

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

**AGREEMENT
BETWEEN THE
CITY OF SAN CLEMENTE
AND THE
COUNTY OF ORANGE**

THIS AGREEMENT is entered into this First day of May 2022, which date is enumerated for purposes of reference only, by and between the CITY OF SAN CLEMENTE, hereinafter referred to as "CITY", and the COUNTY OF ORANGE, a political subdivision of the State of California, hereinafter referred to as "COUNTY".

RECITALS:

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, 54981 and 55632, on the terms and conditions hereinafter set forth,

NOW, THEREFORE, IT IS MUTUALLY AGREED AS FOLLOWS:

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

TABLE OF CONTENTS

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

<u>SECTION</u>	<u>PAGE</u>
A. TERM	3
B. OPTIONAL TERMINATION OR EXTENSION.....	3
C. REGULAR SERVICES BY COUNTY	3
D. ENHANCED AND SUPPLEMENTAL SERVICES BY COUNTY	6
E. BODY WORN CAMERA AND IN CAR VIDEO	9
F. PAYMENT	10
G. OWNERSHIP OF POLICE STATION.....	14
H. NOTICES.....	14
I. STATUS OF COUNTY	14
J. STATE AUDIT	15
K. ALTERATION OF TERMS.....	15
L. INDEMNIFICATION.....	15
M. OPERATIONS AGREEMENT	17
N. TRAFFIC VIOLATOR APPREHENSION PROGRAM.....	17
O. MOBILE DATA COMPUTERS.....	20
P. E-CITATION UNITS.....	22
Q. LICENSING SERVICES BY CITY	23
SIGNATURE PAGE.....	24
Attachment A	Regular Services by County
Attachment B	Payment
Attachment C	Operations Agreement
Attachment D	County Billing Policy
Attachment E	Forfeited and Seized Asset Policy
Attachment F	TVAP Resolution
Attachment G	TVAP Form
Attachment H	City Ordinance

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

A. TERM:

The term of this Agreement shall commence July 1, 2022 and terminate June 30, 2023, unless earlier terminated by either party or extended in the manner set forth herein.

B. OPTIONAL TERMINATION OR EXTENSION:

- 1. COUNTY or CITY may terminate this Agreement, without cause, upon one-hundred and eighty (180) days written notice to the other party.
- 2. If COUNTY and CITY have not entered into a written agreement by June 30, 2023 for COUNTY to provide to CITY, during all or part of the period between July 1, 2023 and June 30, 2024, law enforcement services similar to those specified herein, then SHERIFF, on behalf of COUNTY, and CITY’s Manager, on behalf of CITY, are authorized to execute a written amendment to this Agreement that provides as follows and does not materially alter other terms of the Agreement: SHERIFF shall continue to provide to CITY all or a designated part of the law enforcement services specified herein, for a specified time period between July 1, 2023 and August 31, 2023, and CITY shall pay COUNTY the full costs of providing such services. Such full costs may be greater than those listed herein for the period July 1, 2022 through June 30, 2023. SHERIFF and CITY Manager shall file copies of any such amendments to this Agreement with the Clerk of COUNTY’s Board of Supervisors and CITY’s Clerk.

C. REGULAR SERVICES BY COUNTY:

- 1. COUNTY, through its Sheriff-Coroner and deputies, officers and employees, herein referred to as “SHERIFF”, shall render to CITY law enforcement services as hereinafter provided. Such services shall include the enforcement of lawful State statutes and lawful municipal ordinances of CITY.

//

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

- 2 2. The night, day and evening patrol and supervisory shifts will be established
3 by SHERIFF through the Chief of Police Services (Captain) assigned to
4 CITY, who will report directly to CITY Manager. Personnel of each shift
5 may work varying and different times and may be deployed to other shifts
6 when, in the opinion of SHERIFF and CITY Manager, the need arises. Any
7 long-term shift deployment change will be reported to CITY's Council.
- 8 3. The level of service to be provided by COUNTY, for the period July 1, 2022
9 through June 30, 2023, is set forth in Attachment A and incorporated herein
10 by this reference.
- 11 4. For any service listed in Attachment A of this Agreement that is provided to
12 CITY at less than 100% of a full-time SHERIFF position, COUNTY retains
13 the option to terminate such service in the event the other city or cities that
14 contract for the balance of the time of the employee providing the service
15 no longer pay(s) for such service and CITY does not request the Agreement
16 be amended to provide for payment of 100% of the cost of the employee
17 providing such service. The Maximum Obligation of CITY set forth in
18 Subsection F-2 will be adjusted accordingly.
- 19 5. All services contracted for in this Agreement may not be operational on the
20 precise date specified in this Agreement. In those instances, SHERIFF shall
21 notify CITY Manager of the date or dates such service or services are to be
22 implemented. COUNTY shall reduce the monthly charges to CITY, based
23 on the actual date of implementation of the service or services. Charges
24 shall be reduced on the next monthly billing tendered in accordance with
25 Subsection F-3 of this Agreement.
- 26 6. During emergencies, such as mutual aid situations, SHERIFF will attempt to
27 leave in CITY the Captain in charge of CITY Police Services. If SHERIFF
28 determines that the Captain is needed elsewhere, SHERIFF will notify

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

C. REGULAR SERVICES BY COUNTY: (Continued)

CITY's Manager within four (4) hours. SHERIFF will return the Captain to CITY as soon as possible once the emergency situation is under control.

7. With the limitations set forth below, SHERIFF, on behalf of COUNTY, and CITY Manager, on behalf of CITY, are authorized to execute written amendments to this Agreement to increase or decrease the level of service set forth in Attachment A, when SHERIFF and CITY Manager mutually agree that such increase or decrease in the level of service is appropriate. Any such amendment to the Agreement shall concomitantly increase or decrease the cost of services payable by CITY set forth in Attachment B and incorporated herein by this reference and the Maximum Obligation of CITY set forth in Subsection F-2, in accordance with the current year's COUNTY law enforcement cost study. SHERIFF and CITY Manager shall file copies of any such amendments to this Agreement with the Clerk of COUNTY's Board of Supervisors and CITY's Clerk. Amendments to this Agreement executed by SHERIFF and CITY Manager may not, in the aggregate, increase or decrease the cost of services payable by CITY by more than one percent (1%) of the total cost originally set forth in Attachment B and the Maximum Obligation originally set forth in Subsection F-2.

Prior approval by COUNTY's Board of Supervisors and CITY's Council is required before execution of any amendment that brings the aggregate total of changes in costs payable by CITY to more than one percent (1%) of the total cost originally set forth in Attachment B and the Maximum Obligation originally set forth in Subsection F-2 of this Agreement.

//
//
//

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

2 8. With respect to the licensing ordinances of CITY listed in Attachment H
3 hereto, which is incorporated herein by this reference, SHERIFF shall
4 receive applications for CITY licenses pursuant to said ordinances and
5 complete investigations relating to such applications. Said investigations
6 shall be forwarded to CITY Manager. COUNTY shall not provide any
7 advisory, administrative, hearing or litigation attorney support or services
8 related to licensing. COUNTY shall not provide any administrative or
9 investigative services related to the licensing ordinances listed in
10 Attachment H hereto, except the investigations relating to initial applications
11 for which this subsection provides.

12 **D. ENHANCED AND SUPPLEMENTAL SERVICES BY COUNTY:**

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

25 2. Supplemental services for occasional events operated by private individuals
26 and entities on non-CITY property. At the request of CITY, through its City
27 Manager, and within the limitations set forth in this Subsection D-2,
28 SHERIFF may provide supplemental law enforcement services to preserve

1 **D. ENHANCED AND SUPPLEMENTAL SERVICES BY COUNTY: (Continued)**

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

1 **D. ENHANCED AND SUPPLEMENTAL SERVICES BY COUNTY: (Continued)**

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

13 4. Notwithstanding the foregoing, CITY, through its permit process, may utilize
14 the services of SHERIFF at events, for which CITY issues permits, that are
15 operated by private individuals or entities or public entities. SHERIFF shall
16 determine personnel and equipment needed for said events. If said events
17 are in addition to the level of services listed in Attachment A of this
18 Agreement, CITY shall reimburse COUNTY for such additional services at
19 an amount computed by SHERIFF, based upon the current year's COUNTY
20 law enforcement cost study. The cost of these services shall be in addition
21 to the Maximum Obligation of CITY set forth in Subsection F-2 of this
22 Agreement. SHERIFF shall bill City immediately after said services are
23 rendered.

