

**COOPERATIVE AGREEMENT BETWEEN THE COUNTY OF ORANGE AND THE
CITY OF ORANGE FOR FUNDING, DESIGN, AND CONSTRUCTION OF TRAFFIC
SIGNAL, INTERSECTION AND ROADWAY IMPROVEMENTS AT WEST
METROPOLITAN DRIVE AND THE CITY DRIVE SOUTH**

This Cooperative Agreement is made and entered into this _____ day of _____, (“**Agreement**”), by and between the COUNTY OF ORANGE (“**County**”), a political subdivision of the State of California, and the CITY OF ORANGE (“**City**”), a municipal corporation organized and existing under the laws of the State of California. The County and City shall sometimes be referred to as “**Party**” or collectively as “**Parties**”.

RECITALS

- A. County and City desire to perform traffic signal, intersection and roadway improvements at West Metropolitan Drive and The City Drive South (“**Project**”) for the County’s proposed Workforce Reentry Center located at 561 The City Drive South, Orange (“**Property**”).
- B. The Project is within the municipal jurisdiction of the County and the City. The location and boundaries of the Project are more fully depicted in Exhibit A, which is attached hereto and incorporated herein by this reference. Those portions of West Metropolitan Drive and The City Drive South within the Project area are hereinafter referred to as the “**City’s Street(s)**”.
- C. The purpose of the Project is to improve and ensure safe vehicular and pedestrian access to the Property, while minimizing delays on surrounding roadways, by modifying the existing traffic signal and design for eight-phase operation and implementing all necessary signing, striping, and median improvements including redesign and relocation of the City monument sign. All improvements shall conform to the City of Orange Standard Design Guidelines and/or California Manual on Uniform Traffic Control Devices (CA MUTCD).
- D. The Parties intend to conduct Project related construction work from approximately August 2026 through October 2027 (“**Project Duration**”).
- E. The County’s contractor is coordinating with the City to prepare construction plans for the Project. The construction plans shall incorporate the redesign of the City monument sign and shall comply with all City standards regarding materials, features and character.
- F. The Parties wish to specify their respective roles and responsibilities for funding obligations and execution of the Project.

AGREEMENT

In consideration of the foregoing and the mutual promises set forth below, the Parties agree as follows:

1. Funding Obligations

1.1. County will be responsible for one hundred percent (100%) of the funding for the Project, excluding any Project-related administration performed by the City (“**City’s Administration Costs**”). The City shall be responsible for the City’s Administration Costs.

1.2. County shall use available funding, including but not limited to County’s Senate Bill 1 (SB1) funds, or Road Maintenance and Rehabilitation Account (RMRA) funds, for the Project.

2. County Highways Declaration

2.1. Pursuant to California Streets & Highways Code Section 1700, the County shall adopt a resolution designating the City’s Street(s) within the Project area as County highways for the purposes of construction and/or maintenance (“**County’s Resolution**”). The City’s Street(s) within the Project area shall remain designated as County highways only during the Project Duration.

2.2. Pursuant to California Streets & Highways Code Section 1701, following receipt of County’s Resolution, the City shall adopt a resolution consenting to the [temporary] County highway designation for the Project Duration (“**City’s Resolution**”). Nothing in this Agreement shall be interpreted to limit or waive the City’s police powers, permitting authority, or regulatory authority over the City’s right-of-way, including but not limited to traffic control, inspection, and compliance with City standards.

2.3 Pursuant to California Streets & Highways Code Section 1704, once the Project work has been completed, as further set forth in Section 5 below, the County shall file with the City Clerk a copy of the County’s Resolution and the Notice of Completion. Ten (10) days after said filing, the City’s Street(s) shall cease to be County highway as further declared in the County’s Resolution.

3. Project Responsibilities

3.1. County shall serve as the lead agency for the Project and shall be responsible for managing and administering the construction contract, overseeing the work, and ensuring compliance with applicable laws, standards, and this Agreement.

3.2 County shall coordinate all construction activities and be responsible for contractor supervision, contract compliance, and overall Project execution.

3.3 City shall have access to the Project for purpose of inspection. City shall inspect work within City’s jurisdiction. Should City deem any remedial work to be necessary, City shall notify County in writing within three (3) business days of inspection (“**Remedial Work Notice**”). Notification shall specifically describe the needed corrections and

proposed remedial work. If the remedial work requested by the City is outside or beyond the scope of the approved construction plans, then the City shall be responsible for one hundred percent (100%) of the cost of that work.

