

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

FIRST AMENDMENT TO FIVE-YEAR 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 201~~6~~⁵, 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, 2016, that certain Agreement between the parties commencing July 1, 2015, hereinafter referred to as the "Agreement".

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:~~

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

1 #

2 #

3

TABLE OF CONTENTS

4

5

SECTION**PAGE**

6

A. Term

3

7

B. Optional Termination

3

8

C. Regular Services by COUNTY

3

9

D. Enhanced and Supplemental Services by County

7

10

E. Patrol Video Systems

9

11

F. Licensing Services by CITY

11

12

G. Payment

11

13

H. Notices

17

14

I. Status of COUNTY

18

15

J. State Audit

18

16

K. Alteration of Terms

19

17

L. Indemnification

19

18

M. Traffic Violator Apprehension Program

20

19

N. Mobile Data Computers

23

20

O. E-Citation Units

24

21

Signature Page

26

22 //

23 //

24 //

25 //

26 //

27 //

28 //

1 #

2 #

3 ~~**A. TERM:**~~

4 ~~The term of this Agreement shall be for five (5) years, commencing July 1,~~
5 ~~2015 and terminating June 30, 2020, unless earlier terminated by either party~~
6 ~~in the manner set forth herein.~~

7 ~~**B. OPTIONAL TERMINATION:**~~

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

10 ~~**C. REGULAR SERVICES BY COUNTY:**~~

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

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

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

1 of service and cost of service for the following fiscal year, between July 1
2 and September 30 of the following fiscal year, COUNTY will provide

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

4 the level of service provided in preceding fiscal year, and CITY shall be
5 obligated to pay the costs of such services. The full cost of such services
6 may exceed the cost of similar services provided in the prior fiscal year.

7 1. For the period July 1, 2016 through June 30, 2017, REGULAR SERVICES BY
8 COUNTY, Subsections C-4 and C-5 of the Agreement are amended to read as
9 follows:

10 4. ~~C-4.~~ The level of service, other than for licensing, to be provided by
11 the COUNTY for the period July 1, 201~~6~~⁶⁵ through June 30, 201~~7~~⁶, is set
12 forth in Attachment F and incorporated herein by this reference. shall be as
13 follows:

14 **Management:**

15 • ~~One (1) Lieutenant~~

16 **Supervision:**

17 • ~~Four (4) Sergeants—Patrol~~

18 ~~(each 80 hours per two-week pay period)~~

19 • ~~One (1) Sergeant—Administrative~~

20 ~~(80 hours per two-week pay period)~~

21 **Investigation Services:**

22 • ~~Two (2) Investigators~~

23 ~~(each 80 hours per two-week pay period)~~

24 **Patrol/Traffic Services:**

25 • ~~Fourteen (14) Deputy Sheriff IIs—Patrol~~

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

27 • ~~One (1) Deputy Sheriff II—Special Enforcement~~

28 ~~(Directed Enforcement Team—DET)~~

- 1 ~~(80 hours per two-week pay period)~~
- 2 ~~• Three (3) Deputy Sheriff IIs – Motorcycle~~
- 3 ~~(each 80 hours per two-week pay period)~~
- 4 ~~Deployment to be determined by SHERIFF in cooperation with CITY~~
- 5 ~~manager.~~

6 #

7 ~~**C. REGULAR SERVICES BY COUNTY: (Continued)**~~

8 ~~**Community Support Unit:**~~

- 9 ~~• One (1) Deputy Sheriff II~~
- 10 ~~—(80 hours per two-week pay period)~~
- 11 ~~• One (1) Crime Prevention Specialist~~
- 12 ~~—(80 hours per two-week pay period)~~

13 ~~**Parking Control:**~~

- 14 ~~• Two (2) Community Services Officers~~
- 15 ~~—(each 80 hours per two-week pay period)~~

16 ~~**Regional / Shared Staff:**~~

- 17 ~~• 7.91 percent of sixty one hundredths of one (0.60) Sergeant—Traffic~~
- 18 ~~• 7.91 percent of four (4) Deputy Sheriff IIs—Traffic~~
- 19 ~~• 7.91 percent of two (2) Investigative Assistants—Traffic~~
- 20 ~~• 7.91 percent of one (1) Office Specialist—Traffic~~
- 21 ~~• 5.38 percent of thirty one hundredths of one (0.30) Sergeant—~~
- 22 ~~Auto Theft~~
- 23 ~~• 5.38 percent of two (2) Investigators—Auto Theft~~
- 24 ~~• 5.38 percent of one (1) Investigative Assistant—Auto Theft~~
- 25 ~~• 5.38 percent of one (1) Office Specialist—Auto Theft~~
- 26 ~~• 12.21 percent of one (1) Sergeant—Directed Enforcement Team (DET)~~
- 27 ~~• 12.21 percent of one (1) Investigator—Directed Enforcement Team (DET)~~
- 28 ~~• 6.97 percent of one (1) Office Specialist—Subpoena~~

