and that this same model will bring stability and efficiency to the North Net operation.

Currently the finance, administration, and legal functions of the JPA are split among the three member agencies. The new agreement, following the Metro Net model, will bring these functions together with Anaheim as the administrator thereby creating a more cohesive and efficient operation. The agreement would provide for the hiring of an Administrator for the day-to-day operation of the Training Center. The Administrator would be an employee of Anaheim and subject to Anaheim's personnel rules. Any administrator appointed by Anaheim would be subject to the approval of the JPA Board. Anaheim would provide other Training Center services as needed to the extent permitted by the Board's budget. Under the current scenario the day-to-day operations of the Training Center are handled by a full-time Senior Secretary, an Anaheim Training Captain, and part time support from other personnel of the other JPA agencies.

Under this new agreement, the cities' Fair Share Percentages for the next fiscal year would be as follows: Anaheim, 49.6%, Garden Grove, 22%, and Orange, 28.4%. Each member's Fair Share Percentage is calculated annually based on its total number of sworn firefighter positions as a percentage of the total for all members combined. Orange and Garden Grove will pay Anaheim an administrative fee of 12% in addition to their Fair Share contributions.

The member agencies of North Net established a Joint Powers Authority for the purpose of operating a Joint Training Center by an agreement entered into in 1976. The JPA Board has approved and are proposing that the attached Agreement be adopted, which would supersede and replace the 1976 Agreement. The proposed Agreement is patterned after the Metro Net Joint Powers Authority model which has served the member agencies well and will bring stability and efficiency to the North Net operation.

IMPACT ON BUDGET:

There is no impact to the budget in the current fiscal year. Budget appropriations for future years will be subject to the City's annual budget adoption process.

Respectfully submitted,

Randy R. Bruegman
Fire Chief

Attachment:

1. Amended and Restated North Net Joint Powers Training Agreement

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

This First Amendment to Amended and Restated North Net Joint Powers Agreement (hereafter, "First Amendment") is entered into to be effective this 1st day of June, 2013, by and between the following public entities (collectively, the "Parties"):

- A. City of Anaheim
- B. City of Garden Grove
- C. City of Orange

RECITALS

A. The Parties entered into the Amended and Restated North Net Joint Powers Agreement dated November 1, 2012 (hereafter, the "Original Agreement").

B. The Parties desire to amend the Original Agreement to designate the Finance Director of the City of Anaheim as the Treasurer for the North Net Joint Powers Authority.

Now, therefore, the Parties agree as follows:

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

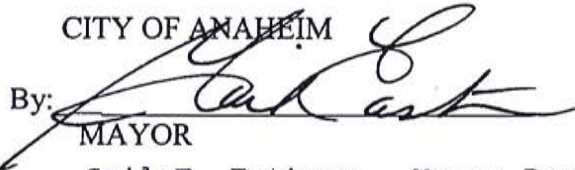
Section 2. **Designation of Treasurer.** Section 3.9 of the Original Agreement is amended to provide that the Finance Director of the City of Anaheim shall hold the office of treasurer and auditor in accordance with Government Code Section 6506.6 and shall perform the duties as authorized in Section 6505 et seq. of the Government Code.

Section 4. **Integration.** This First Amendment amends, as set forth herein, the Original Agreement and, except as specifically amended hereby, the Original Agreement shall remain in full force and effect. To the extent that there is any conflict or inconsistency between the terms and provisions of this First Amendment and the terms and provisions of the Original Agreement, the terms and provisions of this First Amendment shall control and govern the rights and obligations of the Parties.

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

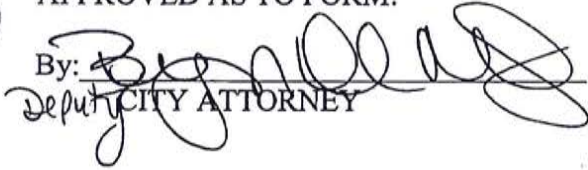
Dated: 6/3/13

CITY OF ANAHEIM

By: 
MAYOR

Gail E. Eastman - Mayor Pro Tem
APPROVED AS TO FORM:

ATTEST:
By: 
CITY CLERK

By: 
Deputy CITY ATTORNEY

Dated: _____

CITY OF GARDEN GROVE

By: _____
MAYOR

ATTEST:

APPROVED AS TO FORM:

By: _____
CITY CLERK

By: _____
CITY ATTORNEY

Dated: _____

CITY OF ORANGE

By: _____
MAYOR

ATTEST:

APPROVED AS TO FORM:

By: _____
CITY CLERK

By: _____
CITY ATTORNEY

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

Dated: _____

CITY OF ANAHEIM

By: _____
MAYOR

ATTEST:

APPROVED AS TO FORM:

By: _____
CITY CLERK

By: _____
CITY ATTORNEY

Dated: June 4, 2013

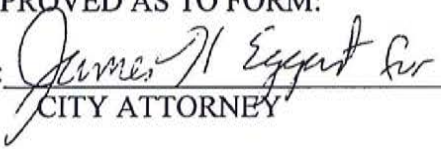
CITY OF GARDEN GROVE

By: 
MAYOR

ATTEST:

APPROVED AS TO FORM:

By: 
CITY CLERK

By: 
CITY ATTORNEY

Dated: _____

CITY OF ORANGE

By: _____
MAYOR

ATTEST:

APPROVED AS TO FORM:

By: _____
CITY CLERK

By: _____
CITY ATTORNEY

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

Dated: _____

CITY OF ANAHEIM

By: _____
MAYOR

ATTEST:

APPROVED AS TO FORM:

By: _____
CITY CLERK

By: _____
CITY ATTORNEY

Dated: _____

CITY OF GARDEN GROVE

By: _____
MAYOR

ATTEST:

APPROVED AS TO FORM:

By: _____
CITY CLERK

By: _____
CITY ATTORNEY

Dated: 6-3-12

CITY OF ORANGE

By: Jerem "Tota" Smith
MAYOR

ATTEST:

APPROVED AS TO FORM:

By: Christina Clark
CITY CLERK

By: _____
CITY ATTORNEY



COUNCIL AGENDA REPORT

City of Anaheim FIRE DEPARTMENT

DATE: MAY 28, 2013
FROM: FIRE DEPARTMENT
SUBJECT: APPROVAL OF FIRST AMENDMENT TO AMENDED AND
RESTATED NORTH NET JOINT POWERS AGREEMENT

ATTACHMENT (Y/N): YES

ITEM # 28

RECOMMENDATION:

That the City Council, by Motion, approve and authorize the Mayor and City Clerk to execute the First Amendment to the Amended and Restated North Net Joint Powers Agreement.

DISCUSSION:

In 1976, the Cities of Anaheim, Garden Grove and Orange formed the North Net Joint Powers Authority ("North Net") to provide fire training to their respective fire departments in a cost-effective manner. North Net is operated out of the training center located at 2400 E. Orangewood Avenue, Anaheim. North Net is governed by the Amended and Restated North Net Joint Powers Agreement ("JPA Agreement") which was approved by each member's City Council in 2012. The North Net Board of Directors is comprised of a representative from each member's City Council.

The proposed First Amendment to the JPA Agreement ("First Amendment") changes the JPA designation of Treasurer to mean the Finance Director of the City of Anaheim. Government Code section 6505.1 provides that the parties to a joint powers agreement must designate an officer to have charge of the property of the joint powers agency and section 6505.6 permits the North Net Board to appoint an officer of one of the cities as the treasurer. The three fire chiefs of the respective member agencies recently proposed to the North Net Board of Directors to appoint the Finance Director of the City of Anaheim as the Treasurer to coordinate North Net's expenditures with the City of Anaheim's financial system as part of the transition of the JPA's finance responsibilities to Anaheim. This will allow North Net's management to efficiently monitor actual expenditures against its budget. The Board, by a 3-0 vote, recommended that the amendment be approved and pursuant to the JPA Agreement, agreed to forward the First Amendment to each member's City Council for consideration.

IMPACT ON BUDGET:

There is no budgetary impact.

Respectfully submitted,

Randy Bruegman
Fire Chief

Attachment:

1. First Amendment to Amended and Restated Agreement.

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

This First Amendment to Amended and Restated North Net Joint Powers Agreement (hereafter, "First Amendment") is entered into to be effective this 1st day of June, 2013, by and between the following public entities (collectively, the "Parties"):

- A. City of Anaheim
- B. City of Garden Grove
- C. City of Orange

RECITALS

A. The Parties entered into the Amended and Restated North Net Joint Powers Agreement dated November 1, 2012 (hereafter, the "Original Agreement").

B. The Parties desire to amend the Original Agreement to designate the Finance Director of the City of Anaheim as the Treasurer for the North Net Joint Powers Authority.

Now, therefore, the Parties agree as follows:

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

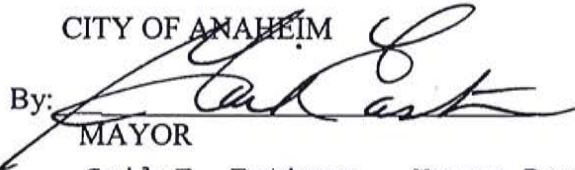
Section 2. **Designation of Treasurer.** Section 3.9 of the Original Agreement is amended to provide that the Finance Director of the City of Anaheim shall hold the office of treasurer and auditor in accordance with Government Code Section 6506.6 and shall perform the duties as authorized in Section 6505 et seq. of the Government Code.

Section 4. **Integration.** This First Amendment amends, as set forth herein, the Original Agreement and, except as specifically amended hereby, the Original Agreement shall remain in full force and effect. To the extent that there is any conflict or inconsistency between the terms and provisions of this First Amendment and the terms and provisions of the Original Agreement, the terms and provisions of this First Amendment shall control and govern the rights and obligations of the Parties.

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

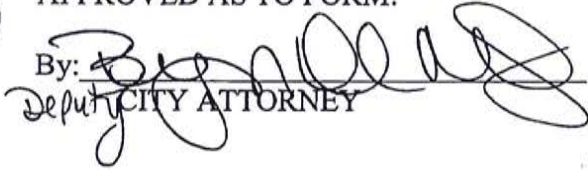
Dated: 6/3/13

CITY OF ANAHEIM

By: 
MAYOR

Gail E. Eastman - Mayor Pro Tem
APPROVED AS TO FORM:

ATTEST:
By: 
CITY CLERK

By: 
Deputy CITY ATTORNEY

Dated: _____

CITY OF GARDEN GROVE

By: _____
MAYOR

ATTEST:

APPROVED AS TO FORM:

By: _____
CITY CLERK

By: _____
CITY ATTORNEY

Dated: _____

CITY OF ORANGE

By: _____
MAYOR

ATTEST:

APPROVED AS TO FORM:

By: _____
CITY CLERK

By: _____
CITY ATTORNEY

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

Dated: _____

CITY OF ANAHEIM

By: _____
MAYOR

ATTEST:

APPROVED AS TO FORM:

By: _____
CITY CLERK

By: _____
CITY ATTORNEY

Dated: June 4, 2013

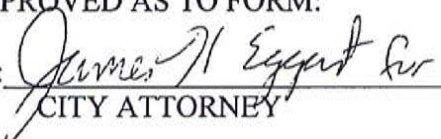
CITY OF GARDEN GROVE

By: 
MAYOR

ATTEST:

APPROVED AS TO FORM:

By: 
CITY CLERK

By: 
CITY ATTORNEY

Dated: _____

CITY OF ORANGE

By: _____
MAYOR

ATTEST:

APPROVED AS TO FORM:

By: _____
CITY CLERK

By: _____
CITY ATTORNEY

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

Dated: _____

CITY OF ANAHEIM

By: _____
MAYOR

ATTEST:

APPROVED AS TO FORM:

By: _____
CITY CLERK

By: _____
CITY ATTORNEY

Dated: _____

CITY OF GARDEN GROVE

By: _____
MAYOR

ATTEST:

APPROVED AS TO FORM:

By: _____
CITY CLERK

By: _____
CITY ATTORNEY

Dated: 6-3-12

CITY OF ORANGE

By: Jerem "Tota" Smith
MAYOR

ATTEST:

APPROVED AS TO FORM:

By: Miss Janel Chief Clerk
CITY CLERK

By: [Signature]
CITY ATTORNEY



COUNCIL AGENDA REPORT

City of Anaheim FIRE DEPARTMENT

DATE: MAY 28, 2013
FROM: FIRE DEPARTMENT
SUBJECT: APPROVAL OF FIRST AMENDMENT TO AMENDED AND
RESTATED NORTH NET JOINT POWERS AGREEMENT

ATTACHMENT (Y/N): YES

ITEM # 28

RECOMMENDATION:

That the City Council, by Motion, approve and authorize the Mayor and City Clerk to execute the First Amendment to the Amended and Restated North Net Joint Powers Agreement.

DISCUSSION:

In 1976, the Cities of Anaheim, Garden Grove and Orange formed the North Net Joint Powers Authority ("North Net") to provide fire training to their respective fire departments in a cost-effective manner. North Net is operated out of the training center located at 2400 E. Orangewood Avenue, Anaheim. North Net is governed by the Amended and Restated North Net Joint Powers Agreement ("JPA Agreement") which was approved by each member's City Council in 2012. The North Net Board of Directors is comprised of a representative from each member's City Council.

The proposed First Amendment to the JPA Agreement ("First Amendment") changes the JPA designation of Treasurer to mean the Finance Director of the City of Anaheim. Government Code section 6505.1 provides that the parties to a joint powers agreement must designate an officer to have charge of the property of the joint powers agency and section 6505.6 permits the North Net Board to appoint an officer of one of the cities as the treasurer. The three fire chiefs of the respective member agencies recently proposed to the North Net Board of Directors to appoint the Finance Director of the City of Anaheim as the Treasurer to coordinate North Net's expenditures with the City of Anaheim's financial system as part of the transition of the JPA's finance responsibilities to Anaheim. This will allow North Net's management to efficiently monitor actual expenditures against its budget. The Board, by a 3-0 vote, recommended that the amendment be approved and pursuant to the JPA Agreement, agreed to forward the First Amendment to each member's City Council for consideration.

IMPACT ON BUDGET:

There is no budgetary impact.

Respectfully submitted,

Randy Bruegman
Fire Chief

Attachment:

1. First Amendment to Amended and Restated Agreement.

ORIGINAL

**AMENDED AND RESTATED
NORTH NET JOINT POWERS TRAINING AGREEMENT**

By and Between

CITY OF ANAHEIM, CALIFORNIA

CITY OF GARDEN GROVE, CALIFORNIA

And

CITY OF ORANGE, CALIFORNIA

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**AMENDED AND RESTATED
NORTH NET JOINT POWERS TRAINING
AGREEMENT**

This Amended and Restated Joint Powers Agreement (“Agreement”), dated for purpose of identification this 1st day of November 2012 (the “Effective Date”) is made by and between the following public entities, (collectively, the “Parties”):

- A. City of Anaheim (“Anaheim”)
- B. City of Garden Grove (“Garden Grove”)
- C. City of Orange (“Orange”)

1. RECITALS

A. The Parties to this Agreement each provide fire protection, fire prevention, rescue, emergency medical and related administrative services within their respective boundaries.

B. The Parties have determined that joint use of a consolidated Training Center and record keeping system reduces the administrative costs that would otherwise be incurred by each Party in providing fire suppression, emergency medical assistance, rescue service, and related services.

C. The Parties have determined that the costs associated with maintaining the staff and equipment necessary to operate a consolidated Training Center should be funded by the Parties through a formal Joint Powers Agreement with costs apportioned as outlined by this Agreement..

D. The Parties have determined that joint use of a consolidated Training Center is also intended to foster cooperation among the Parties in the form of other separate written agreements.

E. The Parties each have the power and authority to perform and contract with one another pursuant to the Joint Exercise of Powers Act (Section 6500 et. seq. of the Government Code) for the performance of the duties and functions that form the basis of this Agreement.

F. The Parties have the power to contract with other agencies for training services, equipment and related items.

G. The Parties entered in the initial Joint Powers Agreement on October 5, 1976 (“1976 Agreement”). There is an amendment to the 1976 Agreement dated February 8, 1977, an addendum entered into in 1979, an amendment dated February 23, 1988, and an amendment dated in 1994 (the “Amendments”). The Parties intend that in entering into this Agreement that

this Agreement shall replace in their entirety the 1976 Agreement and all amendments and/or addendums to the 1976 Agreement.

AGREEMENT

In consideration of the foregoing recitals and the mutual covenants contained in this Agreement, it is agreed between and among each of the parties hereto as follows:

CHAPTER 1. DEFINITIONS

- 1.1. "Administrator" shall mean the Training Center Manager.
- 1.2. "Authority" shall mean the Joint Powers Authority known as the North Net Training Authority, created by this Agreement pursuant to the Joint Exercise of Powers Act (Government Code sections 6500 et seq.).
- 1.3. "Board" is the governing body of the Authority.
- 1.4. "Board Director" shall mean the voting representative or alternate appointed by the governing body of each Member agency to represent said agency on the Board.
- 1.5. "Capital Improvement Project" shall mean the acquisition of any piece of Training Equipment or the funding of any Training Center related project that requires an expenditure of \$30,000.00 or more.
- 1.6. "Capital Outlay" shall mean the acquisition of any piece of Training Equipment or the funding of any Training Center related project that requires an expenditure of \$500.00 or more but less than \$30,000.00.
- 1.7. "Fiscal Year" shall mean the twelve month period commencing July 1st and concluding June 30th.
- 1.8. "Member" shall mean any public entity that is a party to this Agreement upon the Effective Date or becomes a party to this Agreement pursuant to the provisions of Section 8.1, and has not withdrawn from such membership or been terminated from such membership pursuant to Sections 8.2 or 8.3.
- 1.9. "Property" shall mean the land described in the legal description and depicted in the map attached hereto as Exhibit "A", commonly referred to as 2400 E. Oranewood Avenue, Anaheim, CA and the Training Center, as defined herein.
- 1.10. "Subscriber Agency" means each of the public agencies that are not Members that wish to contract with the Authority to receive training services, and contribute to the cost of

operating and administrating this Authority by executing and administering a subscriber agreement in a form approved by the Board.

1.11. "Training Center" shall mean that structure or physical facility that houses Training Center Equipment and/or Training Center Staff and any other structures or fixtures, which are located upon the Property.

1.12. "Training Center Equipment" shall mean all equipment utilized for the fire or rescue-related emergency Training Center or other facilities acquired for use by the Authority which are not included within the definition of Training Center.

1.13. "Training Center Staff" or "Staff" shall mean all personnel of the City of Anaheim performing services related to the operations and maintenance of the Training Center, or such agency or individual as may be appointed by the Board to perform these functions.

CHAPTER 2. PURPOSE AND POWERS

2.1. AUTHORITY CREATED

The Authority is formed pursuant to the provision of Article 1, Chapter 5, Division 7 of Title I of the Government Code of the State of California (The Joint Exercise of Powers Act). The Authority shall be considered a public entity separate and apart from the Members. Within thirty (30) days after the Effective Date and after any amendment, the Authority shall cause a notice of this Agreement or amendment to be prepared and filed with the office of the California Secretary of State containing the information required by Government Code 6503.5.

2.2. COMMON POWERS

Each Party has the common power to, inter alia:

- a. Provide fire protection, fire suppression, fire prevention, emergency medical, rescue and related services;
- b. Maintain an effective training system to facilitate and support fire protection, fire suppression, rescue and emergency medical services;
- c. Employ personnel to perform emergency based training, Training Center maintenance and the purchase of training center equipment.

2.3. GENERAL PURPOSE

The general purpose of this Agreement is to provide for the operation, upgrade, maintenance and repair of the Training Center and Training Center Equipment. This Agreement

is intended to provide a formal mechanism by which the Authority can fund these activities to provide the highest possible level of emergency training services.

2.4. POWERS

The Authority, through its Board, shall have the power, in its own name, to do any of the following:

- A. To jointly exercise the common powers of the Members;
- B. To make and enter into contracts, including but not limited to, contracting with other public agencies for services, equipment and related items to those agencies;
- C. To retain the services of fire suppression specialists, emergency consultants, and such other persons with specialized knowledge or ability capable of assisting the Members in achieving the purposes of this Agreement;
- D. To acquire, hold or dispose of property by any lawful means, including, without limitation, by gift, purchase or sale;
- E. To incur debts, liabilities or obligations, subject to the limitations specified in this Agreement and, to the extent permitted by law, borrow funds on temporary basis to meet operational expenses until expected revenue are available;
- F. To the extent permitted by law, to enter into equipment lease agreements or lease-purchase agreements or other financial arrangements extending beyond the current budgetary cycle, necessary or convenient to the operation of the Authority (hereinafter collectively "lease") so long as the Agreement contains substantially the following provisions:

The Authority receives its funds on an annual budgetary cycle from its individual Members. The Authority agrees to use its best efforts to obtain authorization and appropriation of funds from its individual Members to pay lease payments due under this Agreement, including, without limitation, the inclusion in its budget request for each fiscal year during the term of this Agreement a request for adequate funds to meet in full its obligation hereunder. The Board may terminate this Agreement in the event funds are not appropriated or appropriations are withdrawn or withheld upon thirty (30) days written notice. Termination under this provision shall not constitute a default or breach. The Authority shall not be obligated to pay any additional lease payments but shall, after written notice from Lessor, deliver the Training Center Equipment to Lessor or its

assignee. Lessor acknowledges that the individual Members shall not be liable for the debts of the Authority.

- G. To enter into leases, agreements and similar transactions that require the Authority to indemnify the person with whom the Board is contracting, so long as the exposure to liability under such indemnification is approved by the Risk Manager of Anaheim and by Legal Counsel of the Authority and so long as the maximum exposure to liability under such transaction does not exceed One Million Dollars (\$1,000,000);
- H. To receive gifts, contributions, grants, and donations of property, funds, services and other forms of assistance from any person, firm, entity, corporation or public agency;
- I. To sue and be sued in its own name;
- J. To apply for any grant or grants offered in conjunction with any Federal, State or local program that is in any way related to the purpose of this Agreement;
- K. To adopt rules, regulations, policies, by-laws and procedures governing the operation of the Authority; and
- L. To exercise any other power in the manner and according to the methods provided by applicable laws, rules or regulations, subject only to the restrictions on the manner of exercising such powers that may be applicable to the Members.

CHAPTER 3. ORGANIZATION

3.1. MEMBERSHIP

The Members of this Authority shall be the public entities which executed this Agreement or a subsequent amendment and have not withdrawn from, or had membership in the Authority terminated, as provided in Sections 8.2 and 8.3 hereof.

3.2. BOARD

- A. The Board shall consist of one (1) voting director and one (1) alternate appointed by the governing body of each Member, which director and alternate shall be selected from the legislative body of each Member.
- B. Each Board Director, which is defined to include the alternate, shall hold office from the first meeting of the Board after appointment and shall serve at the pleasure of the appointing legislative body.

- C. A Board Director shall not receive compensation, but may be reimbursed by the Authority for expenses reasonably incurred while performing duties required by this Agreement and as further specified and limited by resolution of the Board.
- D. Annually, at its first meeting of each new fiscal year, the Board shall select a chairperson and vice chairperson from its members and shall appoint a secretary who may, but need not, be a member of the Board. The chairperson, vice chairperson and secretary shall hold office for one year or until such time as a successor is appointed.

3.3. PRINCIPAL OFFICE

The principal office of the Authority shall be 2400 E. Orangewood Avenue, Anaheim, CA. The Board has the full power and authority to change the principal office from one location to another as long as same is within the Authority's jurisdiction.

3.4. MEETINGS

The Board shall meet at the principal office of the Authority, or at such other place as may be designated by the Board. The time and place of regular meetings of the Board shall be determined by resolution. Regular, adjourned and special meetings of the Board shall be called, noticed and conducted in accordance with the Ralph M. Brown Act or other relevant open meeting law. Each Member shall only be entitled to have one Board Director in attendance to establish a quorum or to vote upon matters coming before the Board.

3.5. QUORUM

Attendance by a majority of the Board Directors at a meeting shall constitute a quorum for the purpose of transacting business relating to the Authority.

3.6. POWERS AND LIMITATIONS

All of the powers of the Authority are reserved to it and may be exercised by the Board, unless otherwise limited by law. Each Board Director shall be entitled to one vote and, except as expressly provided in this Agreement, including Sections 9.2 and 10.1, the affirmative vote of the majority of those present and qualified shall effect adoption of any motion, resolution, order or action the Board deems appropriate.

3.7. AGENDAS-SECRETARY DUTIES

The secretary of the Authority shall provide notice of, prepare and post agendas for, and keep minutes of, each regular, adjourned and special meeting of the Board and other records, as necessary, of the Board. The secretary shall send a copy of the minutes to each Board member

and otherwise perform the duties necessary to ensure compliance with provisions of law including, without limitations, any applicable "open meeting law" such as the Ralph M Brown Act.

3.8. RULES

The Board may adopt rules and regulations for the conduct of its affairs that are not in conflict with this Agreement.

3.9. TREASURER

The Treasurer of the City of Anaheim shall hold the office of treasurer and auditor, in accordance with Government Code Section 6505.6, and shall perform the duties as authorized in Section 6505 et seq. of the Government Code. The treasurer shall cause an independent audit to be made by a Certified Public Accountant in compliance with Section 6505 of the Government Code. The Certified Public Accountant shall be annually appointed by the Board. The treasurer shall keep all revenues of the Authority in a separate account, and, if available, an interest bearing account, and otherwise perform the duties and responsibilities of that office as specified in Sections 6505 et seq. of Government Code. Any surplus funds not immediately needed may be invested in accordance with the investment policy annually adopted by the Board, as required by Government Code Section 53646, and consistent with Government Code Sections 53601, 53635, 16429.1 and 53684, as may be amended.

3.10. LEGAL COUNSEL

The Board shall contract with independent legal counsel to serve as general counsel to the Authority to provide routine legal counsel services as may be required from time to time, including, attendance of Board meetings when deemed necessary. In the absence of a contract for independent counsel, the Anaheim City Attorney's Office shall serve as general counsel. Extraordinary legal services (for example prosecuting or defending the Authority, its officers, and agents in a legal action) shall be considered additional expenses and not covered by the administrative fee set forth in Section 5.2 of this Agreement.

3.11. BOND

The treasurer, auditor and such other persons who may have access to, or handle, any revenue of the Authority shall be required to file an official bond in an amount determined by the Board and consistent with the provisions of Section 6505.1 of the Government Code. This bonding requirement shall be satisfied if an existing bond is extended to cover the duties required by this Agreement. The costs of complying with the requirements of this Section shall be considered an administrative expense of the Authority.

3.12. STATUS OF OFFICERS AND EMPLOYEES

In accordance with the Joint Exercise of Powers Act, all of the privileges and immunities from liability, exemptions from laws, ordinances and rules, and all pension, relief, disability, workers compensation and other benefits which apply to the activities of officers, agents, or employees of any of the Member's agency when performing their respective duties or functions for that agency, shall apply to each of them to the same degree and extent while engaged in the performance of any activity, function or duty pursuant to the Agreement.

3.13. POLITICAL REFORM ACT

The Board Directors, and their alternates, shall be considered public officials within the meaning of the Political Reform Act of 1974, as amended, and its regulations, for the purposes of financial disclosure, conflict of interest and other requirements of such Act and regulations and shall file annual statements of economic interest as required, along with any other officers of the Authority who may be required to do so. Other persons working for or on behalf of the Authority may be required to file such statements in accordance with the Authority's conflict of interest code.

CHAPTER 4. BASIC SERVICES

4.1. TRAINING CENTER – OPERATIONS

- A. The Training Center shall be maintained and operated by the Authority, pursuant to this Agreement, for the use and benefit of all Members. The Administrator of the Training Center shall be an at-will employee of Anaheim so long as Anaheim operates and administers the Training Center; provided that any appointment of the Administrator and any compensation to be paid to the Administrator from the Authority's budget are subject to final approval of the Board. General Counsel shall be responsible for placing the annual performance evaluation of the Administrator on the Board's agenda for closed session at the Board's first meeting in each calendar year, although the Board may at any other time place the Administrator's performance evaluation on the agenda.
- B. Unless otherwise provided for by the Board, Anaheim shall, through use of Anaheim employees, fill all positions and provide all services required to operate, maintain and administer the Training Center and shall be responsible for the day-to-day administration and operation of the Training Center. The Authority shall pay the actual costs of such operation and administration, plus an administrative overhead fee as provided herein. The costs of such operation and administration, including administrative overhead, shall be borne by each Member according to its Fair Share Percentage as determined pursuant to Chapter 5 of this Agreement.

- C. The Board is empowered to develop and establish the budget, staffing and service levels for the Training Center operation and maintenance. No Member may create any staff position or be entitled to receive any reimbursement for any staff time or costs related to the operation and maintenance of the Training Center unless the position and/or reimbursement falls within the budget approved by the Board or otherwise has received the prior approval of the Board.
- D. Each Member shall provide training officers from each Member's Fire Department, whose compensation and cost reimbursements, if any, shall be the sole obligation of the employing Member. Except as is specifically provided herein, employees working in or otherwise utilizing the Training Center shall be governed by the same personnel rules, regulations, bargaining agreements, terms and conditions of employment, administrative regulations and other related matters as apply to them with respect to their employment with a Member or a Subscriber.
- E. In performing the day-to-day administration and operation of the Training Center, Anaheim will determine the procedures and standards of selection for employment and promotion, direct its employees, take disciplinary action, relieve its employees from duty, and determine the methods, means and personnel by which it will meet the service levels established by the Authority; provided that Anaheim shall solicit and consider input from the Members with respect to these decisions, although final authority rests with Anaheim, except to the extent specifically provided in this Agreement.
- F. Anaheim may elect to discontinue providing services for the operations and administration of the Training Center by giving notice of such election in writing to the Board a minimum of six (6) months prior to such discontinuance. In the event of such discontinuance by Anaheim, the Board may appoint another Member to perform such duties or contract with another provider of such services. Anaheim's election to discontinue providing the services set forth herein does not constitute withdrawal from the Authority.
- G. The Board may elect to terminate Anaheim's services as operator and administrator of the Training Center by giving notice of such election in writing to Anaheim a minimum of six (6) months prior to the date of such termination. In the event of such termination, the Board may appoint another Member as the administrator or contract with another provider of such services. Such termination of Anaheim's services does not in and of itself constitute either withdrawal or termination of Anaheim from the Authority or any other Member of the Authority.

4.2. MAINTENANCE OF EQUIPMENT

- A. The Authority through the Board shall maintain and repair the Training Center.
- B. The Authority through the Board shall purchase new or used Training Equipment as necessary to replace existing equipment or upon a determination by the Board that additional Training Equipment will facilitate emergency training.

4.3. SERVICES TO AND REIMBURSEMENT FROM SUBSCRIBER AGENCIES

- A. Public agencies in Orange County may receive training services, (hereinafter "Training Services") from the Authority by executing a "Subscription Agreement" in the form approved by the Board and by paying the annual fee and/or other costs, as determined by the Board. Such Subscriber Agencies must sign the Subscription Agreement prior to receiving services or sharing equipment or other items. Thereafter, a Subscriber Agency must pay its annual fee by July 30 of the fiscal year for which subscription is desired. Subscription Agreements shall renew automatically from year to year unless otherwise specified in the Subscription Agreement. Subscriber Agencies which subscribe for an entire fiscal year may, at their option, elect to pay their fee in four equal installments due and owing on or before July 30, October 1, January 1 and April 1. Subscriber Agencies which choose to become Subscriber Agencies after the commencement of the fiscal year must sign the Subscription Agreement and the full amount of the annual fee prior to seeking services. Fees for subsequent fiscal years may be revised by the Board.
- B. The Board may, without cause or reason, terminate any or all Subscription Agreements by giving the affected Subscriber Agency ninety (90) days prior written notice. If the termination occurs prior to the end of fiscal year, the terminated Subscriber Agency's annual fee shall be prorated and refunded if such a refund is owed.
- C. Revenue from Subscription Agencies shall be allocated as directed by the Board.

CHAPTER 5. FUNDING AND ADMINISTRATION

5.1 FUNDING

- A. Each Member shall pay a portion of the costs incurred by the Authority in administering this Agreement in relationship to that Member's "Fair Share Percentage", which shall be determined every calendar year beginning on January

1, 2014. Each Member's Fair Share Percentage shall be calculated by dividing the total number of sworn firefighter positions of all Members divided by the number of sworn firefighter positions of each Member as same existed on January 1 of each calendar year.

- B. Each Member's Fair Share Contribution shall be multiplied by the adopted budget amount for the upcoming Fiscal Year to determine the Fair Share Contribution amount. Anaheim shall bill each Member on a quarterly basis beginning July 1 of each fiscal year and payment shall be due within 30 days after receipt of each invoice.
- C. The Administrator, or his or her designee, shall invoice each Member that Member's Fair Share Percentage of the budget in accordance with the payment schedule set in Section 5.1B above or as otherwise adopted by Resolution of the Board. For the fiscal year 2013-2014, each Member's Fair Share Percentage shall be as follows:

| | |
|--------------|-------|
| Anaheim | 49.6% |
| Garden Grove | 22.0% |
| Orange | 28.4% |

- D. Final year-end adjustments of a Member's costs representing the difference between estimated annual expenditures and actual annual expenditures shall be calculated no later than the last day of the first quarter following the fiscal year in which such costs were incurred.

5.2 ADMINISTRATIVE SERVICES

As compensation for providing services under this Agreement, Members shall pay Anaheim an administrative fee of twelve percent (12%) of their Fair Share Percentage. Anaheim shall perform administrative services which include, but are not limited to general accounting of funds received and disbursed, preparation of invoices to Members, preparation of documents relative to any grant program, routine services from various departments within Anaheim as may be necessary from time to time, including but not limited to Human Resources and Labor Management Departments, Finance Department, Purchasing, Legal (if the Board has not contracted for General Counsel services), and such other functions as may be required by this Agreement or the provisions of any law including, without limitation, the Joint Exercise of Powers Act.

///

5.3 EMERGENCY REPAIRS

In the event the Training Center suffers damage which requires emergency repairs, the Administrator is authorized without prior Board approval to expend funds to have the necessary emergency repairs made so that services are resumed as soon as possible, but in no event shall such expenditures exceed \$20,000 without prior Board approval. The Board shall convene as soon as reasonably practical to ratify any such expenditure and to approve any expenditure above that amount. The cost of such repairs shall be borne by each Member in accordance with its Fair Share Percentage.

5.4 CAPITAL IMPROVEMENTS-FUNDING

In the event the Training Center and/or Training Center Equipment is in need of repair or improvement, the Administrator shall solicit bids for such work from at least three (3) responsible firms, whenever practicable, in accordance with applicable state law. The Administrator shall then present said bids to the Board to award the contract to the lowest responsible bidder and to direct the accepted responsible bidder to make the repairs or improvements.

CHAPTER 6. BUDGETARY PROVISIONS

6.1 ANNUAL BUDGET

The Board shall adopt an annual budget pursuant to this Agreement and procedures adopted by the Board. A preliminary draft of the budget shall be presented to the Members by the last business day in March of each year for their review. Said budget shall be submitted to the Board for consideration and adoption.

6.2 SPECIAL BUDGETARY CONSIDERATION

- A. The budget adopted by the Board shall include but not be limited to:
1. A Training Center operations and Capital Outlay component, which shall provide for the personnel, maintenance and operations support, and capital acquisitions necessary for the joint operation of the Training Center as described in Sections 4.1 and 4.2.
 2. A Capital Improvement Project component, which shall provide for the acquisition or replacement of major Training Equipment items or fund major Training Center related projects.
 3. A Training Equipment capital reserve component, which shall be deposited into a common designated reserve account designed to defray

future replacement costs of major components of Training Center Equipment.

6.3 DISBURSEMENTS

The treasurer shall draw checks in accordance with policies and/or procedures established by the Member which employs the treasurer and as otherwise established by Resolution of the Board. A summation of such payments shall be presented to the Board as part of the treasurer's quarterly reports.

6.4 ACCOUNTS

All funds shall be placed in accounts and the receipt, transfer or disbursement of funds during the term of this Agreement shall be accounted for in accordance with generally accepted accounting principles applicable to government entities. There shall be strict accountability for all funds. All interest earnings, revenues and expenditures shall be reported quarterly to the Board.

6.5 EXPENDITURES WITHIN APPROVED ANNUAL BUDGET

All expenditures shall be within the limitations of the approved annual budget or as such budget is amended by the Board.

CHAPTER 7. LIABILITY/INSURANCE

7.1 LIABILITY

The debts, liabilities and obligations of the Authority shall not be considered the debts, liabilities or obligations of any Member, except as otherwise provided in this Chapter.

7.2 INDEMNIFICATION/HOLD HARMLESS/INSURANCE

- A. Except as specifically provided in this Subsection, the Authority shall defend, indemnify and hold harmless each Member, its officers, agents, employees, representatives and volunteers from and against any loss, injury, damage, claim, lawsuit, liability, expense, or damages of any kind or nature arising out of or in connection with the performance of services pursuant to this Agreement. The Authority shall finance its obligation pursuant to this Subsection by establishing a liability reserve fund, by purchasing commercial insurance, and/or by joining a joint powers insurance authority (JPIA). In the event that the Authority's financial obligations to indemnify, defend and hold harmless, pursuant to this Subsection, exceed the liability reserve fund and the proceeds from any applicable insurance or JPIA coverage maintained by the Authority (hereinafter "Unfunded

Liability”), the Members may agree to indemnify and hold harmless the Authority for such deficiency in accordance with the following: In the event an Unfunded Liability arises, the contribution of each Member shall be in an amount equal to the total Unfunded Liability multiplied by that Member’s Fair Share Percentage for the year in which the Unfunded Liability is to be paid. A Member shall not be liable for such deficiency unless it agrees to be bound by this provision. Other Members may, at their sole and complete discretion, agree to pick up the Fair Share Percentage of a Member who determines not to be liable for such deficiency, but absent such an agreement no Member shall be liable for such deficiency unless all Members unanimously agree to make a contribution as set forth herein.

- B. The Authority, its officers, agents, contractors, employees, representatives, Staff and volunteers, shall not be liable, in any manner, to any Member, or to an officer, official, or employee of any Member, for any loss, injury, damage, claim, lawsuit, liability, expense, or damages which may be incurred by, or brought against a Member which is providing any type of emergency response training undertaken by any Member pursuant to this Agreement, regardless of whether or not such liability may have arisen, in whole or in part, by the negligent acts, conduct, or omissions of one or more of the staff at the Training Center.
- C. Each Member shall assign to the Authority its rights, title, and interest to recover damages from any third party, to the extent that the Authority has met its obligations to such Member pursuant to this Section.
- D. Should any Member utilize the Training Center for its own individual purposes, outside the scope of the Authority, such Member shall indemnify, defend, and hold harmless the Authority and other Members from all claims, demands, actions, liability, or damages of any kind or nature, arising out of such use.
- E. Each Member shall defend, indemnify and hold harmless the Authority, its officers, agents, and representatives from and against any loss, injury, damage, claim, lawsuit, liability, expense, or damages of any kind or nature arising out of or in connection with any conduct of its employees while utilizing the Training Center to the extent that any such loss, injury, damage, claim, lawsuit, liability, expense or damages is caused by the negligence or willful misconduct of the Member’s employees.
- F. Subject to the limitation set forth in Section 7.2.B, the Authority shall purchase insurance and/or Anaheim may provide coverage through its existing JPIA, for the Property and Training Center which covers any damages or loss to the

Property and Training Center as well as any loss, injury, damage, claim, lawsuit, liability, expense, or damages alleging a dangerous condition of the Property and Training Center. The cost of such insurance shall be an expense of the Authority. A certificate of insurance evidencing such coverage or such other proof as may be reasonable acceptable to the Authority's General Counsel, shall be provided to the Clerk of the Board by June 30 of each year.

- G. No provisions of this Agreement shall be construed as to require any party to obtain or maintain liability or other insurance coverage not otherwise required by law.

7.3 WAIVER

Except as provided in Section 7.2 each Member waives any claim against, or right to sue, the Authority, or its respective officers, employees, staff, agents, contractors, representatives or volunteers for any loss, damage or injury that arises out of, or is any way related to, such Member providing any type of emergency training service. This waiver extends to liability for bodily injury or property damage that may be sustained by any Member or its officers, employees, contractors, or agents, and which was proximately caused, in whole or in part, by the negligent act, conduct, or omission of the Authority, its respective officers, employees, staff, agents, contractors, representatives or volunteers. However, this waiver does not extend to bodily injury or property damage caused by an unlawful, fraudulent or willful act or omission of the Authority or its officers or employees.

7.4 CLAIMS

- A. To the extent authorized by Government Code section 935 and any other laws, any and all claims against the Authority for money or damages, including any claims otherwise excepted from the claims filing requirement by Government Code Section 905, shall be subject to and presented within the time and manner prescribed in Part 3 of Division 3.6 of Title 1 of the Government Code. A signed written claim shall be presented to the Administrator by mail or personal delivery by the claimant or a person authorized by claimant to act on his or her behalf. The claim shall conform to the requirements of Government Code section 910.
- B. Unless otherwise designated by the Board, the Fire Chief of Each Member, or their designees shall comprise a Claims Committee. The Claims Committee shall, in consultation with legal counsel for the Authority, review all claims and make recommendations to the Board concerning their disposition.

CHAPTER 8. ADMISSION OR WITHDRAWAL OF MEMBERS

8.1 NEW MEMBERS

Public entities may become Members in the Authority upon such terms and conditions as may be specified by the Board. New Members shall pay a surcharge to be determined by the Board at the time of application.

8.2 WITHDRAWAL

A Member may withdraw from the Authority at the end of any fiscal year and terminate its rights and obligations pursuant to this Agreement by giving written notice of its intention to terminate to the secretary of the Board no later than December 31 prior to the fiscal year in which the Member intends to withdraw. The written notice shall be accompanied by a resolution or minute order of the legislative body of the Member specifying its intent to withdraw from the Authority. Withdrawal of a Member shall not relieve the withdrawing Member of its proportionate share of any debts or other liabilities incurred by the Authority prior to the effective date of such withdrawal, or any liabilities imposed upon or incurred by the Member pursuant to this Agreement prior to the effective date of such withdrawal. Any such withdrawal shall result in the forfeiture of all rights and claims of the withdrawing Member to any repayment of contributions or advances or other distribution of funds or property after withdrawal, including distribution in the event of termination of the Authority. Notwithstanding the foregoing, the forfeiture provision set forth in this Section shall not apply to the distribution of proceeds from the sale of the Property pursuant to Section 9.2C.

8.3 BREACH

The Board shall have the authority to terminate the membership of any Member in the event the Member materially breaches its duties pursuant to this Agreement. For the purposes of this Section, the term "material breach" shall include, without limitation, a failure to fund the budget in accordance with Chapter 6, the failure to make any contributions or pay any assessment when due, and the failure to defend or indemnify other Members as required in Chapter 7. The Board shall give the Member notice of the breach and the right to cure the breach within thirty (30) days of the notice. In the event the Member fails to cure breach within thirty (30) days when it is reasonably practical to do so, the Board shall have the right to immediately terminate the Membership. Termination of a Member for breach shall not relieve the terminated Member of its proportionate share of any debts or other liabilities incurred by the Authority or any liabilities imposed upon or incurred by the Member pursuant to this Agreement prior to the effective date of such termination. However, such termination shall result in the forfeiture of all rights and claims of the terminated Member to any repayment of contributions or advances or other distribution of funds or property after termination, including distributions in the event of termination of the Authority. Notwithstanding the foregoing, the forfeiture provision set forth in

this Section shall not apply to the distribution of proceeds from the sale of the Property pursuant to Section 9.2C.

