



1           **WHEREAS**, the PARTICIPATING AGENCIES in their approved APPLICATION has elected to  
2 designate the AUTHORITY and the AUTHORITY agrees to act as the implementing agency to carry out  
3 PROJECT; and

4           **WHEREAS**, the PROJECT will include approximately fifty-five (55) traffic signalized  
5 intersections as identified in the APPLICATION; and

6           **WHEREAS**, the PROJECT will include Intelligent Transportation System (ITS) elements  
7 identified in the APPLICATION including certain hardware and software upgrades to intersection traffic  
8 controller units, traffic telematics and intertie systems, Advanced Transportation Management  
9 Systems (ATMS), and other associated systems (hereinafter collectively referred to as "ITS  
10 ELEMENTS"), will be constructed and/or installed and implemented as part of the PROJECT as  
11 identified in APPLICATION; and

12           **WHEREAS**, the AUTHORITY agrees to work with PARTICIPATING AGENCIES to coordinate  
13 the inclusion of other ITS elements (hereinafter OTHER ELEMENTS) that should be installed at the  
14 same time as the construction of the PROJECT and are not part of this Agreement; and

15           **WHEREAS**, all costs associated with the inclusion of these OTHER ELEMENTS are the sole  
16 responsibility of the AGENCY owning each and any of those OTHER ELEMENTS during the course  
17 of the project; and

18           **WHEREAS**, based on APPLICATION, the AUTHORITY agrees to implement the PROJECT; and

19           **WHEREAS**, the PARTICIPATING AGENCIES per the M2 Ordinance, agree to provide  
20 PROJECT funding in a combined cash and in-kind services match of Five Hundred Eighty Seven  
21 Thousand Eleven Dollars (\$587,011.00), as shown in Attachment A, or equivalent to twenty percent  
22 (20%) of PROJECT cost; and

23           **WHEREAS**, the AUTHORITY and the PARTICIPATING AGENCIES desire to enter into this  
24 Agreement to implement the PROJECT in support of Project P; and

25 /

26 /

1           **WHEREAS**, this Agreement defines the specific terms, conditions, and funding responsibilities  
2 between the AUTHORITY and the PARTICIPATING AGENCIES for the implementation of the  
3 PROJECT; and

4           **WHEREAS**, the Orange County Transportation Authority Board of Directors approved funding for  
5 the PROJECT and authorized the Chief Executive Officer to negotiate and execute this cooperative  
6 agreement on April 27, 2015; and

7           **WHEREAS**, the City of Orange's City Council approved this Agreement on the \_\_\_\_ day of  
8 \_\_\_\_\_, 20\_\_\_\_.

9           **WHEREAS**, the City of Garden Grove's City Council approved this Agreement on the \_\_\_\_ day  
10 of \_\_\_\_\_, 20\_\_\_\_.

11           **WHEREAS**, the County of Orange Board of Supervisors approved this Agreement on the \_\_\_\_  
12 day of \_\_\_\_\_, 20\_\_\_\_.

13           **NOW, THEREFORE**, it is mutually understood and agreed by AUTHORITY and the  
14 PARTICIPATING AGENCIES as follows:

15           **ARTICLE 1. COMPLETE AGREEMENT**

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

22           B. AUTHORITY's failure to insist on any instance(s) of PARTICIPATING AGENCIES'  
23 performance of any term(s) or condition(s) of this Agreement shall not be construed as a waiver or  
24 relinquishment of AUTHORITY's right to such performance or to future performance of such term(s) or  
25 condition(s), and PARTICIPATING AGENCIES' obligation in respect thereto shall continue in full force  
26 and effect. Changes to any portion of this Agreement shall not be binding upon AUTHORITY except

1 when specifically confirmed in writing by an authorized representative of AUTHORITY by way of a written  
2 amendment to this Agreement and issued in accordance with the provisions of this Agreement.

