

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**FIVE-YEAR AGREEMENT  
BETWEEN THE  
ORANGE COUNTY TRANSPORTATION AUTHORITY  
AND THE  
COUNTY OF ORANGE**

**THIS AGREEMENT** is entered into this ~~Eighth~~<sup>First</sup> day of ~~April~~<sup>May</sup> 2015~~40~~, which date is enumerated for purposes of reference only, by and between the ORANGE COUNTY TRANSPORTATION AUTHORITY, hereinafter referred to as "AUTHORITY", ~~acting on behalf of the ORANGE COUNTY TRANSIT DISTRICT, hereinafter referred to as "DISTRICT"~~ and the COUNTY OF ORANGE, a political subdivision of the State of California, hereinafter referred to as "COUNTY".

**WITNESSETH:**

**WHEREAS**, AUTHORITY wishes to contract with COUNTY for law enforcement services; and

**WHEREAS**, COUNTY is agreeable to the rendering of such services on the terms and conditions hereinafter set forth,

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

//  
//  
//  
//  
//  
//  
//  
//  
//  
//  
//  
//

**TABLE OF CONTENTS**

<b><u>ARTICLE</u></b>	<b><u>PAGE</u></b>
1. Term	4
2. Termination	4
3. Regular Services by COUNTY	5
4. Special Services by COUNTY	<del>87</del>
5. Responsibilities of AUTHORITY	<del>98</del>
6. Permitting Services by AUTHORITY	<del>-98</del>
7. Payment	<del>98</del>
8. Notices	<del>143</del>
9. Status of COUNTY	<del>153</del>
10. Audit and Inspection	<del>154</del>
11. Alteration of Terms	<del>175</del>
12. Indemnification	<del>1745</del>
13. Mobile Data Computers	<del>197</del>
14. Patrol Video System	<del>2149</del>
15. Disputes	<del>220</del>
16. Assignments and Subcontracting	<del>220</del>
17. Federal, State and Local Laws	<del>220</del>
18. Equal Employment Opportunity	<del>220</del>
19. COUNTY Prohibited Interests	<del>234</del>
20. Force Majeure	<del>234</del>
21. Civil Rights Assurance	<del>234</del>
22. Alcohol and Drug Policy	<del>264</del>
23. Privacy Act	<del>264</del>
24. Incorporation of FTA Terms	<del>275</del>
25. Federal Changes	<del>275</del>

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16 //  
17 //  
18 //  
19 //  
20 //  
21 //  
22 //  
23 //  
24 //  
25 //  
26 //  
27 //  
28 //

**TABLE OF CONTENTS (Continued)**

<b><u>ARTICLE</u></b>	<b><u>PAGE</u></b>
26. No Federal Government Obligation to Third Parties	<del>286</del>
27. Program Fraud and False or Fraudulent Statements and Related Acts	<del>286</del>
28. Recycled Products	<del>297</del>
29. Code of Conduct	<del>297</del>
30. Disadvantaged Business Enterprises	<del>297</del>
<del>31. Prior Agreement Superseded</del>	<del>28</del>
Signature Page	<del>3029</del>
Attachment A: OCTD, Ordinance No. 5	
Attachment B: Designated Patrol Areas	
Attachment C: County Billing Policy	
Attachment D: Drug Free Workplace Act of 1988'	
Attachment E: <u>OCTA Property for Enhanced Services</u>	

**Comment [SN1]:** Or whatever other name for this Attachment you want to use.

1 **Article 1. TERM:**

2 The term of this Agreement shall be for five (5) years, commencing July 1,  
3 201~~5~~<sup>0</sup> and terminating June 30, 20~~20~~<sup>20</sup>~~15~~<sup>15</sup>, unless earlier terminated by either  
4 party in the manner set forth herein.

5 **Article 2. TERMINATION:**

6 A. AUTHORITY may terminate this Agreement for its convenience at any time,  
7 in whole or part, by giving COUNTY one hundred and eighty (180) days  
8 written notice thereof. Upon termination, AUTHORITY shall pay COUNTY its  
9 allowable costs incurred to date of that portion terminated. Said termination  
10 shall be construed in accordance with the provisions of CFR Title 48,  
11 Chapter 1, Part 49, of the Federal Acquisition Regulation (FAR) and specific  
12 subparts and other provisions thereof applicable to termination for  
13 convenience. If AUTHORITY sees fit to terminate this Agreement for  
14 convenience, said notice shall be given to COUNTY in accordance with the  
15 provisions of the FAR referenced above. Upon receipt of said notification,  
16 COUNTY agrees to comply with all applicable provisions of the FAR  
17 pertaining to termination for convenience.

18 B. AUTHORITY may terminate this Agreement for COUNTY's default if a  
19 federal or state proceeding for the relief of debtors is undertaken by or  
20 against COUNTY, or if COUNTY makes an assignment for the benefit of  
21 creditors, or if COUNTY breaches any term(s) or violates any provision(s) of  
22 this Agreement and does not cure such breach or violation within ten (10)  
23 calendar days after written notice thereof by AUTHORITY. COUNTY shall  
24 be liable for any and all reasonable costs incurred by AUTHORITY as a  
25 result of such default including, but not limited to, reprourement costs of  
26 the same or similar services defaulted by COUNTY under this Agreement.  
27 Such termination shall comply with CFR Title 48, Chapter 1, Part 49, of the  
28 FAR.

1 **Article 2. TERMINATION: (Continued)**

2 C. COUNTY may terminate this Agreement for its convenience at any time, in  
3 whole or part, by giving AUTHORITY one hundred and eighty (180) days  
4 written notice thereof.

5 **Article 3. REGULAR SERVICES BY COUNTY:**

6 A. COUNTY, through its Sheriff-Coroner deputies, officers and employees,  
7 hereinafter referred to as "SHERIFF", shall render to AUTHORITY selected  
8 services as hereinafter provided to the extent said services can reasonably  
9 be performed by the law enforcement personnel for which this Agreement  
10 provides. Such services shall include being present and assisting city and  
11 county police agencies and AUTHORITY in the enforcement of lawful State  
12 statutes and the ordinance of AUTHORITY set forth in Attachment A, which  
13 is attached hereto and incorporated herein by this reference, at the areas  
14 regularly Patrolled or Patrolled As Requested by AUTHORITY as listed in  
15 Attachment B, which is attached hereto and incorporated herein by this  
16 reference. In the event, the AUTHORITY updates the list of areas to be  
17 Regularly Patrolled or Patrolled As Requested by AUTHORITY,  
18 AUTHORITY's CONTRACTS ADMINISTRATOR on behalf of AUTHORITY  
19 and SHERIFF, or her designee, on behalf of COUNTY, have authority to  
20 execute an amendment of this Agreement to substitute the amended  
21 Attachment B hereto, as long as said amendment to this Agreement does  
22 not materially change any other provision of this Agreement.

