

**COOPERATIVE AGREEMENT NO. C-3-2410
COUNTYWIDE SIGNAL SYNCHRONIZATION BASELINE PROJECT**

1 **WHEREAS**, the AUTHORITY intends to release a request for proposals to secure a consultant
2 ("CONSULTANT") to implement the PROJECT; and

3 **WHEREAS**, based on the PLAN STUDY the AUTHORITY agrees to act as the implementing
4 agency to carry out the PROJECT; and

5 **WHEREAS**, the PROJECT will include approximately 2,500 traffic signalized intersections
6 along regionally significant corridors within Orange County; and

7 **WHEREAS**, approximately 79 PARTICIPATING AGENCY-owned and operated signalized
8 intersections will be included as part of the PROJECT; and

9 **WHEREAS**, the PROJECT will include all 34 Orange County cities and the County of Orange;
10 and

11 **WHEREAS**, the AUTHORITY will enter into a separate cooperative agreement with each
12 participating agency in each jurisdiction for implementation of the PROJECT; and

13 **WHEREAS**, the AUTHORITY and the PARTICIPATING AGENCY acknowledges and
14 understands that in-house resources (staff hours) from the PARTICIPATING AGENCY will provide
15 various services in support of the PROJECT; and

16 **WHEREAS**, the AUTHORITY and the PARTICIPATING AGENCY desire to enter into this
17 Agreement to implement the PROJECT in support of the RTSSP; and

18 **WHEREAS**, this Agreement defines the specific terms and conditions, and between the
19 AUTHORITY and the PARTICIPATING AGENCY for the implementation of the PROJECT; and

20 **NOW, THEREFORE**, it is mutually understood and agreed by the AUTHORITY and the
21 PARTICIPATING AGENCY as follows:

22 **ARTICLE 1. COMPLETE AGREEMENT**

23 A. This Agreement, including any attachments incorporated herein and made applicable by
24 reference, constitutes the complete and exclusive statement of the term(s) and conditions(s) of this
25 Agreement between the AUTHORITY and the PARTICIPATING AGENCY and supersedes all prior
26 representations, understandings, and communications. The invalidity in whole or in part of any term or

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1 condition of this Agreement shall not affect the validity of other term(s) or conditions(s) of this Agreement.

2 The above referenced Recitals are true and correct and are incorporated by reference herein.

3 B. The AUTHORITY's failure to insist on any instance(s) of the PARTICIPATING AGENCY's
4 performance of any term(s) or condition(s) of this Agreement shall not be construed as a waiver or
5 relinquishment of the AUTHORITY's right to such performance or to future performance of such term(s)
6 or condition(s), and the PARTICIPATING AGENCY's obligation in respect thereto shall continue in full
7 force and effect. Changes to any portion of this Agreement shall not be binding upon the AUTHORITY
8 except when specifically confirmed in writing by an authorized representative of the AUTHORITY by way
9 of a written amendment to this Agreement and issued in accordance with the provisions of this
10 Agreement.

11 C. The PARTICIPATING AGENCY's failure to insist on any instance(s) of the AUTHORITY's
12 performance of any term(s) or condition(s) of this Agreement shall not be construed as a waiver or
13 relinquishment of the PARTICIPATING AGENCY's right to such performance or to future performance of
14 such term(s) or condition(s), and the AUTHORITY's obligation in respect thereto shall continue in full
15 force and effect. Changes to any portion of this Agreement shall not be binding upon the PARTICIPATING
16 AGENCY except when specifically confirmed in writing by an authorized representative of the
17 PARTICIPATING AGENCY by way of a written amendment to this Agreement and issued in accordance
18 with the provisions of this Agreement.

19 **ARTICLE 2. SCOPE OF AGREEMENT**

20 This Agreement specifies the roles and responsibilities of the Parties as they pertain to the
21 subjects and PROJECT addressed herein. The Parties agree that each will cooperate and coordinate
22 with the other Party in all activities covered by this Agreement and any other supplemental agreements
23 that may be required to facilitate purposes thereof.