24 5. In accordance with Government Code Section 51350, COUNTY has
25 adopted Board Resolution 89-1160 which identifies Countywide services,
26 including but not limited to helicopter response. SHERIFF through this
27 contract provides enhanced helicopter response services. The cost of
28 enhanced helicopter response services is included in the cost of services

1 **D. ENHANCED AND SUPPLEMENTAL SERVICES BY COUNTY:** (Continued)

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

7 **E. BODY WORN CAMERA AND IN CAR VIDEO:**

- 8 1. As part of the law enforcement services to be provided to CITY, COUNTY
9 has provided, or will provide, body worn cameras (hereinafter called "BWC")
10 that will be worn by SHERIFF'S personnel and In Car Video (hereinafter
11 called "ICV") that will be mounted in vehicles designated by SHERIFF for
12 use within CITY service area.
- 13 2. SHERIFF has the exclusive right to use said BWC and ICV for law
14 enforcement services related to this Agreement.
- 15 3. CITY shall pay COUNTY the full costs to COUNTY of a) the acquisition of
16 BWC and the acquisition and installation of ICV and b) recurring costs, as
17 deemed necessary by COUNTY, including the costs of maintenance and
18 contributions to a fund for replacement and upgrade of such BWC and ICV
19 when they become functionally or technologically obsolete.

20 The costs to be paid by CITY for recurring costs, including maintenance
21 and replacement/upgrade of BWC and ICV, are included in the costs set
22 forth in Attachment B and the Maximum Obligation of CITY set forth in
23 Subsection F-2 of this Agreement unless CITY has already paid such costs.
24 CITY shall not be charged additional amounts for maintenance or
25 replacement/upgrade of said BWC and ICV during the period July 1, 2022
26 through June 30, 2023.

- 27 4. If, following the initial acquisition of BWC and ICV referenced above, CITY
28 requires BWC and ICV for additional SHERIFF'S personnel or vehicles

1 **E. BODY WORN CAMERA AND IN CAR VIDEO:** (Continued)

2 designated for use in the CITY service area, COUNTY will purchase said
3 additional BWC and ICV. Upon demand by COUNTY, CITY will pay to
4 COUNTY a) the full costs of acquisition of additional BWC and the full costs
5 of acquisition and installation of additional ICV, and b) the full recurring
6 costs for said BWC and ICV, as deemed necessary by COUNTY, including
7 the costs of maintenance, and contributions to a fund for replacement and
8 upgrade of such BWC and ICV when they become functionally or
9 technologically obsolete. Said costs related to additional BWC and ICV are
10 not included in, and are in addition to, the costs set forth in Attachment B
11 and the Maximum Obligation of CITY set forth in Subsection F-2 of this
12 Agreement.

- 13 5. COUNTY will replace and/or upgrade BWC and ICV as needed. The costs
14 of replacing/upgrading BWC and ICV shall be paid by COUNTY from the
15 replacement/upgrade funds to be paid by CITY in accordance with the
16 foregoing. CITY shall not be charged any additional charge to replace or
17 upgrade BWC and ICV.

18 **F. PAYMENT:**

- 19 1. Pursuant to Government Code Section 51350, CITY agrees to pay to
20 COUNTY the full costs of performing the services mutually agreed upon in
21 this Agreement. The costs of services include salaries, wages, benefits,
22 mileage, services, supplies, equipment, and divisional, departmental and
23 COUNTY General overhead.
- 24 2. Unless the level of service set forth in Attachment A is increased or
25 decreased by mutual agreement of the parties, or CITY is required to pay
26 for increases as set forth in Subsection F-4, or the costs increase or
27 decrease as a result of amendment of the Operations Agreement
28 (Attachment C hereto and incorporated herein by this reference) in

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

2 accordance with Subsection M-2, the Maximum Obligation of CITY for
3 services, other than Licensing Services, set forth in Attachment A, of this
4 Agreement to be provided by the COUNTY for the period July 1, 2022
5 through June 30, 2023 shall be \$18,687,481 as set forth in Attachment B.

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

11 3. For services provided between July 1, 2022 and June 30, 2023, COUNTY
12 shall invoice CITY, monthly, one-twelfth (1/12) of the Maximum Obligation
13 of CITY. If a determination is made that increases described in Subsection
14 F-4 must be paid, COUNTY thereafter shall include the pro-rata charges for
15 such increases in its monthly invoices to CITY for the balance of the period
16 between July 1, 2022 and June 30, 2023. If this Agreement is extended
17 pursuant to Subsection B-2, COUNTY shall invoice CITY thereafter for the
18 full costs of the law enforcement services provided in the preceding month.

19 4a. At the time this Agreement is executed, there may be unresolved issues
20 pertaining to potential changes in salaries and benefits for COUNTY
21 employees. The costs of such potential increases are not included in the
22 Fiscal Year 2022-23 cost set forth in Attachment B nor in the Fiscal Year
23 2022-23 Maximum Obligation of CITY set forth in Subsection F-2 of this
24 Agreement. If the changes result in the COUNTY incurring or becoming
25 obligated to pay for increased costs for or on account of personnel whose
26 costs are included in the calculations of costs charged to CITY hereunder,
27 CITY shall pay COUNTY, in addition to the Maximum Obligation set forth in
28 Subsection F-2 of this Agreement, the full costs of said increases to the

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

2 extent such increases are attributable to work performed by such personnel
3 after July 1, 2022, and CITY's Maximum Obligation hereunder shall be
4 deemed to have increased accordingly. CITY shall pay COUNTY in full for
5 such increases on a pro-rata basis over the portion of the period between
6 July 1, 2022 and June 30, 2023 remaining after COUNTY notifies CITY that
7 increases are payable. If the changes result in the COUNTY incurring or
8 becoming obligated to pay for decreased costs for or on account of
9 personnel whose costs are included in the calculations of costs charged to
10 CITY hereunder, COUNTY shall reduce the amount owed by the CITY to
11 the extent such decreases are attributable to work performed by such
12 personnel during the period July 1, 2022 through June 30, 2023, and
13 CITY's Maximum Obligation hereunder shall be deemed to have decreased
14 accordingly. COUNTY shall reduce required payment by CITY in full for
15 such decreases on a pro-rata basis over the portion of the period between
16 July 1, 2022 and June 30, 2023 remaining after COUNTY notifies CITY that
17 the Maximum Obligation has decreased.

18 4b. If CITY is required to pay for increases as set forth in Subsection F-4a
19 above, COUNTY, at the request of CITY will thereafter reduce the level of
20 service to be provided to CITY as set forth in Attachment A of this
21 Agreement to a level that will make the Maximum Obligation of CITY
22 hereunder for the period July 1, 2022 through June 30, 2023 an amount
23 specified by CITY that is equivalent to or higher or lower than the Maximum
24 Obligation set forth in Subsection F-2 for said period at the time this
25 Agreement originally was executed. The purpose of such adjustment of
26 service levels will be to give CITY the option of keeping its Maximum
27 Obligation hereunder at the pre-increase level or at any other higher or
28 lower level specified by CITY. In the event of such reduction in level of

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

F. PAYMENT: (Continued)

service and adjustment of costs, the parties shall execute an amendment to this Agreement so providing. Decisions about how to reduce the level of service provided to CITY shall be made by SHERIFF with the approval of CITY.

- 5. CITY shall pay COUNTY in accordance with COUNTY Board of Supervisors' approved County Billing Policy, which is attached hereto as Attachment D and incorporated herein by this reference.
- 6. COUNTY shall charge CITY late payment penalties in accordance with County Billing Policy.
- 7. Narcotic asset forfeitures will be handled pursuant to Attachment E hereto, which is incorporated herein by this reference.
- 8. CITY shall reimburse COUNTY for the cost of any equipment that is removed from service before the unamortized value is used.
- 9. As payment for the Licensing Services described in Subsection C-8 of this Agreement, COUNTY shall retain all fees paid by applicants for licenses pursuant to CITY ordinances listed in Attachment H hereto. Retention of said fees by COUNTY shall constitute payment in full to COUNTY for costs incurred by COUNTY in performing the functions related to licensing described in Subsection C-8; provided, however, that if any of said fees are waived or reduced by CITY, CITY shall pay to COUNTY the difference between the amount of fees retained by COUNTY and the fees that were set forth in the ordinances listed in Attachment H at the time this Agreement was executed. If CITY increases the fee schedule for the licensing ordinances set forth in Attachment H, either party shall have the right to seek amendment of this Agreement with respect to the division of the increased fees between CITY and COUNTY.

