

## **COOPERATIVE AGREEMENT**

THIS COOPERATIVE AGREEMENT (“**AGREEMENT**”), ENTERED INTO EFFECTIVE ON \_\_\_\_\_ 2016, is by and between the Foothill/Eastern Transportation Corridor Agency, a joint powers authority (referred to herein as “**F/ETCA**”), and the County of Orange, a political subdivision of the State of California (referred to herein as “**COUNTY**”), each individually known as “**PARTY**” and collectively known as the “**PARTIES**.”

### **RECITALS**

**WHEREAS**, for the purpose of this AGREEMENT, the “**PROJECT**” consists of an overcrossing bridge structure at Oso Parkway and mainline roadway between the southern terminus of the State Route 241 (SR 241) toll road and the northern terminus of the future Los Patrones Parkway, including a northbound ramp connecting Los Patrones Parkway to Oso Parkway and a southbound ramp connecting Oso Parkway to Los Patrones Parkway. Los Patrones Parkway and the Los Patrones Parkway ramps are not covered by this AGREEMENT; and

**WHEREAS**, the purpose of this AGREEMENT is to define the PARTIES’ respective rights and obligations with respect to preparation and adoption of the CEQA compliance documents for the PROJECT, and preparation of Plans, Specifications and Estimates (“**PS&E**”) for the PROJECT. The PROJECT will not be completed prior to the termination of this AGREEMENT.

**NOW, THEREFORE**, it is mutually understood and agreed by COUNTY and F/ETCA as follows:

### **AGREEMENT**

#### **COMPLETE AGREEMENT**

1. This AGREEMENT, including any attachments incorporated herein and made applicable by reference and the recitals above, constitutes the complete and exclusive statement of the term(s) and conditions(s) of this AGREEMENT between COUNTY and F/ETCA and it supersedes all prior representations, understandings, and communications. The invalidity in whole or in part of any term or condition of this AGREEMENT shall not affect the validity of other term(s) or conditions(s) of this AGREEMENT. The above referenced Recitals are true and correct and are incorporated by reference herein.

**SCOPE OF AGREEMENT**

2. This AGREEMENT specifies the roles and responsibilities of the PARTIES as they pertain to the subjects and PROJECT addressed herein. Both COUNTY and F/ETCA agree that each will cooperate and coordinate with the other in all activities covered by this AGREEMENT and any other supplemental agreements that may be required to facilitate the purposes thereof.

**RESPONSIBILITIES OF COUNTY**

3. COUNTY shall be the California Environmental Quality Act (“CEQA”) lead agency for the PROJECT.
4. COUNTY shall exercise its independent judgment to review and finalize the draft CEQA compliance document.
5. COUNTY shall review and approve the Project Report per the California Department of Transportation (“Caltrans”) format.
6. COUNTY shall adopt and/or certify the CEQA compliance document prior to approval of the Project Report.
7. COUNTY shall Advertise, Award and Administer (“AAA”) the PROJECT in accordance with Plans, Specifications and Estimates (“PS&E”) developed by the F/ETCA and reviewed and concurred by staff of the COUNTY.
8. COUNTY shall invoice F/ETCA for COUNTY’s actual costs incurred as the CEQA lead on the PROJECT, and for costs associated with COUNTY review of the Project Report and PS&E, on a monthly basis, in arrears, for COUNTY’s costs incurred during the immediately preceding month. Invoices submitted by COUNTY shall itemize such costs, including an accounting and description of staff and consultant time spent on the PROJECT, and shall include back-up documentation as reasonably requested by F/ETCA.

**RESPONSIBILITIES OF F/ETCA**

9. To the extent permitted by law, F/ETCA shall defend (at F/ETCA’s sole cost and expense with legal counsel reasonably acceptable to COUNTY), indemnify, protect, and hold harmless COUNTY and all of its officers, directors, employees, and agents (collectively the “INDEMNIFIED PARTIES”), from and against any and all liabilities, actions, suits, claims, demands, losses, costs, judgments, arbitration awards, settlements, damages, demands, orders, penalties, and expenses including legal costs and attorney fees (collectively “CLAIMS”), including but not limited to CLAIMS arising from injuries to or death of persons (F/ETCA’s employees included), for damage to property, including property owned

by COUNTY, or from any violation of any federal, state, or local law or ordinance, alleged to be caused by the negligent acts, omissions or willful misconduct of F/ETCA, its officers, directors, employees or agents in connection with or arising out of the performance of this AGREEMENT, except to the extent that such CLAIMS result from COUNTY's own gross negligence or willful misconduct. The COUNTY may, at its sole discretion, participate in the defense of any action, but such participation shall not relieve F/ETCA of its obligations under this condition, including the obligation to reimburse the COUNTY for any court costs and attorney's fees that the COUNTY may be required to pay as a result of such action. The indemnification and defense obligations of this AGREEMENT shall survive its expiration or termination. COUNTY shall not consent to judgment or concede or settle or compromise any CLAIM without the prior written approval of F/ETCA (which approval shall not be unreasonably withheld), unless such concession or settlement or compromise includes a full and unconditional release of F/ETCA and members of its Board Directors, officers, employees, agents and representatives from all liabilities in respect of such CLAIM.