- ~~• 13.86 percent of two (2) Investigative Assistants — Court~~
- ~~• 9.38 percent of one half of one (0.50) Motorcycle Sergeant~~

~~2.~~

~~5. C-5.~~ For any service listed in set forth Attachment F~~Subsection C-4~~ of this Agreement that is provided to CITY at less than 100% of a full-time SHERIFF position, COUNTY retains the option to terminate such service in the event the other city or cities which contract(s) for the balance of the time of the employee providing the service no longer pay(s) for such service and CITY does not request the Agreement be amended to pay 100% of the cost of the employee providing such service. The Maximum Obligation of CITY set forth in Subsection G-~~23~~ will be adjusted accordingly.”

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

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

~~8. 8. With respect to the licensing ordinances of CITY listed in Attachment A hereto, which is incorporated herein by this reference, SHERIFF shall receive applications for CITY licenses pursuant to said ordinances and~~

1 ~~complete investigations relating to such applications. Said investigations~~
2 ~~shall be forwarded to CITY Manager. COUNTY shall not provide any~~
3 ~~advisory, administrative, hearing or litigation attorney support or services~~
4 ~~related to licensing. COUNTY shall not provide any administrative or~~
5 ~~investigatory services related to the licensing ordinances listed in~~
6 ~~Attachment A, hereto, except the investigations relating to initial~~
7 ~~applications for which this subsection provides.~~

8 ~~9. COUNTY or CITY, upon thirty (30) days notice and mutual written~~
9 ~~agreement, shall increase or decrease the service levels provided herein,~~
10 ~~and the obligation of CITY to pay for services shall be concomitantly~~
11 ~~adjusted.~~

12 2. Effective July 1, 2016, ENHANCED AND SUPPLEMENTAL SERVICES BY
13 COUNTY, Subsection D of the Agreement is amended to read as follows:

14 **“ D. ENHANCED AND SUPPLEMENTAL SERVICES BY COUNTY:**

- 15 1. Enhanced services for events on CITY property. At the request of CITY,
16 through its City Manager, SHERIFF may provide enhanced law enforcement
17 services for functions, such as community events, conducted on property that is
18 owned, leased or operated by CITY. SHERIFF shall determine personnel and
19 equipment needed for such enhanced services. To the extent the services
20 provided at such events are at a level greater than that specified in ~~Subsection~~
21 ~~G-4~~Attachment F of this Agreement, CITY shall reimburse COUNTY for such
22 additional services, at an amount computed by SHERIFF, based on the current
23 year's COUNTY law enforcement cost study. The cost of these enhanced
24 services shall be in addition to the Maximum Obligation of CITY set forth in
25 Subsection G-~~23~~ of this Agreement. SHERIFF shall bill CITY immediately after
26 each such event.
- 27 2. Supplemental services for occasional events operated by private individuals
28 and entities on non-CITY property. At the request of CITY, through its City

1 Manager, and within the limitations set forth in this subsection D-2, SHERIFF
2 may provide supplemental law enforcement services to preserve the peace at
3 special events or occurrences that occur on an occasional basis and are
4 operated by private individuals or private entities on non-CITY property.
5 SHERIFF shall determine personnel and equipment needed for such
6 supplemental services, and will provide such supplemental services only if
7 SHERIFF is able to do so without reducing the normal and regular ongoing
8 services that SHERIFF otherwise would provide to CITY pursuant to this
9 Agreement. Such supplemental services shall be provided only by regularly
10 appointed full-time peace officers, at rates of pay governed by a Memorandum
11 of Understanding between COUNTY and the bargaining unit(s) representing
12 the peace officers providing the services. Such supplemental services shall
13 include only law enforcement duties and shall not include services authorized
14 to be provided by a private patrol operator, as defined in Section 7582.1 of the
15 Business and Professions Code. Law enforcement support functions,
16 including, but not limited to, clerical functions and forensic science services,
17 may be performed by non-peace officer personnel if the services do not
18 involve patrol or keeping the peace and are incidental to the provision of law
19 enforcement services. CITY shall reimburse COUNTY its full, actual costs of
20 providing such supplemental services at an amount computed by SHERIFF,
21 based on the current year's COUNTY law enforcement cost study. The cost
22 of these supplemental services shall be in addition to the Maximum Obligation
23 of CITY set forth in Subsection G-~~23~~ of this Agreement. SHERIFF shall bill
24 CITY immediately after each such event.