23 The above described service will be provided at the Patrolled As Requested  
24 areas only if requested by AUTHORITY's Chief Executive Officer,  
25 hereinafter referred to as "EXECUTIVE OFFICER", or his designee, and  
26 only to the extent SHERIFF, or SHERIFF'S designee, determines that  
27 sufficient personnel described in Subarticle 3-D are available to provide said  
28 services.

1 **Article 3. REGULAR SERVICES BY COUNTY: (Continued)**

2 B. SHERIFF personnel shall provide security services at the areas listed as  
3 Regularly Patrolled in Attachment B. Upon learning of a violation occurring  
4 on said premises, SHERIFF personnel shall take whatever steps they, in  
5 their sole judgment and discretion, deem appropriate to prevent further  
6 violations, detain violators and/or notify appropriate police agencies to  
7 investigate violations. Such steps may include, but are not necessarily  
8 limited to, instructing violators to leave the premises, arresting violators,  
9 notifying city or other police agencies of violations so that they may assume  
10 jurisdiction, writing reports, and providing information to Federal, State and  
11 local agencies. SHERIFF personnel will provide security and other services  
12 on AUTHORITY's buses and other vehicles and at the areas listed as  
13 Patrolled As Requested in Attachment B, as mutually agreed by SHERIFF  
14 and EXECUTIVE OFFICER, to the extent that the SHERIFF, or SHERIFF'S  
15 designee, determines that sufficient personnel described in Subarticle 3-D  
16 are available to provide said services.

17 C. The night, day and evening law enforcement and supervisory shifts will be  
18 established by the mutual agreement of SHERIFF and AUTHORITY's  
19 EXECUTIVE OFFICER, or their designees. Personnel of each shift may  
20 work varying and different times and premises of AUTHORITY and may be  
21 deployed to other shifts or premises when, in the opinion of SHERIFF and  
22 EXECUTIVE OFFICER, the need arises. Any long-term shift deployment  
23 change will be reported to AUTHORITY's Board of Directors. SHERIFF and  
24 AUTHORITY'S Executive Officer, or their designees, will meet annually to  
25 develop an Annual Work Plan. A copy of the Annual Work Plan will be filed  
26 with each agency's Contract Administrator.

27 D. The level of service to be provided by SHERIFF, for the period July 1,  
28 201~~5~~9 through June 30, 201~~6~~4, shall be as follows:

1 **Article 3. REGULAR SERVICES BY COUNTY: (Continued)**

2 **Management:**

- 3 • One (1) Lieutenant

4 **Supervision:**

- 5 • ~~Four~~~~Three~~ (43) Sergeants
- 6 (each, 80 hours per two-week pay period)

7 **Investigation Services:**

- 8 • One (1) Investigator
- 9 (each, 80 hours per two-week pay period)

10 **Security, Patrol, and Law Enforcement:**

- 11 • Fourteen (14) Deputy Sheriff IIs – Fixed Route Enforcement
- 12 (each 80 hours per two-week pay period)
- 13 • ~~Six~~~~Five~~ (56) Deputy Sheriff IIs – Rail
- 14 (each 80 hours per two-week pay period)

15 **Clerical Support:**

- 16 • One (1) Office Technician
- 17 (80 hours per two-week pay period)

18 E. With respect to the regulations of the Orange County Taxicab  
 19 Administration Program (OCTAP) which is administered through the  
 20 AUTHORITY for approximately 34 incorporated cities, SHERIFF shall  
 21 receive applications for OCTAP permits pursuant to said regulations, and  
 22 SHERIFF's staff assigned to provide services to AUTHORITY shall  
 23 complete investigations relating to such applications. Said investigations  
 24 shall be forwarded to OCTAP Administrator within the established timeline.  
 25 SHERIFF shall designate a SHERIFF's employee assigned to provide  
 26 contracted services to AUTHORITY as the representative to the OCTAP  
 27 Public Safety Committee. COUNTY shall not provide any advisory,  
 28 administrative, hearing or litigation attorney support or services related to

Formatted: Font: Bold

Formatted: Indent: Left: 0.75", First line: 0", Bulleted + Level: 1 + Aligned at: 1" + Indent at: 1.25"

Formatted: Indent: Left: 1"

1 the issuance of permits. COUNTY shall not provide any administrative or  
 2 investigatory services related to the permits, except the investigations  
 3 relating to initial applications for which this subsection provides.

4 **Article 4. SPECIAL SERVICES BY COUNTY:**

5 A. At the request of AUTHORITY, SHERIFF, in her sole discretion, may  
 6 provide enhanced patrol, security, or other law enforcement services. The  
 7 type, time and place of said services shall be agreed upon by SHERIFF and  
 8 EXECUTIVE OFFICER. SHERIFF shall determine personnel and  
 9 equipment needed for such services, and shall provide an initial estimate of  
 10 personnel and equipment costs to AUTHORITY. If such services are in  
 11 addition to the level of services listed in Subarticle 3-D of this Agreement,  
 12 AUTHORITY shall reimburse COUNTY for such services at an amount  
 13 computed by SHERIFF, based upon the most current COUNTY law  
 14 enforcement cost study. SHERIFF shall bill AUTHORITY immediately after  
 15 said special services are terminated.

16 **B.** The SHERIFF will provide ~~threene~~ (3) canines for bomb detection services.  
 17 The AUTHORITY shall reimburse COUNTY for the premium pay, overtime,  
 18 and associated benefit costs and services and supplies for the Deputy  
 19 Sheriff IIs designated as the canine handlers. Such cost shall be included  
 20 in the Total Cost of services as provided in Subarticle 7-B.

21 ~~B-C.~~ In accordance with Subarticle 4-A, SHERIFF will provide enhanced  
 22 patrol, security, or other law enforcement services using specialized  
 23 resources including, but not limited to, the Mounted Enforcement Unit to  
 24 property owned by the AUTHORITY and as identified in Attachment E and  
 25 which may be amended from time to time. Authorization for amendment of  
 26 the attachment is provided in Subarticle 11-B.

Formatted: Tab stops: Not at 0.75"



1 **Article 5. RESPONSIBILITIES OF AUTHORITY:**

2 A. AUTHORITY will provide all facilities and equipment reasonably necessary  
3 to carry out services authorized in this Agreement.

4 B. AUTHORITY will permit SHERIFF to have exclusive use of up to  
5 ~~fifteen~~<sup>fourteen</sup> (15~~4~~) vehicles owned by AUTHORITY, to carry out services  
6 authorized in this Agreement. AUTHORITY shall be responsible for fuel and  
7 maintenance costs of the vehicles. At its own expense, AUTHORITY will  
8 promptly replace with an equivalent vehicle, any vehicle that has become  
9 unusable.

10 **Article 6. PERMITTING SERVICES BY AUTHORITY:**

11 Upon receipt from COUNTY of investigations of applications for permits  
12 referred to in Subarticle 3-E of this Agreement, OCTAP Administrator shall  
13 determine whether to grant or deny the permits and will issue the permits or  
14 notify the applicants of denial. AUTHORITY shall provide all attorney services  
15 related to the granting, denial, revocation and administration of said permits  
16 and the enforcement of any regulations pertaining to said permits.