8.4 PENALTIES

Notwithstanding Section 8.3, and without waiving any other remedies available by law or through this Agreement, the Board shall adopt policies and procedures imposing penalties and/or interest for the failure of any Member to pay any amounts due under this Agreement.

CHAPTER 9. TERMINATION AND DISPOSITION OF ASSETS

9.1 TERMINATION

The Authority shall continue to exercise the joint power specified in this Agreement until termination of this Agreement. This Agreement shall terminate if the majority of Members give the Authority written notice of their intention to withdraw as specified in Section 8.2 or if the Members mutually agree to terminate this Agreement. No termination of the Authority shall occur until all of its debts, liabilities, and obligations and other payment is made in accordance with the resolution of the Authority. No termination of the Authority shall occur which is contrary to the language, spirit or intent of any contract or agreement entered into by the Authority with the United States., the State of California, or any department, administration or agency of either.

9.2 DISTRIBUTION OF PROPERTY

- A. Upon termination of this Agreement, all Training Center Equipment shall be assigned an "operating life" by the Board. The Board shall also designate equipment which is critical or non-critical to the operation of the facilities. All Training Center Equipment either functioning within its operating life or beyond, shall be appraised by an independent appraiser retained by the Board and equipment designated as critical may be purchased first by Anaheim and then by any Member who is interested and who, having submitted a sealed bid, is the highest bidder. Such sealed bid shall not be lower than the appraised value. Non-critical equipment may be purchased by any Member based on procedures adopted by the Board. Training Center Equipment not purchased by a Member shall be sold to the public at appraised value or at public auction. The proceeds of all sales shall be paid to each Member pursuant to their Fair Share Percentage in the year the Training Center Equipment was purchased. Only those Members who paid a Fair Share Percentage when the Training Center Equipment was purchased or upon becoming a Member, shall be entitled to share in the proceeds of the sale.

- B. Upon termination of this Agreement, all Training Center Equipment solely purchased and maintained at the Training Center by a Member(s) shall be returned to the Member or Members holding title to the equipment.

- C. Anaheim is shown as the owner of record of the Property. Pursuant to Section 7 of the 1976 Agreement, the cities of Garden Grove and Orange paid Anaheim a pro rata share of the value of the Property based upon a appraisal of the Property performed in 1976, which valued the property at \$52,250 per acre. In the sole event of termination of this Agreement pursuant to Section 9.1, the Property shall be sold by Anaheim in accordance with Anaheim's then existing policies for the sale of its real property; provided that the Property shall be sold in a manner to achieve a sales price of at least fair market value which shall determined by a MAI appraiser selected by the Board. The net proceeds of the sale shall, within 35 days of receipt thereof, be distributed in relationship to the pro rata payments made by the cities of Garden Grove and Orange to Anaheim in or about 1976 for site acquisition costs, which distributions of proceeds shall be as follows: Anaheim – 46.66%; Garden Grove – 26.67%; and Orange—26.67%. In the event there is an escrow associated with the sale, the escrow shall include instructions directing that the net proceeds of the sale be distributed in accordance with this Section 9.2C. Notwithstanding the foregoing, Anaheim shall have the right to purchase Garden Grove's and Orange's interest in the Property in lieu of any sale thereof. If Anaheim exercises its right of first refusal and retains the Property, the Board shall direct an appraisal to be done by an MAI appraiser selected by the Board. Anaheim shall pay 26.67% of the appraised value to Garden Grove and 26.67% of the appraised value to Orange. This Section 9.2C shall apply irrespective of whether or not Anaheim, Garden Grove or Orange is a Member at the time this Agreement is terminated and this Section 9.2C is implemented.

- D. Upon termination of the Authority, any remaining funds, property or other assets of the Authority, following discharge of all debts, liabilities and obligations of the Authority, shall be distributed to the Members for any un-reimbursed advances, contributions, or in-lieu contributions made or given to the Authority by such Members, and distributed to all Members on the same basis as the annual distributions to Members under this Agreement.

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CHAPTER 10. MISCELLANEOUS

10.1 AMENDMENTS

Except for sections 9.2 and 10.1 herein, this Agreement may be amended with the approval of a majority of the Members. Amendments to Sections 9.2 and 10.1 shall require the unanimous approval of Members Anaheim, Garden Grove and Orange.

10.2 NOTICE

Any notice or instrument required to be given or delivered pursuant to this Agreement shall be deemed given when personally delivered to the Member of the Authority, or deposited in the United States mail, first class postage pre-paid, and properly addressed to the principal office of the Member or the Authority, which may be changed upon written notice as provided herein to all other Members. The principal office for each Member, which may be changed upon 30 days written notice to all Members, are as follows:

City of Anaheim:

Anaheim West Tower
201 South Anaheim Boulevard, Suite 300
Anaheim, CA 92805
Attn: Randy Bruegman, Fire Chief

With a copy to:

City of Anaheim
200 South Anaheim Boulevard
Anaheim, CA 92805
Attn: City Attorney

City of Garden Grove:

11301 Acacia Parkway
Garden Gove, CA 92840
Attn: Dave Bertka, Fire Chief

With a copy to:

City of Garden Grove
11222 Acacia Parkway
Garden Grove, CA 92840
Attn: City Attorney

City of Orange:

Orange Fire Department Headquarters
176 South Grand Street
Orange, CA 92866
Attn: Pat Dibb, Fire Chief

With a copy to:
City of Orange
300 East Chapman Avenue
Orange, CA 92866
Attn: City Attorney

10.3 PARTIAL INVALIDITY

If one or more of the Chapters, Sections, paragraphs or provisions of this Agreement is determined to be invalid or unenforceable by a court of competent jurisdiction, each and all of the remaining Chapters, Sections, paragraphs or provisions shall not be affected and shall continue to be valid and enforceable to the fullest extent permitted by law, provided, the remaining Chapters, Sections, paragraphs or provisions can be construed in substance to constitute the Agreement the Parties intended in the first instance.

10.4 GOVERNING LAW

This Agreement shall be construed in accordance with and governed by the laws of the State of California and the Members agree to submit to the jurisdiction of California courts.

10.5 INTEGRATION

This Agreement constitutes the entire agreement of the Members. No other agreement, oral or written, pertaining to the work to be performed under this Agreement shall be of any force or effect unless it is in writing and signed by the all Members. This Agreement supersedes, in their entirety the original 1976 Agreement establishing the Authority and any amendments entered into up to the effective date of this Agreement.

10.6 RECORDATION

Upon this Agreement being approved and fully executed, the Clerk of the Board shall cause this Agreement to be recorded and provide the Board with evidence of such recordation.

[Signatures on next page]

Exhibit A

DESCRIPTION:

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

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

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

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

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

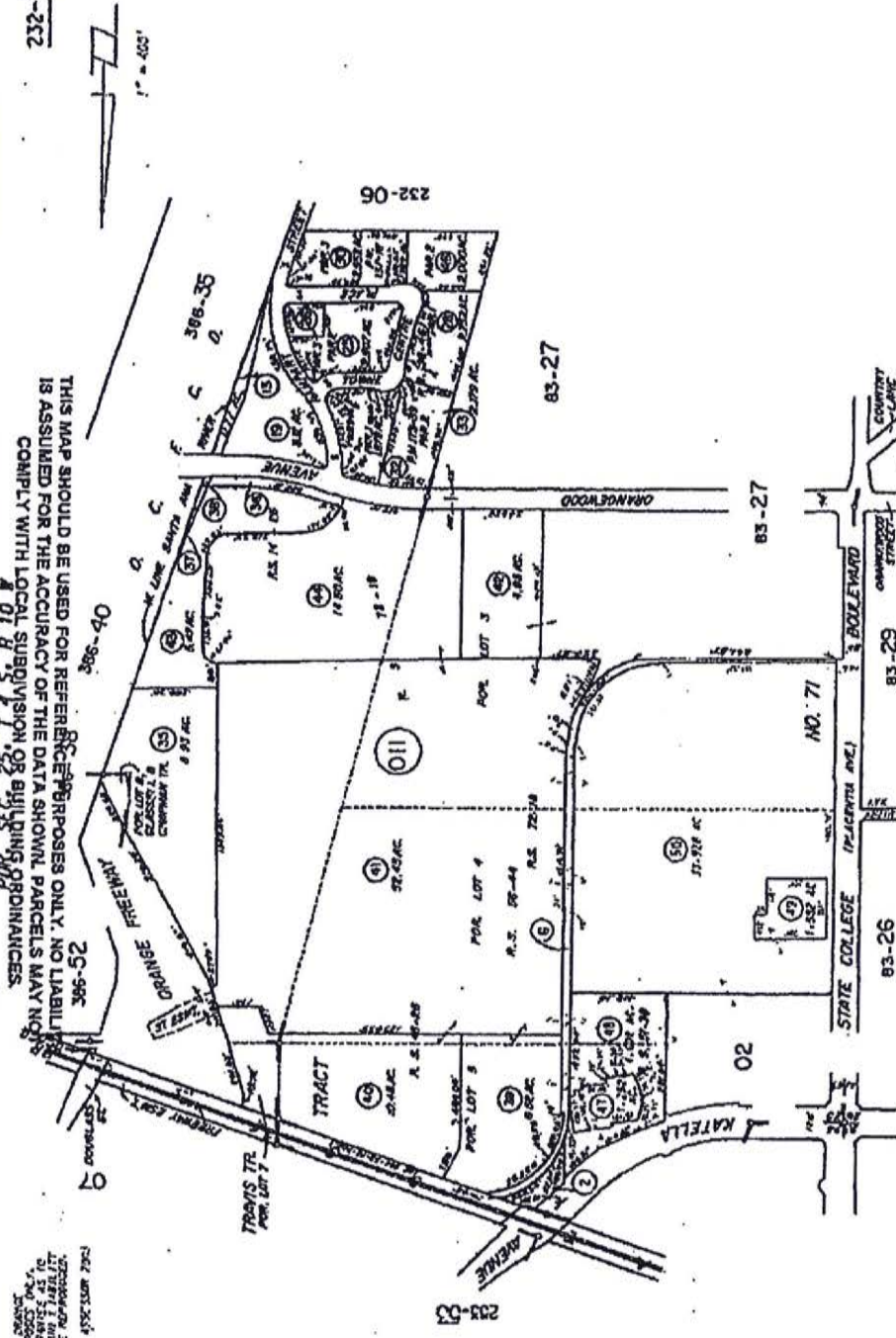
EXCEPTING THEREFROM ALL OIL, GAS, ASPHALTUM AND OTHER HYDROCARBON SUBSTANCES AND WATER, OTHER THAN SANTA ANA VALLEY IRRIGATION COMPANY'S WATER FROM ON OR UNDER A PORTION OF SAID LAND, AS RESERVED BY MARY M. PARKER, A WIDOW, IN A DEED RECORDED JUNE 26, 1943 IN BOOK 1194, PAGE 466 OF OFFICIAL RECORDS.

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

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

MAP

232-01



THIS MAP SHOULD BE USED FOR REFERENCE PURPOSES ONLY. NO LIABILITY IS ASSUMED FOR THE ACCURACY OF THE DATA SHOWN. PARCELS MAY NOT COMPLY WITH LOCAL SUBDIVISION OR BUILDING ORDINANCES.

THIS MAP WAS PREPARED BY THE COUNTY ASSESSOR'S OFFICE IN ACCORDANCE WITH THE PROVISIONS OF THE REAL PROPERTY TAX LAWS OF THE STATE OF CALIFORNIA. THE COUNTY ASSESSOR'S OFFICE HAS CONDUCTED A VISUAL INSPECTION OF THE PROPERTY SHOWN ON THIS MAP AND HAS FOUND IT TO BE ACCURATE AND CORRECT.

ASSESSOR'S MAP
BOOK 232 PAGE 01
CITY OF ORANGE

NOTE - ASSESSOR'S BLOCK & PARCEL NUMBERS SHOWN IN CIRCLES

L.A. 1-66
L.A. 1-74 (see also roll map)
M.M. 10-22
P.M. 137-18, 173-39

TRAVIS TRACT
GLASSSELL & CHAPMAN TR.
TRACT NO. 71
PARCEL MAP

MARCH 1965

IN WITNESS WHEREOF, the Members have caused this Agreement to be executed by their duly authorized officers, and to have their official seals affixed hereto as of the date first stated above.

Dated: _____, 2012

ATTEST:

By: _____
Linda N. Andral, CMC
City Clerk

Dated: _____, 2012

ATTEST:

By: _____
Kathleen Bailor
City Clerk

Dated: _____, 2012

ATTEST:

By: Mary E. Murphy chief fir
Mary E. Murphy
City Clerk

CITY OF ANAHEIM

By _____
Tom Tait, Mayor

APPROVED AS TO FORM:

By: _____
Cristina Talley
City Attorney

CITY OF GARDEN GROVE

By _____
William J. Dalton, Mayor

APPROVED AS TO FORM:

By: _____
Thomas Nixon
City Attorney

CITY OF ORANGE

By Carolyn V. Cavecche
Carolyn V. Cavecche, Mayor

APPROVED AS TO FORM:

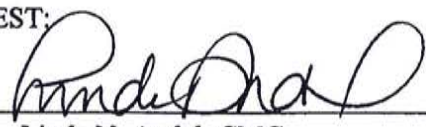
By: Wayne Winthers
Wayne Winthers
City Attorney

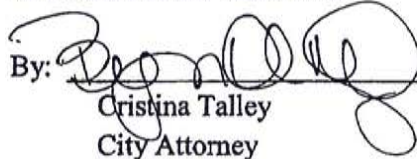
IN WITNESS WHEREOF, the Members have caused this Agreement to be executed by their duly authorized officers, and to have their official seals affixed hereto as of the date first stated above.

Dated: 11/6, 2012

CITY OF ANAHEIM

By: 
Tom Tait, Mayor

ATTEST:
By: 
Linda N. Andal, CMC
City Clerk

APPROVED AS TO FORM:
By:  for
Cristina Talley
City Attorney

Dated: _____, 2012

CITY OF GARDEN GROVE

By: _____
William J. Dalton, Mayor

ATTEST:
By: _____
Kathleen Bailor
City Clerk

APPROVED AS TO FORM:
By: _____
Thomas Nixon
City Attorney

Dated: _____, 2012

CITY OF ORANGE

By: _____
Carolyn V. Cavecche, Mayor

ATTEST:
By: _____
Mary E. Murphy
City Clerk

APPROVED AS TO FORM:
By: _____
Wayne Winthers
City Attorney

IN WITNESS WHEREOF, the Members have caused this Agreement to be executed by their duly authorized officers, and to have their official seals affixed hereto as of the date first stated above.

Dated: _____, 2012

CITY OF ANAHEIM

By _____
Tom Tait, Mayor

ATTEST:

APPROVED AS TO FORM:

By: _____
Linda N. Andal, CMC
City Clerk

By: _____
Cristina Talley
City Attorney

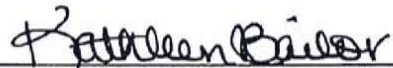
Dated: _____, 2012

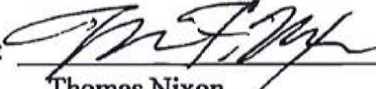
CITY OF GARDEN GROVE

By 
William J. Dalton, Mayor

ATTEST:

APPROVED AS TO FORM:

By: 
Kathleen Bailor
City Clerk

By: 
Thomas Nixon
City Attorney

Dated: 11/20/2012, 2012

CITY OF ORANGE

By _____
Carolyn V. Cavecche, Mayor

ATTEST:

APPROVED AS TO FORM:

By: _____
Mary E. Murphy
City Clerk

By: _____
Wayne Winthers
City Attorney



COUNCIL AGENDA REPORT

City of Anaheim FIRE DEPARTMENT

DATE: OCTOBER 23, 2012

FROM: FIRE DEPARTMENT

SUBJECT: AMENDED AND RESTATED NORTH NET JOINT POWERS
TRAINING AGREEMENT BETWEEN THE CITIES OF
ANAHEIM, ORANGE, AND GARDEN GROVE TO LEASE AND
OPERATE A JOINT TRAINING CENTER

ATTACHMENT (Y/N): YES **ITEM # 19**

RECOMMENDATION:

That the City Council, by Motion, approve and authorize the Mayor and City Clerk to execute the Amended and Restated North Net Joint Powers Training Agreement.

DISCUSSION:

The member agencies of the North Net Joint Powers Authority (JPA) established the North Net Training Authority by an agreement entered into in 1976, along with four amendments to the 1976 Agreement dated in 1977, 1979, 1988 and 1994. The JPA Board and Member Fire Chiefs are proposing that each City adopt the attached "Amended and Restated North Net Joint Powers Training Agreement", which would supersede and replace the 1976 Agreement and all amendments thereto. The proposed Agreement is being patterned after the Metro Net Joint Powers Authority model. The Fire Chiefs are in agreement that the Metro Net model has served the member agencies well and that this same model will bring stability and efficiency to the North Net operation.

Currently the finance, administration, and legal functions of the JPA are split among the three member agencies. The new agreement, following the Metro Net model, will bring these functions together with Anaheim as the administrator thereby creating a more cohesive and efficient operation. The agreement would provide for the hiring of an Administrator for the day-to-day operation of the Training Center. The Administrator would be an employee of Anaheim and subject to Anaheim's personnel rules. Any administrator appointed by Anaheim would be subject to the approval of the JPA Board. Anaheim would provide other Training Center services as needed to the extent permitted by the Board's budget. Under the current scenario the day-to-day operations of the Training Center are handled by a full-time Senior Secretary, an Anaheim Training Captain, and part time support from other personnel of the other JPA agencies.

Under this new agreement, the cities' Fair Share Percentages for the next fiscal year would be as follows: Anaheim, 49.6%, Garden Grove, 22%, and Orange, 28.4%. Each member's Fair Share Percentage is calculated annually based on its total number of sworn firefighter positions as a percentage of the total for all members combined. Orange and Garden Grove will pay Anaheim an administrative fee of 12% in addition to their Fair Share contributions.

The member agencies of North Net established a Joint Powers Authority for the purpose of operating a Joint Training Center by an agreement entered into in 1976. The JPA Board has approved and are proposing that the attached Agreement be adopted, which would supersede and replace the 1976 Agreement. The proposed Agreement is patterned after the Metro Net Joint Powers Authority model which has served the member agencies well and will bring stability and efficiency to the North Net operation.

IMPACT ON BUDGET:

There is no impact to the budget in the current fiscal year. Budget appropriations for future years will be subject to the City's annual budget adoption process.

Respectfully submitted,

Randy R. Bruegman
Fire Chief

Attachment:

1. Amended and Restated North Net Joint Powers Training Agreement

ORIGINAL

**AMENDED AND RESTATED
NORTH NET JOINT POWERS TRAINING AGREEMENT**

By and Between

CITY OF ANAHEIM, CALIFORNIA

CITY OF GARDEN GROVE, CALIFORNIA

And

CITY OF ORANGE, CALIFORNIA

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**AMENDED AND RESTATED
NORTH NET JOINT POWERS TRAINING
AGREEMENT**

This Amended and Restated Joint Powers Agreement (“Agreement”), dated for purpose of identification this 1st day of November 2012 (the “Effective Date”) is made by and between the following public entities, (collectively, the “Parties”):

- A. City of Anaheim (“Anaheim”)
- B. City of Garden Grove (“Garden Grove”)
- C. City of Orange (“Orange”)

1. RECITALS

A. The Parties to this Agreement each provide fire protection, fire prevention, rescue, emergency medical and related administrative services within their respective boundaries.

B. The Parties have determined that joint use of a consolidated Training Center and record keeping system reduces the administrative costs that would otherwise be incurred by each Party in providing fire suppression, emergency medical assistance, rescue service, and related services.

C. The Parties have determined that the costs associated with maintaining the staff and equipment necessary to operate a consolidated Training Center should be funded by the Parties through a formal Joint Powers Agreement with costs apportioned as outlined by this Agreement..

D. The Parties have determined that joint use of a consolidated Training Center is also intended to foster cooperation among the Parties in the form of other separate written agreements.

E. The Parties each have the power and authority to perform and contract with one another pursuant to the Joint Exercise of Powers Act (Section 6500 et. seq. of the Government Code) for the performance of the duties and functions that form the basis of this Agreement.

F. The Parties have the power to contract with other agencies for training services, equipment and related items.

G. The Parties entered in the initial Joint Powers Agreement on October 5, 1976 (“1976 Agreement”). There is an amendment to the 1976 Agreement dated February 8, 1977, an addendum entered into in 1979, an amendment dated February 23, 1988, and an amendment dated in 1994 (the “Amendments”). The Parties intend that in entering into this Agreement that

this Agreement shall replace in their entirety the 1976 Agreement and all amendments and/or addendums to the 1976 Agreement.

AGREEMENT

In consideration of the foregoing recitals and the mutual covenants contained in this Agreement, it is agreed between and among each of the parties hereto as follows:

CHAPTER 1. DEFINITIONS

- 1.1. "Administrator" shall mean the Training Center Manager.
- 1.2. "Authority" shall mean the Joint Powers Authority known as the North Net Training Authority, created by this Agreement pursuant to the Joint Exercise of Powers Act (Government Code sections 6500 et seq.).
- 1.3. "Board" is the governing body of the Authority.
- 1.4. "Board Director" shall mean the voting representative or alternate appointed by the governing body of each Member agency to represent said agency on the Board.
- 1.5. "Capital Improvement Project" shall mean the acquisition of any piece of Training Equipment or the funding of any Training Center related project that requires an expenditure of \$30,000.00 or more.
- 1.6. "Capital Outlay" shall mean the acquisition of any piece of Training Equipment or the funding of any Training Center related project that requires an expenditure of \$500.00 or more but less than \$30,000.00.
- 1.7. "Fiscal Year" shall mean the twelve month period commencing July 1st and concluding June 30th.
- 1.8. "Member" shall mean any public entity that is a party to this Agreement upon the Effective Date or becomes a party to this Agreement pursuant to the provisions of Section 8.1, and has not withdrawn from such membership or been terminated from such membership pursuant to Sections 8.2 or 8.3.
- 1.9. "Property" shall mean the land described in the legal description and depicted in the map attached hereto as Exhibit "A", commonly referred to as 2400 E. Orangewood Avenue, Anaheim, CA and the Training Center, as defined herein.
- 1.10. "Subscriber Agency" means each of the public agencies that are not Members that wish to contract with the Authority to receive training services, and contribute to the cost of

operating and administrating this Authority by executing and administering a subscriber agreement in a form approved by the Board.

1.11. "Training Center" shall mean that structure or physical facility that houses Training Center Equipment and/or Training Center Staff and any other structures or fixtures, which are located upon the Property.

1.12. "Training Center Equipment" shall mean all equipment utilized for the fire or rescue-related emergency Training Center or other facilities acquired for use by the Authority which are not included within the definition of Training Center.

1.13. "Training Center Staff" or "Staff" shall mean all personnel of the City of Anaheim performing services related to the operations and maintenance of the Training Center, or such agency or individual as may be appointed by the Board to perform these functions.

CHAPTER 2. PURPOSE AND POWERS

2.1. AUTHORITY CREATED

The Authority is formed pursuant to the provision of Article 1, Chapter 5, Division 7 of Title I of the Government Code of the State of California (The Joint Exercise of Powers Act). The Authority shall be considered a public entity separate and apart from the Members. Within thirty (30) days after the Effective Date and after any amendment, the Authority shall cause a notice of this Agreement or amendment to be prepared and filed with the office of the California Secretary of State containing the information required by Government Code 6503.5.

2.2. COMMON POWERS

Each Party has the common power to, inter alia:

- a. Provide fire protection, fire suppression, fire prevention, emergency medical, rescue and related services;
- b. Maintain an effective training system to facilitate and support fire protection, fire suppression, rescue and emergency medical services;
- c. Employ personnel to perform emergency based training, Training Center maintenance and the purchase of training center equipment.

2.3. GENERAL PURPOSE

The general purpose of this Agreement is to provide for the operation, upgrade, maintenance and repair of the Training Center and Training Center Equipment. This Agreement

is intended to provide a formal mechanism by which the Authority can fund these activities to provide the highest possible level of emergency training services.

2.4. POWERS

The Authority, through its Board, shall have the power, in its own name, to do any of the following:

- A. To jointly exercise the common powers of the Members;
- B. To make and enter into contracts, including but not limited to, contracting with other public agencies for services, equipment and related items to those agencies;
- C. To retain the services of fire suppression specialists, emergency consultants, and such other persons with specialized knowledge or ability capable of assisting the Members in achieving the purposes of this Agreement;
- D. To acquire, hold or dispose of property by any lawful means, including, without limitation, by gift, purchase or sale;
- E. To incur debts, liabilities or obligations, subject to the limitations specified in this Agreement and, to the extent permitted by law, borrow funds on temporary basis to meet operational expenses until expected revenue are available;
- F. To the extent permitted by law, to enter into equipment lease agreements or lease-purchase agreements or other financial arrangements extending beyond the current budgetary cycle, necessary or convenient to the operation of the Authority (hereinafter collectively "lease") so long as the Agreement contains substantially the following provisions:

The Authority receives its funds on an annual budgetary cycle from its individual Members. The Authority agrees to use its best efforts to obtain authorization and appropriation of funds from its individual Members to pay lease payments due under this Agreement, including, without limitation, the inclusion in its budget request for each fiscal year during the term of this Agreement a request for adequate funds to meet in full its obligation hereunder. The Board may terminate this Agreement in the event funds are not appropriated or appropriations are withdrawn or withheld upon thirty (30) days written notice. Termination under this provision shall not constitute a default or breach. The Authority shall not be obligated to pay any additional lease payments but shall, after written notice from Lessor, deliver the Training Center Equipment to Lessor or its

assignee. Lessor acknowledges that the individual Members shall not be liable for the debts of the Authority.

- G. To enter into leases, agreements and similar transactions that require the Authority to indemnify the person with whom the Board is contracting, so long as the exposure to liability under such indemnification is approved by the Risk Manager of Anaheim and by Legal Counsel of the Authority and so long as the maximum exposure to liability under such transaction does not exceed One Million Dollars (\$1,000,000);
- H. To receive gifts, contributions, grants, and donations of property, funds, services and other forms of assistance from any person, firm, entity, corporation or public agency;
- I. To sue and be sued in its own name;
- J. To apply for any grant or grants offered in conjunction with any Federal, State or local program that is in any way related to the purpose of this Agreement;
- K. To adopt rules, regulations, policies, by-laws and procedures governing the operation of the Authority; and
- L. To exercise any other power in the manner and according to the methods provided by applicable laws, rules or regulations, subject only to the restrictions on the manner of exercising such powers that may be applicable to the Members.

CHAPTER 3. ORGANIZATION

3.1. MEMBERSHIP

The Members of this Authority shall be the public entities which executed this Agreement or a subsequent amendment and have not withdrawn from, or had membership in the Authority terminated, as provided in Sections 8.2 and 8.3 hereof.

3.2. BOARD

- A. The Board shall consist of one (1) voting director and one (1) alternate appointed by the governing body of each Member, which director and alternate shall be selected from the legislative body of each Member.
- B. Each Board Director, which is defined to include the alternate, shall hold office from the first meeting of the Board after appointment and shall serve at the pleasure of the appointing legislative body.

- C. A Board Director shall not receive compensation, but may be reimbursed by the Authority for expenses reasonably incurred while performing duties required by this Agreement and as further specified and limited by resolution of the Board.
- D. Annually, at its first meeting of each new fiscal year, the Board shall select a chairperson and vice chairperson from its members and shall appoint a secretary who may, but need not, be a member of the Board. The chairperson, vice chairperson and secretary shall hold office for one year or until such time as a successor is appointed.

3.3. PRINCIPAL OFFICE

The principal office of the Authority shall be 2400 E. Orangewood Avenue, Anaheim, CA. The Board has the full power and authority to change the principal office from one location to another as long as same is within the Authority's jurisdiction.

3.4. MEETINGS

The Board shall meet at the principal office of the Authority, or at such other place as may be designated by the Board. The time and place of regular meetings of the Board shall be determined by resolution. Regular, adjourned and special meetings of the Board shall be called, noticed and conducted in accordance with the Ralph M. Brown Act or other relevant open meeting law. Each Member shall only be entitled to have one Board Director in attendance to establish a quorum or to vote upon matters coming before the Board.

3.5. QUORUM

Attendance by a majority of the Board Directors at a meeting shall constitute a quorum for the purpose of transacting business relating to the Authority.

3.6. POWERS AND LIMITATIONS

All of the powers of the Authority are reserved to it and may be exercised by the Board, unless otherwise limited by law. Each Board Director shall be entitled to one vote and, except as expressly provided in this Agreement, including Sections 9.2 and 10.1, the affirmative vote of the majority of those present and qualified shall effect adoption of any motion, resolution, order or action the Board deems appropriate.

3.7. AGENDAS-SECRETARY DUTIES

The secretary of the Authority shall provide notice of, prepare and post agendas for, and keep minutes of, each regular, adjourned and special meeting of the Board and other records, as necessary, of the Board. The secretary shall send a copy of the minutes to each Board member

and otherwise perform the duties necessary to ensure compliance with provisions of law including, without limitations, any applicable "open meeting law" such as the Ralph M Brown Act.

3.8. RULES

The Board may adopt rules and regulations for the conduct of its affairs that are not in conflict with this Agreement.

3.9. TREASURER

The Treasurer of the City of Anaheim shall hold the office of treasurer and auditor, in accordance with Government Code Section 6505.6, and shall perform the duties as authorized in Section 6505 et seq. of the Government Code. The treasurer shall cause an independent audit to be made by a Certified Public Accountant in compliance with Section 6505 of the Government Code. The Certified Public Accountant shall be annually appointed by the Board. The treasurer shall keep all revenues of the Authority in a separate account, and, if available, an interest bearing account, and otherwise perform the duties and responsibilities of that office as specified in Sections 6505 et seq. of Government Code. Any surplus funds not immediately needed may be invested in accordance with the investment policy annually adopted by the Board, as required by Government Code Section 53646, and consistent with Government Code Sections 53601, 53635, 16429.1 and 53684, as may be amended.

3.10. LEGAL COUNSEL

The Board shall contract with independent legal counsel to serve as general counsel to the Authority to provide routine legal counsel services as may be required from time to time, including, attendance of Board meetings when deemed necessary. In the absence of a contract for independent counsel, the Anaheim City Attorney's Office shall serve as general counsel. Extraordinary legal services (for example prosecuting or defending the Authority, its officers, and agents in a legal action) shall be considered additional expenses and not covered by the administrative fee set forth in Section 5.2 of this Agreement.

3.11. BOND

The treasurer, auditor and such other persons who may have access to, or handle, any revenue of the Authority shall be required to file an official bond in an amount determined by the Board and consistent with the provisions of Section 6505.1 of the Government Code. This bonding requirement shall be satisfied if an existing bond is extended to cover the duties required by this Agreement. The costs of complying with the requirements of this Section shall be considered an administrative expense of the Authority.

3.12. STATUS OF OFFICERS AND EMPLOYEES

In accordance with the Joint Exercise of Powers Act, all of the privileges and immunities from liability, exemptions from laws, ordinances and rules, and all pension, relief, disability, workers compensation and other benefits which apply to the activities of officers, agents, or employees of any of the Member's agency when performing their respective duties or functions for that agency, shall apply to each of them to the same degree and extent while engaged in the performance of any activity, function or duty pursuant to the Agreement.

3.13. POLITICAL REFORM ACT

The Board Directors, and their alternates, shall be considered public officials within the meaning of the Political Reform Act of 1974, as amended, and its regulations, for the purposes of financial disclosure, conflict of interest and other requirements of such Act and regulations and shall file annual statements of economic interest as required, along with any other officers of the Authority who may be required to do so. Other persons working for or on behalf of the Authority may be required to file such statements in accordance with the Authority's conflict of interest code.

CHAPTER 4. BASIC SERVICES

4.1. TRAINING CENTER – OPERATIONS

- A. The Training Center shall be maintained and operated by the Authority, pursuant to this Agreement, for the use and benefit of all Members. The Administrator of the Training Center shall be an at-will employee of Anaheim so long as Anaheim operates and administers the Training Center; provided that any appointment of the Administrator and any compensation to be paid to the Administrator from the Authority's budget are subject to final approval of the Board. General Counsel shall be responsible for placing the annual performance evaluation of the Administrator on the Board's agenda for closed session at the Board's first meeting in each calendar year, although the Board may at any other time place the Administrator's performance evaluation on the agenda.
- B. Unless otherwise provided for by the Board, Anaheim shall, through use of Anaheim employees, fill all positions and provide all services required to operate, maintain and administer the Training Center and shall be responsible for the day-to-day administration and operation of the Training Center. The Authority shall pay the actual costs of such operation and administration, plus an administrative overhead fee as provided herein. The costs of such operation and administration, including administrative overhead, shall be borne by each Member according to its Fair Share Percentage as determined pursuant to Chapter 5 of this Agreement.

- C. The Board is empowered to develop and establish the budget, staffing and service levels for the Training Center operation and maintenance. No Member may create any staff position or be entitled to receive any reimbursement for any staff time or costs related to the operation and maintenance of the Training Center unless the position and/or reimbursement falls within the budget approved by the Board or otherwise has received the prior approval of the Board.
- D. Each Member shall provide training officers from each Member's Fire Department, whose compensation and cost reimbursements, if any, shall be the sole obligation of the employing Member. Except as is specifically provided herein, employees working in or otherwise utilizing the Training Center shall be governed by the same personnel rules, regulations, bargaining agreements, terms and conditions of employment, administrative regulations and other related matters as apply to them with respect to their employment with a Member or a Subscriber.
- E. In performing the day-to-day administration and operation of the Training Center, Anaheim will determine the procedures and standards of selection for employment and promotion, direct its employees, take disciplinary action, relieve its employees from duty, and determine the methods, means and personnel by which it will meet the service levels established by the Authority; provided that Anaheim shall solicit and consider input from the Members with respect to these decisions, although final authority rests with Anaheim, except to the extent specifically provided in this Agreement.
- F. Anaheim may elect to discontinue providing services for the operations and administration of the Training Center by giving notice of such election in writing to the Board a minimum of six (6) months prior to such discontinuance. In the event of such discontinuance by Anaheim, the Board may appoint another Member to perform such duties or contract with another provider of such services. Anaheim's election to discontinue providing the services set forth herein does not constitute withdrawal from the Authority.
- G. The Board may elect to terminate Anaheim's services as operator and administrator of the Training Center by giving notice of such election in writing to Anaheim a minimum of six (6) months prior to the date of such termination. In the event of such termination, the Board may appoint another Member as the administrator or contract with another provider of such services. Such termination of Anaheim's services does not in and of itself constitute either withdrawal or termination of Anaheim from the Authority or any other Member of the Authority.

4.2. MAINTENANCE OF EQUIPMENT

- A. The Authority through the Board shall maintain and repair the Training Center.
- B. The Authority through the Board shall purchase new or used Training Equipment as necessary to replace existing equipment or upon a determination by the Board that additional Training Equipment will facilitate emergency training.

4.3. SERVICES TO AND REIMBURSEMENT FROM SUBSCRIBER AGENCIES

- A. Public agencies in Orange County may receive training services, (hereinafter "Training Services") from the Authority by executing a "Subscription Agreement" in the form approved by the Board and by paying the annual fee and/or other costs, as determined by the Board. Such Subscriber Agencies must sign the Subscription Agreement prior to receiving services or sharing equipment or other items. Thereafter, a Subscriber Agency must pay its annual fee by July 30 of the fiscal year for which subscription is desired. Subscription Agreements shall renew automatically from year to year unless otherwise specified in the Subscription Agreement. Subscriber Agencies which subscribe for an entire fiscal year may, at their option, elect to pay their fee in four equal installments due and owing on or before July 30, October 1, January 1 and April 1. Subscriber Agencies which choose to become Subscriber Agencies after the commencement of the fiscal year must sign the Subscription Agreement and the full amount of the annual fee prior to seeking services. Fees for subsequent fiscal years may be revised by the Board.
- B. The Board may, without cause or reason, terminate any or all Subscription Agreements by giving the affected Subscriber Agency ninety (90) days prior written notice. If the termination occurs prior to the end of fiscal year, the terminated Subscriber Agency's annual fee shall be prorated and refunded if such a refund is owed.
- C. Revenue from Subscription Agencies shall be allocated as directed by the Board.

CHAPTER 5. FUNDING AND ADMINISTRATION

5.1 FUNDING

- A. Each Member shall pay a portion of the costs incurred by the Authority in administering this Agreement in relationship to that Member's "Fair Share Percentage", which shall be determined every calendar year beginning on January

1, 2014. Each Member's Fair Share Percentage shall be calculated by dividing the total number of sworn firefighter positions of all Members divided by the number of sworn firefighter positions of each Member as same existed on January 1 of each calendar year.

- B. Each Member's Fair Share Contribution shall be multiplied by the adopted budget amount for the upcoming Fiscal Year to determine the Fair Share Contribution amount. Anaheim shall bill each Member on a quarterly basis beginning July 1 of each fiscal year and payment shall be due within 30 days after receipt of each invoice.
- C. The Administrator, or his or her designee, shall invoice each Member that Member's Fair Share Percentage of the budget in accordance with the payment schedule set in Section 5.1B above or as otherwise adopted by Resolution of the Board. For the fiscal year 2013-2014, each Member's Fair Share Percentage shall be as follows:

| | |
|--------------|-------|
| Anaheim | 49.6% |
| Garden Grove | 22.0% |
| Orange | 28.4% |

- D. Final year-end adjustments of a Member's costs representing the difference between estimated annual expenditures and actual annual expenditures shall be calculated no later than the last day of the first quarter following the fiscal year in which such costs were incurred.

5.2 ADMINISTRATIVE SERVICES

As compensation for providing services under this Agreement, Members shall pay Anaheim an administrative fee of twelve percent (12%) of their Fair Share Percentage. Anaheim shall perform administrative services which include, but are not limited to general accounting of funds received and disbursed, preparation of invoices to Members, preparation of documents relative to any grant program, routine services from various departments within Anaheim as may be necessary from time to time, including but not limited to Human Resources and Labor Management Departments, Finance Department, Purchasing, Legal (if the Board has not contracted for General Counsel services), and such other functions as may be required by this Agreement or the provisions of any law including, without limitation, the Joint Exercise of Powers Act.

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5.3 EMERGENCY REPAIRS

In the event the Training Center suffers damage which requires emergency repairs, the Administrator is authorized without prior Board approval to expend funds to have the necessary emergency repairs made so that services are resumed as soon as possible, but in no event shall such expenditures exceed \$20,000 without prior Board approval. The Board shall convene as soon as reasonably practical to ratify any such expenditure and to approve any expenditure above that amount. The cost of such repairs shall be borne by each Member in accordance with its Fair Share Percentage.

5.4 CAPITAL IMPROVEMENTS-FUNDING

In the event the Training Center and/or Training Center Equipment is in need of repair or improvement, the Administrator shall solicit bids for such work from at least three (3) responsible firms, whenever practicable, in accordance with applicable state law. The Administrator shall then present said bids to the Board to award the contract to the lowest responsible bidder and to direct the accepted responsible bidder to make the repairs or improvements.

CHAPTER 6. BUDGETARY PROVISIONS

6.1 ANNUAL BUDGET

The Board shall adopt an annual budget pursuant to this Agreement and procedures adopted by the Board. A preliminary draft of the budget shall be presented to the Members by the last business day in March of each year for their review. Said budget shall be submitted to the Board for consideration and adoption.

6.2 SPECIAL BUDGETARY CONSIDERATION

- A. The budget adopted by the Board shall include but not be limited to:
1. A Training Center operations and Capital Outlay component, which shall provide for the personnel, maintenance and operations support, and capital acquisitions necessary for the joint operation of the Training Center as described in Sections 4.1 and 4.2.
 2. A Capital Improvement Project component, which shall provide for the acquisition or replacement of major Training Equipment items or fund major Training Center related projects.
 3. A Training Equipment capital reserve component, which shall be deposited into a common designated reserve account designed to defray

future replacement costs of major components of Training Center Equipment.

6.3 DISBURSEMENTS

The treasurer shall draw checks in accordance with policies and/or procedures established by the Member which employs the treasurer and as otherwise established by Resolution of the Board. A summation of such payments shall be presented to the Board as part of the treasurer's quarterly reports.

6.4 ACCOUNTS

All funds shall be placed in accounts and the receipt, transfer or disbursement of funds during the term of this Agreement shall be accounted for in accordance with generally accepted accounting principles applicable to government entities. There shall be strict accountability for all funds. All interest earnings, revenues and expenditures shall be reported quarterly to the Board.

6.5 EXPENDITURES WITHIN APPROVED ANNUAL BUDGET

All expenditures shall be within the limitations of the approved annual budget or as such budget is amended by the Board.

CHAPTER 7. LIABILITY/INSURANCE

7.1 LIABILITY

The debts, liabilities and obligations of the Authority shall not be considered the debts, liabilities or obligations of any Member, except as otherwise provided in this Chapter.

7.2 INDEMNIFICATION/HOLD HARMLESS/INSURANCE

- A. Except as specifically provided in this Subsection, the Authority shall defend, indemnify and hold harmless each Member, its officers, agents, employees, representatives and volunteers from and against any loss, injury, damage, claim, lawsuit, liability, expense, or damages of any kind or nature arising out of or in connection with the performance of services pursuant to this Agreement. The Authority shall finance its obligation pursuant to this Subsection by establishing a liability reserve fund, by purchasing commercial insurance, and/or by joining a joint powers insurance authority (JPIA). In the event that the Authority's financial obligations to indemnify, defend and hold harmless, pursuant to this Subsection, exceed the liability reserve fund and the proceeds from any applicable insurance or JPIA coverage maintained by the Authority (hereinafter "Unfunded

Liability”), the Members may agree to indemnify and hold harmless the Authority for such deficiency in accordance with the following: In the event an Unfunded Liability arises, the contribution of each Member shall be in an amount equal to the total Unfunded Liability multiplied by that Member’s Fair Share Percentage for the year in which the Unfunded Liability is to be paid. A Member shall not be liable for such deficiency unless it agrees to be bound by this provision. Other Members may, at their sole and complete discretion, agree to pick up the Fair Share Percentage of a Member who determines not to be liable for such deficiency, but absent such an agreement no Member shall be liable for such deficiency unless all Members unanimously agree to make a contribution as set forth herein.

- B. The Authority, its officers, agents, contractors, employees, representatives, Staff and volunteers, shall not be liable, in any manner, to any Member, or to an officer, official, or employee of any Member, for any loss, injury, damage, claim, lawsuit, liability, expense, or damages which may be incurred by, or brought against a Member which is providing any type of emergency response training undertaken by any Member pursuant to this Agreement, regardless of whether or not such liability may have arisen, in whole or in part, by the negligent acts, conduct, or omissions of one or more of the staff at the Training Center.
- C. Each Member shall assign to the Authority its rights, title, and interest to recover damages from any third party, to the extent that the Authority has met its obligations to such Member pursuant to this Section.
- D. Should any Member utilize the Training Center for its own individual purposes, outside the scope of the Authority, such Member shall indemnify, defend, and hold harmless the Authority and other Members from all claims, demands, actions, liability, or damages of any kind or nature, arising out of such use.
- E. Each Member shall defend, indemnify and hold harmless the Authority, its officers, agents, and representatives from and against any loss, injury, damage, claim, lawsuit, liability, expense, or damages of any kind or nature arising out of or in connection with any conduct of its employees while utilizing the Training Center to the extent that any such loss, injury, damage, claim, lawsuit, liability, expense or damages is caused by the negligence or willful misconduct of the Member’s employees.
- F. Subject to the limitation set forth in Section 7.2.B, the Authority shall purchase insurance and/or Anaheim may provide coverage through its existing JPIA, for the Property and Training Center which covers any damages or loss to the

Property and Training Center as well as any loss, injury, damage, claim, lawsuit, liability, expense, or damages alleging a dangerous condition of the Property and Training Center. The cost of such insurance shall be an expense of the Authority. A certificate of insurance evidencing such coverage or such other proof as may be reasonable acceptable to the Authority's General Counsel, shall be provided to the Clerk of the Board by June 30 of each year.

