

**AGREEMENT FOR
LAW ENFORCEMENT HELICOPTER SERVICES
BETWEEN THE CITY OF SANTA ANA
AND THE
COUNTY OF ORANGE**

This Agreement is made by and between the City of Santa Ana, a charter city and municipal corporation organized and existing under the Constitution and laws of the State of California, hereinafter referred to as "CITY", and the COUNTY OF ORANGE, a political subdivision of the State of California, hereinafter referred to as "COUNTY", based on the following:

A. COUNTY, through its SHERIFF-CORONER (hereinafter referred to as "SHERIFF"), employs, maintains, trains and equips personnel capable of responding to requests for law enforcement helicopter services from ground based law enforcement personnel.

B. CITY is responsible for providing law enforcement services within its jurisdiction, which include law enforcement helicopter services.

C. COUNTY represents that it is qualified and willing to operate said services.

TERM

This Agreement shall commence on July 1, 202~~30~~ and end on June 30, 202~~63~~ unless earlier terminated by either party.

OPTIONAL TERMINATION

COUNTY or CITY may terminate this Agreement, without cause, upon thirty (30) days written notice to the other party.

PURPOSE

1.01 The purpose of this Agreement is to provide law enforcement helicopter services to CITY's land and residents and for CITY to pay for the cost of the services provided by COUNTY.

1.02 Nothing in this Agreement shall be interpreted to give CITY a right to services from COUNTY. COUNTY expressly retains all rights and powers to direct, manage, maintain, train, employ, equip, operate and control all equipment, facilities, properties and personnel in providing law enforcement helicopter services to CITY pursuant to this Agreement. CITY acknowledges and agrees that the efficient use of public safety helicopter services requires a timely and prioritized response of a helicopter. CITY agrees that COUNTY will have the sole discretion to determine the

priority of calls for service and when an assignment of an air crew to a call will be terminated.

1.03 Notwithstanding anything in the Agreement to the contrary, the CITY expressly retains all rights and powers to direct, manage, maintain, train, employ, equip, operate and control all equipment, facilities, properties and personnel in providing ground based public safety services to its land and residents.

COUNTY PROVIDED SERVICES

2.01 COUNTY will furnish the CITY with public safety helicopter services as more particularly set forth in Exhibit "A," attached hereto and incorporated herein by this reference. COUNTY and helicopter aircrews retain the sole and exclusive discretion as to the specific type, nature, timing and duration of the services performed pursuant to this Agreement.

2.02 In no event shall SHERIFF or the aircrew be responsible for the direction and control of ground based law enforcement personnel and equipment of CITY during the course and scope of the services performed pursuant to this Agreement.

CITY DUTIES

3.01 CITY shall pay COUNTY as determined by COUNTY pursuant to Paragraph 4.01 of this Agreement, for services provided by COUNTY under this Agreement. The services performed by the SHERIFF helicopter shall commence as of the date and time the helicopter is dispatched to, or arrives over, the airspace of the CITY, whichever occurs first. These services shall continue until the aircrew notifies the CITY that the assignment is complete or that the assignment must be terminated due to a higher priority assignment. Services performed by SHERIFF helicopter for the CITY shall be defined as:

A. A direct request for air support services by the CITY where a SHERIFF helicopter arrives over the incident as logged by the aircrew (operationally identified as Helicopter Assigned) or;

B. Any public safety call generated by the CITY and monitored by a SHERIFF aircrew in which they arrive over the incident as logged by the aircrew (operationally identified as Call Monitored and Responded) or;

C. Routine patrol over CITY's jurisdictional areas and observe an incident (operationally identified as Observation Response); or

D. Dispatched to a special assignment (operationally identified as Detailed Assignment).

The CITY may authorize its ground based public safety supervision to cancel any response by SHERIFF helicopter.

3.02 CITY agrees to comply with the Federal Aviation Regulations (FAR) Part 91 and SHERIFF's Operations Manual Section V 1.18.0 in making calls for services, which establishes priority for calls to SHERIFF.

3.03 CITY agrees to install within its communications/dispatch center any radio equipment necessary to communicate directly with SHERIFF on the designated "SHERIFF CALL" frequency (800 MHz Talk Group). All costs associated with said installation shall be paid by CITY.

ANNUAL FLIGHT HOURS, COST AND PAYMENT

4.01 The COUNTY shall provide Three Hundred and Sixty-Five (365) flight hours to the CITY per year. Pursuant to Government Code Section 51350, CITY agrees to pay to COUNTY the full cost of performing the services mutually agreed upon in this Agreement. CITY shall pay COUNTY the annual operating cost as set forth in Exhibit "A," for Three Hundred and Sixty-Five (365) flight hours of service provided to CITY under this Agreement ("Contract Amount") for the first year of this agreement (July 1, 202~~30~~ - June 30, 202~~41~~). For each subsequent year of this Agreement, a written amendment will be executed to amend the Annual Flight Hours, Cost and Payment section of the Agreement and Exhibit A. Any services in excess of the contracted flight hours per year, on an annual basis, shall be billed at the hourly rate set forth in Exhibit "A." The Santa Ana City Council delegates authority to the City Manager to execute the subsequent amendments in year two (July 1, 202~~41~~-June 30, 202~~52~~) and year three (July 1, 202~~52~~-June 30, 202~~63~~) for the contract amount of the first year of this agreement as outlined in Exhibit "A" plus up to ten percent (10%) and any future salary and benefit increases as set forth in Section 4.04. Any increase beyond ten percent for any amendment of this Agreement will require City Council approval.