10. F/ETCA shall prepare the Project Report in Caltrans format for the PROJECT.
11. F/ETCA shall complete PS&E for the PROJECT and deliver the PS&E to the County staff for review and concurrence.
12. F/ETCA shall pay invoices submitted by COUNTY pursuant to paragraph 8, above, for its actual costs incurred as the CEQA lead on the PROJECT and for costs associated with their review of the Project Report and PS&E. F/ETCA shall pay approved invoices within 30 days of receipt, and shall advise COUNTY in writing of the reason for any disapproved amounts. The total amount to be reimbursed by F/ETCA to COUNTY pursuant to this AGREEMENT shall not exceed \$100,000. COUNTY hourly staff rates shall be based on the current County of Orange Board of Supervisors adopted Schedule of Fees (Attachment A). County consultant charges shall be based on their respective contract fee schedules.

#### **PARTIES**

13. Each PARTY shall ensure that personnel participating in the PROJECT are appropriately qualified or licensed to perform the tasks assigned to them.

#### **SCHEDULE**

14. COUNTY shall review and provide written comments to all PROJECT submittals from F/ETCA within 30 calendar days and resubmittals within 30 calendar days of the date of transmittal to COUNTY staff for timely processing of the PROJECT documents, including providing quality assurance reviews and approvals consistent with its existing policies.
15. The PARTIES shall make their best effort to complete the CEQA documentation and Project Report phase of the PROJECT by February 15, 2016.

**MISCELLANEOUS**

16. The PARTIES shall negotiate in good faith to enter into a separate Cooperative Agreement that addresses the AAA phase of the PROJECT.
17. This AGREEMENT shall terminate upon the earlier to occur of (A) satisfaction of the following conditions: (i) completion of the PS&E phase of the PROJECT (ii) the PARTIES completion of all scope, cost, and schedule commitments included in this AGREEMENT, and (iii) the PARTIES' execution of a cooperative agreement closure statement verifying the completion of the PS&E phase of the PROJECT and all scope, cost and schedule commitments included in this AGREEMENT; or (B) upon notice of termination from the non-breaching PARTY in the event the other PARTY breaches any provision of this AGREEMENT and such breach is not cured within thirty (30) days after written notice from the non-breaching PARTY specifying such breach in reasonable detail. A PARTY may submit a written request to execute a cooperative agreement closure statement to the other PARTY at any time. Within 30 days of such request the other PARTY shall either sign such closure statement or provide the requesting PARTY with a written response indicating the items that need to be completed. Upon termination of this Agreement all rights and obligations of the respective PARTIES hereunder shall cease, provided however that notwithstanding any contrary provision hereof, all of the rights and obligations of the PARTIES under Section 9 and Section 16 hereof shall survive expiration or termination of the AGREEMENT and remain in full force and effect.
18. Any amendments to this AGREEMENT must be approved in writing by both PARTIES to this AGREEMENT.
19. Any notices, requests and demands made between the PARTIES pursuant to this AGREEMENT shall be in writing and (i) delivered personally, or (ii) sent by certified mail, return receipt requested, or (iii) sent by a recognized overnight mail or courier service, with delivery receipt requested, or (iv) sent by telefacsimile communication followed by a mailed copy or with receipt confirmed by telephone, to the below addresses (or to such other address as may from time to time be specified in writing by such PARTY) and shall be deemed delivered when actually received or when delivery is refused:

If to F/ETCA: Foothill/Eastern Transportation Corridor Agency  
125 Pacifica, Ste. 100,  
Irvine, CA 92618  
Attn: Michael Kraman, CEO  
Phone: 949-754-3427  
Fax: 949-754-3491

If to COUNTY: County of Orange / OC Public Works  
300 N. Flower Street, 8<sup>th</sup> Floor  
Attn: Khalid Bazmi, Assistant Public Works Director  
Phone: 714-667-3213  
Fax: 714-6677520


