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FIVE-YEAR FIRST AMENDMENT TO AGREEMENT
BETWEEN THE
CITY OF SAN JUAN CAPISTRANO
AND THE
COUNTY OF ORANGE

THIS FIRST AMENDMENT TO AGREEMENT, entered into this First day of May 2021~~0~~, which date is enumerated for purposes of reference only, by and between the CITY OF SAN JUAN CAPISTRANO, hereinafter referred to as "CITY" and the COUNTY OF ORANGE, a political subdivision of the State of California, hereinafter referred to as "COUNTY"; to amend effective July 1, 2021, that certain Agreement between the parties commencing July 1, 2020, hereinafter referred to as the "Agreement".

1. For the period July 1, 2021 through June 30, 2022, REGULAR SERVICES BY COUNTY, Subsections C-4, C-7, C-8 and C-10 of the Agreement are amended to read as follows:

WITNESSETH:

~~WHEREAS, CITY wishes to contract with COUNTY for law enforcement services; and~~

~~WHEREAS, COUNTY is agreeable to the rendering of such services, as authorized in Government Code Sections 51301 and 55632, on the terms and conditions hereinafter set forth.~~

~~NOW, THEREFORE, IT IS MUTUALLY AGREED AS FOLLOWS:~~

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1 ~~A. TERM:~~

2 ~~The term of this Agreement shall be for five (5) years, commencing~~
3 ~~July 1, 2020 and terminating June 30, 2025, unless earlier terminated by either~~
4 ~~party in the manner set forth herein.~~

5 ~~B. OPTIONAL TERMINATION:~~

6 ~~COUNTY or CITY may terminate this Agreement, without cause, upon one-~~
7 ~~hundred and eighty (180) days written notice to the other party.~~

8 ~~C. REGULAR SERVICES BY COUNTY:~~

9 ~~1. COUNTY, through its Sheriff-Coroner and deputies, officers and~~
10 ~~employees, hereinafter referred to as "SHERIFF," shall render to CITY law~~
11 ~~enforcement services as hereinafter provided. Such services shall include~~
12 ~~the enforcement of lawful State statutes and lawful municipal ordinances of~~
13 ~~CITY other than licensing ordinances.~~

14 ~~2. The night, day and evening patrol and supervisory shifts will be established~~
15 ~~by SHERIFF. Personnel of each shift may work varying and different times~~
16 ~~and may be deployed to other shifts when, in the opinion of SHERIFF and~~
17 ~~CITY Manager, the need arises. Any long-term shift deployment change will~~
18 ~~be reported to the City Council.~~

19 ~~3. Each fiscal year, COUNTY shall submit to CITY, in writing, a recommended~~
20 ~~level of service for the following fiscal year. CITY shall remit to COUNTY, in~~
21 ~~writing, its response to the recommended level of service. If the parties are~~
22 ~~unable to agree by June 30 of any fiscal year on the level of service to be~~
23 ~~provided by COUNTY to CITY or on the amount to be paid by CITY for~~
24 ~~services to be provided by COUNTY for the following fiscal year, this~~
25 ~~Agreement will terminate as of September 30 of the following fiscal year. If~~
26 ~~the parties do not agree by June 30 on the level of service and cost of~~
27 ~~service for the following fiscal year, between July 1 and September 30 of the~~
28 ~~following fiscal year, COUNTY will provide the level of service provided~~

1 ~~C. REGULAR SERVICES BY COUNTY: (Continued)~~

2 ~~in the preceding fiscal year, and CITY shall be obligated to pay the costs of~~
3 ~~such services. The full cost of such services may exceed the cost of similar~~
4 ~~services provided in the prior fiscal year.~~

5 4. ~~"C-4.~~ The level of service, other than for licensing, to be provided by the
6 COUNTY for the period July 1, 202~~10~~¹⁹ through June 30, 202~~21~~²⁴, is set forth in
7 Attachment A and incorporated herein by this reference.

8 ~~5. For any service listed in Attachment A of this Agreement that is provided to~~
9 ~~CITY at less than 100% of a full-time SHERIFF position, COUNTY retains~~
10 ~~the option to terminate such service in the event the other city or cities~~
11 ~~which contract(s) for the balance of the time of the employee providing the~~
12 ~~service no longer pay(s) for such service and CITY does not request the~~
13 ~~Agreement be amended to pay 100% of the cost of the employee providing~~
14 ~~such service. The Maximum Obligation of CITY set forth in Subsection G-2~~
15 ~~will be adjusted accordingly.~~

16 6. All services contracted for in this Agreement may not be operational on
17 the precise date specified in this Agreement. In those instances, SHERIFF
18 shall notify CITY Manager of the date or dates such service or services are
19 to be implemented. SHERIFF shall reduce the monthly charges to CITY,
20 based on the actual date of implementation of the service or services.
21 Charges shall be reduced on the next monthly billing tendered in
22 accordance with Subsection G-5 of this Agreement.

23 ~~7.5. C-7.~~ During emergencies, such as a mutual aid situation, SHERIFF will
24 attempt to leave in CITY the ~~Lieutenant~~ Captain in charge of CITY Police
25 Services. If SHERIFF determines that the ~~Captain~~ Lieutenant is needed
26 elsewhere, SHERIFF will notify CITY's Manager within four (4) hours.
27 SHERIFF will return the ~~Captain~~ Lieutenant to CITY as soon as possible
28 once the emergency situation is under control.

1 ~~C. REGULAR SERVICES BY COUNTY: (Continued)~~

2 C-8. With respect to the licensing ordinances of CITY listed in Attachment B
3 hereto, which is incorporated herein by this reference, SHERIFF shall
4 receive applications for CITY licenses pursuant to said ordinances and
5 complete investigations relating to such applications. Said investigations
6 shall be forwarded to CITY Manager. COUNTY shall not provide any
7 advisory, administrative, hearing or litigation attorney support or services
8 related to licensing. COUNTY shall not provide any administrative or
9 investigatory services related to the licensing ordinances listed in
10 Attachment B, hereto, except the investigations relating to initial
11 applications for which this subsection provides.