4.02 Flight hours that are deemed countywide service will not be counted towards the contracted flight hours per year. The following type calls are deemed countywide service: Vehicle pursuits, bank robberies involving tracking systems, stolen vehicles equipped with tracking systems, riots, felonious suspects within a perimeter, assaults involving a weapon or an officer in need of assistance. CITY shall not receive a refund if the total flight hours, on an annual basis, are less than the contracted flight hours per year. Upon thirty (30) days written notice to CITY, COUNTY may adjust the hourly rate in Exhibit "A" based on COUNTY's annual operating cost and the average time per call. COUNTY will provide CITY with a monthly invoice that is one twelfth of the annual Contract Amount. CITY shall pay COUNTY the Contract Amount set forth in Exhibit "A" in accordance with COUNTY Board of Supervisors' approved County Billing Policy, which is attached hereto as Exhibit "B."

4.03 COUNTY will provide the CITY with a monthly flying hour-report detailing assigned call time, patrol time and countywide service time spent over the CITY's jurisdiction as provided by SHERIFF aircrews. The CITY shall notify the SHERIFF's Special Enforcement Bureau Commander within ten (10) days of receipt of the monthly flying hour report of any disputed call times. The Special Enforcement Bureau Commander and the CITY Supervisor will review the service provided by SHERIFF on a monthly basis to ensure that it coincides with the service level as set forth in Exhibit "A." The Special Enforcement Bureau Commander will be responsible for resolving disputes and adjusting service levels to coincide with Exhibit "A."

4.04 The cost of potential future salary and benefit increases or decreases are not included in the costs set forth in Exhibit "A" of this Agreement. If COUNTY incurs or becomes obligated to pay for any such increases for or on account of personnel whose costs are included in the calculations of costs charged to CITY hereunder, CITY shall pay COUNTY, in addition to the cost of service set forth in Exhibit "A" of this Agreement, the full costs of said increases to the extent such increases are attributable to work performed by such personnel after July 1, 2023, and CITY's cost of service hereunder shall be deemed to have increased accordingly. CITY shall pay COUNTY in full for such increases on a pro-rata basis over the portion of the period between July 1, 2023 and June 30, 2024 remaining after COUNTY notifies CITY that increases are payable.

In the event that salaries and benefits costs for COUNTY employees decrease for or on account of personnel whose costs are included in the calculations of costs charged to CITY hereunder, COUNTY shall notify CITY of decreased cost and bill accordingly."

INDEMNIFICATION

5.01 CITY agrees that COUNTY should be fully protected from any loss, injury, damage, claim, lawsuit, cost or expense arising out of, or in any way related, to the performance of services pursuant to this Agreement. Accordingly, the provisions of this Agreement should be construed and interpreted to provide the fullest possible protection to COUNTY. CITY acknowledges that COUNTY would not provide services in the absence of the commitments of CITY as specified in this Agreement.

5.02 To the fullest extent permitted by law, CITY shall defend at its expense including attorney's fees and with counsel approved in writing by COUNTY, indemnify and hold harmless COUNTY and its officers, employees, and agents (collectively, the "Indemnified Parties") from and against any and all claims (including, without limitation, claims for bodily injury, death or damage to property), demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including, without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever (individually, a Claim; collectively, "Claims"), which may arise from or in any manner relate directly or indirectly to any services provided under this Agreement including, but not limited to, activities that relate in any way to this Agreement including the negligent and/or willful acts, errors and/or omissions of CITY, its elected and appointed officials, officers, agents, employees, subcontractors or independent contractors. Notwithstanding the foregoing, nothing herein shall be construed to require CITY to indemnify the Indemnified Parties from any Claim arising from the sole negligence or willful misconduct of the Indemnified Parties. This indemnity shall apply to all claims and liability regardless of whether any insurance policies are applicable.

5.03 COUNTY shall defend at its expense including attorney's fees and with counsel approved in writing by CITY, indemnify and hold harmless CITY and its officers, employees, and agents with respect to any claim, loss, liability, damage, lawsuit, cost or expense that arises out of, or is in any way related, to the sole negligence or willful misconduct by COUNTY, its elected and appointed officials, officers, agents, employees, subcontractors or independent contractors.

5.04 If judgment is entered against CITY and COUNTY by a court of competent jurisdiction because of the concurrent active negligence of either party, CITY and COUNTY agree that liability will be apportioned as determined by the court. Neither party shall request a jury apportionment.

MISCELLANEOUS PROVISIONS

6.01 Each party to this Agreement shall immediately notify the other of any litigation or claim that is asserted by or against either party regarding this Agreement.