- G. No provisions of this Agreement shall be construed as to require any party to obtain or maintain liability or other insurance coverage not otherwise required by law.

7.3 WAIVER

Except as provided in Section 7.2 each Member waives any claim against, or right to sue, the Authority, or its respective officers, employees, staff, agents, contractors, representatives or volunteers for any loss, damage or injury that arises out of, or is any way related to, such Member providing any type of emergency training service. This waiver extends to liability for bodily injury or property damage that may be sustained by any Member or its officers, employees, contractors, or agents, and which was proximately caused, in whole or in part, by the negligent act, conduct, or omission of the Authority, its respective officers, employees, staff, agents, contractors, representatives or volunteers. However, this waiver does not extend to bodily injury or property damage caused by an unlawful, fraudulent or willful act or omission of the Authority or its officers or employees.

7.4 CLAIMS

- A. To the extent authorized by Government Code section 935 and any other laws, any and all claims against the Authority for money or damages, including any claims otherwise excepted from the claims filing requirement by Government Code Section 905, shall be subject to and presented within the time and manner prescribed in Part 3 of Division 3.6 of Title 1 of the Government Code. A signed written claim shall be presented to the Administrator by mail or personal delivery by the claimant or a person authorized by claimant to act on his or her behalf. The claim shall conform to the requirements of Government Code section 910.
- B. Unless otherwise designated by the Board, the Fire Chief of Each Member, or their designees shall comprise a Claims Committee. The Claims Committee shall, in consultation with legal counsel for the Authority, review all claims and make recommendations to the Board concerning their disposition.

CHAPTER 8. ADMISSION OR WITHDRAWAL OF MEMBERS

8.1 NEW MEMBERS

Public entities may become Members in the Authority upon such terms and conditions as may be specified by the Board. New Members shall pay a surcharge to be determined by the Board at the time of application.

8.2 WITHDRAWAL

A Member may withdraw from the Authority at the end of any fiscal year and terminate its rights and obligations pursuant to this Agreement by giving written notice of its intention to terminate to the secretary of the Board no later than December 31 prior to the fiscal year in which the Member intends to withdraw. The written notice shall be accompanied by a resolution or minute order of the legislative body of the Member specifying its intent to withdraw from the Authority. Withdrawal of a Member shall not relieve the withdrawing Member of its proportionate share of any debts or other liabilities incurred by the Authority prior to the effective date of such withdrawal, or any liabilities imposed upon or incurred by the Member pursuant to this Agreement prior to the effective date of such withdrawal. Any such withdrawal shall result in the forfeiture of all rights and claims of the withdrawing Member to any repayment of contributions or advances or other distribution of funds or property after withdrawal, including distribution in the event of termination of the Authority. Notwithstanding the foregoing, the forfeiture provision set forth in this Section shall not apply to the distribution of proceeds from the sale of the Property pursuant to Section 9.2C.

8.3 BREACH

The Board shall have the authority to terminate the membership of any Member in the event the Member materially breaches its duties pursuant to this Agreement. For the purposes of this Section, the term "material breach" shall include, without limitation, a failure to fund the budget in accordance with Chapter 6, the failure to make any contributions or pay any assessment when due, and the failure to defend or indemnify other Members as required in Chapter 7. The Board shall give the Member notice of the breach and the right to cure the breach within thirty (30) days of the notice. In the event the Member fails to cure breach within thirty (30) days when it is reasonably practical to do so, the Board shall have the right to immediately terminate the Membership. Termination of a Member for breach shall not relieve the terminated Member of its proportionate share of any debts or other liabilities incurred by the Authority or any liabilities imposed upon or incurred by the Member pursuant to this Agreement prior to the effective date of such termination. However, such termination shall result in the forfeiture of all rights and claims of the terminated Member to any repayment of contributions or advances or other distribution of funds or property after termination, including distributions in the event of termination of the Authority. Notwithstanding the foregoing, the forfeiture provision set forth in

this Section shall not apply to the distribution of proceeds from the sale of the Property pursuant to Section 9.2C.

8.4 PENALTIES

Notwithstanding Section 8.3, and without waiving any other remedies available by law or through this Agreement, the Board shall adopt policies and procedures imposing penalties and/or interest for the failure of any Member to pay any amounts due under this Agreement.

CHAPTER 9. TERMINATION AND DISPOSITION OF ASSETS

9.1 TERMINATION

The Authority shall continue to exercise the joint power specified in this Agreement until termination of this Agreement. This Agreement shall terminate if the majority of Members give the Authority written notice of their intention to withdraw as specified in Section 8.2 or if the Members mutually agree to terminate this Agreement. No termination of the Authority shall occur until all of its debts, liabilities, and obligations and other payment is made in accordance with the resolution of the Authority. No termination of the Authority shall occur which is contrary to the language, spirit or intent of any contract or agreement entered into by the Authority with the United States., the State of California, or any department, administration or agency of either.

9.2 DISTRIBUTION OF PROPERTY

- A. Upon termination of this Agreement, all Training Center Equipment shall be assigned an "operating life" by the Board. The Board shall also designate equipment which is critical or non-critical to the operation of the facilities. All Training Center Equipment either functioning within its operating life or beyond, shall be appraised by an independent appraiser retained by the Board and equipment designated as critical may be purchased first by Anaheim and then by any Member who is interested and who, having submitted a sealed bid, is the highest bidder. Such sealed bid shall not be lower than the appraised value. Non-critical equipment may be purchased by any Member based on procedures adopted by the Board. Training Center Equipment not purchased by a Member shall be sold to the public at appraised value or at public auction. The proceeds of all sales shall be paid to each Member pursuant to their Fair Share Percentage in the year the Training Center Equipment was purchased. Only those Members who paid a Fair Share Percentage when the Training Center Equipment was purchased or upon becoming a Member, shall be entitled to share in the proceeds of the sale.

- B. Upon termination of this Agreement, all Training Center Equipment solely purchased and maintained at the Training Center by a Member(s) shall be returned to the Member or Members holding title to the equipment.

- C. Anaheim is shown as the owner of record of the Property. Pursuant to Section 7 of the 1976 Agreement, the cities of Garden Grove and Orange paid Anaheim a pro rata share of the value of the Property based upon a appraisal of the Property performed in 1976, which valued the property at \$52,250 per acre. In the sole event of termination of this Agreement pursuant to Section 9.1, the Property shall be sold by Anaheim in accordance with Anaheim's then existing policies for the sale of its real property; provided that the Property shall be sold in a manner to achieve a sales price of at least fair market value which shall determined by a MAI appraiser selected by the Board. The net proceeds of the sale shall, within 35 days of receipt thereof, be distributed in relationship to the pro rata payments made by the cities of Garden Grove and Orange to Anaheim in or about 1976 for site acquisition costs, which distributions of proceeds shall be as follows: Anaheim – 46.66%; Garden Grove – 26.67%; and Orange—26.67%. In the event there is an escrow associated with the sale, the escrow shall include instructions directing that the net proceeds of the sale be distributed in accordance with this Section 9.2C. Notwithstanding the foregoing, Anaheim shall have the right to purchase Garden Grove's and Orange's interest in the Property in lieu of any sale thereof. If Anaheim exercises its right of first refusal and retains the Property, the Board shall direct an appraisal to be done by an MAI appraiser selected by the Board. Anaheim shall pay 26.67% of the appraised value to Garden Grove and 26.67% of the appraised value to Orange. This Section 9.2C shall apply irrespective of whether or not Anaheim, Garden Grove or Orange is a Member at the time this Agreement is terminated and this Section 9.2C is implemented.

- D. Upon termination of the Authority, any remaining funds, property or other assets of the Authority, following discharge of all debts, liabilities and obligations of the Authority, shall be distributed to the Members for any un-reimbursed advances, contributions, or in-lieu contributions made or given to the Authority by such Members, and distributed to all Members on the same basis as the annual distributions to Members under this Agreement.

///

///

///

CHAPTER 10. MISCELLANEOUS

10.1 AMENDMENTS

Except for sections 9.2 and 10.1 herein, this Agreement may be amended with the approval of a majority of the Members. Amendments to Sections 9.2 and 10.1 shall require the unanimous approval of Members Anaheim, Garden Grove and Orange.

10.2 NOTICE

Any notice or instrument required to be given or delivered pursuant to this Agreement shall be deemed given when personally delivered to the Member of the Authority, or deposited in the United States mail, first class postage pre-paid, and properly addressed to the principal office of the Member or the Authority, which may be changed upon written notice as provided herein to all other Members. The principal office for each Member, which may be changed upon 30 days written notice to all Members, are as follows:

City of Anaheim:

Anaheim West Tower
201 South Anaheim Boulevard, Suite 300
Anaheim, CA 92805
Attn: Randy Bruegman, Fire Chief

With a copy to:

City of Anaheim
200 South Anaheim Boulevard
Anaheim, CA 92805
Attn: City Attorney

City of Garden Grove:

11301 Acacia Parkway
Garden Gove, CA 92840
Attn: Dave Bertka, Fire Chief

With a copy to:

City of Garden Grove
11222 Acacia Parkway
Garden Grove, CA 92840
Attn: City Attorney

City of Orange:

Orange Fire Department Headquarters
176 South Grand Street
Orange, CA 92866
Attn: Pat Dibb, Fire Chief

With a copy to:
City of Orange
300 East Chapman Avenue
Orange, CA 92866
Attn: City Attorney

10.3 PARTIAL INVALIDITY

If one or more of the Chapters, Sections, paragraphs or provisions of this Agreement is determined to be invalid or unenforceable by a court of competent jurisdiction, each and all of the remaining Chapters, Sections, paragraphs or provisions shall not be affected and shall continue to be valid and enforceable to the fullest extent permitted by law, provided, the remaining Chapters, Sections, paragraphs or provisions can be construed in substance to constitute the Agreement the Parties intended in the first instance.

10.4 GOVERNING LAW

This Agreement shall be construed in accordance with and governed by the laws of the State of California and the Members agree to submit to the jurisdiction of California courts.

10.5 INTEGRATION

This Agreement constitutes the entire agreement of the Members. No other agreement, oral or written, pertaining to the work to be performed under this Agreement shall be of any force or effect unless it is in writing and signed by the all Members. This Agreement supersedes, in their entirety the original 1976 Agreement establishing the Authority and any amendments entered into up to the effective date of this Agreement.

10.6 RECORDATION

Upon this Agreement being approved and fully executed, the Clerk of the Board shall cause this Agreement to be recorded and provide the Board with evidence of such recordation.

[Signatures on next page]

Exhibit A

DESCRIPTION:

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

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

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

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

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

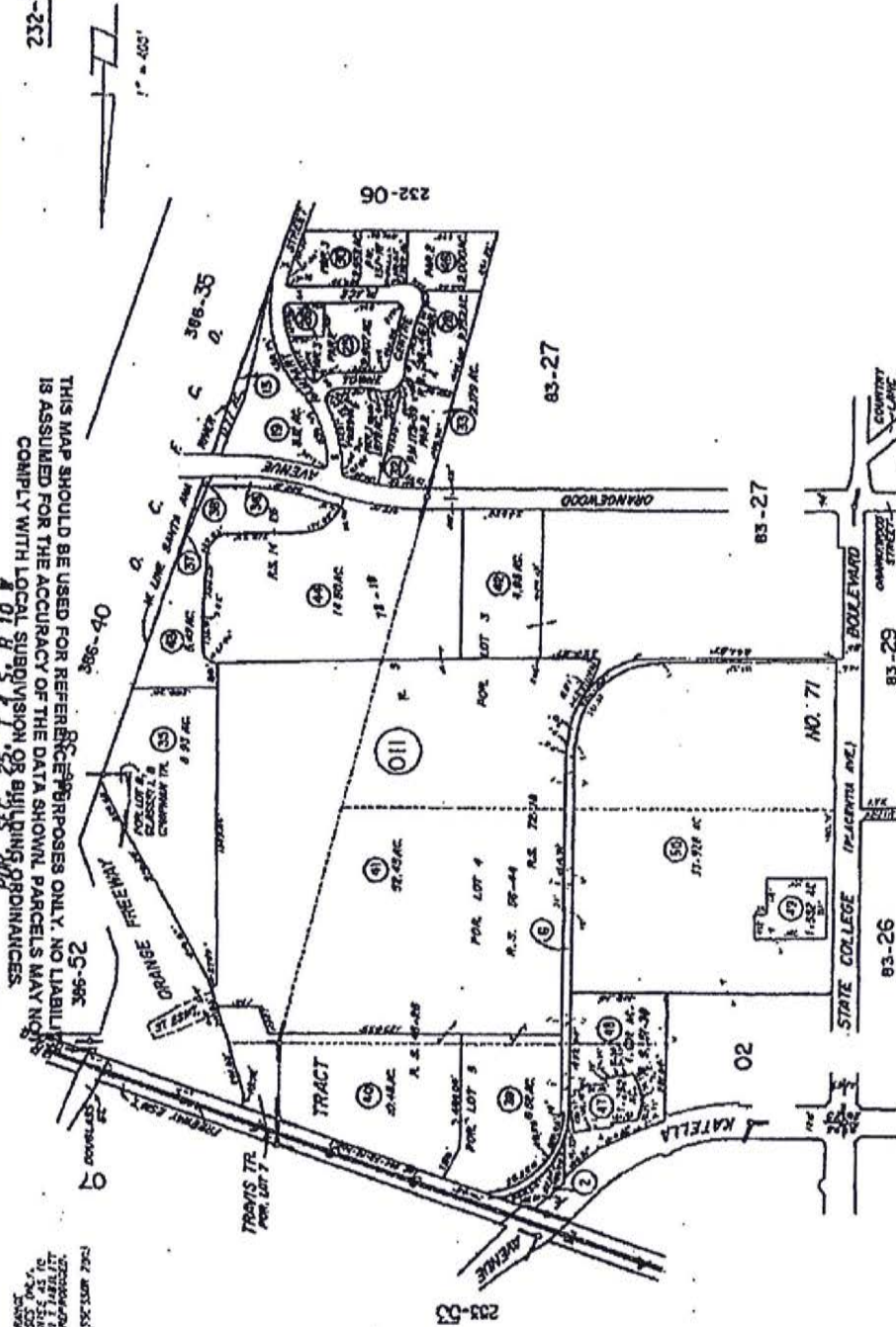
EXCEPTING THEREFROM ALL OIL, GAS, ASPHALTUM AND OTHER HYDROCARBON SUBSTANCES AND WATER, OTHER THAN SANTA ANA VALLEY IRRIGATION COMPANY'S WATER FROM ON OR UNDER A PORTION OF SAID LAND, AS RESERVED BY MARY M. PARKER, A WIDOW, IN A DEED RECORDED JUNE 26, 1943 IN BOOK 1194, PAGE 466 OF OFFICIAL RECORDS.

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

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

MAP

232-01



THIS MAP SHOULD BE USED FOR REFERENCE PURPOSES ONLY. NO LIABILITY IS ASSUMED FOR THE ACCURACY OF THE DATA SHOWN. PARCELS MAY NOT COMPLY WITH LOCAL SUBDIVISION OR BUILDING ORDINANCES.

THIS MAP WAS PREPARED BY THE COUNTY ASSESSOR'S OFFICE IN ACCORDANCE WITH THE PROVISIONS OF THE CONSTITUTION AND STATUTES OF THE STATE OF CALIFORNIA. THE COUNTY ASSESSOR'S OFFICE IS NOT RESPONSIBLE FOR THE ACCURACY OF THE DATA SHOWN ON THIS MAP. THE COUNTY ASSESSOR'S OFFICE IS NOT RESPONSIBLE FOR THE ACCURACY OF THE DATA SHOWN ON THIS MAP.

ASSESSOR'S MAP
BOOK 232 PAGE 01
COURTY OF ORANGE

NOTE - ASSESSOR'S BLOCK & PARCEL NUMBERS SHOWN IN CIRCLES

L.A. 1-66
L.A. 1-74 (see also roll map)
M.M. 10-22
P.M. 137-18, 173-39

TRAVIS TRACT
GLASSSELL & CHAPMAN TR.
TRACT NO. 71
PARCEL MAP

MARCH 1965

IN WITNESS WHEREOF, the Members have caused this Agreement to be executed by their duly authorized officers, and to have their official seals affixed hereto as of the date first stated above.

Dated: _____, 2012

ATTEST:

By: _____
Linda N. Andal, CMC
City Clerk

Dated: _____, 2012

ATTEST:

By: _____
Kathleen Bailor
City Clerk

Dated: _____, 2012

ATTEST:

By: Mary E. Murphy chief fir
Mary E. Murphy
City Clerk

CITY OF ANAHEIM

By _____
Tom Tait, Mayor

APPROVED AS TO FORM:

By: _____
Cristina Talley
City Attorney

CITY OF GARDEN GROVE

By _____
William J. Dalton, Mayor

APPROVED AS TO FORM:

By: _____
Thomas Nixon
City Attorney

CITY OF ORANGE

By Carolyn V. Cavecche
Carolyn V. Cavecche, Mayor

APPROVED AS TO FORM:

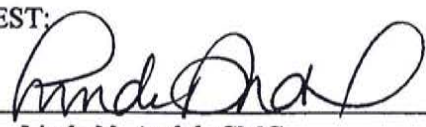
By: Wayne Winthers
Wayne Winthers
City Attorney

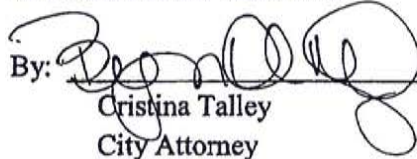
IN WITNESS WHEREOF, the Members have caused this Agreement to be executed by their duly authorized officers, and to have their official seals affixed hereto as of the date first stated above.

Dated: 11/6, 2012

CITY OF ANAHEIM

By: 
Tom Tait, Mayor

ATTEST:
By: 
Linda N. Andal, CMC
City Clerk

APPROVED AS TO FORM:
By:  for
Cristina Talley
City Attorney

Dated: _____, 2012

CITY OF GARDEN GROVE

By: _____
William J. Dalton, Mayor

ATTEST:
By: _____
Kathleen Bailor
City Clerk

APPROVED AS TO FORM:
By: _____
Thomas Nixon
City Attorney

Dated: _____, 2012

CITY OF ORANGE

By: _____
Carolyn V. Cavecche, Mayor

ATTEST:
By: _____
Mary E. Murphy
City Clerk

APPROVED AS TO FORM:
By: _____
Wayne Winthers
City Attorney

IN WITNESS WHEREOF, the Members have caused this Agreement to be executed by their duly authorized officers, and to have their official seals affixed hereto as of the date first stated above.

Dated: _____, 2012

CITY OF ANAHEIM

By _____
Tom Tait, Mayor

ATTEST:

APPROVED AS TO FORM:

By: _____
Linda N. Andal, CMC
City Clerk

By: _____
Cristina Talley
City Attorney

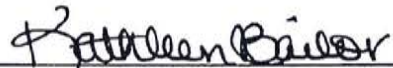
Dated: _____, 2012

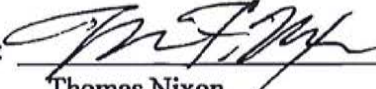
CITY OF GARDEN GROVE

By 
William J. Dalton, Mayor

ATTEST:

APPROVED AS TO FORM:

By: 
Kathleen Bailor
City Clerk

By: 
Thomas Nixon
City Attorney

Dated: 11/20/2012, 2012

CITY OF ORANGE

By _____
Carolyn V. Cavecche, Mayor

ATTEST:

APPROVED AS TO FORM:

By: _____
Mary E. Murphy
City Clerk

By: _____
Wayne Winthers
City Attorney



COUNCIL AGENDA REPORT

City of Anaheim FIRE DEPARTMENT

DATE: OCTOBER 23, 2012

FROM: FIRE DEPARTMENT

SUBJECT: AMENDED AND RESTATED NORTH NET JOINT POWERS
TRAINING AGREEMENT BETWEEN THE CITIES OF
ANAHEIM, ORANGE, AND GARDEN GROVE TO LEASE AND
OPERATE A JOINT TRAINING CENTER

ATTACHMENT (Y/N): YES **ITEM # 19**

RECOMMENDATION:

That the City Council, by Motion, approve and authorize the Mayor and City Clerk to execute the Amended and Restated North Net Joint Powers Training Agreement.

DISCUSSION:

The member agencies of the North Net Joint Powers Authority (JPA) established the North Net Training Authority by an agreement entered into in 1976, along with four amendments to the 1976 Agreement dated in 1977, 1979, 1988 and 1994. The JPA Board and Member Fire Chiefs are proposing that each City adopt the attached "Amended and Restated North Net Joint Powers Training Agreement", which would supersede and replace the 1976 Agreement and all amendments thereto. The proposed Agreement is being patterned after the Metro Net Joint Powers Authority model. The Fire Chiefs are in agreement that the Metro Net model has served the member agencies well and that this same model will bring stability and efficiency to the North Net operation.

Currently the finance, administration, and legal functions of the JPA are split among the three member agencies. The new agreement, following the Metro Net model, will bring these functions together with Anaheim as the administrator thereby creating a more cohesive and efficient operation. The agreement would provide for the hiring of an Administrator for the day-to-day operation of the Training Center. The Administrator would be an employee of Anaheim and subject to Anaheim's personnel rules. Any administrator appointed by Anaheim would be subject to the approval of the JPA Board. Anaheim would provide other Training Center services as needed to the extent permitted by the Board's budget. Under the current scenario the day-to-day operations of the Training Center are handled by a full-time Senior Secretary, an Anaheim Training Captain, and part time support from other personnel of the other JPA agencies.

Under this new agreement, the cities' Fair Share Percentages for the next fiscal year would be as follows: Anaheim, 49.6%, Garden Grove, 22%, and Orange, 28.4%. Each member's Fair Share Percentage is calculated annually based on its total number of sworn firefighter positions as a percentage of the total for all members combined. Orange and Garden Grove will pay Anaheim an administrative fee of 12% in addition to their Fair Share contributions.

The member agencies of North Net established a Joint Powers Authority for the purpose of operating a Joint Training Center by an agreement entered into in 1976. The JPA Board has approved and are proposing that the attached Agreement be adopted, which would supersede and replace the 1976 Agreement. The proposed Agreement is patterned after the Metro Net Joint Powers Authority model which has served the member agencies well and will bring stability and efficiency to the North Net operation.

IMPACT ON BUDGET:

There is no impact to the budget in the current fiscal year. Budget appropriations for future years will be subject to the City's annual budget adoption process.

Respectfully submitted,

Randy R. Bruegman
Fire Chief

Attachment:

1. Amended and Restated North Net Joint Powers Training Agreement

DAVID A. DEBERRY
DIRECT DIAL: (714) 415-1088
DIRECT FAX: (714) 415-1188
E-MAIL: DDEBERRY@WSS-LAW.COM

June 4, 2019

TO: Orange County LAFCO
2677 North Main Street, Suite 1050
Santa Ana, CA 92705

FROM: David A. DeBerry

RE: North Net Training Authority

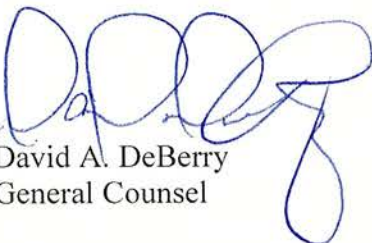
ENCLOSED: Second Amendment to Amended and Restated
North Net Joint Powers Training Agreement

- | | |
|--|---|
| <input checked="" type="checkbox"/> For your information | <input type="checkbox"/> Please telephone me so we can discuss the enclosed |
| <input checked="" type="checkbox"/> For your files | <input type="checkbox"/> Please acknowledge receipt of the enclosed |
| <input type="checkbox"/> Pursuant to your request | <input type="checkbox"/> Please review and give us your comments |
| <input type="checkbox"/> Please sign and return to me | |

To Whom It May Concern,

Pursuant to the California Joint Exercise of Powers Act (Government Code § 6500 et seq.) please find enclosed a copy of the Second Amendment to Amended and Restated North Net Joint Powers Training Agreement.

If you have any questions or need anything further relating to this Second Amendment, please do not hesitate to contact me.


David A. DeBerry
General Counsel

RECEIVED
JUN 5 2019

LOCAL AGENCY FORMATION COMMISSION

Enclosure

**SECOND AMENDMENT TO AMENDED AND RESTATED
NORTH NET JOINT POWERS TRAINING AGREEMENT**

This Second Amendment to Amended and Restated North Net Joint Powers Agreement (hereafter, "Second Amendment") is entered into to be effective on the 1st day of July 2019, by and between the following public entities (collectively, the "Parties"):

- A. City of Anaheim
- B. City of Garden Grove
- C. City of Orange

RECITALS

A. The Parties entered into the Amended and Restated North Net Joint Powers Agreement dated November 1, 2012 (hereafter, the "Original Agreement").

B. The Parties entered into that First Amendment to Amended and Restated North Net Joints Powers Agreement effective as of June 1, 2013 ("First Amendment").

C. The Parties desire to amend the Original Agreement, as amended by the First Amendment, to modify the administrative fee paid to the City of Anaheim under the Original Agreement to reflect the fact that a full-time Administrator, paid directly by the Members, now administers the North Net Training Authority operations, which has significantly reduced the need for Anaheim's administrative services.

Now, therefore, the Parties agree as follows:

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

Section 2. Administrative Services. Section 5.2 of the Original Agreement is amended to provide that the Members' administrative fee paid to the City of Anaheim is to be reduced from twelve percent (12%) to six percent (6%) of the Members' Fair Share Percentage, effective beginning with the Fiscal Year beginning on July 1, 2019, and continuing thereafter.

Section 4. Integration. This Second Amendment amends, as set forth herein, the Original Agreement and First Amendment, except as specifically amended hereby, the Original Agreement and First Amendment shall remain in full force and effect. To the extent that there is any conflict or inconsistency between the terms and provisions of this Second Amendment and

the terms and provisions of the Original Agreement and First Amendment, the terms and provisions of this Second Amendment shall control and govern the rights and obligations of the Parties.

Section 4. Counterparts. This Second Amendment may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together will constitute one instrument.

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

Dated: 4/5/19

CITY OF ANAHEIM

By: [Signature]
MAYOR

ATTEST:
By: [Signature]
CITY CLERK

APPROVED AS TO FORM:
By: [Signature]
CITY ATTORNEY

Dated: _____

CITY OF GARDEN GROVE

By: _____
MAYOR

ATTEST:
By: _____
CITY CLERK

APPROVED AS TO FORM:
By: _____
CITY ATTORNEY

Dated: _____

CITY OF ORANGE

By: _____
MAYOR

ATTEST:
By: _____
CITY CLERK

APPROVED AS TO FORM:
By: _____
CITY ATTORNEY

the terms and provisions of the Original Agreement and First Amendment, the terms and provisions of this Second Amendment shall control and govern the rights and obligations of the Parties.

Section 4. Counterparts. This Second Amendment may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together will constitute one instrument.

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

Dated: _____

CITY OF ANAHEIM

By: _____
MAYOR

ATTEST:

APPROVED AS TO FORM:

By: _____
CITY CLERK

By: _____
CITY ATTORNEY

Dated: _____

CITY OF GARDEN GROVE

By: Steve Jones
MAYOR - Steve Jones

ATTEST:

APPROVED AS TO FORM:

By: Teressa Romero
CITY CLERK - Teressa Romero

By: Omar Sanjivani
CITY ATTORNEY - Omar Sanjivani

Dated: 4/16/19

CITY OF ORANGE

By: M. A. M. J.
MAYOR

ATTEST:

APPROVED AS TO FORM:

By: Parula Coleman
CITY CLERK

By: Samuel
CITY ATTORNEY



North Net Joint Powers Training

Established Date: October 5, 1976

Amended Date: November 1, 2012

Members: City of Anaheim, City of Garden Grove, City of Orange

Purpose:

The purpose of the North Net Joint Training Agreement is to provide the funding for the operation, upgrade, maintenance, and repair of the Training Center and Training Center Equipment. The Training Center located in the City of Anaheim administers and develops various educational and training programs to the respective fire department to each member-city in a cost-effective manner.

**AMENDED AND RESTATED
NORTH NET JOINT POWERS TRAINING AGREEMENT**

By and Between

CITY OF ANAHEIM, CALIFORNIA

And

CITY OF ORANGE, CALIFORNIA

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**AMENDED AND RESTATED
NORTH NET JOINT POWERS TRAINING AGREEMENT**

This Amended and Restated Joint Powers Agreement (“Agreement”), dated for purpose of identification this ~~22~~²³ day of October, 2019 (the “Effective Date”) is made by and between the following public entities, (collectively, the “Parties”):

- A. City of Anaheim (“Anaheim”)
- B. City of Orange (“Orange”)

RECITALS

A. The Parties to this Agreement each provide fire protection, fire prevention, rescue, emergency medical and related administrative services within their respective boundaries.

B. The Parties have determined that joint use of a consolidated Training Center and record keeping system reduces the administrative costs that would otherwise be incurred by each Party in providing fire suppression, emergency medical assistance, rescue service, and related services.

C. The Parties have determined that the costs associated with maintaining the staff and equipment necessary to operate a consolidated Training Center should be funded by the Parties through a formal Joint Powers Agreement with costs apportioned as outlined by this Agreement.

D. The Parties have determined that joint use of a consolidated Training Center is also intended to foster cooperation among the Parties in the form of other separate written agreements.

E. The Parties each have the power and authority to perform and contract with one another pursuant to the Joint Exercise of Powers Act (Section 6500 et. seq. of the Government Code) for the performance of the duties and functions that form the basis of this Agreement.

F. The Parties have the power to contract with other agencies for training services, equipment and related items.

G. The Parties entered in the initial Joint Powers Agreement on October 5, 1976 (“1976 Agreement”). There is an amendment to the 1976 Agreement dated February 8, 1977, an addendum entered into in 1979, an amendment dated February 23, 1988, and an amendment dated in 1994. The Parties entered into an Amended and Restated Joint Powers Agreement dated November 1, 2012 (“2012 Agreement”). There is a first amendment to the 2012 Agreement dated June 1, 2013 and a second amendment to the 2012 Agreement dated July 1,

2019. The Parties intend that in entering into this Agreement that this Agreement shall replace in their entirety the 1976 Agreement and 2012 Agreement and all amendments and/or addendums thereto.

H. The Parties are entering into this Agreement due to the fact that the City of Garden Grove, one of the original members of the Authority, has withdrawn from the Authority effective June 30, 2019, due to its city council's decision to contract its fire services with the Orange County Fire Authority.

I. The Parties are also entering into this Agreement due to the fact that as part of a street improvement project, in 2019 the City of Anaheim acquired the Authority's tenant interest in a portion of the Property (as defined below) upon which the Training Center is located, terminating the Authority's interest in the portion acquired.

AGREEMENT

In consideration of the foregoing recitals and the mutual covenants contained in this Agreement, it is agreed between and among each of the parties hereto as follows:

CHAPTER 1. DEFINITIONS

1.1. "Administrator" shall mean the Fire Training Facility Administrator.

1.2. "Authority" shall mean the Joint Powers Authority known as the North Net Training Authority, created by this Agreement pursuant to the Joint Exercise of Powers Act (Government Code sections 6500 et seq.).

1.3 "Board" is the governing body of the Authority.

1.4 "Board Director" shall mean the voting representative or alternate appointed by the governing body of each Member agency to represent said agency on the Board.

1.5. "Capital Improvement Project" shall mean the acquisition of any piece of Training Equipment or the funding of any Training Center related project that requires an expenditure of \$30,000.00 or more.

1.6. "Capital Outlay" shall mean the acquisition of any piece of Training Equipment or the funding of any Training Center related project that requires an expenditure of \$500.00 or more but less than \$30,000.00.

1.7. "Fiscal Year" shall mean the twelve-month period commencing July 1st and concluding June 30th.

1.8. “Member” shall mean any public entity that is a party to this Agreement upon the Effective Date or becomes a party to this Agreement pursuant to the provisions of Section 8.1, and has not withdrawn from such membership or been terminated from such membership pursuant to Sections 8.2 or 8.3.

1.9. “Property” shall mean the land described in the legal description and depicted in the map attached hereto as Exhibit “A”, commonly referred to as 2400 E. Oranewood Avenue, Anaheim, CA and the Training Center, minus the acquisition of the Authority’s interest in the property described in the legal description and depicted in the map attached hereto as Exhibit “B” (“Acquired Parcel”), which was acquired by the City of Anaheim in 2019.

1.10. “Training Center” shall mean that structure or physical facility that houses Training Center Equipment and/or Training Center Staff and any other structures or fixtures, which are located upon the Property.

1.11. “Training Center Equipment” shall mean all equipment utilized for the fire or rescue-related emergency Training Center or other facilities acquired for use by the Authority which are not included within the definition of Training Center.

1.12. “Training Center Staff” or “Staff” shall mean all personnel of the City of Anaheim performing services related to the operations and maintenance of the Training Center, or such agency or individual as may be appointed by the Board to perform these functions.

CHAPTER 2. PURPOSE AND POWERS

2.1. AUTHORITY CREATED

The Authority is formed pursuant to the provision of Article 1, Chapter 5, Division 7 of Title I of the Government Code of the State of California (The Joint Exercise of Powers Act). The Authority shall be considered a public entity separate and apart from the Members. Within thirty (30) days after the Effective Date and after the effective date of any amendment, the Authority shall cause a notice of this Agreement or amendment to be prepared and filed with the office of the California Secretary of State containing the information required by Government Code 6503.5.

2.2. COMMON POWERS

Each Party has the common power to, inter alia:

- a. Provide fire protection, fire suppression, fire prevention, emergency medical, rescue and related services;

- b. Maintain an effective training system to facilitate and support fire protection, fire suppression, rescue and emergency medical services;
- c. Employ personnel to perform emergency based training, Training Center maintenance and the purchase of training center equipment.

2.3. GENERAL PURPOSE

The general purpose of this Agreement is to provide for the operation, upgrade, maintenance and repair of the Training Center and Training Center Equipment. This Agreement is intended to provide a formal mechanism by which the Authority can fund these activities to provide the highest possible level of emergency training services.

2.4. POWERS

The Authority, through its Board, shall have the power, in its own name, to do any of the following:

- A. To jointly exercise the common powers of the Members;
- B. To make and enter into contracts, including but not limited to, contracting with other public agencies for services, equipment and related items to those agencies;
- C. To retain the services of fire suppression specialists, emergency consultants, and such other persons with specialized knowledge or ability capable of assisting the Members in achieving the purposes of this Agreement;
- D. To acquire, hold or dispose of property by any lawful means, including, without limitation, by gift, purchase or sale;
- E. To incur debts, liabilities or obligations, subject to the limitations specified in this Agreement and, to the extent permitted by law, borrow funds on temporary basis to meet operational expenses until expected revenue are available;
- F. To the extent permitted by law, to enter into equipment lease agreements or lease-purchase agreements or other financial arrangements extending beyond the current budgetary cycle, necessary or convenient to the operation of the Authority (hereinafter collectively "lease") so long as the Agreement contains substantially the following provisions:

The Authority receives its funds on an annual budgetary cycle from its individual Members. The Authority agrees to use its best efforts to obtain authorization and appropriation of funds from its individual Members to

pay lease payments due under this Agreement, including, without limitation, the inclusion in its budget request for each fiscal year during the term of this Agreement a request for adequate funds to meet in full its obligation hereunder. The Board may terminate this Agreement in the event funds are not appropriated or appropriations are withdrawn or withheld upon thirty (30) days written notice. Termination under this provision shall not constitute a default or breach. The Authority shall not be obligated to pay any additional lease payments but shall, after written notice from Lessor, deliver the Training Center Equipment to Lessor or its assignee. Lessor acknowledges that the individual Members shall not be liable for the debts of the Authority.

- G. To enter into leases, agreements and similar transactions that require the Authority to indemnify the person with whom the Board is contracting, so long as the exposure to liability under such indemnification is approved by the Risk Manager of Anaheim and by Legal Counsel of the Authority and so long as the maximum exposure to liability under such transaction does not exceed One Million Dollars (\$1,000,000);
- H. To receive gifts, contributions, grants, and donations of property, funds, services and other forms of assistance from any person, firm, entity, corporation or public agency;
- I. To sue and be sued in its own name;
- J. To apply for any grant or grants offered in conjunction with any Federal, State or local program that is in any way related to the purpose of this Agreement;
- K. To adopt rules, regulations, policies, by-laws and procedures governing the operation of the Authority; and
- L. To exercise any other power in the manner and according to the methods provided by applicable laws, rules or regulations, subject only to the restrictions on the manner of exercising such powers that may be applicable to the Members.

CHAPTER 3. ORGANIZATION

3.1. MEMBERSHIP

The Members of this Authority shall be the public entities which executed this Agreement and have not withdrawn from, or had membership in the Authority terminated, as

provided in Sections 8.2 and 8.3 hereof and any public entities that join the Authority pursuant to Section 8.1 hereof.

3.2. BOARD

- A. The Board shall consist of one (1) voting director and one (1) alternate appointed by the governing body of each Member, which director and alternate shall be selected from the legislative body of each Member.
- B. Each Board Director, which is defined to include the alternate, shall hold office from the first meeting of the Board after appointment and shall serve at the pleasure of the appointing legislative body.
- C. A Board Director shall not receive compensation, but may be reimbursed by the Authority for expenses reasonably incurred while performing duties required by this Agreement and as further specified and limited by resolution of the Board.
- D. Annually, at its first meeting of each new fiscal year, the Board shall select a chairperson and vice chairperson from its members and shall appoint a secretary who may, but need not, be a member of the Board. The chairperson, vice chairperson and secretary shall hold office for one year or until such time as a successor is appointed.

3.3. PRINCIPAL OFFICE

The principal office of the Authority shall be 2400 E. Orangewood Avenue, Anaheim, CA. The Board has the full power and authority to change the principal office from one location to another as long as same is within the Authority's jurisdiction.

3.4. MEETINGS

The Board shall meet at the principal office of the Authority, or at such other place as may be designated by the Board. The time and place of regular meetings of the Board shall be determined by resolution. Regular, adjourned and special meetings of the Board shall be called, noticed and conducted in accordance with the Ralph M. Brown Act or other relevant open meeting law. Each Member shall only be entitled to have one Board Director in attendance to establish a quorum or to vote upon matters coming before the Board.

3.5. QUORUM

Attendance by a majority of the Board Directors at a meeting shall constitute a quorum for the purpose of transacting business relating to the Authority.

3.6. POWERS AND LIMITATIONS

All of the powers of the Authority are reserved to it and may be exercised by the Board, unless otherwise limited by law. Each Member shall be entitled to one Board Director vote and, except as expressly provided in this Agreement, including Sections 9.2 and 10.1, the affirmative vote of the majority of those Board Directors present and qualified shall effect adoption of any motion, resolution, order or action the Board deems appropriate.

3.7. AGENDAS-SECRETARY DUTIES

The secretary of the Authority shall provide notice of, prepare and post agendas for, and keep minutes of, each regular, adjourned and special meeting of the Board and other records, as necessary, of the Board. The secretary shall send a copy of the minutes to each Board member and otherwise perform the duties necessary to ensure compliance with provisions of law including, without limitations, any applicable "open meeting law" such as the Ralph M Brown Act.

3.8. RULES

The Board may adopt rules and regulations for the conduct of its affairs that are not in conflict with this Agreement.

3.9. TREASURER

The Finance Director of the City of Anaheim shall hold the office of treasurer and auditor of the Authority, in accordance with Government Code Section 6505.6, and shall perform the duties as authorized in Section 6505 et seq. of the Government Code. The treasurer shall cause an independent audit to be made by a Certified Public Accountant in compliance with Section 6505 of the Government Code. The treasurer shall keep all revenues of the Authority in a separate account, and, if available, an interest bearing account, and otherwise perform the duties and responsibilities of that office as specified in Sections 6505 et seq. of Government Code. Any surplus funds not immediately needed may be invested in accordance with the investment policy adopted by the Board, as required by Government Code Section 53646, and consistent with Government Code Sections 53601, 53635, 16429.1 and 53684, as may be amended.

3.10. LEGAL COUNSEL

The Board shall contract with independent legal counsel to serve as general counsel to the Authority to provide routine legal counsel services as may be required from time to time, including, attendance of Board meetings when deemed necessary. In the absence of a contract for independent counsel, a Member's City Attorney's Office, as determined by the Board, shall serve as general counsel. Extraordinary legal services (for example prosecuting or defending the

Authority, its officers, and agents in a legal action) shall be considered additional expenses and not covered by the administrative fee set forth in Section 5.2 of this Agreement.

3.11. BOND

The treasurer, auditor and such other persons who may have access to, or handle, any revenue of the Authority shall be required to file an official bond in an amount determined by the Board and consistent with the provisions of Section 6505.1 of the Government Code. This bonding requirement shall be satisfied if an existing bond is extended to cover the duties required by this Agreement. The costs of complying with the requirements of this Section shall be considered an administrative expense of the Authority.

3.12. STATUS OF OFFICERS AND EMPLOYEES

In accordance with the Joint Exercise of Powers Act, all of the privileges and immunities from liability, exemptions from laws, ordinances and rules, and all pension, relief, disability, workers compensation and other benefits which apply to the activities of officers, agents, or employees of any of the Member's agency when performing their respective duties or functions for that agency, shall apply to each of them to the same degree and extent while engaged in the performance of any activity, function or duty pursuant to the Agreement.

3.13. POLITICAL REFORM ACT

The Board Directors, and their alternates, shall be considered public officials within the meaning of the Political Reform Act of 1974, as amended, and its regulations, for the purposes of financial disclosure, conflict of interest and other requirements of such Act and regulations and shall file annual statements of economic interest as required, along with any other officers of the Authority who may be required to do so. Other persons working for or on behalf of the Authority may be required to file such statements in accordance with the Authority's conflict of interest code.

CHAPTER 4. BASIC SERVICES

4.1. TRAINING CENTER – OPERATIONS

- A. The Training Center shall be maintained and operated by the Authority, pursuant to this Agreement, for the use and benefit of all Members. The Administrator of the Training Center shall be an at-will employee of Anaheim so long as Anaheim operates and administers the Training Center; provided that any appointment of the Administrator and any compensation to be paid to the Administrator from the Authority's budget are subject to final approval of the Board. General Counsel shall be responsible for placing the annual performance evaluation of the

Administrator on the Board's agenda for closed session at the Board's first meeting in each calendar year, although the Board may at any other time place the Administrator's performance evaluation on the agenda.

