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## **AGENDA**

### **Special Meeting of the City Council**

CITY OF WESTLAKE VILLAGE  
City Council Conference Room  
31200 Oak Crest Drive

TELECONFERENCE LOCATION  
720 E. Country Road, 950 S.  
Clay City, IN 47841

**Wednesday, July 29, 2009**

**CALL TO ORDER:** 4:00 p.m.

**CLOSED SESSION:**

*This time has been set aside for the City Council to meet in closed session to discuss matters pertaining to:*

1. "Conference with Legal Counsel - Existing Litigation" (Government Code Section 54956.9(a))  
*Name of Case: Amazing Healing Supply vs. City of Westlake Village (Case #BS121638)*
2. Conference with Legal Counsel - Anticipated Litigation (Government Code Section 54956.9(c)) Initiation of litigation - 1 potential case

**RECONVENE:** 4:30 p.m.

**ROLL CALL:** Councilmembers Klessig, McSweeney, Davis,  
Mayor Pro Tem Rutherford, Mayor Slavin

**APPROVAL OF AGENDA:**

**PUBLIC COMMENTS:**

**NEW BUSINESS:**

1. **COUNTY-CITY SPECIAL INDEMNITY AGREEMENT** - Recommendation is to approve a proposed indemnity agreement for law enforcement services negotiated by the California Contract Cities Association.

**ADJOURNMENT:**

City of Westlake Village  
July 29, 2009  
Agenda Item: New Business Item No. 1

**TO:** Mayor and City Council  
**FROM:** Raymond B. Taylor, City Manager  
**SUBJECT: PROPOSED COUNTY-CITY SPECIAL INDEMNITY AGREEMENT FOR  
LAW ENFORCEMENT SERVICES**

### **OVERVIEW**

This agenda item addresses a proposed County-City Special Indemnity Agreement for law enforcement services with the County of Los Angeles (County). This proposed agreement was negotiated by the California Contract Cities Association (CCCA) on behalf of the contract cities served by the Los Angeles County Sheriff's Department.

### **BACKGROUND**

For some time, the CCCA and its member cities have been involved in a dispute with the County relating to the withdrawal by the County of approximately \$5.5 million in funds from the Liability Trust Fund (LTF) to reimburse itself for the costs of settling claims arising from sexual assaults committed by a Sheriff's deputy. This dispute revolves around the CCCA's contention that the County should be precluded from using the LTF monies to pay for the criminal acts of its deputies while assigned and on duty in a contract city.

In order to allow additional time to negotiate this matter, the CCCA proposed that the parties enter into a one-year tolling agreement and extend the current law enforcement services agreements from their current termination date of June 30, 2009 to June 30, 2010. In response, the Board of Supervisors stated that it would only agree to a tolling agreement through August 30, 2009 which was subsequently approved by the contract cities.

### **FINDINGS AND ALTERNATIVES**

After a number of meetings involving a CCCA negotiating committee and a similar committee of the County, the parties recently reached an agreement on the dispute. The proposed solution is a separate indemnity agreement to be executed by the parties that will provide that the County will pay into the LTF, from its own funds, an amount equal to one-half of any sums paid from the LTF or reimbursed to the County from the

LTF for a claim arising out of a law enforcement services agreement under the following circumstances: (1) a felony judgment of criminal conviction is entered in a state or federal court based upon the same facts as the claim; and (2) the felony judgment of criminal conviction is based upon an act of rape, sodomy, oral copulation or other sexual penetration of a person.

The CCCA is asking all contract cities to take immediate action on the proposed indemnity agreement so that it may be presented to the County in early August. Subsequent to the resolution of this dispute, the CCCA and the County will meet during the month of August to address any desired changes to the next five-year law enforcement services agreement to allow for the continuation of those services. It is expected that staff will place the extension to the law enforcement services agreement on the City Council's agenda for the first meeting in September.

### **FISCAL IMPACT**

As noted above, this proposed settlement and the resulting proposed new indemnity agreement will require a 50% County contribution toward claims, as defined above, that may arise in the future.

### **RECOMMENDATION**

Based on the foregoing, it recommended that the City Council approve the attached County-City Special Indemnity Agreement. Should the City Council concur, the following motion is in order:

**MOTION:** "I move that the City Council approve the County-City Special Indemnity Agreement, and authorize the Mayor and City Clerk to sign and execute the agreement of behalf of the City."

**ROLL CALL:** Yes.

**Attachments:** (1) Proposed County-City Special Indemnity Agreement

## COUNTY-CITY SPECIAL INDEMNITY AGREEMENT

THIS AGREEMENT ("Agreement"), dated for reference purposes on the \_\_\_\_ day of \_\_\_\_\_, 2009, is made and entered into between the County of Los Angeles, hereinafter referred to as the "County," and the Cities identified in Recital G below, hereinafter cumulatively referred to as the "Cities."