12 ~~C-9 COUNTY or CITY, upon thirty (30) days notice and mutual written~~
13 ~~agreement, shall increase or decrease the service levels provided herein,~~
14 ~~and the obligation of CITY to pay for services shall be concomitantly~~
15 ~~adjusted.~~

16 C-10. With the limitations set forth below, SHERIFF, on behalf of
17 COUNTY, and CITY Manager, on behalf of CITY, are authorized to execute
18 written amendments to this Agreement to increase or decrease the level of
19 service set forth in Attachment A, when SHERIFF and CITY Manager
20 mutually agree that such increase or decrease in the level of service is
21 appropriate. Any such amendment to the Agreement shall concomitantly
22 increase or decrease the cost of services payable by CITY set forth in
23 Attachment C and incorporated herein by this reference, and the Maximum
24 Obligation of CITY set forth in Subsection G-2, in accordance with the
25 current year's COUNTY law enforcement cost study. SHERIFF and CITY
26 Manager shall file copies of any such amendments to this Agreement with
27 the Clerk of COUNTY's Board of Supervisors and CITY's Clerk.

28

1 Amendments to this Agreement executed by SHERIFF and CITY Manager
2 may not, in the aggregate,

3 **C. REGULAR SERVICES BY COUNTY:** (Continued)

4 increase or decrease the cost of services payable by CITY by more than one
5 percent (1%) of the total cost originally set forth in Attachment C and the
6 Maximum Obligation originally set forth in Subsection G-2, ~~for FY 2020-21.~~

7 Prior approval by COUNTY's Board of Supervisors and CITY's Council is
8 required before execution of any amendment that brings the aggregate total
9 of changes in costs payable by CITY to more than one percent (1%) of the
10 total cost originally set forth in Attachment C and the Maximum Obligation
11 originally set forth in Subsection G-2, ~~"of this Agreement for FY 2020-21~~^[LLM1].

12 ~~**D. ENHANCED AND SUPPLEMENTAL SERVICES BY COUNTY:**~~

13 ~~1. Enhanced services for events on CITY property. At the request of CITY,~~
14 ~~through its City Manager, SHERIFF may provide enhanced law enforcement~~
15 ~~services for functions, such as community events, conducted on property~~
16 ~~that is owned, leased or operated by CITY. SHERIFF shall determine~~
17 ~~personnel and equipment needed for such enhanced services. To the extent~~
18 ~~the services provided at such events are at a level greater than that specified~~
19 ~~in Attachment C of this Agreement, CITY shall reimburse COUNTY for such~~
20 ~~additional services, at an amount computed by SHERIFF, based on the~~
21 ~~current year's COUNTY law enforcement cost study. The cost of these~~
22 ~~enhanced services shall be in addition to the Maximum Obligation of CITY~~
23 ~~set forth in Subsection G-2 of this Agreement. SHERIFF shall bill CITY~~
24 ~~immediately after each such event.~~

25 ~~2.1. Supplemental services for occasional events operated by private~~
26 ~~individuals and entities on non-CITY property. At the request of CITY,~~
27 ~~through its City Manager, and within the limitations set forth in this~~
28 ~~subsection D-2, SHERIFF may provide supplemental law enforcement~~

1 ~~services to preserve the peace at special events or occurrences that occur~~
2 ~~on an occasional basis and are operated by private individuals or private~~

3 **D. ~~ENHANCED AND SUPPLEMENTAL SERVICES BY COUNTY:~~** (Continued)

4 ~~entities on non-CITY property.~~

5 ~~SHERIFF shall determine personnel and equipment needed for such supplemental~~
6 ~~services, and will provide such supplemental services only if SHERIFF is able to do~~
7 ~~so without reducing the normal and regular ongoing services that SHERIFF otherwise~~
8 ~~would provide to CITY pursuant to this Agreement. Such supplemental services shall~~
9 ~~be provided only by regularly appointed full-time peace officers, at rates of pay~~
10 ~~governed by a Memorandum of Understanding between COUNTY and the bargaining~~
11 ~~unit(s) representing the peace officers providing the services. Such supplemental~~
12 ~~services shall include only law enforcement duties and shall not include services~~
13 ~~authorized to be provided by a private patrol operator, as defined in Section 7582.1 of~~
14 ~~the Business and Professions Code. Law enforcement support functions, including,~~
15 ~~but not limited to, clerical functions and forensic science services, may be performed~~
16 ~~by non-peace officer personnel if the services do not involve patrol or keeping the~~
17 ~~peace and are incidental to the provision of law enforcement services. CITY shall~~
18 ~~reimburse COUNTY its full, actual costs of providing such supplemental services at~~
19 ~~an amount computed by SHERIFF, based on the current year's COUNTY law~~
20 ~~enforcement cost study. The cost of these supplemental services shall be in addition~~
21 ~~to the Maximum Obligation of CITY set forth in Subsection G-2 of this Agreement.~~
22 ~~SHERIFF shall bill CITY immediately after each such event.~~

23 ~~3. Supplemental services for events operated by public entities on non-CITY~~
24 ~~property. At the request of CITY, through its City Manager, and within the limitations~~
25 ~~set forth in this subsection D-3, SHERIFF may provide supplemental law enforcement~~
26 ~~services to preserve the peace at special events or occurrences that occur on an~~
27 ~~occasional basis and are operated~~

28 **D. ~~ENHANCED AND SUPPLEMENTAL SERVICES BY COUNTY:~~** (Continued)