- B. Unless otherwise provided for by the Board, Anaheim shall, through use of Anaheim employees, fill all positions and provide all services required to operate, maintain and administer the Training Center and shall be responsible for the day-to-day administration and operation of the Training Center. The Authority shall pay the actual costs of such operation and administration, plus an administrative overhead fee as provided herein. The costs of such operation and administration, including administrative overhead, shall be borne by each Member according to its Fair Share Percentage as determined pursuant to Chapter 5 of this Agreement.
- C. The Board is empowered to develop and establish the budget, staffing and service levels for the Training Center operation and maintenance. No Member may create any staff position or be entitled to receive any reimbursement for any staff time or costs related to the operation and maintenance of the Training Center unless the position and/or reimbursement falls within the budget approved by the Board or otherwise has received the prior approval of the Board.
- D. Each Member shall provide training officers from each Member's Fire Department, whose compensation and cost reimbursements, if any, shall be the sole obligation of the employing Member. Except as is specifically provided herein, employees working in or otherwise utilizing the Training Center shall be governed by the same personnel rules, regulations, bargaining agreements, terms and conditions of employment, administrative regulations and other related matters as apply to them with respect to their employment with a Member or a Subscriber.
- E. In performing the day-to-day administration and operation of the Training Center, Anaheim will determine the procedures and standards of selection for employment and promotion, direct its employees, take disciplinary action, relieve its employees from duty, and determine the methods, means and personnel by which it will meet the service levels established by the Authority; provided that Anaheim shall solicit and consider input from the Members with respect to these decisions, although final authority rests with Anaheim, except to the extent specifically provided in this Agreement.
- F. Anaheim may elect to discontinue providing services for the operations and administration of the Training Center by giving notice of such election in writing to the Board a minimum of six (6) months prior to such discontinuance. In the

event of such discontinuance by Anaheim, the Board may appoint another Member to perform such duties or contract with another provider of such services. Anaheim's election to discontinue providing the services set forth herein does not constitute withdrawal from the Authority by Anaheim.

- G. The Board may elect to terminate Anaheim's services as operator and administrator of the Training Center by giving notice of such election in writing to Anaheim a minimum of six (6) months prior to the date of such termination. In the event of such termination, the Board may appoint another Member as the administrator or contract with another provider of such services. Such termination of Anaheim's services does not in and of itself constitute either withdrawal or termination of Anaheim from the Authority or any other Member of the Authority.

4.2. MAINTENANCE OF EQUIPMENT

- A. The Authority through the Board shall maintain and repair the Training Center.
- B. The Authority through the Board shall purchase new or used Training Equipment as necessary to replace existing equipment or upon a determination by the Board that additional Training Equipment will facilitate emergency training.

4.3. FACILITY USE BY THIRD PARTIES

The Administrator is authorized to permit third parties to utilize the Training Center for training and instruction, as long as such use does not interfere with the use by Members and is not otherwise inconsistent with the purposes for which the Authority was formed. The use of the Training Center by third parties shall be in accordance with the Authority's Training Center use policy and fees for such use shall be charged as established by resolution of the Board.

CHAPTER 5. FUNDING AND ADMINISTRATION

5.1 FUNDING

- A. Each Member shall pay a portion of the costs incurred by the Authority in administering this Agreement in relationship to that Member's "Fair Share Percentage", which shall be determined every calendar year beginning on January 1, 2019. Each Member's Fair Share Percentage shall be calculated by dividing the total number of sworn firefighter positions of all Members divided by the number of sworn firefighter positions of each Member as same existed on January 1 of each calendar year.

- B. Each Member's Fair Share Contribution shall be as set forth in the adopted budget for the upcoming Fiscal Year to determine the Fair Share Contribution amount. Anaheim shall bill each Member on a quarterly basis beginning July 1 of each fiscal year and payment shall be due within 30 days after receipt of each invoice.
- C. The Treasurer, or his or her designee, shall invoice each Member that Member's Fair Share Percentage of the budget in accordance with the payment schedule set in Section 5.1B above or as otherwise adopted by Resolution of the Board. For fiscal year 2019-20, each Member's Fair Share Percentage was established as follows: Anaheim—64.51% Orange—35.49%.
- D. Final year-end adjustments of a Member's costs representing the difference between estimated annual expenditures and actual annual expenditures shall be calculated no later than the last day of the first quarter following the fiscal year in which such costs were incurred.

5.2 ADMINISTRATIVE SERVICES

As compensation for providing services under this Agreement, Members shall pay Anaheim an administrative fee of six percent (6%) of their Fair Share Percentage. Anaheim shall perform administrative services which include, but are not limited to general accounting of funds received and disbursed, preparation of invoices to Members, preparation of documents relative to any grant program, routine services from various departments within Anaheim as may be necessary from time to time, including but not limited to Human Resources and Labor Management Departments, Finance Department, Purchasing, Legal (if the Board has not contracted for General Counsel services or determined to have another Member provide such services), and such other functions as may be required by this Agreement or the provisions of any law including, without limitation, the Joint Exercise of Powers Act.

5.3 EMERGENCY REPAIRS

In the event the Training Center suffers damage which requires emergency repairs, the Administrator is authorized without prior Board approval to expend funds to have the necessary emergency repairs made so that services are resumed as soon as possible, but in no event shall such expenditures exceed \$20,000 without prior Board approval. The Board shall convene as soon as reasonably practical to ratify any such expenditure and to approve any expenditure above that amount. The cost of such repairs shall be borne by each Member in accordance with its Fair Share Percentage. For purposes of expenditures of \$20,000 or less as set forth in this Section 4.4, an emergency shall exist if a majority of the Members' fire chiefs and the Administrator agree the circumstances set forth in Public Contract Code section 20168 exist.

5.4 CAPITAL IMPROVEMENTS-FUNDING

In the event the Training Center and/or Training Center Equipment is in need of repair or improvement, the Administrator shall solicit bids for such work from at least three (3) responsible firms, whenever practicable, in accordance with applicable state law. If the repair or improvements exceeds the Administrator's purchasing authority as established in this Agreement or by resolution of the Board, the Administrator shall then present said bids to the Board to award the contract to the lowest responsible bidder and to direct the accepted responsible bidder to make the repairs or improvements.

CHAPTER 6. BUDGETARY PROVISIONS

6.1 ANNUAL BUDGET

The Board shall adopt an annual budget pursuant to this Agreement and procedures adopted by the Board. A preliminary draft of the budget shall be presented to the Members by the last business day in March of each year for their review. Said budget shall be submitted to the Board for consideration and adoption.

6.2 SPECIAL BUDGETARY CONSIDERATION

- A. The budget adopted by the Board shall include but not be limited to:
1. A Training Center operations and Capital Outlay component, which shall provide for the personnel, maintenance and operations support, and capital acquisitions necessary for the joint operation of the Training Center as described in Sections 4.1 and 4.2.
 2. A Capital Improvement Project component, which shall provide for the acquisition or replacement of major Training Equipment items or fund major Training Center related projects.
 3. A Training Equipment capital reserve component, which shall be deposited into a common designated reserve account designed to defray future replacement costs of major components of Training Center Equipment.

6.3 DISBURSEMENTS

The treasurer shall draw checks in accordance with policies and/or procedures established by the Member which employs the treasurer and as otherwise established by Resolution of the Board. A summation of such payments shall be presented to the Board as part of the treasurer's quarterly reports.

6.4 ACCOUNTS

All funds shall be placed in accounts and the receipt, transfer or disbursement of funds during the term of this Agreement shall be accounted for in accordance with generally accepted accounting principles applicable to government entities. There shall be strict accountability for all funds. All interest earnings, revenues and expenditures shall be reported quarterly to the Board.

6.5 EXPENDITURES WITHIN APPROVED ANNUAL BUDGET

All expenditures shall be within the limitations of the approved annual budget or as such budget is amended by the Board.

CHAPTER 7. LIABILITY/INSURANCE

7.1 LIABILITY

The debts, liabilities and obligations of the Authority shall not be considered the debts, liabilities or obligations of any Member, except as otherwise provided in this Chapter.

7.2 INDEMNIFICATION/HOLD HARMLESS/INSURANCE

- A. Except as specifically provided in this Subsection, the Authority shall defend, indemnify and hold harmless each Member, its officers, agents, employees, representatives and volunteers from and against any loss, injury, damage, claim, lawsuit, liability, expense, or damages of any kind or nature brought by a third party which arises out of or in connection with the performance of services pursuant to this Agreement. The Authority shall finance its obligation pursuant to this Subsection by establishing a liability reserve fund, by purchasing commercial insurance, and/or by joining a joint powers insurance authority (JPIA). In the event that the Authority's financial obligations to indemnify, defend and hold harmless, pursuant to this Subsection, exceed the liability reserve fund and/or the proceeds from any applicable insurance or JPIA coverage maintained by the Authority (hereinafter "Unfunded Liability"), the Members may agree to indemnify and hold harmless the Authority for such deficiency in accordance with the following: In the event an Unfunded Liability arises, the contribution of each Member shall be in an amount equal to the total Unfunded Liability multiplied by that Member's Fair Share Percentage for the year in which the Unfunded Liability is to be paid. A Member shall not be liable for such deficiency unless its legislative body agrees to contribute the Member's Fair Share Percentage toward the Unfunded Liability. Other Members may, at their sole and complete discretion, agree to pick up the Fair Share Percentage of a Member, or a portion

thereof, who determines not to be liable for the Unfunded Liability, but absent such an agreement no Member shall be liable for any portion of the Unfunded Liability unless all Members unanimously agree to make a contribution in the amount of their Fair Share Percentage.

- B. The Authority, its officers, agents, contractors, employees (if any), representatives, Staff and volunteers, shall not be liable, in any manner, to any Member, or to an officer, official, or employee of any Member, for any loss, injury, damage, claim, lawsuit, liability, expense, or damages which may be incurred by, or brought against a Member which is providing any type of training at the Training Center, regardless of whether or not such liability may have arisen, in whole or in part, by the negligent acts, conduct, or omissions of one or more of the staff at the Training Center.
- C. Each Member shall assign to the Authority its rights, title, and interest to recover damages from any third party, to the extent that the Authority has met its obligations to defend, indemnify and hold harmless such Member pursuant to this Section.
- D. Should any Member utilize the Training Center for its own individual purposes, outside the scope of the Authority, such Member shall indemnify, defend, and hold harmless the Authority and other Members from all claims, demands, actions, liability, or damages of any kind or nature, arising out of such use.
- E. Each Member shall defend, indemnify and hold harmless the Authority, its officers, agents, and representatives from and against any loss, injury, damage, claim, lawsuit, liability, expense, or damages of any kind or nature arising out of or in connection with any conduct of its employees while utilizing the Training Center to the extent that any such loss, injury, damage, claim, lawsuit, liability, expense or damages is caused by the negligence or willful misconduct of the Member's employees. The foregoing requirement to defend, indemnify and hold harmless the Authority shall also apply to any injuries sustained by a Member's employees while utilizing the Training Center, irrespective of the cause of the injury.
- F. Subject to the limitation set forth in Section 7.2.B, the Authority shall purchase insurance and/or a Member may provide coverage through its existing JPIA, for the Property and Training Center which covers any damages or loss to the Property and Training Center as well as any loss, injury, damage, claim, lawsuit, liability, expense, or damages alleging a dangerous condition of the Property and Training Center. The cost of such insurance shall be an expense of the Authority.

A certificate of insurance evidencing such coverage or such other proof as may be reasonable acceptable to the Authority's General Counsel, shall be provided to the Administrator by June 30 of each year.

- G. No provisions of this Agreement shall be construed as to require any Member or the Authority to obtain or maintain liability or other insurance coverage not otherwise required by law.

7.3 WAIVER

Except as provided in Section 7.2 each Member waives any claim against, or right to sue, the Authority, or its respective officers, employees, staff, agents, contractors, representatives or volunteers for any loss, damage or injury that arises out of, or is any way related to, such Member providing any type of emergency training service. This waiver extends to liability for bodily injury or property damage that may be sustained by any Member or its officers, employees, contractors, or agents, and which was proximately caused, in whole or in part, by the negligent act, conduct, or omission of the Authority, its respective officers, employees, staff, agents, contractors, representatives or volunteers. However, this waiver does not extend to bodily injury or property damage caused by an unlawful, fraudulent or willful act or omission of the Authority or its officers or employees.

7.4 CLAIMS

- A. To the extent authorized by Government Code section 935 and any other laws, any and all claims against the Authority for money or damages, including any claims otherwise excepted from the claims filing requirement by Government Code Section 905, shall be subject to and presented within the time and manner prescribed in Part 3 of Division 3.6 of Title 1 of the Government Code. A signed written claim shall be presented to the Administrator by mail or personal delivery by the claimant or a person authorized by claimant to act on his or her behalf. The claim shall conform to the requirements of Government Code section 910.
- B. Unless otherwise designated by the Board, the Administrator and the Fire Chief of Each Member, or their designees, shall comprise a Claims Committee. The Claims Committee shall, in consultation with legal counsel for the Authority, review all claims and make recommendations to the Board concerning their disposition.

CHAPTER 8. ADMISSION OR WITHDRAWAL OF MEMBERS

8.1 NEW MEMBERS

Public entities may become Members in the Authority upon such terms and conditions as may be specified by the Board and an amendment to this Agreement adding the new Member which shall be approved by a majority of the legislative bodies of then current Members as provided in Section 10.1 below.

8.2 WITHDRAWAL

A Member may withdraw from the Authority at the end of any fiscal year and terminate its rights and obligations pursuant to this Agreement by giving written notice of its intention to terminate to the Administrator no later than December 31 of any calendar year. The written notice shall be accompanied by a resolution or minute order of the legislative body of the Member specifying that it is withdrawing from the Authority. The effective date of the withdrawal shall be June 30 of the following year. Withdrawal of a Member shall not relieve the withdrawing Member of its proportionate share of any debts or other liabilities incurred by the Authority prior to the effective date of such withdrawal, or any liabilities imposed upon or incurred by the Member pursuant to this Agreement prior to the effective date of such withdrawal. Any such withdrawal shall result in the forfeiture of all rights and claims of the withdrawing Member to any repayment of contributions or advances or other distribution of funds or property after withdrawal, including distribution in the event of termination of the Authority. Notwithstanding the foregoing, the forfeiture provision set forth in this Section shall not apply to the distribution of proceeds from the sale of the Property pursuant to Section 9.2C.

8.3 BREACH

The Board shall have the authority to terminate the membership of any Member in the event the Member materially breaches its duties pursuant to this Agreement. For the purposes of this Section, the term "material breach" shall include, without limitation, a failure to fund the budget in accordance with Chapter 6, the failure to make any contributions or pay any assessment when due, and the failure to defend or indemnify other Members as required in Chapter 7. The Board shall give the Member notice of the breach and the right to cure the breach within thirty (30) days of the notice. In the event the Member fails to cure breach within thirty (30) days when it is reasonably practical to do so, the Board shall have the right to immediately terminate the Membership. Termination of a Member for breach shall not relieve the terminated Member of its proportionate share of any debts or other liabilities incurred by the Authority or any liabilities imposed upon or incurred by the Member pursuant to this Agreement prior to the effective date of such termination. However, such termination shall result in the forfeiture of all

rights and claims of the terminated Member to any repayment of contributions or advances or other distribution of funds or property after termination, including distributions in the event of termination of the Authority. Notwithstanding the foregoing, the forfeiture provision set forth in this Section shall not apply to the distribution of proceeds from the sale of the Property pursuant to Section 9.2C.

8.4 PENALTIES

Notwithstanding Section 8.3, and without waiving any other remedies available by law or through this Agreement, the Board shall adopt policies and procedures imposing penalties and/or interest for the failure of any Member to pay any amounts due under this Agreement.

CHAPTER 9. TERMINATION AND DISPOSITION OF ASSETS

9.1 TERMINATION

The Authority shall continue to exercise the joint power specified in this Agreement until termination of this Agreement. This Agreement shall terminate if a Member or Members have given the Authority written notice of their intention to withdraw as specified in Section 8.2 and such withdrawal will result in only one Member remaining. This Agreement shall then terminate upon the effective date of the withdrawal. A majority of the Members may mutually agree to terminate this Agreement. No termination of the Authority shall occur until all of its debts, liabilities, and obligations and other payment are made in accordance with the resolution of the Authority. No termination of the Authority shall occur which is contrary to the language, spirit or intent of any contract or agreement entered into by the Authority with the United States, the State of California, or any department, administration or agency of either.

9.2 DISTRIBUTION OF PROPERTY

- A. Upon termination of this Agreement, all Training Center Equipment shall be assigned an "operating life" by the Board. The Board shall also designate equipment which is critical or non-critical to the operation of the facilities. All Training Center Equipment either functioning within its operating life or beyond, shall be appraised by an independent appraiser retained by the Board and equipment designated as critical may be purchased first by Anaheim and then by any Member who is interested and who, having submitted a sealed bid, is the highest bidder. Such sealed bid shall not be lower than the appraised value. Non-critical equipment may be purchased by any Member based on procedures adopted by the Board. Training Center Equipment not purchased by a Member shall be sold to the public at appraised value or at public auction. The proceeds of all sales shall be paid to each Member pursuant to their Fair Share Percentage in the year the Training Center Equipment was purchased. Only those Members

who paid a Fair Share Percentage when the Training Center Equipment was purchased or upon becoming a Member, shall be entitled to share in the proceeds of the sale.

- B. Upon termination of this Agreement, all Training Center Equipment solely purchased and maintained at the Training Center by a Member(s) shall be returned to the Member or Members holding title to the equipment.
- C. Anaheim is shown as the owner of record of the Property. Pursuant to Section 7 of the 1976 Agreement, the cities of Garden Grove and Orange paid Anaheim a pro rata share of the value of the Property based upon an appraisal of the Property performed in 1976, which valued the property at \$52,250 per acre. In the sole event of termination of this Agreement pursuant to Section 9.1, the Property shall be sold by Anaheim in accordance with Anaheim's then existing policies for the sale of its real property; provided that the Property shall be sold in a manner to achieve a sales price of at least fair market value which shall be determined by a MAI appraiser selected by the Board. The net proceeds of the sale shall, within 35 days of receipt thereof, be distributed in relationship to the pro rata payments made by the cities of Garden Grove and Orange to Anaheim in or about 1976 for site acquisition costs, which distributions of proceeds shall be as follows: Anaheim – 46.66%; Garden Grove – 26.67%; and Orange—26.67%. In the event there is an escrow associated with the sale, the escrow shall include instructions directing that the net proceeds of the sale be distributed in accordance with this Section 9.2C. Notwithstanding the foregoing, Anaheim shall have the right to purchase Garden Grove's and Orange's interest in the Property in lieu of any sale thereof. If Anaheim exercises its right of first refusal and retains the Property, the Board shall direct an appraisal to be done by an MAI appraiser selected by the Board. Anaheim shall pay 26.67% of the appraised value to Garden Grove and 26.67% of the appraised value to Orange. This Section 9.2C shall apply irrespective of whether or not Anaheim, Garden Grove or Orange is a Member at the time this Agreement is terminated and this Section 9.2C is implemented.
- D. Upon termination of the Authority, any remaining funds, property or other assets of the Authority, following discharge of all debts, liabilities and obligations of the Authority, shall be distributed to the Members for any un-reimbursed advances, contributions, or in-lieu contributions made or given to the Authority by such Members, and distributed to all Members on the same basis as the annual distributions to Members under this Agreement.

CHAPTER 10. MISCELLANEOUS

10.1 AMENDMENTS

Except for section 9.2 and 10.1 herein, this Agreement may be amended with the approval of a majority of the Members. Amendments to Sections 9.2 and 10.1 shall require the unanimous approval of Members Anaheim and Orange, and former member Garden Grove.

10.2 NOTICE

Any notice or instrument required to be given or delivered pursuant to this Agreement shall be deemed given when personally delivered to the Member of the Authority, or deposited in the United States mail, first class postage pre-paid, and properly addressed to the principal office of the Member or the Authority, which may be changed upon written notice as provided herein to all other Members. The principal office for each Member, which may be changed upon 30 days written notice to all Members, are as follows:

City of Anaheim:

Anaheim West Tower
201 South Anaheim Boulevard, Suite 300
Anaheim, CA 92805
Attn: Fire Chief

With a copy to:

City of Anaheim
200 South Anaheim Boulevard
Anaheim, CA 92805
Attn: City Attorney

City of Orange:

Orange Fire Department Headquarters
176 South Grand Street
Orange, CA 92866
Attn: Fire Chief

With a copy to:

City of Orange
300 East Chapman Avenue
Orange, CA 92866
Attn: City Attorney

10.3 PARTIAL INVALIDITY

If one or more of the Chapters, Sections, paragraphs or provisions of this Agreement is determined to be invalid or unenforceable by a court of competent jurisdiction, each and all of

the remaining Chapters, Sections, paragraphs or provisions shall not be affected and shall continue to be valid and enforceable to the fullest extent permitted by law, provided, the remaining Chapters, Sections, paragraphs or provisions can be construed in substance to constitute the Agreement the Parties intended in the first instance.

10.4 GOVERNING LAW

This Agreement shall be construed in accordance with and governed by the laws of the State of California and the Members agree to submit to the jurisdiction of California courts.

10.5 INTEGRATION

This Agreement constitutes the entire agreement of the Members. No other agreement, oral or written, pertaining to the work to be performed under this Agreement shall be of any force or effect unless it is in writing and signed by the all Members. This Agreement supersedes, in their entirety the original 1976 Agreement establishing the Authority and any amendments entered into up to the effective date of this Agreement.

10.6 RECORDATION


Upon this Agreement being approved and fully executed, the Secretary of the Board shall cause this Agreement to be recorded and provide the Board with evidence of such recordation.

[Signatures on following page]

IN WITNESS WHEREOF, the Members have caused this Agreement to be executed by their duly authorized officers, and to have their official seals affixed hereto as of the date first stated above.

Dated: 10/28/2019, 2019

ATTEST:


By:  10/28/19
Theresa Bass, CMC
City Clerk

Dated: _____, 2019

CITY OF ANAHEIM

By: 
Harry Sidhu, Mayor

APPROVED AS TO FORM:

By:  FOR
Robert Fabela
City Attorney

CITY OF ORANGE

By: _____
Mark A. Murphy, Mayor

APPROVED AS TO FORM:

By: _____
Gary A. Sheatz
City Attorney

ATTEST:

By: _____
Pamela Coleman, CMC
City Clerk

IN WITNESS WHEREOF, the Members have caused this Agreement to be executed by their duly authorized officers, and to have their official seals affixed hereto as of the date first stated above.

CITY OF ANAHEIM

Dated: _____, 2019

By _____
Harry Sidhu, Mayor

ATTEST:

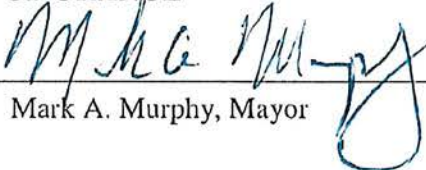
APPROVED AS TO FORM:

By: _____
Theresa Bass, CMC
City Clerk

By: _____
Robert Fabela
City Attorney


Dated: _____, 2019

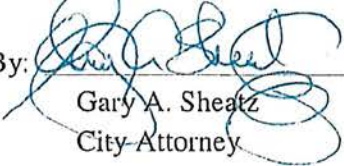
CITY OF ORANGE

By: 
Mark A. Murphy, Mayor

ATTEST:

APPROVED AS TO FORM:

By: 
Pamela Coleman, CMC
City Clerk

By: 
Gary A. Sheatz
City Attorney

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

This First Amendment to Amended and Restated North Net Joint Powers Agreement (hereafter, "First Amendment") is entered into to be effective this 1st day of June, 2013, by and between the following public entities (collectively, the "Parties"):

- A. City of Anaheim
- B. City of Garden Grove
- C. City of Orange

RECITALS

A. The Parties entered into the Amended and Restated North Net Joint Powers Agreement dated November 1, 2012 (hereafter, the "Original Agreement").

B. The Parties desire to amend the Original Agreement to designate the Finance Director of the City of Anaheim as the Treasurer for the North Net Joint Powers Authority.

Now, therefore, the Parties agree as follows:

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

Section 2. **Designation of Treasurer.** Section 3.9 of the Original Agreement is amended to provide that the Finance Director of the City of Anaheim shall hold the office of treasurer and auditor in accordance with Government Code Section 6506.6 and shall perform the duties as authorized in Section 6505 et seq. of the Government Code.

Section 4. **Integration.** This First Amendment amends, as set forth herein, the Original Agreement and, except as specifically amended hereby, the Original Agreement shall remain in full force and effect. To the extent that there is any conflict or inconsistency between the terms and provisions of this First Amendment and the terms and provisions of the Original Agreement, the terms and provisions of this First Amendment shall control and govern the rights and obligations of the Parties.

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

Dated: 6/3/13

CITY OF ANAHEIM

By: [Signature]
MAYOR

Gail E. Eastman - Mayor Pro Tem
APPROVED AS TO FORM:

ATTEST:
By: [Signature]
CITY CLERK

By: [Signature]
Deputy CITY ATTORNEY

Dated: _____

CITY OF GARDEN GROVE

By: _____
MAYOR

ATTEST:

APPROVED AS TO FORM:

By: _____
CITY CLERK

By: _____
CITY ATTORNEY

Dated: _____

CITY OF ORANGE

By: _____
MAYOR

ATTEST:

APPROVED AS TO FORM:

By: _____
CITY CLERK

By: _____
CITY ATTORNEY

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

Dated: _____

CITY OF ANAHEIM

By: _____
MAYOR

ATTEST:

APPROVED AS TO FORM:

By: _____
CITY CLERK

By: _____
CITY ATTORNEY

Dated: June 4, 2013

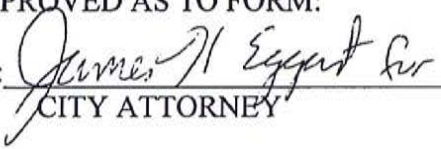
CITY OF GARDEN GROVE

By: 
MAYOR

ATTEST:

APPROVED AS TO FORM:

By: 
CITY CLERK

By: 
CITY ATTORNEY

Dated: _____

CITY OF ORANGE

By: _____
MAYOR

ATTEST:

APPROVED AS TO FORM:

By: _____
CITY CLERK

By: _____
CITY ATTORNEY

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

Dated: _____

CITY OF ANAHEIM

By: _____
MAYOR

ATTEST:

APPROVED AS TO FORM:

By: _____
CITY CLERK

By: _____
CITY ATTORNEY

Dated: _____

CITY OF GARDEN GROVE

By: _____
MAYOR

ATTEST:

APPROVED AS TO FORM:

By: _____
CITY CLERK

By: _____
CITY ATTORNEY

Dated: 6-3-12

CITY OF ORANGE

By: Jerem "Tota" Smith
MAYOR

ATTEST:

APPROVED AS TO FORM:

By: Miss Janel Chief Clerk
CITY CLERK

By: [Signature]
CITY ATTORNEY



COUNCIL AGENDA REPORT

City of Anaheim FIRE DEPARTMENT

DATE: MAY 28, 2013
FROM: FIRE DEPARTMENT
SUBJECT: APPROVAL OF FIRST AMENDMENT TO AMENDED AND
RESTATED NORTH NET JOINT POWERS AGREEMENT

ATTACHMENT (Y/N): YES

ITEM # 28

RECOMMENDATION:

That the City Council, by Motion, approve and authorize the Mayor and City Clerk to execute the First Amendment to the Amended and Restated North Net Joint Powers Agreement.

DISCUSSION:

In 1976, the Cities of Anaheim, Garden Grove and Orange formed the North Net Joint Powers Authority ("North Net") to provide fire training to their respective fire departments in a cost-effective manner. North Net is operated out of the training center located at 2400 E. Orangewood Avenue, Anaheim. North Net is governed by the Amended and Restated North Net Joint Powers Agreement ("JPA Agreement") which was approved by each member's City Council in 2012. The North Net Board of Directors is comprised of a representative from each member's City Council.

The proposed First Amendment to the JPA Agreement ("First Amendment") changes the JPA designation of Treasurer to mean the Finance Director of the City of Anaheim. Government Code section 6505.1 provides that the parties to a joint powers agreement must designate an officer to have charge of the property of the joint powers agency and section 6505.6 permits the North Net Board to appoint an officer of one of the cities as the treasurer. The three fire chiefs of the respective member agencies recently proposed to the North Net Board of Directors to appoint the Finance Director of the City of Anaheim as the Treasurer to coordinate North Net's expenditures with the City of Anaheim's financial system as part of the transition of the JPA's finance responsibilities to Anaheim. This will allow North Net's management to efficiently monitor actual expenditures against its budget. The Board, by a 3-0 vote, recommended that the amendment be approved and pursuant to the JPA Agreement, agreed to forward the First Amendment to each member's City Council for consideration.

IMPACT ON BUDGET:

There is no budgetary impact.

Respectfully submitted,

Randy Bruegman
Fire Chief

Attachment:

1. First Amendment to Amended and Restated Agreement.

ORIGINAL

**AMENDED AND RESTATED
NORTH NET JOINT POWERS TRAINING AGREEMENT**

By and Between

CITY OF ANAHEIM, CALIFORNIA

CITY OF GARDEN GROVE, CALIFORNIA

And

CITY OF ORANGE, CALIFORNIA

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**AMENDED AND RESTATED
NORTH NET JOINT POWERS TRAINING
AGREEMENT**

This Amended and Restated Joint Powers Agreement (“Agreement”), dated for purpose of identification this 1st day of November 2012 (the “Effective Date”) is made by and between the following public entities, (collectively, the “Parties”):

- A. City of Anaheim (“Anaheim”)
- B. City of Garden Grove (“Garden Grove”)
- C. City of Orange (“Orange”)

1. RECITALS

A. The Parties to this Agreement each provide fire protection, fire prevention, rescue, emergency medical and related administrative services within their respective boundaries.

B. The Parties have determined that joint use of a consolidated Training Center and record keeping system reduces the administrative costs that would otherwise be incurred by each Party in providing fire suppression, emergency medical assistance, rescue service, and related services.

C. The Parties have determined that the costs associated with maintaining the staff and equipment necessary to operate a consolidated Training Center should be funded by the Parties through a formal Joint Powers Agreement with costs apportioned as outlined by this Agreement..

D. The Parties have determined that joint use of a consolidated Training Center is also intended to foster cooperation among the Parties in the form of other separate written agreements.

E. The Parties each have the power and authority to perform and contract with one another pursuant to the Joint Exercise of Powers Act (Section 6500 et. seq. of the Government Code) for the performance of the duties and functions that form the basis of this Agreement.

F. The Parties have the power to contract with other agencies for training services, equipment and related items.

G. The Parties entered in the initial Joint Powers Agreement on October 5, 1976 (“1976 Agreement”). There is an amendment to the 1976 Agreement dated February 8, 1977, an addendum entered into in 1979, an amendment dated February 23, 1988, and an amendment dated in 1994 (the “Amendments”). The Parties intend that in entering into this Agreement that

this Agreement shall replace in their entirety the 1976 Agreement and all amendments and/or addendums to the 1976 Agreement.

AGREEMENT

In consideration of the foregoing recitals and the mutual covenants contained in this Agreement, it is agreed between and among each of the parties hereto as follows:

CHAPTER 1. DEFINITIONS

- 1.1. "Administrator" shall mean the Training Center Manager.
- 1.2. "Authority" shall mean the Joint Powers Authority known as the North Net Training Authority, created by this Agreement pursuant to the Joint Exercise of Powers Act (Government Code sections 6500 et seq.).
- 1.3. "Board" is the governing body of the Authority.
- 1.4. "Board Director" shall mean the voting representative or alternate appointed by the governing body of each Member agency to represent said agency on the Board.
- 1.5. "Capital Improvement Project" shall mean the acquisition of any piece of Training Equipment or the funding of any Training Center related project that requires an expenditure of \$30,000.00 or more.
- 1.6. "Capital Outlay" shall mean the acquisition of any piece of Training Equipment or the funding of any Training Center related project that requires an expenditure of \$500.00 or more but less than \$30,000.00.
- 1.7. "Fiscal Year" shall mean the twelve month period commencing July 1st and concluding June 30th.
- 1.8. "Member" shall mean any public entity that is a party to this Agreement upon the Effective Date or becomes a party to this Agreement pursuant to the provisions of Section 8.1, and has not withdrawn from such membership or been terminated from such membership pursuant to Sections 8.2 or 8.3.
- 1.9. "Property" shall mean the land described in the legal description and depicted in the map attached hereto as Exhibit "A", commonly referred to as 2400 E. Orangewood Avenue, Anaheim, CA and the Training Center, as defined herein.
- 1.10. "Subscriber Agency" means each of the public agencies that are not Members that wish to contract with the Authority to receive training services, and contribute to the cost of

operating and administrating this Authority by executing and administering a subscriber agreement in a form approved by the Board.

1.11. "Training Center" shall mean that structure or physical facility that houses Training Center Equipment and/or Training Center Staff and any other structures or fixtures, which are located upon the Property.

1.12. "Training Center Equipment" shall mean all equipment utilized for the fire or rescue-related emergency Training Center or other facilities acquired for use by the Authority which are not included within the definition of Training Center.

1.13. "Training Center Staff" or "Staff" shall mean all personnel of the City of Anaheim performing services related to the operations and maintenance of the Training Center, or such agency or individual as may be appointed by the Board to perform these functions.

CHAPTER 2. PURPOSE AND POWERS

2.1. AUTHORITY CREATED

The Authority is formed pursuant to the provision of Article 1, Chapter 5, Division 7 of Title I of the Government Code of the State of California (The Joint Exercise of Powers Act). The Authority shall be considered a public entity separate and apart from the Members. Within thirty (30) days after the Effective Date and after any amendment, the Authority shall cause a notice of this Agreement or amendment to be prepared and filed with the office of the California Secretary of State containing the information required by Government Code 6503.5.

2.2. COMMON POWERS

Each Party has the common power to, inter alia:

- a. Provide fire protection, fire suppression, fire prevention, emergency medical, rescue and related services;
- b. Maintain an effective training system to facilitate and support fire protection, fire suppression, rescue and emergency medical services;
- c. Employ personnel to perform emergency based training, Training Center maintenance and the purchase of training center equipment.

2.3. GENERAL PURPOSE

The general purpose of this Agreement is to provide for the operation, upgrade, maintenance and repair of the Training Center and Training Center Equipment. This Agreement

is intended to provide a formal mechanism by which the Authority can fund these activities to provide the highest possible level of emergency training services.

2.4. POWERS

The Authority, through its Board, shall have the power, in its own name, to do any of the following:

- A. To jointly exercise the common powers of the Members;
- B. To make and enter into contracts, including but not limited to, contracting with other public agencies for services, equipment and related items to those agencies;
- C. To retain the services of fire suppression specialists, emergency consultants, and such other persons with specialized knowledge or ability capable of assisting the Members in achieving the purposes of this Agreement;
- D. To acquire, hold or dispose of property by any lawful means, including, without limitation, by gift, purchase or sale;
- E. To incur debts, liabilities or obligations, subject to the limitations specified in this Agreement and, to the extent permitted by law, borrow funds on temporary basis to meet operational expenses until expected revenue are available;
- F. To the extent permitted by law, to enter into equipment lease agreements or lease-purchase agreements or other financial arrangements extending beyond the current budgetary cycle, necessary or convenient to the operation of the Authority (hereinafter collectively "lease") so long as the Agreement contains substantially the following provisions:

The Authority receives its funds on an annual budgetary cycle from its individual Members. The Authority agrees to use its best efforts to obtain authorization and appropriation of funds from its individual Members to pay lease payments due under this Agreement, including, without limitation, the inclusion in its budget request for each fiscal year during the term of this Agreement a request for adequate funds to meet in full its obligation hereunder. The Board may terminate this Agreement in the event funds are not appropriated or appropriations are withdrawn or withheld upon thirty (30) days written notice. Termination under this provision shall not constitute a default or breach. The Authority shall not be obligated to pay any additional lease payments but shall, after written notice from Lessor, deliver the Training Center Equipment to Lessor or its

assignee. Lessor acknowledges that the individual Members shall not be liable for the debts of the Authority.

- G. To enter into leases, agreements and similar transactions that require the Authority to indemnify the person with whom the Board is contracting, so long as the exposure to liability under such indemnification is approved by the Risk Manager of Anaheim and by Legal Counsel of the Authority and so long as the maximum exposure to liability under such transaction does not exceed One Million Dollars (\$1,000,000);
- H. To receive gifts, contributions, grants, and donations of property, funds, services and other forms of assistance from any person, firm, entity, corporation or public agency;
- I. To sue and be sued in its own name;
- J. To apply for any grant or grants offered in conjunction with any Federal, State or local program that is in any way related to the purpose of this Agreement;
- K. To adopt rules, regulations, policies, by-laws and procedures governing the operation of the Authority; and
- L. To exercise any other power in the manner and according to the methods provided by applicable laws, rules or regulations, subject only to the restrictions on the manner of exercising such powers that may be applicable to the Members.

CHAPTER 3. ORGANIZATION

3.1. MEMBERSHIP

The Members of this Authority shall be the public entities which executed this Agreement or a subsequent amendment and have not withdrawn from, or had membership in the Authority terminated, as provided in Sections 8.2 and 8.3 hereof.

3.2. BOARD

- A. The Board shall consist of one (1) voting director and one (1) alternate appointed by the governing body of each Member, which director and alternate shall be selected from the legislative body of each Member.
- B. Each Board Director, which is defined to include the alternate, shall hold office from the first meeting of the Board after appointment and shall serve at the pleasure of the appointing legislative body.

- C. A Board Director shall not receive compensation, but may be reimbursed by the Authority for expenses reasonably incurred while performing duties required by this Agreement and as further specified and limited by resolution of the Board.
- D. Annually, at its first meeting of each new fiscal year, the Board shall select a chairperson and vice chairperson from its members and shall appoint a secretary who may, but need not, be a member of the Board. The chairperson, vice chairperson and secretary shall hold office for one year or until such time as a successor is appointed.

3.3. PRINCIPAL OFFICE

The principal office of the Authority shall be 2400 E. Orangewood Avenue, Anaheim, CA. The Board has the full power and authority to change the principal office from one location to another as long as same is within the Authority's jurisdiction.

3.4. MEETINGS

The Board shall meet at the principal office of the Authority, or at such other place as may be designated by the Board. The time and place of regular meetings of the Board shall be determined by resolution. Regular, adjourned and special meetings of the Board shall be called, noticed and conducted in accordance with the Ralph M. Brown Act or other relevant open meeting law. Each Member shall only be entitled to have one Board Director in attendance to establish a quorum or to vote upon matters coming before the Board.

3.5. QUORUM

Attendance by a majority of the Board Directors at a meeting shall constitute a quorum for the purpose of transacting business relating to the Authority.

3.6. POWERS AND LIMITATIONS

All of the powers of the Authority are reserved to it and may be exercised by the Board, unless otherwise limited by law. Each Board Director shall be entitled to one vote and, except as expressly provided in this Agreement, including Sections 9.2 and 10.1, the affirmative vote of the majority of those present and qualified shall effect adoption of any motion, resolution, order or action the Board deems appropriate.

3.7. AGENDAS-SECRETARY DUTIES

The secretary of the Authority shall provide notice of, prepare and post agendas for, and keep minutes of, each regular, adjourned and special meeting of the Board and other records, as necessary, of the Board. The secretary shall send a copy of the minutes to each Board member

and otherwise perform the duties necessary to ensure compliance with provisions of law including, without limitations, any applicable "open meeting law" such as the Ralph M Brown Act.

3.8. RULES

The Board may adopt rules and regulations for the conduct of its affairs that are not in conflict with this Agreement.

3.9. TREASURER

The Treasurer of the City of Anaheim shall hold the office of treasurer and auditor, in accordance with Government Code Section 6505.6, and shall perform the duties as authorized in Section 6505 et seq. of the Government Code. The treasurer shall cause an independent audit to be made by a Certified Public Accountant in compliance with Section 6505 of the Government Code. The Certified Public Accountant shall be annually appointed by the Board. The treasurer shall keep all revenues of the Authority in a separate account, and, if available, an interest bearing account, and otherwise perform the duties and responsibilities of that office as specified in Sections 6505 et seq. of Government Code. Any surplus funds not immediately needed may be invested in accordance with the investment policy annually adopted by the Board, as required by Government Code Section 53646, and consistent with Government Code Sections 53601, 53635, 16429.1 and 53684, as may be amended.

3.10. LEGAL COUNSEL

The Board shall contract with independent legal counsel to serve as general counsel to the Authority to provide routine legal counsel services as may be required from time to time, including, attendance of Board meetings when deemed necessary. In the absence of a contract for independent counsel, the Anaheim City Attorney's Office shall serve as general counsel. Extraordinary legal services (for example prosecuting or defending the Authority, its officers, and agents in a legal action) shall be considered additional expenses and not covered by the administrative fee set forth in Section 5.2 of this Agreement.

3.11. BOND

The treasurer, auditor and such other persons who may have access to, or handle, any revenue of the Authority shall be required to file an official bond in an amount determined by the Board and consistent with the provisions of Section 6505.1 of the Government Code. This bonding requirement shall be satisfied if an existing bond is extended to cover the duties required by this Agreement. The costs of complying with the requirements of this Section shall be considered an administrative expense of the Authority.

3.12. STATUS OF OFFICERS AND EMPLOYEES

In accordance with the Joint Exercise of Powers Act, all of the privileges and immunities from liability, exemptions from laws, ordinances and rules, and all pension, relief, disability, workers compensation and other benefits which apply to the activities of officers, agents, or employees of any of the Member's agency when performing their respective duties or functions for that agency, shall apply to each of them to the same degree and extent while engaged in the performance of any activity, function or duty pursuant to the Agreement.

3.13. POLITICAL REFORM ACT

The Board Directors, and their alternates, shall be considered public officials within the meaning of the Political Reform Act of 1974, as amended, and its regulations, for the purposes of financial disclosure, conflict of interest and other requirements of such Act and regulations and shall file annual statements of economic interest as required, along with any other officers of the Authority who may be required to do so. Other persons working for or on behalf of the Authority may be required to file such statements in accordance with the Authority's conflict of interest code.

CHAPTER 4. BASIC SERVICES

4.1. TRAINING CENTER – OPERATIONS

- A. The Training Center shall be maintained and operated by the Authority, pursuant to this Agreement, for the use and benefit of all Members. The Administrator of the Training Center shall be an at-will employee of Anaheim so long as Anaheim operates and administers the Training Center; provided that any appointment of the Administrator and any compensation to be paid to the Administrator from the Authority's budget are subject to final approval of the Board. General Counsel shall be responsible for placing the annual performance evaluation of the Administrator on the Board's agenda for closed session at the Board's first meeting in each calendar year, although the Board may at any other time place the Administrator's performance evaluation on the agenda.
- B. Unless otherwise provided for by the Board, Anaheim shall, through use of Anaheim employees, fill all positions and provide all services required to operate, maintain and administer the Training Center and shall be responsible for the day-to-day administration and operation of the Training Center. The Authority shall pay the actual costs of such operation and administration, plus an administrative overhead fee as provided herein. The costs of such operation and administration, including administrative overhead, shall be borne by each Member according to its Fair Share Percentage as determined pursuant to Chapter 5 of this Agreement.

