

**JOINT AGREEMENT  
BY AND BETWEEN THE  
COUNTY OF SAN BERNARDINO  
AND THE  
CITY OF YUCAIPA**

*THIS AGREEMENT is entered into as of the date the last party executes it as indicated on the signature page and is by and between the COUNTY OF SAN BERNARDINO, ("COUNTY"), and the CITY OF YUCAIPA, a municipal corporation ("CITY"). The County and the City are sometimes individually or collectively referred to herein as "Party" or the "Parties" respectively.*

**WITNESSETH**

- WHEREAS, COUNTY is the owner of that certain parcel (APN: 0303-131-05) located on the northwest corner of Yucaipa Boulevard and 5<sup>th</sup> Street in the City of Yucaipa (the "County Parcel") as ~~set forth~~ depicted on the attached Exhibit "A", on which the County has constructed and operates a County Library and County Sheriff Station; and
- WHEREAS, CITY is the owner of that certain parcel (APN:0303-131-63) located west of and contiguous to the County Parcel (the "City Parcel") as ~~set forth~~ depicted on the attached Exhibit "A", on a portion of which the City has constructed its administrative facilities, and on a portion of which is located the "Parking Lot" that is referenced in this Agreement; and
- WHEREAS, CITY desires to effect the construction, operation and maintenance of a new bus transit facility (Transit Center) as ~~set forth~~ authorized by Conditional Use Permit No. 08-180, approved by the Planning Commission of the City of Yucaipa on February 4, 2008 and generally depicted on the attached Exhibit "B", and to promote and support local communities and other public transportation users; and
- WHEREAS, CITY has determined such Transit Center would be best located immediately west of the Library and Sheriff Station sites, and would also include an enhanced bus route access to 5<sup>th</sup> Street between the Library and Sheriff Station sites (the Bus Route) and is willing to do so at no cost to the COUNTY; and
- WHEREAS, the COUNTY agrees to provide an easement for the Bus Route access over the COUNTY Parcel; and
- WHEREAS, the CITY agrees to complete the Parking Lot Improvements to the County site as shown on the attached Exhibit "C" at a cost to the County of \$30,000; and
- WHEREAS, the Parties desire to enter into a license agreement for a portion of the CITY Parcel, on which the CITY will construct/improve a secured parking spaces lot for COUNTY ~~in order that COUNTY will maintain at least the same aggregate number of parking spaces currently available to COUNTY use and as shown on Exhibit "F"~~.

- NOW, THEREFORE, in consideration of the foregoing and the conditions and promises contained herein, the Parties mutually agree as follows:
  1. CITY agrees that the design, construction, operation, and maintenance of the Transit Center improvements as set forth on the attached Exhibit "B" will be at no expense to the COUNTY. CITY will provide COUNTY with detailed Transit Center plans and specifications for COUNTY'S review and comments prior to project implementation.
  2. CITY agrees to design and construct the Parking Lot Improvements as shown in Exhibit "C."
  3. CITY agrees to submit to the COUNTY for COUNTY's review and comment, at least thirty (30) days prior to commencing construction, the plans for the proposed construction of the Parking Lot Improvements. COUNTY may inspect for approval any construction on the County Parcel as an owner and not as an inspection or oversight agency.
  4. COUNTY agrees to maintain the Parking Lot Improvements upon completion. CITY will maintain the Bus Route between the Library and Sheriff buildings.
  5. COUNTY agrees to pay the sum of \$30,000 toward the cost of the Parking Lot Improvements upon completion of construction and approval of work by County.
  6. COUNTY hereby provides a permit to enter and construct (PEC) the Bus Route over the County Parcel as set forth on the attached Exhibit "D". Furthermore, COUNTY hereby agrees and commits to grant a permanent road and access easement (Permanent Easement) in the form attached hereto as Exhibit "E" over the area upon which the Bus Route will be completed. The legal description for the Permanent Easement will be provided by the CITY and approved by the COUNTY upon completion of all improvements on the County Parcel and the Permanent Easement will then be recorded.
  7. CITY and COUNTY agree to cooperate in executing the license agreement with a term of fifty (50) years (the "License Agreement") ~~in the form attached hereto as Exhibit "F" providing for the COUNTY's use of portions of City Parcel as parking for the Library and Sheriff Station at an annual cost to COUNTY of \$1.00.~~ for a new parking area containing 15 spaces (12 standard, three motorcycle) as shown on Exhibit "F", and to also include wrought iron fence enclosure and a motorized gate for access from the bus route area. This parking area constructed by CITY on CITY-owned land for COUNTY use by the Sheriff station will be ~~leased~~ licensed to the COUNTY for \$1.00 per year for the term of the ~~lease~~ License Agreement. Additionally, COUNTY and CITY shall execute such other agreements as the Parties deem appropriate to accomplish the objectives of this Agreement.
  8. INDEMNIFICATION – CITY shall cause the contractor constructing the Parking Lot Improvements to indemnify and defend COUNTY, including its Board of Supervisors and employees, from all claims or suits for damages arising from the