### RECITALS

- A.** Cities, and each of them, and County have heretofore contracted for the performance of law enforcement services to be provided by the County, its officers, agents and employees, known as "Municipal Law Enforcement Services Agreements" which contracts the parties may in the future extend, renew and amend, and enter into other and further contracts for the performance of such services (hereinafter referred to as "MLESA"); and
- B.** Cities and County have heretofore contracted for the indemnification of the Cities by the County, utilizing the Liability Trust Fund ("LTF") for the acts and omissions committed by the County's employees in the course and scope of providing services under the MLESA agreements, more particularly described as the Joint Indemnity Agreements or Assumption of Liability Agreements (hereinafter referred to as "Joint Indemnity Agreements") which have remained in full force and effect to the present time; and
- C.** In accordance with the Joint Indemnity Agreements, the County established the LTF, as provided in those agreements. In accordance with the Joint Indemnity Agreements, the Cities, and each of them, are required

to pay monies into the LTF. The monies in the LTF are used to reimburse the County for claims, losses, costs and expenses it incurs for which indemnification is provided in the parties' MLESA and/or Joint Indemnity Agreements; and

**D.** The County withdrew sums from the LTF for the purpose of reimbursing itself for its payment of settlement of claims related to sexual assaults committed by a deputy sheriff (Gonzales) in the years 2002 and 2003 (the "Claims"); and

**E.** A dispute has arisen between the parties regarding the circumstances under which the County may utilize the funds in the LTF for claims arising from sexual assaults committed by deputy sheriffs employed by the County ("Sexual Assaults"); and

**F.** The parties desire to continue the Joint Indemnity Agreements and MLESA agreements, as amended, modified and supplemented from time to time. As further consideration to the Cities, the County is willing to reimburse the LTF for a portion of the sums that are used or may be used by it from the LTF for claims, losses, costs or expenses arising out of certain Sexual Assaults, as defined in Section 2 below, occurring in the performance of the MLESA agreements on the terms and in the manner provided in this Agreement.

**G.** The Cities that are a party to this Agreement are as follows:

City of Agoura Hills  
City of Artesia  
City of Avalon

City of Bellflower  
City of Bradbury  
City of Calabasas

City of Carson  
City of Cerritos  
City of Commerce  
City of Compton  
City of Diamond Bar  
City of Duarte  
City of Hawaiian  
Gardens  
City of Hidden Hills  
City of Industry  
City of La Canada  
City of La Habra Heights  
City of La Mirada  
City of La Puente  
City of Lakewood  
City of Lancaster  
City of Lawndale  
City of Lomita  
City of Lynwood

City of Malibu  
City of Norwalk  
City of Palmdale  
City of Paramount  
City of Pico Rivera  
City of Rancho Palos  
Verde  
City of Rolling Hills  
City of Rolling Hills  
Estate  
City of Rosemead  
City of San Dimas  
City of Santa Clarita  
City of South El Monte  
City of Temple City  
City of Walnut  
City of West Hollywood  
City of Westlake Village

NOW, THEREFORE, for good and valuable consideration, receipt of which is acknowledged, it is mutually agreed as follows:

#### **AGREEMENT**

**1. Effective Date.**

This Agreement shall be effective as of July 1, 2009. The foregoing notwithstanding, this Agreement shall apply to any claims notice of which is first given to the Liability Trust Fund Oversight Committee after the effective date of this agreement, regardless of the date of occurrence. For purposes of this Agreement "notice" shall mean notification to the Chief Executive Officer of the California Joint Powers Insurance Authority and the Executive Director of the California Contract Cities Association, unless otherwise instructed in writing.

**2. Indemnity by the County to the City.**

The parties agree that the maximum liability of the LTF for any losses, claims, costs or expenses related to certain Sexual Assaults, as herein below defined, by deputies or other peace officers in the employ of the County shall be one-half (1/2) of any settlement, judgment or award for such assaults and the costs of defense, including attorneys fees, for such claims or lawsuits. In the event that a withdrawal is made by the County from the LTF for any liability related to certain Sexual Assaults by deputies or other peace officers, as herein below defined, the County shall reimburse the LTF, or, in the event that it has not made a withdrawal of funds from the LTF it shall assume the responsibility to pay from its own funds, one-half (1/2) of any amounts necessary to satisfy any judgment, award or settlement not otherwise covered by insurance, if there is any, together with costs of defense, including attorneys fees, under the following circumstances:

- a. A felony judgment of criminal conviction is entered in a state or federal court based upon the same facts as the claim; and
- b. The felony judgment of criminal conviction is based upon an act of rape, sodomy, oral copulation or other sexual penetration of a person;

For purposes of calculating the amount that the County is obligated to pay into the LTF under this Agreement, any amount paid by an insurance carrier directly to a claimant on a claim which is subject to this Agreement shall not be deemed to have been paid from the LTF.