- 25 3. Supplemental services for events operated by public entities on non-CITY
26 property. At the request of CITY, through its City Manager, and within the
27 limitations set forth in this Ssubsection D-3, SHERIFF may provide
28 supplemental law enforcement services to preserve the peace at special

1 events or occurrences that occur on an occasional basis and are operated by
2 public entities on non-CITY property. SHERIFF shall determine personnel and
3 equipment needed for such supplemental services, and will provide such
4 supplemental services only if SHERIFF is able to do so without reducing
5 services that SHERIFF otherwise would provide to CITY pursuant to this
6 Agreement. CITY shall reimburse COUNTY its full, actual costs of providing
7 such supplemental services at an amount computed by SHERIFF, based on
8 the current year's COUNTY law enforcement cost study. The cost of these
9 supplemental services shall be in addition to the Maximum Obligation of CITY
10 set forth in Subsection G-~~23~~ of this Agreement. SHERIFF shall bill CITY
11 immediately after each such event.

12 4. Notwithstanding the foregoing, CITY, through its permit process, may utilize the
13 services of SHERIFF at events, for which CITY issues permits, that are
14 operated by private individuals or entities or public entities. SHERIFF shall
15 determine personnel and equipment needed for said events. If said events
16 are in addition to the level of services listed in ~~Subsection G-4~~Attachment F of
17 this Agreement, CITY shall reimburse COUNTY for such additional services at
18 an amount computed by SHERIFF, based upon the current year's COUNTY
19 law enforcement cost study. The cost of these services shall be in addition to
20 the Maximum Obligation of CITY set forth in Subsection G-~~23~~ of this
21 Agreement. SHERIFF shall bill CITY immediately after said services are
22 rendered.

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

1 Obligation of CITY set forth in Subsection G-~~23~~. COUNTY shall not charge
2 any additional amounts for enhanced helicopter services after the cost of
3 services set forth in ~~Subsection G-2~~Attachment G and in the Maximum
4 Obligation set forth in Subsection G-~~23~~ has been established in any fiscal year
5 without written notification to the CITY.

6 ~~E. PATROL VIDEO SYSTEMS:~~

7 ~~1. As part of the law enforcement services provided to CITY, COUNTY has~~
8 ~~provided, or will provide patrol video systems (hereinafter called "PVS")~~

9 ~~E. PATROL VIDEO SYSTEMS: (Continued)~~

10 ~~that will be mounted in the patrol vehicles designated by COUNTY for use~~
11 ~~within CITY service area.~~

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

14 3. For the period July 1, 2016 through June 30, 2017, PATROL VIDEO SYSTEMS,
15 Subsections E-3, E-4 and E-5 of the Agreement are amended to read as follows:

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

22 The costs to be paid by CITY for recurring costs, including maintenance and
23 replacement/upgrade of PVS, are included in the costs set forth in
24 ~~Subsection G-2~~Attachment G and the Maximum Obligation of CITY set forth
25 in Subsection G-~~23~~ of this Agreement unless CITY has already paid such
26 costs. CITY shall not be charged additional amounts for maintenance or
27 replacement/upgrade of said PVS during the period July 1, 201~~6~~5 through
28 June 30, 201~~7~~6.

- 1 4. If, following the initial acquisition of PVS referenced above, CITY requires
2 PVS for additional patrol cars designated for use in the CITY service area,
3 COUNTY will purchase said additional PVS. Upon demand by COUNTY,
4 CITY will pay to COUNTY a) the full costs of acquisition and installation of
5 said additional PVS, and b) the full recurring costs for said PVS, as deemed
6 necessary by COUNTY, including the costs of maintenance, and
7 contributions to a fund for replacement and upgrade of such PVS when they
8 become functionally or technologically obsolete. Said costs related to
9 additional PVS are not included in, and are in addition to, the costs set forth
10 in ~~Subsection G-2~~Attachment G and the Maximum Obligation of CITY set
11 forth in Subsection G-~~23~~ of this Agreement.
- 12 5. County will replace and/or upgrade PVS as needed. The costs of
13 replacing/upgrade PVS shall be paid by COUNTY from the
14 replacement/upgrade funds to be paid by CITY in accordance with the
15 foregoing. CITY shall not be charged any additional charge to replace or
16 upgrade PVS after the cost of PVS set forth in ~~Subsection G-2~~Attachment G
17 and in Maximum Obligation set forth in G-~~23~~ has been established in any
18 fiscal year without written notification to the CIY

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

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

26 **~~G. PAYMENT:~~**

- 27 1. ~~Pursuant to Government Code Section 51350, CITY agrees to pay to~~
28 ~~COUNTY the full costs of performing the services mutually agreed upon in~~

~~this Agreement. The cost of services includes salaries, wages, benefits, mileage, services, supplies, equipment, and divisional, departmental and COUNTY General overhead.~~

