



AGENDA REPORT

CITY OF SAN CLEMENTE

CITY COUNCIL MEETING

910 Calle Negocio
2nd Floor
San Clemente, California
www.san-clemente.org

Meeting Date: June 4, 2024

Agenda Item: 10A

Submitted By: Community Development

Prepared By: Adam Atamian, Community Development Director

Subject:

CONSIDERATION OF A RESOLUTION TO APPROVE A COOPERATIVE SERVICES AGREEMENT WITH THE COUNTY OF ORANGE FOR UNMANNED AVIATION SYSTEMS (DRONE) SERVICES TO INSPECT OPEN SPACE AREAS FOR FIRE HAZARDS AND SLOPE MONITORING

Fiscal Impact:

A budget appropriation in the amount of \$50,000 to account #001-451-43890-000-00000 was approved by the City Council with the adoption of the Fiscal Year 2023-24. Subsequent years are anticipated to be funded through the annual budget process.

Summary:

On May 25, 2022, the City Council directed staff to establish an Unmanned Aviation System (drone) Patrol Program for inspections over the City's open space areas to identify and address potential fire hazards. At the August 16, 2022 City Council meeting, staff provided a presentation regarding constraints related to having a City-staffed drone-inspection program, and identified an opportunity to contract for the inspections needed. At the conclusion of the presentation, Council directed staff to contract with the County of Orange to provide unmanned aviation systems (drone) inspection services. Staff has worked with the County of Orange over the past two years to conduct a number of drone inspections and reviewed resulting imagery to ensure the process, once contracted, would be effective for the City's purposes. Additionally, in light of recent bluff and slope failures in the City, staff recommends incorporating slope-monitoring services into the presented contract.

Discussion:

For the Council's consideration is a resolution to approve a Cooperative Services Agreement with the County of Orange for drone-inspection services for a three-year term in the amount of \$150,000, not to exceed \$50,000 each year.

The proposed contracted services include:

- Drone inspection performed by highly trained and experienced pilots using County-owned and maintained equipment. Due to the nature of these types of inspections, multiple drones and many sets of back-up batteries are required, beyond City staff's capacity to maintain.
- Trained and experienced specialists reviewing camera footage/photos using their own licensed software programs and required computer systems.

- Inspection information and pin-point mapping provided to the City for Code Compliance staff to follow up to address fire safety issues.
- Slope monitoring data provided through change-detection mapping and time-series comparisons. The County's drones are capable of mapping out landforms using very accurate locational data that can be compared over time through a series of collected mapped images to detect areas of potential landform changes. This work is recommended to assist the City in identifying areas of future concern.

Council Options:

- Adopt Resolution No. 24-79, which would approve the Cooperative Services Agreement with the County of Orange for Unmanned Aviation Systems (Drone) Services to inspect open space areas and authorize the City Manager to execute the three-year Cooperative Services Agreement, in the amount of \$150,000, not to exceed \$50,000 per year.
- Modify and adopt Resolution No.24-79.
- Continue the Item and provide staff with direction.
- Do not approve the Cooperative Services Agreement with the County of Orange for Unmanned Aviation Systems (Drone) Services.

Environmental Review/Analysis:

The Community Development Department completed an initial environmental assessment of the project pursuant to the California Environmental Quality Act (CEQA). Staff recommends the City Council determine the project is Categorical Exempt from CEQA pursuant to CEQA Guidelines Section 15307 (Class 7: Actions By Regulatory Agencies For Protection Of Natural Resources) because the project involves the use of unmanned aviation systems to inspect open space areas for potential fire hazards and landform changes that could significantly damage existing environmentally-sensitive areas and resources. Furthermore, the County of Orange and City will coordinate as necessary, and with resource agencies as may be appropriate, to avoid drone operations that could potentially impact environmental resources while conducting such inspections for the protection of natural resources.

Recommended Actions:

Staff Recommendation

Staff recommends that the City Council adopt Resolution No. 24-79, which will:

1. Determine the project is Categorical Exempt from CEQA pursuant to CEQA Guidelines Section 15307 (Class 7: Actions By Regulatory Agencies For Protection Of Natural Resources).
2. Approve the Cooperative Services Agreement with the County of Orange for Unmanned Aviation Systems (Drone) Services to inspect open spaces; and

3. Approve and authorize the City Manager to execute the Cooperative Services Agreement with the County of Orange, for a term of three years, in the amount of \$150,000, not to exceed \$50,000 per year.