20. Neither PARTY shall have the right to assign this AGREEMENT without the express written approval of the other PARTY. This AGREEMENT shall be binding upon and inure to the benefit of the PARTIES and their permitted successors, assigns and legal representatives.
21. It is not intended by any of the provisions of this AGREEMENT to create any third party beneficiary hereunder. The duties, obligations and responsibilities of the PARTIES with respect to such third parties shall remain as imposed by law. This AGREEMENT shall not be construed to create a contractual relationship of any kind between a PARTY and the employees, contractors or consultants of the other PARTY.
22. The invalidity or unenforceability of any portion or provision hereof shall not affect the validity or enforceability of any other portion or provision. Any invalid or unenforceable portion or provision shall be deemed severed from this AGREEMENT and the balance hereof shall be construed and enforced as if this AGREEMENT did not contain such invalid or unenforceable portion or provision.
23. Each Party represents and warrants that the execution, delivery and performance of this AGREEMENT have been duly authorized by all necessary action of such PARTY's governing board, and the person executing this AGREEMENT on behalf of such PARTY has been duly authorized and empowered to do so on behalf of such PARTY.
24. The laws of the State of California and applicable local and federal laws, regulations and guidelines shall govern this AGREEMENT.
25. This AGREEMENT may be executed and delivered in any number of counterparts, each of which, when executed and delivered shall be deemed an original and all of which together shall constitute the same agreement. Facsimile signatures will be permitted.
26. Either PARTY shall be excused from performing its obligations under this AGREEMENT during the time and to the extent that it is prevented from performing by an unforeseeable cause beyond its control, including but not limited to; any incidence of fire, flood; acts of God; commandeering of material, products, plants or facilities by the federal, state or local government; national fuel shortage; or a material wrongful act or omission by the other Party; when satisfactory evidence of such cause is presented to the other PARTY, and provided further that such nonperformance is unforeseeable, beyond the control and is not due to the fault or negligence of the PARTY not performing.

IN WITNESS WHEREOF, the Parties hereto have caused this AGREEMENT to be executed on the date first above written.

**COUNTY OF ORANGE**

\_\_\_\_\_  
Chair, Board of Supervisors  
County of Orange, California

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Deputy County Counsel  
County of Orange, California


**SIGNED AND CERTIFIED THAT A  
COPY OF THIS DOCUMENT HAS BEEN  
DELIVERED TO THE CHAIR OF THE  
BOARD OF SUPERVISORS PER GC §  
25103, RESO. 79-1535**

\_\_\_\_\_  
Robin Stieler  
Clerk of the Board of Supervisors  
County of Orange, California