4. For the period July 1, 2016 through June 30, 2017, PAYMENT, Subsection G-2 of the Agreement is amended to read as follows:

"G-2. Unless the level of service as set forth in Attachment F described in Subsection G-4 is increased or decreased by mutual agreement of the parties, or CITY is required to pay for increases as set forth in Subsection G-4, the Maximum Obligation of CITY for services cost of services described in set forth in Attachment F-Subsection G-4 of this Amendment agreement, other than Licensing Services, to be provided by the COUNTY for the period July 1, 2016⁵ through June 30, 2017⁶, shall be \$8,801,628, as set forth in Attachment G follows:

SERVICE **COST OF SERVICE**

Management:

- ~~One (1) Lieutenant~~
@ \$319,245/each \$ 319,245

G. PAYMENT: (Continued)

SERVICE **COST OF SERVICE**

Supervision:

- ~~Four (4) Sergeants - Patrol~~
@ \$277,869/each \$ 1,111,476
- ~~One (1) Sergeant - Administrative~~
@ \$277,869/each \$ 277,869

Investigation Services:

- ~~Two (2) Investigators~~
@ \$275,999/each \$ 551,998

Patrol/Traffic Services:

1	• Fourteen (14) Deputy Sheriff IIs - Patrol	
2	@ \$230,739/each	\$ 3,230,346
3	• One (1) Deputy Sheriff II - Special Enforcement	
4	(Directed Enforcement Team - DET)	
5	@ \$230,739/each	\$ 230,739
6	• Three (3) Deputy Sheriff IIs - Motorcycle	
7	@ \$235,922/each	\$ 707,766
8	Community Support Unit:	
9	• One (1) Deputy Sheriff II	
10	@ \$230,739/each	\$ 230,739
11	• One (1) Crime Prevention Specialist	
12	@ \$92,906/each	\$ 92,906
13	Parking Control:	
14	• Two (2) Community Services Officers	
15	@ \$114,356/each	\$ 228,712

#

#

G. PAYMENT: (Continued)

19	<u>SERVICE</u>	<u>COST OF SERVICE</u>
----	-----------------------	-------------------------------

Regional / Shared Staff:

21	• 7.91% of sixty one hundredths of one (0.60) Sergeant - Traffic	
22	@ \$281,289/each	\$ 13,350
23	• 7.91% of four (4) Deputy Sheriff IIs - Traffic	
24	@ 245,706/each	\$ 77,741
25	• 7.91% of two (2) Investigative Assistants - Traffic	
26	@ \$115,074/each	\$ 18,205
27	• 7.91% of one (1) Office Specialist - Traffic	
28	@ \$92,928/each	\$ 7,351

1	• 5.38% of thirty one hundredths of one (0.30) Sergeant – Auto Theft	
2	@ \$280,513/each	\$ 4,527
3	• 5.38% of two (2) Investigators – Auto Theft	
4	@ \$251,035/each	\$ 27,011
5	• 5.38% of one (1) Investigative Assistant – Auto Theft	
6	@ \$119,265/each	\$ 6,416
7	• 5.38% of one (1) Office Specialist – Auto Theft	
8	@ \$91,980/each	\$ 4,949
9	• 12.21% of one (1) Sergeant – Directed Enforcement Team (DET)	
10	@ \$379,854/each	\$ 46,380
11	• 12.21% of one (1) Investigator – Directed Enforcement Team (DET)	
12	@ \$300,961/each	\$ 36,747
13	• 6.97% of one (1) Office Specialist – Subpoena	
14	@ \$84,796/each	\$ 5,910
15	• 13.86% of two (2) Investigative Assistants – Court	
16	@ \$116,732/each	\$ 32,358

#

G. PAYMENT: (Continued)**SERVICE** **COST OF SERVICE**

20	• 9.38% of one half of one (0.50) Motorcycle Sergeant	
21	@ \$308,496/each	\$ 14,468

Other Charges and Credits: **\$ 1,176,721**

Charges: ~~Annual leave paydowns and apportionment of cost of leave balances paid at end of employment; premium pay for bilingual staff; contract administration; data line charges; direct services and supplies; E-citation; enhanced helicopter response services; facility lease; holiday pay; comp and straight time; Integrated Law & Justice Agency of Orange County; mobile data~~

1 ~~computer (MDC) recurring costs; on-call pay; overtime; patrol~~
 2 ~~training cost allocation; patrol video system (PVS) recurring costs;~~
 3 ~~retirement rate discount expenses (interest and cost of issuance);~~
 4 ~~training; transportation costs including vehicle fuel, mileage~~
 5 ~~interest for replacement vehicles and maintenance.~~