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

11 **ARTICLE 2. SCOPE OF AGREEMENT**

12 This Agreement specifies the roles and responsibilities of the Parties as they pertain to the  
13 subjects and projects addressed herein. Both AUTHORITY and PARTICIPATING AGENCIES agree  
14 that each will cooperate and coordinate with the other in all activities covered by this Agreement and any  
15 other supplemental agreements that may be required to facilitate purposes thereof.

16 **ARTICLE 3. RESPONSIBILITIES OF AUTHORITY**

17 AUTHORITY agrees to the following responsibilities for funding of the PROJECT:

18 A. AUTHORITY shall implement the PROJECT based on the intent of the usage in the  
19 APPLICATION prepared by the APPLICANT AGENCY in accordance with the policies and procedures  
20 contained in the Comprehensive Transportation Funding Program (CTFP) guidelines.

21 B. AUTHORITY shall provide oversight in order to maintain inter-jurisdictional traffic signal  
22 operational integrity between PROJECT and other similar type projects not older than three (3) years.

23 C. AUTHORITY will act as the LEAD AGENCY and provide and file all documentation  
24 necessary to comply with California Environmental Quality Act (CEQA) regulations for PROJECT.

25 D. AUTHORITY shall perform web-based public outreach activities for the PROJECT to  
26 communicate major project milestones and results.

1 E. AUTHORITY shall provide formats, templates, and guidance in reporting requirements as  
2 described in the CTFP.

3 F. AUTHORITY, or agents of AUTHORITY, under this Agreement and upon closeout of  
4 PROJECT, may perform a technical and/or field review to ensure that the CTFP guidelines, policies, and  
5 procedures were followed. Such a review may be performed one hundred and eighty (180) days after the  
6 PROJECT three-year grant period is complete. If the technical and or field review determines that any of  
7 the activities performed are ineligible for CTFP funding, PARTICIPATING AGENCIES must reimburse  
8 and return the amount of funding used to perform the ineligible activity to AUTHORITY.

9 G. AUTHORITY shall invoice the PARTICIPATING AGENCIES as identified in  
10 APPLICATION and Attachment A for the dollar cash match at the start of the PROJECT or at a mutually  
11 agreed upon time to facilitate any respective AGENCY funding timeframes.

12 H. AUTHORITY shall request updates on the PROJECT as part of semi-annual review  
13 process, including documentation of in-kind match conforming to Attachment A and will include the  
14 PROJECT in the list of active projects in OCfundTracker until completion of the three-year grant period.  
15 Documents to be provided include, but are not limited to, payroll records, contracts, and purchase orders.

16 **ARTICLE 4. RESPONSIBILITIES OF THE AUTHORITY AS PROJECT LEAD AGENCY**

17 The AUTHORITY as the LEAD AGENCY agrees to the following responsibilities for the  
18 implementation of the PROJECT:

19 A. AUTHORITY shall act as the LEAD AGENCY for the work necessary to manage, procure,  
20 and complete the PROJECT as identified in APPLICATION.

21 B. To coordinate outreach with PARTICIPATING AGENCIES for PROJECT.

22 C. To collect all data necessary to provide new optimized timing plans including, but not  
23 limited to, manual intersection all movement counts, and twenty four (24) hour/ seven (7) day automated  
24 machine traffic counts with vehicle classification.

25 D. To develop and implement new timing plans optimized for signal synchronization.

26 /

1 E. To provide updated timing plans for all control systems and all relevant data used to  
2 develop said plans to PARTICIPATING AGENCIES.

3 F. To prepare a "Before and After Study" for PROJECT as described in the Measure M2  
4 Eligibility Guidelines adopted by the AUTHORITY. The "Before and After Study" for the project is  
5 considered the equivalent of the required Project Final Report (Measure M2 Ordinance No. 3, Section  
6 B.III.9) for PROJECT. The AUTHORITY shall provide the "Before and After Study" to the  
7 PARTICIPATING AGENCIES in draft and final formats for review and comment. AGENCY comments  
8 shall be noted in the final study. If specified in APPLICATION, AUTHORITY shall provide a "Before and  
9 After Study" video of a representative portion of PROJECT at up to two (2) public meetings.

