

BEFORE THE BOARD OF SUPERVISORS

of the

SAN LUIS OBISPO COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT

_____ day _____, 20__

PRESENT: Supervisors

ABSENT:

RESOLUTION NO. _____

RESOLUTION AUTHORIZING THE DIRECTOR OF PUBLIC WORKS TO EXECUTE ENGINEERING REIMBURSEMENT AGREEMENTS FOR DISTRICT SERVICES ASSOCIATED WITH UTILITY SERVICE REQUESTS

The following resolution is now offered and read:

WHEREAS, the San Luis Obispo County Flood Control and Water Conservation District (hereinafter referred to as “District”) operates several wholesale water systems, including the Lopez, State Water and Nacimiento Projects; and

WHEREAS, from time to time, individuals, businesses and other organizations (hereinafter referred to individually as the “applicant”) request the ability to connect to such systems and obtain the applicable utility service from the District; and

WHEREAS, engineering evaluations and other work (hereinafter referred to as “District Services”) are often required in order to determine any conditions that may be necessary to accommodate a particular request for utility services before recommendations can be developed for consideration by the Board of Supervisors; and

WHEREAS, the costs incurred by the District in performing the District Services can vary depending on the nature of the request; and

WHEREAS, establishing an engineering reimbursement agreement between the District and the applicant that describes the scope of the District Services and the obligation of the applicant to pay all costs incurred by the District in connection with the District Services is necessary to ensure that the general District-wide taxpayers and/or existing utility customers do not pay these costs; and

WHEREAS, it is in the public interest to authorize the Director of Public Works to enter into engineering reimbursement agreements for such District Services subject to the approval as to form and legal effect by District Counsel.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED by the Board of Supervisors of the San Luis Obispo County Flood Control and Water Conservation District, as follows:

1. That the Director of Public Works of the San Luis Obispo County Flood Control and Water Conservation District is authorized to sign engineering reimbursement agreements for District Services associated with utility service requests in substantially the same form as the template attached hereto as Exhibit "A" and incorporated herein by this reference provided that the agreements are approved as to form and legal effect by the County Counsel's office.

Upon motion of Supervisor _____, seconded by Supervisor _____, and on the following roll call vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAINING:

the foregoing Resolution is hereby adopted on the ____ day of _____, 20__.

Chairperson of the Board of Supervisors

ATTEST:

Clerk of the Board of Supervisors

(SEAL)

APPROVED AS TO FORM AND LEGAL EFFECT:

RITA L. NEAL
County Counsel

By: 
Deputy County Counsel

Dated: November 21, 2013

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STATE OF CALIFORNIA, }
County of San Luis Obispo, ss.

I, _____, County Clerk and ex-officio Clerk of the Board of Supervisors of the San Luis Obispo County Flood Control and Water Conservation District, do

hereby certify the foregoing to be a full, true and correct copy of an order made by the Board of Supervisors, as the same appears spread upon their minute book.

WITNESS my hand and the seal of said Board of Supervisors, affixed this _____ day of _____, 20 _____.

(SEAL)

County Clerk and Ex-Officio Clerk of the Board
of Supervisors

By _____
Deputy Clerk.

EXHIBIT A

**San Luis Obispo County Flood Control and
Water Conservation District**

**Utilities Division
ENGINEERING REIMBURSEMENT AGREEMENT**

This Agreement is entered into on this _____ day of _____ 20__ by and between _____ (hereinafter referred to as "Applicant") and the San Luis Obispo County Flood Control and Water Conservation District (hereinafter referred to as "District").