1 ~~by public entities on non-CITY property. SHERIFF shall determine personnel and~~
2 ~~equipment needed for such supplemental services, and will provide such~~
3 ~~supplemental services only if SHERIFF is able to do so without reducing services that~~
4 ~~SHERIFF otherwise would provide to CITY pursuant to this Agreement. CITY shall~~
5 ~~reimburse COUNTY its full, actual costs of providing such supplemental services at~~
6 ~~an amount computed by SHERIFF, based on the current year's COUNTY law~~
7 ~~enforcement cost study. The cost of these supplemental services shall be in addition~~
8 ~~to the Maximum Obligation of CITY set forth in Subsection G-2 of this Agreement.~~
9 ~~SHERIFF shall bill CITY immediately after each such event.~~

10 ~~4. Notwithstanding the foregoing, CITY, through its permit process, may utilize~~
11 ~~the services of SHERIFF at events, for which CITY issues permits, that are~~
12 ~~operated by private individuals or entities or public entities. SHERIFF shall~~
13 ~~determine personnel and equipment needed for said events. If said events~~
14 ~~are in addition to the level of services listed in Attachment C of this~~
15 ~~Agreement, CITY shall reimburse COUNTY for such additional services at~~
16 ~~an amount computed by SHERIFF, based upon the current year's COUNTY~~
17 ~~law enforcement cost study. The cost of these services shall be in addition~~
18 ~~to the Maximum Obligation of CITY set forth in Subsection G-2 of this~~
19 ~~Agreement. SHERIFF shall bill CITY immediately after said services are~~
20 ~~rendered.~~

21 ~~5.1. In accordance with Government Code 51350, COUNTY has adopted Board~~
22 ~~Resolution 89-1160 which identifies Countywide services, including but not~~
23 ~~limited to helicopter response. SHERIFF through this contract provides~~
24 ~~enhanced helicopter response services. The cost of enhanced helicopter~~
25 ~~response services is included in the cost of services set forth in Attachment~~
26 ~~A and in the Maximum Obligation of CITY set forth in Subsection G-2.~~

27 ~~**D. ENHANCED AND SUPPLEMENTAL SERVICES BY COUNTY: (Continued)**~~

28

1 ~~COUNTY shall not charge any additional amounts for enhanced helicopter services~~
2 ~~after the cost of services set forth in Attachment A and in the Maximum Obligation set~~
3 ~~forth in Subsection G-2 has been established in any fiscal year without written~~
4 ~~notification to the CITY.~~

5 ~~**E. PATROL VIDEO SYSTEMS:**~~

6 ~~1. As part of the law enforcement services provided to CITY, COUNTY has~~
7 ~~provided, or will provide patrol video systems (hereinafter called "PVS") that~~
8 ~~will be mounted in the patrol vehicles designated by COUNTY for use within~~
9 ~~CITY service area.~~

10 ~~2. SHERIFF has the exclusive right to use said PVS for law enforcement~~
11 ~~services related to this Agreement.~~

12 2. For the period July 1, 2021 through June 30, 2022, PATROL VIDEO SYSTEMS,
13 Subsection E-3 of the Agreement is amended to read as follows:

14 "E-3. CITY shall pay COUNTY the full costs to COUNTY of a) the acquisition and
15 installation of Patrol Video Systems that are or will be mounted in patrol
16 vehicles assigned to CITY, and b) recurring costs, as deemed necessary by
17 COUNTY, including the costs of maintenance and contributions to a fund for
18 replacement and upgrade of such PVS when they become functionally or
19 technologically obsolete.

20 The costs to be paid by CITY for recurring costs, including maintenance and
21 replacement/upgrade of PVS, are included in the costs set forth in
22 Attachment C and the Maximum Obligation of CITY set forth in Subsection
23 G-2 of this Agreement unless CITY has already paid such costs. CITY shall
24 not be charged additional amounts for maintenance or replacement/upgrade
25 of said PVS during the period July 1, 2021~~0~~ through June 30, 2022~~1~~."

26 ~~4. If, following the initial acquisition of PVS referenced above, CITY requires~~
27 ~~PVS for additional patrol cars designated for use in the CITY service area,~~

28

1 ~~COUNTY will purchase said additional PVS. Upon demand by COUNTY,~~
2 ~~CITY will pay to COUNTY a) the full costs of acquisition and installation of~~
3 ~~**E. PATROL VIDEO SYSTEMS:** (Continued)~~
4 ~~said additional PVS, and b) the full recurring costs for said PVS, as deemed~~
5 ~~necessary by COUNTY, including the costs of maintenance, and~~
6 ~~contributions to a fund for replacement and upgrade of such PVS when they~~
7 ~~become functionally or technologically obsolete. Said costs related to~~
8 ~~additional PVS are not included in, and are in addition to, the costs set forth~~
9 ~~in Attachment A and the Maximum Obligation of CITY set forth in Subsection~~
10 ~~G-2 of this Agreement.~~

11 ~~5. County will replace and/or upgrade PVS as needed. The costs of~~
12 ~~replacing/upgrade PVS shall be paid by COUNTY from the~~
13 ~~replacement/upgrade funds to be paid by CITY in accordance with the~~
14 ~~foregoing. CITY shall not be charged any additional charge to replace or~~
15 ~~upgrade PVS after the cost of PVS set forth in Attachment C and in~~
16 ~~Maximum Obligation set forth in G-2 has been established in any fiscal year~~
17 ~~without written notification to the CITY.~~

18 ~~**F. LICENSING SERVICES BY CITY:**~~

19 ~~Upon receipt from SHERIFF of investigations of applications for licenses~~
20 ~~referred to in Subsection C-8 of this Agreement, CITY Manager shall determine~~
21 ~~whether to grant or deny the licenses and will issue the licenses or notify the~~
22 ~~applicants of denial. CITY shall provide all attorney services related to the~~
23 ~~granting, denial, revocation and administration of said licenses and the~~
24 ~~enforcement of CITY ordinances pertaining to said licenses.~~