Attachment:

1. Resolution No. 24-79
2. Cooperative Services Agreement between the County of Orange and the City of San Clemente.

Notification:

None.

RESOLUTION NO. 24-79

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, FOR CONSIDERATION OF APPROVING A COOPERATIVE SERVICES AGREEMENT WITH THE COUNTY OF ORANGE FOR UNMANNED AVIATION SYSTEMS (DRONE SERVICES).

WHEREAS, the City's climatic, topographical, circulation, seismic, geological, and wildland-urban interface conditions create an increased risk of fires and areas of landform movement;

WHEREAS, the City, by virtue of the police powers delegated to it by the California Constitution, is authorized to provide services to promote the health, safety, and general welfare of its residents and provide for the protection of natural resources.

WHEREAS, the City Council desires to establish an Unmanned Aviation System (Drone) Patrol Program for inspections over the City's open space areas to identify and address potential hazards, including fires and changes in landforms, that could significantly damage existing natural resources, life, property, and infrastructure; and

WHEREAS, the City Council considered a Cooperative Services agreement with the County of Orange for Unmanned Aviation Systems (Drones); and

WHEREAS, such services can be utilized for purposes of inspections of open space areas for fire prevention and slope monitoring; and

NOW, THEREFORE, the City Council of the City of San Clemente does hereby find, determine and resolve as follows:

Section 1. The foregoing recitals are true and correct and incorporated herein.

Section 2. The project is categorically exempt from CEQA pursuant to CEQA Guidelines Section 15307 (Class 7: Actions By Regulatory Agencies For Protection Of Natural Resources) because the project involves the use of unmanned aviation systems to inspect open spaces areas for potential fire hazards and landform changes that could significantly damage existing environmentally-sensitive areas and resources. Furthermore, the County of Orange and City will coordinate as necessary, and with county, state, and federal resource agencies, as may be appropriate, to avoid drone operations that could potentially impact environmental resources while conducting inspections for the protection of such natural resources.

Section 3. The contract, provided as Attachment 2 to the City Council Agenda Report dated June 4, 2024, and entitled, "Consideration Of A Resolution To Approve A Cooperative Services Agreement With The County Of Orange For Unmanned Aviation Systems (Drone) Services To Inspect Open Space Areas For Fire Hazards And Slope Monitoring," is approved.

Section 4. The City Manager, or the City Manager's designee, is authorized to execute said contract for a term not to exceed three years, or in excess of a total amount of \$150,000 or \$50,000 per year, and to take such other actions and execute such other documents as are necessary and proper to accomplish the purposes of this resolution.

Section 5. The City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

PASSED AND ADOPTED this _____ day of _____, 2023.

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, LAURA CAMPAGNOLO, City Clerk of the City of San Clemente, California, do hereby certify that Resolution No. 24-79 was adopted at a regular meeting of the City Council of the City of San Clemente held on the _____ day of _____, _____, by the following vote:

AYES:

NOES:

ABSENT:

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

 CITY CLERK of the City of
 San Clemente, California

Approved as to form:

 Elizabeth A. Mitchell, City Attorney

COOPERATIVE SERVICES AGREEMENT
BETWEEN
THE COUNTY OF ORANGE AND THE CITY OF SAN CLEMENTE

This AGREEMENT, made and entered into by and between the City of San Clemente, a municipal corporation located within the County of Orange, State of California, hereinafter referred to as "AGENCY", and the County of Orange, a political subdivision of the State of California, hereinafter referred to as "COUNTY". AGENCY and COUNTY shall sometimes be referred to individually as "PARTY" or collectively as "PARTIES".

