

1 **COOPERATIVE AGREEMENT NO. C-8-2015**

2 **BETWEEN**

3 **ORANGE COUNTY TRANSPORTATION AUTHORITY**

4 **AND**

5 **THE CITIES OF ALISO VIEJO, ANAHEIM, BREA, BUENA PARK, COSTA MESA, CYPRESS, DANA**
6 **POINT, FOUNTAIN VALLEY, FULLERTON, GARDEN GROVE, HUNTINGTON BEACH, IRVINE,**
7 **LAGUNA BEACH, LAGUNA HILLS, LAGUNA NIGUEL, LAGUNA WOODS, LA HABRA, LAKE**
8 **FOREST, MISSION VIEJO, LA PALMA, LOS ALAMITOS, NEWPORT BEACH, ORANGE,**
9 **PLACENTIA, RANCHO SANTA MARGARITA, SAN CLEMENTE, SAN JUAN CAPISTRANO,**
10 **SANTA ANA, SEAL BEACH, STANTON, TUSTIN, VILLA PARK, WESTMINSTER, YORBA LINDA,**
11 **AND THE COUNTY OF ORANGE**

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13 **THIS COOPERATIVE AGREEMENT (Agreement)**, is effective this 1st day of January, 2019, by
14 and between the Orange County Transportation Authority (hereinafter referred to as "AUTHORITY") and
15 the Cities of Aliso Viejo, Anaheim, Brea, Buena Park, Costa Mesa, Cypress, Dana Point, Fountain Valley,
16 Fullerton, Garden Grove, Huntington Beach, Irvine, Laguna Beach, Laguna Hills, Laguna Niguel, Laguna
17 Woods, La Habra, Lake Forest, Mission Viejo, La Palma, Los Alamitos, Newport Beach, Orange,
18 Placentia, Rancho Santa Margarita, San Clemente, San Juan Capistrano, Santa Ana, Seal Beach,
19 Stanton, Tustin, Villa Park, Westminster, Yorba Linda, and the County of Orange (each individually
20 referred to as "MEMBER AGENCY" and collectively as "MEMBER AGENCIES.") The foregoing
21 MEMBER AGENCIES and AUTHORITY may each hereinafter also be referred to singularly as a "Party"
22 and collectively as "Parties".

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RECITALS:

WHEREAS, pursuant to Government Code Section 53075.5, cities and counties are required to protect the public health, safety, and welfare in regard to taxicab transportation service within their jurisdictions.

WHEREAS, Government Code Section 53075.5 permits a city or county to enter into an agreement with a transit agency for the purpose of administering taxicab permits on behalf of said city or county.

WHEREAS, the Orange County Taxi Administration Program ("OCTAP") is a voluntary association of MEMBER AGENCIES which have delegated the issuance of taxicab permits and other administrative functions to AUTHORITY.

WHEREAS, AUTHORITY has agreed to provide administrative services on behalf of MEMBER AGENCIES for the permitting of taxicabs in Orange County.

WHEREAS, MEMBER AGENCIES have agreed to participate in OCTAP in order to increase public safety, reduce administrative costs, and expand the provision of private transportation service in Orange County.

NOW, THEREFORE, it is mutually understood and agreed by AUTHORITY and MEMBER AGENCIES as follows:

ARTICLE 1. COMPLETE AGREEMENT

A. This Agreement, including any attachments incorporated herein and made applicable by reference, constitutes the complete and exclusive statement of the term(s) and condition(s) of this Agreement between AUTHORITY and MEMBER AGENCIES and it supersedes all prior representations, understandings, and communications. The invalidity in whole or in part of any term or condition of this Agreement shall not affect the validity of other term(s) or condition(s) of this Agreement. The above referenced Recitals are true and correct and are incorporated by reference herein.