17 **Article 7. PAYMENT:**

18 A. AUTHORITY agrees to pay COUNTY the costs of performing the services  
19 mutually agreed upon in this Agreement. The cost of services includes  
20 salaries, wages, benefits, services, supplies, equipment, training, divisional,  
21 departmental and COUNTY General overhead.

22 B. Unless the level of service described in Subarticle 3-D and Subarticle 4-B is  
23 increased or decreased, the cost of services described in Article 3 and  
24 Subarticle 4-B of this Agreement to be provided by SHERIFF for the period  
25 July 1, 201~~5~~<sup>9</sup> through June 30, 201~~6~~<sup>4</sup>, shall be as follows:

<b><u>SERVICE</u></b>	<b><u>COST OF SERVICE</u></b>
<b>Management:</b>	

28

1 **Article 7. PAYMENT:** (Continued)

2 **SERVICE**

**COST OF SERVICE**

- 3 • One (1) Lieutenant

4 @ \$~~298,547,251,293~~

\$~~298,547,251,293~~

5 **Supervision:**

- 6 • ~~Three-Four (43)~~ Sergeants

7 @ \$~~254,808,221,954~~/each

\$~~1,019,232,665,862~~

Formatted: Tab stops: 4.88", Left + Not at 5"

8 **Investigation Services:**

- 9 • One (1) Investigator

10 @ \$227,249/each

\$ 227,249

11 **Patrol, Security and Law Enforcement:**

- 12 • Fourteen (14) Deputy Sheriff IIs – Fixed Route Enforcement

13 @ \$~~207,846,186,457~~/each

\$~~2,909,844,261,398~~

Formatted: Indent: Hanging: 0.5", Bulleted + Level: 1 + Aligned at: 1" + Indent at: 1.25"

Formatted: Tab stops: 4.75", Left + Not at 5"

- 14 • Six-Five (56) Deputy Sheriff IIs – Rail

15 @ \$~~207,846,186,457~~/each

\$~~1,039,230,118,742~~

Formatted: Indent: Hanging: 0.5", Bulleted + Level: 1 + Aligned at: 1" + Indent at: 1.25"

Formatted: Tab stops: 4.69", Left + Not at 5"

16 **Clerical Support:**

- 17 • One (1) Office Technician

18 @ \$74,453/each

\$ 74,453

19 **Other Charges and Credits:**

\$~~902,257,361,243~~

20 **Charges:** Annual leave paydowns and apportionment of cost of leave  
 21 balances paid at end of employment;~~paid;~~ premium pay for bilingual-pay  
 22 staff;~~;~~ canine handler costs; contract administration;~~;~~ data line charges;  
 23 and equipment costs; direct services and supplies; dispatch support  
 24 services; garage expense; holiday pay; Integrated Law & Justice Agency  
 25 of Orange County; and on-call pay; Mobile Data Computer (MDC)  
 26 recurring cost for fourteen~~nine~~ (149) units; on-call pay; overtime; overtime  
 27 rate adjustment dispatch support services; patrol training cost allocation;  
 28 Patrol Video System (PVS) recurring cost for eight~~six~~ (86) units; premium

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

pay and related costs for three (3) designated Deputy Sheriff II – Canine Handlers/Bomb Technicians; garage expense; services and supplies related to the canines.

Credits: Retirement reimbursement; and t-Training reimbursement.

**TOTAL COST OF SERVICES** **\$**  
**6,470,8125,007,538**

C. If additional services are provided pursuant to Subarticle 4-A and 4-C that are not listed in Article 3 and Subarticle 4-B, including, but not limited to additional patrol, security, or other law enforcement services provided pursuant to Subarticle 4-A and 4-C, or if any equipment is provided that is reasonably necessary for carrying out the services in this Agreement and was not included in the cost calculations used to determine the cost of service set forth in Subarticle 7-B , COUNTY shall furnish these services and equipment to AUTHORITY on a time and expense basis. AUTHORITY's maximum cumulative payment obligation for these additional services or equipment for the period from July 1, 201~~5~~ through June 30, 201~~6~~, shall be \$110,00025,000, and COUNTY shall not be required to provide additional services and/or equipment costing more than \$110,00025,000 annually.

COUNTY may also provide additional services in support of Transit Security Grant Funds. AUTHORITY's maximum cumulative payment obligation for these additional services for the period from July 1, 2015 through June 30, 2016 shall be \$100,000.

D. Unless AUTHORITY is required to pay for increases as set forth in Subarticle 7-K, the Firm, Fixed Total Cost to AUTHORITY for services described in Articles 3 and 4 of this Agreement during the period from July 1, 201~~5~~ through June 30, 201~~6~~ is \$6,680,8125,032,538. The Firm, Fixed

**Article 7. PAYMENT: (Continued)**

1 Cost of \$~~6,680,8125,032,538~~ includes all amounts payable to COUNTY for  
2 its subcontractors, leases, materials and costs arising from, or due to,  
3 termination of this Agreement. However, if the parties, by mutual  
4 agreement, change the number or type of personnel to be provided by  
5 COUNTY, as authorized in Article 3, or the maximum obligations to provide  
6 and pay for special services and equipment, set forth in Subarticle 7-C ,  
7 then the Firm, Fixed Total Cost due from AUTHORITY will change  
8 accordingly.

9 E. The Firm, Fixed Total Cost to AUTHORITY for services provided for the 12-  
10 month periods commencing July 1, 201~~6~~<sup>4</sup>, 201~~7~~<sup>2</sup>, 201~~8~~<sup>3</sup>, and 201~~9~~<sup>4</sup>, will  
11 be determined annually by COUNTY and approved by AUTHORITY. Each  
12 fiscal year, COUNTY shall submit to AUTHORITY in writing a recommended  
13 level of service for the following fiscal year. AUTHORITY shall remit to  
14 COUNTY, in writing, its response to the recommended level of service. If  
15 the parties are unable to agree by June 30 of any fiscal year on the level of  
16 service to be provided by COUNTY to AUTHORITY or on the amount to be  
17 paid by AUTHORITY for services to be provided by COUNTY for the  
18 following fiscal year, this Agreement will terminate as of September 30 of  
19 the following fiscal year. If the parties do not agree by June 30 on the level  
20 of service and cost of services for the following fiscal year, between July 1  
21 and September 30 of the following fiscal year, COUNTY will provide the  
22 same level of service as was provided in the preceding fiscal year and  
23 AUTHORITY shall be obligated to pay the full costs of such services.

24 F. COUNTY shall invoice AUTHORITY monthly for one-twelfth (1/12) of the  
25 amount obtained by subtracting any amounts owing for additional services,  
26 as described in Subarticle 7-C. The monthly invoice may also include credits  
27 due to the AUTHORITY for positions which were vacant and for which  
28 services were not otherwise provided.

1 G. AUTHORITY shall pay COUNTY in accordance with COUNTY Board of  
2 Supervisors' approved County Billing Policy, which is attached hereto as  
3 Attachment C and incorporated herein by reference.