//

1 **G. OWNERSHIP OF POLICE STATION:**

2 CITY will retain title to the land and building used for the San Clemente Police
3 Station. CITY agrees to provide space at the City Hall premises to COUNTY for
4 no further consideration during the period of this Agreement.

5 **H. NOTICES:**

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

10 **CITY:** ATTN: CITY MANAGER
11 910 CALLE NEGOCIO
12 SAN CLEMENTE, CA 92673

13 //

14 **COUNTY:** ATTN: LAW ENFORCEMENT CONTRACT MANAGER
15 SHERIFF-CORONER DEPARTMENT
16 320 NORTH FLOWER STREET, SUITE 108
17 SANTA ANA, CA 92703

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

21 **I. STATUS OF COUNTY:**

22 COUNTY is, and at all times shall be deemed to be, an independent contractor.
23 Nothing herein contained shall be construed as creating the relationship of
24 employer and employee, or principal and agent, between CITY and COUNTY
25 or any of COUNTY's agents or employees. COUNTY and its SHERIFF shall
26 retain all authority for rendition of services, standards of performance, control
27 of personnel, and other matters incident to the performance of services by
28 COUNTY pursuant to this Agreement. COUNTY, its agents and employees

1 **I. STATUS OF COUNTY:** (Continued)

2 shall not be entitled to any rights or privileges of CITY employees and shall not
3 be considered in any manner to be CITY employees.

4 **J. STATE AUDIT:**

5 Pursuant to Government Code Section 8546.7, CITY and COUNTY shall be
6 subject to examination and audit by the State Auditor for a period of three (3)
7 years after final payment by CITY to COUNTY under this Agreement. CITY
8 and COUNTY shall retain all records relating to the performance of this
9 Agreement for said three-year period, except that those records pertaining to
10 any audit then in progress, or to any claim or litigation, shall be retained beyond
11 said three-year period, until final resolution of said audit, claim or litigation.

12 **K. ALTERATION OF TERMS:**

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

18 **L. INDEMNIFICATION:**

19 1. COUNTY, its officers, agents, employees, subcontractors and independent
20 contractors shall not be deemed to have assumed any liability for the
21 negligence or any other act or omission of CITY or any of its officers,
22 agents, employees, subcontractors or independent contractors, or for any
23 dangerous or defective condition of any public street or work or property of
24 CITY, or for any illegality or unconstitutionality of CITY's municipal
25 ordinances. CITY shall indemnify and hold harmless COUNTY and its
26 elected and appointed officials, officers, agents, employees, subcontractors
27 and independent contractors from any claim, demand or liability whatsoever
28 based or asserted upon the condition of any public street or work or

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

2 property of CITY, or upon the illegality or unconstitutionality of any
3 municipal ordinance of CITY that SHERIFF has enforced, or upon any act
4 or omission of CITY, or its elected and appointed officials, officers, agents,
5 employees, subcontractors or independent contractors related to this
6 Agreement, including, but not limited to, any act or omission related to the
7 maintenance or condition of any vehicle or motorcycle that is owned or
8 possessed by CITY and used by COUNTY personnel in the performance of
9 this Agreement, for property damage, bodily injury or death or any other
10 element of damage of any kind or nature, and CITY shall defend, at its
11 expense including attorney fees, and with counsel approved in writing by
12 COUNTY, COUNTY and its elected and appointed officials, officers, agents,
13 employees, subcontractors and independent contractors in any legal action
14 or claim of any kind based or asserted upon such condition of public street
15 or work or property, or illegality or unconstitutionality of a municipal
16 ordinance, or alleged acts or omissions. If judgment is entered against
17 CITY and COUNTY by a court of competent jurisdiction because of the
18 concurrent active negligence of either party, CITY and COUNTY agree that
19 liability will be apportioned as determined by the court. Neither party shall
20 request a jury apportionment.

21 2. COUNTY shall indemnify and hold harmless CITY and its elected and
22 appointed officials, officers, agents, employees, subcontractors and
23 independent contractors from any claim, demand or liability whatsoever
24 based or asserted upon any act or omission of COUNTY or its elected and
25 appointed officials, officers, agents, employees, subcontractors or
26 independent contractors related to this Agreement, for property damage,
27 bodily injury or death or any other element of damage of any kind or nature,
28 and COUNTY shall defend, at its expense, including attorney fees, and with

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

2 counsel approved in writing by CITY, CITY and its elected and appointed
3 officials, officers, agents, employees, subcontractors and independent
4 contractors in any legal action or claim of any kind based or asserted upon
5 such alleged acts or omissions.

6 **M. OPERATIONS AGREEMENT:**

- 7 1. CITY's Manager and COUNTY's SHERIFF are authorized to execute, on
8 behalf of CITY and COUNTY, respectively, the Operations Agreement
9 attached hereto as Attachment C.
- 10 2. Within the limitations set forth below, SHERIFF, on behalf of COUNTY, and
11 CITY Manager, on behalf of CITY, are authorized to execute written
12 amendments to the Operations Agreement. Amendments may be executed
13 by SHERIFF and CITY Manager without prior approval by CITY's Council
14 and COUNTY's Board of Supervisors only if they pertain to the same subject
15 matter as the original Operations Agreement attached hereto and do not, in
16 the aggregate, increase or decrease the total costs of CITY or the total
17 expenses of COUNTY under this Agreement by more than one percent
18 (1%). Prior approval of CITY's Council and COUNTY's Board of Supervisors
19 is necessary for any other amendment of the Operations Agreement.
20 SHERIFF and CITY Manager shall file copies of any amendments to the
21 Operations Agreement with the Clerk of COUNTY's Board of Supervisors
22 and CITY's Clerk.

23 **N. TRAFFIC VIOLATOR APPREHENSION PROGRAM:**

- 24 1. COUNTY has established a Traffic Violator Apprehension Program ["the
25 Program"], which is operated by SHERIFF, and is designed to reduce
26 vehicle accidents caused by unlicensed drivers and drivers whose licenses
27 are suspended and to educate the public about the requirements of the
28 Vehicle Code and related safety issues with regard to driver licensing,

1 **N. TRAFFIC VIOLATOR APPREHENSION PROGRAM:** (Continued)

2 vehicle registration, vehicle operation, and vehicle parking. The Program
3 operates throughout the unincorporated areas of the COUNTY and in the
4 cities that contract with COUNTY for SHERIFF's law enforcement services,
5 without regard to jurisdictional boundaries, because an area-wide approach
6 to reduction of traffic accidents and driver education is most effective in
7 preventing traffic accidents. In order for CITY to participate in the Program,
8 CITY has adopted fees pursuant to Vehicle Code Section 22850.5, in the
9 same amount as approved by COUNTY, as set forth in the resolution that is
10 attached hereto as Attachment F and incorporated into this Agreement by
11 reference [hereinafter called a "TVAP resolution"], and has directed that the
12 revenue from such fee be used for the Program. CITY's participation in the
13 Program may be terminated at any time by rescission or amendment of its
14 TVAP resolution that is attached hereto as Attachment F. In the event CITY
15 1) amends said TVAP resolution, or rescinds said TVAP resolution and
16 adopts a new TVAP resolution pertaining to the above-referenced fees and
17 the Program, and 2) remains a participant in the Program thereafter, CITY's
18 Manager, on behalf of CITY, and SHERIFF, on behalf of COUNTY, have
19 authority to execute an amendment of this Agreement to substitute CITY's
20 amended or new TVAP resolution for Attachment F hereto, as long as said
21 amendment to this Agreement does not materially change any other
22 provision of this Agreement. As COUNTY updates its fees for the Program
23 periodically, COUNTY will provide written notice to CITY of the updated
24 fees. CITY's participation in the program will terminate if CITY determines
25 not to adopt the updated fees for the Program.

