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**AGREEMENT  
BETWEEN THE  
COUNTY OF ORANGE  
AND THE  
FOOTHILL / EASTERN TRANSPORTATION CORRIDOR AGENCY**

**THIS AGREEMENT** is entered into this fifteenth day of June 2016, which date is enumerated for purposes of reference only, by and between the FOOHILL/EASTERN TRANSPORTATION CORRIDOR AGENCY, a public entity, hereinafter referred to as "AGENCY", and the COUNTY OF ORANGE a political subdivision of the STATE OF CALIFORNIA, hereinafter referred to as "COUNTY".

**WITNESSETH:**

**WHEREAS**, AGENCY wishes to contract with COUNTY Sheriff-Coroner Department, hereinafter referred to as "SHERIFF", for supplemental law enforcement patrol services; and

**WHEREAS**, COUNTY is agreeable to the rendering of such services, as authorized in Government Code Section 54981, on the terms and conditions hereinafter set forth:

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

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1 **A. TERM:**

2 The term of this Agreement shall be for one year, commencing July 1, 2016  
3 and terminating June 30, 2017, or until COUNTY has provided services to  
4 AGENCY hereunder costing the full amount of the Maximum Obligation of  
5 AGENCY, as set forth in Subsection D-3, whichever is earlier. This Agreement  
6 may also be terminated by either party in the manner set forth in Section B.

7 **B. OPTIONAL TERMINATION:**

8 AGENCY or COUNTY may terminate this Agreement, without cause, upon  
9 twenty (20) days written notice to the other party.

10 **C. SERVICES BY COUNTY:**

11 1. AGENCY occasionally has a need for law enforcement patrol services to  
12 supplement those provided by AGENCY. As requested by AGENCY from  
13 time to time, at the discretion of SHERIFF, COUNTY shall render to  
14 AGENCY selected services as hereinafter provided to the extent said  
15 services can reasonably be performed. SHERIFF will provide enhanced  
16 patrol, security, or other law enforcement services using specialized  
17 resources, including, but not limited to, the Mounted Enforcement Unit on  
18 property owned by the AGENCY and as identified as "Patrolled as  
19 Requested" in Attachment A, which is incorporated herein by this reference  
20 and which may be amended from time to time. In the event the AGENCY  
21 requests an amendment to the list of areas to be "Patrolled as Requested",  
22 AGENCY's CHIEF EXECUTIVE OFFICER, hereinafter referred to as  
23 "EXECUTIVE OFFICER", or designee, on behalf of AGENCY and  
24 SHERIFF, or her designee, on behalf of COUNTY, are authorized to  
25 execute amendments to add new locations to Attachment A, as long as said  
26 amendments to Attachment A do not materially change any other provision  
27 of this Agreement.

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1 **C. SERVICES BY COUNTY: (Continued)**

2 Changes to the "Patrolled as Requested" areas will be considered only if  
3 requested by AGENCY's EXECUTIVE OFFICER, or designee, and the  
4 requested change will be made only to the extent SHERIFF, or SHERIFF'S  
5 designee, determines that sufficient personnel are available to provide said  
6 services. AGENCY shall notify COUNTY at least thirty (30) days in advance  
7 of the need for these services. These services will be utilized within the  
8 COUNTY OF ORANGE.

9 **D. PAYMENT:**

- 10 1. AGENCY agrees to pay to COUNTY the total costs of performing the  
11 services mutually agreed upon in this Agreement based on the billing rates  
12 set forth in Attachment B and actual hours expended. The cost of services  
13 includes: salaries, wages, benefits, mileage, services, supplies, and  
14 divisional, departmental and COUNTY General overhead.
- 15 2. The billing rates provided by SHERIFF personnel position title are set forth  
16 in Attachment B and incorporated herein by this reference. The project  
17 hours in Attachment B are provided for purposes of estimating the total  
18 costs and may not be indicative of actual deployment under Section C of  
19 this Agreement.
- 20 3. The Maximum Obligation of AGENCY for services described in this  
21 Agreement is \$182,050.00. Unless otherwise terminated as provided in  
22 Section B, this Agreement will terminate whenever said Maximum Obligation  
23 is expended or on June 30, 2017, whichever is earlier.
- 24 4. COUNTY shall invoice AGENCY monthly for the services described in this  
25 Agreement.
- 26 5. AGENCY shall pay COUNTY in accordance with COUNTY Board of  
27 Supervisors' approved County Billing Policy, which is attached hereto as  
28 Attachment C, and incorporated herein by this reference.