25 ~~**G. PAYMENT:**~~

26 ~~1. Pursuant to Government Code Section 51350, CITY agrees to pay to~~
27 ~~COUNTY the full costs of performing the services mutually agreed upon in this~~
28 ~~Agreement. The cost of services includes salaries, wages, benefits, mileage,~~

1 ~~services, supplies, equipment, and divisional, departmental and COUNTY General~~
2 ~~overhead.~~

3 3. For the period July 1, 2021 through June 30, 2022, PAYMENT, Subsections G-2,
4 G-3, G-5 and G-8, of the Agreement are amended to read as follows:

5 ~~G. —~~ **PAYMENT:** (Continued)

6 ~~1.4.~~ "G-2. Unless the level of service as set forth in Attachment C, is increased or
7 decreased by mutual agreement of the parties, or CITY is required to pay for
8 increases as set forth in Subsection G-3, the Maximum Obligation of CITY for
9 services set forth in Attachment C of this Agreement, other than Licensing
10 Services, to be provided by the COUNTY for the period July 1, 2021~~0~~ through
11 June 30, 2022~~4~~ shall be \$~~10,816,378~~11,292,313, as set forth in Attachment A.
12 The overtime costs included in the Agreement are only an estimate. COUNTY
13 shall notify CITY of actual overtime worked during each fiscal year. If actual
14 overtime worked is above or below budgeted amounts, billings will be adjusted
15 accordingly at the end of the fiscal year. Actual overtime costs may exceed
16 CITY's Maximum Obligation.

17 G-3a. At the time this Agreement is executed, there may be unresolved issues
18 pertaining to potential changes in salaries and benefits for COUNTY
19 employees. The costs of such potential changes are not included in the FY
20 2021~~0~~-22~~4~~ cost set forth in Attachment C nor in the FY 2021~~0~~-22~~4~~ Maximum
21 Obligation of CITY set forth in Subsection G-2 of this Agreement. If the
22 changes result in the COUNTY incurring or becoming obligated to pay for
23 increased cost for or on account of personnel whose costs are included in the
24 calculations of costs charged to CITY hereunder, CITY shall pay COUNTY, in
25 addition to the Maximum Obligation set forth in Subsection G-2 of this
26 Agreement, the full costs of said increases to the extent such increases to the
27 extent such increases are attributable to work performed by such personnel
28 during the period July 1, 2021~~0~~ through June 30, 2022~~4~~, and CITY's

1 Maximum Obligation hereunder shall be deemed to have increased
2 accordingly. CITY shall pay COUNTY in full for such increases on a pro-rata
3 basis over the portion of the period between July 1, 202~~10~~ and June 30, 202~~21~~
4 remaining after COUNTY notifies CITY that increases are payable.

5 **G. PAYMENT:** (Continued)

6 If the changes result in the COUNTY incurring or becoming obligated to pay
7 for decreased costs for or on account of personnel whose costs are
8 included in the calculations of costs charged to CITY hereunder, COUNTY
9 shall reduce the amount owed by the CITY to the extent such decreases are
10 attributable to work performed by such personnel during the period July 1,
11 202~~10~~ through June 30, 202~~21~~, and CITY's Maximum Obligation hereunder
12 shall be deemed to have decreased accordingly. COUNTY shall reduce
13 required payment by CITY in full for such decreases on a pro-rata basis
14 over the portion of the period between July 1, 202~~10~~ and June 30, 202~~21~~
15 remaining after COUNTY notifies CITY that the Maximum Obligation has
16 decreased.

17 G-3b. If CITY is required to pay for increases as set forth in Subsection G-3a
18 above, COUNTY, at the request of CITY, will thereafter reduce the level of
19 service to be provided to CITY as set forth in Attachment C of this
20 Agreement to a level that will make the Maximum Obligation of CITY
21 hereunder for the period July 1, 202~~10~~ through June 30, 202~~21~~ an amount
22 specified by CITY that is equivalent to or higher than the Maximum
23 Obligation set forth in Subsection G-2 for said period at the time this
24 Agreement originally was executed. The purpose of such adjustment of
25 service levels will be to give CITY the option of keeping its Maximum
26 Obligation hereunder at the pre-increase level or at any other higher or
27 lower level specified by CITY. In the event of such reduction in level of
28 service and adjustment of costs, the parties shall execute an amendment to

1 this Agreement so providing. Decisions about how to reduce the level of
2 service provided to CITY shall be made by SHERIFF with the approval of
3 CITY.

4 //

5 **G. PAYMENT:** (Continued)

- 6 ~~4. The Maximum Obligation of CITY for services provided for the 12-month~~
7 ~~periods commencing July 1, 2021, 2022, 2023 and 2024, will be determined~~
8 ~~annually by COUNTY and approved by CITY.~~
- 9 5. G-5. COUNTY shall invoice CITY monthly, one-twelfth (1/12) of the
10 Maximum Obligation of CITY. If a determination is made that increases
11 described in Subsection G-2 must be paid, COUNTY thereafter shall include
12 the pro-rata charges for such increases in its monthly invoices to CITY for
13 the balance of the period between July 1, 202~~1~~0 and June 30, 202~~2~~4.
- 14 ~~6. CITY shall pay COUNTY in accordance with COUNTY Board of~~
15 ~~Supervisors' approved County Billing Policy, which is attached hereto as~~
16 ~~Attachment D, and incorporated herein by this reference.~~
- 17 ~~7.6. COUNTY shall charge CITY late payment penalties in accordance with~~
18 ~~County Billing Policy.~~
- 19 ~~8.7. G-8.~~ As payment for the Licensing Services described in Subsection C-8
20 of this Agreement, COUNTY shall retain all fees paid by applicants to the
21 County for [LLM2] licenses, pursuant to CITY ordinances listed in Attachment
22 B hereto. Retention of said fees by COUNTY shall constitute payment in full
23 to COUNTY for costs incurred by COUNTY in performing the functions
24 related to licensing described in Subsection C-8; provided, however, that if
25 any of said fees are waived or reduced by CITY, CITY shall pay to COUNTY
26 the difference between the amount of fees retained by COUNTY and the
27 fees that were set forth in the ordinances listed in Attachment B, as of July
28 1, 202~~1~~0. Should CITY increase the fee schedule for the licensing