3.4 County shall respond to City's Remedial Work Notice within five (5) business days of receipt ("**County Response**"). If County believes the requested remedial work is not necessary, County Response shall explain in detail why the remedial work is not required/necessary. Parties shall work collaboratively to come to an acceptable solution for both Parties.

3.5 County shall process any contract change orders ("**CCOs**") that are necessary for completing the Project. County shall provide notice to City of any CCO's within the City's jurisdiction prior to moving forward with the CCOs work. County shall be responsible for funding one hundred percent (100%) of the costs associated with any County requested CCOs.

3.6 City shall approve CCOs related to City's portion within three (3) business days of receipt from County. No CCOs affecting City improvements shall be deemed approved without the written approval of the City Engineer. County shall not direct construction changes affecting City infrastructure without prior written approval from the City Engineer except in emergency situations necessary to protect public safety.

4. City Permits and Fees

For work performed under this Agreement, the County, its contractors, subcontractors, and agents shall be required to obtain a City encroachment permit, as necessary in the City's reasonable discretion, or any other required City permit and shall be required to pay any applicable City fees.

5. Project Acceptance

5.1 Prior to County filing a Notice of Completion, the City Engineer shall review and provide written approval of all Project work in accordance with the approved construction plans and CCOs (together "**Contract Documents**") for the Project. The City Engineer's written approval shall not be unreasonably withheld and may be withheld only for work not completed in accordance with the Contract Documents. Uncompleted work shall be proactively identified and remediated during the City's inspections in accordance with Paragraph 3.3 above.

5.2 Upon the receipt of City Engineer's written approval, the County shall file a Notice of Completion with the County's Clerk of the Board of Supervisors. For purposes of this Agreement, "**Notice of Completion**" means a notice evidencing completion of the Project work and acceptance thereof by the County.

5.3 County shall furnish the City with one set of record drawings for the completed Project and a copy of the filed Notice of Completion.

5.4 As outlined in Section 2.3 above, the City shall assume ownership of the completed Project within the City right-of-way ten (10) days after the County has filed a copy of the County's Resolution and the Notice of Completion to the City Clerk.

6. Term of Agreement

This Agreement shall become effective upon the approval of both the City Council and the County Board of Supervisors and shall continue in effect until the filing of the Notice of Completion or terminated by either Party as allowed in this Agreement in Paragraph 7.

7. Termination

7.1 At any time prior to the County issuing notice to its Contractor to begin and perform the work ("**Notice to Proceed**"), either Party may terminate this agreement without cause by thirty (30) days' prior written notice to the other Party.

7.2 After the issuance of the Notice to Proceed, this Agreement may be terminated only in the event that County or City defaults in the performance of their obligations under this Agreement or materially breaches any of the provisions of this Agreement. In the event of a default, either Party may terminate this Agreement within thirty (30) days' prior written notice to the other Party. However, in the event that the defaulting Party cures such default within the thirty (30) day period to the satisfaction of the non-defaulting Party, then the request to terminate shall be deemed revoked.

7.3 City acknowledges and agrees that the County's ability to perform its obligations under this Agreement is contingent upon the availability of adequate funding, including but not limited to appropriations from federal, state, or local sources. In the event the County determines, in its sole discretion, that sufficient funding is no longer available to carry out the Project, the County may terminate this Agreement by providing City with written notice of termination at least thirty (30) days in advance.

7.4 Upon the termination of the Agreement, neither Party shall have any further obligations under this Agreement, except for those obligations that expressly survive termination.

8. Indemnification and Hold Harmless

8.1 City agrees to indemnify, defend (with counsel approved by County), save and hold County and each of its elected officials, officers, directors, agents and employees harmless from any and all claims, injuries, liabilities, actions, damages, losses or expenses, of every type and description arising out of any act or omission of City, its employees, representatives, agents and independent contractors in connection with the implementation of the actions described in this Agreement.

8.2 County agrees to indemnify, defend (with counsel approved by City), save and hold City and each of its elected officials, officers, directors, agents, and employees harmless from any and all claims, injuries, liabilities, actions, damages, losses, or expenses, of every type and description arising out of any act or omission of County, its employees, representatives, agents and independent contractors in connection with the implementation of the actions described in this Agreement. County shall require its contractor on the Project to indemnify the City to the same extent contractor is required to indemnify County in connection with the Project.