B. AUTHORITY's failure to insist on any instance(s) of MEMBER AGENCIES' performance of any term(s) or condition(s) of this Agreement shall not be construed as a waiver or relinquishment of AUTHORITY's right to such performance or to future performance of such term(s) or condition(s), and

MEMBER AGENCIES' obligation in respect thereto shall continue in full force and effect. Changes to any portion of this Agreement shall not be binding upon AUTHORITY except when specifically confirmed in writing by an authorized representative of AUTHORITY by way of a written amendment to this Agreement and issued in accordance with the provisions of this Agreement.

C. MEMBER AGENCIES' failure to insist on any instance(s) of AUTHORITY's performance of any term(s) or condition(s) of this Agreement shall not be construed as a waiver or relinquishment of MEMBER AGENCIES' right to such performance or to future performance of such term(s) or condition(s), and AUTHORITY's obligation in respect thereto shall continue in full force and effect. Changes to any portion of this Agreement shall not be binding upon MEMBER AGENCIES except when specifically confirmed in writing by authorized representatives of MEMBER AGENCIES by way of a written amendment to this Agreement and issued in accordance with the provisions of this Agreement.

ARTICLE 2. SCOPE OF AGREEMENT

This Agreement specifies the roles and responsibilities of the Parties as they pertain to the administration of OCTAP. Both AUTHORITY and MEMBER AGENCIES agree that each will cooperate and coordinate with the other in all activities covered by this Agreement and any other supplemental agreements that may be required to facilitate purposes thereof. The Parties agree to work diligently together and in good faith, using their reasonable best efforts in the performance of this Agreement.

ARTICLE 3. RESPONSIBILITIES OF AUTHORITY

AUTHORITY agrees to the following responsibilities:

A. AUTHORITY will provide staffing and administrative services necessary to implement the OCTAP Regulations.

B. AUTHORITY will collect permit fees for taxicab companies, drivers, and vehicles, as appropriate, to offset administrative costs.

ARTICLE 4. RESPONSIBILITIES OF MEMBER AGENCIES

MEMBER AGENCIES agree to the following responsibilities:

A. MEMBER AGENCIES will appoint an OCTAP Steering Committee. The OCTAP Steering Committee is responsible for creating OCTAP Regulations that define the requirements for permitting

taxicabs in Orange County and establish minimum safety and service standards for the operation of taxicabs. The OCTAP Steering Committee shall advise AUTHORITY on matters including the OCTAP Regulations, the policies and procedures governing the issuance of taxicab permits, and public safety issues in Orange County.

B. Each MEMBER AGENCY shall adopt the OCTAP Regulations into its Municipal Code, by ordinance or other appropriate means, and shall provide notice thereof to AUTHORITY. Each MEMBER AGENCY shall use such ordinance and any applicable state laws to enforce the OCTAP Regulations and regulate taxicabs within the MEMBER AGENCY's jurisdiction. Each MEMBER AGENCY shall be responsible for enforcement of all violations of its taxicab ordinance and the OCTAP Regulations occurring within its jurisdiction and shall endeavor to notify AUTHORITY of such occurrences.

ARTICLE 5. LEGAL RESPONSIBILITY FOR TAXICAB REGULATION

MEMBER AGENCIES acknowledge and agree that AUTHORITY does not possess police power and therefore is providing administrative services on behalf of MEMBER AGENCIES. MEMBER AGENCIES shall retain all responsibility for taxicab regulation and enforcement within their respective jurisdictions in accordance with state law. AUTHORITY does not assume any responsibility or liability for the regulation or enforcement of MEMBER AGENCY ordinances, MEMBER AGENCIES' compliance with state law, or for the performance of taxicab operators, vehicles, or drivers. MEMBER AGENCIES acknowledge and agree that OCTAP is not a separate legal entity that can sue or be sued.

ARTICLE 6. DELEGATED AUTHORITY

To ensure prompt and continued cooperation and coordination between the Parties, the Parties agree to each designate, identify and authorize a responsible individual to act on behalf of and as the lead for the Party and to perform any tasks needed as part of this Agreement. The actions required to be taken by each MEMBER AGENCY in the implementation of this Agreement are delegated to its City Manager, or designee, and the actions required to be taken by AUTHORITY in the implementation of this Agreement are delegated to AUTHORITY's Chief Executive Officer or designee.