RECITALS

WHEREAS, pursuant to California Government Code Section 54981, the legislative body of any local agency may contract with any other local agency for the performance by the latter of municipal services or functions within the territory of the former; and

WHEREAS, such services or functions may include infrastructure monitoring services for maintenance purposes using aerial imagery services, aerial drone imagery services including Administrative Support, Unmanned Aerial Systems (UAS) Flights, Data Processing, and Data Delivery; and

WHEREAS, the PARTIES mutually desire to serve the citizens of Orange County by providing extensive, effective, and precise geographical and environmental information without extensive ground personnel and equipment operations, traffic and construction related impediments; and collection of information with significantly high efficiency. These services will provide County citizens and stakeholders with the necessary comprehensive current information to make the required strategic decisions for effective and efficient planning and execution decisions for maintenance of slopes to protect existing infrastructure. By working closely with our mutual agency partners, the County will be able to provide much needed and desired services

to our agency partners, the County will also develop and enhance our capabilities and efficiencies, thereby enhancing our County operations and projects; and

WHEREAS, AGENCY wishes to contract with COUNTY for the performance of various municipal services or functions as more specifically described in Attachment "A," herein referred to as "SERVICES"; and

WHEREAS, COUNTY is willing to provide these SERVICES to AGENCY in accordance with the terms, conditions and provisions of this AGREEMENT and accept payment from AGENCY for the cost of those services;

NOW, THEREFORE, AGENCY and COUNTY mutually agree as follows:

GENERAL PROVISIONS

SECTION 1- PURPOSE AND DEFINITIONS

A. PURPOSE:

The PARTIES are entering into this AGREEMENT pursuant to authority granted by California Government Code Section 54981 to establish the terms, conditions and provisions upon which AGENCY may request COUNTY to perform SERVICES on the AGENCY's behalf, including but not limited to aerial imagery services. The COUNTY may use any COUNTY staff as the COUNTY deems appropriate. All COUNTY staff utilized to perform SERVICES will work under COUNTY's direction and supervision.

B. DEFINITIONS

1. "AGENCY" shall mean the City of San Clemente, a municipal corporation.
2. "AGENCY MANAGER" shall mean the AGENCY's City Manager or authorized designee.
3. "AGREEMENT CAPACITY" shall mean the maximum aggregate dollar value of all SERVICES that may be provided by COUNTY to AGENCY under this AGREEMENT.

4. "BILLING SCHEDULE" is the component of a WORK ORDER that describes the time and manner in which AGENCY shall pay COUNTY for SERVICES provided under that WORK ORDER.

5. "COUNTY" shall mean the County of Orange, a political subdivision of the State of California.

6. "COUNTY RESOURCES" shall mean the COUNTY personnel that may be used to provide AGENCY with SERVICES under this AGREEMENT. The COUNTY may utilize any COUNTY staff as the COUNTY deems appropriate to provide the requested SERVICES.

7. "DIRECTOR" shall mean the Director of OC Public Works, or authorized designee.

8. "EFFECTIVE DATE" shall be the date that both PARTIES execute this AGREEMENT.

9. "ONE-TIME SERVICES" are SERVICES provided by COUNTY under this AGREEMENT that may be utilized for a specific project or location. ONE-TIME SERVICES do not include work that is properly classified as RECURRING SERVICES.

10. "PARTY" or "PARTIES" shall mean either or collectively the AGENCY or COUNTY.

11. "RATE SHEET" shall mean the rate sheet for all SERVICES that COUNTY may provide under this AGREEMENT, prepared by the COUNTY upon execution of this AGREEMENT. The RATE SHEET, along with a brief description of the types of work that may be performed under this AGREEMENT, shall constitute Attachment "A" to this AGREEMENT.

12. "RECURRING SERVICES" are SERVICES that are performed on routine, repetitive basis within a given time period.

13. "SCOPE OF WORK" is a detailed description of the SERVICES and the manner in which they will be provided.

14. "SERVICES" shall mean the routine, recurring services, or one-time projects, provided to AGENCY by COUNTY under the terms of this AGREEMENT, and shall more explicitly be defined in Attachment "A" hereto.

15. A "STOP WORK ORDER NOTICE" shall mean a written notice by the COUNTY to the AGENCY, immediately stopping or cancelling all or any part of a WORK ORDER.

16. A "WORK ORDER" shall be a document created collaboratively by the AGENCY and COUNTY for the purpose of describing and ordering the time, manner and duration in which the COUNTY provides AGENCY with SERVICES under this AGREEMENT. A WORK ORDER shall consist of a SCOPE OF WORK, Estimated Timeline for performance of the SERVICES, Cost Estimate for performing the SERVICES, and BILLING SCHEDULE describing the time and manner in which AGENCY shall pay COUNTY for SERVICES provided thereunder. Once approved by the AGENCY MANAGER, a WORK ORDER shall be incorporated into this AGREEMENT as an Exhibit to Attachment A.

