



County of Orange

County Executive Office

August 8, 2017

Honorable Charles Margines
Presiding Judge of the Superior Court of California
700 Civic Center Drive West
Santa Ana, CA 92701

Subject: Response to Grand Jury Report, "Ortega Highway: Unnecessary Delays Have Cost Us Millions"

Dear Judge Margines:

Per your request, and in accordance with Penal Code 933, please find the combined County of Orange response to the subject report as approved by the Board of Supervisors. The respondents are the Orange County Board of Supervisors and Orange County Public Works.

If you have any questions, please contact Lilly Simmering of the County Executive Office at 714-834-6748.

Sincerely,

Frank Kim
County Executive Officer

Enclosure

cc: FY 2016-17 Orange County Grand Jury Foreman
Lilly Simmering, Deputy Chief Operating Officer, County Executive Office

ORANGE COUNTY BOARD OF SUPERVISORS

MINUTE ORDER

August 08, 2017

Submitting Agency/Department: County Executive Office

Approve proposed response to FY 2016-17 Grand Jury Report "Ortega Highway: Unnecessary Delays Have Cost Us Millions." - District 5

The following is action taken by the Board of Supervisors:

APPROVED AS RECOMMENDED OTHER

Unanimous (1) DO: Y (2) STEEL: Y (3) SPITZER: Y (4) NELSON: Y (5) BARTLETT: Y

Vote Key: Y=Yes; N=No; A=Abstain; X=Excused; B.O.=Board Order

Documents accompanying this matter:

- Resolution(s)
- Ordinances(s)
- Contract(s)

Item No. 20

Special Notes:

Copies sent to:

CEO – Lilly Simmering
~~Superior Court~~
Grand Jury

8/10/17



I certify that the foregoing is a true and correct copy of the Minute Order adopted by the Board of Supervisors, Orange County, State of California.
Robin Stieler, Clerk of the Board

By:
Deputy



AGENDA STAFF REPORT

Agenda Item

20

ASR Control 17-000872

23F3

MEETING DATE: 08/08/17
LEGAL ENTITY TAKING ACTION: Board of Supervisors
BOARD OF SUPERVISORS DISTRICT(S): 5
SUBMITTING AGENCY/DEPARTMENT: County Executive Office (Approved)
DEPARTMENT CONTACT PERSON(S): Lilly Simmering (714) 834-6748
 Shane Silsby (714) 667-9700

RECEIVED
 2017 JUL 19 PM 3:38
 CLERK OF THE BOARD
 ORANGE COUNTY
 BOARD OF SUPERVISORS

SUBJECT: Ortega Highway Grand Jury Response

CEO CONCUR
Concur

COUNTY COUNSEL REVIEW
No Legal Objection

CLERK OF THE BOARD
Discussion
3 Votes Board Majority

Budgeted: N/A

Current Year Cost: N/A

Annual Cost: N/A

Staffing Impact: No

of Positions:

Sole Source: N/A

Current Fiscal Year Revenue: N/A

Funding Source: N/A

County Audit in last 3 years: No

Prior Board Action: N/A

RECOMMENDED ACTION(S):

1. Approve proposed response to FY 2016-17 Grand Jury Report entitled, "Ortega Highway: Unnecessary Delays Have Cost Us Millions."
2. Direct the Clerk of the Board to forward this Agenda Staff Report with attachments to the Presiding Judge of the Superior Court and the FY 2016-17 Grand Jury no later than August 14, 2017.

SUMMARY:

Approval of proposed response to the FY 2016-17 Grand Jury Report entitled, "Ortega Highway: Unnecessary Delays Have Cost Us Millions" will fulfill the County's required response to the Grand Jury.

BACKGROUND INFORMATION:

On June 5, 2017, the Orange County Grand Jury released a report entitled, Ortega Highway: Unnecessary Delays Have Cost Us Millions." The report directed findings and recommendations to the Board of Supervisors and Orange County Public Works. Attachment B is the County's combined proposed response to the Grand Jury findings.



Responses to Findings and Recommendations
2016-17 Grand Jury Report:

“Ortega Highway: Unnecessary Delays Have Cost Us Millions”

SUMMARY RESPONSE STATEMENT:

On June 5, 2017 the Grand Jury released a report entitled: “Ortega Highway: Unnecessary Delays Have Cost Us Millions”. This report directed responses to findings and recommendations to the Orange County Board of Supervisors and Orange County Public Works, which are included below.

FINDINGS AND RESPONSES:

- F.2. **Traffic will continue to increase in South Orange County and Ortega Highway is one of the main arterial roads on which this traffic will travel. Until the Lower Ortega Project is complete, congestion and safety concerns will remain.**

Response: Agrees with the finding. As Rancho Mission Viejo (RMV) continues through its development plan in the region, traffic volumes on Ortega Highway are expected to increase. RMV is currently at the 2000 – 2500 Equivalent Dwelling Unit milestone, and with the upward turn in economy, RMV is expected to continue pursuing its development plan, which corresponds with an increase in traffic volumes on the local roadway network, including Ortega Highway. The County of Orange is not the controlling jurisdiction that is charged with evaluating safety concerns along this portion of Ortega Highway.

- F.3. **The costs for completion of the Lower Ortega Project have escalated and are probably still understated. Further delay will result in additional costs for the taxpayers of Orange County.**

Response: Agrees with the finding. Although not the lead agency in developing the technical studies for the Lower Ortega Highway Widening Project (including cost estimates), the County of Orange believes that delay has an associated cost increase due to time value of the money. In the construction industry, a widely used measure for construction cost escalation is the Construction Cost Index (CCI), published by the California Department of Transportation (Caltrans) on a quarterly

basis. Due to the improvements in economic conditions after the great recession, Caltrans has witnessed CCI increases in recent years.

RECOMMENDATIONS AND RESPONSES:

R.3. The County should continue to work towards timely completion of the Lower Ortega Project.

Response: The recommendation will not be implement because it is not reasonable. The recommendation is not reasonable as only the State or the City of San Juan Capistrano (City) hold the jurisdiction to be the lead agency. This report inaccurately refers to the County of Orange (County) as a “Lead Agency” for the Lower Ortega Highway Widening Project (Project). However, County has partnered with Caltrans to secure funding for the development of the Project Approval and Environmental Document (PA&ED) by Caltrans’ workforce. Furthermore, a cooperative agreement between County and Caltrans is currently being drafted, in which the roles and responsibilities for both parties will be delineated. The agreement makes it clear that Caltrans will be the lead agency for developing the Project Report and the Environmental Document, including all necessary technical studies, engineering reports, and environmental permits/clearances (including NEPA and CEQA). Ortega Highway is a State facility fully within the City boundary for the subject Project, and Caltrans will have better control over the progress of the Project through the different phases of Project delivery, including Right-Of-Way Acquisition, Final Design, and Construction. County was active in supporting the PA&ED phase by securing \$1,950,000 in Measure M2 funds, and will continue to collaboratively support the lead agency (Caltrans or City) on the Project throughout its future phases.