4 H. COUNTY shall charge AUTHORITY late payment penalties in accordance  
5 with COUNTY Billing Policy.

6 I. As reimbursement for the costs of providing fingerprinting services,  
7 COUNTY shall retain all fees for fingerprinting by SHERIFF's staff paid by  
8 applicants for the permits described in Subarticle 3-E .

9 J. In the sole discretion of SHERIFF, COUNTY may utilize employees  
10 classified as Extra Help to provide services described in Articles 3 and 4.

11 K.1. At the time this Agreement is executed, there are unresolved issues  
12 pertaining to potential changes in salaries and benefits for COUNTY  
13 employees. The cost of such potential changes are not included in the  
14 Fiscal Year 2015-16 costs set forth in Subarticles 7-B and 7-C nor in the  
15 FY 2015-16, Firm, Fixed Total Cost to the AUTHORITY set forth in  
16 Subarticle 7-D of this Agreement. If the changes result in the COUNTY  
17 incurring or becoming obligated to pay for increased costs for or on account  
18 of personnel whose costs are included in the calculations of costs charged  
19 to AUTHORITY hereunder, AUTHORITY shall pay COUNTY, in addition to  
20 the Firm, Fixed Total Cost set forth in Subarticle 7-D of this Agreement, the  
21 full costs of said increases to the extent such increases are attributable to  
22 work performed by such personnel after July 1, 2015, and AUTHORITY's  
23 Firm, Fixed Total Cost hereunder shall be deemed to have increased  
24 accordingly. AUTHORITY shall pay COUNTY in full for such increases on a  
25 pro-rata basis over the portion of the period between July 1, 2015 and June  
26 30, 2016 remaining after COUNTY notifies the AUTHORITY that increases  
27 are payable. If the changes result in the COUNTY incurring or becoming  
28 obligated to pay for decreased costs for or on account of personnel whose

Formatted: Indent: Hanging: 0.25", Tab stops: 0.75", Left

1 costs are included in the calculations of costs charged to the AUTHORITY  
 2 hereunder. COUNTY shall reduce the amount owed by the AUTHORITY to  
 3 the extent such decreases are attributable to work performed by such  
 4 personnel during the period July 1, 2015 through June 30, 2016, and the  
 5 AUTHORITY's Firm, Fixed Total Cost hereunder shall be deemed to have  
 6 decreased accordingly. COUNTY shall reduce required payment by the  
 7 AUTHORITY in full for such decreases on a pro-rata basis over the portion  
 8 of the period July 1, 2015 through June 30, 2016 remaining after COUNTY  
 9 notifies the AUTHORITY that the Firm Fixed Total Cost has decreased.

10 ~~K.1. At the time this Agreement is executed, there are unresolved issues~~  
 11 ~~pertaining to potential increases in salaries and benefits for COUNTY~~  
 12 ~~employees. The cost of such potential increases are not included in the~~  
 13 ~~Fiscal Year 2010-11 costs set forth in Subarticles 7-B and 7-C nor in the~~  
 14 ~~Firm, Fixed Total Cost set forth in Subarticle 7-D for said period. If~~  
 15 ~~COUNTY incurs or becomes obligated to pay for any such increases for or~~

16 **Article 7. PAYMENT (Continued)**

17 ~~on account of personnel whose costs are included in the calculations of costs~~  
 18 ~~charged to AUTHORITY hereunder, AUTHORITY shall pay COUNTY the~~  
 19 ~~full costs of said increases to the extent such increases are attributable to~~  
 20 ~~work performed by such personnel after July 1, 2010, and AUTHORITY's~~  
 21 ~~Firm, Fixed Total Cost set forth in Subarticle 7-D for said period shall be~~  
 22 ~~deemed to have increased accordingly. AUTHORITY shall pay its~~  
 23 ~~obligations for such increases on a pro-rata basis over the portion of the~~  
 24 ~~period between July 1, 2010 and June 30, 2011 remaining after the~~  
 25 ~~AUTHORITY is notified by COUNTY that increases are payable.~~

26 K.2. If AUTHORITY is required to pay for cost increases as set forth~~described~~ in  
 27 Subarticle 7K-1 above, COUNTY, at the request of AUTHORITY, will reduce  
 28 the level of service provided to AUTHORITY pursuant to Subarticle 3-D of

Formatted: Justified, Indent: Left: 0.38",  
 Hanging: 0.38", Tab stops: 0.75", List tab

Formatted: Indent: Hanging: 0.38"

1 this Agreement to a level that will make the Firm, Fixed Total Cost to  
 2 AUTHORITY between July 1, 201~~5~~<sup>9</sup> and June 30, 201~~6~~<sup>4</sup> an amount  
 3 specified by AUTHORITY that is equivalent to or higher than the Firm, Fixed  
 4 Total Cost set forth in Subarticle 7-D for said period, at the time this  
 5 Agreement was executed. The purpose of such adjustment of service  
 6 levels will be to give thereby giving AUTHORITY the option of keeping its  
 7 Firm, Fixed Total Cost for said period at the pre-increase level or at any  
 8 other higher level specified by AUTHORITY. In the event of such reduction  
 9 in level of service and adjustment of costs, the parties shall execute an  
 10 amendment to this Agreement so providing. Decisions about how to reduce  
 11 the level of service provided to AUTHORITY will be made by SHERIFF with  
 12 the approval of AUTHORITY.

**Article 8. NOTICES:**

14 A. Except for the notices provided for in Subarticle B of this Article, all notices  
 15 authorized or required by this Agreement shall be effective when written and  
 16 deposited in the United States mail, first class postage prepaid and  
 17 addressed as follows:

18 **AUTHORITY:** ATTN: CONTRACTS ADMINISTRATOR  
 19 ORANGE COUNTY TRANSPORTATION AUTHORITY  
 20 550 SOUTH MAIN ~~STREET~~  
 21 P.O. BOX 14184  
 22 ORANGE CA 92613

24 **COUNTY:** ATTN: LAW ENFORCEMENT CONTRACT MANAGER  
 25 SHERIFF-CORONER DEPARTMENT  
 26 320 NORTH FLOWER STREET, SUITE 108  
 27 SANTA ANA CA 92703

28

1 B. Termination notices shall be effective when written and deposited in the  
2 United States mail, certified, return receipt requested and addressed as  
3 above.

4 **Article 9. STATUS OF COUNTY:**

5 COUNTY is, and shall at all times be deemed to be, an independent contractor.  
6 Nothing herein contained shall be construed as creating the relationship of  
7 employer and employee, or principal and agent, between AUTHORITY and  
8 COUNTY or any of COUNTY's agents or employees. COUNTY and its  
9 SHERIFF shall retain all authority for rendition of services, standards of  
10 performance, control of personnel, and other matters incident to the  
11 performance of services by COUNTY pursuant to this Agreement. COUNTY,  
12 its agents and employees shall not be entitled to any rights or privileges of  
13 AUTHORITY employees and shall not be considered in any manner to be  
14 AUTHORITY employees.