1 ordinances set forth in Attachment B, either party shall have the right to
 2 seek amendment of this Agreement with respect to the division of the
 3 increased fees between CITY and COUNTY.”

4 #

5 ~~**G. PAYMENT:**~~ (Continued)

6 ~~9. Fees generated or collected by SHERIFF contract personnel for copying of~~
 7 ~~documents related to the services provided in this Agreement will be at~~
 8 ~~COUNTY established rates and will be credited to CITY on an annual basis.~~
 9 ~~10.8. Narcotic asset forfeitures will be handled pursuant to Attachment E hereto,~~
 10 ~~which is incorporated herein by this reference.~~

11 ~~**H. NOTICES:**~~

12 ~~1. Except for the notices provided for in Subsection 2 of this Section, all~~
 13 ~~notices authorized or required by this Agreement shall be effective when~~
 14 ~~written and deposited in the United States mail, first class postage prepaid~~
 15 ~~and addressed as follows:~~

16 ~~**CITY:** ATTN: CITY MANAGER~~

17 ~~32400 PASEO ADELANTO~~

18 ~~SAN JUAN CAPISTRANO, CA 92675~~

19 ~~**COUNTY:** ATTN: CONTRACT MANAGER~~

20 ~~SHERIFF-CORONER DEPARTMENT~~

21 ~~320 NORTH FLOWER STREET, SUITE 108~~

22 ~~SANTA ANA, CA 92703~~

23 ~~2. Termination notices shall be effective when written and deposited in the~~
 24 ~~United States mail, certified, return receipt requested and addressed as~~
 25 ~~above.~~

26 ~~**I. STATUS OF COUNTY:**~~

27 ~~COUNTY is, and shall at all times be deemed to be, an independent contractor.~~

28 ~~Nothing herein contained shall be construed as creating the relationship of employer~~

1 ~~and employee, or principal and agent, between CITY and COUNTY or any of~~
2 ~~COUNTY's agents or employees. COUNTY and its SHERIFF shall retain all authority~~
3 ~~for rendition of services, standards of performance, control of personnel, and other~~
4 ~~matters incident to the performance of services by~~

5 ~~I. STATUS OF COUNTY: (Continued)~~

6 ~~COUNTY pursuant to this Agreement. COUNTY, its agents and employees, shall not~~
7 ~~be entitled to any rights or privileges of CITY employees and shall not be considered~~
8 ~~in any manner to be CITY employees.~~

9 ~~J. STATE AUDIT:~~

10 ~~Pursuant to Government Code Section 8546.7, CITY and COUNTY shall be~~
11 ~~subject to examination and audit by the State Auditor for a period of three (3)~~
12 ~~years after final payment by CITY to COUNTY under this Agreement. CITY~~
13 ~~and COUNTY shall retain all records relating to the performance of this~~
14 ~~Agreement for said three-year period, except that records pertaining to any~~
15 ~~audit then in progress, or any claim or litigation shall be retained beyond said~~
16 ~~three-year period until final resolution of said audit, claim or litigation.~~

17 ~~K. ALTERATION OF TERMS:~~

18 ~~This Agreement fully expresses all understanding of CITY and COUNTY with~~
19 ~~respect to the subject matter of this Agreement, and shall constitute the total~~
20 ~~Agreement between the parties for these purposes. No addition to, or~~
21 ~~alteration of, the terms of this Agreement shall be valid unless made in writing,~~
22 ~~formally approved and executed by duly authorized agents of both parties.~~

23 ~~L. INDEMNIFICATION:~~

24 ~~1. COUNTY, its officers, agents, employees, subcontractors and independent~~
25 ~~contractors shall not be deemed to have assumed any liability for the~~
26 ~~negligence or any other act or omission of CITY or any of its officers, agents,~~
27 ~~employees, subcontractors or independent contractors, or for any dangerous~~
28 ~~or defective condition of any public street or work or property of CITY, or for~~

1 ~~any illegality or unconstitutionality of CITY's municipal ordinances. CITY~~
2 ~~shall indemnify and hold harmless COUNTY and its elected and appointed~~
3 ~~officials, officers, agents, employees, subcontractors and independent~~
4 ~~contractors from any claim, demand or liability whatsoever based or asserted~~

5 ~~**L. INDEMNIFICATION:**~~ (Continued)

6 ~~upon the condition of any public street or work property of CITY, or upon the~~
7 ~~illegality or unconstitutionality of any municipal ordinance of CITY that~~
8 ~~SHERIFF has enforced, or upon any act or omission of CITY, or its elected~~
9 ~~and appointed officials, officers, agents, employees, subcontractors or~~
10 ~~independent contractors related to this Agreement, including, but not limited~~
11 ~~to, any act or omission related to the maintenance or condition of any vehicle~~
12 ~~or motorcycle that is owned or possessed by CITY and used by COUNTY~~
13 ~~personnel in the performance of this Agreement, for property damage, bodily~~
14 ~~injury or death or any other element of damage of any kind or nature, and~~
15 ~~CITY shall defend, at its expense including attorney fees, and with counsel~~
16 ~~approved in writing by COUNTY, COUNTY and its elected and appointed~~
17 ~~officials, officers, agents, employees, subcontractors and independent~~
18 ~~contractors in any legal action or claim of any kind based or asserted upon~~
19 ~~such condition of public street or work or property, or illegality or~~
20 ~~unconstitutionality of a municipal ordinance, or alleged acts or omissions. If~~
21 ~~judgment is entered against CITY and COUNTY by a court of competent~~
22 ~~jurisdiction because of the concurrent active negligence of either party, CITY~~
23 ~~and COUNTY agree that liability will be apportioned as determined by the~~
24 ~~court. Neither party shall request a jury apportionment.~~

