

**MEMORANDUM OF AGREEMENT (MOA) BETWEEN CITY OF ORANGE AND
THE MABURY RANCH HOMEOWNER'S ASSOCIATION
[Tree Maintenance]**

This Memorandum of Agreement (hereinafter referred to as "MOA") is entered into on this _____ day of _____, 2025 ("Effective Date"), by and between the City of Orange, a California municipal corporation ("City"), and The Mabury Ranch Homeowners Association ("MRHOA"), a homeowners association organized and existing under the laws of California.

WHEREAS, the City and MRHOA recognize the importance of maintaining trees within the Mabury Ranch community for the safety, aesthetic, and environmental benefits it provides;

WHEREAS, the City has in place Ordinance No. 03-18, regarding tree preservation, as well as the Department of Public Works Standard Specifications for Planting, Removal and Maintenance of Street Trees and Shrubs, Orange Municipal Code 12.28.030 ("DPW Tree Specifications");

WHEREAS, the City has the necessary resources and expertise for the maintenance, including pruning, removal, tree stump removal and replanting, of trees within the MRHOA community;

WHEREAS, the City now accepts responsibility for the tree maintenance of the trees identified in Exhibit A, following the DPW Tree Specifications; and

WHEREAS, this MOA constitutes the entire understanding of the Parties and no representation or agreements, oral or written, made prior to the execution hereof shall vary or modify the terms herein;

NOW, THEREFORE, the City and MRHOA hereby agree as follows:

1. Tree Maintenance Responsibility:

a. The City shall be responsible for the maintenance, including pruning, removal, tree stump removal and replanting, of trees located within the MRHOA community, which trees are identified in the attached Exhibit A, hereby incorporated to this MOA as though fully set forth again herein. The parties agree that Exhibit "A" serves as a reference for the scope of tree maintenance responsibilities outlined in this MOA and this map supersedes any prior maps or agreements, whether written or oral.

b. Tree maintenance or removal shall be performed under the direction of the City, and in compliance with the DPW Tree Specifications.

c. Upon prior written notice by the City of no less than forty eight (48) hours of maintenance work to be performed, the MRHOA shall use its best efforts to obtain cooperation by its members to permit access to City personnel for the purpose of tree maintenance as required.

d. MHROA shall promptly communicate if concerns about tree safety arise so the City can quickly assess potential risks.

e. City's Field Services Manager ("City's Project Manager") shall be the person to whom MRHOA will report concerns to.

2. Liability:

a. The City shall not be held liable for any damages or liabilities arising from the trees that MRHOA is responsible for maintaining which are not designated on Exhibit A. However, the City shall remain liable and responsible for all trees for which they have maintenance responsibility.

b. In the event of a claim or liability arising from a City tree as identified in Exhibit A and incorporated by reference herein, MRHOA shall:

- i. Notify the City within 60 days of becoming aware of such claim or liability.
- ii. Provide the City with all relevant information and documentation related to the claim or liability, including but not limited to photographs, incident reports, and witness statements.
- iii. Cooperate fully with the City in the investigation and resolution of the claim or liability.

c. MRHOA acknowledges and agrees that it shall maintain adequate liability insurance coverage.

3. Indemnification:

For the first two (2) years from the date of this MOA, MRHOA will include the City, as an Additional Insured and provide Endorsements specifically naming the City on its commercial general insurance for the liability and defense of suits or claims arising out of the maintenance of the trees, as identified in Exhibit A and incorporated by reference herein. MRHOA shall provide the City evidence of insurance including all policies, endorsements and certificates.

Thereafter, the City shall be responsible for the liability and defense of suits arising out of and associated with the maintenance of the trees, as identified in Exhibit A and incorporated by reference herein.

4. Duration:

This MOA shall be effective as of the Effective Date and shall remain in force until both parties provide mutual written notice of termination, with a minimum of 30 days.

5. Cost Sharing:

MRHOA acknowledges and agrees that it shall reimburse the City not to exceed \$16,000.00 (SIXTEEN THOUSAND DOLLARS and NO CENTS) for the cost of the initial pruning the trees, as identified in Exhibit A and incorporated by reference herein.

The City acknowledges and agrees that it will be responsible for the costs of the removal and/or maintenance of the trees, as identified in Exhibit A and incorporated herein.

MRHOA has an interest in the replanting of trees as stated in the Recitals above. MRHOA is willing to participate in the replanting of City approved trees, in City selected areas, on Cannon, Serrano Avenue, Mt. McKinley, Yellowstone Blvd., and Orange Park Blvd. (that are immediately adjacent to the Mabury development), and MRHOA will reimburse the City up to and not to exceed \$5,000.00 in 2025, and MRHOA will reimburse the City up to and not to exceed an additional \$5,000.00 in 2026 for such replanting. Any trees planted shall remain the maintenance obligation of the City.