WITNESSETH

WHEREAS, Applicant has requested (insert description of requested review) _____
_____ in
connection with its proposal to (insert description of activity/project) _____

(hereinafter referred to as "Project"); and

WHEREAS, (insert background or history of Project) _____
_____ ; and

WHEREAS, (insert any applicable legal authority) _____
_____ ; and

WHEREAS, the County Board of Supervisors of the San Luis Obispo County Flood Control and Water Conservation District authorized the Director of Public Works to execute and enter into Engineering Reimbursement Agreements on (insert date) per Resolution No. XX-XXX; and

WHEREAS, the purpose of this Agreement is to set forth the terms and conditions under which the Applicant will reimburse the District for its review, analysis, recommendations, comments and critique in connection with (insert description of requested review) _____

NOW, THEREFORE, in consideration of the mutual covenants, conditions, promises and agreements herein set forth, Applicant and District mutually covenant and agree as follows:

A. TYPE OF ACTIVITIES ELIGIBLE FOR REIMBURSEMENT

Applicant will provide reimbursement to District for any and all expenses incurred by District related to its review, analysis, recommendations, comments and critique in connection with (insert description of requested review)

including, but not limited to (insert description of specific work items if applicable)

B. OBLIGATIONS

1. Applicant shall submit to District and maintain a deposit account in the amount of (insert appropriate deposit amount as determined by Project Manager) \$_____. District will provide a monthly invoice to Applicant for costs incurred by District which amount shall become due and payable within fifteen (15) days. If Applicant fails to make the requisite payment within thirty (30) days of the District's invoice, the District, in its sole discretion, may terminate this Agreement, impose a late fee equal to one half of one percent per month of the outstanding balance and/or utilize the deposit to reimburse District for work performed in accordance with the provisions of this Agreement. Upon termination or completion of the work performed in accordance with the provisions of this Agreement, the District will return any remaining portion of the deposit to Applicant.
2. For all services rendered by District personnel, Applicant shall be charged and pay District the actual cost.
3. Applicant shall defend, indemnify and save harmless District, its officers, agents and employees from any and all claims, demands, costs, expenses, or liability occasioned by the performance or attempted performance of the provisions hereof, or in any way arising out of this Agreement, including, but not limited to, inverse condemnation, equitable relief, or any wrongful act or any negligent act or omission to act on the part of Applicant or of its agents, employees, or independent contractors directly responsible to Applicant, providing further that the foregoing shall apply to any wrongful acts, or any actively or passively negligent acts or omissions to act, committed jointly or concurrently by Applicant, Applicant's agents, employees, or other representatives. Nothing contained in the foregoing indemnity provisions shall be construed to require Applicant to indemnify District against any responsibility or liability in contravention of Section 2782 of the Civil Code.

4. Applicant shall be responsible for acquiring any landowner permission needed to accomplish any work related to (insert description of requested review)
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C. GENERAL TERMS

1. Applicant's obligation to reimburse District is not contingent or in any way dependent on any approval by the District, the County or any other regulatory body required in connection with the Project. Any approval of the (insert description of requested review)
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pursuant to this Agreement shall not be deemed an approval of the Project as a whole.

2. Unless otherwise provided, all notices herein required shall be in writing and delivered in person or sent by United States first class mail, postage prepaid. Notices required to be given to District shall be addressed as follows: Director of Public Works, San Luis Obispo County Flood Control and Water Conservation District, 1050 Monterey Street, Room 206, San Luis Obispo, California 93408. Notices required to be given to Applicant shall be sent to Applicant's billing address as set forth below. Any party may change such address by notice in writing to the other party and thereafter notices shall be addressed and transmitted to the new address.

3. It is understood and agreed by and between the Parties, hereto, that this Agreement shall bind the heirs, executors, administrators, successors and assigns of the respective Parties to this Agreement.

4. This Agreement will remain in effect until the (insert description of requested review)
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is completed. Notwithstanding the foregoing, the District retains the right to terminate this Agreement at any time effective immediately upon notice to Applicant.

IN WITNESS WHEREOF, District and Applicant have executed this Agreement on the day and year first hereinabove set forth.

DISTRICT

By: _____

Paavo Ogren
Director of Public Works
San Luis Obispo County Flood Control and Water Conservation District

**APPROVED AS TO FORM AND LEGAL EFFECT:
RITA L. NEAL
County Counsel**

By: _____
(Insert Name)

(Insert Title)

Dated: _____

APPLICANT

By: _____
(Insert Name)

Dated: _____

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