25 ~~2. COUNTY shall indemnify and hold harmless CITY and its elected and~~
26 ~~appointed officials, officers, agents, employees, subcontractors and~~
27 ~~independent contractors from any claim, demand or liability whatsoever~~
28 ~~based or asserted upon any act or omission of COUNTY or its elected and~~

1 ~~appointed officials, officers, agents, employees, subcontractors or~~
2 ~~independent contractors related to this Agreement, for property damage,~~
3 ~~bodily injury or death or any other element of damage of any kind or nature,~~
4 ~~and COUNTY shall defend, at its expense, including attorney fees, and with~~

5 ~~**L. INDEMNIFICATION:**~~ (Continued)

6 ~~2. counsel approved in writing by CITY, CITY and its elected and appointed~~
7 ~~officials, officers, agents, employees, subcontractors and independent~~
8 ~~contractors in any legal action or claim of any kind based or asserted upon~~
9 ~~such alleged acts or omissions.~~

10 4. For the period July 1, 2021 through June 30, 2022, TRAFFIC VIOLATOR
11 APPREHENSION PROGRAM, Subsection M-1, of the Agreement is amended to read
12 as follows:

13 ~~**M. TRAFFIC VIOLATOR APPREHENSION PROGRAM:**~~

14 4. "M-1. COUNTY has established a Traffic Violator Apprehension Program
15 ["the Program"], which is operated by SHERIFF, and is designed to reduce
16 vehicle accidents caused by unlicensed drivers and drivers whose licenses
17 are suspended and to educate the public about the requirements of the
18 Vehicle Code and related safety issues with regard to driver licensing,
19 vehicle registration, vehicle operation, and vehicle parking. The Program
20 operates throughout the unincorporated areas of the COUNTY and in the
21 cities that contract with COUNTY for SHERIFF's law enforcement services,
22 without regard to jurisdictional boundaries, because an area-wide approach
23 to reduction of traffic accidents and driver education is most effective in
24 preventing traffic accidents. In order for CITY to participate in the Program,
25 CITY has adopted a fees pursuant to Vehicle Code section 22850.5, in the
26 same amount as approved by COUNTY, as and under the terms and
27 conditions set forth in the TVAP resolution that is attached to this
28 Agreement as Attachment F and incorporated into this Agreement by

1 reference, and has directed that the revenue from such fee be used for the
 2 Program. CITY's participation in the Program may be terminated at any
 3 time by rescission or amendment of the TVAP resolution that is attached to
 4 this Agreement as Attachment F. In the event CITY 1) amends said TVAP
 5 resolution, or rescinds said TVAP resolution and adopts a new TVAP
 6 resolution pertaining to the above-referenced fees and the Program, and 2)
 7 remains a participant in the Program thereafter, CITY's Manager, on behalf
 8 of CITY, and SHERIFF, on behalf of COUNTY, have

9 ~~M. **TRAFFIC VIOLATOR APPREHENSION PROGRAM:** (Continued)~~

10 authority to execute an amendment to this Agreement to substitute CITY's
 11 amended or new TVAP resolution for Attachment F to the Agreement, as
 12 long as said amendment to this Agreement does not materially change any
 13 other provision of this Agreement. As COUNTY updates its fees for the
 14 Program periodically, COUNTY will provide written notice to CITY of the
 15 updated fees. CITY's participation in the Program will terminate if CITY
 16 determines not to adopt the updated fees for the Program."

17 ~~2. COUNTY will make available for review, at the request of CITY, all financial~~
 18 ~~data related to the Program as may be requested by CITY.~~

19 ~~3. Fee revenue generated by COUNTY and participating cities will be used to~~
 20 ~~fund the following positions, which will be assigned to the Program:~~

21 ~~• Ten one hundredths of one (0.10) Sergeant~~

22 ~~_____ (8 hours per two-week pay period)~~

23 ~~• One (1) Staff Specialist~~

24 ~~_____ (80 hours per two-week pay period)~~

25 ~~• One (1) Office Specialist~~

26 ~~_____ (80 hours per two-week pay period)~~

27 ~~4. Fee revenue generated by CITY may be used to reimburse CITY for~~
 28 ~~expenditures for equipment and/or supplies directly in support of the~~

1 ~~Program. In order for an expenditure for equipment and/or supplies to be~~
2 ~~eligible for reimbursement, CITY shall submit a request for and obtain pre-~~
3 ~~approval of the expenditure by using the form as shown in Attachment G.~~
4 ~~The request shall be submitted within the budget schedule established by~~
5 ~~SHERIFF. SHERIFF shall approve the expenditure only if both of the~~
6 ~~following conditions are satisfied: 1) there are sufficient Program funds,~~
7 ~~attributable to revenue generated by CITY's fee, to pay for the requested~~
8 ~~purchase, and 2) CITY will use the equipment and/or supplies, during their~~
9 ~~entire useful life, only for purposes authorized by its TVAP resolution in~~
10 ~~effect at the time of purchase.~~