SECTION 11- ADMINISTRATION OF AGREEMENT

A. PARTIES' REPRESENTATIVES: AGENCY MANAGER shall be AGENCY's representative in all matters pertaining to this AGREEMENT and will act as liaison between AGENCY and COUNTY and coordinate the activities of AGENCY staff assigned to work with COUNTY staff to implement the terms of this AGREEMENT.

COUNTY'S DIRECTOR shall be authorized to act as COUNTY's representative in all matters pertaining to this AGREEMENT, and shall act as liaison between AGENCY and COUNTY and coordinate the activities of COUNTY staff assigned to work with AGENCY staff to implement the terms of this AGREEMENT.

B. PROVISION OF SERVICES:

The PARTIES agree that:

1. AGENCY may request COUNTY to provide SERVICES of the types described in Section III at any time; and

2. Subject to the availability of COUNTY RESOURCES and the limitations of Paragraph 4 herein below, COUNTY may provide SERVICES when requested by AGENCY; and

3. All COUNTY RESOURCES utilized to perform SERVICES will work under COUNTY's direction and supervision; and

4. If COUNTY RESOURCES are unavailable for whatever reason as determined by the DIRECTOR, or the DIRECTOR determines that provision of the SERVICES requested by AGENCY would not be in the COUNTY's best interest or would impair the COUNTY's ability to provide government services of any type in areas outside the AGENCY's jurisdiction, COUNTY may decline to provide the requested SERVICES at no penalty to the COUNTY.

5. If COUNTY agrees to provide SERVICES requested by AGENCY, COUNTY, in collaboration with AGENCY, will prepare a WORK ORDER for approval of AGENCY MANAGER. Upon approval by AGENCY MANAGER, an approved WORK ORDER shall become part of the AGREEMENT between the PARTIES as described in Section VII(C) herein; provided, however, WORK ORDERS may not materially change the terms of this AGREEMENT or any Attachments, but rather may only specify the times, manner and total cost to particular SERVICES to be provided under this AGREEMENT.

Upon obtaining AGENCY's approval of a WORK ORDER, COUNTY will perform or cause to be performed the requested SERVICES and shall invoice the AGENCY in the manner described in Section III.

6. The COUNTY may, at any time, by written STOP WORK ORDER NOTICE to the AGENCY, immediately stop or cancel all or any part of a WORK ORDER, for a period of 90 days after the STOP WORK ORDER NOTICE is delivered to the AGENCY and for any further period to which the Parties may agree. Within a period of 90 days after a STOP WORK ORDER NOTICE is delivered to the AGENCY, or within any period to which the Parties shall have agreed, the COUNTY shall either:

- a. Cancel the STOP WORK ORDER NOTICE; or
- b. Cancel the WORK ORDER immediately in whole or in part in writing as soon as feasible.

C. AGREEMENT CAPACITY:

The AGREEMENT CAPACITY shall be \$150,000, with a maximum of \$50,000 permitted to be used each year.

SECTION 111 - SERVICES

A. WARRANTIES BY AGENCY: Agency warranties, promises and agrees as follows:

1. The SERVICES ordered by AGENCY and provided under this AGREEMENT do not violate the force account limits applicable to AGENCY.
2. The AGENCY will not order any SERVICES that would violate any statutory or contractual obligation of AGENCY.

B. DEFINITION OF SERVICES: The COUNTY may provide the following types of SERVICES to the AGENCY in the following manner:

1. RECURRING SERVICES: AGENCY may request, and COUNTY may provide, RECURRING SERVICES of the following types:

- i. UAS Flight, Data Process, Data Delivery, Administrative Support and Extra Work as described in Attachment A.

2. ONE-TIME SERVICES: AGENCY may request, and COUNTY may provide, ONE-TIME SERVICES of the following types:

- i. UAS Flight, Data Process, Data Delivery, Administrative Support and Extra Work as described in Attachment A.

C. LIMITS ON THE PROVISION OF SERVICES: SERVICES may be provided to AGENCY in the following manner:

1. Delivery of RECURRING SERVICES: RECURRING SERVICES may only be provided by COUNTY to AGENCY by utilizing COUNTY personnel.