10 **ARTICLE 5. RESPONSIBILITIES OF THE PARTICIPATING AGENCIES**

11 PARTICIPATING AGENCIES agree to the following responsibilities for implementation and  
12 funding of PROJECT:

13 A. Provide a technical representative to meet and participate as a member of the  
14 PROJECT's Traffic Forum.

15 B. To authorize the AUTHORITY to manage, procure, and implement all aspects of  
16 PROJECT.

17 C. To participate and support PROJECT implementation within the timeframe outlined in  
18 APPLICATION and consistent with the CTFP guidelines adopted by AUTHORITY.

19 D. To provide AUTHORITY all current intersection, local field master, and/or ATMS timing  
20 plans and related data upon request.

21 E. To provide the local cash match and/or documentation for the in-kind services match  
22 for PROJECT in accordance with Attachment A. Failure to provide included local cash match and or  
23 evidence of in-kind services match may result in the loss of future participation for competitive funding  
24 opportunities.

25 /

26 /

1 F. PARTICIPATING AGENCIES that have included a dollar match as identified in  
2 Attachment A shall provide payment for the dollar match to AUTHORITY within thirty (30) calendar  
3 days of receipt of an invoice.

4 G. PARTICIPATING AGENCIES that have included an in-kind services match as identified  
5 in Attachment A shall provide documentation of conformance as part of the semi-annual review process.

6 H. To waive all fees associated with any local agency permits that may be required of the  
7 consultant, subconsultants, and/or service or equipment providers in the performance of the PROJECT.

8 I. PARTICIPATING AGENCIES shall provide updates on PROJECT to AUTHORITY as  
9 part of semi-annual review process until completion of the three-year PROJECT grant period. Documents  
10 to be provided include, but are not limited to, payroll records, contracts, and purchase orders.

11 J. PARTICIPATING AGENCIES shall, if specified in APPLICATION, continue ongoing  
12 monitoring and maintenance after the three-year grant period is complete and continue until the end of  
13 the PROJECT per additional maintenance of effort in APPLICATION.

14 **ARTICLE 6. DELEGATED AUTHORITY**

15 The actions required to be taken by PARTICIPATING AGENCIES in the implementation of this  
16 Agreement are delegated to it's respective City Manager, or designee, and the actions required to be  
17 taken by AUTHORITY in the implementation of this Agreement are delegated to AUTHORITY's Chief  
18 Executive Officer or designee.

19 **ARTICLE 7. AUDIT AND INSPECTION**

20 AUTHORITY and PARTICIPATING AGENCIES shall maintain a complete set of records in  
21 accordance with generally accepted accounting principles. Upon reasonable notice, PARTICIPATING  
22 AGENCIES shall permit the authorized representatives of AUTHORITY to inspect and audit all work,  
23 materials, payroll, books, accounts, and other data and records of PARTICIPATING AGENCIES for a  
24 period of five(5) years after final payment, or until any on-going audit is completed. For purposes of audit,

25 /

26 /

1 the date of completion of this Agreement shall be the date of AUTHORITY's payment of OCTA  
2 Consultant's final billing (so noted on the invoice) under this Agreement. AUTHORITY shall have the  
3 right to reproduce any such books, records, and accounts. The above provision with respect to audits  
4 shall extend to and/or be included in contracts with PARTICIPATING AGENCIES' contractor.

5 **ARTICLE 8. INDEMNIFICATION**

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

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

26 /



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

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

5 **ARTICLE 9. ADDITIONAL PROVISIONS**

6 A. Term of Agreement: This Agreement shall be in full force and effect through \_\_\_\_\_  
7 20 \_\_\_\_.

8 B. Amendment: This Agreement may be extended or amended in writing at any time by the  
9 mutual consent of all Parties and AUTHORITY. No amendment shall have any force or effect unless  
10 executed in writing by all Parties and AUTHORITY.

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

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

18 E. AUTHORITY and PARTICIPATING AGENCIES shall comply with all applicable federal,  
19 state, and local laws, statues, ordinances and regulations of any governmental authority having  
20 jurisdiction over the PROJECT.