- C. The Board is empowered to develop and establish the budget, staffing and service levels for the Training Center operation and maintenance. No Member may create any staff position or be entitled to receive any reimbursement for any staff time or costs related to the operation and maintenance of the Training Center unless the position and/or reimbursement falls within the budget approved by the Board or otherwise has received the prior approval of the Board.
- D. Each Member shall provide training officers from each Member's Fire Department, whose compensation and cost reimbursements, if any, shall be the sole obligation of the employing Member. Except as is specifically provided herein, employees working in or otherwise utilizing the Training Center shall be governed by the same personnel rules, regulations, bargaining agreements, terms and conditions of employment, administrative regulations and other related matters as apply to them with respect to their employment with a Member or a Subscriber.
- E. In performing the day-to-day administration and operation of the Training Center, Anaheim will determine the procedures and standards of selection for employment and promotion, direct its employees, take disciplinary action, relieve its employees from duty, and determine the methods, means and personnel by which it will meet the service levels established by the Authority; provided that Anaheim shall solicit and consider input from the Members with respect to these decisions, although final authority rests with Anaheim, except to the extent specifically provided in this Agreement.
- F. Anaheim may elect to discontinue providing services for the operations and administration of the Training Center by giving notice of such election in writing to the Board a minimum of six (6) months prior to such discontinuance. In the event of such discontinuance by Anaheim, the Board may appoint another Member to perform such duties or contract with another provider of such services. Anaheim's election to discontinue providing the services set forth herein does not constitute withdrawal from the Authority.
- G. The Board may elect to terminate Anaheim's services as operator and administrator of the Training Center by giving notice of such election in writing to Anaheim a minimum of six (6) months prior to the date of such termination. In the event of such termination, the Board may appoint another Member as the administrator or contract with another provider of such services. Such termination of Anaheim's services does not in and of itself constitute either withdrawal or termination of Anaheim from the Authority or any other Member of the Authority.

4.2. MAINTENANCE OF EQUIPMENT

- A. The Authority through the Board shall maintain and repair the Training Center.
- B. The Authority through the Board shall purchase new or used Training Equipment as necessary to replace existing equipment or upon a determination by the Board that additional Training Equipment will facilitate emergency training.

4.3. SERVICES TO AND REIMBURSEMENT FROM SUBSCRIBER AGENCIES

- A. Public agencies in Orange County may receive training services, (hereinafter "Training Services") from the Authority by executing a "Subscription Agreement" in the form approved by the Board and by paying the annual fee and/or other costs, as determined by the Board. Such Subscriber Agencies must sign the Subscription Agreement prior to receiving services or sharing equipment or other items. Thereafter, a Subscriber Agency must pay its annual fee by July 30 of the fiscal year for which subscription is desired. Subscription Agreements shall renew automatically from year to year unless otherwise specified in the Subscription Agreement. Subscriber Agencies which subscribe for an entire fiscal year may, at their option, elect to pay their fee in four equal installments due and owing on or before July 30, October 1, January 1 and April 1. Subscriber Agencies which choose to become Subscriber Agencies after the commencement of the fiscal year must sign the Subscription Agreement and the full amount of the annual fee prior to seeking services. Fees for subsequent fiscal years may be revised by the Board.
- B. The Board may, without cause or reason, terminate any or all Subscription Agreements by giving the affected Subscriber Agency ninety (90) days prior written notice. If the termination occurs prior to the end of fiscal year, the terminated Subscriber Agency's annual fee shall be prorated and refunded if such a refund is owed.
- C. Revenue from Subscription Agencies shall be allocated as directed by the Board.

CHAPTER 5. FUNDING AND ADMINISTRATION

5.1 FUNDING

- A. Each Member shall pay a portion of the costs incurred by the Authority in administering this Agreement in relationship to that Member's "Fair Share Percentage", which shall be determined every calendar year beginning on January

1, 2014. Each Member's Fair Share Percentage shall be calculated by dividing the total number of sworn firefighter positions of all Members divided by the number of sworn firefighter positions of each Member as same existed on January 1 of each calendar year.

- B. Each Member's Fair Share Contribution shall be multiplied by the adopted budget amount for the upcoming Fiscal Year to determine the Fair Share Contribution amount. Anaheim shall bill each Member on a quarterly basis beginning July 1 of each fiscal year and payment shall be due within 30 days after receipt of each invoice.
- C. The Administrator, or his or her designee, shall invoice each Member that Member's Fair Share Percentage of the budget in accordance with the payment schedule set in Section 5.1B above or as otherwise adopted by Resolution of the Board. For the fiscal year 2013-2014, each Member's Fair Share Percentage shall be as follows:

| | |
|--------------|-------|
| Anaheim | 49.6% |
| Garden Grove | 22.0% |
| Orange | 28.4% |

- D. Final year-end adjustments of a Member's costs representing the difference between estimated annual expenditures and actual annual expenditures shall be calculated no later than the last day of the first quarter following the fiscal year in which such costs were incurred.

5.2 ADMINISTRATIVE SERVICES

As compensation for providing services under this Agreement, Members shall pay Anaheim an administrative fee of twelve percent (12%) of their Fair Share Percentage. Anaheim shall perform administrative services which include, but are not limited to general accounting of funds received and disbursed, preparation of invoices to Members, preparation of documents relative to any grant program, routine services from various departments within Anaheim as may be necessary from time to time, including but not limited to Human Resources and Labor Management Departments, Finance Department, Purchasing, Legal (if the Board has not contracted for General Counsel services), and such other functions as may be required by this Agreement or the provisions of any law including, without limitation, the Joint Exercise of Powers Act.

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5.3 EMERGENCY REPAIRS

In the event the Training Center suffers damage which requires emergency repairs, the Administrator is authorized without prior Board approval to expend funds to have the necessary emergency repairs made so that services are resumed as soon as possible, but in no event shall such expenditures exceed \$20,000 without prior Board approval. The Board shall convene as soon as reasonably practical to ratify any such expenditure and to approve any expenditure above that amount. The cost of such repairs shall be borne by each Member in accordance with its Fair Share Percentage.

5.4 CAPITAL IMPROVEMENTS-FUNDING

In the event the Training Center and/or Training Center Equipment is in need of repair or improvement, the Administrator shall solicit bids for such work from at least three (3) responsible firms, whenever practicable, in accordance with applicable state law. The Administrator shall then present said bids to the Board to award the contract to the lowest responsible bidder and to direct the accepted responsible bidder to make the repairs or improvements.

CHAPTER 6. BUDGETARY PROVISIONS

6.1 ANNUAL BUDGET

The Board shall adopt an annual budget pursuant to this Agreement and procedures adopted by the Board. A preliminary draft of the budget shall be presented to the Members by the last business day in March of each year for their review. Said budget shall be submitted to the Board for consideration and adoption.

6.2 SPECIAL BUDGETARY CONSIDERATION

- A. The budget adopted by the Board shall include but not be limited to:
1. A Training Center operations and Capital Outlay component, which shall provide for the personnel, maintenance and operations support, and capital acquisitions necessary for the joint operation of the Training Center as described in Sections 4.1 and 4.2.
 2. A Capital Improvement Project component, which shall provide for the acquisition or replacement of major Training Equipment items or fund major Training Center related projects.
 3. A Training Equipment capital reserve component, which shall be deposited into a common designated reserve account designed to defray

future replacement costs of major components of Training Center Equipment.

6.3 DISBURSEMENTS

The treasurer shall draw checks in accordance with policies and/or procedures established by the Member which employs the treasurer and as otherwise established by Resolution of the Board. A summation of such payments shall be presented to the Board as part of the treasurer's quarterly reports.

6.4 ACCOUNTS

All funds shall be placed in accounts and the receipt, transfer or disbursement of funds during the term of this Agreement shall be accounted for in accordance with generally accepted accounting principles applicable to government entities. There shall be strict accountability for all funds. All interest earnings, revenues and expenditures shall be reported quarterly to the Board.

6.5 EXPENDITURES WITHIN APPROVED ANNUAL BUDGET

All expenditures shall be within the limitations of the approved annual budget or as such budget is amended by the Board.

CHAPTER 7. LIABILITY/INSURANCE

7.1 LIABILITY

The debts, liabilities and obligations of the Authority shall not be considered the debts, liabilities or obligations of any Member, except as otherwise provided in this Chapter.

7.2 INDEMNIFICATION/HOLD HARMLESS/INSURANCE

- A. Except as specifically provided in this Subsection, the Authority shall defend, indemnify and hold harmless each Member, its officers, agents, employees, representatives and volunteers from and against any loss, injury, damage, claim, lawsuit, liability, expense, or damages of any kind or nature arising out of or in connection with the performance of services pursuant to this Agreement. The Authority shall finance its obligation pursuant to this Subsection by establishing a liability reserve fund, by purchasing commercial insurance, and/or by joining a joint powers insurance authority (JPIA). In the event that the Authority's financial obligations to indemnify, defend and hold harmless, pursuant to this Subsection, exceed the liability reserve fund and the proceeds from any applicable insurance or JPIA coverage maintained by the Authority (hereinafter "Unfunded

Liability”), the Members may agree to indemnify and hold harmless the Authority for such deficiency in accordance with the following: In the event an Unfunded Liability arises, the contribution of each Member shall be in an amount equal to the total Unfunded Liability multiplied by that Member’s Fair Share Percentage for the year in which the Unfunded Liability is to be paid. A Member shall not be liable for such deficiency unless it agrees to be bound by this provision. Other Members may, at their sole and complete discretion, agree to pick up the Fair Share Percentage of a Member who determines not to be liable for such deficiency, but absent such an agreement no Member shall be liable for such deficiency unless all Members unanimously agree to make a contribution as set forth herein.

- B. The Authority, its officers, agents, contractors, employees, representatives, Staff and volunteers, shall not be liable, in any manner, to any Member, or to an officer, official, or employee of any Member, for any loss, injury, damage, claim, lawsuit, liability, expense, or damages which may be incurred by, or brought against a Member which is providing any type of emergency response training undertaken by any Member pursuant to this Agreement, regardless of whether or not such liability may have arisen, in whole or in part, by the negligent acts, conduct, or omissions of one or more of the staff at the Training Center.
- C. Each Member shall assign to the Authority its rights, title, and interest to recover damages from any third party, to the extent that the Authority has met its obligations to such Member pursuant to this Section.
- D. Should any Member utilize the Training Center for its own individual purposes, outside the scope of the Authority, such Member shall indemnify, defend, and hold harmless the Authority and other Members from all claims, demands, actions, liability, or damages of any kind or nature, arising out of such use.
- E. Each Member shall defend, indemnify and hold harmless the Authority, its officers, agents, and representatives from and against any loss, injury, damage, claim, lawsuit, liability, expense, or damages of any kind or nature arising out of or in connection with any conduct of its employees while utilizing the Training Center to the extent that any such loss, injury, damage, claim, lawsuit, liability, expense or damages is caused by the negligence or willful misconduct of the Member’s employees.
- F. Subject to the limitation set forth in Section 7.2.B, the Authority shall purchase insurance and/or Anaheim may provide coverage through its existing JPIA, for the Property and Training Center which covers any damages or loss to the

Property and Training Center as well as any loss, injury, damage, claim, lawsuit, liability, expense, or damages alleging a dangerous condition of the Property and Training Center. The cost of such insurance shall be an expense of the Authority. A certificate of insurance evidencing such coverage or such other proof as may be reasonable acceptable to the Authority's General Counsel, shall be provided to the Clerk of the Board by June 30 of each year.

- G. No provisions of this Agreement shall be construed as to require any party to obtain or maintain liability or other insurance coverage not otherwise required by law.

7.3 WAIVER

Except as provided in Section 7.2 each Member waives any claim against, or right to sue, the Authority, or its respective officers, employees, staff, agents, contractors, representatives or volunteers for any loss, damage or injury that arises out of, or is any way related to, such Member providing any type of emergency training service. This waiver extends to liability for bodily injury or property damage that may be sustained by any Member or its officers, employees, contractors, or agents, and which was proximately caused, in whole or in part, by the negligent act, conduct, or omission of the Authority, its respective officers, employees, staff, agents, contractors, representatives or volunteers. However, this waiver does not extend to bodily injury or property damage caused by an unlawful, fraudulent or willful act or omission of the Authority or its officers or employees.

7.4 CLAIMS

- A. To the extent authorized by Government Code section 935 and any other laws, any and all claims against the Authority for money or damages, including any claims otherwise excepted from the claims filing requirement by Government Code Section 905, shall be subject to and presented within the time and manner prescribed in Part 3 of Division 3.6 of Title 1 of the Government Code. A signed written claim shall be presented to the Administrator by mail or personal delivery by the claimant or a person authorized by claimant to act on his or her behalf. The claim shall conform to the requirements of Government Code section 910.
- B. Unless otherwise designated by the Board, the Fire Chief of Each Member, or their designees shall comprise a Claims Committee. The Claims Committee shall, in consultation with legal counsel for the Authority, review all claims and make recommendations to the Board concerning their disposition.

CHAPTER 8. ADMISSION OR WITHDRAWAL OF MEMBERS

8.1 NEW MEMBERS

Public entities may become Members in the Authority upon such terms and conditions as may be specified by the Board. New Members shall pay a surcharge to be determined by the Board at the time of application.

8.2 WITHDRAWAL

A Member may withdraw from the Authority at the end of any fiscal year and terminate its rights and obligations pursuant to this Agreement by giving written notice of its intention to terminate to the secretary of the Board no later than December 31 prior to the fiscal year in which the Member intends to withdraw. The written notice shall be accompanied by a resolution or minute order of the legislative body of the Member specifying its intent to withdraw from the Authority. Withdrawal of a Member shall not relieve the withdrawing Member of its proportionate share of any debts or other liabilities incurred by the Authority prior to the effective date of such withdrawal, or any liabilities imposed upon or incurred by the Member pursuant to this Agreement prior to the effective date of such withdrawal. Any such withdrawal shall result in the forfeiture of all rights and claims of the withdrawing Member to any repayment of contributions or advances or other distribution of funds or property after withdrawal, including distribution in the event of termination of the Authority. Notwithstanding the foregoing, the forfeiture provision set forth in this Section shall not apply to the distribution of proceeds from the sale of the Property pursuant to Section 9.2C.

8.3 BREACH

The Board shall have the authority to terminate the membership of any Member in the event the Member materially breaches its duties pursuant to this Agreement. For the purposes of this Section, the term "material breach" shall include, without limitation, a failure to fund the budget in accordance with Chapter 6, the failure to make any contributions or pay any assessment when due, and the failure to defend or indemnify other Members as required in Chapter 7. The Board shall give the Member notice of the breach and the right to cure the breach within thirty (30) days of the notice. In the event the Member fails to cure breach within thirty (30) days when it is reasonably practical to do so, the Board shall have the right to immediately terminate the Membership. Termination of a Member for breach shall not relieve the terminated Member of its proportionate share of any debts or other liabilities incurred by the Authority or any liabilities imposed upon or incurred by the Member pursuant to this Agreement prior to the effective date of such termination. However, such termination shall result in the forfeiture of all rights and claims of the terminated Member to any repayment of contributions or advances or other distribution of funds or property after termination, including distributions in the event of termination of the Authority. Notwithstanding the foregoing, the forfeiture provision set forth in

this Section shall not apply to the distribution of proceeds from the sale of the Property pursuant to Section 9.2C.

8.4 PENALTIES

Notwithstanding Section 8.3, and without waiving any other remedies available by law or through this Agreement, the Board shall adopt policies and procedures imposing penalties and/or interest for the failure of any Member to pay any amounts due under this Agreement.

CHAPTER 9. TERMINATION AND DISPOSITION OF ASSETS

9.1 TERMINATION

The Authority shall continue to exercise the joint power specified in this Agreement until termination of this Agreement. This Agreement shall terminate if the majority of Members give the Authority written notice of their intention to withdraw as specified in Section 8.2 or if the Members mutually agree to terminate this Agreement. No termination of the Authority shall occur until all of its debts, liabilities, and obligations and other payment is made in accordance with the resolution of the Authority. No termination of the Authority shall occur which is contrary to the language, spirit or intent of any contract or agreement entered into by the Authority with the United States., the State of California, or any department, administration or agency of either.

9.2 DISTRIBUTION OF PROPERTY

- A. Upon termination of this Agreement, all Training Center Equipment shall be assigned an "operating life" by the Board. The Board shall also designate equipment which is critical or non-critical to the operation of the facilities. All Training Center Equipment either functioning within its operating life or beyond, shall be appraised by an independent appraiser retained by the Board and equipment designated as critical may be purchased first by Anaheim and then by any Member who is interested and who, having submitted a sealed bid, is the highest bidder. Such sealed bid shall not be lower than the appraised value. Non-critical equipment may be purchased by any Member based on procedures adopted by the Board. Training Center Equipment not purchased by a Member shall be sold to the public at appraised value or at public auction. The proceeds of all sales shall be paid to each Member pursuant to their Fair Share Percentage in the year the Training Center Equipment was purchased. Only those Members who paid a Fair Share Percentage when the Training Center Equipment was purchased or upon becoming a Member, shall be entitled to share in the proceeds of the sale.

- B. Upon termination of this Agreement, all Training Center Equipment solely purchased and maintained at the Training Center by a Member(s) shall be returned to the Member or Members holding title to the equipment.
- C. Anaheim is shown as the owner of record of the Property. Pursuant to Section 7 of the 1976 Agreement, the cities of Garden Grove and Orange paid Anaheim a pro rata share of the value of the Property based upon a appraisal of the Property performed in 1976, which valued the property at \$52,250 per acre. In the sole event of termination of this Agreement pursuant to Section 9.1, the Property shall be sold by Anaheim in accordance with Anaheim's then existing policies for the sale of its real property; provided that the Property shall be sold in a manner to achieve a sales price of at least fair market value which shall determined by a MAI appraiser selected by the Board. The net proceeds of the sale shall, within 35 days of receipt thereof, be distributed in relationship to the pro rata payments made by the cities of Garden Grove and Orange to Anaheim in or about 1976 for site acquisition costs, which distributions of proceeds shall be as follows: Anaheim – 46.66%; Garden Grove – 26.67%; and Orange—26.67%. In the event there is an escrow associated with the sale, the escrow shall include instructions directing that the net proceeds of the sale be distributed in accordance with this Section 9.2C. Notwithstanding the foregoing, Anaheim shall have the right to purchase Garden Grove's and Orange's interest in the Property in lieu of any sale thereof. If Anaheim exercises its right of first refusal and retains the Property, the Board shall direct an appraisal to be done by an MAI appraiser selected by the Board. Anaheim shall pay 26.67% of the appraised value to Garden Grove and 26.67% of the appraised value to Orange. This Section 9.2C shall apply irrespective of whether or not Anaheim, Garden Grove or Orange is a Member at the time this Agreement is terminated and this Section 9.2C is implemented.
- D. Upon termination of the Authority, any remaining funds, property or other assets of the Authority, following discharge of all debts, liabilities and obligations of the Authority, shall be distributed to the Members for any un-reimbursed advances, contributions, or in-lieu contributions made or given to the Authority by such Members, and distributed to all Members on the same basis as the annual distributions to Members under this Agreement.

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CHAPTER 10. MISCELLANEOUS

10.1 AMENDMENTS

Except for sections 9.2 and 10.1 herein, this Agreement may be amended with the approval of a majority of the Members. Amendments to Sections 9.2 and 10.1 shall require the unanimous approval of Members Anaheim, Garden Grove and Orange.

10.2 NOTICE

Any notice or instrument required to be given or delivered pursuant to this Agreement shall be deemed given when personally delivered to the Member of the Authority, or deposited in the United States mail, first class postage pre-paid, and properly addressed to the principal office of the Member or the Authority, which may be changed upon written notice as provided herein to all other Members. The principal office for each Member, which may be changed upon 30 days written notice to all Members, are as follows:

City of Anaheim:

Anaheim West Tower
201 South Anaheim Boulevard, Suite 300
Anaheim, CA 92805
Attn: Randy Bruegman, Fire Chief

With a copy to:

City of Anaheim
200 South Anaheim Boulevard
Anaheim, CA 92805
Attn: City Attorney

City of Garden Grove:

11301 Acacia Parkway
Garden Gove, CA 92840
Attn: Dave Bertka, Fire Chief

With a copy to:

City of Garden Grove
11222 Acacia Parkway
Garden Grove, CA 92840
Attn: City Attorney

City of Orange:

Orange Fire Department Headquarters
176 South Grand Street
Orange, CA 92866
Attn: Pat Dibb, Fire Chief

With a copy to:
City of Orange
300 East Chapman Avenue
Orange, CA 92866
Attn: City Attorney

10.3 PARTIAL INVALIDITY

If one or more of the Chapters, Sections, paragraphs or provisions of this Agreement is determined to be invalid or unenforceable by a court of competent jurisdiction, each and all of the remaining Chapters, Sections, paragraphs or provisions shall not be affected and shall continue to be valid and enforceable to the fullest extent permitted by law, provided, the remaining Chapters, Sections, paragraphs or provisions can be construed in substance to constitute the Agreement the Parties intended in the first instance.

10.4 GOVERNING LAW

This Agreement shall be construed in accordance with and governed by the laws of the State of California and the Members agree to submit to the jurisdiction of California courts.

10.5 INTEGRATION

This Agreement constitutes the entire agreement of the Members. No other agreement, oral or written, pertaining to the work to be performed under this Agreement shall be of any force or effect unless it is in writing and signed by the all Members. This Agreement supersedes, in their entirety the original 1976 Agreement establishing the Authority and any amendments entered into up to the effective date of this Agreement.

10.6 RECORDATION

Upon this Agreement being approved and fully executed, the Clerk of the Board shall cause this Agreement to be recorded and provide the Board with evidence of such recordation.

[Signatures on next page]

Exhibit A

DESCRIPTION:

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

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

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

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

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

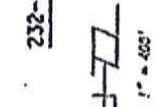
EXCEPTING THEREFROM ALL OIL, GAS, ASPHALTUM AND OTHER HYDROCARBON SUBSTANCES AND WATER, OTHER THAN SANTA ANA VALLEY IRRIGATION COMPANY'S WATER FROM ON OR UNDER A PORTION OF SAID LAND, AS RESERVED BY MARY M. PARKER, A WIDOW, IN A DEED RECORDED JUNE 26, 1943 IN BOOK 1194, PAGE 466 OF OFFICIAL RECORDS.

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

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

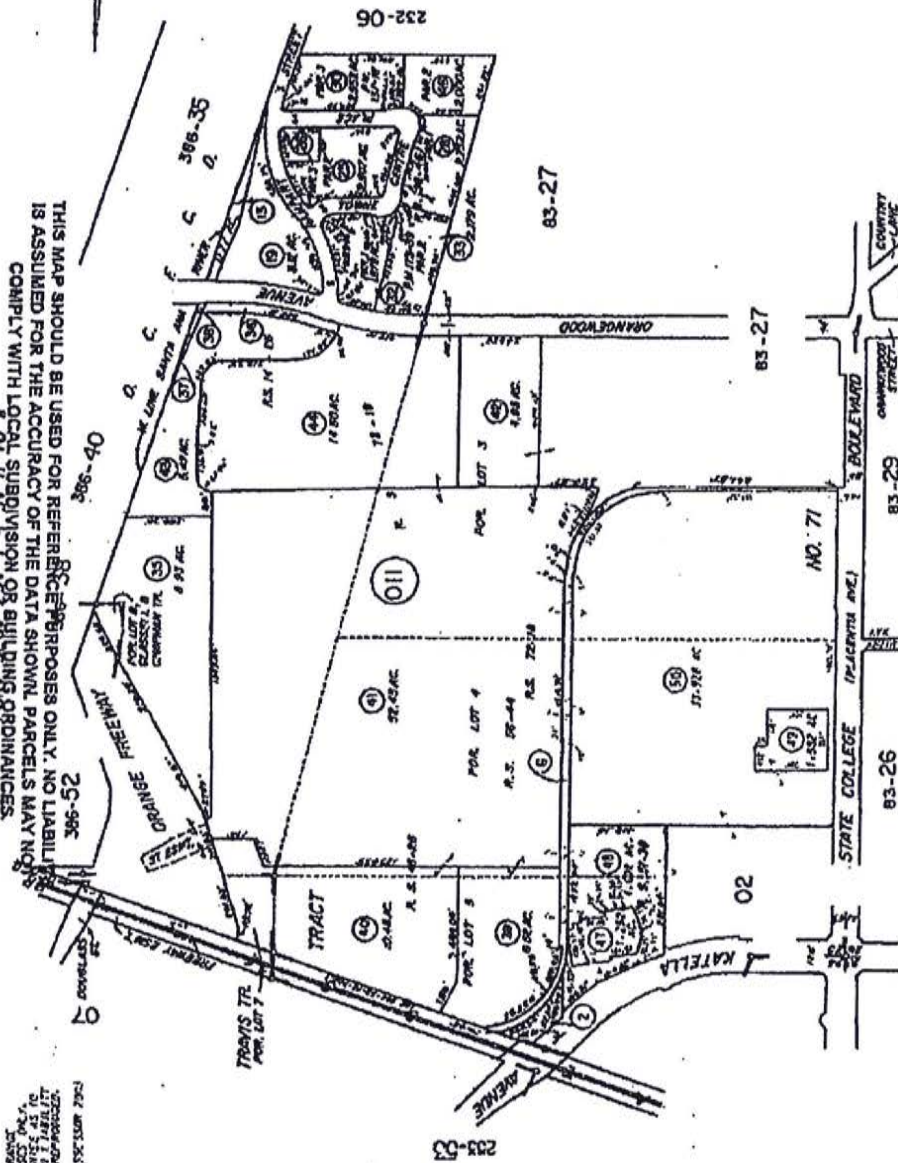
MAP

232-01



THIS MAP SHOULD BE USED FOR REFERENCE PURPOSES ONLY. NO LIABILITY IS ASSUMED FOR THE ACCURACY OF THE DATA SHOWN. PARCELS MAY NOT COMPLY WITH LOCAL SUBDIVISION OR BUILDING ORDINANCES.

THIS MAP WAS PREPARED BY THE COUNTY ASSESSOR'S OFFICE IN ACCORDANCE WITH THE PROVISIONS OF THE CONSTITUTION AND STATUTES OF THE STATE OF CALIFORNIA. THE ASSESSOR'S OFFICE HAS CONDUCTED A VISUAL INSPECTION OF THE TRACT AND PARCELS SHOWN HEREON AND HAS FOUND THEM TO BE ACCURATELY REPRESENTED ON THIS MAP.



TRAVIS TRACT
GLASSELL & CHAPMAN TR.
TRACT NO. 71
PARCEL MAP

MARCH 1965

NOTE - ASSESSOR'S BLOCK & PARCEL NUMBERS SHOWN IN CIRCLES

ASSESSOR'S MAP BOOK 232 PAGE 01 COUNTY OF ORANGE

IN WITNESS WHEREOF, the Members have caused this Agreement to be executed by their duly authorized officers, and to have their official seals affixed hereto as of the date first stated above.

Dated: _____, 2012

ATTEST:

By: _____
Linda N. Andal, CMC
City Clerk

Dated: _____, 2012

ATTEST:

By: _____
Kathleen Bailor
City Clerk

Dated: _____, 2012

ATTEST:

By: Mary E. Murphy chief fir
Mary E. Murphy
City Clerk

CITY OF ANAHEIM

By _____
Tom Tait, Mayor

APPROVED AS TO FORM:

By: _____
Cristina Talley
City Attorney

CITY OF GARDEN GROVE

By _____
William J. Dalton, Mayor

APPROVED AS TO FORM:

By: _____
Thomas Nixon
City Attorney

CITY OF ORANGE

By Carolyn V. Cavecche
Carolyn V. Cavecche, Mayor

APPROVED AS TO FORM:

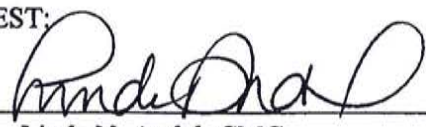
By: Wayne Winthers
Wayne Winthers
City Attorney

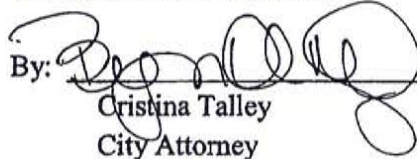
IN WITNESS WHEREOF, the Members have caused this Agreement to be executed by their duly authorized officers, and to have their official seals affixed hereto as of the date first stated above.

Dated: 11/6, 2012

CITY OF ANAHEIM

By: 
Tom Tait, Mayor

ATTEST:
By: 
Linda N. Andal, CMC
City Clerk

APPROVED AS TO FORM:
By:  for
Cristina Talley
City Attorney

Dated: _____, 2012

CITY OF GARDEN GROVE

By: _____
William J. Dalton, Mayor

ATTEST:
By: _____
Kathleen Bailor
City Clerk

APPROVED AS TO FORM:
By: _____
Thomas Nixon
City Attorney

Dated: _____, 2012

CITY OF ORANGE

By: _____
Carolyn V. Cavecche, Mayor

ATTEST:
By: _____
Mary E. Murphy
City Clerk

APPROVED AS TO FORM:
By: _____
Wayne Winthers
City Attorney

IN WITNESS WHEREOF, the Members have caused this Agreement to be executed by their duly authorized officers, and to have their official seals affixed hereto as of the date first stated above.

Dated: _____, 2012

CITY OF ANAHEIM

By _____
Tom Tait, Mayor

ATTEST:

APPROVED AS TO FORM:

By: _____
Linda N. Andal, CMC
City Clerk

By: _____
Cristina Talley
City Attorney

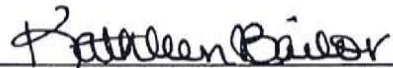
Dated: _____, 2012

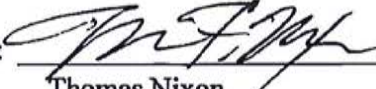
CITY OF GARDEN GROVE

By 
William J. Dalton, Mayor

ATTEST:

APPROVED AS TO FORM:

By: 
Kathleen Bailor
City Clerk

By: 
Thomas Nixon
City Attorney

Dated: 11/20/2012, 2012

CITY OF ORANGE

By _____
Carolyn V. Cavecche, Mayor

ATTEST:

APPROVED AS TO FORM:

By: _____
Mary E. Murphy
City Clerk

By: _____
Wayne Winthers
City Attorney



COUNCIL AGENDA REPORT

City of Anaheim FIRE DEPARTMENT

DATE: OCTOBER 23, 2012

FROM: FIRE DEPARTMENT

SUBJECT: AMENDED AND RESTATED NORTH NET JOINT POWERS
TRAINING AGREEMENT BETWEEN THE CITIES OF
ANAHEIM, ORANGE, AND GARDEN GROVE TO LEASE AND
OPERATE A JOINT TRAINING CENTER

ATTACHMENT (Y/N): YES **ITEM # 19**

RECOMMENDATION:

That the City Council, by Motion, approve and authorize the Mayor and City Clerk to execute the Amended and Restated North Net Joint Powers Training Agreement.

DISCUSSION:

The member agencies of the North Net Joint Powers Authority (JPA) established the North Net Training Authority by an agreement entered into in 1976, along with four amendments to the 1976 Agreement dated in 1977, 1979, 1988 and 1994. The JPA Board and Member Fire Chiefs are proposing that each City adopt the attached "Amended and Restated North Net Joint Powers Training Agreement", which would supersede and replace the 1976 Agreement and all amendments thereto. The proposed Agreement is being patterned after the Metro Net Joint Powers Authority model. The Fire Chiefs are in agreement that the Metro Net model has served the member agencies well and that this same model will bring stability and efficiency to the North Net operation.

Currently the finance, administration, and legal functions of the JPA are split among the three member agencies. The new agreement, following the Metro Net model, will bring these functions together with Anaheim as the administrator thereby creating a more cohesive and efficient operation. The agreement would provide for the hiring of an Administrator for the day-to-day operation of the Training Center. The Administrator would be an employee of Anaheim and subject to Anaheim's personnel rules. Any administrator appointed by Anaheim would be subject to the approval of the JPA Board. Anaheim would provide other Training Center services as needed to the extent permitted by the Board's budget. Under the current scenario the day-to-day operations of the Training Center are handled by a full-time Senior Secretary, an Anaheim Training Captain, and part time support from other personnel of the other JPA agencies.

Under this new agreement, the cities' Fair Share Percentages for the next fiscal year would be as follows: Anaheim, 49.6%, Garden Grove, 22%, and Orange, 28.4%. Each member's Fair Share Percentage is calculated annually based on its total number of sworn firefighter positions as a percentage of the total for all members combined. Orange and Garden Grove will pay Anaheim an administrative fee of 12% in addition to their Fair Share contributions.

The member agencies of North Net established a Joint Powers Authority for the purpose of operating a Joint Training Center by an agreement entered into in 1976. The JPA Board has approved and are proposing that the attached Agreement be adopted, which would supersede and replace the 1976 Agreement. The proposed Agreement is patterned after the Metro Net Joint Powers Authority model which has served the member agencies well and will bring stability and efficiency to the North Net operation.

IMPACT ON BUDGET:

There is no impact to the budget in the current fiscal year. Budget appropriations for future years will be subject to the City's annual budget adoption process.

Respectfully submitted,

Randy R. Bruegman
Fire Chief

Attachment:

1. Amended and Restated North Net Joint Powers Training Agreement

ORIGINAL

**AMENDED AND RESTATED
NORTH NET JOINT POWERS TRAINING AGREEMENT**

By and Between

CITY OF ANAHEIM, CALIFORNIA

CITY OF GARDEN GROVE, CALIFORNIA

And

CITY OF ORANGE, CALIFORNIA

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**AMENDED AND RESTATED
NORTH NET JOINT POWERS TRAINING
AGREEMENT**

This Amended and Restated Joint Powers Agreement (“Agreement”), dated for purpose of identification this 1st day of November 2012 (the “Effective Date”) is made by and between the following public entities, (collectively, the “Parties”):

- A. City of Anaheim (“Anaheim”)
- B. City of Garden Grove (“Garden Grove”)
- C. City of Orange (“Orange”)

1. RECITALS

A. The Parties to this Agreement each provide fire protection, fire prevention, rescue, emergency medical and related administrative services within their respective boundaries.

B. The Parties have determined that joint use of a consolidated Training Center and record keeping system reduces the administrative costs that would otherwise be incurred by each Party in providing fire suppression, emergency medical assistance, rescue service, and related services.

C. The Parties have determined that the costs associated with maintaining the staff and equipment necessary to operate a consolidated Training Center should be funded by the Parties through a formal Joint Powers Agreement with costs apportioned as outlined by this Agreement..

D. The Parties have determined that joint use of a consolidated Training Center is also intended to foster cooperation among the Parties in the form of other separate written agreements.

E. The Parties each have the power and authority to perform and contract with one another pursuant to the Joint Exercise of Powers Act (Section 6500 et. seq. of the Government Code) for the performance of the duties and functions that form the basis of this Agreement.

F. The Parties have the power to contract with other agencies for training services, equipment and related items.

G. The Parties entered in the initial Joint Powers Agreement on October 5, 1976 (“1976 Agreement”). There is an amendment to the 1976 Agreement dated February 8, 1977, an addendum entered into in 1979, an amendment dated February 23, 1988, and an amendment dated in 1994 (the “Amendments”). The Parties intend that in entering into this Agreement that

this Agreement shall replace in their entirety the 1976 Agreement and all amendments and/or addendums to the 1976 Agreement.

AGREEMENT

In consideration of the foregoing recitals and the mutual covenants contained in this Agreement, it is agreed between and among each of the parties hereto as follows:

CHAPTER 1. DEFINITIONS

- 1.1. "Administrator" shall mean the Training Center Manager.
- 1.2. "Authority" shall mean the Joint Powers Authority known as the North Net Training Authority, created by this Agreement pursuant to the Joint Exercise of Powers Act (Government Code sections 6500 et seq.).
- 1.3. "Board" is the governing body of the Authority.
- 1.4. "Board Director" shall mean the voting representative or alternate appointed by the governing body of each Member agency to represent said agency on the Board.
- 1.5. "Capital Improvement Project" shall mean the acquisition of any piece of Training Equipment or the funding of any Training Center related project that requires an expenditure of \$30,000.00 or more.
- 1.6. "Capital Outlay" shall mean the acquisition of any piece of Training Equipment or the funding of any Training Center related project that requires an expenditure of \$500.00 or more but less than \$30,000.00.
- 1.7. "Fiscal Year" shall mean the twelve month period commencing July 1st and concluding June 30th.
- 1.8. "Member" shall mean any public entity that is a party to this Agreement upon the Effective Date or becomes a party to this Agreement pursuant to the provisions of Section 8.1, and has not withdrawn from such membership or been terminated from such membership pursuant to Sections 8.2 or 8.3.
- 1.9. "Property" shall mean the land described in the legal description and depicted in the map attached hereto as Exhibit "A", commonly referred to as 2400 E. Oranewood Avenue, Anaheim, CA and the Training Center, as defined herein.
- 1.10. "Subscriber Agency" means each of the public agencies that are not Members that wish to contract with the Authority to receive training services, and contribute to the cost of

operating and administrating this Authority by executing and administering a subscriber agreement in a form approved by the Board.

1.11. "Training Center" shall mean that structure or physical facility that houses Training Center Equipment and/or Training Center Staff and any other structures or fixtures, which are located upon the Property.

1.12. "Training Center Equipment" shall mean all equipment utilized for the fire or rescue-related emergency Training Center or other facilities acquired for use by the Authority which are not included within the definition of Training Center.

1.13. "Training Center Staff" or "Staff" shall mean all personnel of the City of Anaheim performing services related to the operations and maintenance of the Training Center, or such agency or individual as may be appointed by the Board to perform these functions.

CHAPTER 2. PURPOSE AND POWERS

2.1. AUTHORITY CREATED

The Authority is formed pursuant to the provision of Article 1, Chapter 5, Division 7 of Title I of the Government Code of the State of California (The Joint Exercise of Powers Act). The Authority shall be considered a public entity separate and apart from the Members. Within thirty (30) days after the Effective Date and after any amendment, the Authority shall cause a notice of this Agreement or amendment to be prepared and filed with the office of the California Secretary of State containing the information required by Government Code 6503.5.

2.2. COMMON POWERS

Each Party has the common power to, inter alia:

- a. Provide fire protection, fire suppression, fire prevention, emergency medical, rescue and related services;
- b. Maintain an effective training system to facilitate and support fire protection, fire suppression, rescue and emergency medical services;
- c. Employ personnel to perform emergency based training, Training Center maintenance and the purchase of training center equipment.

2.3. GENERAL PURPOSE

The general purpose of this Agreement is to provide for the operation, upgrade, maintenance and repair of the Training Center and Training Center Equipment. This Agreement

is intended to provide a formal mechanism by which the Authority can fund these activities to provide the highest possible level of emergency training services.

2.4. POWERS

The Authority, through its Board, shall have the power, in its own name, to do any of the following:

- A. To jointly exercise the common powers of the Members;
- B. To make and enter into contracts, including but not limited to, contracting with other public agencies for services, equipment and related items to those agencies;
- C. To retain the services of fire suppression specialists, emergency consultants, and such other persons with specialized knowledge or ability capable of assisting the Members in achieving the purposes of this Agreement;
- D. To acquire, hold or dispose of property by any lawful means, including, without limitation, by gift, purchase or sale;
- E. To incur debts, liabilities or obligations, subject to the limitations specified in this Agreement and, to the extent permitted by law, borrow funds on temporary basis to meet operational expenses until expected revenue are available;
- F. To the extent permitted by law, to enter into equipment lease agreements or lease-purchase agreements or other financial arrangements extending beyond the current budgetary cycle, necessary or convenient to the operation of the Authority (hereinafter collectively "lease") so long as the Agreement contains substantially the following provisions:

The Authority receives its funds on an annual budgetary cycle from its individual Members. The Authority agrees to use its best efforts to obtain authorization and appropriation of funds from its individual Members to pay lease payments due under this Agreement, including, without limitation, the inclusion in its budget request for each fiscal year during the term of this Agreement a request for adequate funds to meet in full its obligation hereunder. The Board may terminate this Agreement in the event funds are not appropriated or appropriations are withdrawn or withheld upon thirty (30) days written notice. Termination under this provision shall not constitute a default or breach. The Authority shall not be obligated to pay any additional lease payments but shall, after written notice from Lessor, deliver the Training Center Equipment to Lessor or its

assignee. Lessor acknowledges that the individual Members shall not be liable for the debts of the Authority.

- G. To enter into leases, agreements and similar transactions that require the Authority to indemnify the person with whom the Board is contracting, so long as the exposure to liability under such indemnification is approved by the Risk Manager of Anaheim and by Legal Counsel of the Authority and so long as the maximum exposure to liability under such transaction does not exceed One Million Dollars (\$1,000,000);
- H. To receive gifts, contributions, grants, and donations of property, funds, services and other forms of assistance from any person, firm, entity, corporation or public agency;
- I. To sue and be sued in its own name;
- J. To apply for any grant or grants offered in conjunction with any Federal, State or local program that is in any way related to the purpose of this Agreement;
- K. To adopt rules, regulations, policies, by-laws and procedures governing the operation of the Authority; and
- L. To exercise any other power in the manner and according to the methods provided by applicable laws, rules or regulations, subject only to the restrictions on the manner of exercising such powers that may be applicable to the Members.

CHAPTER 3. ORGANIZATION

3.1. MEMBERSHIP

The Members of this Authority shall be the public entities which executed this Agreement or a subsequent amendment and have not withdrawn from, or had membership in the Authority terminated, as provided in Sections 8.2 and 8.3 hereof.

3.2. BOARD

- A. The Board shall consist of one (1) voting director and one (1) alternate appointed by the governing body of each Member, which director and alternate shall be selected from the legislative body of each Member.
- B. Each Board Director, which is defined to include the alternate, shall hold office from the first meeting of the Board after appointment and shall serve at the pleasure of the appointing legislative body.

- C. A Board Director shall not receive compensation, but may be reimbursed by the Authority for expenses reasonably incurred while performing duties required by this Agreement and as further specified and limited by resolution of the Board.
- D. Annually, at its first meeting of each new fiscal year, the Board shall select a chairperson and vice chairperson from its members and shall appoint a secretary who may, but need not, be a member of the Board. The chairperson, vice chairperson and secretary shall hold office for one year or until such time as a successor is appointed.

3.3. PRINCIPAL OFFICE

The principal office of the Authority shall be 2400 E. Orangewood Avenue, Anaheim, CA. The Board has the full power and authority to change the principal office from one location to another as long as same is within the Authority's jurisdiction.

3.4. MEETINGS

The Board shall meet at the principal office of the Authority, or at such other place as may be designated by the Board. The time and place of regular meetings of the Board shall be determined by resolution. Regular, adjourned and special meetings of the Board shall be called, noticed and conducted in accordance with the Ralph M. Brown Act or other relevant open meeting law. Each Member shall only be entitled to have one Board Director in attendance to establish a quorum or to vote upon matters coming before the Board.

3.5. QUORUM

Attendance by a majority of the Board Directors at a meeting shall constitute a quorum for the purpose of transacting business relating to the Authority.

3.6. POWERS AND LIMITATIONS

All of the powers of the Authority are reserved to it and may be exercised by the Board, unless otherwise limited by law. Each Board Director shall be entitled to one vote and, except as expressly provided in this Agreement, including Sections 9.2 and 10.1, the affirmative vote of the majority of those present and qualified shall effect adoption of any motion, resolution, order or action the Board deems appropriate.

3.7. AGENDAS-SECRETARY DUTIES

The secretary of the Authority shall provide notice of, prepare and post agendas for, and keep minutes of, each regular, adjourned and special meeting of the Board and other records, as necessary, of the Board. The secretary shall send a copy of the minutes to each Board member

and otherwise perform the duties necessary to ensure compliance with provisions of law including, without limitations, any applicable "open meeting law" such as the Ralph M Brown Act.

3.8. RULES

The Board may adopt rules and regulations for the conduct of its affairs that are not in conflict with this Agreement.

3.9. TREASURER

The Treasurer of the City of Anaheim shall hold the office of treasurer and auditor, in accordance with Government Code Section 6505.6, and shall perform the duties as authorized in Section 6505 et seq. of the Government Code. The treasurer shall cause an independent audit to be made by a Certified Public Accountant in compliance with Section 6505 of the Government Code. The Certified Public Accountant shall be annually appointed by the Board. The treasurer shall keep all revenues of the Authority in a separate account, and, if available, an interest bearing account, and otherwise perform the duties and responsibilities of that office as specified in Sections 6505 et seq. of Government Code. Any surplus funds not immediately needed may be invested in accordance with the investment policy annually adopted by the Board, as required by Government Code Section 53646, and consistent with Government Code Sections 53601, 53635, 16429.1 and 53684, as may be amended.