- a. COUNTY shall not procure contracts for the sole benefit of AGENCY. COUNTY shall not use Job Order Contracts to provide RECURRING SERVICES to AGENCY.
- b. The aggregate cost of RECURRING SERVICES provided to AGENCY may be in any amount up to the AGREEMENT CAPACITY.

2. Delivery of ONE-TIME SERVICES: ONE-TIME SERVICES may only be provided by COUNTY to AGENCY by utilizing COUNTY personnel.

- a. COUNTY shall not procure contracts for the sole benefit of AGENCY provided. COUNTY shall not use Job Order Contracts to provide ONE-TIME SERVICES to AGENCY.

D. ORDERING SERVICES: RECURRING SERVICES and ONE-TIME SERVICES may be ordered by the drafting of a WORK ORDER. The WORK ORDER, as part of the SCOPE OF WORK, shall also memorialize the AGENCY's completion of any necessary

environmental review, and shall specify which PARTY is responsible for obtaining necessary permits.

The PARTIES shall collaborate in the drafting of any WORK ORDER. No WORK ORDER shall be effective until signed by both the AGENCY MANAGER and DIRECTOR or designee. Once effective, WORK ORDERS shall amend and become part of this AGREEMENT, except that WORK ORDERS may not change the terms of the General Provisions or any Attachments. No WORK ORDER shall result in the expenditure of any funds or provision of any SERVICES that would exceed the AGREEMENT CAPACITY. No WORK ORDER shall have a period of performance that exceeds the TERM of this AGREEMENT.

E. COST OF SERVICES: Cost Estimates for SERVICES provided under this AGREEMENT shall be drafted according to the RATE SHEET prepared by COUNTY. The RATE SHEET shall be prepared and updated annually by COUNTY, in the manner authorized by COUNTY's Board of Supervisors, during the TERM of this AGREEMENT, and shall be made part of this AGREEMENT as Attachment "A" and incorporated herein by reference once prepared by COUNTY and provided to AGENCY.

SECTION IV- BILLING AND INVOICING

COUNTY shall submit invoice(s) to AGENCY for SERVICES provided. The invoiced amount shall reflect the agreed upon costs and fees set in the manner authorized by COUNTY's Board of Supervisors or as set forth in a contract awarded by, or pursuant to authority delegated by, COUNTY's Board of Supervisors. All amounts invoiced to AGENCY shall reasonably reflect COUNTY's actual costs for providing those SERVICES to AGENCY in accordance with applicable COUNTY Revenue Policy.

AGENCY shall pay all invoices sent by COUNTY in the manner described in the relevant WORK ORDER. AGENCY assumes all risk of loss if payments are mailed. Payment shall be deemed complete when received by the COUNTY.

Notwithstanding any other provision of this AGREEMENT, this obligation of AGENCY to pay for SERVICES performed by the COUNTY shall remain in effect until such time as COUNTY has received all payment for the SERVICES it has performed.

SECTION V - DEFENSE AND INDEMNIFICATION

COUNTY agrees to indemnify, defend with counsel approved in writing by AGENCY, protect and hold harmless the AGENCY, its officers, elected or appointed officials, employees and volunteers from and against any and all claims, demands, losses, defense costs or expenses, or liability of any kind or nature which the AGENCY, its officers, elected or appointed officials, employees and volunteers may sustain or incur or which may be imposed upon them for injury to or death of persons or damage to property arising out of COUNTY's grossly negligent or willful wrongful acts in performing under the terms of this AGREEMENT. COUNTY shall defend, at its expense, including attorney fees, AGENCY, its officers, agents, employees, independent contractors and volunteers in any legal action or claim of any kind based upon such alleged acts or omissions. COUNTY shall not be liable in any way or indemnify the AGENCY, its officers, elected or appointed officials, employees and volunteers for AGENCY' S negligence or the negligence of AGENCY's officers, officials, employees or volunteers.