24 **ARTICLE 3. RESPONSIBILITIES OF AUTHORITY**

25 The AUTHORITY, as the lead agency, agrees to the following responsibilities for the
26 implementation of the PROJECT:

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1 A. To designate a Project Manager as a single point of contact for the Project.

2 B. The AUTHORITY, or agents of the AUTHORITY, shall manage, procure, implement, and
3 complete all aspects of the PROJECT, including filing all documentation necessary to comply with the
4 Congestion Mitigation and Air Quality (CMAQ) funding for the PROJECT.

5 C. The AUTHORITY, or agents of the AUTHORITY, shall coordinate outreach with the
6 PARTICIPATING AGENCY for the PROJECT.

7 D. The AUTHORITY, or agents of the AUTHORITY, shall collect all data necessary to
8 provide new optimized timing plans including, but not limited to, manual or video all movement counts at
9 each PROJECT signalized intersection, and a mutually agreed upon number and location of 24 hours
10 7 days automated machine traffic counts with vehicle classification.

11 E. The AUTHORITY, or agents of the AUTHORITY, shall develop and implement new timing
12 plans optimized for signal synchronization.

13 F. The AUTHORITY, or agents of the AUTHORITY, shall provide updated timing plans for
14 all control systems and all relevant data used to develop said plans to the PARTICIPATING AGENCY.

15 G. The AUTHORITY, or agents of the AUTHORITY, shall prepare a conceptual plan for the
16 delivery of the PROJECT. The AUTHORITY, or agents of the AUTHORITY, shall provide all reports to
17 the PARTICIPATING AGENCY in draft and final formats for review and comment. The PARTICIPATING
18 AGENCY comments shall be noted in the final report.

19 H. The AUTHORITY shall provide oversight to maintain inter-jurisdictional traffic signal
20 operational integrity between the PROJECT and other signal synchronization projects not older than three
21 (3) years from the effective date of this Agreement.

22 I. The AUTHORITY shall provide formats, templates, and guidance in reporting
23 requirements necessary for the PROJECT.

24 J. The AUTHORITY, or agents of AUTHORITY, under this Agreement and upon closeout of
25 PROJECT, may perform a technical and/or field review to ensure that the CMAQ guidelines, policies, and
26 procedures were followed.

ARTICLE 4. RESPONSIBILITIES OF THE PARTICIPATING AGENCY

The PARTICIPATING AGENCY agrees to the following responsibilities for implementation of the PROJECT:

A. The PARTICIPATING AGENCY shall provide a technical representative to meet and participate as a member of the PROJECT's Traffic Forum.

B. The PARTICIPATING AGENCY shall authorize the AUTHORITY to manage, procure, and implement all aspects of the PROJECT.

C. The PARTICIPATING AGENCY shall participate and support the PROJECT implementation.

D. The PARTICIPATING AGENCY shall provide the AUTHORITY, or agents of the AUTHORITY, all current intersection as-built drawings, all current intersections controller assembly plans as provided by the manufacturer and modified by the PARTICIPATING AGENCY since original installation, local field master, local controller, Advanced Traffic Management System timing plans, and other ITS-related data upon request.

E. The PARTICIPATING AGENCY shall inform the AUTHORITY of new traffic signal installations and any traffic signal modifications, which would materially affect the performance of the regional corridors on the PROJECT.

F. The PARTICIPATING AGENCY shall maintain in good condition existing traffic signal equipment for the PROJECT, such as signal communication and traffic signal controllers.

G. The PARTICIPATING AGENCY shall waive all fees associated with permits that would otherwise be required from the CONSULTANT, subconsultants, and/or service or equipment providers in the performance of the PROJECT.

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ARTICLE 5. DELEGATED AUTHORITY

The actions required to be taken by the PARTICIPATING AGENCY in the implementation of this Agreement are delegated to its respective City Manager, or City Manager's designee, and the actions required to be taken by the AUTHORITY in the implementation of this Agreement are delegated to the AUTHORITY's Chief Executive Officer or Chief Executive Officer's designee.