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

28 //

1 **N. TRAFFIC VIOLATOR APPREHENSION PROGRAM: (Continued)**

2 3. Fee revenue generated by COUNTY and participating cities will be used to
3 fund the following positions, which will be assigned to the Program:

- 4 • Ten one hundredths of one (0.10) Sergeant
5 (8 hours per two-week pay period)
- 6 • One (1) Staff Specialist
7 (80 hours per two-week pay period)
- 8 • One (1) Office Specialist
9 (80 hours per two-week pay period)

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

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

27 //

28 //

1 **N. TRAFFIC VIOLATOR APPREHENSION PROGRAM:** (Continued)

2 5. In the event the fees adopted by COUNTY, CITY and other participating
3 jurisdictions are not adequate to continue operation of the Program at the
4 level at which it operated previously, COUNTY, at the option of CITY, will
5 reduce the level of Program service to be provided to CITY or will continue
6 to provide the existing level of Program services. COUNTY will charge CITY
7 the cost of any Program operations that exceed the revenue generated by
8 fees. Such charges shall be in addition to the Maximum Obligation of CITY
9 set forth in Subsection F-2 of this Agreement. The amount of any revenue
10 shortfall charged to CITY will be determined, at the time the revenue
11 shortfall is experienced, according to CITY's share of Program services
12 rendered. In the event of a reduction in level of Program service,
13 termination of Program service or adjustment of costs, the parties shall
14 execute an amendment to this Agreement so providing. Decisions about
15 how to reduce the level of Program service provided to CITY shall be made
16 by SHERIFF with the approval of CITY.

17 **O. MOBILE DATA COMPUTERS:**

- 18 1. As part of the law enforcement services to be provided to CITY, COUNTY
19 has provided, or will provide, mobile data computers (hereinafter called
20 "MDCs") that are or will be mounted in patrol vehicles and motorcycles,
21 designated by COUNTY for use within CITY limits.
- 22 2. SHERIFF has the exclusive right to use said MDCs for law enforcement
23 services related to this Agreement.
- 24 3. CITY shall pay COUNTY the full costs to COUNTY of a) the acquisition and
25 installation of MDCs that are or will be mounted in patrol vehicles and
26 motorcycles assigned to CITY, and b) recurring costs, as deemed
27 necessary by COUNTY, including the costs of maintenance and
28 contributions to a fund for replacement and upgrade of such MDCs when

1 **O. MOBILE DATA COMPUTERS: (Continued)**

2 they become functionally or technologically obsolete.

3 The costs to be paid by CITY for recurring costs, including maintenance
4 and replacement/upgrade of MDCs, are included in the costs set forth in
5 Attachment B and the Maximum Obligation of CITY set forth in Subsection
6 F-2 of this Agreement unless CITY has already paid such costs. CITY shall
7 not be charged additional amounts for maintenance or
8 replacement/upgrade of said MDCs during the period July 1, 2022 through
9 June 30, 2023.

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

22 5. COUNTY will replace and/or upgrade MDCs as needed. The costs of
23 replacing/upgrading MDCs shall be paid by COUNTY from the
24 replacement/upgrade funds to be paid by CITY in accordance with the
25 foregoing. CITY shall not be charged any additional charge to replace or
26 upgrade MDCs.

27 //

28 //

1 **P. E-CITATION UNITS:**

- 2 1. As part of the law enforcement services to be provided to CITY, COUNTY
3 has provided, or will provide, E-Citation units designated by COUNTY for
4 use within CITY limits.
- 5 2. SHERIFF has the exclusive right to use said E-Citation units for law
6 enforcement services related to this Agreement.
- 7 3. CITY shall pay COUNTY the full costs to COUNTY of a) the acquisition of
8 E-Citation units that are assigned to CITY, and b) recurring costs, as
9 deemed necessary by COUNTY, including the costs of maintenance and
10 contributions to a fund for replacement and upgrade of such E-Citation units
11 when they become functionally or technologically obsolete.

12 The costs to be paid by CITY for recurring costs, including maintenance
13 and replacement/upgrade of E-Citation units, are included in the costs set
14 forth in Attachment B and the Maximum Obligation of CITY set forth in
15 Subsection F-2 of this Agreement unless CITY has already paid such costs.
16 CITY shall not be charged additional amounts for maintenance or
17 replacement/upgrade of said E-Citation units during the period July 1, 2022
18 through June 30, 2023.

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

1 **P. E-CITATION UNITS: (Continued)**

2 set forth in Subsection F-2 of this Agreement.

3 5. COUNTY will replace and/or upgrade E-Citation units as needed. The
4 costs of replacing/upgrading E-Citation units shall be paid by COUNTY from
5 the replacement/upgrade funds to be paid by CITY in accordance with the
6 foregoing. CITY shall not be charged any additional charge to replace or
7 upgrade E-Citation units.

8 **Q. LICENSING SERVICES BY CITY:**

9 Upon receipt from SHERIFF of investigations of application for licenses
10 referred to in Subsection C-8 of the Amendment, CITY Manager shall
11 determine whether to grant or deny the licenses and will issue the licenses or
12 notify the applicants of denial. CITY shall provide all attorney services related
13 to the granting, denial, revocation and administration of said licenses and
14 enforcement of CITY ordinances pertaining to said licenses.

15 //
16 //
17 //
18 //
19 //
20 //
21 //
22 //
23 //
24 //
25 //
26 //
27 //
28 //

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

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

DATED: _____

ATTEST: _____
City Clerk

CITY OF SAN CLEMENTE

BY: _____
Mayor Pro Tem

APPROVED AS TO FORM:

BY: _____
City Attorney

DATED: _____

COUNTY OF ORANGE

BY: _____
Chairman 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
Clerk of the Board
County of Orange, California

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

BY: *Thule R.A.*
Deputy

DATED: 5/3/22

**ORANGE COUNTY SHERIFF-CORONER
FY 2022-23 LAW ENFORCEMENT CONTRACT
CITY OF SAN CLEMENTE
"REGULAR SERVICES BY COUNTY"
(Subsection C-3)**

LEVEL OF SERVICE PROVIDED BY SHERIFF:

Title	Detail	Quantity	Frequency
MANAGEMENT:			
Captain		1.00	
SUPERVISION:			
Sergeant	Administrative	1.00	80 hrs./ per two wk. pay period
Sergeant	Patrol	4.00	each, 80 hrs./ per two wk. pay period
INVESTIGATION SERVICES:			
Investigator		4.00	each, 80 hrs./ per two wk. pay period
PATROL , COMMUNITY SUPPORT, SPECIAL ENFORCEMENT, TRAFFIC AND PARKING SERVICES*:			
Deputy Sheriff II	Patrol, DET & SRO	34.00	each, 80 hrs./ per two wk. pay period
Deputy Sheriff II -Motor	Traffic	3.00	each, 80 hrs./ per two wk. pay period
ADDITIONAL SERVICES*:			
Community Services Officer	Parking Control	4.00	each, 80 hrs./ per two wk. pay period
Office Specialist	City Support Services	2.00	each, 80 hrs./ per two wk. pay period
Crime Prevention Specialist		1.00	80 hrs./ per two wk. pay period
TOTAL		54.00	

* Deployment to be determined by SHERIFF in cooperation with CITY Manager

REGIONAL / SHARED STAFF:

Title	Regional Team	Quantity	% Allocation
TRAFFIC:			
Sergeant	Traffic	0.60	10.75%
Deputy Sheriff II	Traffic	4.00	10.75%
Investigative Assistant	Traffic	2.00	10.75%
Office Specialist	Traffic	1.00	10.75%
AUTO THEFT:			
Sergeant	Auto Theft	0.30	10.17%
Investigator	Auto Theft	2.00	10.17%
Investigative Assistant	Auto Theft	1.00	10.17%
Office Specialist	Auto Theft	1.00	10.17%
DET:			
Sergeant	DET	1.00	7.76%
Investigator	DET	1.00	7.76%
COURTS:			
Investigative Assistant	Courts	2.00	25.42%
MOTORCYCLE (shared Supervision):			
Sergeant	Motorcycle Supervision	1.00	8.16%
TOTAL		16.90	