prosecution of the contract work, to the same extent as CITY and its employees are indemnified.

9. INSURANCE – COUNTY recognizes that CITY may be self-insured and agrees to accept letters of self-insurance. Without in any way affecting the indemnity herein provided and in addition thereto, CITY shall cause any contractor performing services related to the Parking Lot Improvements for or on behalf of CITY to secure and maintain throughout the term of this Agreement the following types of insurance, with limits as shown:

- Workers' Compensation – A program of Workers' Compensation insurance or a state-approved Self-Insurance Program in an amount and format to meet all applicable requirements of the Labor Code of the State of California, including Employer's Liability with a limit no less than \$250,000, covering all persons providing services on behalf of the CITY, including all risks to such persons under this Agreement.
- Commercial/General Liability Insurance – General Liability Insurance covering all operations performed by or on behalf of the Contractor providing coverage for bodily injury and property damage with a combined single limit of not less than one million dollars (\$1,000,000), per occurrence. The policy coverage shall include:
  - (a) Premises operations and mobile equipment.
  - (b) Products and completed operations.
  - (c) Broad form property damage (including completed operations).
  - (d) Explosion, collapse and underground hazards.
  - (e) Personal injury
  - (f) Contractual liability.
  - (g) \$2,000,000 general aggregate limit.
- Automobile Liability Insurance – Primary insurance coverage shall be written on ISO Business Auto coverage form for all owned, hired and non-owned automobiles or symbol 1 (any auto). The policy shall have a combined single limit of not less than one million dollars (\$1,000,000) for bodily injury and property damage, per occurrence.

If the Contractor is transporting one or more non-employee passengers in performance of contract services, the automobile liability policy shall have a combined single limit of two million dollars (\$2,000,000) for bodily injury and property damage per occurrence.

If the Contractor owns no autos, a non-owned auto endorsement to the General Liability policy described above is acceptable.

- Umbrella Liability Insurance – An umbrella (over primary) or excess policy may be used to comply with limits or other primary coverage requirements. When used, the umbrella policy shall apply to bodily injury/property damage, personal injury/advertising injury and shall

include a "dropdown" provision providing primary coverage for any liability not covered by the primary policy. The coverage shall also apply to automobile liability.

10. CONSTRUCTION CONTRACTS

**In addition to the REQUIREMENTS SPECIFIC IN Section 9, CITY shall include the following additional requirements in all construction contracts for work performed on the County Parcel:**

- a. Construction contracts for projects over one million (\$1,000,000) and less than three million (\$3,000,000) require limits of not less than three million (\$3,000,000) in General Liability and Auto Liability coverage.

Construction contracts for projects over three million (\$3,000,000) and less than five million (\$5,000,000) require limits of not less than five million (\$5,000,000) in General Liability and Auto Liability coverage.

Construction contracts for projects over five million (\$5,000,000) require limits of not less than ten million (\$10,000,000) in General Liability and Auto Liability.