1 **D. PAYMENT: (Continued)**

2 6. COUNTY shall charge AGENCY late payment penalties in accordance with  
3 County Billing Policy.

4 **E. ALTERATION OF TERMS:**

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

10 **F. CONTRACTUAL RELATIONSHIP:**

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

21 **G. INDEMNIFICATION:**

22 1. COUNTY, its officers, agents and employees shall not be deemed to have  
23 assumed any liability for the condition of AGENCY'S property or for the  
24 negligence or any other act or omission of AGENCY or any of its officers,  
25 agents or employees. AGENCY shall indemnify and hold COUNTY, its  
26 officers, agents, employees, and independent contractors free and harmless  
27 from any claim, demand, cause of action, loss, damage or liability  
28 whatsoever related to or alleged to be related to a dangerous or defective

1 **G. INDEMNIFICATION:** (Continued)

2 condition of any property of AGENCY or any act or omission of AGENCY, its  
3 officers, agents, employees, subcontractors or independent contractors  
4 related to this Agreement, for property damage, bodily injury or death or any  
5 other element of damage of any kind or nature, and AGENCY shall defend  
6 at its expense, including attorney fees, COUNTY, its officers, agents,  
7 employees and independent contractors in any legal action or claim of any  
8 kind based upon such condition of AGENCY's property or alleged acts or  
9 omissions. Such obligation shall not be construed to require AGENCY to  
10 indemnify, defend, or hold harmless COUNTY, its officers, agents,  
11 employees, subcontractors, independent contractors, insurers or third party  
12 administrators for any claim, administrative proceeding, or legal action that  
13 is covered by workers' compensation insurance or workers' compensation  
14 law.

15 2. COUNTY shall indemnify and hold AGENCY and each of the governmental  
16 entities that is now or may in the future become a member of AGENCY and  
17 their respective successors and assigns and their respective officers,  
18 directors, agents, representatives, employees and independent contractors  
19 free and harmless from any claim, demand, cause of action, loss, damage  
20 or liability whatsoever, based or asserted upon any act or omission of  
21 COUNTY, its officers, agents, employees, subcontractors or independent  
22 contractors related to this Agreement, for property damage, bodily injury or  
23 death or any other element of damage of any kind or nature, and COUNTY  
24 shall defend at its expense, including attorney fees, AGENCY and each of  
25 the governmental entities that is now or may in the future become a member  
26 of AGENCY and their respective successors and assigns and their  
27 respective officers, directors, agents, representatives, employees and  
28 independent contractors in any legal action or claim of any kind based upon

1 **G. INDEMNIFICATION:** (Continued)

2 such alleged acts or omissions. In claims by an employee of COUNTY, the  
3 indemnification obligation under this paragraph G.2 shall not be limited by a  
4 limitation on the amount or type of damages, compensation or benefits  
5 payable under workers' compensation, disability benefit or other employee  
6 benefit laws.

7 3. In the event of negligence or breach of obligations under this Agreement of  
8 both parties, the liability claims for injuries or damages to persons and/or  
9 property based upon such negligence or breach shall be apportioned under  
10 principles of comparative negligence.