**ORANGE COUNTY SHERIFF-CORONER
FY 2022-23 LAW ENFORCEMENT CONTRACT
CITY OF SAN CLEMENTE**

**"PAYMENT"
(Subsection F-2)**

COST OF SERVICES PROVIDED BY SHERIFF (Subsection F-2):

Title	Detail	Quantity	Cost of Service (each)	Cost of Service Total
MANAGEMENT:				
Captain		1.00	\$ 431,068	\$ 431,068
SUPERVISION:				
Sergeant	Administrative	1.00	\$ 358,583	\$ 358,583
Sergeant	Patrol	4.00	\$ 358,583	\$ 1,434,332
INVESTIGATION SERVICES:				
Investigator		4.00	\$ 361,889	\$ 1,447,556
PATROL , COMMUNITY SUPPORT, SPECIAL ENFORCEMENT, TRAFFIC AND PARKING SERVICES*:				
Deputy Sheriff II	Patrol, DET, & SRO	34.00	\$ 295,858	\$ 10,059,172
Deputy Sheriff II - Motor	Traffic	3.00	\$ 300,859	\$ 902,577
ADDITIONAL SERVICES:				
Community Services Officer	Parking Control	4.00	\$ 133,976	\$ 535,904
Office Specialist	City Support Services	2.00	\$ 105,089	\$ 210,178
Crime Prevention Specialist		1.00	\$ 117,186	\$ 117,186
TOTAL POSITIONS		54.00		\$ 15,496,556

REGIONAL / SHARED STAFF:

Title	Regional Team	Quantity	% Allocation	Cost \$
TRAFFIC:				
Sergeant	Traffic	0.60	10.75%	\$ 31,788
Deputy Sheriff II	Traffic	4.00	10.75%	\$ 163,560
Investigative Assistant	Traffic	2.00	10.75%	\$ 33,526
Office Specialist	Traffic	1.00	10.75%	\$ 13,047
AUTO THEFT:				
Sergeant	Auto Theft	0.30	10.17%	\$ 15,007
Investigator	Auto Theft	2.00	10.17%	\$ 70,460
Investigative Assistant	Auto Theft	1.00	10.17%	\$ 15,913
Office Specialist	Auto Theft	1.00	10.17%	\$ 11,912
DET:				
Sergeant	DET	1.00	7.76%	\$ 33,675
Investigator	DET	1.00	7.76%	\$ 31,217
COURTS:				
Investigative Assistant	Courts	2.00	25.42%	\$ 79,728
MOTORCYCLE (shared Supervision):				
Sergeant	Motorcyle Supervision	1.00	12.25%	\$ 47,901
TOTAL REGIONAL/SHARED		16.90		\$ 547,734

OTHER CHARGES AND CREDITS (Subsection F-2):**OTHER CHARGES:**

Other Charges include: Annual leave paydowns and apportionment of cost of leave balances paid at end of employment; Body Worn Camera (BWC) and In Car Video (ICV); contract administration; data line charges; enhanced helicopter response services; E-Citation recurring costs for four (4) units; holiday pay; Integrated Law & Justice of Orange County fees; Mobile Data Computer (MDC) acquisition cost for one (1) unit and recurring cost for twenty-five (25) units; overtime; patrol training cost allocation; premium pay for bilingual staff, education incentive pay, MART pay and on-call; services and supplies; and transportation charges.

CREDITS:

Credits include: AB 109 (2011 Public Safety Realignment); estimated vacancy credits; False Alarm fees, reimbursement for training and miscellaneous programs; and retirement rate discount for FY 2022-23.

TOTAL OTHER CHARGES AND CREDITS	\$ 2,643,191
TOTAL COST OF SERVICES (Subsection F-2)	\$ 18,687,481

1 OPERATIONS AGREEMENT
2 BETWEEN THE
3 SHERIFF-CORONER
4 AND THE
5 CITY OF SAN CLEMENTE
6 Effective July 1, 2022
7

8 The purpose of this OPERATIONS AGREEMENT is to define, in greater detail,
9 the areas of responsibility set forth in the Agreement to which this Operations
10 Agreement is attached, between the CITY OF SAN CLEMENTE, hereinafter referred
11 to as "CITY" and COUNTY OF ORANGE, SHERIFF-CORONER, hereinafter referred
12 to as "SHERIFF".

13 **A. USAGE OF SAN CLEMENTE POLICE STATION BUILDING AND PROPERTY**

14 1. Personnel Authorized to Use the Facility

15 SHERIFF will utilize the Police Station building located at the City Hall to
16 house and deploy SHERIFF employees whose services are contracted to
17 CITY.

18 2. Fuel Delivery

19 (a) Except when it is necessary for SHERIFF personnel to obtain fuel from
20 another source, CITY will purchase, and provide via CITY'S fuel pumps,
21 all fuel used by vehicles to provide services contracted to CITY, except
22 for the motorcycles. When it is necessary for Sheriff personnel to obtain
23 fuel for vehicles other than the motorcycles from a source other than
24 CITY's fuel pumps, CITY will reimburse SHERIFF for the cost of such
25 fuel purchases. Limited reimbursement of such costs is included in the
26 costs set forth in Attachment B and the Maximum Obligation set forth in
27 Subsection F-2 of the Agreement.

28 //

1 **A. USAGE OF SAN CLEMENTE POLICE STATION BUILDING & PROPERTY:**

2 (Continued)

3 (b) SHERIFF will purchase fuel used by the motorcycles to provide services
4 contracted to CITY. CITY will reimburse SHERIFF for all costs of fuel for
5 the motorcycles. The cost of all such reimbursements is included in the
6 costs set forth in Attachment B and the Maximum Obligation set forth in
7 Subsection F-2 of the Agreement.

8 3. Booking Prisoners

9 Prisoners detained in CITY will be booked into the SHERIFF Intake-Release
10 Center. Prisoners will not be booked or housed at the Police Station.

11 4. Fingerprinting and Copying Services

12 Fingerprinting and copying services will be performed by SHERIFF
13 employees located at the Police Station.

14 5. Record Retention

15 Effective July 2, 1993, all Police Department records relating to active case
16 matters were transferred to SHERIFF.

17 **B. OWNERSHIP AND MAINTENANCE OF FACILITY AND PROPERTY**

18 1. Ownership

19 CITY shall retain title to the land and building used for the San Clemente
20 Police Station.

21 2. Facility Maintenance

22 CITY shall provide routine daily janitorial services and supplies as
23 referenced in the lease agreement. SHERIFF will augment CITY's services
24 by using SHERIFF Community Work Program participants to perform
25 additional daytime housekeeping and maintenance tasks.

26 3. Utility, Maintenance and Routine Repair Costs

27 CITY shall pay all utility, maintenance and routine repair costs, including
28 telephone charges. CITY shall maintain the existing telephone system.

B. OWNERSHIP & MAINTENANCE OF FACILITY AND PROPERTY: (Continued)

4. Equipment Ownership, Maintenance and Replacement

CITY shall retain ownership of CITY purchased office furniture and equipment at the Police Station. CITY computers and related hardware are to be serviced and maintained by CITY.

5. Vehicles, including Motorcycles

a. CITY shall retain ownership of all motorcycles used for traffic enforcement. CITY shall provide maintenance and repair for all motorcycles. CITY may elect to discontinue motorcycle patrols and instead use patrol vehicles.

b. Effective October 1, 2011, CITY shall retain ownership and responsibility for maintenance, repair and replacement of eight vehicles as defined in a separate Agreement Regarding Transfer of Vehicles between the CITY and the SHERIFF.

C. SATELLITE OFFICE SPACE AT THE OUTLETS AT SAN CLEMENTE:

The County, by and through SHERIFF, has entered into a separate License Agreement with Villa San Clemente, LLC, a California limited liability company (hereinafter referred to as "Licensor") for SHERIFF to have satellite office space at The Outlets at San Clemente (hereinafter referred to as "License Area") for use by SHERIFF's personnel assigned to CITY. A copy of the License Agreement has been provided to CITY. CITY will not be a party to this License Agreement but agrees to provide the following contributions for the development and financial support of the License Area:

1. CITY will reimburse SHERIFF for interior maintenance, repairs and janitorial services and supplies for the License Area that occur after the Commencement Date of the License.