AGENCY agrees to indemnify, defend with counsel approved in writing by COUNTY, protect and hold harmless the COUNTY, its officers, elected or appointed officials, employees and volunteers from and against any and all claims, demands, losses, defense cost or expenses, or liability of any kind or nature which the COUNTY, its officers, elected or appointed officials, employees or volunteers may sustain or incur or which may be imposed upon them for injury to

or death of persons or damage to property arising out of the AGENCY's negligent or wrongful acts in performing under the terms of this AGREEMENT. The AGENCY shall not be liable in any way or indemnify the COUNTY, its officers, elected or appointed officials, employees and volunteers for COUNTY's gross and willful negligence, or the gross and willful negligence of COUNTY's officers, elected or appointed officials, employees or volunteers. If judgment is entered against AGENCY and COUNTY by a court of competent jurisdiction because of the concurrent active negligence of AGENCY or COUNTY, AGENCY and COUNTY agree that liability will be apportioned as determined by the court. Neither PARTY shall request a jury apportionment.

Each PARTY agrees to fully cooperate with the other and assist the other PARTY hereto in all matters relating to losses covered by the terms of this AGREEMENT, and more specifically but not being limited thereby, each PARTY will:

1. Give prompt notification of all occurrences covered or likely to be covered by Section V of this AGREEMENT;
2. If claim is made, or suit is brought against a PARTY on occurrences covered or likely to be covered by the terms hereof, such PARTY shall immediately forward every claim, demand, notice, summons or other process received by it to the other PARTY.

Either PARTY may, at its own expense, participate in the defense of any suit, or in the prosecution of any appeal affecting matters herein involved where the duty of defense or prosecution is imposed on the other PARTY, and where that other PARTY has consented to that participation.

SECTION VI - DISPUTE RESOLUTION

In the event that either PARTY contends that the other PARTY has failed to perform any of its obligations under this AGREEMENT, that PARTY shall, within ten (10) business days of

becoming aware of the facts constituting that dispute, provide notice of the dispute to the other PARTY in the manner set forth in this AGREEMENT. Thereafter, the DIRECTOR and AGENCY MANAGER shall meet and confer in good faith to resolve any such dispute.

In no event shall either PARTY initiate any action in equity or at law prior to engaging in the meet and confer process described in this Section.

SECTION VII - MISCELLANEOUS PROVISIONS

A. TERM: The term of this AGREEMENT shall commence upon its EFFECTIVE DATE and shall remain in effect for three (3) years; until the AGREEMENT CAPACITY has been expended; or otherwise terminated by either PARTY.

B. TERMINATION: Either PARTY may at any time, for any reason, and with or without cause, terminate this AGREEMENT by serving upon the non-terminating PARTY, in the manner set forth in Section VII(D) herein, a written Notice of Termination at least thirty (30) days prior to the date of termination. The terminating PARTY shall not be obligated to provide any reason for exercising its right to terminate this AGREEMENT. If COUNTY initiates a Notice of Termination, that Notice shall include an invoice for all SERVICES that have not yet been invoiced to AGENCY. If AGENCY initiates a Notice of Termination, upon receipt of said Notice, COUNTY shall prepare and serve on AGENCY a final invoice for all SERVICES performed by COUNTY that have not yet been invoiced to AGENCY. AGENCY'S obligations under this AGREEMENT shall remain in effect until COUNTY has received all payments for SERVICES previously performed.

C. ENTIRE AGREEMENT AND CONSTRUCTION: This AGREEMENT, any Attachments and any WORK ORDER issued under the provisions herein, constitutes the entire agreement between the PARTIES with respect to the matters provided for herein.

D. NOTICE: All notices or other communication provided for herein shall be in writing and shall be personally served or delivered by United States mail, registered or certified return receipt requested, postage prepaid, addressed as follows:

AGENCY:	COUNTY:
Adam Atamian	Cameron Smith
910 Calle Negocio	601 N. Ross Street, Santa Ana, CA
San Clemente, CA 92673	92865
949-361-6196	657-285-7704
atamiana@san-clemente.org	Cameron.Smith@ocpw.ocgov.com

Any PARTY may, by notice to the others, designate a different address for notices that shall be substituted for that specified above. Any notice given as provided in this subparagraph shall be deemed to have been received, if personally served, as of the date and time of service, or if deposited in the mail as provided above, forty-eight (48) hours after deposit in the mail.

E. NON-ASSIGNMENT: This AGREEMENT shall not be assigned except by written amendment to this AGREEMENT.

F. EXECUTION IN COUNTERPARTS: This AGREEMENT may be executed in counterparts, each of which when executed and delivered shall be considered an original, and when taken together shall constitute a single document.