3.10. LEGAL COUNSEL

The Board shall contract with independent legal counsel to serve as general counsel to the Authority to provide routine legal counsel services as may be required from time to time, including, attendance of Board meetings when deemed necessary. In the absence of a contract for independent counsel, the Anaheim City Attorney's Office shall serve as general counsel. Extraordinary legal services (for example prosecuting or defending the Authority, its officers, and agents in a legal action) shall be considered additional expenses and not covered by the administrative fee set forth in Section 5.2 of this Agreement.

3.11. BOND

The treasurer, auditor and such other persons who may have access to, or handle, any revenue of the Authority shall be required to file an official bond in an amount determined by the Board and consistent with the provisions of Section 6505.1 of the Government Code. This bonding requirement shall be satisfied if an existing bond is extended to cover the duties required by this Agreement. The costs of complying with the requirements of this Section shall be considered an administrative expense of the Authority.

3.12. STATUS OF OFFICERS AND EMPLOYEES

In accordance with the Joint Exercise of Powers Act, all of the privileges and immunities from liability, exemptions from laws, ordinances and rules, and all pension, relief, disability, workers compensation and other benefits which apply to the activities of officers, agents, or employees of any of the Member's agency when performing their respective duties or functions for that agency, shall apply to each of them to the same degree and extent while engaged in the performance of any activity, function or duty pursuant to the Agreement.

3.13. POLITICAL REFORM ACT

The Board Directors, and their alternates, shall be considered public officials within the meaning of the Political Reform Act of 1974, as amended, and its regulations, for the purposes of financial disclosure, conflict of interest and other requirements of such Act and regulations and shall file annual statements of economic interest as required, along with any other officers of the Authority who may be required to do so. Other persons working for or on behalf of the Authority may be required to file such statements in accordance with the Authority's conflict of interest code.

CHAPTER 4. BASIC SERVICES

4.1. TRAINING CENTER – OPERATIONS

- A. The Training Center shall be maintained and operated by the Authority, pursuant to this Agreement, for the use and benefit of all Members. The Administrator of the Training Center shall be an at-will employee of Anaheim so long as Anaheim operates and administers the Training Center; provided that any appointment of the Administrator and any compensation to be paid to the Administrator from the Authority's budget are subject to final approval of the Board. General Counsel shall be responsible for placing the annual performance evaluation of the Administrator on the Board's agenda for closed session at the Board's first meeting in each calendar year, although the Board may at any other time place the Administrator's performance evaluation on the agenda.
- B. Unless otherwise provided for by the Board, Anaheim shall, through use of Anaheim employees, fill all positions and provide all services required to operate, maintain and administer the Training Center and shall be responsible for the day-to-day administration and operation of the Training Center. The Authority shall pay the actual costs of such operation and administration, plus an administrative overhead fee as provided herein. The costs of such operation and administration, including administrative overhead, shall be borne by each Member according to its Fair Share Percentage as determined pursuant to Chapter 5 of this Agreement.

- C. The Board is empowered to develop and establish the budget, staffing and service levels for the Training Center operation and maintenance. No Member may create any staff position or be entitled to receive any reimbursement for any staff time or costs related to the operation and maintenance of the Training Center unless the position and/or reimbursement falls within the budget approved by the Board or otherwise has received the prior approval of the Board.
- D. Each Member shall provide training officers from each Member's Fire Department, whose compensation and cost reimbursements, if any, shall be the sole obligation of the employing Member. Except as is specifically provided herein, employees working in or otherwise utilizing the Training Center shall be governed by the same personnel rules, regulations, bargaining agreements, terms and conditions of employment, administrative regulations and other related matters as apply to them with respect to their employment with a Member or a Subscriber.
- E. In performing the day-to-day administration and operation of the Training Center, Anaheim will determine the procedures and standards of selection for employment and promotion, direct its employees, take disciplinary action, relieve its employees from duty, and determine the methods, means and personnel by which it will meet the service levels established by the Authority; provided that Anaheim shall solicit and consider input from the Members with respect to these decisions, although final authority rests with Anaheim, except to the extent specifically provided in this Agreement.
- F. Anaheim may elect to discontinue providing services for the operations and administration of the Training Center by giving notice of such election in writing to the Board a minimum of six (6) months prior to such discontinuance. In the event of such discontinuance by Anaheim, the Board may appoint another Member to perform such duties or contract with another provider of such services. Anaheim's election to discontinue providing the services set forth herein does not constitute withdrawal from the Authority.
- G. The Board may elect to terminate Anaheim's services as operator and administrator of the Training Center by giving notice of such election in writing to Anaheim a minimum of six (6) months prior to the date of such termination. In the event of such termination, the Board may appoint another Member as the administrator or contract with another provider of such services. Such termination of Anaheim's services does not in and of itself constitute either withdrawal or termination of Anaheim from the Authority or any other Member of the Authority.

4.2. MAINTENANCE OF EQUIPMENT

- A. The Authority through the Board shall maintain and repair the Training Center.
- B. The Authority through the Board shall purchase new or used Training Equipment as necessary to replace existing equipment or upon a determination by the Board that additional Training Equipment will facilitate emergency training.

4.3. SERVICES TO AND REIMBURSEMENT FROM SUBSCRIBER AGENCIES

- A. Public agencies in Orange County may receive training services, (hereinafter "Training Services") from the Authority by executing a "Subscription Agreement" in the form approved by the Board and by paying the annual fee and/or other costs, as determined by the Board. Such Subscriber Agencies must sign the Subscription Agreement prior to receiving services or sharing equipment or other items. Thereafter, a Subscriber Agency must pay its annual fee by July 30 of the fiscal year for which subscription is desired. Subscription Agreements shall renew automatically from year to year unless otherwise specified in the Subscription Agreement. Subscriber Agencies which subscribe for an entire fiscal year may, at their option, elect to pay their fee in four equal installments due and owing on or before July 30, October 1, January 1 and April 1. Subscriber Agencies which choose to become Subscriber Agencies after the commencement of the fiscal year must sign the Subscription Agreement and the full amount of the annual fee prior to seeking services. Fees for subsequent fiscal years may be revised by the Board.
- B. The Board may, without cause or reason, terminate any or all Subscription Agreements by giving the affected Subscriber Agency ninety (90) days prior written notice. If the termination occurs prior to the end of fiscal year, the terminated Subscriber Agency's annual fee shall be prorated and refunded if such a refund is owed.
- C. Revenue from Subscription Agencies shall be allocated as directed by the Board.

CHAPTER 5. FUNDING AND ADMINISTRATION

5.1 FUNDING

- A. Each Member shall pay a portion of the costs incurred by the Authority in administering this Agreement in relationship to that Member's "Fair Share Percentage", which shall be determined every calendar year beginning on January

1, 2014. Each Member's Fair Share Percentage shall be calculated by dividing the total number of sworn firefighter positions of all Members divided by the number of sworn firefighter positions of each Member as same existed on January 1 of each calendar year.

- B. Each Member's Fair Share Contribution shall be multiplied by the adopted budget amount for the upcoming Fiscal Year to determine the Fair Share Contribution amount. Anaheim shall bill each Member on a quarterly basis beginning July 1 of each fiscal year and payment shall be due within 30 days after receipt of each invoice.
- C. The Administrator, or his or her designee, shall invoice each Member that Member's Fair Share Percentage of the budget in accordance with the payment schedule set in Section 5.1B above or as otherwise adopted by Resolution of the Board. For the fiscal year 2013-2014, each Member's Fair Share Percentage shall be as follows:

| | |
|--------------|-------|
| Anaheim | 49.6% |
| Garden Grove | 22.0% |
| Orange | 28.4% |

- D. Final year-end adjustments of a Member's costs representing the difference between estimated annual expenditures and actual annual expenditures shall be calculated no later than the last day of the first quarter following the fiscal year in which such costs were incurred.

5.2 ADMINISTRATIVE SERVICES

As compensation for providing services under this Agreement, Members shall pay Anaheim an administrative fee of twelve percent (12%) of their Fair Share Percentage. Anaheim shall perform administrative services which include, but are not limited to general accounting of funds received and disbursed, preparation of invoices to Members, preparation of documents relative to any grant program, routine services from various departments within Anaheim as may be necessary from time to time, including but not limited to Human Resources and Labor Management Departments, Finance Department, Purchasing, Legal (if the Board has not contracted for General Counsel services), and such other functions as may be required by this Agreement or the provisions of any law including, without limitation, the Joint Exercise of Powers Act.

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5.3 EMERGENCY REPAIRS

In the event the Training Center suffers damage which requires emergency repairs, the Administrator is authorized without prior Board approval to expend funds to have the necessary emergency repairs made so that services are resumed as soon as possible, but in no event shall such expenditures exceed \$20,000 without prior Board approval. The Board shall convene as soon as reasonably practical to ratify any such expenditure and to approve any expenditure above that amount. The cost of such repairs shall be borne by each Member in accordance with its Fair Share Percentage.

5.4 CAPITAL IMPROVEMENTS-FUNDING

In the event the Training Center and/or Training Center Equipment is in need of repair or improvement, the Administrator shall solicit bids for such work from at least three (3) responsible firms, whenever practicable, in accordance with applicable state law. The Administrator shall then present said bids to the Board to award the contract to the lowest responsible bidder and to direct the accepted responsible bidder to make the repairs or improvements.

CHAPTER 6. BUDGETARY PROVISIONS

6.1 ANNUAL BUDGET

The Board shall adopt an annual budget pursuant to this Agreement and procedures adopted by the Board. A preliminary draft of the budget shall be presented to the Members by the last business day in March of each year for their review. Said budget shall be submitted to the Board for consideration and adoption.

6.2 SPECIAL BUDGETARY CONSIDERATION

- A. The budget adopted by the Board shall include but not be limited to:
1. A Training Center operations and Capital Outlay component, which shall provide for the personnel, maintenance and operations support, and capital acquisitions necessary for the joint operation of the Training Center as described in Sections 4.1 and 4.2.
 2. A Capital Improvement Project component, which shall provide for the acquisition or replacement of major Training Equipment items or fund major Training Center related projects.
 3. A Training Equipment capital reserve component, which shall be deposited into a common designated reserve account designed to defray

future replacement costs of major components of Training Center Equipment.

6.3 DISBURSEMENTS

The treasurer shall draw checks in accordance with policies and/or procedures established by the Member which employs the treasurer and as otherwise established by Resolution of the Board. A summation of such payments shall be presented to the Board as part of the treasurer's quarterly reports.

6.4 ACCOUNTS

All funds shall be placed in accounts and the receipt, transfer or disbursement of funds during the term of this Agreement shall be accounted for in accordance with generally accepted accounting principles applicable to government entities. There shall be strict accountability for all funds. All interest earnings, revenues and expenditures shall be reported quarterly to the Board.

6.5 EXPENDITURES WITHIN APPROVED ANNUAL BUDGET

All expenditures shall be within the limitations of the approved annual budget or as such budget is amended by the Board.

CHAPTER 7. LIABILITY/INSURANCE

7.1 LIABILITY

The debts, liabilities and obligations of the Authority shall not be considered the debts, liabilities or obligations of any Member, except as otherwise provided in this Chapter.

7.2 INDEMNIFICATION/HOLD HARMLESS/INSURANCE

- A. Except as specifically provided in this Subsection, the Authority shall defend, indemnify and hold harmless each Member, its officers, agents, employees, representatives and volunteers from and against any loss, injury, damage, claim, lawsuit, liability, expense, or damages of any kind or nature arising out of or in connection with the performance of services pursuant to this Agreement. The Authority shall finance its obligation pursuant to this Subsection by establishing a liability reserve fund, by purchasing commercial insurance, and/or by joining a joint powers insurance authority (JPIA). In the event that the Authority's financial obligations to indemnify, defend and hold harmless, pursuant to this Subsection, exceed the liability reserve fund and the proceeds from any applicable insurance or JPIA coverage maintained by the Authority (hereinafter "Unfunded

Liability”), the Members may agree to indemnify and hold harmless the Authority for such deficiency in accordance with the following: In the event an Unfunded Liability arises, the contribution of each Member shall be in an amount equal to the total Unfunded Liability multiplied by that Member’s Fair Share Percentage for the year in which the Unfunded Liability is to be paid. A Member shall not be liable for such deficiency unless it agrees to be bound by this provision. Other Members may, at their sole and complete discretion, agree to pick up the Fair Share Percentage of a Member who determines not to be liable for such deficiency, but absent such an agreement no Member shall be liable for such deficiency unless all Members unanimously agree to make a contribution as set forth herein.

- B. The Authority, its officers, agents, contractors, employees, representatives, Staff and volunteers, shall not be liable, in any manner, to any Member, or to an officer, official, or employee of any Member, for any loss, injury, damage, claim, lawsuit, liability, expense, or damages which may be incurred by, or brought against a Member which is providing any type of emergency response training undertaken by any Member pursuant to this Agreement, regardless of whether or not such liability may have arisen, in whole or in part, by the negligent acts, conduct, or omissions of one or more of the staff at the Training Center.
- C. Each Member shall assign to the Authority its rights, title, and interest to recover damages from any third party, to the extent that the Authority has met its obligations to such Member pursuant to this Section.
- D. Should any Member utilize the Training Center for its own individual purposes, outside the scope of the Authority, such Member shall indemnify, defend, and hold harmless the Authority and other Members from all claims, demands, actions, liability, or damages of any kind or nature, arising out of such use.
- E. Each Member shall defend, indemnify and hold harmless the Authority, its officers, agents, and representatives from and against any loss, injury, damage, claim, lawsuit, liability, expense, or damages of any kind or nature arising out of or in connection with any conduct of its employees while utilizing the Training Center to the extent that any such loss, injury, damage, claim, lawsuit, liability, expense or damages is caused by the negligence or willful misconduct of the Member’s employees.
- F. Subject to the limitation set forth in Section 7.2.B, the Authority shall purchase insurance and/or Anaheim may provide coverage through its existing JPIA, for the Property and Training Center which covers any damages or loss to the

Property and Training Center as well as any loss, injury, damage, claim, lawsuit, liability, expense, or damages alleging a dangerous condition of the Property and Training Center. The cost of such insurance shall be an expense of the Authority. A certificate of insurance evidencing such coverage or such other proof as may be reasonable acceptable to the Authority's General Counsel, shall be provided to the Clerk of the Board by June 30 of each year.

- G. No provisions of this Agreement shall be construed as to require any party to obtain or maintain liability or other insurance coverage not otherwise required by law.

7.3 WAIVER

Except as provided in Section 7.2 each Member waives any claim against, or right to sue, the Authority, or its respective officers, employees, staff, agents, contractors, representatives or volunteers for any loss, damage or injury that arises out of, or is any way related to, such Member providing any type of emergency training service. This waiver extends to liability for bodily injury or property damage that may be sustained by any Member or its officers, employees, contractors, or agents, and which was proximately caused, in whole or in part, by the negligent act, conduct, or omission of the Authority, its respective officers, employees, staff, agents, contractors, representatives or volunteers. However, this waiver does not extend to bodily injury or property damage caused by an unlawful, fraudulent or willful act or omission of the Authority or its officers or employees.

7.4 CLAIMS

- A. To the extent authorized by Government Code section 935 and any other laws, any and all claims against the Authority for money or damages, including any claims otherwise excepted from the claims filing requirement by Government Code Section 905, shall be subject to and presented within the time and manner prescribed in Part 3 of Division 3.6 of Title 1 of the Government Code. A signed written claim shall be presented to the Administrator by mail or personal delivery by the claimant or a person authorized by claimant to act on his or her behalf. The claim shall conform to the requirements of Government Code section 910.
- B. Unless otherwise designated by the Board, the Fire Chief of Each Member, or their designees shall comprise a Claims Committee. The Claims Committee shall, in consultation with legal counsel for the Authority, review all claims and make recommendations to the Board concerning their disposition.

CHAPTER 8. ADMISSION OR WITHDRAWAL OF MEMBERS

8.1 NEW MEMBERS

Public entities may become Members in the Authority upon such terms and conditions as may be specified by the Board. New Members shall pay a surcharge to be determined by the Board at the time of application.

8.2 WITHDRAWAL

A Member may withdraw from the Authority at the end of any fiscal year and terminate its rights and obligations pursuant to this Agreement by giving written notice of its intention to terminate to the secretary of the Board no later than December 31 prior to the fiscal year in which the Member intends to withdraw. The written notice shall be accompanied by a resolution or minute order of the legislative body of the Member specifying its intent to withdraw from the Authority. Withdrawal of a Member shall not relieve the withdrawing Member of its proportionate share of any debts or other liabilities incurred by the Authority prior to the effective date of such withdrawal, or any liabilities imposed upon or incurred by the Member pursuant to this Agreement prior to the effective date of such withdrawal. Any such withdrawal shall result in the forfeiture of all rights and claims of the withdrawing Member to any repayment of contributions or advances or other distribution of funds or property after withdrawal, including distribution in the event of termination of the Authority. Notwithstanding the foregoing, the forfeiture provision set forth in this Section shall not apply to the distribution of proceeds from the sale of the Property pursuant to Section 9.2C.

8.3 BREACH

The Board shall have the authority to terminate the membership of any Member in the event the Member materially breaches its duties pursuant to this Agreement. For the purposes of this Section, the term "material breach" shall include, without limitation, a failure to fund the budget in accordance with Chapter 6, the failure to make any contributions or pay any assessment when due, and the failure to defend or indemnify other Members as required in Chapter 7. The Board shall give the Member notice of the breach and the right to cure the breach within thirty (30) days of the notice. In the event the Member fails to cure breach within thirty (30) days when it is reasonably practical to do so, the Board shall have the right to immediately terminate the Membership. Termination of a Member for breach shall not relieve the terminated Member of its proportionate share of any debts or other liabilities incurred by the Authority or any liabilities imposed upon or incurred by the Member pursuant to this Agreement prior to the effective date of such termination. However, such termination shall result in the forfeiture of all rights and claims of the terminated Member to any repayment of contributions or advances or other distribution of funds or property after termination, including distributions in the event of termination of the Authority. Notwithstanding the foregoing, the forfeiture provision set forth in

this Section shall not apply to the distribution of proceeds from the sale of the Property pursuant to Section 9.2C.

8.4 PENALTIES

Notwithstanding Section 8.3, and without waiving any other remedies available by law or through this Agreement, the Board shall adopt policies and procedures imposing penalties and/or interest for the failure of any Member to pay any amounts due under this Agreement.

CHAPTER 9. TERMINATION AND DISPOSITION OF ASSETS

9.1 TERMINATION

The Authority shall continue to exercise the joint power specified in this Agreement until termination of this Agreement. This Agreement shall terminate if the majority of Members give the Authority written notice of their intention to withdraw as specified in Section 8.2 or if the Members mutually agree to terminate this Agreement. No termination of the Authority shall occur until all of its debts, liabilities, and obligations and other payment is made in accordance with the resolution of the Authority. No termination of the Authority shall occur which is contrary to the language, spirit or intent of any contract or agreement entered into by the Authority with the United States., the State of California, or any department, administration or agency of either.

9.2 DISTRIBUTION OF PROPERTY

- A. Upon termination of this Agreement, all Training Center Equipment shall be assigned an "operating life" by the Board. The Board shall also designate equipment which is critical or non-critical to the operation of the facilities. All Training Center Equipment either functioning within its operating life or beyond, shall be appraised by an independent appraiser retained by the Board and equipment designated as critical may be purchased first by Anaheim and then by any Member who is interested and who, having submitted a sealed bid, is the highest bidder. Such sealed bid shall not be lower than the appraised value. Non-critical equipment may be purchased by any Member based on procedures adopted by the Board. Training Center Equipment not purchased by a Member shall be sold to the public at appraised value or at public auction. The proceeds of all sales shall be paid to each Member pursuant to their Fair Share Percentage in the year the Training Center Equipment was purchased. Only those Members who paid a Fair Share Percentage when the Training Center Equipment was purchased or upon becoming a Member, shall be entitled to share in the proceeds of the sale.

- B. Upon termination of this Agreement, all Training Center Equipment solely purchased and maintained at the Training Center by a Member(s) shall be returned to the Member or Members holding title to the equipment.

- C. Anaheim is shown as the owner of record of the Property. Pursuant to Section 7 of the 1976 Agreement, the cities of Garden Grove and Orange paid Anaheim a pro rata share of the value of the Property based upon a appraisal of the Property performed in 1976, which valued the property at \$52,250 per acre. In the sole event of termination of this Agreement pursuant to Section 9.1, the Property shall be sold by Anaheim in accordance with Anaheim's then existing policies for the sale of its real property; provided that the Property shall be sold in a manner to achieve a sales price of at least fair market value which shall determined by a MAI appraiser selected by the Board. The net proceeds of the sale shall, within 35 days of receipt thereof, be distributed in relationship to the pro rata payments made by the cities of Garden Grove and Orange to Anaheim in or about 1976 for site acquisition costs, which distributions of proceeds shall be as follows: Anaheim – 46.66%; Garden Grove – 26.67%; and Orange—26.67%. In the event there is an escrow associated with the sale, the escrow shall include instructions directing that the net proceeds of the sale be distributed in accordance with this Section 9.2C. Notwithstanding the foregoing, Anaheim shall have the right to purchase Garden Grove's and Orange's interest in the Property in lieu of any sale thereof. If Anaheim exercises its right of first refusal and retains the Property, the Board shall direct an appraisal to be done by an MAI appraiser selected by the Board. Anaheim shall pay 26.67% of the appraised value to Garden Grove and 26.67% of the appraised value to Orange. This Section 9.2C shall apply irrespective of whether or not Anaheim, Garden Grove or Orange is a Member at the time this Agreement is terminated and this Section 9.2C is implemented.

- D. Upon termination of the Authority, any remaining funds, property or other assets of the Authority, following discharge of all debts, liabilities and obligations of the Authority, shall be distributed to the Members for any un-reimbursed advances, contributions, or in-lieu contributions made or given to the Authority by such Members, and distributed to all Members on the same basis as the annual distributions to Members under this Agreement.

///

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///

CHAPTER 10. MISCELLANEOUS

10.1 AMENDMENTS

Except for sections 9.2 and 10.1 herein, this Agreement may be amended with the approval of a majority of the Members. Amendments to Sections 9.2 and 10.1 shall require the unanimous approval of Members Anaheim, Garden Grove and Orange.

10.2 NOTICE

Any notice or instrument required to be given or delivered pursuant to this Agreement shall be deemed given when personally delivered to the Member of the Authority, or deposited in the United States mail, first class postage pre-paid, and properly addressed to the principal office of the Member or the Authority, which may be changed upon written notice as provided herein to all other Members. The principal office for each Member, which may be changed upon 30 days written notice to all Members, are as follows:

City of Anaheim:

Anaheim West Tower
201 South Anaheim Boulevard, Suite 300
Anaheim, CA 92805
Attn: Randy Bruegman, Fire Chief

With a copy to:

City of Anaheim
200 South Anaheim Boulevard
Anaheim, CA 92805
Attn: City Attorney

City of Garden Grove:

11301 Acacia Parkway
Garden Gove, CA 92840
Attn: Dave Bertka, Fire Chief

With a copy to:

City of Garden Grove
11222 Acacia Parkway
Garden Grove, CA 92840
Attn: City Attorney

City of Orange:

Orange Fire Department Headquarters
176 South Grand Street
Orange, CA 92866
Attn: Pat Dibb, Fire Chief

With a copy to:
City of Orange
300 East Chapman Avenue
Orange, CA 92866
Attn: City Attorney

10.3 PARTIAL INVALIDITY

If one or more of the Chapters, Sections, paragraphs or provisions of this Agreement is determined to be invalid or unenforceable by a court of competent jurisdiction, each and all of the remaining Chapters, Sections, paragraphs or provisions shall not be affected and shall continue to be valid and enforceable to the fullest extent permitted by law, provided, the remaining Chapters, Sections, paragraphs or provisions can be construed in substance to constitute the Agreement the Parties intended in the first instance.

10.4 GOVERNING LAW

This Agreement shall be construed in accordance with and governed by the laws of the State of California and the Members agree to submit to the jurisdiction of California courts.

10.5 INTEGRATION

This Agreement constitutes the entire agreement of the Members. No other agreement, oral or written, pertaining to the work to be performed under this Agreement shall be of any force or effect unless it is in writing and signed by the all Members. This Agreement supersedes, in their entirety the original 1976 Agreement establishing the Authority and any amendments entered into up to the effective date of this Agreement.

10.6 RECORDATION

Upon this Agreement being approved and fully executed, the Clerk of the Board shall cause this Agreement to be recorded and provide the Board with evidence of such recordation.

[Signatures on next page]

Exhibit A

DESCRIPTION:

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

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

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

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

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

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

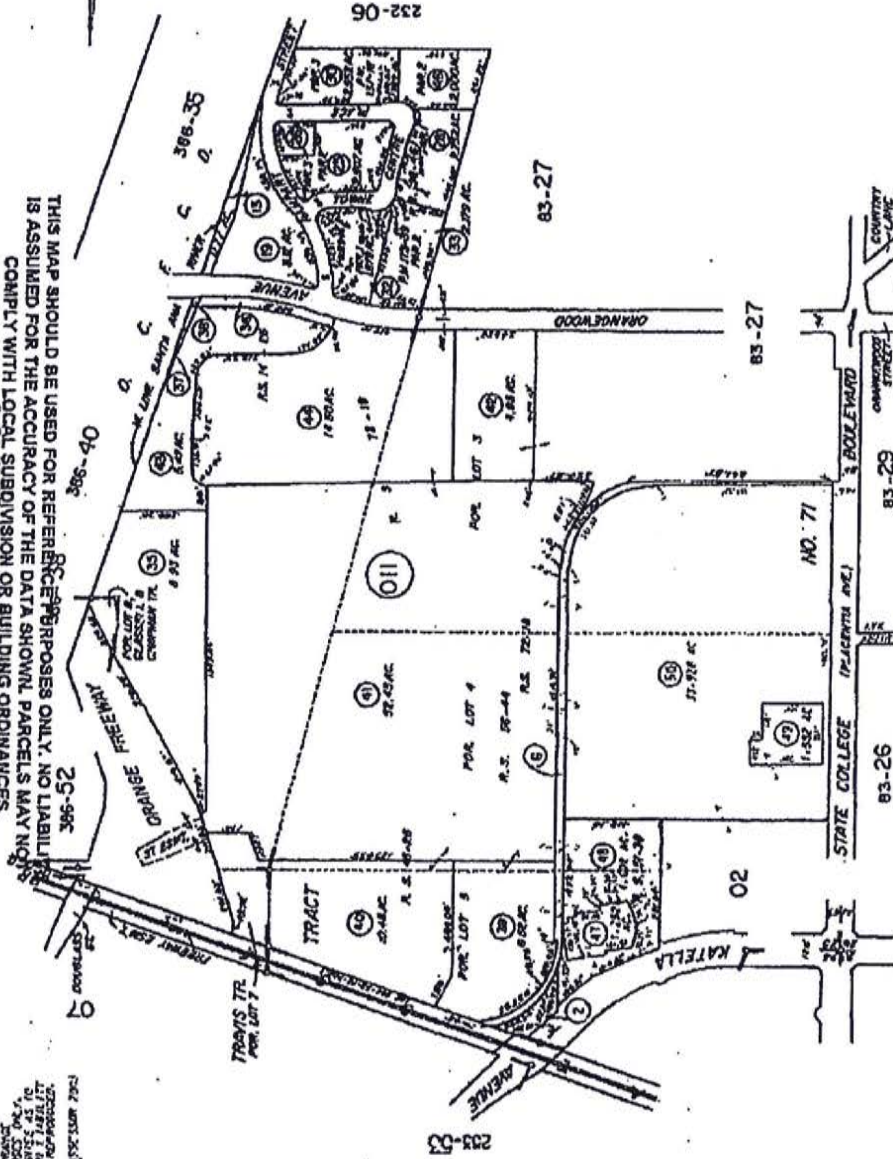
ALSO EXCEPTING THEREFROM THOSE PORTIONS OF PARCELS 1 AND 2, LYING EASTERLY OF THE WESTERLY LINE OF THE LAND DEEDED TO THE ORANGE COUNTY FLOOD CONTROL DISTRICT, BY DEED RECORDED FEBRUARY 2, 1962 IN BOOK 5996, PAGE 539 OF OFFICIAL RECORDS.

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

MAP

232-01

THIS MAP SHOULD BE USED FOR REFERENCE PURPOSES ONLY. NO LIABILITY IS ASSUMED FOR THE ACCURACY OF THE DATA SHOWN. PARCELS MAY NOT COMPLY WITH LOCAL SUBDIVISION OR BUILDING ORDINANCES.



ASSESSOR'S MAP
BOOK 232 PAGE 01
CITY OF ORANGE

NOTE - ASSESSOR'S BLOCK &
PARCEL NUMBERS
SHOWN IN CIRCLES

L.A. 1-66
L.A. 1-74 (see also roll map)
M.M. 10-22
P.M. 137-18, 173-39

TRAVIS TRACT
GLASSSELL & CHAPMAN TR.
TRACT NO. 71
PARCEL MAP

MARCH 1965

IN WITNESS WHEREOF, the Members have caused this Agreement to be executed by their duly authorized officers, and to have their official seals affixed hereto as of the date first stated above.

Dated: _____, 2012

ATTEST:

By: _____
Linda N. Andal, CMC
City Clerk

Dated: _____, 2012

ATTEST:

By: _____
Kathleen Bailor
City Clerk

Dated: _____, 2012

ATTEST:

By: Mary E. Murphy chief fir
Mary E. Murphy
City Clerk

CITY OF ANAHEIM

By _____
Tom Tait, Mayor

APPROVED AS TO FORM:

By: _____
Cristina Talley
City Attorney

CITY OF GARDEN GROVE

By _____
William J. Dalton, Mayor

APPROVED AS TO FORM:

By: _____
Thomas Nixon
City Attorney

CITY OF ORANGE

By Carolyn V. Cavecche
Carolyn V. Cavecche, Mayor

APPROVED AS TO FORM:

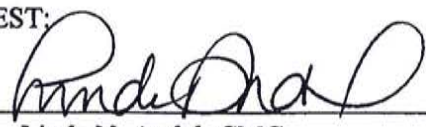
By: Wayne Winthers
Wayne Winthers
City Attorney

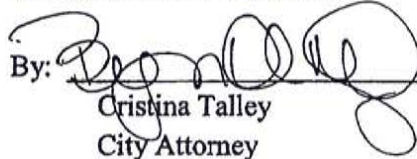
IN WITNESS WHEREOF, the Members have caused this Agreement to be executed by their duly authorized officers, and to have their official seals affixed hereto as of the date first stated above.

Dated: 11/6, 2012

CITY OF ANAHEIM

By: 
Tom Tait, Mayor

ATTEST:
By: 
Linda N. Andal, CMC
City Clerk

APPROVED AS TO FORM:
By:  for
Cristina Talley
City Attorney

Dated: _____, 2012

CITY OF GARDEN GROVE

By: _____
William J. Dalton, Mayor

ATTEST:
By: _____
Kathleen Bailor
City Clerk

APPROVED AS TO FORM:
By: _____
Thomas Nixon
City Attorney

Dated: _____, 2012

CITY OF ORANGE

By: _____
Carolyn V. Cavecche, Mayor

ATTEST:
By: _____
Mary E. Murphy
City Clerk

APPROVED AS TO FORM:
By: _____
Wayne Winthers
City Attorney

IN WITNESS WHEREOF, the Members have caused this Agreement to be executed by their duly authorized officers, and to have their official seals affixed hereto as of the date first stated above.

Dated: _____, 2012

CITY OF ANAHEIM

By _____
Tom Tait, Mayor

ATTEST:

APPROVED AS TO FORM:

By: _____
Linda N. Andal, CMC
City Clerk

By: _____
Cristina Talley
City Attorney

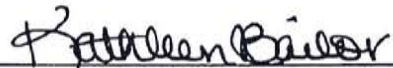
Dated: _____, 2012

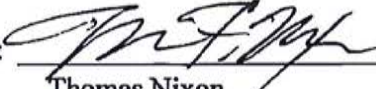
CITY OF GARDEN GROVE

By 
William J. Dalton, Mayor

ATTEST:

APPROVED AS TO FORM:

By: 
Kathleen Bailor
City Clerk

By: 
Thomas Nixon
City Attorney

Dated: 11/20/2012, 2012

CITY OF ORANGE

By _____
Carolyn V. Cavecche, Mayor

ATTEST:

APPROVED AS TO FORM:

By: _____
Mary E. Murphy
City Clerk

By: _____
Wayne Winthers
City Attorney



COUNCIL AGENDA REPORT

City of Anaheim FIRE DEPARTMENT

DATE: OCTOBER 23, 2012

FROM: FIRE DEPARTMENT

SUBJECT: AMENDED AND RESTATED NORTH NET JOINT POWERS
TRAINING AGREEMENT BETWEEN THE CITIES OF
ANAHEIM, ORANGE, AND GARDEN GROVE TO LEASE AND
OPERATE A JOINT TRAINING CENTER

ATTACHMENT (Y/N): YES **ITEM # 19**

RECOMMENDATION:

That the City Council, by Motion, approve and authorize the Mayor and City Clerk to execute the Amended and Restated North Net Joint Powers Training Agreement.

DISCUSSION:

The member agencies of the North Net Joint Powers Authority (JPA) established the North Net Training Authority by an agreement entered into in 1976, along with four amendments to the 1976 Agreement dated in 1977, 1979, 1988 and 1994. The JPA Board and Member Fire Chiefs are proposing that each City adopt the attached "Amended and Restated North Net Joint Powers Training Agreement", which would supersede and replace the 1976 Agreement and all amendments thereto. The proposed Agreement is being patterned after the Metro Net Joint Powers Authority model. The Fire Chiefs are in agreement that the Metro Net model has served the member agencies well and that this same model will bring stability and efficiency to the North Net operation.

Currently the finance, administration, and legal functions of the JPA are split among the three member agencies. The new agreement, following the Metro Net model, will bring these functions together with Anaheim as the administrator thereby creating a more cohesive and efficient operation. The agreement would provide for the hiring of an Administrator for the day-to-day operation of the Training Center. The Administrator would be an employee of Anaheim and subject to Anaheim's personnel rules. Any administrator appointed by Anaheim would be subject to the approval of the JPA Board. Anaheim would provide other Training Center services as needed to the extent permitted by the Board's budget. Under the current scenario the day-to-day operations of the Training Center are handled by a full-time Senior Secretary, an Anaheim Training Captain, and part time support from other personnel of the other JPA agencies.

Under this new agreement, the cities' Fair Share Percentages for the next fiscal year would be as follows: Anaheim, 49.6%, Garden Grove, 22%, and Orange, 28.4%. Each member's Fair Share Percentage is calculated annually based on its total number of sworn firefighter positions as a percentage of the total for all members combined. Orange and Garden Grove will pay Anaheim an administrative fee of 12% in addition to their Fair Share contributions.

The member agencies of North Net established a Joint Powers Authority for the purpose of operating a Joint Training Center by an agreement entered into in 1976. The JPA Board has approved and are proposing that the attached Agreement be adopted, which would supersede and replace the 1976 Agreement. The proposed Agreement is patterned after the Metro Net Joint Powers Authority model which has served the member agencies well and will bring stability and efficiency to the North Net operation.

IMPACT ON BUDGET:

There is no impact to the budget in the current fiscal year. Budget appropriations for future years will be subject to the City's annual budget adoption process.

Respectfully submitted,

Randy R. Bruegman
Fire Chief

Attachment:

1. Amended and Restated North Net Joint Powers Training Agreement

**SECOND AMENDMENT TO AMENDED AND RESTATED
NORTH NET JOINT POWERS TRAINING AGREEMENT**

This Second Amendment to Amended and Restated North Net Joint Powers Agreement (hereafter, "Second Amendment") is entered into to be effective on the 1st day of July 2019, by and between the following public entities (collectively, the "Parties"):

- A. City of Anaheim
- B. City of Garden Grove
- C. City of Orange

RECITALS

A. The Parties entered into the Amended and Restated North Net Joint Powers Agreement dated November 1, 2012 (hereafter, the "Original Agreement").

B. The Parties entered into that First Amendment to Amended and Restated North Net Joints Powers Agreement effective as of June 1, 2013 ("First Amendment").

C. The Parties desire to amend the Original Agreement, as amended by the First Amendment, to modify the administrative fee paid to the City of Anaheim under the Original Agreement to reflect the fact that a full-time Administrator, paid directly by the Members, now administers the North Net Training Authority operations, which has significantly reduced the need for Anaheim's administrative services.

Now, therefore, the Parties agree as follows:

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

Section 2. Administrative Services. Section 5.2 of the Original Agreement is amended to provide that the Members' administrative fee paid to the City of Anaheim is to be reduced from twelve percent (12%) to six percent (6%) of the Members' Fair Share Percentage, effective beginning with the Fiscal Year beginning on July 1, 2019, and continuing thereafter.

Section 4. Integration. This Second Amendment amends, as set forth herein, the Original Agreement and First Amendment, except as specifically amended hereby, the Original Agreement and First Amendment shall remain in full force and effect. To the extent that there is any conflict or inconsistency between the terms and provisions of this Second Amendment and

the terms and provisions of the Original Agreement and First Amendment, the terms and provisions of this Second Amendment shall control and govern the rights and obligations of the Parties.

Section 4. Counterparts. This Second Amendment may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together will constitute one instrument.


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

Dated: 4/5/19

CITY OF ANAHEIM

By: 
MAYOR

ATTEST:
By: 
CITY CLERK

APPROVED AS TO FORM:
By: 
CITY ATTORNEY

Dated: _____

CITY OF GARDEN GROVE

By: _____
MAYOR

ATTEST:
By: _____
CITY CLERK

APPROVED AS TO FORM:
By: _____
CITY ATTORNEY

Dated: _____

CITY OF ORANGE

By: _____
MAYOR

ATTEST:
By: _____
CITY CLERK

APPROVED AS TO FORM:
By: _____
CITY ATTORNEY

the terms and provisions of the Original Agreement and First Amendment, the terms and provisions of this Second Amendment shall control and govern the rights and obligations of the Parties.

Section 4. Counterparts. This Second Amendment may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together will constitute one instrument.

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

Dated: _____

CITY OF ANAHEIM

By: _____
MAYOR

ATTEST:

APPROVED AS TO FORM:

By: _____
CITY CLERK

By: _____
CITY ATTORNEY

Dated: _____

CITY OF GARDEN GROVE

By: Steve Jones
MAYOR - Steve Jones

ATTEST:

APPROVED AS TO FORM:

By: Teressa Pomeroy
CITY CLERK - Teressa Pomeroy

By: Omar Sandoval
CITY ATTORNEY - Omar Sandoval

Dated: 4/16/19

CITY OF ORANGE

By: M. A. M. J.
MAYOR

ATTEST:

APPROVED AS TO FORM:

By: Parula Coleman
CITY CLERK

By: Janice
CITY ATTORNEY



DAVID A. DEBERRY
DIRECT DIAL: (714) 415-1088
DIRECT FAX: (714) 415-1188
E-MAIL: DDEBERRY@WSS-LAW.COM

December 9, 2019

TO: Orange County LAFCO
2677 North Main Street, Suite 1050
Santa Ana, CA 92705

FROM: David A. DeBerry

RE: North Net Training Authority

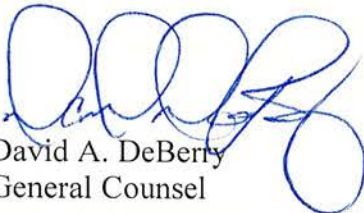
ENCLOSED: Amended and Restated North Net Joint Powers Training Agreement

- | | |
|--|---|
| <input checked="" type="checkbox"/> For your information | <input type="checkbox"/> Please telephone me so we can discuss the enclosed |
| <input checked="" type="checkbox"/> For your files | |
| <input type="checkbox"/> Pursuant to your request | <input type="checkbox"/> Please acknowledge receipt of the enclosed |
| <input type="checkbox"/> Please sign and return to me | <input type="checkbox"/> Please review and give us your comments |

To Whom It May Concern,

Pursuant to the California Joint Exercise of Powers Act (Government Code § 6500 et seq.) please find enclosed a copy of the Amended and Restated North Net Joint Powers Training Agreement.

If you have any questions or need anything further relating to this Second Amendment, please do not hesitate to contact me.


David A. DeBerry
General Counsel

RECEIVED
DEC 13 2019

LOCAL AGENCY FORMATION COMMISSION

Enclosure

**AMENDED AND RESTATED
NORTH NET JOINT POWERS TRAINING AGREEMENT**

By and Between

CITY OF ANAHEIM, CALIFORNIA

And

CITY OF ORANGE, CALIFORNIA

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**AMENDED AND RESTATED
NORTH NET JOINT POWERS TRAINING AGREEMENT**

This Amended and Restated Joint Powers Agreement (“Agreement”), dated for purpose of identification this ~~22~~²³ day of October, 2019 (the “Effective Date”) is made by and between the following public entities, (collectively, the “Parties”):

- A. City of Anaheim (“Anaheim”)
- B. City of Orange (“Orange”)

RECITALS

A. The Parties to this Agreement each provide fire protection, fire prevention, rescue, emergency medical and related administrative services within their respective boundaries.

B. The Parties have determined that joint use of a consolidated Training Center and record keeping system reduces the administrative costs that would otherwise be incurred by each Party in providing fire suppression, emergency medical assistance, rescue service, and related services.

C. The Parties have determined that the costs associated with maintaining the staff and equipment necessary to operate a consolidated Training Center should be funded by the Parties through a formal Joint Powers Agreement with costs apportioned as outlined by this Agreement.

D. The Parties have determined that joint use of a consolidated Training Center is also intended to foster cooperation among the Parties in the form of other separate written agreements.

E. The Parties each have the power and authority to perform and contract with one another pursuant to the Joint Exercise of Powers Act (Section 6500 et. seq. of the Government Code) for the performance of the duties and functions that form the basis of this Agreement.

F. The Parties have the power to contract with other agencies for training services, equipment and related items.

G. The Parties entered in the initial Joint Powers Agreement on October 5, 1976 (“1976 Agreement”). There is an amendment to the 1976 Agreement dated February 8, 1977, an addendum entered into in 1979, an amendment dated February 23, 1988, and an amendment dated in 1994. The Parties entered into an Amended and Restated Joint Powers Agreement dated November 1, 2012 (“2012 Agreement”). There is a first amendment to the 2012 Agreement dated June 1, 2013 and a second amendment to the 2012 Agreement dated July 1,

2019. The Parties intend that in entering into this Agreement that this Agreement shall replace in their entirety the 1976 Agreement and 2012 Agreement and all amendments and/or addendums thereto.

H. The Parties are entering into this Agreement due to the fact that the City of Garden Grove, one of the original members of the Authority, has withdrawn from the Authority effective June 30, 2019, due to its city council's decision to contract its fire services with the Orange County Fire Authority.

I. The Parties are also entering into this Agreement due to the fact that as part of a street improvement project, in 2019 the City of Anaheim acquired the Authority's tenant interest in a portion of the Property (as defined below) upon which the Training Center is located, terminating the Authority's interest in the portion acquired.