//

//

1 **D. REVENUE GENERATED BY CITY SERVICES AND ACTIVITIES**

2 Revenue generated by CITY fees, including but not limited to the following, will
3 be at rates established by CITY and will be retained by CITY.

- 4 • Bicycle licensing
- 5 • Fingerprinting
- 6 • Visa letters
- 7 • Report duplication
- 8 • DUI cost recovery
- 9 • Special police services

10 //
11 //
12 //
13 //
14 //
15 //
16 //
17 //
18 //
19 //
20 //
21 //
22 //
23 //
24 //
25 //
26 //
27 //
28 //

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

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

DATED: _____

CITY OF SAN CLEMENTE

BY: _____
CITY MANAGER

ATTEST:

APPROVED AS TO FORM:

City Clerk of the City of San Clemente

City Attorney

DATED: _____

COUNTY OF ORANGE

BY: _____
SHERIFF-CORONER

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

BY: *Mable DA*
Deputy

DATED: 5/3/22

**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.

POLICY FOR DISTRIBUTION OF FORFEITED AND SEIZED ASSETS

BACKGROUND

The Orange County Sheriff's Department provides contract law enforcement services to cities in Orange County. Because of the increased likelihood that contracted patrol or investigation personnel may become involved in significant narcotic seizures, which could affect law enforcement services provided by the Sheriff's Department to contract cities, the following policy is in effect.

CONTRACTED PATROL AND INVESTIGATION OFFICERS

When assets (cash or property) are seized in CITY by contracted patrol or investigation personnel, and subsequently forfeited to COUNTY's Sheriff Department, hereinafter referred to as "SHERIFF", the forfeited assets shall be shared with CITY as set forth below, for the purpose of augmenting law enforcement services in CITY, subject to guidelines by the forfeiting agency of such sharing and use of forfeited assets. A portion of forfeited assets may be retained by SHERIFF, to pay for departmental expenses not recovered through law enforcement contracts.

In such cases, pursuant to the forfeiting agency's guidelines, SHERIFF shall apply to the forfeiting agency for the return of a share of assets. In his application, SHERIFF shall specify the percentage of shared assets returned to SHERIFF that will be used to augment law enforcement services in CITY and the use of said assets by CITY.

In those cases in which assets are seized within CITY by personnel assigned to CITY pursuant to this Agreement, without the involvement of other law enforcement personnel, and in which the seizure is a result solely of activities self-initiated by SHERIFF personnel assigned to CITY or initiated by said personnel in response to calls for service within CITY, SHERIFF shall apply to have all of the assets used to augment CITY law enforcement services.

In those cases in which SHERIFF personnel assigned to CITY pursuant to this Agreement play an ancillary role in a seizure or in which other law enforcement personnel are involved in a seizure, SHERIFF shall determine the percentage of the total forfeited assets for which he will apply to augment CITY's law enforcement services. This determination will be based on the circumstances of the seizure, including the pro-rata involvement of all personnel, including those assigned to CITY.

Each seizure will be evaluated on an individual and independent basis, and said evaluations will be available for review to CITY's manager. Examples of those incidents which would be evaluated as set forth in this section include situations in which a contract patrol deputy provides uniformed backup at a SHERIFF's Narcotic Bureau search warrant location or in which contract investigators participate in the service of a search warrant that was initiated by non-contract law enforcement personnel.

Assets (cash or property) that are returned to SHERIFF by the forfeiting agency with the understanding that they will be used to augment CITY law enforcement services shall be used by CITY and SHERIFF only for such purposes. If the forfeiting agency attaches additional or more specific conditions to the use of said assets, CITY and SHERIFF shall also abide by those conditions. SHERIFF and CITY's manager shall determine the specific use of said assets within the conditions imposed by the forfeiting agency.

RESOLUTION NO. 21-11

**A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF SAN CLEMENTE, CALIFORNIA,
AUTHORIZING THE ORANGE COUNTY SHERIFF'S
DEPARTMENT TO COLLECT ITS UPDATED FEE
FOR THE TRAFFIC VIOLATOR APPREHENSION
PROGRAM IN THE CITY OF SAN CLEMENTE**

WHEREAS, the Orange County Sheriff-Coroner ("the Sheriff") has instituted a Traffic Violator Apprehension Program designed to reduce vehicle accidents caused by unlicensed drivers and drivers whose licenses are suspended and to educate the public about the requirements of the Vehicle Code and related safety issues with regard to driver licensing, vehicle registration, vehicle operation, and parking; and

WHEREAS, the Sheriff operates the Traffic Violator Apprehension Program in the unincorporated areas of Orange County and in cities (such as the City of San Clemente) that contract for the Sheriff's law enforcement services; and

WHEREAS, operating the Traffic Violator Apprehension Program on an area-wide basis without regard to jurisdictional boundaries between the County and contract cities serves the public purpose of the City because drivers routinely cross jurisdictional boundaries, making an area-wide approach to reduction of traffic accidents and driver education most effective in preventing traffic accidents in all participating jurisdictions; and

WHEREAS, on March 28, 2000, the Orange County Board of Supervisors adopted Resolution No. 00-96, which established fees for the Traffic Violator Apprehension Program that are applicable in unincorporated areas of the County. The fees established by County Resolution No. 00-96 address the Sheriff's administrative costs relating to the removal, impound, storage, or release of properly impounded vehicles; and

WHEREAS, on August 2, 2000, the San Clemente City Council adopted Resolution No. 00-54, which authorized the Sheriff to collect fees in the City in connection with the Traffic Violator Apprehension Program in amounts identical to the County's fees as set forth in County Resolution No. 00-96; and

WHEREAS, the Board of Supervisors has established an interest-earning, budgeted special revenue fund, called the "Traffic Violator Fund" and designated as Fund 13B, to be controlled by the Sheriff; and

WHEREAS, the Board of Supervisors has directed that proceeds from the Traffic Violator Apprehension Program fees be deposited into the Traffic Violator Fund; and

WHEREAS, the Board of Supervisors has directed that funds from the Traffic Violator Fund must be used to reimburse the Sheriff for the administrative costs associated with the removal, storage, impound, and release of vehicles in accordance with the California Vehicle Code ("Vehicle Code"); and

WHEREAS, the Sheriff impounds vehicles removed from highways, public property, and private property in the unincorporated areas of the County and in contract cities pursuant to the following authority under the Vehicle Code:

Vehicle Code Section and Impound Ground

- 14602.6 Suspended, revoked or unlicensed driver/30-day hold
- 22651 (a) Unattended vehicle on bridge
- 22651 (d) Vehicle blocking driveway
- 22651 (e) Vehicle blocking fire hydrant
- 22651 (f) Vehicle blocking freeway
- 22651 (h) (1) Driver arrested
- 22651 (h) (2) Order of suspension or revocation pursuant to section 13388
- 22651 (i) (1) Multiple parking citations
- 22651 (j) Lack of vehicle registration
- 22651 (k) Parking over seventy-two hours
- 22651 (l) Parking in a construction zone
- 22651 (m) Violation of special events restriction
- 22651 (n) No parking zone
- 22651 (o) (1) Vehicle registration is incorrect, falsified or expired by more than six months
- 22651 (p) Driver unlicensed or license suspended
- 22651 (r) Vehicle blocking another vehicle
- 22651 (t) Notice to appear/illegal amber lights
- 22651 (u) Acting as a car dealer without a license or temporary permit
- 22651 (v) Illegally letting stand a mobile billboard advertisement
- 22651 (w) Second or subsequent violation of an ordinance
- 22655.3 Removal for investigation. (fleeing in violation of section 2800.1 or 2800.2)

- 22655.5 (a) Vehicle was used as the means of committing a public offense
- 22655.5 (b) Vehicle is evidence of crime
- 22669 Abandoned vehicle

WHEREAS, Vehicle Code section 22850.5 authorizes the City Council, by resolution, to establish a fee equal to the administrative costs relating to the removal, impound, storage, or release of properly impounded vehicles; and

WHEREAS, over 20 years have passed since the Board of Supervisors first established the Traffic Violator Apprehension Program fees in County Resolution No. 00-96; and