6.02 The laws of the State of California shall govern this Agreement and all matters relating to it and any action brought relating to this Agreement shall be adjudicated in a court of competent jurisdiction in the County of Orange.

6.03 If any term or portion of this Agreement is held to be invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions of this agreement shall continue in full force and effect.

6.04 This Agreement may be modified or amended only by a written document executed by both COUNTY and CITY.

6.05 The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either party by reason of the authorship of the Agreement, or any other rule of construction which might otherwise apply, except as provided for in Section 5.01.

6.06 This Agreement represents the full and complete understanding of every kind or nature whatsoever between the parties hereto, and all preliminary negotiations and agreements of whatsoever kind or nature are merged herein. No verbal agreement or implied covenant shall be held to vary the provisions herein.

6.07 A waiver by either party of any breach, of any term, covenant or condition contained herein shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant or condition contained herein, whether of the same or a different character.

6.08 Except as specifically authorized under this Agreement, the services to be provided under this Agreement shall not be assigned, transferred, contracted or subcontracted out without the prior written approval of COUNTY and CITY.

6.09 All notices authorized or required by this Agreement shall be effective when written and deposited in the United States mail, first class postage prepaid and addressed as follows:

CITY: CITY OF SANTA ANA – CLERK OF THE COUNCIL
20 CIVIC CENTER PLAZA (M-30)
SANTA ANA, CA 92702

CITY ATTORNEY'S OFFICE
ATTN: TAMARA BOGOSIAN, ASSISTANT CITY ATT'Y
20 CIVIC CENTER PLAZA (M-29)
SANTA ANA, CA 92702

With Courtesy Copy:

ATTN: CHIEF OF POLICE – City of Santa Ana
60 CIVIC CENTER PLAZA
SANTA ANA, CA 92702

COUNTY: ATTN: LAW ENFORCEMENT CONTRACT MANAGER
SHERIFF-CORONER DEPARTMENT
320 N. FLOWER STREET, SUITE 108
SANTA ANA, CA 92703

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

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in the County of Orange, State of California.

CITY OF SANTA ANA

COUNTY OF ORANGE

DATED: _____

DATED: _____

Kristine Ridge, City Manager
City of Santa Ana

BY: _____
Chairwoman of the Board of Supervisors

ATTEST:

Signed and certified that a copy of this document has been delivered to the Chair of the Board per G.C. Sec. 25103, Resolution 79-1535

Attest:

Clerk of the Council

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

APPROVED AS TO FORM:
Sonia R. Carvalho, City Attorney

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

By: Tamara Bogosian
Assistant City Attorney

BY: _____
Deputy

RECOMMENDED FOR APPROVAL:

RECOMMENDED FOR APPROVAL:

David Valentin
Chief of Police

Don Barnes
Sheriff-Coroner

EXHIBIT "A"**(Effective July 1, 202~~32~~)**

The fees set forth in this exhibit represent the total cost of service provided by the COUNTY, through its SHERIFF-CORONER (SHERIFF), to CITY for fiscal year 202~~32~~-2~~43~~.

ANNUAL OPERATING COST**JULY 1, 202~~32~~ THROUGH JUNE 30, 202~~43~~****\$539444,302617.1045**

HOURLY RATE FOR HOURS IN EXCESS OF THREE HUNDRED AND SIXTY-FIVE (365) FLIGHT HOURS FROM JULY 1, 202~~32~~ THROUGH JUNE 30, 202~~43~~

\$1,477218.5413

The annual operating cost shall be divided into twelve equal monthly payments of \$4437,941054.8445 (\$539444,302617.1045 divided by 12 months).

PERIOD COVERED - July 1, 202~~32~~ to June 30, 202~~43~~ (twelve-month term).

Total Contract Amount For Services	\$ <u>444,617.45539,302.10</u>
Contracted Hourly Rate for Hours In Excess of Three Hundred and Sixty-Five (365) Hours Annually	\$ <u>1,477218.5413</u>
Annual Flight Hours	365
Flight Time Per Day (in minutes)	00:60

Management of flight time provided to the CITY shall be the responsibility of the SHERIFF's Air Support Bureau Commander. Flight time over the CITY will be recorded and monitored daily for the purpose of providing service in accordance with the above table. The CITY will be provided with a detailed monthly flying hour report.

Flight hours that are deemed countywide service will not be counted towards the Three Hundred and Sixty-Five (365) contracted flight hours. The following type calls are deemed countywide service: Vehicle pursuits, bank robberies involving tracking systems, stolen vehicles equipped with tracking systems, riots, felonious suspects within a perimeter, assaults involving a weapon or an officer in need of assistance.

Due to the inherent unknown nature in the need for airborne law enforcement service, SHERIFF will adjust daily service levels to coincide with the above table. In recognition that it will not always be possible to meet this goal (by either exceeding or falling short), SHERIFF will compensate for variations to arrive at an appropriate "daily average," on a monthly basis.

Exhibit A (Effective 7/1/2~~32~~)