This MOA does not alter the City's obligations and maintenance responsibilities pursuant to the Orange Municipal Code or any other applicable code or ordinance concerning tree maintenance and preservation in the City of Orange.

6. Waiver of future dedication:

In addition to the cost sharing as described above, MRHOA also waives its right to seek the dedication, of any and all other MRHOA property, including at least two known greenbelt parcels, as well as any currently unknown but later discovered parcels. These may include parcels that were arguably contemplated to be dedicated from MRHOA to the City in the original approvals. This waiver includes any future requests from MRHOA for the City to provide maintenance responsibilities for these parcels.

7. Amendments:

This MOA may only be amended in writing executed by both parties.

8. Superseding Clause:

This MOA supersedes any prior agreements, understandings, or representations, ordinances, council meeting agendas, developer correspondence, whether written or oral, between the City and MRHOA relating to tree maintenance and liability within the Mabury Ranch community.

9. Governing Law and Venue:

This Agreement shall be construed in accordance with and governed by the laws of the State of California and parties agree to submit to the jurisdiction of California courts. Venue for any dispute arising under this Agreement shall be in Orange County, California.

10. Integration:

This Agreement constitutes the entire agreement of the parties. No other agreement, oral or written, pertaining to the work to be performed under this Agreement shall be of any force or effect unless it is in writing and signed by both parties. Any work performed which is inconsistent with or in violation of the provisions of this Agreement shall not be compensated.

11. Notice:

Except as otherwise provided herein, all notices required under this Agreement shall be in writing and delivered personally, by e-mail, or by first class mail, postage prepaid, to each party at the address listed below. Either party may change the notice address by notifying the other party in writing. Notices shall be deemed received upon receipt of same or within 3 days of deposit in the

U.S. Mail, whichever is earlier. Notices sent by e-mail shall be deemed received on the date of the e-mail transmission.

"THE MABURY RANCH
HOMEOWNER'S ASSOCIATION"

"CITY"

Nathan Swanek, President
c/o Morgan Bomboy,
Tritz Professional Management
1525 E. 17th St, Suite "A"
Santa Ana CA, 92705
Email: morgan@tpms.net
Telephone No.: 714-557-5900

City of Orange
300 E. Chapman Avenue
Orange, CA 92866
Attn: Field Services Manager

Email: pwinfo@cityoforange.org
Telephone No.: 714-532-6480

With a copy to:

Brian D. Moreno, Esq.
BRIAN D. MORENO LAW CORPORATION APC
1100 Town and Country Road, Suite 1250
Orange, CA 92868
bdm@moreno.law

12. Counterparts

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Signatures transmitted via facsimile and electronic mail shall have the same effect as original signatures. The signature of Nathan Swanek on behalf of The Mabury Ranch Homeowners Association shall only be valid until and through June 1, 2025, unless this MOA has been fully executed by both Parties, after which Mr. Swanek's signature (and the Association's offer) shall be automatically withdrawn and of no effect.

[Remainder of page intentionally left blank; signatures on next page]

IN WITNESS of this Agreement, the parties have entered into this MOA as of the year and day first above written.

**“MABURY RANCH
HOMEOWNERS ASSOCIATION”**

“CITY”

CITY OF ORANGE, a municipal corporation

*By: _____
Nathan Swanek, President

By: _____
Daniel R. Slater, Mayor

ATTEST:

Pamela Coleman, City Clerk

APPROVED AS TO FORM:

Nathalie Adourian,
Senior Assistant City Attorney

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CITY OF ORANGE, a municipal corporation

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APPROVED AS TO FORM:

Nathalie Adourian,
Senior Assistant City Attorney

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EXHIBIT “A”

**SCOPE OF SERVICES AND MAP OF CITY
MAINTAINED TREES**

[Beneath this sheet.]

MABURY RANCH

TREE MAINTENANCE AGREEMENT

(ALL NOTED TREES ARE WITHIN THE PUBLIC RIGHT-OF-WAY)



Serrano Avenue Between Curb and Block Wall

- Canary Island Pines
- Eucalyptus
- Crape Myrtle

Mt. McKinley Boulevard

- Elms – Median Tree
- Eucalyptus – Both Sides Along The Block Walls

Cannon Street Between Curb and Block Wall

- Canary Island Pines
- Eucalyptus

Taft Extension

- Eucalyptus – North Side Along The Block Wall
- Acacia
- Eucalyptus
- Sycamore
- Xylosma

Yellowstone Boulevard

- Elms – Median Tree
- Liquid Amber – Median Tree
- Eucalyptus – Both Sides Along The Block Walls

Orange Park Boulevard

- Bradford Pears – Median Tree
- Liquid Amber – Median Tree
- Eucalyptus – Both Sides Along The Block Walls

March 21, 2025