WHEREAS, a cost study prepared in 2020 by the Sheriff demonstrated a need to update the County's Traffic Violator Apprehension Program fees. The Sheriff's cost study determined that the Sheriff's administrative costs relating to the removal, impound, storage, or release of vehicles properly impounded under the Vehicle Code is \$144.00 per removal; and

WHEREAS, on November 17, 2020, the Board of Supervisors adopted an updated Traffic Violator Apprehension Program fee of \$144.00 per removal; and

WHEREAS, consistent with the City's authority under Vehicle Code section 22850.5, the Sheriff has requested that the City update its Traffic Violator Apprehension fees to match the County's new fee of \$144.00 per removal;

WHEREAS, the City Council desires to update the Traffic Violator Apprehension Program fee to match the County and further desires for the Sheriff to continue to collect the fee on behalf of the City. Continuing with such a practice will ensure that persons whose vehicles are impounded, rather than the public as a whole, will bear the administrative costs of such impounds; and

WHEREAS, Vehicle Code section 22850.5 imposed the following restrictions on the imposition of this administrative fee:

- a) The fee may only be imposed on the registered owner or the agents of that owner and may not include any vehicle towed under an abatement program or sold at a lien sale pursuant to Sections 3068.1 to 3074, inclusive, of, and Section 22851 of, the Civil Code unless the sale is sufficient in amount to pay the lienholder's total charges and proper administrative costs; and
- b) Any charges shall be collected by the local or state authority only from the registered owner or an agent of the registered owner; and
- c) The charges shall be in addition to any other charges authorized or imposed pursuant to this code; and

- d) The fee does not include any administrative costs associated with conducting a hearing or appeal relating to the removal, impound, storage, or release of a vehicle; and

WHEREAS, in addition to the limitations set forth above, it is also unfair to impose the administrative fee authorized by Vehicle Code section 22850.5 in the following circumstances: 1) when the vehicle was left because it became inoperable while being drive, if the owner makes good faith attempts promptly to remove the vehicle from location where it is not permitted, 2) when the vehicle was stolen, 3) when the vehicle was left by an ill or injured driver, and 4) when it is demonstrated to the satisfaction of the Sheriff or his/her designee that neither the registered owner of the vehicle nor his/her agent, if any, was at fault in creating the circumstances leading to the impounding of the vehicle; and

WHEREAS, a notice of public hearing with respect to the proposed new Traffic Violator Apprehension Program fee provided herein was given according to law; and

WHEREAS, a public hearing pertaining to the new Traffic Violator Apprehension Program fee was held on May 4, 2021; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, DOES HEREBY RESOLVE, DETERMINE, FIND AND ORDER AS FOLLOWS:

SECTION 1. The recitals above are true and correct and are hereby adopted as findings, as if fully set forth herein.

SECTION 2. The City Council finds that in accordance with the California Environmental Quality Act ("CEQA") and the CEQA Guidelines, the adoption of this Resolution is exempt from CEQA pursuant to Public Resources Code section 21080 (b)(8) and Sections 15061(b)(3) and 15273(a)(1) of Title 14 of the California Code of Regulations because CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. Here, this Resolution does not undertake any project that has the potential for causing a significant effect on the environment as the Resolution simply authorizes the Orange County Sheriff's Department to collect its updated operating cost-recovery fee for the removal, impoundment, and storage of vehicles for specified Vehicle Code violations.

SECTION 3. That on May 4, 2021, the administrative fee indicated below shall become effective for the removal, impound, storage, or release of vehicles properly impounded after removal from locations in the City in accordance with or on account of provisions of the Vehicle Code listed below:

A fee of \$144.00 for each removal of a vehicle in accordance with or on account of violation of Vehicle Code sections:

- 14602.6 Suspended, revoked or unlicensed driver/30-day hold

- 22651 (a) Unattended vehicle on bridge
- 22651 (d) Vehicle blocking driveway
- 22651 (e) Vehicle blocking fire hydrant
- 22651 (f) Vehicle blocking freeway
- 22651 (h) (1) Driver arrested
- 22651 (h) (2) Order of suspension or revocation pursuant to section 13388
- 22651 (i) (1) Multiple parking citations
- 22651 (j) Lack of vehicle registration
- 22651 (k) Parking over seventy-two hours
- 22651 (l) Parking in a construction zone
- 22651 (m) Violation of special events restriction
- 22651 (n) No parking zone
- 22651 (o) (1) Vehicle registration is incorrect, falsified or expired by more than six months
- 22651 (p) Driver unlicensed or license suspended
- 22651 (r) Vehicle blocking another vehicle
- 22651 (t) Notice to appear/illegal amber lights
- 22651 (u) Acting as a car dealer without a license or temporary permit
- 22651 (v) Illegally letting stand a mobile billboard advertisement
- 22651 (w) Second or subsequent violation of an ordinance
- 22655.3 Removal for investigation (fleeing in violation of section 2800.1 or 2800.2)
- 22655.5 (a) Vehicle was used as the means of committing a public offense
- 22655.5 (b) Vehicle is evidence of crime
- 22669 Abandoned vehicle

SECTION 4. The Sheriff is authorized to collect the fee established herein, on behalf of the City, at the time of release of vehicles that are subject to the fee.

SECTION 5. The fee established herein shall only be imposed on the registered owner or the agent of the owner of the impounded vehicle, shall not include any vehicle towed under an abatement program or sold at a lien sale pursuant to Sections 3068.1 to 3074, inclusive of, and Section 22851 of, the Civil Code unless the sale is sufficient in amount to pay the lienholder's total charges and proper administrative costs.

SECTION 6. The fee established herein shall be collected only from the registered owner or an agent of the registered owner and that said fee is in addition to any other charges authorized or imposed pursuant to the Vehicle Code.

SECTION 7. The fee established herein complies with Vehicle Code section 22850.5 (b)(4) as the cost study conducted by the Sheriff that supports the \$144.00 per removal fee did not include administrative costs for conducting a hearing or appeal related to the removal, impound, storage, or release of a vehicle.

SECTION 8. The Sheriff shall not impose the fee established herein in any of the following circumstances: (a) when the vehicle was left because it became inoperable while being driven, if the owner made good faith attempts promptly to remove the vehicle from a location where it was not permitted; (b) when the vehicle was stolen; (c) when the vehicle was left by an ill or injured driver; or (d) when it is demonstrated to the satisfaction of the Sheriff or his/her designee that neither the registered owner of the vehicle nor his/her agent, if any, was at fault in creating the circumstances leading to the impounding of the vehicle.

SECTION 9. A registered owner or an agent of a registered owner who believes he/she/they are exempt from the fee established herein under any of the criteria listed in Section 8 above may apply in writing for a waiver of the fee and shall present such supporting information or documentation, as the Sheriff may request, to the City's Administrative Sergeant. Upon the presentation of a written application for waiver of said fee, together with such supporting documentation as may be requested by the Sheriff, the Administrative Sergeant or his/her designee shall determine promptly whether the applicant meets the criteria for a waiver of the fee and if so, shall waive the fee.

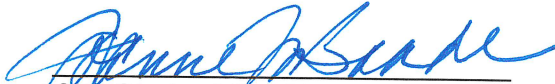
SECTION 10. Until further order of the City Council, the Sheriff is directed to deposit the proceeds of the fee established herein into Traffic Violator Fund in the County Treasury. Proceeds from the Traffic Violator Fund shall be used in conformance with the County's restrictions for the same as well as in conformance with any applicable provisions set forth in the City's agreement with the County for the Sheriff's law enforcement services.

SECTION 11. Until further order of the City Council, the Board of Supervisors is authorized to carry forward in the Traffic Violator Fund and accumulate any balance of proceeds of fees imposed by this Resolution that remains at the end of a fiscal year, as long as such fee proceeds will be used for the purposes provided herein.

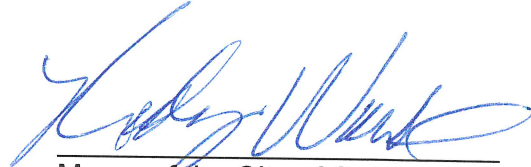
SECTION 12. This Resolution supersedes Resolution No. 00-54.

PASSED, APPROVED, AND ADOPTED this 4th day of May, 2021.