11 **H. NOTICES:**

12 All notices, reports and correspondence between the parties hereto  
13 respecting this agreement shall be in writing and deposited in the United  
14 States Mail, postage prepaid, addressed as follows:

15 **COUNTY:** ORANGE COUNTY SHERIFF-CORONER  
16 ATTN: MANAGER, LAW ENFORCEMENT CONTRACTS  
17 320 N. FLOWER STREET  
18 SANTA ANA, CA 92703

19 **AGENCY:**  
20 FOOTHILL/EASTERN TRANSPORTATION  
21 CORRIDOR AGENCY  
22 ATTN: VALARIE MCFALL  
23 DIRECTOR, ENVIRONMENTAL PLANNING  
24 125 PACIFICA, SUITE 100  
25 IRVINE, CA 92618

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**ATTACHMENT A****FOOTHILL/EASTERN TRANSPORTATION CORRIDOR AGENCY  
AREAS TO BE PATROLLED****Patrolled as Requested**

Upper Chiquita Canyon Conservation Area (UCCA)

The Orange County Sheriff's Department Mounted Enforcement Unit (MEU) shall provide mounted enforcement patrol of Upper Chiquita Conservation Area (UCCA) for a minimum of 8 hours (1 day) a week after the effective date of the Agreement Between the County of Orange and the Foothill / Eastern Transportation Corridor Agency (TCA) to which this Attachment A is attached. At the TCA's sole discretion, the MEU shall provide an additional 8 hours per week of mounted enforcement patrol (maximum 16 hours per week) upon written notification by the TCA.

- MEU will begin to patrol the area on a weekly, yet varied schedule.
  - Days of the week and time of days will be varied and unpredictable.
  - On-going patrols will note and report to Agency any damage or needed repairs to access roads, signs and fencing within 24 hours after observing such damage or needed repairs.
  
- MEU will compile data on individuals informed and warned about trespassing in the UCCA and shall provide monthly reports to Agency including such data.
  
- MEU will cite and charge violators with trespassing as outlined in the California Penal Code.

## ATTACHMENT B

**ORANGE COUNTY SHERIFF-CORONER DEPARTMENT  
LAW ENFORCEMENT CONTRACT PERSONNEL COST  
FY 2016-17**

**MOUNTED ENFORCEMENT SERVICES FOR TRANSPORTATION CORRIDOR AGENCY (TCA)**

**A. BILLING RATES**

<b><u>Position Title</u></b>	<b><u>Billing Rate</u></b>
Sergeant	\$ 116.09
Sergeant - EH	\$ 53.02
Investigator	\$ 102.72
Deputy Sheriff II	\$ 94.40
Deputy Sheriff I	\$ 89.46

**B. PROJECTED COST**

	<b><u>Investigator</u></b>	<b><u>Sergeant</u></b>	<b><u>Total</u></b>	
12 Months	416.00	416.00	832.00	(8 hrs./day, 1 day/week, 52 weeks)
Additional Patrol	416.00	416.00	832.00	
<b>(ONLY as requested)</b>				
<b>Projected Hours</b>	832.00	832.00	1,664.00	
Overtime Hourly Rate	\$ 102.72	\$ 116.09		
<b>Projected Cost</b>	<b>\$ 85,463.04</b>	<b>\$ 96,586.88</b>	<b>\$ 182,049.92</b>	

Note: Vet cost is not included as data is not available at this time.

Reserve Deputy cost data is not available as they are non-paid Deputy.

**ATTACHMENT C****COUNTY BILLING POLICY  
APPROVED BY BOARD MINUTE ORDER DATED OCTOBER 27, 1992****I. POLICY**

All County agencies/departments/districts (County) governed by the Board of Supervisors shall bill contracting entities for materials and/or services provided under contract in accordance with the following standardized billing and collection policy. Billing frequency is dependent on whether the contract is a fixed price or actual cost contract. Payment due date is designed to be both responsive to the County's cash flow needs and reasonable enough as to not require special processing by the contracting entity. If payments are not received by the required due dates, a late payment fee shall be computed and billed to the contracting entity in accordance with the requirements of this procedure.

Nothing herein shall affect the liability, including pre-judgment interest, of the contracting party for services or materials in as much as this is a policy to enact standard billing practices.

