

**REPORT/RECOMMENDATION TO THE BOARD OF SUPERVISORS
OF THE COUNTY OF SAN BERNARDINO
AND RECORD OF ACTION**

May 18, 2021

FROM

JOHN McMAHON, Sheriff/Coroner/Public Administrator

SUBJECT

Individual Hold Harmless Agreement with the United States Marine Corps Air Ground Combat Center, Twentynine Palms

RECOMMENDATION(S)

Approve the use of an Individual Hold Harmless Agreement with the United States Marine Corps Air Ground Combat Center, as a condition to host training sessions at its facilities in Twentynine Palms, California, for Sheriff/Coroner/Public Administrator personnel for the period of June 1, 2021 through May 31, 2026.

(Presenter: John Ades, Captain, 387-0640)

COUNTY AND CHIEF EXECUTIVE OFFICER GOALS & OBJECTIVES

Operate in a Fiscally-Responsible and Business-Like Manner.

Provide for the Safety, Health and Social Service Needs of County Residents.

Pursue County Goals and Objectives by Working with Other Agencies.

FINANCIAL IMPACT

Approval of this item will not result in the use of additional Discretionary General Funding (Net County Cost). The United States Marine Corps Air Ground Combat Center (USMCAGCC), at Twentynine Palms, California will host training sessions at no cost for Sheriff/Coroner/Public Administrator (Department) personnel.

BACKGROUND INFORMATION

The Department provides essential and ongoing law enforcement training to Department personnel at the Frank Bland Regional Training Center (Center) located in Devore. The Center, that occupies nearly 800 acres, provides classroom-based programs, as well as real-world scenario practical training at the outdoor shooting range, Emergency Vehicle Operations Center (EVOC), and live fire house for advanced tactics and firearms training, to meet the requirements of the State of California Commission on Peace Officer Standards and Training (POST) and other federal law enforcement regulatory agencies.

The Department continues to enhance the delivery of training for its personnel by constantly seeking relevant and updated resources, technologies, and partnerships to maintain its high standards, professionalism, and commitment to excellence in serving the County's residents and communities. The pursuit of this goal led to the Department and representatives from the USMCAGCC exploring opportunities to use the various training ranges at the USMCAGCC base located near the City of Twentynine Palms. With an area of approximately 932 square

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miles, the base provides unparalleled topography and facilities that will provide for more realistic training scenarios for departmental personnel, which usually encounter similar conditions in their day-to-day public safety duties.

The USMCAGCC requires involved personnel to sign an individual "Hold Harmless Agreement" (HHA), which is normal and standard for these types of local (county)/Federal joint operations or trainings. The HHA is a document whereby the individuals voluntarily agree to relieve the United States, the U.S. Marine Corps, the USMCAGCC, other agents and agencies from any duty of care, and acknowledge the risks inherent to participation in training conducted at the base. However, as a matter of practicality, if claims were to arise from said training, all personnel involved would be deemed as "on-duty" and working within the parameters of their "official duties" as Department employees covered by the County's Workers' Compensation insurance. The training sessions will be exclusive to the Department and all practical exercises, equipment and personnel will only involve Department personnel. USMCAGCC will not provide assistance nor participate in the Department's training sessions.

The HHA includes the following terms that differ from the standard County contract:

1. Insurance Standards:

- a. Non-standard term: The HHA provides no insurance for the County or the individual while participating in training sessions at the base.
- b. Impact: Department personnel will not have the benefit of insurance from the venue to cover any sustained injuries.
- c. Justification: The Department believes that access to the training facilities far outweighs any risks attendant upon utilizing the facilities and because any injury occurring at the facilities would be "on-duty," the Department believes personnel have adequate insurance coverage.

2. Non-prosecution

- a. Non-standard term: The HHA terms require the individual staff to indemnify the U.S. Government, US Marine Corps, USMCAGCC and other agencies for damages caused by Department personnel and prohibit the County from seeking damages against the U.S. Government, US Marine Corps, USMCAGCC and other agencies for injuries sustained by Department Personnel.
- b. Impact: In the event Department personnel injure themselves or others, they will not be able to seek remedies from the federal government, including the military and the County would have to defend the venue, i.e., the federal government/military from any lawsuit arising out of a Department member's actions.
- c. Justification: the Department members involved in the training will receive unprecedented access to training that would not otherwise be available and because any injuries or damages would occur "on-duty," the Department believes the benefits of the training outweigh the risks that exist.

While these are notable exceptions to the County's standard contract language, the Department recommends approval of the use of individual HHAs in order to pursue the County and Chief Executive Officer's goals and objectives by working with other agencies and provide for the

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safety, health and social service needs of County residents. County Counsel and Risk Management have reviewed and provided input on the HHA.

PROCUREMENT

Not applicable.

REVIEW BY OTHERS

This item has been reviewed by County Counsel (Richard D. Luczak, Deputy County Counsel, 387-5455) on April 19, 2021; Risk Management (LeAnna Williams, Director, 386-8621) on April 20, 2021; Finance (Carolina Mendoza, Administrative Analyst, 387-0294) on April 26, 2021; and County Finance and Administration (Kelly Welty, Deputy Executive Officer, 387-5423) on April 27, 2021.

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Record of Action of the Board of Supervisors
County of San Bernardino

APPROVED (CONSENT CALENDAR)

Moved: Joe Baca, Jr. Seconded: Janice Rutherford

Ayes: Col. Paul Cook (Ret.), Janice Rutherford, Dawn Rowe, Curt Hagman, Joe Baca, Jr.

Lynna Monell, CLERK OF THE BOARD

BY 
DATED: May 18, 2021



cc: File - Sheriff/Coroner w/attach
CCM 05/26/2021