11 ~~—//~~

12 ~~**M. TRAFFIC VIOLATOR APPREHENSION PROGRAM:**~~

13 ~~(Continued)~~

14 ~~In the event that CITY terminates its participation in the Program, CITY~~
15 ~~agrees that the equipment purchased by CITY and reimbursed by Program~~
16 ~~funds will continue to be used, during the remainder of its useful life,~~
17 ~~exclusively for the purposes authorized by CITY's TVAP resolution in effect~~
18 ~~at the time of purchase.~~

19 ~~1. In the event the fees adopted by COUNTY, CITY and other participating~~
20 ~~jurisdictions are not adequate to continue operation of the Program at the~~
21 ~~level at which it operated previously, COUNTY, at the option of CITY, will~~
22 ~~reduce the level of Program service to be provided to CITY or will continue~~
23 ~~to provide the existing level of Program services. COUNTY will charge CITY~~
24 ~~the cost of any Program operations that exceed the revenue generated by~~
25 ~~fees. Such charges shall be in addition to the Maximum Obligation of CITY~~
26 ~~set forth in Subsection G-2 of this Agreement. The amount of any revenue~~
27 ~~shortfall charged to CITY will be determined, at the time the revenue~~
28 ~~shortfall is experienced, according to CITY's share of Program services~~

~~rendered. In the event of a reduction in level of Program service, termination of Program service or adjustment of costs, the parties shall execute an amendment to the Agreement so providing. Decisions about how to reduce the level of Program service provided to CITY shall be made by SHERIFF with the approval of CITY.~~

54. For the period July 1, 2021 through June 30, 2022, MOBILE DATA COMPUTERS, Subsection N-3, of the Agreement is amended to read as follows:

~~**N. MOBILE DATA COMPUTERS:**~~

~~1. As part of the law enforcement services to be provided to CITY, COUNTY has provided, or will provide, mobile data computers (hereinafter called "MDCs") that are or will be mounted in patrol vehicles and motorcycles, designated by COUNTY for use within CITY limits.~~

~~2. SHERIFF has the exclusive right to use said MDCs for law enforcement services related to this Agreement.~~

N. MOBILE DATA COMPUTERS: (Continued)

~~3.~~ "N-3. CITY shall pay COUNTY the full costs to COUNTY of a) the acquisition and installation of MDCs that are or will be mounted in patrol vehicles and motorcycles assigned to CITY, and b) recurring costs, as deemed necessary by COUNTY, including the costs of maintenance and contributions to a fund for replacement and upgrade of such MDCs when they become functionally or technologically obsolete.

The costs to be paid by CITY for recurring costs, including maintenance and replacement/upgrade of MDCs, are included in the costs set forth in Attachment A and the Maximum Obligation of CITY set forth in Subsection G-2 of this Agreement unless CITY has already paid such costs. CITY shall not be charged additional amounts for maintenance or replacement/upgrade of said MDCs during the period July 1, 202~~1~~⁰ through June 30, 202~~2~~⁴."

1 ~~4.1. If, following the initial acquisition of MDCs referenced above, CITY~~
 2 ~~requires MDCs for additional patrol cars or motorcycles designated for use~~
 3 ~~in the CITY, or for CITY's Emergency Operations Center, COUNTY will~~
 4 ~~purchase said additional MDCs. Upon demand by COUNTY, CITY will pay~~
 5 ~~to COUNTY a) the full costs of acquisition and installation of said additional~~
 6 ~~MDC's, and b) the full recurring costs for said MDCs, as deemed necessary~~
 7 ~~by COUNTY, including the costs of maintenance, and contributions to a~~
 8 ~~fund for replacement and upgrade of such MDCs when they become~~
 9 ~~functionally or technologically obsolete. Said costs related to additional~~
 10 ~~MDCs are not included in, and are in addition to, the costs set forth in~~
 11 ~~Attachment A and the Maximum Obligation of CITY set forth in Subsection~~
 12 ~~G-2 of this Agreement.~~

13 //
 14 #

15 ~~**N. MOBILE DATA COMPUTERS:**~~ (Continued)

16 ~~2. COUNTY will replace and/or upgrade MDCs as needed. The costs of~~
 17 ~~replacing/upgrading MDCs shall be paid by COUNTY from the~~
 18 ~~replacement/upgrade funds to be paid by CITY in accordance with the~~
 19 ~~foregoing. CITY shall not be charged any additional charge to replace~~
 20 ~~or upgrade MDCs.~~

21 ~~65. For the period July 1, 2021 through June 30, 2022, E-CITATION UNITS,~~
 22 ~~Subsection O-3, of the Agreement are amended to read as follows:~~

23 ~~5.~~

24 ~~**O. E-CITATION UNITS:**~~

25 ~~1. As part of the law enforcement services to be provided to CITY, COUNTY~~
 26 ~~has provided, or will provide, E-Citation units designated by COUNTY for~~
 27 ~~use within CITY limits.~~

28

1 ~~2. SHERIFF has the exclusive right to use said E-Citation units for law~~
2 ~~enforcement services related to this Agreement.~~

3 ~~3. "O-3.~~ CITY shall pay COUNTY the full costs to COUNTY of a) the
4 acquisition of E-Citation units that are assigned to CITY, and b) recurring
5 costs, as deemed necessary by COUNTY, including the costs of
6 maintenance and contributions to a fund for replacement and upgrade of
7 such E-Citation units when they become functionally or technologically
8 obsolete.

9 The costs to be paid by CITY for recurring costs, including maintenance and
10 replacement/upgrade of E-Citation units, are included in the costs set forth
11 in Attachment A and the Maximum Obligation of CITY set forth in
12 Subsection G-2 of this Agreement unless CITY has already paid such costs.
13 CITY shall not be charged additional amounts for maintenance or
14 replacement/upgrade of said E-Citation units during the period July 1, 202~~10~~
15 through June 30, 202~~1~~~~4~~.

