

**MASTER REIMBURSEMENT AGREEMENT
BETWEEN
CITY OF XXX
AND
ORANGE COUNTY SANITATION DISTRICT**

This cooperative cost reimbursement agreement ("Agreement") is made and entered into as of _____ ("Effective Date"), by and between the City of XXX (a municipal corporation organized and operating under the laws of the State of California with its principal place of business at XXXX) ("City") and Orange County Sanitation District (a municipal corporation organized and operating under the laws of the State of California with its principal place of business at 18480 Bandilier Circle, Fountain Valley, California 92708) ("OC San"). City and OC San are hereinafter sometimes referred to individually as "Party" and collectively as the "Parties".

RECITALS

WHEREAS, City initiates any particular street rehabilitation project ("Project") to improve pavement conditions City-wide; and

WHEREAS, City's Projects routinely involve the adjustment of OC San's manhole frames and covers ("Manhole Adjustments") that are within the Project's area; and

WHEREAS, City has agreed to perform the Manhole Adjustments as part of its Project and seek reimbursement from OC San for the costs associated with the Manhole Adjustments ("Manhole Adjustment Costs"); and

WHEREAS, OC San has agreed to reimburse City for the Manhole Adjustment Costs; and

WHEREAS, the Parties desire to enter into this Agreement to establish the general terms for OC San to reimburse the City for the Manhole Adjustment Costs.

NOW, THEREFORE, the Parties agree as follows:

AGREEMENT

1. Incorporation of Recitals. The recitals above are true and correct, and are hereby incorporated herein by this reference.

2. Scope of Agreement. This Agreement applies to any City Project that involves Manhole Adjustments. For each Project where Manhole Adjustments are required, the City will include the Adjustment Work in its Project scope.

3. Term. This Agreement shall commence on the Effective Date and continue for a term of ten (10) years from the Effective Date, unless terminated earlier in accordance with Section 16, below.

4. Reimbursement. OC San's obligation to reimburse City includes the actual total costs for construction of the Adjustment Work for each Project, plus an Administrative Fee of up to fifteen percent (15%) of the total costs of the Adjustment Work for each Project. The "Administrative Fee" is intended to cover the City's internal costs related to administration of the Adjustment Work.

a. For each Project, the anticipated costs shall be presented to OC San in the form of a Work Order, which will include all relevant scope and costs. The parties shall execute each Work Order prior to, or concurrent with, the City's Project activities.

b. Work Orders may be executed by the City's Executive Director of Public Works, or their designee, pursuant to the requirements of this Master Agreement. Such Supplemental Agreements may be made in the form of letter agreements or instruments as agreed between the Parties.

c. In any event, failure of the Parties to execute a Work Order shall not relieve OC San from obligation to pay for Manhole Adjustment Costs which are necessarily incurred as a result of City Projects, subject to City responsibilities outlined below.

5. Timing of Reimbursement. For completion of the Project, City shall submit an invoice to OC San setting forth the cost for the Adjustment Work and the amount of the Administrative Fee. Invoices shall be accompanied by a copy of appropriate documentation to substantiate the amounts included in the invoice. OC San shall provide reimbursement funds to City within thirty (30) calendar days of receipt of all required invoices and supporting documentation.

6. City Responsibilities. For each applicable Project, the City shall:

a. Be responsible for compliance with the California Environmental Quality Act and all other permitting requirements.

b. Where applicable, advertise for bids, hire a contractor, approve the work, and administer the contract for City's Project which includes the Manhole Adjustment work.

c. Include a separate line item in its bid documents for the Manhole Adjustment work. This line item will be identified and labelled as "Adjust OC San Manholes per OC San Standard Drawings S-050A, S-055 and S-055A" or similar designation.

d. Allow OC San a period of two (2) weeks to review the proposed bid unit prices for Manhole Adjustment work. OC San reserves the right to decide, based on this review, whether to proceed with the reimbursement process or to make other arrangements to complete the Manhole Adjustment work.

e. Provide written notification to OC San at least thirty (30) days prior to the commencement of any Project that will involve the Manhole Adjustment work.

f. Include detailed information in the Project plans and specification indicating the location and the requirements for the Manhole Adjustments. The Project plans and specification shall also reference OC San's standard drawings S-050A, S-055 and S-055A, or versions of the standards as published by OC San at the time of the construction, for the Adjustment Work. The current version of such standards are attached hereto as **Exhibit A**.

g. Provide OC San staff with contractor schedules and updates within five (5) days of acceptance by City staff.

h. Invite OC San staff to construction progress meetings.

i. Notify OC San seventy-two (72) business hours prior to the need for an inspection.

j. Ensure the City's construction contractor coordinates with OC San to retrieve the manhole frames and covers for the Manhole Adjustment work (provided by OC San) from the OC San Treatment Plant No. 1 in Fountain Valley.

k. Coordinate with OC San to ensure proper timing for OC San's inspectors to be present during the Manhole Adjustment process.

l. Obtain written approval from OC San for any change orders for Manhole Adjustment work prior to implementation.

m. Document and inform OC San of the date of the completion of the Manhole Adjustment Work. City will verify with OC San prior to issuance of progress payment to City's construction contractor that Manhole Adjustment work was completed per the standards.