15 **Article 10. AUDIT AND INSPECTION OF RECORDS:**

16 A. COUNTY shall provide AUTHORITY, the U.S. Department of Transportation  
17 (DOT), the Comptroller General of the United States, or other agents of  
18 AUTHORITY, such access to COUNTY's accounting books, records, payroll  
19 documents and facilities of the COUNTY which are directly pertinent to this  
20 Agreement for the purposes of examining, auditing and inspecting all  
21 accounting books, records, work data, documents and activities related  
22 hereto. COUNTY shall maintain such books, records, data and documents  
23 in accordance with generally accepted accounting principles and shall  
24 clearly identify and make such items readily accessible to such parties  
25 during COUNTY's performance hereunder and for a period of four (4) years  
26 from the date of final payment by AUTHORITY. AUTHORITY's right to audit

27 **Article 10. AUDIT AND INSPECTION OF RECORDS: (Continued)**

28



1 books and records directly related to this Agreement shall also extend to all  
2 first-tier subcontractors (any subcontractor providing services for this  
3 Agreement under direct contract with COUNTY) identified in this Agreement.  
4 COUNTY shall permit any of the foregoing parties to reproduce documents  
5 by any means whatsoever or to copy excerpts and transcriptions as  
6 reasonably necessary.

7 B. Pursuant to Government Code Section 8546.7, AUTHORITY and COUNTY  
8 shall be subject to examination and audit by the State Auditor for a period of  
9 three years after final payment by AUTHORITY to COUNTY under this  
10 Agreement. AUTHORITY shall retain all records relating to the performance  
11 of this Agreement for said three-year period, except those records  
12 pertaining to any audit then in progress, or any claim or litigation, which shall  
13 be retained beyond said three-year period, until final resolution of said audit,  
14 claim or litigation. COUNTY shall retain all records relating to the  
15 performance of this Agreement in accordance with Subarticle A of this  
16 Article, except those records pertaining to any audit then in progress, or any  
17 claim or litigation, which shall be retained until final resolution of said audit,  
18 claim or litigation.

19 **Article 11. ALTERATION OF TERMS:**

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

26 B. The SHERIFF, on behalf of ~~the~~ COUNTY, and the EXECUTIVE OFFICER,  
27 on behalf of AUTHORITY are authorized to execute amendments to add  
28 new locations to Attachment E.

Formatted: Indent: Left: 0.5", Hanging:  
0.25", Tab stops: 0.75", Left

1 **Article 12. INDEMNIFICATION:**

2 A. COUNTY and its elected and appointed officials, officers, agents,  
3 employees, subcontractors and independent contractors shall not be  
4 deemed to have assumed any liability for the negligence or any other act or  
5 omission of AUTHORITY or any of its officers, agents, employees,  
6 subcontractors or independent contractors or of non-COUNTY security  
7 personnel located at AUTHORITY facilities or on AUTHORITY buses and  
8 other vehicles, or for any dangerous or defective condition of any work or  
9 property of AUTHORITY, or for any illegality or unconstitutionality of  
10 AUTHORITY's rules, regulations or ordinances. AUTHORITY shall  
11 indemnify and hold harmless COUNTY and its elected and appointed  
12 officials, officers, agents, employees, subcontractors and independent  
13 contractors from any claim or liability whatsoever based or asserted upon  
14 the condition of any work or property of AUTHORITY, or upon the illegality  
15 or unconstitutionality of any rule, regulation or ordinance of AUTHORITY  
16 that SHERIFF has enforced, or upon any act or omission of AUTHORITY or  
17 its elected and appointed officials, officers, agents, employees,  
18 subcontractors or independent contractors, or of non-COUNTY security  
19 personnel located at AUTHORITY facilities or on Authority buses or other  
20 vehicles, related to this Agreement, including, but not limited to, any act or  
21 omission related to the maintenance or condition of any vehicle or  
22 motorcycle that is owned or possessed by AUTHORITY and used by  
23 COUNTY personnel in the performance of this Agreement, for property  
24 damage, bodily injury or death or any other element of damage of any kind  
25 or nature, and AUTHORITY shall defend at its expense including attorney  
26 fees and with counsel approved in writing by COUNTY, COUNTY and its  
27 elected and appointed officials, officers, agents, employees, subcontractors  
28 and independent contractors in any legal action or claim of any kind based

1 **Article 12. INDEMNIFICATION: (Continued)**

2 upon such condition of work or property, or illegality or unconstitutionality of  
3 rule, regulation or ordinance, or alleged acts or omissions. AUTHORITY  
4 shall purchase adequate levels of insurance and/or maintain substantial and  
5 proper liability reserves in order to honor potential claims and judgments. If  
6 judgment is entered against AUTHORITY and COUNTY by a court of  
7 competent jurisdiction because of the concurrent active negligence of either  
8 party, AUTHORITY and COUNTY agree that liability will be apportioned as  
9 determined by the court. Neither party shall request a jury apportionment.

10 B. COUNTY shall indemnify and hold harmless AUTHORITY, and its elected  
11 and appointed officials, officers, agents, employees, subcontractors and  
12 independent contractors from any claim or liability whatsoever based or  
13 asserted upon any act or omission of COUNTY, its elected and appointed  
14 officials, officers, agents, employees, subcontractors or independent  
15 contractors related to this Agreement, for property damage, bodily injury or  
16 death or any other element of damage of any kind or nature, and COUNTY  
17 shall defend at its expense including attorney fees, AUTHORITY and its  
18 elected and appointed officials, officers, agents, employees, subcontractors  
19 and independent contractors in any legal action or claim of any kind based  
20 upon such alleged acts or omissions. COUNTY shall purchase adequate  
21 levels of insurance and/or maintain substantial and proper liability reserves  
22 in order to honor potential claims and judgments.

23 C. AUTHORITY shall provide ~~COUNTYCounty~~ annually a certificate of self-  
24 insurance evidencing coverage for liability and workers' compensation.

25 ~~COUNTYCounty~~ shall provide ~~AUTHORITYAuthority~~ annually a certificate of  
26 self-insurance evidencing coverage for liability and workers' compensation.

27 **Article 12. INDEMNIFICATION: (Continued)**

28

1 D. COUNTY shall be responsible for any damage caused to  
2 ~~AUTHORITY~~Authority vehicles used by ~~COUNTY~~County under this  
3 Agreement as a result of a vehicular collision. ~~COUNTY~~The County shall  
4 not be responsible for property damage not related to vehicle collisions  
5 which may result from theft, vandalism or expected general operating use of  
6 ~~AUTHORITY~~Authority vehicles. Such responsibility shall not extend to any  
7 damage to ~~AUTHORITY~~Authority vehicles caused by any maintenance  
8 related issue associated with said vehicles. ~~COUNTY~~County reserves the  
9 right to subrogate against the responsible party to recover expenses paid to  
10 ~~AUTHORITY~~the Authority.