16 ~~4. If, following the initial acquisition of E-Citation units referenced above, CITY~~
17 ~~requires additional E-Citation units designated for use in CITY, COUNTY~~
18 ~~will purchase said additional E-Citation units. Upon demand by COUNTY,~~
19 ~~CITY will pay to COUNTY a) the full costs of acquisition of said additional~~

20 — ~~**O-E CITATION UNITS:** (Continued)~~

21 — ~~E-Citation units, and b) the full recurring costs for said E-Citation units, as~~
22 ~~deemed necessary by COUNTY, including the costs of maintenance, and~~
23 ~~contributions to a fund for replacement and upgrade of such E-Citation units~~
24 ~~when they become functionally or technologically obsolete. Said costs~~
25 ~~related to additional E-Citation units are not included in, and are in addition~~
26 ~~to, the costs set forth in Attachment A and the Maximum Obligation of CITY~~
27 ~~set forth in Subsection G-2 of this Agreement.~~

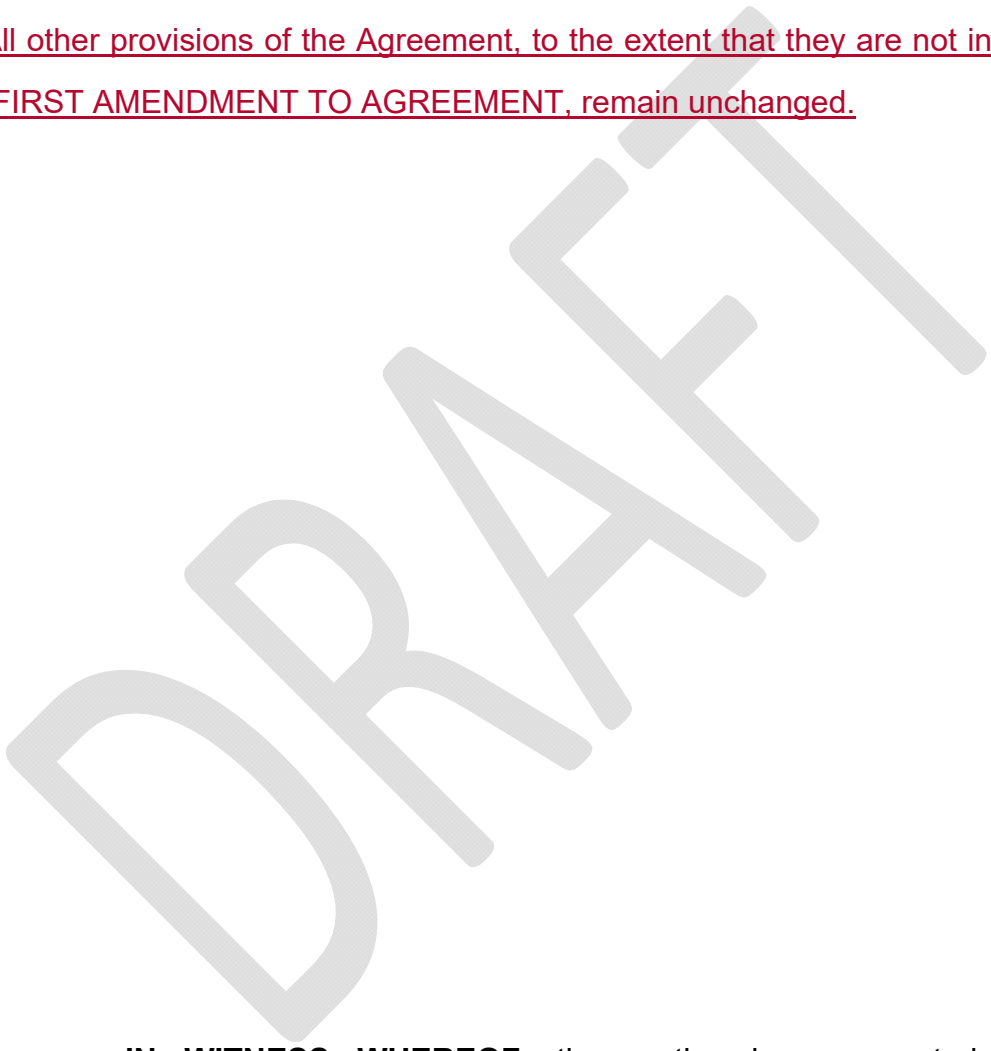
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~~1. COUNTY will replace and/or upgrade E-Citation units as needed. The costs of replacing/upgrading E-Citation units shall be paid by COUNTY from the replacement/upgrade funds to be paid by CITY in accordance with the foregoing. CITY shall not be charged any additional charge to replace or upgrade E-Citation units.~~

7. All other provisions of the Agreement, to the extent that they are not in conflict with this FIRST AMENDMENT TO AGREEMENT, remain unchanged.

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IN WITNESS WHEREOF, the parties have executed the FIRST AMENDMENT TO AGREEMENT in the County of Orange, State of California.

DATED: _____

CITY OF SAN JUAN CAPISTRANO

ATTEST: _____
City Clerk

BY: _____

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Mayor

APPROVED AS TO FORM:

BY: _____
City Attorney

DATED: _____

COUNTY OF ORANGE

BY: _____
Chairwoman of the Board of Supervisors
County of Orange, California

SIGNED AND CERTIFIED THAT A COPY OF THIS
AGREEMENT HAS BEEN DELIVERED TO THE CHAIR
OF THE BOARD PER G.C. Sec. 25103, Reso 79-1535

Attest:

Robin Stieler
Clerk of the Board
County of Orange, California

APPROVED AS TO FORM:
Office of the County Counsel
County of Orange, California

BY: _____
Deputy

DATED: _____