G. ATTORNEY'S FEES: In any action or proceeding brought to enforce or interpret any provision of this AGREEMENT, or where any provision hereof is validly asserted as a defense, each PARTY shall bear its own attorney's fees and costs.

H. AMENDMENTS: No alteration or variation of the terms of this AGREEMENT shall be valid unless made in and signed by the PARTIES hereto, and no oral understanding or AGREEMENT not incorporated herein shall be binding on any of the PARTIES hereto.

I. COMPLIANCE WITH APPLICABLE LAW: Each PARTY and their respective contractors shall at all times and in all respects comply with all applicable federal, state and local laws, ordinances, regulations, and permits with respect to their performance of this AGREEMENT.

J. INTERPRETATION: This AGREEMENT shall be construed and enforced in accordance with California law. The PARTIES acknowledge that the PARTIES and their counsel have both reviewed and revised this AGREEMENT, that it is the product of the PARTIES ' mutual drafting efforts, and that therefore the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting PARTY shall not be employed in the interpretation of this AGREEMENT or any exhibits or amendments hereto.

K. CALENDAR DAYS: Any reference to the word "day" or "days" shall mean calendar day or calendar days respectively, unless otherwise expressly provided.

L. FORCE MAJEURE: COUNTY shall not be assessed with damages or penalties for unsatisfactory performance during any delay in the performance of any work under this AGREEMENT caused by any act of God, war, civil disorder, employment strike or other cause beyond its reasonable control, provided COUNTY gives written notice of the cause of the delay to the AGENCY within 24 hours of the start for the delay.

M. SEVERABILITY: If any part of this AGREEMENT is held, determined or adjudicated to be illegal, void or unenforceable by a court of competent jurisdiction, the remainder of this AGREEMENT shall be given effect to the fullest extent reasonably possible.

N. 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.

O. PRECEDENCE: In the event there is a conflict in language between any component documents of this AGREEMENT, the conflict in language shall be resolved by

treating the language of the General Provisions as controlling over the language of any Attachments and any WORK ORDERS; and the language of any Attachments as controlling over the language of any WORK ORDERS.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the PARTIES hereto have executed this AGREEMENT on the dates following their respective signatures effective as of the date first above written:

CITY OF SAN CLEMENTE ("AGENCY")

By: _____
Adam Atamian, Community Development Director
City of San Clemente, California

Date: _____

APPROVED AS TO FORM

By: _____
City Attorney

COUNTY OF ORANGE ("COUNTY")

By: _____
Jim Treadway, OC Public Works Director
County of Orange, California

Date: _____

APPROVED AS TO FORM
OFFICE OF THE COUNTY COUNSEL ORANGE
COUNTY, CALIFORNIA

By: _____
Deputy

**ATTACHMENT A
SCOPE OF SERVICES / RATE SHEET**

Part 1. General Provisions

A. COUNTY Shall:

1. Provide UAS (drone) services or functions within the territory of the AGENCY as requested by the AGENCY.
2. Perform services indicated in this Scope of Work of COUNTY employees. All COUNTY resources utilized to perform services work under the COUNTY's direction and supervision.
3. Prepare a cost estimate and work order for review/approval of AGENCY prior to work being scheduled/performed. The work order will include a scope of work, estimated timeline for performance of the services, and cost estimate form performing the services.
4. Perform services requested by AGENCY utilizing COUNTY resources subject to availability and the limitations of Section II.B. Paragraph 4 of the Agreement.
5. Perform UAS flights conformed to FAA UAS Regulations under Part 107 (<https://www.ecfr.gov/current/title-14/part-107>).

B. AGENCY Shall:

1. Designate an official or designated employee that is authorized to act as their Responsible Party in all matters pertaining to the Agreement. The Responsible Party shall authorize services, review reports and invoices, and authorize payments. In the event there is a change in Responsible Party, the AGENCY shall submit written notice with the name of the new official or designated employee. Through the Agreement, the DIRECTOR or his designee, as identified within this document, shall be the COUNTY's Responsible Party.
2. Request for Service: AGENCY shall contact the assigned COUNTY representative to request services. The Responsible Party shall provide details as to the service type requested, quantities, scope, and requested completion date. The Responsible Party shall notify the assigned COUNTY representative of priority service requests to be included within the following three-week work schedule.
3. Acknowledge that services provided by COUNTY is provided for data collection purposes only. AGENCY acknowledges that COUNTY is not providing analysis to the data collected from service(s) provided. AGENCY acknowledges that analysis of data provided by service(s) is the responsibility of AGENCY.
4. Review cost estimates, work orders, and provide approval to COUNTY via signature on work orders.