AGREEMENT

In consideration of the foregoing recitals and the mutual covenants contained in this Agreement, it is agreed between and among each of the parties hereto as follows:

CHAPTER 1. DEFINITIONS

1.1. "Administrator" shall mean the Fire Training Facility Administrator.

1.2. "Authority" shall mean the Joint Powers Authority known as the North Net Training Authority, created by this Agreement pursuant to the Joint Exercise of Powers Act (Government Code sections 6500 et seq.).

1.3 "Board" is the governing body of the Authority.

1.4 "Board Director" shall mean the voting representative or alternate appointed by the governing body of each Member agency to represent said agency on the Board.

1.5. "Capital Improvement Project" shall mean the acquisition of any piece of Training Equipment or the funding of any Training Center related project that requires an expenditure of \$30,000.00 or more.

1.6. "Capital Outlay" shall mean the acquisition of any piece of Training Equipment or the funding of any Training Center related project that requires an expenditure of \$500.00 or more but less than \$30,000.00.

1.7. "Fiscal Year" shall mean the twelve-month period commencing July 1st and concluding June 30th.

1.8. “Member” shall mean any public entity that is a party to this Agreement upon the Effective Date or becomes a party to this Agreement pursuant to the provisions of Section 8.1, and has not withdrawn from such membership or been terminated from such membership pursuant to Sections 8.2 or 8.3.

1.9. “Property” shall mean the land described in the legal description and depicted in the map attached hereto as Exhibit “A”, commonly referred to as 2400 E. Oranewood Avenue, Anaheim, CA and the Training Center, minus the acquisition of the Authority’s interest in the property described in the legal description and depicted in the map attached hereto as Exhibit “B” (“Acquired Parcel”), which was acquired by the City of Anaheim in 2019.

1.10. “Training Center” shall mean that structure or physical facility that houses Training Center Equipment and/or Training Center Staff and any other structures or fixtures, which are located upon the Property.

1.11. “Training Center Equipment” shall mean all equipment utilized for the fire or rescue-related emergency Training Center or other facilities acquired for use by the Authority which are not included within the definition of Training Center.

1.12. “Training Center Staff” or “Staff” shall mean all personnel of the City of Anaheim performing services related to the operations and maintenance of the Training Center, or such agency or individual as may be appointed by the Board to perform these functions.

CHAPTER 2. PURPOSE AND POWERS

2.1. AUTHORITY CREATED

The Authority is formed pursuant to the provision of Article 1, Chapter 5, Division 7 of Title I of the Government Code of the State of California (The Joint Exercise of Powers Act). The Authority shall be considered a public entity separate and apart from the Members. Within thirty (30) days after the Effective Date and after the effective date of any amendment, the Authority shall cause a notice of this Agreement or amendment to be prepared and filed with the office of the California Secretary of State containing the information required by Government Code 6503.5.

2.2. COMMON POWERS

Each Party has the common power to, inter alia:

- a. Provide fire protection, fire suppression, fire prevention, emergency medical, rescue and related services;

- b. Maintain an effective training system to facilitate and support fire protection, fire suppression, rescue and emergency medical services;
- c. Employ personnel to perform emergency based training, Training Center maintenance and the purchase of training center equipment.

2.3. GENERAL PURPOSE

The general purpose of this Agreement is to provide for the operation, upgrade, maintenance and repair of the Training Center and Training Center Equipment. This Agreement is intended to provide a formal mechanism by which the Authority can fund these activities to provide the highest possible level of emergency training services.

2.4. POWERS

The Authority, through its Board, shall have the power, in its own name, to do any of the following:

- A. To jointly exercise the common powers of the Members;
- B. To make and enter into contracts, including but not limited to, contracting with other public agencies for services, equipment and related items to those agencies;
- C. To retain the services of fire suppression specialists, emergency consultants, and such other persons with specialized knowledge or ability capable of assisting the Members in achieving the purposes of this Agreement;
- D. To acquire, hold or dispose of property by any lawful means, including, without limitation, by gift, purchase or sale;
- E. To incur debts, liabilities or obligations, subject to the limitations specified in this Agreement and, to the extent permitted by law, borrow funds on temporary basis to meet operational expenses until expected revenue are available;
- F. To the extent permitted by law, to enter into equipment lease agreements or lease-purchase agreements or other financial arrangements extending beyond the current budgetary cycle, necessary or convenient to the operation of the Authority (hereinafter collectively "lease") so long as the Agreement contains substantially the following provisions:

The Authority receives its funds on an annual budgetary cycle from its individual Members. The Authority agrees to use its best efforts to obtain authorization and appropriation of funds from its individual Members to

pay lease payments due under this Agreement, including, without limitation, the inclusion in its budget request for each fiscal year during the term of this Agreement a request for adequate funds to meet in full its obligation hereunder. The Board may terminate this Agreement in the event funds are not appropriated or appropriations are withdrawn or withheld upon thirty (30) days written notice. Termination under this provision shall not constitute a default or breach. The Authority shall not be obligated to pay any additional lease payments but shall, after written notice from Lessor, deliver the Training Center Equipment to Lessor or its assignee. Lessor acknowledges that the individual Members shall not be liable for the debts of the Authority.

- G. To enter into leases, agreements and similar transactions that require the Authority to indemnify the person with whom the Board is contracting, so long as the exposure to liability under such indemnification is approved by the Risk Manager of Anaheim and by Legal Counsel of the Authority and so long as the maximum exposure to liability under such transaction does not exceed One Million Dollars (\$1,000,000);
- H. To receive gifts, contributions, grants, and donations of property, funds, services and other forms of assistance from any person, firm, entity, corporation or public agency;
- I. To sue and be sued in its own name;
- J. To apply for any grant or grants offered in conjunction with any Federal, State or local program that is in any way related to the purpose of this Agreement;
- K. To adopt rules, regulations, policies, by-laws and procedures governing the operation of the Authority; and
- L. To exercise any other power in the manner and according to the methods provided by applicable laws, rules or regulations, subject only to the restrictions on the manner of exercising such powers that may be applicable to the Members.

CHAPTER 3. ORGANIZATION

3.1. MEMBERSHIP

The Members of this Authority shall be the public entities which executed this Agreement and have not withdrawn from, or had membership in the Authority terminated, as

provided in Sections 8.2 and 8.3 hereof and any public entities that join the Authority pursuant to Section 8.1 hereof.

3.2. BOARD

- A. The Board shall consist of one (1) voting director and one (1) alternate appointed by the governing body of each Member, which director and alternate shall be selected from the legislative body of each Member.
- B. Each Board Director, which is defined to include the alternate, shall hold office from the first meeting of the Board after appointment and shall serve at the pleasure of the appointing legislative body.
- C. A Board Director shall not receive compensation, but may be reimbursed by the Authority for expenses reasonably incurred while performing duties required by this Agreement and as further specified and limited by resolution of the Board.
- D. Annually, at its first meeting of each new fiscal year, the Board shall select a chairperson and vice chairperson from its members and shall appoint a secretary who may, but need not, be a member of the Board. The chairperson, vice chairperson and secretary shall hold office for one year or until such time as a successor is appointed.

3.3. PRINCIPAL OFFICE

The principal office of the Authority shall be 2400 E. Orangewood Avenue, Anaheim, CA. The Board has the full power and authority to change the principal office from one location to another as long as same is within the Authority's jurisdiction.

3.4. MEETINGS

The Board shall meet at the principal office of the Authority, or at such other place as may be designated by the Board. The time and place of regular meetings of the Board shall be determined by resolution. Regular, adjourned and special meetings of the Board shall be called, noticed and conducted in accordance with the Ralph M. Brown Act or other relevant open meeting law. Each Member shall only be entitled to have one Board Director in attendance to establish a quorum or to vote upon matters coming before the Board.

3.5. QUORUM

Attendance by a majority of the Board Directors at a meeting shall constitute a quorum for the purpose of transacting business relating to the Authority.

3.6. POWERS AND LIMITATIONS

All of the powers of the Authority are reserved to it and may be exercised by the Board, unless otherwise limited by law. Each Member shall be entitled to one Board Director vote and, except as expressly provided in this Agreement, including Sections 9.2 and 10.1, the affirmative vote of the majority of those Board Directors present and qualified shall effect adoption of any motion, resolution, order or action the Board deems appropriate.

3.7. AGENDAS-SECRETARY DUTIES

The secretary of the Authority shall provide notice of, prepare and post agendas for, and keep minutes of, each regular, adjourned and special meeting of the Board and other records, as necessary, of the Board. The secretary shall send a copy of the minutes to each Board member and otherwise perform the duties necessary to ensure compliance with provisions of law including, without limitations, any applicable "open meeting law" such as the Ralph M Brown Act.

3.8. RULES

The Board may adopt rules and regulations for the conduct of its affairs that are not in conflict with this Agreement.

3.9. TREASURER

The Finance Director of the City of Anaheim shall hold the office of treasurer and auditor of the Authority, in accordance with Government Code Section 6505.6, and shall perform the duties as authorized in Section 6505 et seq. of the Government Code. The treasurer shall cause an independent audit to be made by a Certified Public Accountant in compliance with Section 6505 of the Government Code. The treasurer shall keep all revenues of the Authority in a separate account, and, if available, an interest bearing account, and otherwise perform the duties and responsibilities of that office as specified in Sections 6505 et seq. of Government Code. Any surplus funds not immediately needed may be invested in accordance with the investment policy adopted by the Board, as required by Government Code Section 53646, and consistent with Government Code Sections 53601, 53635, 16429.1 and 53684, as may be amended.

3.10. LEGAL COUNSEL

The Board shall contract with independent legal counsel to serve as general counsel to the Authority to provide routine legal counsel services as may be required from time to time, including, attendance of Board meetings when deemed necessary. In the absence of a contract for independent counsel, a Member's City Attorney's Office, as determined by the Board, shall serve as general counsel. Extraordinary legal services (for example prosecuting or defending the

Authority, its officers, and agents in a legal action) shall be considered additional expenses and not covered by the administrative fee set forth in Section 5.2 of this Agreement.

3.11. BOND

The treasurer, auditor and such other persons who may have access to, or handle, any revenue of the Authority shall be required to file an official bond in an amount determined by the Board and consistent with the provisions of Section 6505.1 of the Government Code. This bonding requirement shall be satisfied if an existing bond is extended to cover the duties required by this Agreement. The costs of complying with the requirements of this Section shall be considered an administrative expense of the Authority.

3.12. STATUS OF OFFICERS AND EMPLOYEES

In accordance with the Joint Exercise of Powers Act, all of the privileges and immunities from liability, exemptions from laws, ordinances and rules, and all pension, relief, disability, workers compensation and other benefits which apply to the activities of officers, agents, or employees of any of the Member's agency when performing their respective duties or functions for that agency, shall apply to each of them to the same degree and extent while engaged in the performance of any activity, function or duty pursuant to the Agreement.

3.13. POLITICAL REFORM ACT

The Board Directors, and their alternates, shall be considered public officials within the meaning of the Political Reform Act of 1974, as amended, and its regulations, for the purposes of financial disclosure, conflict of interest and other requirements of such Act and regulations and shall file annual statements of economic interest as required, along with any other officers of the Authority who may be required to do so. Other persons working for or on behalf of the Authority may be required to file such statements in accordance with the Authority's conflict of interest code.

CHAPTER 4. BASIC SERVICES

4.1. TRAINING CENTER – OPERATIONS

- A. The Training Center shall be maintained and operated by the Authority, pursuant to this Agreement, for the use and benefit of all Members. The Administrator of the Training Center shall be an at-will employee of Anaheim so long as Anaheim operates and administers the Training Center; provided that any appointment of the Administrator and any compensation to be paid to the Administrator from the Authority's budget are subject to final approval of the Board. General Counsel shall be responsible for placing the annual performance evaluation of the

Administrator on the Board's agenda for closed session at the Board's first meeting in each calendar year, although the Board may at any other time place the Administrator's performance evaluation on the agenda.

- B. Unless otherwise provided for by the Board, Anaheim shall, through use of Anaheim employees, fill all positions and provide all services required to operate, maintain and administer the Training Center and shall be responsible for the day-to-day administration and operation of the Training Center. The Authority shall pay the actual costs of such operation and administration, plus an administrative overhead fee as provided herein. The costs of such operation and administration, including administrative overhead, shall be borne by each Member according to its Fair Share Percentage as determined pursuant to Chapter 5 of this Agreement.
- C. The Board is empowered to develop and establish the budget, staffing and service levels for the Training Center operation and maintenance. No Member may create any staff position or be entitled to receive any reimbursement for any staff time or costs related to the operation and maintenance of the Training Center unless the position and/or reimbursement falls within the budget approved by the Board or otherwise has received the prior approval of the Board.
- D. Each Member shall provide training officers from each Member's Fire Department, whose compensation and cost reimbursements, if any, shall be the sole obligation of the employing Member. Except as is specifically provided herein, employees working in or otherwise utilizing the Training Center shall be governed by the same personnel rules, regulations, bargaining agreements, terms and conditions of employment, administrative regulations and other related matters as apply to them with respect to their employment with a Member or a Subscriber.
- E. In performing the day-to-day administration and operation of the Training Center, Anaheim will determine the procedures and standards of selection for employment and promotion, direct its employees, take disciplinary action, relieve its employees from duty, and determine the methods, means and personnel by which it will meet the service levels established by the Authority; provided that Anaheim shall solicit and consider input from the Members with respect to these decisions, although final authority rests with Anaheim, except to the extent specifically provided in this Agreement.
- F. Anaheim may elect to discontinue providing services for the operations and administration of the Training Center by giving notice of such election in writing to the Board a minimum of six (6) months prior to such discontinuance. In the

event of such discontinuance by Anaheim, the Board may appoint another Member to perform such duties or contract with another provider of such services. Anaheim's election to discontinue providing the services set forth herein does not constitute withdrawal from the Authority by Anaheim.

- G. The Board may elect to terminate Anaheim's services as operator and administrator of the Training Center by giving notice of such election in writing to Anaheim a minimum of six (6) months prior to the date of such termination. In the event of such termination, the Board may appoint another Member as the administrator or contract with another provider of such services. Such termination of Anaheim's services does not in and of itself constitute either withdrawal or termination of Anaheim from the Authority or any other Member of the Authority.

4.2. MAINTENANCE OF EQUIPMENT

- A. The Authority through the Board shall maintain and repair the Training Center.
- B. The Authority through the Board shall purchase new or used Training Equipment as necessary to replace existing equipment or upon a determination by the Board that additional Training Equipment will facilitate emergency training.

4.3. FACILITY USE BY THIRD PARTIES

The Administrator is authorized to permit third parties to utilize the Training Center for training and instruction, as long as such use does not interfere with the use by Members and is not otherwise inconsistent with the purposes for which the Authority was formed. The use of the Training Center by third parties shall be in accordance with the Authority's Training Center use policy and fees for such use shall be charged as established by resolution of the Board.

CHAPTER 5. FUNDING AND ADMINISTRATION

5.1 FUNDING

- A. Each Member shall pay a portion of the costs incurred by the Authority in administering this Agreement in relationship to that Member's "Fair Share Percentage", which shall be determined every calendar year beginning on January 1, 2019. Each Member's Fair Share Percentage shall be calculated by dividing the total number of sworn firefighter positions of all Members divided by the number of sworn firefighter positions of each Member as same existed on January 1 of each calendar year.

- B. Each Member's Fair Share Contribution shall be as set forth in the adopted budget for the upcoming Fiscal Year to determine the Fair Share Contribution amount. Anaheim shall bill each Member on a quarterly basis beginning July 1 of each fiscal year and payment shall be due within 30 days after receipt of each invoice.
- C. The Treasurer, or his or her designee, shall invoice each Member that Member's Fair Share Percentage of the budget in accordance with the payment schedule set in Section 5.1B above or as otherwise adopted by Resolution of the Board. For fiscal year 2019-20, each Member's Fair Share Percentage was established as follows: Anaheim—64.51% Orange—35.49%.
- D. Final year-end adjustments of a Member's costs representing the difference between estimated annual expenditures and actual annual expenditures shall be calculated no later than the last day of the first quarter following the fiscal year in which such costs were incurred.

5.2 ADMINISTRATIVE SERVICES

As compensation for providing services under this Agreement, Members shall pay Anaheim an administrative fee of six percent (6%) of their Fair Share Percentage. Anaheim shall perform administrative services which include, but are not limited to general accounting of funds received and disbursed, preparation of invoices to Members, preparation of documents relative to any grant program, routine services from various departments within Anaheim as may be necessary from time to time, including but not limited to Human Resources and Labor Management Departments, Finance Department, Purchasing, Legal (if the Board has not contracted for General Counsel services or determined to have another Member provide such services), and such other functions as may be required by this Agreement or the provisions of any law including, without limitation, the Joint Exercise of Powers Act.

5.3 EMERGENCY REPAIRS

In the event the Training Center suffers damage which requires emergency repairs, the Administrator is authorized without prior Board approval to expend funds to have the necessary emergency repairs made so that services are resumed as soon as possible, but in no event shall such expenditures exceed \$20,000 without prior Board approval. The Board shall convene as soon as reasonably practical to ratify any such expenditure and to approve any expenditure above that amount. The cost of such repairs shall be borne by each Member in accordance with its Fair Share Percentage. For purposes of expenditures of \$20,000 or less as set forth in this Section 4.4, an emergency shall exist if a majority of the Members' fire chiefs and the Administrator agree the circumstances set forth in Public Contract Code section 20168 exist.

5.4 CAPITAL IMPROVEMENTS-FUNDING

In the event the Training Center and/or Training Center Equipment is in need of repair or improvement, the Administrator shall solicit bids for such work from at least three (3) responsible firms, whenever practicable, in accordance with applicable state law. If the repair or improvements exceeds the Administrator's purchasing authority as established in this Agreement or by resolution of the Board, the Administrator shall then present said bids to the Board to award the contract to the lowest responsible bidder and to direct the accepted responsible bidder to make the repairs or improvements.

CHAPTER 6. BUDGETARY PROVISIONS

6.1 ANNUAL BUDGET

The Board shall adopt an annual budget pursuant to this Agreement and procedures adopted by the Board. A preliminary draft of the budget shall be presented to the Members by the last business day in March of each year for their review. Said budget shall be submitted to the Board for consideration and adoption.

6.2 SPECIAL BUDGETARY CONSIDERATION

- A. The budget adopted by the Board shall include but not be limited to:
1. A Training Center operations and Capital Outlay component, which shall provide for the personnel, maintenance and operations support, and capital acquisitions necessary for the joint operation of the Training Center as described in Sections 4.1 and 4.2.
 2. A Capital Improvement Project component, which shall provide for the acquisition or replacement of major Training Equipment items or fund major Training Center related projects.
 3. A Training Equipment capital reserve component, which shall be deposited into a common designated reserve account designed to defray future replacement costs of major components of Training Center Equipment.

6.3 DISBURSEMENTS

The treasurer shall draw checks in accordance with policies and/or procedures established by the Member which employs the treasurer and as otherwise established by Resolution of the Board. A summation of such payments shall be presented to the Board as part of the treasurer's quarterly reports.

6.4 ACCOUNTS

All funds shall be placed in accounts and the receipt, transfer or disbursement of funds during the term of this Agreement shall be accounted for in accordance with generally accepted accounting principles applicable to government entities. There shall be strict accountability for all funds. All interest earnings, revenues and expenditures shall be reported quarterly to the Board.

6.5 EXPENDITURES WITHIN APPROVED ANNUAL BUDGET

All expenditures shall be within the limitations of the approved annual budget or as such budget is amended by the Board.

CHAPTER 7. LIABILITY/INSURANCE

7.1 LIABILITY

The debts, liabilities and obligations of the Authority shall not be considered the debts, liabilities or obligations of any Member, except as otherwise provided in this Chapter.

7.2 INDEMNIFICATION/HOLD HARMLESS/INSURANCE

- A. Except as specifically provided in this Subsection, the Authority shall defend, indemnify and hold harmless each Member, its officers, agents, employees, representatives and volunteers from and against any loss, injury, damage, claim, lawsuit, liability, expense, or damages of any kind or nature brought by a third party which arises out of or in connection with the performance of services pursuant to this Agreement. The Authority shall finance its obligation pursuant to this Subsection by establishing a liability reserve fund, by purchasing commercial insurance, and/or by joining a joint powers insurance authority (JPIA). In the event that the Authority's financial obligations to indemnify, defend and hold harmless, pursuant to this Subsection, exceed the liability reserve fund and/or the proceeds from any applicable insurance or JPIA coverage maintained by the Authority (hereinafter "Unfunded Liability"), the Members may agree to indemnify and hold harmless the Authority for such deficiency in accordance with the following: In the event an Unfunded Liability arises, the contribution of each Member shall be in an amount equal to the total Unfunded Liability multiplied by that Member's Fair Share Percentage for the year in which the Unfunded Liability is to be paid. A Member shall not be liable for such deficiency unless its legislative body agrees to contribute the Member's Fair Share Percentage toward the Unfunded Liability. Other Members may, at their sole and complete discretion, agree to pick up the Fair Share Percentage of a Member, or a portion

thereof, who determines not to be liable for the Unfunded Liability, but absent such an agreement no Member shall be liable for any portion of the Unfunded Liability unless all Members unanimously agree to make a contribution in the amount of their Fair Share Percentage.

- B. The Authority, its officers, agents, contractors, employees (if any), representatives, Staff and volunteers, shall not be liable, in any manner, to any Member, or to an officer, official, or employee of any Member, for any loss, injury, damage, claim, lawsuit, liability, expense, or damages which may be incurred by, or brought against a Member which is providing any type of training at the Training Center, regardless of whether or not such liability may have arisen, in whole or in part, by the negligent acts, conduct, or omissions of one or more of the staff at the Training Center.
- C. Each Member shall assign to the Authority its rights, title, and interest to recover damages from any third party, to the extent that the Authority has met its obligations to defend, indemnify and hold harmless such Member pursuant to this Section.
- D. Should any Member utilize the Training Center for its own individual purposes, outside the scope of the Authority, such Member shall indemnify, defend, and hold harmless the Authority and other Members from all claims, demands, actions, liability, or damages of any kind or nature, arising out of such use.
- E. Each Member shall defend, indemnify and hold harmless the Authority, its officers, agents, and representatives from and against any loss, injury, damage, claim, lawsuit, liability, expense, or damages of any kind or nature arising out of or in connection with any conduct of its employees while utilizing the Training Center to the extent that any such loss, injury, damage, claim, lawsuit, liability, expense or damages is caused by the negligence or willful misconduct of the Member's employees. The foregoing requirement to defend, indemnify and hold harmless the Authority shall also apply to any injuries sustained by a Member's employees while utilizing the Training Center, irrespective of the cause of the injury.
- F. Subject to the limitation set forth in Section 7.2.B, the Authority shall purchase insurance and/or a Member may provide coverage through its existing JPIA, for the Property and Training Center which covers any damages or loss to the Property and Training Center as well as any loss, injury, damage, claim, lawsuit, liability, expense, or damages alleging a dangerous condition of the Property and Training Center. The cost of such insurance shall be an expense of the Authority.

A certificate of insurance evidencing such coverage or such other proof as may be reasonable acceptable to the Authority's General Counsel, shall be provided to the Administrator by June 30 of each year.

- G. No provisions of this Agreement shall be construed as to require any Member or the Authority to obtain or maintain liability or other insurance coverage not otherwise required by law.

7.3 WAIVER

Except as provided in Section 7.2 each Member waives any claim against, or right to sue, the Authority, or its respective officers, employees, staff, agents, contractors, representatives or volunteers for any loss, damage or injury that arises out of, or is any way related to, such Member providing any type of emergency training service. This waiver extends to liability for bodily injury or property damage that may be sustained by any Member or its officers, employees, contractors, or agents, and which was proximately caused, in whole or in part, by the negligent act, conduct, or omission of the Authority, its respective officers, employees, staff, agents, contractors, representatives or volunteers. However, this waiver does not extend to bodily injury or property damage caused by an unlawful, fraudulent or willful act or omission of the Authority or its officers or employees.

7.4 CLAIMS

- A. To the extent authorized by Government Code section 935 and any other laws, any and all claims against the Authority for money or damages, including any claims otherwise excepted from the claims filing requirement by Government Code Section 905, shall be subject to and presented within the time and manner prescribed in Part 3 of Division 3.6 of Title 1 of the Government Code. A signed written claim shall be presented to the Administrator by mail or personal delivery by the claimant or a person authorized by claimant to act on his or her behalf. The claim shall conform to the requirements of Government Code section 910.
- B. Unless otherwise designated by the Board, the Administrator and the Fire Chief of Each Member, or their designees, shall comprise a Claims Committee. The Claims Committee shall, in consultation with legal counsel for the Authority, review all claims and make recommendations to the Board concerning their disposition.

CHAPTER 8. ADMISSION OR WITHDRAWAL OF MEMBERS

8.1 NEW MEMBERS

Public entities may become Members in the Authority upon such terms and conditions as may be specified by the Board and an amendment to this Agreement adding the new Member which shall be approved by a majority of the legislative bodies of then current Members as provided in Section 10.1 below.

8.2 WITHDRAWAL

A Member may withdraw from the Authority at the end of any fiscal year and terminate its rights and obligations pursuant to this Agreement by giving written notice of its intention to terminate to the Administrator no later than December 31 of any calendar year. The written notice shall be accompanied by a resolution or minute order of the legislative body of the Member specifying that it is withdrawing from the Authority. The effective date of the withdrawal shall be June 30 of the following year. Withdrawal of a Member shall not relieve the withdrawing Member of its proportionate share of any debts or other liabilities incurred by the Authority prior to the effective date of such withdrawal, or any liabilities imposed upon or incurred by the Member pursuant to this Agreement prior to the effective date of such withdrawal. Any such withdrawal shall result in the forfeiture of all rights and claims of the withdrawing Member to any repayment of contributions or advances or other distribution of funds or property after withdrawal, including distribution in the event of termination of the Authority. Notwithstanding the foregoing, the forfeiture provision set forth in this Section shall not apply to the distribution of proceeds from the sale of the Property pursuant to Section 9.2C.

8.3 BREACH

The Board shall have the authority to terminate the membership of any Member in the event the Member materially breaches its duties pursuant to this Agreement. For the purposes of this Section, the term "material breach" shall include, without limitation, a failure to fund the budget in accordance with Chapter 6, the failure to make any contributions or pay any assessment when due, and the failure to defend or indemnify other Members as required in Chapter 7. The Board shall give the Member notice of the breach and the right to cure the breach within thirty (30) days of the notice. In the event the Member fails to cure breach within thirty (30) days when it is reasonably practical to do so, the Board shall have the right to immediately terminate the Membership. Termination of a Member for breach shall not relieve the terminated Member of its proportionate share of any debts or other liabilities incurred by the Authority or any liabilities imposed upon or incurred by the Member pursuant to this Agreement prior to the effective date of such termination. However, such termination shall result in the forfeiture of all

rights and claims of the terminated Member to any repayment of contributions or advances or other distribution of funds or property after termination, including distributions in the event of termination of the Authority. Notwithstanding the foregoing, the forfeiture provision set forth in this Section shall not apply to the distribution of proceeds from the sale of the Property pursuant to Section 9.2C.

8.4 PENALTIES

Notwithstanding Section 8.3, and without waiving any other remedies available by law or through this Agreement, the Board shall adopt policies and procedures imposing penalties and/or interest for the failure of any Member to pay any amounts due under this Agreement.

CHAPTER 9. TERMINATION AND DISPOSITION OF ASSETS

9.1 TERMINATION

The Authority shall continue to exercise the joint power specified in this Agreement until termination of this Agreement. This Agreement shall terminate if a Member or Members have given the Authority written notice of their intention to withdraw as specified in Section 8.2 and such withdrawal will result in only one Member remaining. This Agreement shall then terminate upon the effective date of the withdrawal. A majority of the Members may mutually agree to terminate this Agreement. No termination of the Authority shall occur until all of its debts, liabilities, and obligations and other payment are made in accordance with the resolution of the Authority. No termination of the Authority shall occur which is contrary to the language, spirit or intent of any contract or agreement entered into by the Authority with the United States, the State of California, or any department, administration or agency of either.

9.2 DISTRIBUTION OF PROPERTY

- A. Upon termination of this Agreement, all Training Center Equipment shall be assigned an "operating life" by the Board. The Board shall also designate equipment which is critical or non-critical to the operation of the facilities. All Training Center Equipment either functioning within its operating life or beyond, shall be appraised by an independent appraiser retained by the Board and equipment designated as critical may be purchased first by Anaheim and then by any Member who is interested and who, having submitted a sealed bid, is the highest bidder. Such sealed bid shall not be lower than the appraised value. Non-critical equipment may be purchased by any Member based on procedures adopted by the Board. Training Center Equipment not purchased by a Member shall be sold to the public at appraised value or at public auction. The proceeds of all sales shall be paid to each Member pursuant to their Fair Share Percentage in the year the Training Center Equipment was purchased. Only those Members

who paid a Fair Share Percentage when the Training Center Equipment was purchased or upon becoming a Member, shall be entitled to share in the proceeds of the sale.

- B. Upon termination of this Agreement, all Training Center Equipment solely purchased and maintained at the Training Center by a Member(s) shall be returned to the Member or Members holding title to the equipment.
- C. Anaheim is shown as the owner of record of the Property. Pursuant to Section 7 of the 1976 Agreement, the cities of Garden Grove and Orange paid Anaheim a pro rata share of the value of the Property based upon an appraisal of the Property performed in 1976, which valued the property at \$52,250 per acre. In the sole event of termination of this Agreement pursuant to Section 9.1, the Property shall be sold by Anaheim in accordance with Anaheim's then existing policies for the sale of its real property; provided that the Property shall be sold in a manner to achieve a sales price of at least fair market value which shall be determined by a MAI appraiser selected by the Board. The net proceeds of the sale shall, within 35 days of receipt thereof, be distributed in relationship to the pro rata payments made by the cities of Garden Grove and Orange to Anaheim in or about 1976 for site acquisition costs, which distributions of proceeds shall be as follows: Anaheim – 46.66%; Garden Grove – 26.67%; and Orange—26.67%. In the event there is an escrow associated with the sale, the escrow shall include instructions directing that the net proceeds of the sale be distributed in accordance with this Section 9.2C. Notwithstanding the foregoing, Anaheim shall have the right to purchase Garden Grove's and Orange's interest in the Property in lieu of any sale thereof. If Anaheim exercises its right of first refusal and retains the Property, the Board shall direct an appraisal to be done by an MAI appraiser selected by the Board. Anaheim shall pay 26.67% of the appraised value to Garden Grove and 26.67% of the appraised value to Orange. This Section 9.2C shall apply irrespective of whether or not Anaheim, Garden Grove or Orange is a Member at the time this Agreement is terminated and this Section 9.2C is implemented.
- D. Upon termination of the Authority, any remaining funds, property or other assets of the Authority, following discharge of all debts, liabilities and obligations of the Authority, shall be distributed to the Members for any un-reimbursed advances, contributions, or in-lieu contributions made or given to the Authority by such Members, and distributed to all Members on the same basis as the annual distributions to Members under this Agreement.

CHAPTER 10. MISCELLANEOUS

10.1 AMENDMENTS

Except for section 9.2 and 10.1 herein, this Agreement may be amended with the approval of a majority of the Members. Amendments to Sections 9.2 and 10.1 shall require the unanimous approval of Members Anaheim and Orange, and former member Garden Grove.

10.2 NOTICE

Any notice or instrument required to be given or delivered pursuant to this Agreement shall be deemed given when personally delivered to the Member of the Authority, or deposited in the United States mail, first class postage pre-paid, and properly addressed to the principal office of the Member or the Authority, which may be changed upon written notice as provided herein to all other Members. The principal office for each Member, which may be changed upon 30 days written notice to all Members, are as follows:

City of Anaheim:

Anaheim West Tower
201 South Anaheim Boulevard, Suite 300
Anaheim, CA 92805
Attn: Fire Chief

With a copy to:

City of Anaheim
200 South Anaheim Boulevard
Anaheim, CA 92805
Attn: City Attorney

City of Orange:

Orange Fire Department Headquarters
176 South Grand Street
Orange, CA 92866
Attn: Fire Chief

With a copy to:

City of Orange
300 East Chapman Avenue
Orange, CA 92866
Attn: City Attorney

10.3 PARTIAL INVALIDITY

If one or more of the Chapters, Sections, paragraphs or provisions of this Agreement is determined to be invalid or unenforceable by a court of competent jurisdiction, each and all of

the remaining Chapters, Sections, paragraphs or provisions shall not be affected and shall continue to be valid and enforceable to the fullest extent permitted by law, provided, the remaining Chapters, Sections, paragraphs or provisions can be construed in substance to constitute the Agreement the Parties intended in the first instance.

10.4 GOVERNING LAW

This Agreement shall be construed in accordance with and governed by the laws of the State of California and the Members agree to submit to the jurisdiction of California courts.

10.5 INTEGRATION

This Agreement constitutes the entire agreement of the Members. No other agreement, oral or written, pertaining to the work to be performed under this Agreement shall be of any force or effect unless it is in writing and signed by the all Members. This Agreement supersedes, in their entirety the original 1976 Agreement establishing the Authority and any amendments entered into up to the effective date of this Agreement.

10.6 RECORDATION


Upon this Agreement being approved and fully executed, the Secretary of the Board shall cause this Agreement to be recorded and provide the Board with evidence of such recordation.

[Signatures on following page]

IN WITNESS WHEREOF, the Members have caused this Agreement to be executed by their duly authorized officers, and to have their official seals affixed hereto as of the date first stated above.

Dated: 10/28/2019, 2019

ATTEST:


By:  10/28/19
Theresa Bass, CMC
City Clerk

Dated: _____, 2019

CITY OF ANAHEIM

By: 
Harry Sidhu, Mayor

APPROVED AS TO FORM:

By:  FOR
Robert Fabela
City Attorney

CITY OF ORANGE

By: _____
Mark A. Murphy, Mayor

APPROVED AS TO FORM:

By: _____
Gary A. Sheatz
City Attorney

ATTEST:

By: _____
Pamela Coleman, CMC
City Clerk

IN WITNESS WHEREOF, the Members have caused this Agreement to be executed by their duly authorized officers, and to have their official seals affixed hereto as of the date first stated above.

CITY OF ANAHEIM

Dated: _____, 2019

By _____
Harry Sidhu, Mayor

ATTEST:

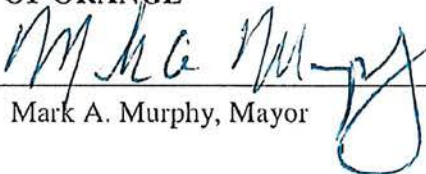
APPROVED AS TO FORM:

By: _____
Theresa Bass, CMC
City Clerk

By: _____
Robert Fabela
City Attorney


Dated: _____, 2019

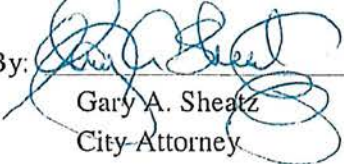
CITY OF ORANGE

By:  _____
Mark A. Murphy, Mayor

ATTEST:

APPROVED AS TO FORM:

By:  _____
Pamela Coleman, CMC
City Clerk

By:  _____
Gary A. Sheatz
City Attorney

C3
AGR-2466-B

**AMENDED AND RESTATED
NORTH NET JOINT POWERS TRAINING AGREEMENT**

By and Between

CITY OF ANAHEIM, CALIFORNIA

And

CITY OF ORANGE, CALIFORNIA

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**AMENDED AND RESTATED
NORTH NET JOINT POWERS TRAINING AGREEMENT**

This Amended and Restated Joint Powers Agreement (“Agreement”), dated for purpose of identification this 22nd day of October, 2019 (the “Effective Date”) is made by and between the following public entities, (collectively, the “Parties”):

- A. City of Anaheim (“Anaheim”)
- B. City of Orange (“Orange”)

RECITALS

A. The Parties to this Agreement each provide fire protection, fire prevention, rescue, emergency medical and related administrative services within their respective boundaries.

B. The Parties have determined that joint use of a consolidated Training Center and record keeping system reduces the administrative costs that would otherwise be incurred by each Party in providing fire suppression, emergency medical assistance, rescue service, and related services.

C. The Parties have determined that the costs associated with maintaining the staff and equipment necessary to operate a consolidated Training Center should be funded by the Parties through a formal Joint Powers Agreement with costs apportioned as outlined by this Agreement.

D. The Parties have determined that joint use of a consolidated Training Center is also intended to foster cooperation among the Parties in the form of other separate written agreements.

E. The Parties each have the power and authority to perform and contract with one another pursuant to the Joint Exercise of Powers Act (Section 6500 et. seq. of the Government Code) for the performance of the duties and functions that form the basis of this Agreement.

F. The Parties have the power to contract with other agencies for training services, equipment and related items.

G. The Parties entered in the initial Joint Powers Agreement on October 5, 1976 (“1976 Agreement”). There is an amendment to the 1976 Agreement dated February 8, 1977, an addendum entered into in 1979, an amendment dated February 23, 1988, and an amendment dated in 1994. The Parties entered into an Amended and Restated Joint Powers Agreement dated November 1, 2012 (“2012 Agreement”). There is a first amendment to the 2012 Agreement dated June 1, 2013 and a second amendment to the 2012 Agreement dated July 1,

2019. The Parties intend that in entering into this Agreement that this Agreement shall replace in their entirety the 1976 Agreement and 2012 Agreement and all amendments and/or addendums thereto.

H. The Parties are entering into this Agreement due to the fact that the City of Garden Grove, one of the original members of the Authority, has withdrawn from the Authority effective June 30, 2019, due to its city council's decision to contract its fire services with the Orange County Fire Authority.

I. The Parties are also entering into this Agreement due to the fact that as part of a street improvement project, in 2019 the City of Anaheim acquired the Authority's tenant interest in a portion of the Property (as defined below) upon which the Training Center is located, terminating the Authority's interest in the portion acquired.

AGREEMENT

In consideration of the foregoing recitals and the mutual covenants contained in this Agreement, it is agreed between and among each of the parties hereto as follows:

CHAPTER 1. DEFINITIONS

1.1. "Administrator" shall mean the Fire Training Facility Administrator.

1.2. "Authority" shall mean the Joint Powers Authority known as the North Net Training Authority, created by this Agreement pursuant to the Joint Exercise of Powers Act (Government Code sections 6500 et seq.).

1.3 "Board" is the governing body of the Authority.

1.4 "Board Director" shall mean the voting representative or alternate appointed by the governing body of each Member agency to represent said agency on the Board.

1.5. "Capital Improvement Project" shall mean the acquisition of any piece of Training Equipment or the funding of any Training Center related project that requires an expenditure of \$30,000.00 or more.

1.6. "Capital Outlay" shall mean the acquisition of any piece of Training Equipment or the funding of any Training Center related project that requires an expenditure of \$500.00 or more but less than \$30,000.00.

1.7. "Fiscal Year" shall mean the twelve-month period commencing July 1st and concluding June 30th.

1.8. "Member" shall mean any public entity that is a party to this Agreement upon the Effective Date or becomes a party to this Agreement pursuant to the provisions of Section 8.1, and has not withdrawn from such membership or been terminated from such membership pursuant to Sections 8.2 or 8.3.

1.9. "Property" shall mean the land described in the legal description and depicted in the map attached hereto as Exhibit "A", commonly referred to as 2400 E. Orangewood Avenue, Anaheim, CA and the Training Center, minus the acquisition of the Authority's interest in the property described in the legal description and depicted in the map attached hereto as Exhibit "B" ("Acquired Parcel"), which was acquired by the City of Anaheim in 2019.

1.10. "Training Center" shall mean that structure or physical facility that houses Training Center Equipment and/or Training Center Staff and any other structures or fixtures, which are located upon the Property.

1.11. "Training Center Equipment" shall mean all equipment utilized for the fire or rescue-related emergency Training Center or other facilities acquired for use by the Authority which are not included within the definition of Training Center.

1.12. "Training Center Staff" or "Staff" shall mean all personnel of the City of Anaheim performing services related to the operations and maintenance of the Training Center, or such agency or individual as may be appointed by the Board to perform these functions.

CHAPTER 2. PURPOSE AND POWERS

2.1. AUTHORITY CREATED

The Authority is formed pursuant to the provision of Article 1, Chapter 5, Division 7 of Title I of the Government Code of the State of California (The Joint Exercise of Powers Act). The Authority shall be considered a public entity separate and apart from the Members. Within thirty (30) days after the Effective Date and after the effective date of any amendment, the Authority shall cause a notice of this Agreement or amendment to be prepared and filed with the office of the California Secretary of State containing the information required by Government Code 6503.5.

2.2. COMMON POWERS

Each Party has the common power to, inter alia:

- a. Provide fire protection, fire suppression, fire prevention, emergency medical, rescue and related services;

- b. Maintain an effective training system to facilitate and support fire protection, fire suppression, rescue and emergency medical services;
- c. Employ personnel to perform emergency based training, Training Center maintenance and the purchase of training center equipment.

2.3. GENERAL PURPOSE

The general purpose of this Agreement is to provide for the operation, upgrade, maintenance and repair of the Training Center and Training Center Equipment. This Agreement is intended to provide a formal mechanism by which the Authority can fund these activities to provide the highest possible level of emergency training services.

2.4. POWERS

The Authority, through its Board, shall have the power, in its own name, to do any of the following:

- A. To jointly exercise the common powers of the Members;
- B. To make and enter into contracts, including but not limited to, contracting with other public agencies for services, equipment and related items to those agencies;
- C. To retain the services of fire suppression specialists, emergency consultants, and such other persons with specialized knowledge or ability capable of assisting the Members in achieving the purposes of this Agreement;
- D. To acquire, hold or dispose of property by any lawful means, including, without limitation, by gift, purchase or sale;
- E. To incur debts, liabilities or obligations, subject to the limitations specified in this Agreement and, to the extent permitted by law, borrow funds on temporary basis to meet operational expenses until expected revenue are available;
- F. To the extent permitted by law, to enter into equipment lease agreements or lease-purchase agreements or other financial arrangements extending beyond the current budgetary cycle, necessary or convenient to the operation of the Authority (hereinafter collectively "lease") so long as the Agreement contains substantially the following provisions:

The Authority receives its funds on an annual budgetary cycle from its individual Members. The Authority agrees to use its best efforts to obtain authorization and appropriation of funds from its individual Members to

pay lease payments due under this Agreement, including, without limitation, the inclusion in its budget request for each fiscal year during the term of this Agreement a request for adequate funds to meet in full its obligation hereunder. The Board may terminate this Agreement in the event funds are not appropriated or appropriations are withdrawn or withheld upon thirty (30) days written notice. Termination under this provision shall not constitute a default or breach. The Authority shall not be obligated to pay any additional lease payments but shall, after written notice from Lessor, deliver the Training Center Equipment to Lessor or its assignee. Lessor acknowledges that the individual Members shall not be liable for the debts of the Authority.

- G. To enter into leases, agreements and similar transactions that require the Authority to indemnify the person with whom the Board is contracting, so long as the exposure to liability under such indemnification is approved by the Risk Manager of Anaheim and by Legal Counsel of the Authority and so long as the maximum exposure to liability under such transaction does not exceed One Million Dollars (\$1,000,000);
- H. To receive gifts, contributions, grants, and donations of property, funds, services and other forms of assistance from any person, firm, entity, corporation or public agency;
- I. To sue and be sued in its own name;
- J. To apply for any grant or grants offered in conjunction with any Federal, State or local program that is in any way related to the purpose of this Agreement;
- K. To adopt rules, regulations, policies, by-laws and procedures governing the operation of the Authority; and
- L. To exercise any other power in the manner and according to the methods provided by applicable laws, rules or regulations, subject only to the restrictions on the manner of exercising such powers that may be applicable to the Members.