ARTICLE 6. AUDIT AND INSPECTION

AUTHORITY shall maintain a complete set of records in accordance with generally accepted accounting principles. Upon reasonable notice, PARTICIPATING AGENCY shall permit the authorized representatives of AUTHORITY to inspect and audit all work, materials, payroll, books, accounts, and other data and records of PARTICIPATING AGENCY for a period of five (5) years after final payment, final closeout, or until any on-going audit is completed, whichever is later. For purposes of audit, the date of completion of this Agreement shall be the date of AUTHORITY's payment of CONSULTANT's final billing (so noted on the paid invoice) under this Agreement. AUTHORITY shall have the right to reproduce any such books, records, and accounts. The above provision with respect to audits shall extend to and/or be included in contracts with AUTHORITY'S contractor.

ARTICLE 7. INDEMNIFICATION

A. To the fullest extent permitted by law, the PARTICIPATING AGENCY shall defend (at the PARTICIPATING AGENCY's sole cost and expense with legal counsel reasonably acceptable to the AUTHORITY), indemnify, protect, and hold harmless the AUTHORITY, and its officers, directors, employees, and agents (collectively the "Indemnified Parties"), from and against any and all liabilities, actions, suits, claims, demands, losses, costs, judgments, arbitration awards, settlements, damages, demands, orders, penalties, and expenses including legal costs and attorney fees (collectively "Claims"), including but not limited to Claims arising from injuries to or death of persons (PARTICIPATING AGENCY's employees included), for damage to property, including property owned by the AUTHORITY, or from any violation of any federal, state, or local law or ordinance, alleged to be caused by the negligent

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1 acts, omissions or willful misconduct of the PARTICIPATING AGENCY, its officers, directors, employees
2 or agents in connection with or arising out of the performance of this Agreement.

3 B. To the fullest extent permitted by law, the AUTHORITY shall defend (at the AUTHORITY's
4 sole cost and expense with legal counsel reasonably acceptable to the PARTICIPATING AGENCY),
5 indemnify, protect, and hold harmless the PARTICIPATING AGENCY, including their officers, directors,
6 employees, and agents (collectively the "Indemnified Parties"), from and against any and all liabilities,
7 actions, suits, claims, demands, losses, costs, judgments, arbitration awards, settlements, damages,
8 demands, orders, penalties, and expenses including legal costs and attorney fees (collectively "Claims"),
9 including but not limited to Claims arising from injuries to or death of persons (AUTHORITY's employees
10 included), for damage to property, including property owned by the PARTICIPATING AGENCY, or from
11 any violation of any federal, state, or local law or ordinance, alleged to be caused by the negligent acts,
12 omissions or willful misconduct of the AUTHORITY, its officers, directors, employees or agents in
13 connection with or arising out of the performance of this Agreement.

14 C. The indemnification and defense obligations of this Agreement shall survive its expiration
15 or termination.

16 **ARTICLE 8. ADDITIONAL PROVISIONS**

17 A. Term of Agreement: This Agreement shall be in full force and effect from the Effective
18 Date through December 31, 2028.

19 B. Amendment: This Agreement may be extended or amended in writing at any time by the
20 mutual consent of both Parties. No amendment shall have any force or effect unless executed in writing
21 by all Parties.

22 C. Termination: In the event any Party defaults in the performance of their respective
23 obligations under this Agreement or breaches any of the provisions of this Agreement, the non-defaulting
24 Party shall have the option to terminate this Agreement upon thirty (30) calendar days prior written notice
25 to the Party in default.

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1 D. Termination for Convenience: Either Party may terminate this Agreement for its
2 convenience by providing thirty (30) calendar days prior written notice of its intent to terminate for
3 convenience to the other Party.

4 E. AUTHORITY and Parties shall comply with all applicable federal, state, and local laws,
5 statutes, ordinances, and regulations of any governmental authority having jurisdiction over the
6 PROJECT.