- b. Continuing Products/Completed Operations Liability Insurance with a limit of not less than five million (\$5,000,000) for each occurrence for at least three years following substantial completion of the work on projects over one million (\$1,000,000).
- c. Subcontractor Insurance Requirements. The Contractor agrees to require all parties or subcontractors, including architects or others it hires or contracts with related to the performance of this contract to provide insurance covering the contracted operations with the basic requirements for all contracts included herein (including waiver of subrogation rights) and naming the County as an additional insured. The Contractor agrees to monitor and review all such coverage and assumes all responsibility ensuring that such coverage is provided as required here.
- d. Course of Construction/Installation (Builder's Risk) property insurance providing all risk, including theft coverage for all property and materials to be used on the project. The insurance policy shall not have any coinsurance penalty.
- ADDITIONAL NAME INSURED - All policies, with the exception of the Workers' Compensation, Errors and Omissions and Professional Liability policies shall contain additional endorsements naming the COUNTY, including their officers, employees, agents and volunteers, as additional named insured's with respect to liabilities arising out of the performance of service hereunder.

- WAIVER OF SUBROGATION RIGHTS – All policies required above shall include a waiver of all rights of subrogation against the COUNTY and their officers, employees, agents and volunteers, contractors and subcontractors.
  - POLICY PRIMARY AND NON-CONTRIBUTORY – All policies required above are to be primary and non-contributory with any insurance of self-insurance programs carried or administered by the COUNTY.
  - PROOF OF COVERAGE – CITY shall furnish certificates of insurance from its Contractor to the COUNTY prior to award of contract evidencing the extent of various insurances, including endorsements, with the above demand in required fulfillment prior to the commencement of the performance of services hereunder. Which, certificates shall provide that such insurance shall not be terminated or expire without thirty (30) days written notice to the COUNTY. CITY shall cause its Contractor/Consultant to maintain such insurance from the time CITY commences performance of the services hereunder until completion of such services.
11. MAINTENANCE: COUNTY at its cost shall perform such inspections, maintenance and repairs as are necessary to ensure that all portions of the Parking Lot are at all times in good repair and safe condition.
  12. ALTERATIONS: COUNTY shall not make any structural improvements or alterations to the Parking Lot beyond those provided in Exhibits B and C without CITY's prior written consent.
  13. AMENDMENTS: No provisions of this Agreement may be amended or added to except by an agreement in writing signed by the parties hereto or their respective successor in interest, expressing by its terms an intention to modify this Agreement.
  14. SUCCESSORS: This Agreement shall inure to the benefit of and be binding upon the successors, and assigns of the parties hereto.
  15. SEVERABILITY: If any word, phrase, clause, sentence, paragraph, section, article, part or portion of this Agreement is or shall be invalid for any reason, the same shall be deemed severable from the remainder hereof and shall in no way affect or impair the validity of this Agreement or any other portion thereof.
  16. TIME OF ESSENCE: Time is of the essence of each provision of this Agreement ~~that~~ which specifies a time within which performance is to occur. In the absence of any specified time for performance, performance shall be made within a reasonable time.
  17. CONSENT: Whenever consent or approval of either Party is required that Party shall not unreasonably withhold, condition or delay such consent or approval.

18. EXHIBITS: All exhibits referred to are attached to this Agreement and incorporated by reference.
19. LAW: This Agreement shall be construed and interpreted in accordance with the laws of the State of California.
20. VENUE: The Parties acknowledge and agree that this Agreement was entered into and intended to be performed in San Bernardino County, California. The Parties agree that the venue for any action or claim brought by any party to this Agreement will be the Superior Court of California, County of San Bernardino, San Bernardino District. Each Party hereby waives any law, statute (including but not limited to Code of Civil Procedure section 394), or rule of court that would allow them to request or demand a change of venue. If any third party brings an action or claim concerning this Agreement, the parties hereto agree to use their best efforts to obtain a change of venue to the Superior Court of California, County of San Bernardino, San Bernardino District.
21. ATTORNEYS' FEES AND COSTS: If any legal action is instituted to enforce or declare any Party's rights hereunder, each Party, including the prevailing party, must bear its own costs and attorneys' fees. This paragraph shall not apply to those costs and attorneys' fees directly arising from any third party legal action against the COUNTY or the CITY, including such costs and attorneys' fees payable under Paragraph 8, INDEMNIFICATION.

**The CITY and COUNTY hereby agree to the full performance of the covenants and conditions contained herein.**