ARTICLE 7. PAYMENT

A. Each MEMBER AGENCY agrees to pay AUTHORITY in an amount equal to its pro rata share

1 of AUTHORITY's costs to administer OCTAP, as shown in Exhibit A. Each MEMBER AGENCY agrees
2 to pay its pro rata share to AUTHORITY in full, in six (6) month intervals, or as otherwise mutually agreed
3 upon in writing by AUTHORITY and MEMBER AGENCY. Upon execution of this Agreement, each
4 MEMBER AGENCY shall submit an initial payment to AUTHORITY consistent with this Article.

5 B. Failure by any MEMBER AGENCY to timely provide payment in accordance with this Article
6 is considered a default of the Agreement by MEMBER AGENCY and shall result in termination of the
7 Agreement for MEMBER AGENCY, pursuant to Article 10. AUTHORITY will not administer OCTAP on
8 behalf of any terminated MEMBER AGENCY.

9 C. Upon expiration or termination of this Agreement, AUTHORITY will perform a final accounting
10 of all OCTAP expenses and shall submit a reasonably detailed accounting summary to MEMBER
11 AGENCIES. If the total expenses are less than the total combined contributions by MEMBER AGENCIES
12 and other related OCTAP revenues, AUTHORITY will refund each MEMBER AGENCY its pro rata share
13 of unspent funds. If the total expenses are greater than the total combined contributions by MEMBER
14 AGENCIES and other related OCTAP revenues, AUTHORITY will invoice each MEMBER AGENCY for
15 its pro rata share, which shall be timely paid by each MEMBER AGENCY.

16 **ARTICLE 8. AUDIT AND INSPECTION**

17 AUTHORITY and MEMBER AGENCIES shall maintain a complete set of records in accordance
18 with generally accepted accounting principles. Upon reasonable notice, MEMBER AGENCIES shall
19 permit the authorized representatives of the AUTHORITY to inspect and audit all work, materials, payroll,
20 books, accounts, and other data and records of MEMBER AGENCIES for a period of four (4) years after
21 final payment, or until any on-going audit is completed. For purposes of audit, the date of completion of
22 this Agreement shall be the date of MEMBER AGENCIES' payment of AUTHORITY's final billing (so
23 noted on the invoice) under this Agreement. AUTHORITY shall have the right to reproduce any such
24 books, records, and accounts. The above provision with respect to audits shall extend to and/or be
25 included in contracts with MEMBER AGENCIES' contractor.

26 **ARTICLE 9. INDEMNIFICATION**

A. To the fullest extent permitted by law, MEMBER AGENCIES shall defend (at MEMBER

AGENCIES' sole cost and expense with legal counsel reasonably acceptable to AUTHORITY), indemnify, protect, and hold harmless AUTHORITY, 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 (MEMBER AGENCIES' employees included), for damage to property, including property owned by AUTHORITY, or from any violation of any federal, state, or local law or ordinance, by the negligent acts, omissions or willful misconduct of MEMBER AGENCIES, their officers, directors, employees or agents in connection with or arising out of the performance of this Agreement.

B. To the fullest extent permitted by law, AUTHORITY shall defend (at AUTHORITY's sole cost and expense with legal counsel reasonably acceptable to MEMBER AGENCIES), indemnify, protect, and hold harmless MEMBER AGENCIES, their 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 (AUTHORITY's employees included), for damage to property, including property owned by MEMBER AGENCIES, or from any violation of any federal, state, or local law or ordinance, by the negligent acts, omissions or willful misconduct of AUTHORITY, its officers, directors, employees or agents in connection with or arising out of the performance of this Agreement.

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

ARTICLE 10. ADDITIONAL PROVISIONS

A. Term of Agreement: This Agreement shall be effective on January 1, 2019 and shall remain in full force and effect for two (2) years through December 31, 2020.

B. Termination: In the event either Party defaults in the performance of their obligations under this Agreement or breaches any of the provisions of this Agreement, the non-defaulting Party shall have

1 the option to terminate this Agreement upon thirty (30) days' prior written notice to the other Party.

