



# San Bernardino County

## Legislation Text

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**File #: 2329, Agenda Item #: 25**

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

**June 9, 2020**

**FROM**

**GARY McBRIDE, Chief Executive Officer, County Administrative Office**

**SUBJECT**

Ratification Actions in Response to the Novel Coronavirus Pandemic

**RECOMMENDATION(S)**

Ratify the Chief Executive Officer's exercise of the authority granted to him by the Board of Supervisors initially on March 24, 2020 (Item No. 67), and extended on May 19, 2020 (Item No. 105), in approving the following actions in response to the worldwide health threat related to the Novel Coronavirus, or COVID-19:

1. Approve Department of Public Health's employment contract with Jennifer N. Sayles, M.D., Physician Consultant, for an estimated annual cost of \$89,000 (\$84,000 Salary, \$5,000 Benefits), for the period of May 23, 2020 through October 23, 2020 signed by the Chief Executive Officer on May 22, 2020.
  - a. Direct the Human Services Assistant Executive Officer or the Interim Director of Public Health to transmit all documents in relation to the contract amendments to the Clerk of the Board of Supervisors within 30 days of execution.
2. Approve Department of Public Health's Amendment No. 1 to Memorandum of Understanding (MOU) with Inland Empire Health Plan (Agreement No. 20-155) for the provision of nurse support, advice and guidance regarding COVID-19, revising Section 15, Counterparts Signature language, extending the MOU for a 60-day period on May 18, 2020, for a total period of March 19, 2020 through July 16, 2020, and delegate authority to the Chairman of the Board of Supervisors or Chief Executive Officer to extend this MOU an additional sixty days upon written confirmation and agreement by both parties, approved by the Chief Executive Officer on May 15, 2020.
  - a. Direct the Interim Director of Public Health to transmit all documents in relation to the MOU amendment to the Clerk of the Board of Supervisors within 30 days of execution.
3. Approve License Agreement No. S2020-006 with 28<sup>th</sup> District Agricultural Association, commonly known as San Bernardino County Fair (SBC Fair) located in Victorville, for 38,300 square feet of building space, 340,946 square feet of common area exterior space and 444,547 square feet of parking lot space, to use as a COVID-19 pandemic staging area, emergency medical transport center and temporary alternate care site on a portion of SBC Fair, in order to meet the County's expanded need for medical treatment and hospital facilities, from April 1, 2020 through September 30, 2020, at no cost to the County except for the cost of utilities, and maintenance/grounds staff fees of \$25 per hour, signed by the Chief Executive Officer on May 15, 2020.
4. Approve the Registrar of Voters online Terms of Service with Squarespace, Inc., in the annual amount of \$600 for perpetual period for the purchase of scheduling software for an online portal for candidates to schedule appointments to file their candidacy paperwork and other in person services for the November 2020 Presidential General Election, approved by the Chief Executive Officer on May 21, 2020.

5. Approve and adopt Resolution 2020-068 to Continue to Exercise the County's Police Power to Impose Substantive Limitations on Residential and Commercial Evictions and Foreclosures from June 1, 2020 through June 9, 2020, signed by the Chief Executive Officer on June 1, 2020.
  6. Direct the County Administrative Office to transmit all executed documents relating to the recommendations above to the Clerk of the Board within 30 days of execution.
- (Presenter: Gary McBride, Chief Executive Officer, 387-5417)

### **COUNTY AND CHIEF EXECUTIVE OFFICER GOALS & OBJECTIVES**

**Promote the Countywide Vision.**

**Create, Maintain and Grow Jobs and Economic Value in the County.**

**Improve County Government Operations.**

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

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

### **FINANCIAL IMPACT**

Approval of the recommendations will not result in the use of additional Discretionary General Funding (Net County Cost). Sufficient appropriation, if necessary, as detailed below, will be included in the respective department's future recommended budgets.