**FOOTHILL/EASTERN  
TRANSPORTATION CORRIDOR  
AGENCY**

  
\_\_\_\_\_  
Michael Kraman  
Chief Executive Officer

**ATTEST:**

  
\_\_\_\_\_  
Sherri McKaig  
Assistant Secretary of the Board

**APPROVED AS TO FORM AND  
PROCEDURE:**

  
\_\_\_\_\_  
E. George Joseph  
General Counsel



## A RESOLUTION OF THE BOARD OF SUPERVISORS OF COUNTY OF ORANGE, CALIFORNIA

March 10, 2015

	Classification	Rate effective May 01, 2015	Rate effective November 01, 2015	Rate effective May 01, 2016
1	Accounting Office Supervisor I	\$75.44	\$80.72	\$87.98
2	Accounting Office Supervisor II	\$79.66	\$85.24	\$92.91
3	Administrative Manager I	\$140.42	\$150.25	\$163.77
4	Administrative Manager II	\$185.92	\$198.94	\$216.85
5	Administrative Manager III	\$235.01	\$251.46	\$274.09
6	Building Inspector I	\$106.85	\$114.33	\$124.62
7	Building Inspector II	\$112.88	\$120.78	\$131.65
8	Building Inspector III	\$118.91	\$127.23	\$138.68
9	Building Inspector IV	\$120.59	\$129.03	\$140.63
10	Building Inspector, Senior	\$132.53	\$141.81	\$154.57
11	Building Inspector, Supervising	\$143.63	\$153.68	\$167.51
12	Civil Engineer, Junior	\$115.84	\$123.95	\$135.11
13	Civil Engineer Assistant	\$128.79	\$137.81	\$150.21
14	Civil Engineer	\$149.99	\$160.49	\$174.93
15	Civil Engineer, Senior	\$183.65	\$196.51	\$214.20
16	Code Enforcement Officer	\$101.21	\$108.29	\$118.04
17	Construction Inspector	\$106.85	\$114.33	\$124.62
18	Construction Inspector, Senior	\$118.91	\$127.23	\$138.68
19	Construction Inspector, Supervising	\$132.53	\$141.81	\$154.57
20	EMA Professional Services Aid	\$65.70	\$70.30	\$76.63
21	EMA Professional Services Assistant I	\$69.34	\$74.19	\$80.87
22	EMA Professional Services Assistant II	\$81.17	\$86.85	\$94.67
23	Engineering Geologist, Junior	\$109.88	\$117.57	\$128.15
24	Engineering Geologist	\$132.48	\$141.75	\$154.51
25	Engineering Geologist, Senior	\$151.69	\$162.31	\$176.92
26	Engineering Technician I	\$61.01	\$65.28	\$71.16
27	Engineering Technician II	\$81.21	\$86.90	\$94.72
28	Engineering Technician III	\$95.81	\$102.52	\$111.75
29	Engineering Technician Specialist	\$106.85	\$114.33	\$124.62
30	Engineering Technician I, Supervising	\$106.85	\$114.33	\$124.62
31	Engineering Technician II, Supervising	\$111.32	\$119.11	\$129.83
32	Engineering Technician III, Supervising	\$125.80	\$134.61	\$146.73
33	Engineering Technician Trainee	\$65.96	\$70.58	\$76.93
34	Environmental Engineering Specialist	\$125.28	\$134.06	\$146.12
35	ENVRNMTL Resources Spec III	\$106.85	\$114.33	\$124.62
36	Geologist	\$122.09	\$130.64	\$142.40

Resolution No. 15-017 Item No. 24  
 OC Development Services Fees

## A RESOLUTION OF THE BOARD OF SUPERVISORS OF COUNTY OF ORANGE, CALIFORNIA

March 10, 2015

37	Maintenance Inspector/SPEC	\$103.98	\$111.26	\$121.27
38	Office Technician	\$53.31	\$57.04	\$62.17
39	Office Assistant	\$59.99	\$64.19	\$69.97
40	Office Specialist	\$68.00	\$72.76	\$79.31
41	Office Supervisor A	\$71.60	\$76.61	\$83.51
42	Office Supervisor B	\$75.44	\$80.72	\$87.98
43	Office Supervisor C	\$79.46	\$85.02	\$92.67
44	Permit & Plan Review Specialist	\$109.88	\$117.57	\$128.15
45	Planner I	\$81.49	\$87.20	\$95.05
46	Planner II	\$88.32	\$94.50	\$103.51
47	Planner III	\$90.71	\$97.06	\$105.80
48	Planner IV	\$118.30	\$126.58	\$137.97
49	Project Manager I	\$115.84	\$123.95	\$135.11
50	Project Manager II	\$128.79	\$137.81	\$150.21
51	Project Manager III	\$143.63	\$153.68	\$167.51
52	Research Analyst I	\$82.64	\$88.43	\$96.39
53	Research Analyst II	\$92.02	\$98.46	\$107.32
54	Research Analyst III	\$111.45	\$119.25	\$129.98
55	Research Analyst IV	\$123.85	\$132.52	\$144.45
56	Research Analyst, Senior	\$138.11	\$147.78	\$161.08
57	Secretary I	\$66.78	\$71.45	\$77.88
58	Secretary II	\$72.60	\$77.68	\$84.67
59	Secretary III	\$78.24	\$83.72	\$91.25
60	Laborer	\$65.00	\$69.55	\$75.81
61	Sr. Power Equipment Operator	\$100.31	\$107.33	\$116.99
62	Staff Assistant	\$75.04	\$80.29	\$87.52
63	Staff Specialist	\$89.34	\$95.60	\$104.21
64	Surveyor I	\$98.65	\$105.56	\$115.06
65	Surveyor II	\$112.54	\$120.42	\$131.26
66	Surveyor III	\$122.43	\$131.00	\$142.79
67	Sr. Land Surveyor	\$139.91	\$149.71	\$163.18
68	Supvg Maintenance Insp/Spec	\$118.90	\$127.23	\$138.68

BE IT FURTHER RESOLVED that this Board finds that many of the flat fees as initially established in Exhibit 1 are significantly below full cost recovery. Therefore, it is the intention of this Board to adjust the flat fees set forth in Exhibit 1 toward full cost recovery in a manner that allows fee payers to adapt to the increased fees over time and, to that end, the fees adopted herein are hereby adjusted annually as of Resolution No. 15-017 Item No. 24  
OC Development Services Fees