2 C. Termination for Convenience: Any Party may terminate this Agreement for its convenience
3 by providing six (6) months' prior written notice of its intent to terminate for convenience to the other
4 Parties. If any MEMBER AGENCY terminates its participation in this Agreement prior to the Agreement's
5 expiration, AUTHORITY shall refund to MEMBER AGENCY its pro rata contribution of unspent funds, as
6 determined by AUTHORITY, as of the effective date of the MEMBER AGENCY's termination.

7 D. AUTHORITY and MEMBER AGENCIES shall comply with all applicable federal, state, and
8 local laws, statues, ordinances and regulations of any governmental authority having jurisdiction over
9 OCTAP.

10 E. Legal Authority: AUTHORITY and MEMBER AGENCIES hereto consent that they are
11 authorized to execute this Agreement on behalf of said Parties and that, by so executing this Agreement,
12 the Parties hereto are formally bound to the provisions of this Agreement.

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

17 G. Counterparts of Agreement: This Agreement may be executed and delivered in any number
18 of counterparts, each of which, when executed and delivered shall be deemed an original and all of which
19 together shall constitute the same agreement. Facsimile signatures will be permitted.

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

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

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

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

L. Notices: Any notices, requests, or demands made between the Parties pursuant to this Agreement shall be deemed given when mailed to them, first class, postage prepaid, or faxed to the address set out by their signatures.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement No. C-8-2015 to be executed on the date first written above.

ORANGE COUNTY TRANSPORTATION AUTHORITY

By: _____
Darrell E. Johnson
Chief Executive Officer

NOTICE TO AUTHORITY TO BE GIVEN TO:

550 South Main Street
P. O. Box 14184
Orange, CA 92863-1584

By: _____
Jennifer L. Bergener
Chief Operating Officer, Operations

Attention: Carla Shaffer
Senior Contract Administrator
Tel: (714) 560-5884
E-mail: cshaffer@octa.net

CITY OF FULLERTON

Dated: _____

By: _____

Ken Domer
City Manager

ATTEST:

City Clerk

NOTICE TO CITY TO BE GIVEN TO:

City Manager
Mr. Ken Domer
303 West Commonwealth Avenue
Fullerton, California 92832

Email: KDomer@cityoffullerton.com
Phone: (714) 738-6310

APPROVED AS TO FORM:

City Attorney

Estimated Cost Sharing for OCTAP Member Agencies

AGREEMENT NO. C-8-2015
EXHIBIT A

City	Funding Share	Cost Recovery Based on Funding Share**	Cost Recovery Based on		Jan-Jun 2018-19 2019 **	Full Year 2019-20 2020**	July-Dec 2020-21 2021**
			Funding Share**	Funding Share**			
Aliso Viejo	1.55%	\$ 2,299.54	\$ 69.73	\$	1,523.58	\$ 3,667.64	\$ 2,726.32
Anaheim	10.64%	\$ 15,806.12	\$ 494.45	\$	10,472.46	\$ 25,209.94	\$ 18,739.67
Brea	1.34%	\$ 1,987.03	\$ 60.35	\$	1,316.52	\$ 3,169.21	\$ 2,355.81
Buena Park	2.50%	\$ 3,717.99	\$ 115.07	\$	2,463.38	\$ 5,930.00	\$ 4,408.03
Costa Mesa	3.43%	\$ 5,103.51	\$ 158.22	\$	3,381.37	\$ 8,139.84	\$ 6,050.70
Cypress	1.49%	\$ 2,212.25	\$ 68.68	\$	1,465.74	\$ 3,528.42	\$ 2,622.83
Dana Point	1.01%	\$ 1,508.13	\$ 46.13	\$	999.23	\$ 2,405.39	\$ 1,788.04
Fountain Valley	1.70%	\$ 2,519.53	\$ 78.30	\$	1,669.33	\$ 4,018.52	\$ 2,987.15
Fulleton	4.30%	\$ 6,383.55	\$ 196.68	\$	4,229.47	\$ 10,181.43	\$ 7,568.31
Garden Grove	5.27%	\$ 7,830.20	\$ 244.79	\$	5,187.96	\$ 12,488.76	\$ 9,283.45
Huntington Beach	6.04%	\$ 8,970.10	\$ 269.51	\$	5,943.21	\$ 14,306.84	\$ 10,634.91
Irvine	8.23%	\$ 12,224.78	\$ 356.73	\$	8,099.62	\$ 19,497.88	\$ 14,493.64
Laguna Beach	0.69%	\$ 1,031.76	\$ 32.61	\$	683.60	\$ 1,645.60	\$ 1,223.25
Laguna Hills	0.95%	\$ 1,408.41	\$ 42.36	\$	933.15	\$ 2,246.33	\$ 1,669.80
Laguna Niguel	1.95%	\$ 2,893.88	\$ 91.32	\$	1,917.36	\$ 4,615.58	\$ 3,430.97
Laguna Woods	0.49%	\$ 734.66	\$ 22.38	\$	486.75	\$ 1,171.74	\$ 871.01
La Habra	1.87%	\$ 2,782.02	\$ 85.69	\$	1,843.25	\$ 4,437.18	\$ 3,298.35
Lake Forest	2.53%	\$ 3,755.62	\$ 115.85	\$	2,488.31	\$ 5,990.01	\$ 4,452.64
Mission Viejo	2.86%	\$ 4,250.09	\$ -	\$	2,815.93	\$ 6,778.68	\$ 5,038.89
La Palma	0.48%	\$ 705.93	\$ 22.17	\$	467.72	\$ 1,125.92	\$ 836.95
Los Alamitos	0.35%	\$ 525.11	\$ 16.21	\$	347.91	\$ 837.52	\$ 622.57
Newport Beach	2.60%	\$ 3,859.06	\$ 116.34	\$	2,556.85	\$ 6,155.00	\$ 4,575.29
Orange	4.23%	\$ 6,282.98	\$ 195.25	\$	4,162.84	\$ 10,021.03	\$ 7,449.08
Placentia	1.57%	\$ 2,335.17	\$ 72.16	\$	1,547.18	\$ 3,724.48	\$ 2,768.57
Rancho Santa Margarita	1.47%	\$ 2,183.52	\$ 66.98	\$	1,446.71	\$ 3,482.60	\$ 2,588.77
San Clemente	1.95%	\$ 2,901.22	\$ 91.46	\$	1,922.23	\$ 4,627.30	\$ 3,439.68
San Juan Capistrano	1.09%	\$ 1,627.12	\$ 49.82	\$	1,078.06	\$ 2,595.17	\$ 1,929.10
Santa Ana	10.08%	\$ 14,972.32	\$ 473.46	\$	9,920.02	\$ 23,880.06	\$ 17,751.11
Seal Beach	0.77%	\$ 1,150.17	\$ 34.62	\$	762.05	\$ 1,834.46	\$ 1,363.63
Stanton	1.18%	\$ 1,747.12	\$ 54.88	\$	1,157.57	\$ 2,786.56	\$ 2,071.37
Tustin	2.45%	\$ 3,644.91	\$ 114.20	\$	2,414.96	\$ 5,813.44	\$ 4,321.39
Villa Park	0.18%	\$ 263.42	\$ 8.21	\$	174.53	\$ 420.14	\$ 312.31
Westminster	2.81%	\$ 4,181.93	\$ 129.88	\$	2,770.77	\$ 6,669.96	\$ 4,958.07
Yorba Linda	2.06%	\$ 3,059.60	\$ 93.38	\$	2,027.16	\$ 4,879.91	\$ 3,627.45
County of Orange (includes JWA)*	7.90%	\$ 11,744.24	\$ 366.31	\$	7,781.23	\$ 18,731.45	\$ 13,923.92
TOTALS	100%	\$ 148,603.00	\$148,603.00	\$	98,458.00	\$ 237,014.00	\$ 176,183.00

*based on trips not population

** Costs are estimated, may adjust slightly

10/1/18