7. OC San Responsibilities. For each applicable Project, OC San shall:

a. Provide, at OC San's expense, new frames and covers to replace the existing frames and covers.

b. Provide, at OC San's expense, inspection services to ensure compliance with the standards. OC San will promptly notify City if any portion of the Manhole Adjustment work appears not to conform to the standards and will work with the City to resolve all discrepancies.

c. Respond to City's request for an inspection within two (2) business days, excluding federal and local holidays. OC San will be responsible for the City's construction contractor's downtime due to failure to comply with this provision.

8. Indemnification. Each Party shall indemnify, defend, and hold the other Party (its officials, officers, employees, agents, consultants, and contractors) free and harmless from any and all claims (demands, causes of action, costs, expenses, liabilities, losses, damages or injuries in law or in equity to property or persons including wrongful death) in any manner arising out of or incident to any negligent acts or omissions or willful misconduct of the indemnifying Party (its officials, officers, employees, agents, consultants, or contractors) in the performance of the indemnifying Party's obligations under this Agreement (including the payment of all reasonable attorneys' fees).

9. Notice. Any notice or instrument required to be given or delivered by this Agreement may be given or delivered by depositing the same in any United States Post Office, certified mail, return receipt requested, postage prepaid, addressed to the following addresses and shall be effective upon receipt thereof:

CITY:

TBD

OC SAN:

Orange County Sanitation District
18480 Bandilier Circle
Fountain Valley, CA 92708
Attn: Clerk of the Board

10. Force Majeure. Neither Party will be liable for any delays or other non-performance resulting from circumstances or causes beyond its reasonable control (including without limitation fire or other casualty, act of God, strike or labor dispute, war or other violence, acts of third parties, or any law, order, or requirement of any governmental agency or authority other than the Parties).

11. Laws and Venue. This Agreement shall be interpreted in accordance with the laws of the State of California. If any action is brought to interpret or enforce any term of this Agreement, the action shall be brought in a state or Federal court situated in the County of Orange, State of California.

12. Entire Agreement. This Agreement represents the entire understanding of the Parties as to those matters contained herein; and supersedes and cancels any prior or contemporaneous oral or written understanding, promises, or representations with respect to those matters covered hereunder. Each Party acknowledges that no representations, inducements, promises, or agreements have been made by any person which are not incorporated herein; and that any other agreements shall be void. This is an integrated Agreement.

13. Severability. If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid, illegal, or unenforceable for any reason, such determination shall not affect the validity or enforceability of the remaining terms and provisions hereof or of the offending provision in any other circumstance; and the remaining provisions of this Agreement shall remain in full force and effect.

14. Successors and Assigns. This Agreement shall be binding upon and shall inure to the benefit of the successors in interest, executors, administrators, and assigns of each Party to this Agreement.

15. Non-Waiver. The delay or failure of either Party at any time to require performance or compliance by the other Party of any of its obligations or agreements shall in no way be deemed a waiver of those rights to require such performance or compliance. No waiver of any provision of this Agreement shall be effective unless in writing and signed by a duly authorized representative of the Party against whom enforcement of a waiver is sought. The waiver of any right or remedy with respect to any occurrence or event shall not be deemed a waiver of any right or remedy with respect to any other occurrence or event, nor shall any waiver constitute a continuing waiver.

16. Termination. This Agreement may be terminated by the Parties upon thirty (30) days written notice of termination. In such event, City shall be entitled to receive reimbursement for any and all outstanding Manhole Adjustment Costs incurred prior to termination.

17. Time of Essence. Time is of the essence for each and every provision of this Agreement.

18. Headings. Paragraphs and subparagraph headings contained in this Agreement are included solely for convenience and are not intended to modify, explain, or to be a full or accurate description of the content thereof; and shall not in any way affect the meaning or interpretation of this Agreement.

19. Amendments. Only a writing executed by all of the Parties hereto or their respective successors and assigns may amend this Agreement.

20. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original. All counterparts shall be construed together and shall constitute one single Agreement.

21. Authority. The persons executing this Agreement on behalf of the Parties hereto warrant that they are duly authorized to execute this Agreement on behalf of said Parties and that by doing so, the Parties hereto are formally bound to the provisions of this Agreement.

22. Electronic Signature. Each Party acknowledges and agrees that this Agreement may be executed by electronic or digital signature, which shall be considered as an original signature for all purposes and shall have the same force and effect as an original signature.

**SIGNATURE PAGE FOR
MASTER REIMBURSEMENT AGREEMENT
BETWEEN
CITY OF XXX
AND
ORANGE COUNTY SANITATION DISTRICT**

IN WITNESS WHEREOF, the Parties are signing this Agreement as of the Effective Date.

**ORANGE COUNTY SANITATION
DISTRICT**

Date: _____

By: _____
Robert C. Thompson
General Manager

ATTEST

Date: _____

By: _____
Kelly A. Lore, MMC
Clerk of the Board

APPROVED AS TO FORM:

Date: _____

By: _____
Scott C. Smith
OC San General Counsel

CITY OF XXX

Date: _____

By: _____
xxxx
City Manager

ATTEST

Date: _____

By: _____
xxx
City Clerk

**APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE**

Date: _____

By: _____
xxxx

EXHIBIT A

Standard Drawings