21 F. Legal Authority: AUTHORITY and PARTICIPATING AGENCIES hereto consent that they  
22 are authorized to execute this Agreement on behalf of said Parties and that, by so executing this  
23 Agreement, the Parties hereto are formally bound to the provisions of this Agreement.

24 G. Severability: If any term, provision, covenant or condition of this Agreement is held to be  
25 invalid, void or otherwise unenforceable, to any extent, by any court of competent jurisdiction, the  
26 /

1 remainder of this Agreement shall not be affected thereby, and each term, provision, covenant or  
2 condition of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

3 H. Counterparts of Agreement: This Agreement may be executed and delivered in any  
4 number of counterparts, each of which, when executed and delivered shall be deemed an original and all  
5 of which together shall constitute the same agreement. Facsimile signatures shall be permitted.

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

13 J. Assignment: Neither this Agreement, nor any of the Parties' rights, obligations, duties, or  
14 authority hereunder may be assigned in whole or in part by either Party without the prior written consent  
15 of the other Party in its sole and absolute discretion. Any such attempt of assignment shall be deemed  
16 void and of no force and effect. Consent to one assignment shall be deemed consent to any subsequent  
17 assignment, nor the waiver of any right to consent to such subsequent assignment.

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

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

22 /  
23 /  
24 /  
25 /  
26 /

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

To ORANGE:	To AUTHORITY:
City of Orange	Orange County Transportation Authority
300 E. Chapman Avenue Orange, CA 92866	550 South Main Street P. O. Box 14184 Orange, CA 92863-1584
Attention: Jacki Scott City Traffic Engineer Tel: (714) 744-5536 Email: <a href="mailto:jscott@cityoforange.org">jscott@cityoforange.org</a>	Attention: Venita Anderson Senior Contract Administrator Tel: (714) 560-5427 E-mail: <a href="mailto:vanderson@octa.net">vanderson@octa.net</a>

To GARDEN GROVE:	To COUNTY OF ORANGE:
City of Garden Grove	County of Orange
11222 Acacia Parkway Garden Grove, CA 92842	300 N. Flower Street Santa Ana, CA 92703-5000
Attention: Tony Aquino Traffic Engineer Tel: (714) 741-5193 Email: <a href="mailto:tony1@ci.garden-grove.ca.us">tony1@ci.garden-grove.ca.us</a>	Attention: Isaac Alonso Rice Traffic Engineer Tel: (714) 245-4569 Email: <a href="mailto:isaac.alonsorice@ocpw.ocgov.com">isaac.alonsorice@ocpw.ocgov.com</a>

23 /  
24 /  
25 /  
26 /

This Agreement shall be made effective upon execution by all Parties.

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement No. C-5-3587 to be executed on the date first written above.

**CITY OF ORANGE**

**ORANGE COUNTY TRANSPORTATION AUTHORITY**

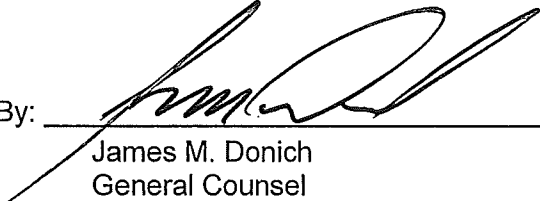
By: \_\_\_\_\_  
Teresa Smith  
Mayor

By: \_\_\_\_\_  
Darrell Johnson  
Chief Executive Officer

**ATTEST:**

**APPROVED AS TO FORM:**

By: \_\_\_\_\_  
Mary E. Murphy  
City Clerk

By:  \_\_\_\_\_  
James M. Donich  
General Counsel

**APPROVED AS TO FORM:**

**APPROVAL RECOMMENDED:**

By: \_\_\_\_\_  
Wayne Winthers  
City Attorney

By: \_\_\_\_\_  
Kia Mortazavi  
Executive Director, Planning

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

24  
25  
26  
UB  
UA

1 This Agreement shall be made effective upon execution by all Parties.

2 **IN WITNESS WHEREOF**, the parties hereto have caused this Agreement No. C-5-3587 to be  
3 executed on the date first written above.