6 ~~**Credits:** Local assistance funding; false alarm fees; overtime rate~~
 7 ~~adjustment; reimbursement for training and miscellaneous~~
 8 ~~programs; retirement rate discount FY 2015-16.~~

9 ~~**TOTAL COST OF SERVICES** \$ 8,453,930~~

10 ~~The overtime costs included in the Agreement are only an estimate.~~
 11 ~~COUNTY shall notify CITY of actual overtime worked during each fiscal year.~~
 12 ~~If actual overtime worked is above or below budgeted amounts, billings will~~
 13 ~~be adjusted accordingly at the end of the fiscal year. Actual overtime costs~~
 14 ~~may exceed CITY's Maximum Obligation.~~

- 15 3. ~~Unless the level of service described in Subsection C-4 is increased or~~
 16 ~~decreased, or CITY is required to pay for increases as set forth in~~
 17 ~~Subsection G-4, the Maximum Obligation of CITY for services, other than~~
 18 ~~Licensing Services that are referenced in Subsection C-4 of this Agreement~~
 19 ~~and rendered by COUNTY between July 1, 2015 and June 30, 2016, is~~
 20 ~~\$8,453,930.~~

21 ~~5. Effective July 1, 2016 PAYMENT Subsection G-3 of the Agreement is deleted.~~

22 ~~6. For the period July 1, 2016 through June 30, 2017, PAYMENT, Subsections G-4a,~~
 23 ~~G-4b and G-6 of the Agreement are amended to read as follows:~~

24 ~~"G-4-a. At the time this Agreement is executed, there are unresolved~~
 25 ~~issues pertaining to potential changes in salaries and benefits for~~
 26 ~~COUNTY employees. The costs of such potential changes are not~~
 27 ~~included in the FY 201~~65-176~~ cost set forth in Attachment ~~G~~sub~~section G-~~~~
 28 ~~2 nor in the FY 201~~65-176~~ Maximum Obligation of CITY set forth in~~

1 Subsection G-~~23~~ of this Agreement. If the changes result in the COUNTY
2 incurring or becoming obligated to pay for increased cost for or on
3 account of personnel whose costs are included in the calculations of costs
4 charged to CITY hereunder, CITY shall pay COUNTY, in addition to the
5 Maximum Obligation set forth in Subsection G-~~23~~ of this Agreement, the
6 full costs of said increases to the extent such increases to the are
7 attributable to work performed by such personnel during the period July 1,
8 201~~65~~ through June 30, 201~~76~~, and CITY's Maximum Obligation
9 hereunder shall be deemed to have increased accordingly. CITY shall
10 pay COUNTY in full for such increases on a pro-rata basis over the
11 portion of the period between July 1, 201~~65~~ and June 30, 201~~76~~
12 remaining after COUNTY notifies CITY that increases are payable. If the
13 changes result in the COUNTY incurring or becoming obligated to pay for
14 decreased costs for or on account of personnel whose costs are included
15 in the calculations of costs charged to CITY hereunder, COUNTY shall
16 reduce the amount owed by the CITY to the extent such decreases are
17 attributable to work performed by such personnel during the period July 1,
18 201~~65~~ through June 30, 201~~76~~, and CITY's Maximum Obligation
19 hereunder shall be deemed to have decreased accordingly. COUNTY
20 shall reduce required payment by CITY in full for such decreases on a
21 pro-rata basis over the portion of the period between July 1, 201~~65~~ and
22 June 30, 201~~76~~ remaining after COUNTY notifies CITY that the Maximum
23 Obligation has decreased.

24 ~~G-4~~-b. If CITY is required to pay for increases as set forth in Subsection G-4a
25 above, COUNTY, at the request of CITY, will thereafter reduce the level
26 of service to be provided to CITY as set forth in Attachment F pursuant to
27 ~~Subsection C-4~~ of this Agreement to a level that will make the Maximum
28 Obligation of CITY hereunder for the period July 1, 201~~65~~ through June

1 30, 201~~7~~⁶ an amount specified by CITY that is equivalent to or higher
2 than the Maximum Obligation set forth in Subsection G-~~23~~ for said period
3 at the time this Agreement originally was executed. The purpose of such
4 adjustment of service levels will be to give CITY the option of keeping its
5 Maximum Obligation hereunder at the pre-increase level or at any other
6 higher or lower level specified by CITY. In the event of such reduction in
7 level of service and adjustment of costs, the parties shall execute an
8 amendment to this Agreement so providing. Decisions about how to
9 reduce the level of service provided to CITY shall be made by SHERIFF
10 with the approval of CITY.