For purposes of calculating the amount that the County is obligated to pay into the LTF under this Agreement, any amount paid from the LTF on a claim

which is subject to this Agreement but which is reimbursed to the LTF by an insurance carrier shall not have been deemed paid from the LTF.

Nothing herein creates an obligation upon the Cities, or any of them, or any other entity to acquire, have or maintain any policy of insurance.

**3. Term of and Application to Other Agreements.**

This Agreement shall apply to all MLESA agreements now existing or hereafter entered into, including amendments, renewals or other extensions thereof. This Agreement shall serve to supplement the Joint Indemnity Agreements with respect to the single subject matter addressed herein.

Nothing herein shall be deemed to change, modify, alter, amend, or substitute any term, right, obligation or condition set forth in an MLESA, as amended or modified, from time to time.

**4. Termination of Service Contracts Between County and Cities.**

This Agreement shall continue in effect until the last of any MLESA or similar agreement is lawfully terminated in accordance with its terms. Such termination shall not relieve County or City for any obligations set forth in such MLESA agreement relating to obligations upon termination of such agreement and this Agreement to any claims related to a Sexual Assault.

**5. Release of the Claims.**

The Cities and each of them hereby waive, release and relinquish any claim they may have for the reimbursement of the sums withdrawn by the County with respect to the Claims. The County hereby waives, releases and relinquishes any right or claim it may have for reimbursement of any sums it has or may have

paid or incurred with regard to any Sexual Assault occurring prior to the effective date of this Agreement.

**6. Further Assurances.**

Each of the parties hereto agrees to execute and deliver any and all additional papers and documents, and to do any and all acts reasonably necessary in connection with the performance of its obligations hereunder and to carry out the intent of the parties hereto.

**7. Non-Admission of Liability.**

Each of the parties hereto agrees that nothing contained or incorporated herein shall be deemed as an admission of liability with respect to any matter, thing, or dispute whatsoever.

**8. Entire Agreement.**

This Agreement with regard to the use of LTF funds by the County for claims arising out of Sexual Assaults, and the other agreements between the parties referenced herein, shall constitute the entire agreement between the parties hereto with respect to the subject matter hereof, and shall supersede all prior and contemporaneous agreements, representations of the parties concerning the subject matter hereof and the terms applicable thereto.

**9. Amendment.**

This Agreement may not be supplemented, modified or amended in any manner, except by an instrument in writing stating that it is a supplement, modification or amendment of this Agreement and signed by each of the parties hereto.

**10. Waiver.**

No waiver of any of the provisions of this Agreement shall be deemed or constitute a waiver of any other provision, whether or not similar, nor shall any waiver constitute a continuing waiver. No waiver shall be binding unless executed in writing by the party making the waiver.

**11. Counterparts.**

This Agreement may be executed by one or more separate counterparts, each of which, when so executed shall together constitute one and the same instrument. A copy transmitted electronically or by facsimile shall be deemed effective as an original.

**12. Captions.**

The captions appearing in this Agreement are descriptive only and for convenience of reference. Should there be any conflict between any such caption and the terms of this Agreement, the latter shall control and govern the construction of this Agreement.

**13. Constructions and Interpretation.**

The parties have participated equally in the preparation of this Agreement, which shall be construed and interpreted simply and fairly and not strictly for or against any party.

**14. Recitals.**

The Recitals set forth in this Agreement are incorporated herein by reference and made a part hereof.

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed by their fully authorized officers the day and year hereinafter set forth.

COUNTY OF LOS ANGELES

By \_\_\_\_\_  
DON KNABE  
Chairman, Board of Supervisors

ATTEST:  
SACHI HAMAI  
Executive Officer-Clerk  
Board of Supervisors

By \_\_\_\_\_  
Deputy

APPROVED AS TO FORM:  
ROBERT E. KALUNIAN  
Acting County Counsel

By \_\_\_\_\_

(Signatures continued)

CITY OF WEST HOLLYWOOD

By \_\_\_\_\_

MAYOR

ATTEST:

By \_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:  
CITY ATTORNEY

By \_\_\_\_\_

CITY OF WESTLAKE VILLAGE

By \_\_\_\_\_

MAYOR

ATTEST:

By \_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:  
CITY ATTORNEY

By \_\_\_\_\_  
(End)