CHAPTER 3. ORGANIZATION

3.1. MEMBERSHIP

The Members of this Authority shall be the public entities which executed this Agreement and have not withdrawn from, or had membership in the Authority terminated, as

provided in Sections 8.2 and 8.3 hereof and any public entities that join the Authority pursuant to Section 8.1 hereof.

3.2. BOARD

- A. The Board shall consist of one (1) voting director and one (1) alternate appointed by the governing body of each Member, which director and alternate shall be selected from the legislative body of each Member.
- B. Each Board Director, which is defined to include the alternate, shall hold office from the first meeting of the Board after appointment and shall serve at the pleasure of the appointing legislative body.
- C. A Board Director shall not receive compensation, but may be reimbursed by the Authority for expenses reasonably incurred while performing duties required by this Agreement and as further specified and limited by resolution of the Board.
- D. Annually, at its first meeting of each new fiscal year, the Board shall select a chairperson and vice chairperson from its members and shall appoint a secretary who may, but need not, be a member of the Board. The chairperson, vice chairperson and secretary shall hold office for one year or until such time as a successor is appointed.

3.3. PRINCIPAL OFFICE

The principal office of the Authority shall be 2400 E. Orangewood Avenue, Anaheim, CA. The Board has the full power and authority to change the principal office from one location to another as long as same is within the Authority's jurisdiction.

3.4. MEETINGS

The Board shall meet at the principal office of the Authority, or at such other place as may be designated by the Board. The time and place of regular meetings of the Board shall be determined by resolution. Regular, adjourned and special meetings of the Board shall be called, noticed and conducted in accordance with the Ralph M. Brown Act or other relevant open meeting law. Each Member shall only be entitled to have one Board Director in attendance to establish a quorum or to vote upon matters coming before the Board.

3.5. QUORUM

Attendance by a majority of the Board Directors at a meeting shall constitute a quorum for the purpose of transacting business relating to the Authority.

3.6. POWERS AND LIMITATIONS

All of the powers of the Authority are reserved to it and may be exercised by the Board, unless otherwise limited by law. Each Member shall be entitled to one Board Director vote and, except as expressly provided in this Agreement, including Sections 9.2 and 10.1, the affirmative vote of the majority of those Board Directors present and qualified shall effect adoption of any motion, resolution, order or action the Board deems appropriate.

3.7. AGENDAS-SECRETARY DUTIES

The secretary of the Authority shall provide notice of, prepare and post agendas for, and keep minutes of, each regular, adjourned and special meeting of the Board and other records, as necessary, of the Board. The secretary shall send a copy of the minutes to each Board member and otherwise perform the duties necessary to ensure compliance with provisions of law including, without limitations, any applicable "open meeting law" such as the Ralph M Brown Act.

3.8. RULES

The Board may adopt rules and regulations for the conduct of its affairs that are not in conflict with this Agreement.

3.9. TREASURER

The Finance Director of the City of Anaheim shall hold the office of treasurer and auditor of the Authority, in accordance with Government Code Section 6505.6, and shall perform the duties as authorized in Section 6505 et seq. of the Government Code. The treasurer shall cause an independent audit to be made by a Certified Public Accountant in compliance with Section 6505 of the Government Code. The treasurer shall keep all revenues of the Authority in a separate account, and, if available, an interest bearing account, and otherwise perform the duties and responsibilities of that office as specified in Sections 6505 et seq. of Government Code. Any surplus funds not immediately needed may be invested in accordance with the investment policy adopted by the Board, as required by Government Code Section 53646, and consistent with Government Code Sections 53601, 53635, 16429.1 and 53684, as may be amended.

3.10. LEGAL COUNSEL

The Board shall contract with independent legal counsel to serve as general counsel to the Authority to provide routine legal counsel services as may be required from time to time, including, attendance of Board meetings when deemed necessary. In the absence of a contract for independent counsel, a Member's City Attorney's Office, as determined by the Board, shall serve as general counsel. Extraordinary legal services (for example prosecuting or defending the

Authority, its officers, and agents in a legal action) shall be considered additional expenses and not covered by the administrative fee set forth in Section 5.2 of this Agreement.

3.11. BOND

The treasurer, auditor and such other persons who may have access to, or handle, any revenue of the Authority shall be required to file an official bond in an amount determined by the Board and consistent with the provisions of Section 6505.1 of the Government Code. This bonding requirement shall be satisfied if an existing bond is extended to cover the duties required by this Agreement. The costs of complying with the requirements of this Section shall be considered an administrative expense of the Authority.

3.12. STATUS OF OFFICERS AND EMPLOYEES

In accordance with the Joint Exercise of Powers Act, all of the privileges and immunities from liability, exemptions from laws, ordinances and rules, and all pension, relief, disability, workers compensation and other benefits which apply to the activities of officers, agents, or employees of any of the Member's agency when performing their respective duties or functions for that agency, shall apply to each of them to the same degree and extent while engaged in the performance of any activity, function or duty pursuant to the Agreement.

3.13. POLITICAL REFORM ACT

The Board Directors, and their alternates, shall be considered public officials within the meaning of the Political Reform Act of 1974, as amended, and its regulations, for the purposes of financial disclosure, conflict of interest and other requirements of such Act and regulations and shall file annual statements of economic interest as required, along with any other officers of the Authority who may be required to do so. Other persons working for or on behalf of the Authority may be required to file such statements in accordance with the Authority's conflict of interest code.

CHAPTER 4. BASIC SERVICES

4.1. TRAINING CENTER – OPERATIONS

- A. The Training Center shall be maintained and operated by the Authority, pursuant to this Agreement, for the use and benefit of all Members. The Administrator of the Training Center shall be an at-will employee of Anaheim so long as Anaheim operates and administers the Training Center; provided that any appointment of the Administrator and any compensation to be paid to the Administrator from the Authority's budget are subject to final approval of the Board. General Counsel shall be responsible for placing the annual performance evaluation of the

Administrator on the Board's agenda for closed session at the Board's first meeting in each calendar year, although the Board may at any other time place the Administrator's performance evaluation on the agenda.

- B. Unless otherwise provided for by the Board, Anaheim shall, through use of Anaheim employees, fill all positions and provide all services required to operate, maintain and administer the Training Center and shall be responsible for the day-to-day administration and operation of the Training Center. The Authority shall pay the actual costs of such operation and administration, plus an administrative overhead fee as provided herein. The costs of such operation and administration, including administrative overhead, shall be borne by each Member according to its Fair Share Percentage as determined pursuant to Chapter 5 of this Agreement.
- C. The Board is empowered to develop and establish the budget, staffing and service levels for the Training Center operation and maintenance. No Member may create any staff position or be entitled to receive any reimbursement for any staff time or costs related to the operation and maintenance of the Training Center unless the position and/or reimbursement falls within the budget approved by the Board or otherwise has received the prior approval of the Board.
- D. Each Member shall provide training officers from each Member's Fire Department, whose compensation and cost reimbursements, if any, shall be the sole obligation of the employing Member. Except as is specifically provided herein, employees working in or otherwise utilizing the Training Center shall be governed by the same personnel rules, regulations, bargaining agreements, terms and conditions of employment, administrative regulations and other related matters as apply to them with respect to their employment with a Member or a Subscriber.
- E. In performing the day-to-day administration and operation of the Training Center, Anaheim will determine the procedures and standards of selection for employment and promotion, direct its employees, take disciplinary action, relieve its employees from duty, and determine the methods, means and personnel by which it will meet the service levels established by the Authority; provided that Anaheim shall solicit and consider input from the Members with respect to these decisions, although final authority rests with Anaheim, except to the extent specifically provided in this Agreement.
- F. Anaheim may elect to discontinue providing services for the operations and administration of the Training Center by giving notice of such election in writing to the Board a minimum of six (6) months prior to such discontinuance. In the

event of such discontinuance by Anaheim, the Board may appoint another Member to perform such duties or contract with another provider of such services. Anaheim's election to discontinue providing the services set forth herein does not constitute withdrawal from the Authority by Anaheim.

- G. The Board may elect to terminate Anaheim's services as operator and administrator of the Training Center by giving notice of such election in writing to Anaheim a minimum of six (6) months prior to the date of such termination. In the event of such termination, the Board may appoint another Member as the administrator or contract with another provider of such services. Such termination of Anaheim's services does not in and of itself constitute either withdrawal or termination of Anaheim from the Authority or any other Member of the Authority.

4.2. MAINTENANCE OF EQUIPMENT

- A. The Authority through the Board shall maintain and repair the Training Center.
- B. The Authority through the Board shall purchase new or used Training Equipment as necessary to replace existing equipment or upon a determination by the Board that additional Training Equipment will facilitate emergency training.

4.3. FACILITY USE BY THIRD PARTIES

The Administrator is authorized to permit third parties to utilize the Training Center for training and instruction, as long as such use does not interfere with the use by Members and is not otherwise inconsistent with the purposes for which the Authority was formed. The use of the Training Center by third parties shall be in accordance with the Authority's Training Center use policy and fees for such use shall be charged as established by resolution of the Board.

CHAPTER 5. FUNDING AND ADMINISTRATION

5.1 FUNDING

- A. Each Member shall pay a portion of the costs incurred by the Authority in administering this Agreement in relationship to that Member's "Fair Share Percentage", which shall be determined every calendar year beginning on January 1, 2019. Each Member's Fair Share Percentage shall be calculated by dividing the total number of sworn firefighter positions of all Members divided by the number of sworn firefighter positions of each Member as same existed on January 1 of each calendar year.

- B. Each Member's Fair Share Contribution shall be as set forth in the adopted budget for the upcoming Fiscal Year to determine the Fair Share Contribution amount. Anaheim shall bill each Member on a quarterly basis beginning July 1 of each fiscal year and payment shall be due within 30 days after receipt of each invoice.
- C. The Treasurer, or his or her designee, shall invoice each Member that Member's Fair Share Percentage of the budget in accordance with the payment schedule set in Section 5.1B above or as otherwise adopted by Resolution of the Board. For fiscal year 2019-20, each Member's Fair Share Percentage was established as follows: Anaheim—64.51% Orange—35.49%.
- D. Final year-end adjustments of a Member's costs representing the difference between estimated annual expenditures and actual annual expenditures shall be calculated no later than the last day of the first quarter following the fiscal year in which such costs were incurred.

5.2 ADMINISTRATIVE SERVICES

As compensation for providing services under this Agreement, Members shall pay Anaheim an administrative fee of six percent (6%) of their Fair Share Percentage. Anaheim shall perform administrative services which include, but are not limited to general accounting of funds received and disbursed, preparation of invoices to Members, preparation of documents relative to any grant program, routine services from various departments within Anaheim as may be necessary from time to time, including but not limited to Human Resources and Labor Management Departments, Finance Department, Purchasing, Legal (if the Board has not contracted for General Counsel services or determined to have another Member provide such services), and such other functions as may be required by this Agreement or the provisions of any law including, without limitation, the Joint Exercise of Powers Act.

5.3 EMERGENCY REPAIRS

In the event the Training Center suffers damage which requires emergency repairs, the Administrator is authorized without prior Board approval to expend funds to have the necessary emergency repairs made so that services are resumed as soon as possible, but in no event shall such expenditures exceed \$20,000 without prior Board approval. The Board shall convene as soon as reasonably practical to ratify any such expenditure and to approve any expenditure above that amount. The cost of such repairs shall be borne by each Member in accordance with its Fair Share Percentage. For purposes of expenditures of \$20,000 or less as set forth in this Section 4.4, an emergency shall exist if a majority of the Members' fire chiefs and the Administrator agree the circumstances set forth in Public Contract Code section 20168 exist.

5.4 CAPITAL IMPROVEMENTS-FUNDING

In the event the Training Center and/or Training Center Equipment is in need of repair or improvement, the Administrator shall solicit bids for such work from at least three (3) responsible firms, whenever practicable, in accordance with applicable state law. If the repair or improvements exceeds the Administrator's purchasing authority as established in this Agreement or by resolution of the Board, the Administrator shall then present said bids to the Board to award the contract to the lowest responsible bidder and to direct the accepted responsible bidder to make the repairs or improvements.

CHAPTER 6. BUDGETARY PROVISIONS

6.1 ANNUAL BUDGET

The Board shall adopt an annual budget pursuant to this Agreement and procedures adopted by the Board. A preliminary draft of the budget shall be presented to the Members by the last business day in March of each year for their review. Said budget shall be submitted to the Board for consideration and adoption.

6.2 SPECIAL BUDGETARY CONSIDERATION

A. The budget adopted by the Board shall include but not be limited to:

1. A Training Center operations and Capital Outlay component, which shall provide for the personnel, maintenance and operations support, and capital acquisitions necessary for the joint operation of the Training Center as described in Sections 4.1 and 4.2.
2. A Capital Improvement Project component, which shall provide for the acquisition or replacement of major Training Equipment items or fund major Training Center related projects.
3. A Training Equipment capital reserve component, which shall be deposited into a common designated reserve account designed to defray future replacement costs of major components of Training Center Equipment.

6.3 DISBURSEMENTS

The treasurer shall draw checks in accordance with policies and/or procedures established by the Member which employs the treasurer and as otherwise established by Resolution of the Board. A summation of such payments shall be presented to the Board as part of the treasurer's quarterly reports.

6.4 ACCOUNTS

All funds shall be placed in accounts and the receipt, transfer or disbursement of funds during the term of this Agreement shall be accounted for in accordance with generally accepted accounting principles applicable to government entities. There shall be strict accountability for all funds. All interest earnings, revenues and expenditures shall be reported quarterly to the Board.

6.5 EXPENDITURES WITHIN APPROVED ANNUAL BUDGET

All expenditures shall be within the limitations of the approved annual budget or as such budget is amended by the Board.

CHAPTER 7. LIABILITY/INSURANCE

7.1 LIABILITY

The debts, liabilities and obligations of the Authority shall not be considered the debts, liabilities or obligations of any Member, except as otherwise provided in this Chapter.

7.2 INDEMNIFICATION/HOLD HARMLESS/INSURANCE

- A. Except as specifically provided in this Subsection, the Authority shall defend, indemnify and hold harmless each Member, its officers, agents, employees, representatives and volunteers from and against any loss, injury, damage, claim, lawsuit, liability, expense, or damages of any kind or nature brought by a third party which arises out of or in connection with the performance of services pursuant to this Agreement. The Authority shall finance its obligation pursuant to this Subsection by establishing a liability reserve fund, by purchasing commercial insurance, and/or by joining a joint powers insurance authority (JPIA). In the event that the Authority's financial obligations to indemnify, defend and hold harmless, pursuant to this Subsection, exceed the liability reserve fund and/or the proceeds from any applicable insurance or JPIA coverage maintained by the Authority (hereinafter "Unfunded Liability"), the Members may agree to indemnify and hold harmless the Authority for such deficiency in accordance with the following: In the event an Unfunded Liability arises, the contribution of each Member shall be in an amount equal to the total Unfunded Liability multiplied by that Member's Fair Share Percentage for the year in which the Unfunded Liability is to be paid. A Member shall not be liable for such deficiency unless its legislative body agrees to contribute the Member's Fair Share Percentage toward the Unfunded Liability. Other Members may, at their sole and complete discretion, agree to pick up the Fair Share Percentage of a Member, or a portion

thereof, who determines not to be liable for the Unfunded Liability, but absent such an agreement no Member shall be liable for any portion of the Unfunded Liability unless all Members unanimously agree to make a contribution in the amount of their Fair Share Percentage.

- B. The Authority, its officers, agents, contractors, employees (if any), representatives, Staff and volunteers, shall not be liable, in any manner, to any Member, or to an officer, official, or employee of any Member, for any loss, injury, damage, claim, lawsuit, liability, expense, or damages which may be incurred by, or brought against a Member which is providing any type of training at the Training Center, regardless of whether or not such liability may have arisen, in whole or in part, by the negligent acts, conduct, or omissions of one or more of the staff at the Training Center.
- C. Each Member shall assign to the Authority its rights, title, and interest to recover damages from any third party, to the extent that the Authority has met its obligations to defend, indemnify and hold harmless such Member pursuant to this Section.
- D. Should any Member utilize the Training Center for its own individual purposes, outside the scope of the Authority, such Member shall indemnify, defend, and hold harmless the Authority and other Members from all claims, demands, actions, liability, or damages of any kind or nature, arising out of such use.
- E. Each Member shall defend, indemnify and hold harmless the Authority, its officers, agents, and representatives from and against any loss, injury, damage, claim, lawsuit, liability, expense, or damages of any kind or nature arising out of or in connection with any conduct of its employees while utilizing the Training Center to the extent that any such loss, injury, damage, claim, lawsuit, liability, expense or damages is caused by the negligence or willful misconduct of the Member's employees. The foregoing requirement to defend, indemnify and hold harmless the Authority shall also apply to any injuries sustained by a Member's employees while utilizing the Training Center, irrespective of the cause of the injury.
- F. Subject to the limitation set forth in Section 7.2.B, the Authority shall purchase insurance and/or a Member may provide coverage through its existing JPIA, for the Property and Training Center which covers any damages or loss to the Property and Training Center as well as any loss, injury, damage, claim, lawsuit, liability, expense, or damages alleging a dangerous condition of the Property and Training Center. The cost of such insurance shall be an expense of the Authority.

A certificate of insurance evidencing such coverage or such other proof as may be reasonable acceptable to the Authority's General Counsel, shall be provided to the Administrator by June 30 of each year.

- G. No provisions of this Agreement shall be construed as to require any Member or the Authority to obtain or maintain liability or other insurance coverage not otherwise required by law.

7.3 WAIVER

Except as provided in Section 7.2 each Member waives any claim against, or right to sue, the Authority, or its respective officers, employees, staff, agents, contractors, representatives or volunteers for any loss, damage or injury that arises out of, or is any way related to, such Member providing any type of emergency training service. This waiver extends to liability for bodily injury or property damage that may be sustained by any Member or its officers, employees, contractors, or agents, and which was proximately caused, in whole or in part, by the negligent act, conduct, or omission of the Authority, its respective officers, employees, staff, agents, contractors, representatives or volunteers. However, this waiver does not extend to bodily injury or property damage caused by an unlawful, fraudulent or willful act or omission of the Authority or its officers or employees.

7.4 CLAIMS

- A. To the extent authorized by Government Code section 935 and any other laws, any and all claims against the Authority for money or damages, including any claims otherwise excepted from the claims filing requirement by Government Code Section 905, shall be subject to and presented within the time and manner prescribed in Part 3 of Division 3.6 of Title 1 of the Government Code. A signed written claim shall be presented to the Administrator by mail or personal delivery by the claimant or a person authorized by claimant to act on his or her behalf. The claim shall conform to the requirements of Government Code section 910.
- B. Unless otherwise designated by the Board, the Administrator and the Fire Chief of Each Member, or their designees, shall comprise a Claims Committee. The Claims Committee shall, in consultation with legal counsel for the Authority, review all claims and make recommendations to the Board concerning their disposition.

CHAPTER 8. ADMISSION OR WITHDRAWAL OF MEMBERS

8.1 NEW MEMBERS

Public entities may become Members in the Authority upon such terms and conditions as may be specified by the Board and an amendment to this Agreement adding the new Member which shall be approved by a majority of the legislative bodies of then current Members as provided in Section 10.1 below.

8.2 WITHDRAWAL

A Member may withdraw from the Authority at the end of any fiscal year and terminate its rights and obligations pursuant to this Agreement by giving written notice of its intention to terminate to the Administrator no later than December 31 of any calendar year. The written notice shall be accompanied by a resolution or minute order of the legislative body of the Member specifying that it is withdrawing from the Authority. The effective date of the withdrawal shall be June 30 of the following year. Withdrawal of a Member shall not relieve the withdrawing Member of its proportionate share of any debts or other liabilities incurred by the Authority prior to the effective date of such withdrawal, or any liabilities imposed upon or incurred by the Member pursuant to this Agreement prior to the effective date of such withdrawal. Any such withdrawal shall result in the forfeiture of all rights and claims of the withdrawing Member to any repayment of contributions or advances or other distribution of funds or property after withdrawal, including distribution in the event of termination of the Authority. Notwithstanding the foregoing, the forfeiture provision set forth in this Section shall not apply to the distribution of proceeds from the sale of the Property pursuant to Section 9.2C.

8.3 BREACH

The Board shall have the authority to terminate the membership of any Member in the event the Member materially breaches its duties pursuant to this Agreement. For the purposes of this Section, the term "material breach" shall include, without limitation, a failure to fund the budget in accordance with Chapter 6, the failure to make any contributions or pay any assessment when due, and the failure to defend or indemnify other Members as required in Chapter 7. The Board shall give the Member notice of the breach and the right to cure the breach within thirty (30) days of the notice. In the event the Member fails to cure breach within thirty (30) days when it is reasonably practical to do so, the Board shall have the right to immediately terminate the Membership. Termination of a Member for breach shall not relieve the terminated Member of its proportionate share of any debts or other liabilities incurred by the Authority or any liabilities imposed upon or incurred by the Member pursuant to this Agreement prior to the effective date of such termination. However, such termination shall result in the forfeiture of all

rights and claims of the terminated Member to any repayment of contributions or advances or other distribution of funds or property after termination, including distributions in the event of termination of the Authority. Notwithstanding the foregoing, the forfeiture provision set forth in this Section shall not apply to the distribution of proceeds from the sale of the Property pursuant to Section 9.2C.

8.4 PENALTIES

Notwithstanding Section 8.3, and without waiving any other remedies available by law or through this Agreement, the Board shall adopt policies and procedures imposing penalties and/or interest for the failure of any Member to pay any amounts due under this Agreement.

CHAPTER 9. TERMINATION AND DISPOSITION OF ASSETS

9.1 TERMINATION

The Authority shall continue to exercise the joint power specified in this Agreement until termination of this Agreement. This Agreement shall terminate if a Member or Members have given the Authority written notice of their intention to withdraw as specified in Section 8.2 and such withdrawal will result in only one Member remaining. This Agreement shall then terminate upon the effective date of the withdrawal. A majority of the Members may mutually agree to terminate this Agreement. No termination of the Authority shall occur until all of its debts, liabilities, and obligations and other payment are made in accordance with the resolution of the Authority. No termination of the Authority shall occur which is contrary to the language, spirit or intent of any contract or agreement entered into by the Authority with the United States, the State of California, or any department, administration or agency of either.

9.2 DISTRIBUTION OF PROPERTY

- A. Upon termination of this Agreement, all Training Center Equipment shall be assigned an "operating life" by the Board. The Board shall also designate equipment which is critical or non-critical to the operation of the facilities. All Training Center Equipment either functioning within its operating life or beyond, shall be appraised by an independent appraiser retained by the Board and equipment designated as critical may be purchased first by Anaheim and then by any Member who is interested and who, having submitted a sealed bid, is the highest bidder. Such sealed bid shall not be lower than the appraised value. Non-critical equipment may be purchased by any Member based on procedures adopted by the Board. Training Center Equipment not purchased by a Member shall be sold to the public at appraised value or at public auction. The proceeds of all sales shall be paid to each Member pursuant to their Fair Share Percentage in the year the Training Center Equipment was purchased. Only those Members

who paid a Fair Share Percentage when the Training Center Equipment was purchased or upon becoming a Member, shall be entitled to share in the proceeds of the sale.

- B. Upon termination of this Agreement, all Training Center Equipment solely purchased and maintained at the Training Center by a Member(s) shall be returned to the Member or Members holding title to the equipment.
- C. Anaheim is shown as the owner of record of the Property. Pursuant to Section 7 of the 1976 Agreement, the cities of Garden Grove and Orange paid Anaheim a pro rata share of the value of the Property based upon an appraisal of the Property performed in 1976, which valued the property at \$52,250 per acre. In the sole event of termination of this Agreement pursuant to Section 9.1, the Property shall be sold by Anaheim in accordance with Anaheim's then existing policies for the sale of its real property; provided that the Property shall be sold in a manner to achieve a sales price of at least fair market value which shall be determined by a MAI appraiser selected by the Board. The net proceeds of the sale shall, within 35 days of receipt thereof, be distributed in relationship to the pro rata payments made by the cities of Garden Grove and Orange to Anaheim in or about 1976 for site acquisition costs, which distributions of proceeds shall be as follows: Anaheim – 46.66%; Garden Grove – 26.67%; and Orange—26.67%. In the event there is an escrow associated with the sale, the escrow shall include instructions directing that the net proceeds of the sale be distributed in accordance with this Section 9.2C. Notwithstanding the foregoing, Anaheim shall have the right to purchase Garden Grove's and Orange's interest in the Property in lieu of any sale thereof. If Anaheim exercises its right of first refusal and retains the Property, the Board shall direct an appraisal to be done by an MAI appraiser selected by the Board. Anaheim shall pay 26.67% of the appraised value to Garden Grove and 26.67% of the appraised value to Orange. This Section 9.2C shall apply irrespective of whether or not Anaheim, Garden Grove or Orange is a Member at the time this Agreement is terminated and this Section 9.2C is implemented.
- D. Upon termination of the Authority, any remaining funds, property or other assets of the Authority, following discharge of all debts, liabilities and obligations of the Authority, shall be distributed to the Members for any un-reimbursed advances, contributions, or in-lieu contributions made or given to the Authority by such Members, and distributed to all Members on the same basis as the annual distributions to Members under this Agreement.

CHAPTER 10. MISCELLANEOUS

10.1 AMENDMENTS

Except for section 9.2 and 10.1 herein, this Agreement may be amended with the approval of a majority of the Members. Amendments to Sections 9.2 and 10.1 shall require the unanimous approval of Members Anaheim and Orange, and former member Garden Grove.

10.2 NOTICE

Any notice or instrument required to be given or delivered pursuant to this Agreement shall be deemed given when personally delivered to the Member of the Authority, or deposited in the United States mail, first class postage pre-paid, and properly addressed to the principal office of the Member or the Authority, which may be changed upon written notice as provided herein to all other Members. The principal office for each Member, which may be changed upon 30 days written notice to all Members, are as follows:

City of Anaheim:

Anaheim West Tower
201 South Anaheim Boulevard, Suite 300
Anaheim, CA 92805
Attn: Fire Chief

With a copy to:

City of Anaheim
200 South Anaheim Boulevard
Anaheim, CA 92805
Attn: City Attorney

City of Orange:

Orange Fire Department Headquarters
176 South Grand Street
Orange, CA 92866
Attn: Fire Chief

With a copy to:

City of Orange
300 East Chapman Avenue
Orange, CA 92866
Attn: City Attorney

10.3 PARTIAL INVALIDITY

If one or more of the Chapters, Sections, paragraphs or provisions of this Agreement is determined to be invalid or unenforceable by a court of competent jurisdiction, each and all of

the remaining Chapters, Sections, paragraphs or provisions shall not be affected and shall continue to be valid and enforceable to the fullest extent permitted by law, provided, the remaining Chapters, Sections, paragraphs or provisions can be construed in substance to constitute the Agreement the Parties intended in the first instance.

10.4 GOVERNING LAW

This Agreement shall be construed in accordance with and governed by the laws of the State of California and the Members agree to submit to the jurisdiction of California courts.

10.5 INTEGRATION

This Agreement constitutes the entire agreement of the Members. No other agreement, oral or written, pertaining to the work to be performed under this Agreement shall be of any force or effect unless it is in writing and signed by the all Members. This Agreement supersedes, in their entirety the original 1976 Agreement establishing the Authority and any amendments entered into up to the effective date of this Agreement.

10.6 RECORDATION

Upon this Agreement being approved and fully executed, the Secretary of the Board shall cause this Agreement to be recorded and provide the Board with evidence of such recordation.

[Signatures on following page]

IN WITNESS WHEREOF, the Members have caused this Agreement to be executed by their duly authorized officers, and to have their official seals affixed hereto as of the date first stated above.

CITY OF ANAHEIM

Dated: _____, 2019

By _____
Harry Sidhu, Mayor

ATTEST:

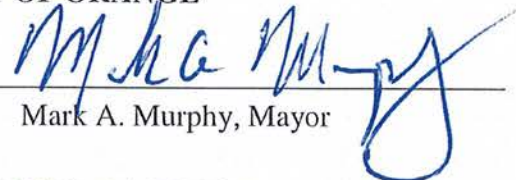
APPROVED AS TO FORM:

By: _____
Theresa Bass, CMC
City Clerk

By: _____
Robert Fabela
City Attorney

Dated: _____, 2019

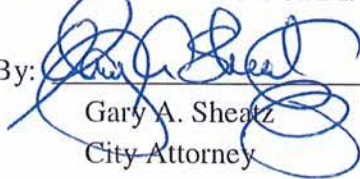
CITY OF ORANGE

By  _____
Mark A. Murphy, Mayor

ATTEST:

APPROVED AS TO FORM:

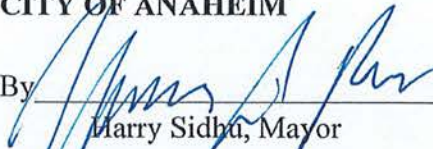
By:  _____
Pamela Coleman, CMC
City Clerk

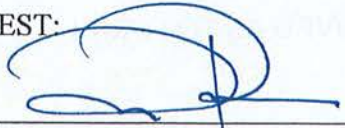
By:  _____
Gary A. Sheatz
City Attorney


IN WITNESS WHEREOF, the Members have caused this Agreement to be executed by their duly authorized officers, and to have their official seals affixed hereto as of the date first stated above.

Dated: 10/28/2019, 2019

CITY OF ANAHEIM

By: 
Harry Sidhu, Mayor

ATTEST:
By:  10/28/19
Theresa Bass, CMC
City Clerk

APPROVED AS TO FORM:
By:  FOR
Robert Fabela
City Attorney

Dated: _____, 2019

CITY OF ORANGE

By: _____
Mark A. Murphy, Mayor

ATTEST:
By: _____
Pamela Coleman, CMC
City Clerk

APPROVED AS TO FORM:
By: _____
Gary A. Sheatz
City Attorney

TRANSMITTAL

CONTRACT ADMINISTRATOR



City of Anaheim
Office of the City Clerk
200 S. Anaheim Blvd., Ste 217
Anaheim, CA 92805
TEL 714-765-5166

Date: **7/23/2021**

File Reference: **AGR-2466.B.1**

Agreement: **Orange City - First Amendment - Amended & Restated North Net Joint Powers Training**

To: **Tracy Nolan**

From: **Edith Trejo**

(Contract Administrator: Tracy Nolan)

Attached Please Find:

- ORIGINAL(S)
- COPY
- CONTRACTOR ORIGINAL
- CONTRACT ADMINISTRATOR ORIGINAL (DEPT. ORIGINAL)
- CITY ATTORNEY

RECEIVED FROM CITY COUNCIL MEETING OF: **July 20, 2021**

RECEIVED FROM CITY DEPARTMENT DATED:

Copies of this notice have also been forwarded on this date to:

n/a

Department: **Fire & Rescue**

Special Notes:

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

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

RECITALS

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

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

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

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

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

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

Now, therefore, the Parties agree as follows:

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

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

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

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

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

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

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

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

Dated: July 20, 2021

CITY OF ANAHEIM

By: [Signature]
Harry Sidhu, Mayor

APPROVED AS TO FORM:
ROBERT FABELA, CITY ATTORNEY

By: [Signature]
Bryn M. Morley, Deputy City Attorney



ATTEST:

By: [Signature] 7/23/21
Theresa Bass, City Clerk
City of Anaheim

Dated: July 16, 2021

CITY OF ORANGE

By: [Signature]
Mark A. Murphy, Mayor

APPROVED AS TO FORM:

By: [Signature]
Gary A. Sheatz, City Attorney

ATTEST:

By: [Signature]
Pamela Coleman, City Clerk
City of Orange

EXHIBIT 1

DISTRICT PARCEL LEGAL DESCRIPTION AND MAPS

Exhibit A

DESCRIPTION:

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

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

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

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

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

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

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

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

THIS EXHIBIT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION.

[Signature]
JOSEPH PADILLA, PLS 7557



SANTA ANA RIVER ROW PER RECORD OF SURVEY 88-1014, RSB 165/1-13
CITY BOUNDARY OF ANAHEIM AND ORANGE.

T.P.O.B.

TAKE AREA: 20,654 S.F.

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

SANTA ANA RIVER

SHEET 2

CONSTRUCTION CL AS SHOWN ON R.S. 88-1014, RSB. 165/1-13.

RANCHO SANTIAGO DE SANTA ANA RECORDS OF LOS ANGELES COUNTY

RAMPART STREET

STREET

CL BK. 419, PG 472 O.R. AS SHOWN ON R.S. 88-1014, RSB. 165/1-13.

SHEET 4

SHEET 3

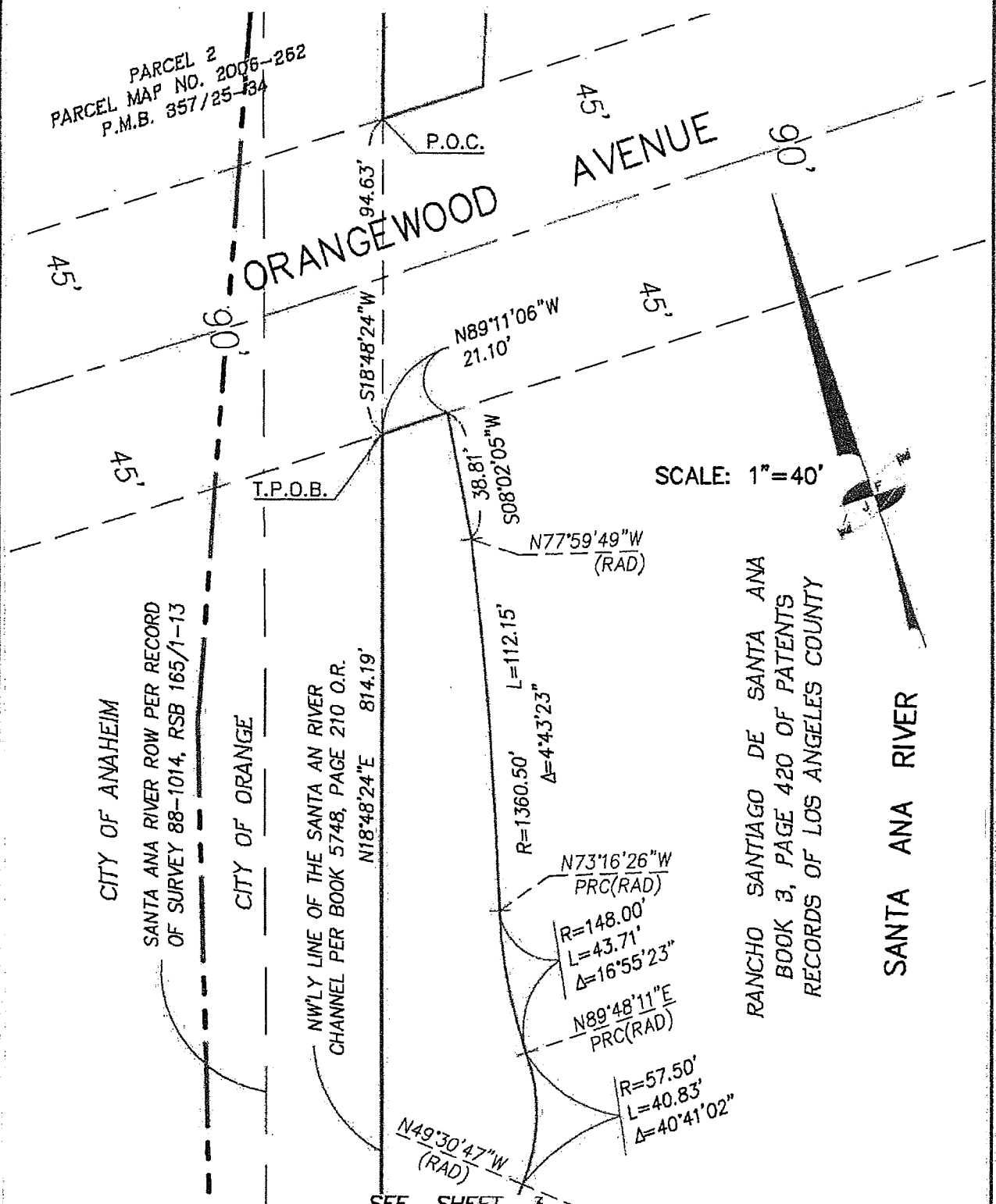
SCALE: 1" = 100'



JOHNSON-FRANK & ASSOC., INC.
LAND SURVEYING - MAPPING
5150 E. HUNTER AVENUE
ANAHEIM, CALIFORNIA 92807-2048
(714) 777-8877 FAX (714) 777-1641

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

PARCEL 2
 PARCEL MAP NO. 2006-262
 P.M.B. 357/25-134



SCALE: 1" = 40'

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

SEE SHEET 3

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

| | |
|--|----------------------------|
| EXHIBIT 'B' | |
| SKETCH TO ACCOMPANY LEGAL DESCRIPTION | |
| DATE <u>02/24/2021</u> | SHEET <u>2</u> OF <u>4</u> |

SEE SHEET 2

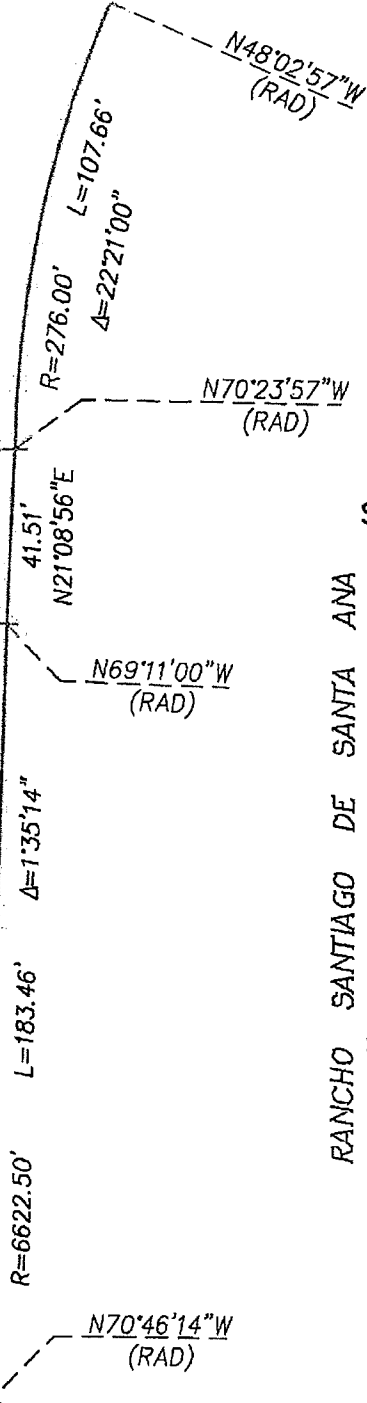
SANTA ANA RIVER ROW PER RECORD
OF SURVEY 88-1014, RSB 165/1-13

CITY OF ANAHEIM

CITY OF ORANGE

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

N18°48'24"E 814.19'



SCALE: 1"=40'

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

SANTA ANA RIVER

SEE SHEET 4



JOHNSON-FRANK & ASSOC., INC.

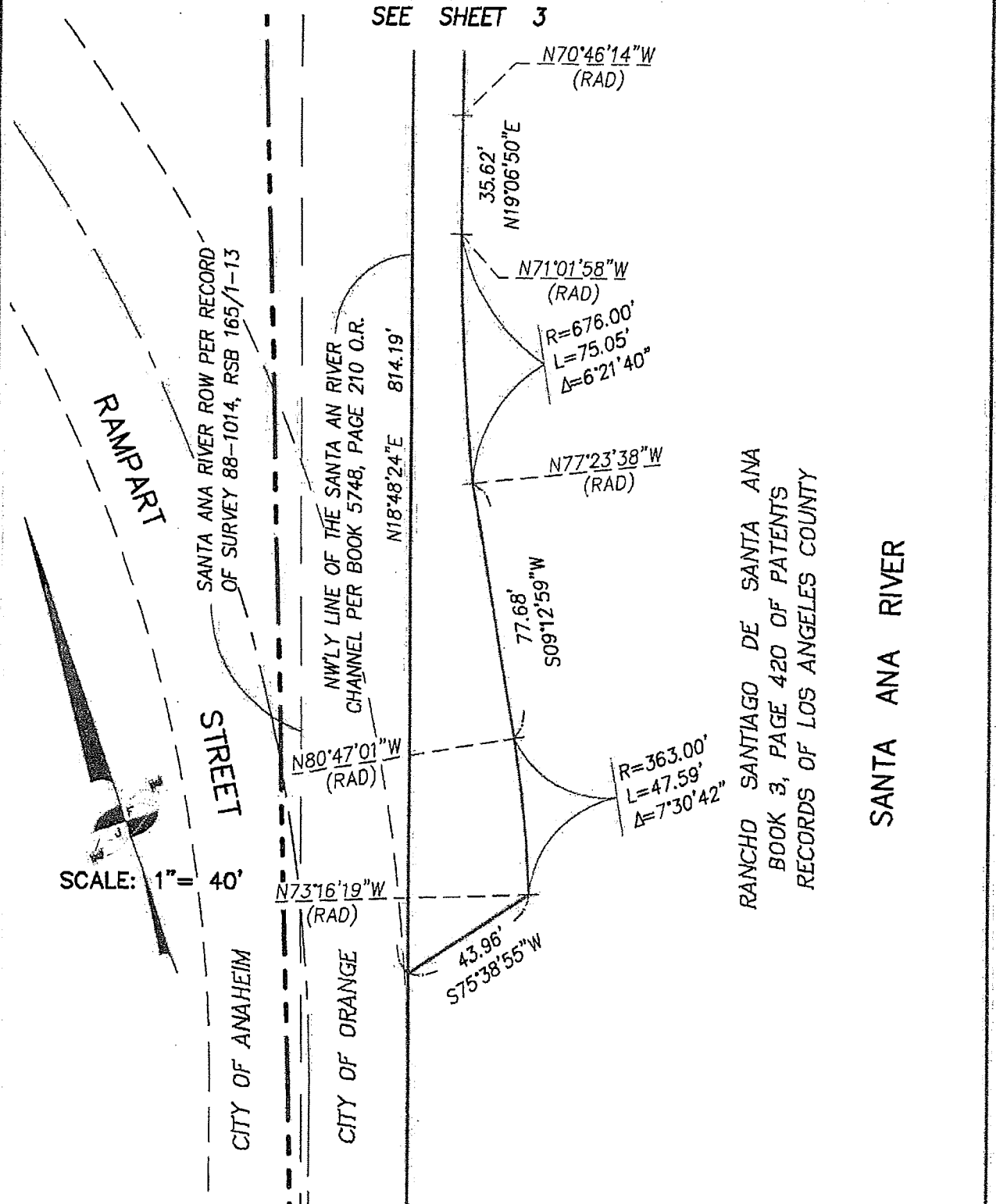
LAND SURVEYING - MAPPING
5150 E. HUNTER AVENUE
ANAHEIM, CALIFORNIA 92807-2049
(714) 777-8877 FAX (714) 777-1641

EXHIBIT 'B'

SKETCH TO ACCOMPANY LEGAL DESCRIPTION

DATE 02/24/2021 SHEET 3 OF 4

SEE SHEET 3




JOHNSON-FRANK & ASSOC., INC.
 LAND SURVEYING - MAPPING
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EXHIBIT 'B'
SKETCH TO ACCOMPANY LEGAL DESCRIPTION
 DATE 02/24/2021 SHEET 4 OF 4