7 F. Legal Authority: The Parties hereto consent that they are authorized to execute this
8 Agreement on behalf of said Party and that, by so executing this Agreement, the Parties hereto are
9 formally bound to the provisions of this Agreement.

10 G. Severability: If any term, provision, covenant, or condition of this Agreement is held to be
11 invalid, void or otherwise unenforceable, to any extent, by any court of competent jurisdiction, the
12 remainder of this Agreement shall not be affected thereby, and each remaining term, provision, covenant,
13 or condition of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

14 H. Counterparts of Agreement: This Agreement may be executed and delivered in any
15 number of counterparts, each of which, when executed and delivered shall be deemed an original and all
16 of which together shall constitute the same Agreement. Facsimile/electronic signatures shall be permitted.

17 I. Assignment: Neither this Agreement, nor any of the Parties' rights, obligations, duties, or
18 authority hereunder may be assigned in whole or in part by either Party without the prior written consent
19 of the other Party in its sole and absolute discretion. Any such attempt of assignment shall be deemed
20 void and of no force and effect. Consent to one assignment shall not be deemed consent to any
21 subsequent assignment, nor the waiver of any right to consent to such subsequent assignment.

22 J. Governing Law: The laws of the State of California and applicable local and federal laws,
23 regulations, and guidelines shall govern this Agreement.

24 K. Litigation Fees: Should litigation arise out of this Agreement for the performance thereof,
25 the court shall award costs and expenses, including attorney's fees, to the prevailing Party.

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1 Notices: Any notices, requests, or demands made between the Parties pursuant to this Agreement are
2 to be directed as follows:

To PARTICIPATING AGENCY:	To AUTHORITY:
City of Costa Mesa	Orange County Transportation Authority
77 Fair Drive	550 South Main Street
P.O. Box 1200	P. O. Box 14184
Costa Mesa, CA 92628	Orange, CA 92863-1584
Attention: Jennifer Rosales	Attention: Michael Le
Transportation Services Manager	Senior Contract Administrator
Tel: (714) 754-5180	Tel: (714) 560-5314
Email: jennifer.rosales@costamesaca.gov	Email: mle1@octa.net
	CC: Alicia Yang
	OCTA Project Manager
	Tel: (714) 560-5362
	Email: ayang@octa.net

16 L. Force Majeure: Either Party shall be excused from performing its obligations under this
17 Agreement during the time and to the extent that it is prevented from performing by an unforeseeable
18 cause beyond its control, including but not limited to: any incidence of fire, flood; acts of God;
19 commandeering of material, products, plants or facilities by the federal, state or local government; national
20 fuel shortage; or a material act or omission by the other Party, when satisfactory evidence of such cause
21 is presented to the other Party, and provided further that such nonperformance is unforeseeable, beyond
22 the control and is not due to the fault or negligence of the Party not performing.

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1 **IN WITNESS WHEREOF**, the parties hereto have caused this Agreement No. C-3-2410 to be
2 executed as of the date of the last signature below.

3 **CITY OF COSTA MESA**

ORANGE COUNTY TRANSPORTATION AUTHORITY

4
5 By: Lori Ann Farrell Harrison
6 Lori Ann Farrell Harrison
7 City Manager

By: [Signature]
Meena Katakia
Manager, Capital Projects

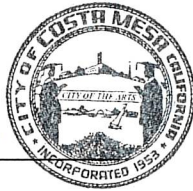
8 Dated: 8/29/2023

Dated: _____

9 **ATTEST:**

APPROVED AS TO FORM:

10
11 By: Brenda Green
12 Brenda Green
13 City Clerk



By: James M. Donich, for
General Counsel

14 Dated: 8/30/2023

Dated: 8/26/23

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16
17 **APPROVED AS TO FORM**

18 By: Kimberly Hall Barlow
19 Kimberly Hall Barlow
20 City Attorney

21
22 Dated: 8/23/23

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