11 ~~5. The Maximum Obligation of CITY for services provided for the 12-~~
12 ~~month periods commencing July 1, 2016, 2017, 2018 and 2019, will be~~
13 ~~determined annually by COUNTY and approved by CITY.~~

14 ~~6. G-6.~~COUNTY shall invoice CITY monthly, one-twelfth (1/12) of the
15 Maximum Obligation of CITY. If a determination is made that increases
16 described in Subsection G-4 must be paid, COUNTY thereafter shall
17 include the pro-rata charges for such increases in its monthly invoices to
18 CITY for the balance of the period between July 1, 201~~6~~⁵ and June 30,
19 201~~7~~⁶.”

20 ~~7. CITY shall pay COUNTY in accordance with COUNTY Board of~~
21 ~~Supervisors' approved County Billing Policy, which is attached hereto as~~
22 ~~Attachment B, and incorporated herein by this reference.~~

23 #

24 ~~G. PAYMENT:~~ (Continued)

25 ~~8. COUNTY shall charge CITY late payment penalties in accordance with~~
26 ~~County Billing Policy.~~

27 ~~9.5. 9.~~As payment for the Licensing Services described in Subsection C-8 of
28 this Agreement, COUNTY shall retain all fees paid by applicants for

1 licenses, pursuant to CITY ordinances listed in Attachment A hereto.
 2 Retention of said fees by COUNTY shall constitute payment in full to
 3 COUNTY for costs incurred by COUNTY in performing the functions
 4 related to licensing described in Subsection C-8; provided, however, that if
 5 any of said fees are waived or reduced by CITY, CITY shall pay to
 6 COUNTY the difference between the amount of fees retained by COUNTY
 7 and the fees that were set forth in the ordinances listed in Attachment A as
 8 of July 1, 2015. Should CITY increase the fee schedule for the licensing
 9 ordinances set forth in Attachment A, either party shall have the right to
 10 seek amendment of this Agreement with respect to the division of the
 11 increased fees between CITY and COUNTY.

12 ~~10. Fees generated or collected by SHERIFF contract personnel for copying of~~
 13 ~~documents related to the services provided in this Agreement will be at~~
 14 ~~COUNTY-established rates and will be credited to CITY on an annual~~
 15 ~~basis.~~

16 ~~11. Narcotic asset forfeitures will be handled pursuant to Attachment C hereto,~~
 17 ~~which is incorporated herein by this reference.~~

18 ~~H. NOTICES:~~

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

23 #

24 ~~H. NOTICES: (Continued)~~

25 ~~CITY: ATTN: CITY MANAGER~~
 26 ~~32400 PASEO ADELANTO~~
 27 ~~SAN JUAN CAPISTRANO, CA 92675~~

28 ~~COUNTY: ATTN: CONTRACT MANAGER~~

1 ~~_____ SHERIFF-CORONER DEPARTMENT~~
2 ~~_____ 320 NORTH FLOWER STREET, SUITE 108~~
3 ~~_____ SANTA ANA, CA 92703~~

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

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

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

18 ~~**J. STATE AUDIT:**~~

19 ~~Pursuant to Government Code Section 8546.7, CITY and COUNTY shall be~~
20 ~~subject to examination and audit by the State Auditor for a period of three (3)~~
21 ~~years after final payment by CITY to COUNTY under this Agreement. CITY~~
22 ~~and COUNTY shall retain all records relating to the performance of this~~
23 ~~Agreement for said three-year period, except that records pertaining to any~~

24 ~~**J. STATE AUDIT: (Continued)**~~

25 ~~audit then in progress, or any claim or litigation shall be retained beyond said~~
26 ~~three-year period until final resolution of said audit, claim or litigation.~~

27 ~~**K. ALTERATION OF TERMS:**~~

28

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

6 ~~**L. INDEMNIFICATION:**~~

7 ~~1. COUNTY, its officers, agents, employees, subcontractors and independent~~
8 ~~contractors shall not be deemed to have assumed any liability for the~~
9 ~~negligence or any other act or omission of CITY or any of its officers, agents,~~
10 ~~employees, subcontractors or independent contractors, or for any dangerous~~
11 ~~or defective condition of any public street or work or property of CITY, or for~~
12 ~~any illegality or unconstitutionality of CITY's municipal ordinances. CITY~~
13 ~~shall indemnify and hold harmless COUNTY and its elected and appointed~~
14 ~~officials, officers, agents, employees, subcontractors and independent~~
15 ~~contractors from any claim, demand or liability whatsoever based or asserted~~
16 ~~upon the condition of any public street or work property of CITY, or upon the~~
17 ~~illegality or unconstitutionality of any municipal ordinance of CITY that~~
18 ~~SHERIFF has enforced, or upon any act or omission of CITY, or its elected~~
19 ~~and appointed officials, officers, agents, employees, subcontractors or~~
20 ~~independent contractors related to this Agreement, including, but not limited~~
21 ~~to, any act or omission related to the maintenance or condition of any vehicle~~
22 ~~or motorcycle that is owned or possessed by CITY and used by COUNTY~~
23 ~~personnel in the performance of this Agreement, for property damage, bodily~~
24 ~~injury or death or any other element of damage of any kind or nature, and~~