11 **Article 13. MOBILE DATA COMPUTERS:**

12 A. As part of the law enforcement services to be provided to AUTHORITY,  
13 COUNTY has provided, or will provide, mobile data computers (hereinafter  
14 called "MDCs") that are or will be mounted in patrol vehicles designated by  
15 COUNTY for use within AUTHORITY limits.

16 B. SHERIFF has the exclusive right to use said MDCs for law enforcement  
17 services related to this Agreement.

18 C. AUTHORITY shall pay COUNTY the full costs to COUNTY of a) the  
19 acquisition and installation of MDCs that are or will be mounted in patrol  
20 vehicles owned by AUTHORITY provided in accordance with Subarticle 5-B,  
21 and b) recurring costs, as deemed necessary by COUNTY, including the  
22 costs of maintenance and contributions to a fund for replacement and  
23 upgrade of such MDCs when they become functionally or technologically  
24 obsolete.

25 The costs to be paid by AUTHORITY for recurring costs, including  
26 maintenance and replacement/upgrade of MDCs, are included in the costs  
27 set forth in Subarticle 7-B and the Firm Fixed Total Cost to AUTHORITY set  
28 forth in Subarticle 7-D of this Agreement unless AUTHORITY has already

1 **Article 13. MOBILE DATA COMPUTERS: (Continued)**

2 paid such costs. AUTHORITY shall not be charged additional amounts for  
3 maintenance or replacement/upgrade of said MDCs during the period July  
4 1, 201~~5~~<sup>6</sup> through June 30, 201~~6~~<sup>4</sup>.

5 D. If, following the initial acquisition of MDCs referenced above, AUTHORITY  
6 requires MDCs for additional patrol cars designated for use in the  
7 AUTHORITY, COUNTY will purchase said additional MDCs. Upon demand  
8 by COUNTY, AUTHORITY will pay to COUNTY a) the full costs of  
9 acquisition and installation of said additional MDC's, and b) the full recurring  
10 costs for said MDCs, as deemed necessary by COUNTY, including the  
11 costs of maintenance, and contributions to a fund for replacement and  
12 upgrade of such MDCs when they become functionally or technologically  
13 obsolete. Said costs related to additional MDCs are not included in, and are  
14 in addition to, the costs set forth in Subarticle 7-B and the Maximum  
15 Obligation of AUTHORITY set forth in Subarticle 7-D of this Agreement.

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

21 **Article 14. PATROL VIDEO SYSTEM:**

22 A. As part of the law enforcement services to be provided to AUTHORITY,  
23 COUNTY has provided, or will provide, patrol video systems (hereinafter  
24 called "PVS") that are or will be mounted in patrol vehicles designated by  
25 COUNTY for use within AUTHORITY service area.

26 B. SHERIFF has the exclusive right to use said PVS for law enforcement  
27 services related to this Agreement.

28 //

1 **Article 14. PATROL VIDEO SYSTEM: (Continued)**

2 C. AUTHORITY shall pay COUNTY the full costs to COUNTY of a) the  
3 acquisition and installation of Patrol Video Systems (PVS) that are or will be  
4 mounted in patrol vehicles owned by AUTHORITY provided in accordance  
5 with Subarticle 5-B, and b) recurring costs, as deemed necessary by  
6 COUNTY, including the costs of maintenance and contributions to a fund for  
7 replacement and upgrade of such PVS when they become functionally or  
8 technologically obsolete.

9 The costs to be paid by AUTHORITY for recurring costs, including  
10 maintenance and replacement/upgrade of PVS, are included in the costs  
11 set forth in Subarticle 7-B and the Maximum Obligation of AUTHORITY set  
12 forth in Subarticle 7-D of this Agreement unless AUTHORITY has already  
13 paid such costs. AUTHORITY shall not be charged additional amounts for  
14 maintenance or replacement/upgrade of said PVS during the period July 1,  
15 201~~5~~<sup>9</sup> through June 30, 201~~6~~<sup>4</sup>.

16 D. If, following the initial acquisition of PVS referenced above, AUTHORITY  
17 requires PVS for additional patrol cars designated for use in the  
18 AUTHORITY service area, COUNTY will purchase said additional PVS.  
19 Upon demand by COUNTY, AUTHORITY will pay to COUNTY a) the full  
20 costs of acquisition and installation of said additional PVS, and b) the full  
21 recurring costs for said PVS, as deemed necessary by COUNTY, including  
22 the costs of maintenance, and contributions to a fund for replacement and  
23 upgrade of such PVS when they become functionally or technologically  
24 obsolete. Said costs related to additional PVS are not included in, and are in  
25 addition to, the costs set forth in Subarticle 7-B and the Maximum Obligation  
26 of AUTHORITY set forth in Subarticle 7-D of this Agreement.

27 **Article 15. DISPUTES:**

28

1 This Agreement shall be construed and all disputes hereunder shall be settled  
2 in accordance with the laws of the State of California. Pending final resolution  
3 of a dispute hereunder, COUNTY shall proceed diligently with the performance  
4 of this Agreement and in accordance with AUTHORITY's instructions, provided  
5 AUTHORITY continues to pay COUNTY, in full, for said continued  
6 performance.

7 **Article 16. ASSIGNMENTS AND SUBCONTRACTING:**

8 Neither this Agreement nor any interest herein nor claim hereunder may be  
9 assigned by COUNTY either voluntarily or by operation of law, nor may all or  
10 any part of this Agreement be subcontracted by COUNTY, without the prior  
11 written consent of AUTHORITY. Consent by AUTHORITY shall not be deemed  
12 to relieve COUNTY of its obligations to comply fully with all terms and  
13 conditions of this Agreement.

14 **Article 17. FEDERAL, STATE AND LOCAL LAWS:**

15 COUNTY and AUTHORITY warrant that in the performance of this Agreement,  
16 the parties shall comply with all applicable Federal, State and local laws,  
17 statutes and ordinances and all lawful orders, rules and regulations  
18 promulgated thereunder.

19 **Article 18. EQUAL EMPLOYMENT OPPORTUNITY:**

20 In connection with its performance under this Agreement, COUNTY shall not  
21 discriminate against any employee or applicant for employment because of  
22 race, religion, color, sex, age or national origin. COUNTY shall take  
23 appropriate actions to ensure that applicants are employed, and that  
24 employees are treated during their employment, without regard to their race,  
25 religion, color, sex, age or national origin. Such actions shall include, but not  
26 be limited to, the following: employment, upgrading, demotion or transfer;  
27 recruitment or recruitment advertising; layoff or termination; rates of pay or

28 **Article 18. EQUAL EMPLOYMENT OPPORTUNITY: (Continued)**

1 other forms of compensation; and selection for training, including  
2 apprenticeship.

3 **Article 19. COUNTY PROHIBITED INTERESTS:**

4 A. COUNTY covenants that, for the term of this Agreement, no director,  
5 member, officer or employee of AUTHORITY during his/her tenure in office  
6 or for one (1) year thereafter, shall have any interest, direct or indirect, in  
7 this Agreement or the proceeds thereof.