**II. DEFINITIONS**

- A. Contract for the purposes of this policy - A contract is a formal written agreement, a purchase order from the contracting entity, or any other acceptable mutual understanding between the contracting parties.
- B. Received by the County - The phrase "received by the County", as used in Section VI of this policy, refers to the date a payment is received by the County. It is defined as the date the payment is in the County's possession. It is not the date the payment is posted or deposited by the County.

**III. FIXED PRICE CONTRACTS**

- A. Fixed Price (One-Time/Non-Recurring Contracts) - Invoices that represent a billing for a one-time, non-recurring provision of materials and/or services shall be issued no later than five (5) working days after delivery by the County of the materials and/or services. Examples of such one-time, non-recurring provision of materials and/or services might be a city contracting with the Sheriff for security service at a parade or sporting event; or, a city purchasing a computer listing containing certain city-requested data. Payment due date shall be invoice date plus 30 days.
- B. Fixed Price (Ongoing/Recurring Contracts) - Invoices that represent a billing for an ongoing, recurring provision of materials and/or services shall be issued according to the following frequency:
  - 1. Annual Billings that total \$10,000 or less per 12-month period shall be billed via one (1) annual invoice. Annual invoices will be issued for each 12-month period of the contract, or portions thereof. Invoices shall be issued no later than five working days after the beginning of each 12-month period. Payment due date shall be invoice date plus 30 days.

2. Quarterly Billings that are greater than \$10,000 but not more than \$200,000 per 12-month period, shall be billed in quarterly installments. Quarterly invoices will be issued representing the contract amount for each 12-month period of the contract, or portions thereof, prorated into four (4) installments. Invoices shall be issued no later than 30 days after the beginning of each quarter. Payment due date shall be 60 days after the beginning of each calendar quarter.
3. Monthly Billings that are greater than \$200,000 per 12-month period shall be billed in monthly installments. Monthly invoices will be issued representing the contract amount for each 12-month period of the contract, or portions thereof, prorated into 12 installments. Invoices shall be issued on or before the first day of each service month. Payment due date shall be 30 days after the beginning of each service month.

An example of a fixed price contract for ongoing, recurring provision of materials and/or services might be a city contracting with the Sheriff for law enforcement services.

#### IV. ACTUAL COST CONTRACTS

- A. Actual Cost (One-Time/Non-Recurring Contracts) - Invoices that represent a billing for a one-time, non-recurring provision of materials and/or services shall be issued after delivery by the County of the materials and/or services and no later than 15 days after actual cost data is available. Payment due date shall be invoice date plus 30 days.
- B. Actual Cost (Ongoing/Recurring Contracts) - Invoices that represent a billing for an ongoing, recurring provision of materials and/or services shall be issued on a monthly basis and shall represent the cost of materials and/or services provided to the contracting entity during the previous calendar month. Such invoices shall be issued no later than 15 days after the close of the monthly billing period. If the County agency/department/district does not utilize a monthly billing cycle, the invoice shall be issued no later than 15 days after actual cost data is available. Payment due date shall be invoice date plus 30 days.

Examples of actual cost contracts for the ongoing, recurring provision of materials and/or services might be a city contracting with the County for communications equipment repair or waste disposal at a County landfill.

#### V. PAYMENT DUE DATES

Notwithstanding the provisions of Sections II and III above, payment due date shall be at least invoice date plus 30 days. If the County is late in issuing an invoice, the contracting entity would always have at least invoice date plus 30 days to pay. If the County is early in issuing an invoice, the contracting entity would still have a payment due date of either 60 days after the beginning of the quarter (quarterly invoices) or 30 days after the beginning of the service month (monthly invoices).

(EXAMPLES: An invoice for October service, dated and issued October 8 (late) would have a payment due date of November 7. An invoice for August service, dated and issued July 20 (early) would have a payment due date of August 30.)