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

26 ~~CITY shall defend, at its expense including attorney fees, and with counsel~~
27 ~~approved in writing by COUNTY, COUNTY and its elected and appointed~~
28 ~~officials, officers, agents, employees, subcontractors and independent~~

1 ~~contractors in any legal action or claim of any kind based or asserted upon~~
2 ~~such condition of public street or work or property, or illegality or~~
3 ~~unconstitutionality of a municipal ordinance, or alleged acts or omissions. If~~
4 ~~judgment is entered against CITY and COUNTY by a court of competent~~
5 ~~jurisdiction because of the concurrent active negligence of either party, CITY~~
6 ~~and COUNTY agree that liability will be apportioned as determined by the~~
7 ~~court. Neither party shall request a jury apportionment.~~

8 ~~2. COUNTY shall indemnify and hold harmless CITY and its elected and~~
9 ~~appointed officials, officers, agents, employees, subcontractors and~~
10 ~~independent contractors from any claim, demand or liability whatsoever~~
11 ~~based or asserted upon any act or omission of COUNTY or its elected and~~
12 ~~appointed officials, officers, agents, employees, subcontractors or~~
13 ~~independent contractors related to this Agreement, for property damage,~~
14 ~~bodily injury or death or any other element of damage of any kind or nature,~~
15 ~~and COUNTY shall defend, at its expense, including attorney fees, and with~~
16 ~~counsel approved in writing by CITY, CITY 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 alleged acts or omissions.~~

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

21 ~~1. COUNTY has established a Traffic Violator Apprehension Program [“the~~
22 ~~Program”], which is operated by SHERIFF, and is designed to reduce~~
23 ~~vehicle accidents caused by unlicensed drivers and drivers whose licenses~~
24 ~~are suspended and to educate the public about the requirements of the~~

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

26 ~~Vehicle Code and related safety issues with regard to driver licensing,~~
27 ~~vehicle registration, vehicle operation, and vehicle parking. The Program~~
28 ~~operates throughout the unincorporated areas of the COUNTY and in the~~

1 ~~cities that contract with COUNTY for SHERIFF's law enforcement services,~~
2 ~~without regard to jurisdictional boundaries, because an area-wide~~
3 ~~approach to reduction of traffic accidents and driver education is most~~
4 ~~effective in preventing traffic accidents. In order for CITY to participate in~~
5 ~~the Program, CITY has adopted a fee pursuant to Vehicle Code section~~
6 ~~22850.5, in the amount and under the terms and conditions set forth in the~~
7 ~~TVAP resolution that is attached to this Agreement as Attachment D and~~
8 ~~incorporated into this Agreement by reference, and has directed that the~~
9 ~~revenue from such fee be used for the Program. CITY's participation in~~
10 ~~the Program may be terminated at any time by rescission or amendment of~~
11 ~~the TVAP resolution that is attached to this Agreement as Attachment D.~~
12 ~~In the event CITY 1) amends said TVAP resolution, or rescinds said TVAP~~
13 ~~resolution and adopts a new TVAP resolution pertaining to the above-~~
14 ~~referenced fee and the Program, and 2) remains a participant in the~~
15 ~~Program thereafter, CITY's Manager, on behalf of CITY, and SHERIFF, on~~
16 ~~behalf of COUNTY, have authority to execute an amendment to this~~
17 ~~Agreement to substitute CITY's amended or new TVAP resolution for~~
18 ~~Attachment D to the Agreement, as long as said amendment to this~~
19 ~~Agreement does not materially change any other provision of this~~
20 ~~Agreement.~~

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

23 7. For the period July 1, 2016 through June 30, 2017, TRAFFIC VIOLATOR
24 APPREHENSION PROGRAM, Subsections M-3 and M-4 of the Agreement are
25 amended to read as follows:

26 "M-3. Fee revenue generated by COUNTY and participating cities will be used to fund
27 the following positions, which will be assigned to the Program:

- 28 • ~~Fifteen~~~~Ten~~ one hundredths of one (0.~~150~~) Sergeant

1 (~~128~~ hours per two-week pay period)

- 2 • One (1) Staff Specialist

3 (80 hours per two-week pay period)

- 4 • One (1) Office Specialist

5 (80 hours per two-week pay period)

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

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

23 In the event the fees adopted by COUNTY, CITY and other participating
24 jurisdictions are not adequate to continue operation of the Program at the level
25 at which it operated previously, COUNTY, at the option of CITY, will reduce
26 the level of Program service to be provided to CITY or will continue to provide
27 the existing level of Program services. COUNTY will charge CITY the cost of
28 any Program operations that exceed the revenue generated by fees. Such

1 charges shall be in addition to the Maximum Obligation of CITY set forth in
2 Subsection G-~~23~~ of this Agreement. The amount of any revenue shortfall
3 charged to CITY will be determined, at the time the revenue shortfall is
4 experienced, according to CITY's share of Program services rendered. In the
5 event of a reduction in level of Program service, termination of Program
6 service or adjustment of costs, the parties shall execute an amendment to the
7 Agreement so providing. Decisions about how to reduce the level of Program
8 service provided to CITY shall be made by SHERIFF with the approval of
9 CITY."