8 B. No member of or delegate to, the Congress of the United States shall have  
9 any interest, direct or indirect, in this Agreement or to the benefits thereof.

10 **Article 20. FORCE MAJEURE:**

11 Either party shall be excused from performing its obligations under this  
12 Agreement during the time and to the extent that it is prevented from  
13 performing by a cause beyond its control, including, but not limited to: any  
14 incidence of fire, flood or strike; acts of God; commandeering of materiel,  
15 products, plants or facilities by the Federal, State or local government; national  
16 fuel shortage; or a material act of omission by the other party; when satisfactory  
17 evidence of such cause is presented to the other party, and provided further  
18 that such non-performance is unforeseeable, beyond the control, and is not due  
19 to the fault or negligence of the party not performing.

20 **Article 21. CIVIL RIGHTS ASSURANCE:**

21 During the performance of this Agreement, COUNTY, for itself, its assignees  
22 and successors in interest agree as follows:

23 A Compliance with Regulations: COUNTY shall comply with the Regulations  
24 relative to nondiscrimination in federally assisted programs of the  
25 Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal  
26 Regulations, Part 21, as they may be amended from time to time,  
27 (hereinafter referred to as the Regulations), which are herein incorporated

28 **Article 21. CIVIL RIGHTS ASSURANCE: (Continued)**



1 by reference and made a part of this Agreement.

2 B. Nondiscrimination: COUNTY, with regard to the work performed by it during  
3 the Agreement, shall not discriminate on the grounds of race, color, or  
4 national origin in the selection and retention of subcontractors, including  
5 procurements of materials and leases of equipment. The COUNTY shall not  
6 participate either directly or indirectly in the discrimination prohibited by  
7 Section 21.5 of the Regulations, including employment practices when the  
8 Agreement covers a program set forth in Appendix C of the Regulations.

9 C. Solicitations for Subcontracts, Including Procurement of Materials and  
10 Equipment: In all solicitations either by competitive bidding or negotiation  
11 made by the COUNTY for work to be performed under a subcontract under  
12 this Agreement, including procurements of materials or leases of equipment,  
13 each potential subcontractor or supplier shall be notified by the COUNTY of  
14 the COUNTY's obligations under this Agreement and the Regulations  
15 relative to nondiscrimination on the grounds of race, color, or national origin.

16 D. Information and Reports: COUNTY shall provide all information and reports  
17 required by the Regulations or directives issued pursuant thereto, and shall  
18 permit access to its books, records, accounts, other sources of information  
19 and its facilities as may be determined by the AUTHORITY to be pertinent  
20 to ascertain compliance with such Regulations, orders and instructions.  
21 Where any information required of a COUNTY is in the exclusive  
22 possession of another who fails or refuses to furnish this information the  
23 COUNTY shall so certify to the AUTHORITY as appropriate, and shall set  
24 forth what efforts it has made to obtain the information.

25 **Article 21. CIVIL RIGHTS ASSURANCE: (Continued)**

26 E. Sanctions for Noncompliance: In the event of the COUNTY's  
27 noncompliance with nondiscrimination provisions of this Agreement, the  
28

1 AUTHORITY shall impose Agreement sanctions as it may determine to be  
2 appropriate, including, but not limited to:

- 3 1. Withholding of payments to the COUNTY under the Agreement until the  
4 COUNTY complies; and/or  
5 2. Cancellation, termination, or suspension of the Agreement, in whole or in  
6 part if the COUNTY fails to comply.

7 AUTHORITY will promptly provide written notice to COUNTY if  
8 AUTHORITY believes that COUNTY is noncompliant.

9 F. Title VI of the Civil Rights Act. In determining the types of property or  
10 services to acquire, no person in the United States shall, on the grounds of  
11 race, color, or national origin, be excluded from participation in, be denied  
12 the benefits of, or otherwise be subjected to discrimination under any  
13 program or activity receiving Federal financial assistance in violation of Title  
14 VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. Sections 2000d et  
15 seq. and DOT regulations, "Nondiscrimination in Federally Assisted  
16 Programs of the Department of Transportation—Effectuation of Title VI of  
17 the Civil Rights Act of 1964," 49 CFR Part 21. In addition, FTA Circular  
18 4702.1, "Title VI and Title VI-Dependent Guidelines for FTA Recipients," 05-  
19 13-07, provides FTA guidance and instructions for implementing DOT's Title  
20 VI regulations.

21 The Americans with Disabilities Act of 1990, as amended (ADA), 42 U.S.C.  
22 Sections 12101 et seq., prohibits discrimination against qualified individuals  
23 with disabilities in all programs, activities, and services of public entities, as  
24 well as imposes specific requirements on public and private providers of  
25 transportation.

26 **Article 21. CIVIL RIGHTS ASSURANCE: (Continued)**

27 G. Incorporation of Provisions: COUNTY shall include the provisions of  
28 paragraphs (A) through (F) in every subcontract under this Agreement,

1 including procurements of materials and leases of equipment, unless  
2 exempt by the Regulations, or directives issued pursuant thereto. The  
3 COUNTY shall take such action with respect to any subcontract or  
4 procurement as the AUTHORITY may direct as a means of enforcing such  
5 provisions including sanctions for noncompliance. Provided, however, that in  
6 the event a COUNTY becomes involved in, or is threatened with, litigation  
7 with a subcontractor or supplier as a result of such direction, the COUNTY  
8 may request the AUTHORITY to enter into such litigation to protect the  
9 interests of the AUTHORITY, and, in addition, the COUNTY may request  
10 the United States to enter into such litigation to protect the interests of the  
11 United States.

12 **Article 22. ALCOHOL AND DRUG POLICY:**

13 A. COUNTY agrees to establish and implement an alcohol and drug program  
14 that complies with 41 U.S.C sections 701 -707, (the Drug Free Workplace  
15 Act of 1988), which is attached to this Agreement as Attachment D, and  
16 produce any documentation necessary to establish its compliance with  
17 sections 701-707.

18 B. Failure to comply with this Article may result in nonpayment or termination of  
19 this Agreement.

20 **Article 23. PRIVACY ACT:**

21 COUNTY shall comply with, and assures the compliance of its employees with,  
22 the information restrictions and other applicable requirements of the Privacy Act  
23 of 1974, 5 U.S.C. §552a. Among other things, COUNTY agrees to obtain the  
24 express consent of the Federal Government before the COUNTY or its  
25 employees operate a system of records on behalf of the Federal Government.

26 **Article 23. PRIVACY ACT: (Continued)**

27 COUNTY understands that the requirements of the Privacy Act, including the  
28 civil and criminal penalties for violation of that Act, apply to those individuals

1 involved, and that failure to comply with the terms of the Privacy Act may result  
2 in termination of the underlying Agreement.