## VI. LATE CHARGES

The late payment of any invoiced amount by a contracting entity will cause the County to incur costs not contemplated by the County/contracting entity agreement, the exact amount of such cost will be extremely difficult to ascertain. Such costs include, but are not limited to, costs such as administrative follow-up and processing of delinquent notices, increased accounting costs, etc.

Late charges will be assessed in the following situations:

- Over-the-counter payments will be assessed a late charge if any payment is not received by the County by the payment due date.
- Payments transmitted to the County via the U.S. Mail that have the payer's postage meter mark will be assessed a late charge if any payment is not received by the County by the payment due date plus one day.
- Payments transmitted to the County via the U.S. Mail that have a U.S. Post Office postmark dated after the payment due date will be assessed a late charge.

The late charge assessed in each of these situations shall be three-quarters of one percent (0.75%) of the payment due and unpaid plus \$100.00 for late payments made within 30 days of the payment due date. An additional charge of three-quarters of one percent (0.75%) of said payment shall be added for each additional 30-day period that the payment remains unpaid. Late charges shall be added to the payment and invoiced to the contracting entity in accordance with this policy.

## VII. COLLECTIONS

Any invoice remaining unpaid 90 days after the invoice date shall be referred to the Auditor-Controller for subsequent collection action, such as deduction from contracting entity moneys on deposit with the County Treasurer in accordance with Government Code Section 907 and any other applicable provision of law. Non-payment of invoices and applicable late charges will constitute a breach of contract for which the County retains all legal remedies including termination of the contract.

## VIII. DISCOUNT FOR EARLY PAYMENT

Any payment received by the County from a contracting entity 20 days or more before the payment due date shall be entitled to a discount of one-quarter of one percent (0.25%). If the contracting entity takes a discount, and the payment is received by the County less than 20 days before the payment due date, County staff shall immediately notify the contracting entity by telephone that the discount should not have been taken and that the balance is due by the original payment due date.

If the balance is not received by the County in accordance with the dates as specified in Section VII, applicable late charges shall be calculated on the balance due.

**IX. DEFERRED REVENUE**

At fiscal year end, any portion of revenue invoiced (not necessarily received) during the fiscal year being closed out that represents charges or prepayment for materials and/or services for the upcoming fiscal year shall be reclassified from a revenue account to a deferred revenue account (liability). In the new fiscal year the deferred revenue shall be reclassified to a revenue account. (EXAMPLE: On June 1, 19X1, a city is invoiced \$48,000 which represents charges for the 12-month period June 1, 19X1 to May 31, 19X2. The amount to be reclassified to deferred revenue would be \$44,000, representing 11/12ths of the total amount. In July 19X1, the \$44,000 would be reclassified to revenue.) Reclassification entries shall be made by Auditor-Controller Agency Accounting units, or for those agencies/departments/districts without such a unit, the agency/department/district shall notify the Auditor-Controller of the amounts to be reclassified.

**X. COST RECOVERY**

All County agencies/department/districts shall include all costs of providing contracted services in contract rates. Including all direct costs, allocated indirect costs such as departmental and County (CWCAP) overhead, and cost of capital financing.

**XI. EXISTING CONTRACTS**

Billing terms and provisions contained in existing contracting entity agreements (existing as of the date this policy is approved by the Board of Supervisors) shall remain in effect for the life of the contract. However, when these existing contracts are renegotiated, they shall contain the billing provisions as set forth in this policy.

**XII. DEVIATIONS FROM POLICY**

Deviations from this policy shall be approved by the Board of Supervisors. Proposed deviations by agencies/departments/districts shall be submitted to the CEO for concurrence in advance of filing an Agenda Item Transmittal (AIT) with the Clerk of the Board. The CEO, or his/her designee, shall advise the agency/department/district of approval or disapproval of the proposed deviations. If a County agency/department/district submits a contract to the Board of Supervisors for approval, and the billing provisions in the contract deviate from this policy, the agency/department/district shall specifically advise the Board of Supervisors in the AIT of the deviation, the reason for the deviation, and of the CEO's recommendation relative thereto.