8.3 The provisions in this entire Section 8 shall survive the termination of this Agreement.

9. Notices

All notices, documents, correspondence and communication concerning this Agreement shall be addressed as set forth in this paragraph. All communication may be sent through the United States mail with postage prepaid, by Federal Express, by United Parcel Service, or by E-Mail to the E-Mail address listed below. All communication shall be deemed served or delivered forty-eight (48) hours after mailing or by acknowledgment of receiving party. Either Party may change the address for Notices by giving the other Party written notice of the new address.

To County:

County of Orange
County Executive Office – Real Estate
400 W. Civic Center Dr., 5th Floor
Santa Ana, CA 92701
ATTN: Chief Real Estate Officer

To City:

City of Orange
300 E. Chapman Ave.
Orange, CA 92866
ATTN: Public Works Director

With a copy to:

County of Orange
OC Public Works
601 N. Ross Street
Santa Ana, CA 92701
ATTN: Deputy Director, OC
Infrastructure Programs

10. Authority

The Parties represent and warrant that this Agreement has been duly authorized and executed and constitutes the legally binding obligation of their respective organization or entity, enforceable in accordance with its terms.

11. Relationship of Parties/No Third-Party Beneficiaries

The Parties acknowledge and agree that nothing in this Agreement shall be construed to create a partnership, joint venture, agency, employment, or fiduciary relationship between the County and the City. This Agreement is not intended to give or confer any benefits, rights, privileges, claims, actions, or remedies to any person, group or entity as a third-party beneficiary.

12. Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the State of California. Any legal action or proceeding arising under this Agreement shall be brought and maintained in a court of competent jurisdiction located in Orange County, California. The Parties hereby consent to jurisdiction and venue in such court and expressly waive any objection based on Code of Civil Procedure Section 394 or any similar provision.

13. Severability

If any term, covenant, condition, or provision of this Agreement is held by a court of competent jurisdiction to be invalid, illegal, void, or unenforceable, the remainder of this Agreement shall remain in full force and effect and shall in no way be affected, impaired, or invalidated.

14. Waiver of Rights

The failure of either Party to insist upon strict performance of any of the terms, covenants, or conditions of this Agreement shall not be construed as a waiver of any of that Party's rights or remedies, nor shall it be deemed a waiver of the right to require strict performance of all terms, covenants, and conditions in the future. Any waiver of a right or remedy under this Agreement shall be effective only if made in writing and signed by the Party waiving such right or remedy.

15. Attorneys' Fees

In the event of any litigation or dispute arising out of or relating to this Agreement, each Party shall be solely responsible for its own attorneys' fees, court costs, and other legal expenses.

16. Remedies

In addition to any other rights or remedies available at law or in equity, either Party may pursue legal action to remedy any default, recover damages, compel specific performance, obtain injunctive or declaratory relief, or seek any other appropriate remedy.

17. Force Majeure

Either Party shall be excused from performing its obligations under this Agreement to the extent and for the duration that performance is prevented by an unforeseeable cause beyond its reasonable control, including but not limited to, instances of fire, flood, Act of God, commandeering of material, products, plants, or facilities by the federal, state, or local government, any national fuel shortage, or other similar events. Such nonperformance shall not include acts or omissions by the other Party, except as otherwise expressly provided herein. The nonperformance must be unforeseeable, beyond the control of the non-performing Party, and not due to the non-performing Party’s fault or negligence.

The Party claiming excuse due to a force majeure event shall promptly provide satisfactory written evidence of the occurrence and its impact on performance to the other Party.

18. Counterparts

This Agreement may be executed and delivered in any number of counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same Agreement.

19. Entirety & Amendments

This Agreement contains the entire agreement between the Parties with respect to the matters provided for herein. This Agreement may be amended only by a written instrument agreed to and signed by the Parties.

20. Attachments

This Agreement includes the following, which are attached hereto and made a part hereof:

I. Exhibit A – Project Location and Boundaries

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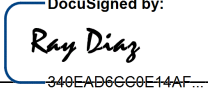
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IN WITNESS WHEREOF, the Parties have executed this Agreement the day and year first above written.

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

COUNTY


COUNTY OF ORANGE,
a political subdivision of the State of California

By:  _____
Deputy

By: _____
Thomas A. Miller, Chief Real Estate Officer
Orange County, California
Per Minute Order Dated _____

Date: _____

APPROVED AS TO FORM:
City Attorney

By: 
Name: Nathalie Adourian
Title: City Attorney

CITY
CITY OF ORANGE,
a municipal corporation

By: _____
Name: Daniel R. Slater
Title: Mayor

ATTEST:

By: _____
Name: Pamela Coleman
Title: City Clerk

EXHIBIT A

Project Location and Boundaries