10 ~~N. MOBILE DATA COMPUTERS:~~

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

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

17 8. For the period July 1, 2016 through June 30, 2017, MOBILE DATA COMPUTERS,
18 Subsections N-3, N-4 and N-5 of the Agreement are amended to read as follows:

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

25 The costs to be paid by CITY for recurring costs, including maintenance
26 and replacement/upgrade of MDCs, are included in the costs set forth in
27 ~~Subsection G-2~~Attachment G and the Maximum Obligation of CITY set
28 forth in Subsection G-~~23~~ of this Agreement unless CITY has already paid

1 such costs. CITY shall not be charged additional amounts for
2 maintenance or replacement/upgrade of said MDCs during the period July
3 1, 201~~6~~5 through June 30, 201~~7~~6.

4 N-4 If, following the initial acquisition of MDCs referenced above, CITY requires
5 MDCs for additional patrol cars or motorcycles designated for use in the
6 CITY, or for CITY's Emergency Operations Center, COUNTY will purchase
7 said additional MDCs. Upon demand by COUNTY, CITY will pay to
8 COUNTY a) the full costs of acquisition and installation of said additional
9 MDC's, and b) the full recurring costs for said MDCs, as deemed
10 necessary by COUNTY, including the costs of maintenance, and
11 contributions to a fund for replacement and upgrade of such MDCs when
12 they become functionally or technologically obsolete. Said costs related to
13 additional MDCs are not included in, and are in addition to, the costs set
14 forth in ~~Subsection G-2~~Attachment G and the Maximum Obligation of CITY
15 set forth in Subsection G-~~23~~ of this Agreement.

16 5. 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 or
20 upgrade MDCs.

21 9. For the period July 1, 2016 through June 30, 2017, E-CITATION UNITS
22 Subsections O-3 and O-4 of the Agreement are amended to read as follows:

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

- 24 ~~1. As part of the law enforcement services to be provided to CITY, COUNTY~~
25 ~~has provided, or will provide, E-Citation units designated by COUNTY for~~
26 ~~use within CITY limits.~~
- 27 ~~2. SHERIFF has the exclusive right to use said E-Citation units for law~~
28 ~~enforcement services related to this Agreement.~~

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

7 The costs to be paid by CITY for recurring costs, including maintenance and
8 replacement/upgrade of E-Citation units, are included in the costs set forth in
9 ~~Subsection G-2~~Attachment G and the Maximum Obligation of CITY set forth
10 in Subsection G-~~23~~ of this Agreement unless CITY has already paid such
11 costs. CITY shall not be charged additional amounts for maintenance or
12 replacement/upgrade of said E-Citation units during the period July 1, 201~~6~~
13 through June 30, 201~~7~~6.

14 O-4. If, following the initial acquisition of E-Citation units referenced above, CITY
15 requires E-Citation units designated for use in CITY, COUNTY will purchase
16 said additional E-Citation units. Upon demand by COUNTY, CITY will pay to
17 COUNTY a) the full costs of acquisition of said additional E-Citation units, and
18 b) the full recurring costs for said E-Citation units, as deemed necessary by
19 COUNTY, including the costs of maintenance, and contributions to a fund for
20 replacement and upgrade of such E-Citation units when they become
21 functionally or technologically obsolete. Said costs related to additional E-
22 Citation units are not included in, and are in addition to, the costs set forth in
23 ~~Subsection G-2~~Attachment G and the Maximum Obligation of CITY set forth in
24 Subsection G-~~23~~ of this Agreement.

25 ~~COUNTY will replace and/or upgrade E-Citation units as needed. The costs~~
26 ~~of replacing/upgrading E-Citation units shall be paid by COUNTY from the~~
27 ~~replacement/upgrade funds to be paid by CITY in accordance with the~~

1 ~~foregoing. CITY shall not be charged any additional charge to replace or~~
2 ~~upgrade E-Citation units.~~

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

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

DRAFT

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

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: _____
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
Interim Clerk of the Board
County of Orange, California

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

BY: _____
Deputy

DATED: _____