4 **CITY OF GARDEN GROVE**

5 By: \_\_\_\_\_  
6 Scott C. Stiles  
7 City Manager

8 **ATTEST:**

9  
10 By: \_\_\_\_\_  
11 Kathleen Bailor  
12 City Clerk

13 **APPROVED AS TO FORM**

14  
15 By: Omar Sandoval  
16 Omar Sandoval  
17 City Attorney

18  
19 Dated: 2-12-16

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

1 This Agreement shall be made effective upon execution by all Parties.

2 **IN WITNESS WHEREOF**, the parties hereto have caused this Agreement No. C-5-3587 to be  
3 executed on the date first written above.

4 **COUNTY OF ORANGE**

5 By: \_\_\_\_\_  
6 Todd Spitzer  
7 Board of Supervisors

8 **ATTEST:**

9  
10 By: \_\_\_\_\_  
11 Robin Stieler  
12 Clerk of the Board

13 **APPROVED AS TO FORM**

14  
15 By: \_\_\_\_\_  
16 Nicholas S. Chrisos  
17 County Counsel

18  
19 Dated: \_\_\_\_\_  
20  
21  
22  
23  
24  
25  
26

**DETAILED LOCAL MATCH COMMITMENT**

**SECTION 1: AGENCY TOTAL MATCH SUMMARY**

AGENCY	CASH	IN-KIND	TOTAL MATCH
City of Orange	\$ 210,172.00	\$ 12,620.00	\$ 222,792.00
City of Garden Grove	\$ 316,773.00	\$ 11,400.00	\$ 328,173.00
County of Orange	\$ 36,046.00	\$ 0.00	\$ 36,046.00
	<b>\$562,991.00</b>	<b>\$24,020.00</b>	<b>\$587,011.00</b>

**SECTION 2: MATCH BREAKDOWN (CASH VS IN-KIND SERVICES)**

**A. Cash Match**

AGENCY	FUNDING SOURCE	AMOUNT OF CASH CONTRIBUTION
City of Orange	M2 Fairshare	\$ 210,172.00
City of Garden Grove	M2 Fairshare	\$ 316,773.00
County of Orange	ROADS Funds	\$ 36,046.00
<b>TOTAL</b>		<b>\$562,991.00</b>

**B. In-Kind Services**

*i. Specific Improvements (List items and Cost):*

Agency	Improvement	Date of Construction	Expenditure
N/A			\$
			\$
<b>TOTAL</b>			

COOPERATIVE AGREEMENT NO. C-5-3587  
 CHAPMAN AVENUE - RTSSP  
 ATTACHMENT A

ii. Staffing Commitment:

AGENCY	STAFF POSITION	TYPE OF SERVICE TO PROJECT	NO. OF HOURS	FULLY BURDENED HOURLY RATE	TOTAL*
City of Orange	City Traffic Engineer	Project Support / Implementation	30	\$121	\$3,630
City of Orange	Operation Engineer	Project Support / Implementation	50	\$79	\$3,950
City of Orange	TMC Technician	Project Support / Implementation	70	\$70	\$5,040
<b>Total for <u>City of Orange</u>:</b>					<b>\$ 12,620.00</b>
City of Garden Grove	Associate Engineer	Project Support / Implementation	40	\$95	\$3,800
City of Garden Grove	Sr. Traffic Signal Engineer	Project Support / Implementation	40	\$75	\$3,000
City of Garden Grove	Construction Inspector	Project Support / Implementation	40	\$115	\$4,600
<b>Total for <u>City of Garden Grove</u>:</b>					<b>\$ 11,400.00</b>
<b>TOTAL IN-KIND MATCH*:</b>					<b>\$ 24,020.00</b>

*\*Total amount is the required participation by the identified agency. The number of hours and hourly rate will be based on each agency's actual fully burdened billing rates, which must collectively equal the same value of the assigned "Total" dollars. Each agency will be responsible for keeping detailed records of hours worked and description of work. An accounting record of personnel, hours at fully burdened rate is expected to be included with the final submittal. Records will be subject to auditing.*