3 **Article 24. INCORPORATION OF FTA TERMS:**

4 To the extent applicable, all contractual provisions required by Department of  
5 Transportation (DOT), whether or not expressly set forth in this document, as  
6 set forth in Federal Transit Administration (FTA) Circular 4220.1F, as amended,  
7 are hereby incorporated by reference. Anything to the contrary herein  
8 notwithstanding, all FTA mandated terms shall be deemed to control in the  
9 event of a conflict with other provisions contained in this Agreement. COUNTY  
10 shall not perform any act, fail to perform any act, or refuse to comply with any  
11 requests, which would cause AUTHORITY to be in violation of the FTA terms  
12 and conditions.

13 **Article 25. FEDERAL CHANGES:**

14 COUNTY shall at all times comply with all applicable FTA regulations, policies,  
15 procedures and directives, including without limitation those listed directly or by  
16 reference in the agreement between the AUTHORITY and FTA, as they may be  
17 amended or promulgated from time to time during this Agreement. COUNTY's  
18 failure to comply shall constitute a material breach of Agreement. AUTHORITY  
19 will promptly provide written notice to COUNTY of any applicable FTA  
20 regulations, policies, procedures and directives adopted, amended or  
21 promulgated during this Agreement.

22 //

23 //

24 //

25 //

26 **Article 26. NO FEDERAL GOVERNMENT OBLIGATION TO THIRD PARTIES**

27 AUTHORITY and COUNTY acknowledge and agree that, notwithstanding any  
28 concurrence by the Federal Government in or approval of the solicitation or

1 award of the underlying Agreement, absent the express written consent by the  
2 Federal Government, the Federal Government is not a party to this Agreement  
3 and shall not be subject to any obligations or liabilities to the AUTHORITY,  
4 COUNTY, or any other party (whether or not a party to this Agreement)  
5 pertaining to any matter resulting from the underlying Agreement. COUNTY  
6 agrees to include these requirements in all of its subcontracts under this  
7 Agreement.

8 **Article 27. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS**  
9 **AND RELATED ACTS:**

10 A. COUNTY acknowledges that the provisions of the Program Fraud Civil  
11 Remedies Act of 1986, as amended, 31 U.S.C. §3801 et seq. and U.S. DOT  
12 regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its  
13 actions pertaining to this project. Accordingly, by signing this Agreement,  
14 COUNTY certifies or affirms the truthfulness and accuracy of any statement  
15 it has made, it makes, it may make, or causes to be made, pertaining to the  
16 underlying Agreement of the FTA assisted project for which this  
17 Agreement's work is being performed. COUNTY also acknowledges that if it  
18 makes, or causes to be made, a false, fictitious, or fraudulent claim,  
19 statement, submission, or certification, the Federal Government reserves  
20 the right to impose penalties of the Program Fraud Civil Remedies Act of  
21 1986 on the COUNTY to the extent the Federal Government deems  
22 appropriate.

23 B. COUNTY also acknowledges that if it makes, or causes to be made, a false,  
24 fictitious, or fraudulent claim, statement, submission, or certification to the  
25 Federal Government under an agreement connected with a project that is

26 **Article 27. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS**  
27 **AND RELATED ACTS: (Continued)**

28

1 financed in whole or part with Federal assistance awarded by FTA under the  
2 authority of 49 U.S.C. chapter 53, the Government reserves the right to  
3 impose the penalties of 18 U.S.C. §1001 and 49 U.S.C. §5323 (l) et seq. on  
4 the COUNTY, to the extent the Federal Government deems appropriate.  
5 COUNTY agrees to include this requirement in all of its subcontracts under  
6 this Agreement.

7 **Article 28. RECYCLED PRODUCTS**

8 To the extent applicable, COUNTY shall comply with all the requirements of  
9 Section 6002 of the Resource Conservation and Recovery Act (RCRA), as  
10 amended (42 U.S.C. 6962), including but not limited to the regulatory provisions  
11 of 40 CFR Part 247, and Executive Order 12873, as they apply to the  
12 procurement of the items designated in subpart B of 40 CFR Part 247.  
13 COUNTY agrees to include this requirement in all of its subcontracts under this  
14 Agreement.

15 **Article 29. CODE OF CONDUCT**

16 COUNTY agrees to comply with the AUTHORITY's Code of Conduct as it  
17 relates to Third Party Agreements which is hereby referenced and by this  
18 reference is incorporated herein. COUNTY agrees to include these  
19 requirements in all of its subcontracts under this Agreement.

20 **Article 30. DISADVANTAGED BUSINESS ENTERPRISES**

21 This Agreement is subject to Title 49 Code of Federal Regulations (CFR), Part  
22 26, entitled "Participation by Disadvantaged Business Enterprises in  
23 Department of Transportation Financial Assistance Programs"  
24 (Regulations).The Regulations in their entirety are incorporated herein by this  
25 reference.

26 //

27 **Article 31. PRIOR AGREEMENT SUPERSEDED**

28

1  
2  
3  
4 //  
5 //  
6 //  
7 //  
8 //  
9 //  
10 //  
11 //  
12 //  
13 //  
14 //  
15 //  
16 //  
17 //  
18 //  
19 //  
20 //  
21 //  
22 //  
23 //  
24 //  
25 //  
26 //  
27 //  
28

~~This Agreement supersedes the Five-Year Law Enforcement Services Agreement, as amended, between the COUNTY and the AUTHORITY dated May 1, 201008.~~

DRAFT

**Comment [SN2]:** The current five year agreement will terminate so this paragraph is not necessary.

1 **IN WITNESS WHEREOF**, the parties have executed the AGREEMENT  
2 in the County of Orange, State of California.

3 DATED: \_\_\_\_\_

4 ORANGE COUNTY  
5 TRANSPORTATION AUTHORITY

6 BY: \_\_\_\_\_  
7 ~~William Kempton~~ Darrell Johnson  
8 Chief Executive Officer

APPROVED AS TO FORM:

BY: \_\_\_\_\_  
Kennard R. Smart, Jr.  
General Counsel

9 APPROVED:

10 DATED: \_\_\_\_\_

11 BY: \_\_\_\_\_  
12 General Manager  
13 Transit Operations

14 DATED: \_\_\_\_\_

15 DATED: \_\_\_\_\_

16 COUNTY OF ORANGE  
17 BY: \_\_\_\_\_  
18 Chairman of the Board of Supervisors  
19 ~~County of Orange, California~~

Formatted: Tab stops: 0.31", Left

20 ~~Signed and certified that a copy of this~~ **SIGNED AND CERTIFIED THAT A COPY OF**  
21 **THIS**  
22 ~~document has been delivered to the Chair~~ **DOCUMENT HAS BEEN DELIVERED TO**  
23 **THE CHAIR**  
24 ~~of the Board per~~ **OF THE BOARD PER** G.C. Sec. 25103, Reso 79-1535  
25 Attest:

26 ~~Susan Novak~~ Robin Stieler ~~Darlene J. Bloom~~  
27 ~~Interim~~ Clerk of the Board ~~of Supervisors~~  
28 ~~County of Orange~~ ~~County~~, California

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

BY: \_\_\_\_\_  
Deputy



- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

DATED: \_\_\_\_\_

DRAFT