ATTEST:



City Clerk of the City of
San Clemente, California



Mayor of the City of San
Clemente, California

STATE OF CALIFORNIA)
COUNTY OF ORANGE) §
CITY OF SAN CLEMENTE)


I, JOANNE BAADE, City Clerk of the City of San Clemente, California, do hereby certify that Resolution No. 21-11 was adopted at a regular meeting of the City Council of the City of San Clemente held on the 4th day of May, 2021, by the following vote:

AYES: DUNCAN, FERGUSON, JAMES, MAYOR WARD

NOES: NONE


ABSENT: KNOBLOCK

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of San Clemente, California, this 26TH day of MAY, 2021.



CITY CLERK of the City of
San Clemente, California

Approved as to form:



City Attorney

**ORANGE COUNTY SHERIFF-CORONER
TRAFFIC VIOLATOR APPREHENSION PROGRAM**

REQUEST	CONTRACT CITY	
	Participating City Request to Purchase From the TVA in FY _____	Date _____
	<u>QUANTITY</u>	<u>APPLICABILITY TO TVA PROGRAM</u>
	<u>ITEM DESCRIPTION</u>	<u>ESTIMATED COST</u>

CERTIFICATION	<p>THE CITY CERTIFIES THAT THE EQUIPMENT PURCHASED BY CITY AND TO BE REIMBURSED BY PROGRAM FUNDS WILL BE USED FOR ITS ENTIRE USEFUL LIFE EXCLUSIVELY FOR THE PURPOSES OF THE TRAFFIC VIOLATOR APPREHENSION PROGRAM</p> <p>CITY MANAGER REQUEST: Printed Name _____ DATE _____ Signature: _____</p>	
----------------------	--	--

APPROVALS	ORANGE COUNTY SHERIFF-CORONER DEPARTMENT	
	Recommended For Approval	MANAGER – TVA PROGRAM
	CITY POLICE SERVICES CHIEF	

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

**CITY OF SAN CLEMENTE
LICENSING
ORDINANCE NO. 1704**

MESSAGE ESTABLISHMENTS

ORDINANCE NO. 1704

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA AMENDING CHAPTER 17.28.185 OF THE SAN CLEMENTE MUNICIPAL CODE (RELATING TO MASSAGE ESTABLISHMENTS) AND FINDING THE ORDINANCE EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

WHEREAS, on August 18, 2020, the City Council unanimously approved the first reading of Ordinance No. 1702, an ordinance amending Title 5 (Business Licenses and Regulations) and 17 (Zoning) of the San Clemente Municipal Code (Zoning Amendment 20-069) to deter human trafficking activity, clarify existing provisions, and correct erroneous text with respect to massage establishments in the City of San Clemente (the "Massage Establishment Amendment Ordinance"); and

WHEREAS, on September 1, 2020, the City Council waived the second reading of and unanimously approved for publication and implementation the Massage Establishment Amendment Ordinance; and

WHEREAS, on September 1, 2020, the City Council held a duly noticed public hearing on two supplemental amendments to Chapter 17.28.185 with respect to regulation of the operation of massage establishments that further promote the health and safety goals of preventing and deterring prostitution and human trafficking in the City of San Clemente, and considered evidence presented by City staff and other interested parties; and

WHEREAS, Senate Bill 1193, approved by the Governor on September 24, 2012, and codified as California Civil Code § 52.6, requires, among other businesses, massage establishments to post a notice containing information related to slavery and human trafficking in a conspicuous place near the entrance of the establishment or in a place in clear view of the public and employees where similar notices are customarily posted; and

WHEREAS, the San Clemente Municipal Code does not, but should, contain a provision adopting the requirements of Senate Bill 1193 as they pertain to massage establishments; and

WHEREAS, the City Council recognizes that illegal activities such as pandering or prostitution occur where customers who patronize massage establishments believe they are anonymous; and

WHEREAS, the City Council believes that requiring operators of massage establishments to retain a record of customers' names and addresses and dates and times of patronage would deter customers, operators, and therapists from engaging in

any illicit activity.

NOW, THEREFORE, the City Council of the City of San Clemente does ordain as follows:

Section 1: The recitals above, as well as those set forth in Ordinance No. 1702, are each incorporated by reference and adopted as findings by the City Council.

Section 2: Pursuant to CEQA Guidelines Sections 15378(b)(2) and 15378(d)(5), these supplemental amendments are not a "project" within the meaning of the State CEQA Guidelines, because they relate to ongoing administrative activities and organizational activities of government that will not result in direct or indirect physical changes in the environment. No further environmental review is required.

Section 3: Chapter 17.28.185 of the San Clemente Municipal Code is hereby amended to read as follows:

"Section 17.28.185 – Massage Establishments.

...

D. Facility Requirements.

...

2. Anti-Human Trafficking Notice. The notice developed by the Department of Justice and found at <https://oag.ca.gov/human-trafficking/model-notice>, of a size no smaller than eight and one-half inches by 11 inches in size, shall be posted in English, Spanish, and Vietnamese in the customer waiting room so as to be visible to all people entering the establishment, as well as in every private massage room.

...

E. Operational Requirements.

...

14. Every massage establishment shall keep a written record of the date and hour of each treatment administered, the name and telephone number of each patron, the name of the massage therapist or massage practitioner administering treatment, and the type of treatment administered, to be recorded on a patron release form. In addition, every massage establishment shall obtain and retain (and every patron shall provide) a copy of the patron's driver's license or other state-issued photo identification at the time of a patron's first visit to the massage establishment. If a patron refuses to provide his/her photo identification for photocopying by the operator, the operator shall refuse service to the patron. Such records shall be open to inspection by officials charged with enforcement of this section as authorized by the law or court order, if necessary. Such records

shall be kept on the premises of the massage establishment for a period of two years."

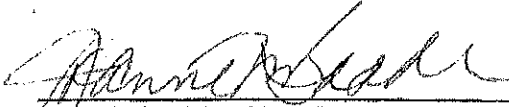
Section 4: The City Clerk shall certify to the adoption of this ordinance and cause it, or a summary of it, to be published once within fifteen (15) days of adoption in a newspaper of general circulation printed and published within the City of San Clemente, and shall post a certified copy of this ordinance, including the vote for and against the same, in the Office of the City Clerk in accordance with California Government Code section 36933.

Section 5: If any provision of this ordinance or its application to any person or circumstance is held invalid, such invalidity has no effect on the other provisions or applications of the ordinance that can be given effect without the invalid provision or application, and to this extent, the provisions of this resolution are severable. The City Council declares that it would have adopted this resolution irrespective of the invalidity of any portion thereof.


Section 6: The documents and materials associated with this Ordinance that constitute the record of proceedings on which the City Council's findings and determinations are based are located at City Hall, 910 Calle Negocio, San Clemente, CA 92672.

APPROVED AND ADOPTED this 15th day of September, 2020.

ATTEST:



City Clerk of the City of
San Clemente, California



Mayor Pro Tem of the City of
San Clemente, California

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss.
CITY OF SAN CLEMENTE)

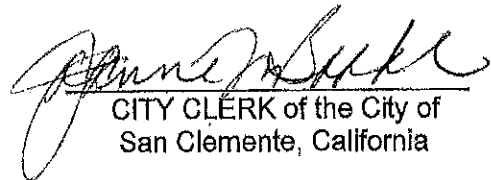
I, **JOANNE BAADE**, City Clerk of the City of San Clemente, California, hereby certify that Ordinance No. 1704 having been regularly introduced at the meeting of September 1, 2020, was again introduced, the reading in full thereof unanimously waived, and duly passed and adopted at a regular meeting of the City Council held on the 15th day of September, 2020, and said ordinance was adopted by the following vote:

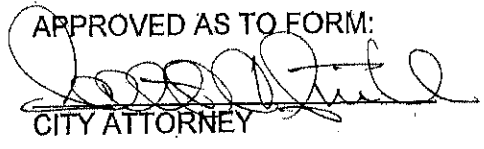
AYES: HAMM, JAMES, WARD, MAYOR PRO TEM FERGUSON

NOES: NONE

ABSENT: NONE

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of San Clemente, California, this 12TH day of OCT. 2020.


CITY CLERK of the City of
San Clemente, California

APPROVED AS TO FORM:

CITY ATTORNEY