#### **Recommendation No. 1**

This item does not impact Discretionary General Funding (Net County Cost). The estimated annual cost of the contract is \$89,000. The employment contract is a COVID-19 expense and therefore eligible for the County to use Federal Coronavirus Aid, Relief, and Economic Security (CARES) Act Coronavirus Relief Funds or 1991 Realignment funds if no other COVID-19 related federal or state funding is available. Approval of the necessary budget adjustments to the Department of Public Health's (DPH) 2019-20 budget is not requested at this time, but will be included on a future quarterly countywide budget report presented to the Board of Supervisors (Board) for approval. Adequate appropriation and revenue will be included in future recommended budgets.

#### **Recommendation No. 2**

Approval of the recommendation will not result in the use of additional Discretionary General Funding (Net County Cost). Due to emergent and uncertain nature of COVID-19 billing and reimbursement by state, federal, and other sources, the parties are unable to determine if compensation will be made to Inland Empire Health Plan (IEHP) as of the date of execution of this MOU. The parties agree that IEHP reserves its right to request compensation for services rendered under this MOU from the County. If a funding source is available for this service by the State of California, federal or other sources for which the County may receive reimbursement for these services, including the Federal CARES Act Coronavirus Relief Funds, the parties agree to discuss reimbursement of IEHP for these services at a rate to be determined in those discussions at a future date.

#### **Recommendation No. 3**

Approval of this item will not result in the use of additional Discretionary General Funding (Net County Cost). There is no cost to the County associated with the use of building space, common area exterior space, and parking lot space under this License Agreement. However, the County will be responsible for costs related to utilities and staff fees, such as the cost of one fairground staff member to provide facility maintenance at a rate of \$25 per hour for the time that the Alternate Care Site (ACS) is activated for use, at a cost of \$18,000 per month. Should the County request additional staffing for facility maintenance, the cost to the County will be \$25 per hour per staff member requested. Should the ACS be deactivated within the first six hours and require minimal maintenance staff involvement or minimal use of the licensed area, the County will be charged an activation fee of \$100. This Agreement is a result of the COVID-19 pandemic and is eligible for and will require the County to use Federal CARES Act Coronavirus Relief Funds if no other COVID-19 related federal or state funding is available.

Recommendation No. 4

Approval of this recommendation will not result in the use of Discretionary General Funding (Net County Cost). The scheduling software in the amount of \$600 resulting from the COVID-19 pandemic is eligible for and will require the County to use Federal CARES Act Coronavirus Relief Funds if no other COVID-19 related federal or state funding is available.

Recommendation No. 5

Adoption of Resolution 2020-068 itself will not result in the use of additional Discretionary General Funding (Net County Cost). However, the adverse financial impact resulting from this health emergency is felt worldwide. Adverse financial impact to the utilities providers will similarly impact those entities that engage with them as a source of revenue.

**BACKGROUND INFORMATION**

The COVID-19 virus originated in Wuhan, China in late 2019 and began spreading, initially, within China and then to other countries. On January 30, 2020, the World Health Organization declared the outbreak to be a “public health emergency of international concern”. This was followed on January 31, 2020 by the United States Human Services Secretary declaring a public health emergency. Cases internationally, within the US and within California (as evidenced by the Governor’s Proclamation) continue to rise.

On March 4, 2020, the State of California declared a state of emergency as a result of the COVID-19 outbreak due to the rising number of confirmed cases and anticipated complications for those infected, including potential deaths. On March 10, 2020, the County Public Health Officer declared a local health emergency to help ensure county government and the public were prepared for the possibility that COVID-19 will appear within the county. On March 10, 2020 (Item No. 75), the Board of Supervisors (Board) proclaimed the existence of a local emergency within San Bernardino County resulting from COVID-19, which causes infectious disease resulting in symptoms of fever, coughing and shortness of breath with outcomes ranging from mild to severe illness and in some cases, death.

In order to promote a coordinated and efficient response to needs that may arise from the COVID-19 pandemic, on March 24, 2020 (Item No. 67), the Board authorized the Chief Executive Officer (CEO) to execute or approve various actions related to purchases, contracts, donations, budget, including the approval of adoption of resolutions, through May 31, 2020, subject to ratification by the Board at the next available Board meeting. Due to the continued threat of COVID-19, on May 19, 2020 (Item No. 105), the Board extended this authority of the CEO through June 30, 2020, subject to ratification by the Board at the next available Board meeting. The recommended actions will ratify the authority exercised by the CEO.