5. Serve as liaison with individual homeowners, homeowners associations, citizen groups, and others concerning performance of work and levels of service provided under this Agreement.
6. Pay COUNTY for actual costs incurred to include all costs for labor, equipment, materials, contractor services/rates, and all applicable overhead and supervisory expenses in accordance with established COUNTY prices, rates, fees and charges at the time the work is performed.

C. Service Charges:

Services available within this document consist of the following identifiable type(s) of cost:

1. Time and Material Service Costs shall include all costs for COUNTY labor, equipment, and materials, using actual number of man-hours and equipment-hours required (including travel time to and from project location), and actual contract(s) costs (using the actual cost of materials and staff time, including burden, overhead and indirect costs).
Specialty requests and additional items not listed in this document, including emergency response, shall be charged as time and materials service costs.

D. Overtime: For all time and materials services, overtime shall be available upon the DIRECTOR's authorization and the AGENCY's approval only. From time to time, overtime may be directed by the AGENCY's official or designee to ensure field services are performed with minimal disruption to the general public. Overtime shall be calculated as 1.5 times the base hourly rate with overhead.

E. Billing: OC Public Works accounting shall compile an itemized invoice of monthly costs for services performed during the previous month and submit the invoice to the AGENCY. Within 30 days of receipt of the invoice, AGENCY shall pay the cost of services contained within the invoice or, within 10 days of receipt of invoice, provide COUNTY written notice of any disputed costs.

Part 2. Scope of Services and Rate Sheet

SERVICE	SCOPE/DESCRIPTION	UNIT	UNIT PRICE
<p>Administrative Support</p>	<p>COUNTY will provide administrative support, which shall include but not be limited to generate work orders; schedule COUNTY crews and COUNTY contractor services to perform requested services; prepare cost estimates/cost outs; perform reconciliation of all charges for invoicing; prepare budget status reports; data input; and maintain web application deliverables.</p>	<p>Labor Hours</p>	<p>\$100</p>
<p>UAS Flight</p>	<p>COUNTY will accomplish this task by utilizing COUNTY FAA Certified Drone Pilots and COUNTY FAA Registered UASs. COUNTY will create flight plans in accordance with FAA safety guidelines.</p> <p>COUNTY will deploy two-member teams to conduct the UAS flight. Each member will be a FAA Certified Drone Pilot and pilot their drone.</p> <p>The flights will follow the flight plan developed in agreement with the AGENCY. This includes capturing aerial imagery of the area proposed by the AGENCY. The work includes capturing documentation in the form of oblique photos and photospheres with a secondary drone.</p> <p>The operations will be conducted in accordance with FAA regulations. COUNTY will terminate any flights that cannot be conducted in a safe manner due to factors beyond the control of the COUNTY (e.g. weather, Temporary Flight Restrictions (TFRs)).</p>	<p>Labor Hours</p>	<p>\$250</p>
<p>Data Processing</p>	<p>COUNTY will accomplish this task by utilizing COUNTY owned hardware and software. COUNTY will process the data captured during the UAS Flight.</p> <p>The COUNTY staff will produce an orthomosaic image of the flight area. COUNTY will produce photo and photosphere locations in the web application.</p>	<p>Process Hours</p>	<p>\$250</p>

Data Delivery	<p>COUNTY will accomplish this task by hosting the AGENCY data in an online web application. The COUNTY will publish the processed data and provide the AGENCY access to the web application.</p> <p>The deliverable includes a web application with the aerial imagery, oblique photos, and photospheres.</p>	Each	\$150
Extra Work	<p>This includes a variety of work items. COUNTY will perform extra work on a time and materials basis as requested by the AGENCY.</p> <p>The AGENCY may request a hard drive with the data (aerial imagery, oblique photos, photospheres, and raw photo files) for an additional cost.</p>	Time & Data Processing	N/A