Recommendation No. 1

DPH provides public health services to the community in San Bernardino County to achieve community health, complementing and enhancing the quality of life in the area. The Physician Consultant will provide strategic and technical support to DPH and health officer for the San Bernardino County COVID-19 roadmap and response, including evaluation of criteria for Phase 2 and subsequent phase reopening, strategies to scale up resources where criteria are not met, ongoing monitoring and evaluation of key indicators through phased reopening, as well as responding to changes in COVID-19 infection rates/characteristics and adjusting approach as necessary for the health and safety of residents. This position will also assist with coordination and communication strategies identifying opportunities to leverage existing health care resources, expertise and leadership in San Bernardino County and the community to execute a coordinated and effective response countywide that meets the COVID-19 roadmap and response criteria for testing, personal protective equipment, and acute care surge capacity in hospitals in San Bernardino County.

The employment contract with Jennifer N. Sayles, M.D. as a Physician Consultant shall be effective May 23, 2020 through October 23, 2020, subject to the termination provisions of the contract. Notwithstanding the

foregoing, either party may terminate the contract at any time without cause upon 14 days prior written notice to the other party. The County may terminate the contract immediately for just cause. The Physician Consultant is vital to the Public Health response to the COVID-19 pandemic in San Bernardino County. County Counsel has reviewed the agreement and it was signed by the CEO on May 22, 2020.

Recommendation No. 2

On March 19, 2020, the CEO approved an MOU between the Department of Public Health and IEHP to provide accurate and timely information to the County's residents by providing nurse support, advice and guidance regarding COVID-19 for the period of March 19, 2020 through May 17, 2020. The Board ratified the CEO's action on March 24, 2020 (Item No. 67). IEHP will provide registered nurses to take calls addressing concerns from San Bernardino County residents and provide information, clinical advice and guidance regarding resources related exclusively to COVID-19. Approval of this recommendation extends the MOU for a 60-day period and updates Section 15, Counterparts Signature language to be consistent with electronic signature terms. The recommendation also requests approval to delegate authority to the Chairman of the Board of Supervisors or CEO to renew this MOU for an additional sixty days upon written confirmation and agreement by both parties. County Counsel has reviewed the MOU and it was signed by the CEO on May 15, 2020.

Recommendation No. 3

In an effort to manage mild-to-moderate symptomatic and asymptomatic COVID-19 patients who do not require extensive medical care, the County developed a scalable ACS at SBC Fair in Victorville. Upon activation, the ACS will provide initial stabilizing care, triage and distribution of patients when hospital surge efforts are nearing capacity. The patients will be evaluated first at local hospitals and then transferred to ACS. The ACS activation will be based upon hospital surge needs.

On April 16, 2020, it was requested that Real Estate Services Department (RESA) prepare a six-month Emergency COVID 19 License Agreement for 38,300 square feet of building space, 340,946 square feet of common area exterior space and 444,547 square feet of parking lot space with SBC Fair located at 14800 7<sup>th</sup> Street, Victorville. The Agreement is from April 1, 2020 through September 30, 2020, but may be extended by the parties as needed. Either party may terminate this license agreement without cause upon a 14-day written notice. County Counsel has reviewed this Agreement and it was signed by the CEO on May 15, 2020.

Recommendation No. 4

In preparation for Candidate Filing for the November 2020 Presidential General Election and in accordance with COVID-19 social distancing, ROV purchased Acuity software to develop an online portal for candidates to schedule appointments for video conferencing or in-person appointments for an estimated 500 plus candidates. This purchase will minimize in-person contact with candidates while safely conducting candidate filing services. The Squarespace Terms of Service include non-standard terms which require Board approval. The non-standard terms are as follows:

1. Section 9.4 Refunds - Paid services are non-refundable;
2. Section 12 Term and Termination - The contract term is perpetual, and there is no termination for convenience;
3. Section 13.1 Disclaimers - The software provided is "as-is" and "as available" without warranty;
4. Section 14 Limitation of Liability - Squarespace's liability is limited to the greater of \$20 or the amount paid by the County in the 12 months before the event that causes the claim without exception;
5. Section 15 Indemnification - Squarespace has no indemnity obligation to the County. The County is required to indemnify Squarespace against claims arising from breach of contract; County content, websites and eCommerce; by, on behalf of, or against County End Users; County's violation of law or personality rights of third parties; and tax authorities in any country related to County's eCommerce

operations;

6. Section 16.3 Arbitration Agreement - The Agreement requires binding arbitration unless the County follows the procedure to opt out;
7. Section 16.8.1 US Users - Regardless of whether the County opts out of arbitration, Squarespace may file claims in small claims court in New York, NY;
8. Section 17.2.1 US Users - Governing law is the State of New York;
9. Section 17.2.1 US Users - Venue for claims is New York, New York;
10. Section 17.5 Modifications - Squarespace can modify the Agreement at any time by posting on the website;
11. Contract does not include any insurance requirements.

County Counsel has reviewed the request and it was approved by the CEO on May 21, 2020.

#### Recommendation No. 5

On March 19, 2020, the Governor issued a statewide “Stay-at-Home” Order to help prevent the spread of COVID-19. As a result of the Governor’s “Stay-at-Home” Order, many residents will continue to experience substantial loss of income as a result of business closures, the loss of hours or wages or layoffs related to the pandemic, hindering their ability to keep up with their rents, mortgages and utility bills.

In his March 16, 2020 Executive Order N-28-20 (Order), Governor Newsom suspended any provision of state law prohibiting a local government from exercising its police power to impose substantive limitations on residential or commercial evictions or foreclosures. On May 29, 2020, the Governor extended Executive Order N-28-20 through issuance of Executive Order N-66-20, thereby extending for 60 days from May 29, 2020, the ability of local government to continue to enact substantive limitations on residential or commercial evictions and foreclosures.

On March 24, 2020 (Item No. 68), the Board adopted Resolution No. 2020-19 exercising its policy power to impose substantive limitations on residential and commercial evictions and foreclosures through April 30, 2020. Due to the continued threat of COVID-19, on April 24, 2020, based on the authority granted to the CEO on March 24, 2020 (Item No. 67) as a result of the COVID-19 pandemic, the CEO adopted Resolution No. 2020-040, extending the termination date of the limitation from April 30, 2020 through May 31, 2020. On May 19, 2020 (Item No. 105), the Board extended the CEO’s authority in response to COVID-19, including the authority to adopt resolutions through June 30, 2020. As the COVID-19 pandemic continues to impact employment, Recommendation No. 5 and ratification of Resolution 2020-068 would extend the term of the limitation for the period June 1, 2020 through June 9, 2020. County Counsel reviewed and the CEO adopted Resolution 2020-068 on June 1, 2020.

#### PROCUREMENT

Not Applicable.

#### REVIEW BY OTHERS

This item has been reviewed by County Counsel (Penny Alexander-Kelley, Chief Assistant County Counsel, 387-4270; Julie Surber, Principal Assistant County Counsel, 387-5455; Cynthia O’Neill, Supervising Deputy County Counsel, 387-5455; Adam Ebright, Deputy County Counsel, 387-5455; and Bonnie Uphold, Deputy County Counsel, 387-5455) on June 1, 2020; Human Resources (Mark DeBoer, Assistant Director of Human Resources, 387-5570) on May 19, 2020; Human Services Contracts (Jennifer Mulhall-Daudel, Contracts Manager, 388-0241) on May 18, 2020; Finance (Stephenie Shea, Administrative Analyst, 387-4919; Wen Mai,

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Principal Administrative Analyst, 387-4020; Paul Garcia, Administrative Analyst, 386-8392; and Elias Duenas, Administrative Analyst, 387-4055) on May 28, 2020; HS Finance and Administration (Tanya Bratton, Deputy Executive Officer, 388-0332) on May 20, 2020; and Finance and Administration (Matthew Erickson, County Chief Financial Officer, 387-5423) on June 1, 2020.