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**AGREEMENT BETWEEN THE COUNTY OF SAN LUIS OBISPO  
AND THE OCEANO COMMUNITY SERVICES DISTRICT**

This AGREEMENT is made and entered into on August 13

2019, by and between the Oceano Community Services District, a community services district formed under the provisions of Government Code section 61010, et seq. (hereinafter referred to as “OCSD”) and the County of San Luis Obispo, a political subdivision of the State of California (hereinafter referred to as “County”).

**WITNESSETH:**

**WHEREAS**, pursuant to the provisions of Government Code section 66000, et seq., Title 18 of the County Code, and the County Public Facilities Financing Plan, the County is authorized to impose fees on development projects to mitigate the impact of new development on public facilities; and

**WHEREAS**, a portion of the public facility fee paid by each permit recipient within the boundaries of the OCSD was collected for the purpose of mitigating the impact of new development on the provision of firefighting and emergency response services; and

**WHEREAS**, among the governmental powers and duties exercised by the OCSD within its boundaries is the provision of firefighting and emergency response services; and

**WHEREAS**, OCSD and the County enter this Agreement for the purpose of the collection, distribution, and expenditure of impact fees to mitigate the impact of new development on the provision of firefighting and emergency response services; and

**WHEREAS**, the County will collect public facility fees for firefighting and emergency response purposes within the boundaries of the OCSD and transfer those funds to the OCSD to be used in accordance with all the requirements of Government Code section 66000, et seq.; and

**WHEREAS**, the OCSD desires that the County collect public facility firefighting and emergency response fees from development projects within its boundaries and represents that it is capable of and willing to use those fees within the timelines and other requirements of Government Code section 66000, et seq., for the capital improvements allowed by those provisions of law.

**NOW, THEREFORE**, in consideration of mutual covenants, conditions, promises and agreements herein set forth, the parties agree as follows:

1. Obligation of Parties.

- a. The County agrees to collect the public facility fees from development projects located within OCSD's boundaries and to transfer the public facility firefighting and emergency response services fees to the OCSD during the Term of this Agreement.
- b. Upon receipt of the above-mentioned public facility fees the OCSD shall carry out for the County all the obligations and responsibilities of the local government as set forth in Government Code section 66000, et seq., including but not limited to the following:
  - (1) Identifying by resolution the purpose of the fees and the specific eligible uses for which the fees will be used.
  - (2) Determining in such resolution that there is a reasonable relationship between new development in Oceano and the firefighting and emergency response capital improvements for which the fees will be used.
  - (3) Immediately expending the public facility fees on the identified capital improvements or committing the funds to future capital improvements. In the event that the funds are committed for future expenditure the OCSD will identify the approximate date of such expenditure and will keep the funds in a separate account to avoid any commingling of the fees with other OCSD revenue.

2. Term. The initial term of this Agreement shall be five years and shall commence on the date first written above. This Agreement shall automatically renew for an additional one-year term on each anniversary of the commencement date, unless terminated in accordance with Sections 3 and 4, below.

3. Terminated for Convenience. Either party may terminate this contract at any time by giving to the other party 60 days' written notice of such termination. Termination shall have no effect on upon the rights and obligations of the parties arising out of any transaction occurring prior to the effective date of such termination. The County shall transfer all public facility fees collected prior to the effective date of said termination.

4. Termination for Cause. If the County determines that the OCSD has incurred obligations or made expenditures for purposes which are not permitted or are prohibited under the terms and provisions of this Agreement, or if the County determines that the OCSD has failed to fulfill its obligations under this Agreement in a timely manner, or if the OCSD is in violation of any of the terms or provisions of this Agreement, then the County shall have the right to terminate this Agreement effective immediately upon giving written notice to the OCSD. Termination shall have no effect upon the rights and obligations of the parties arising out of any transaction occurring prior to effective date of such termination.

5. Reporting. The OCSD shall submit annual progress reports to the County describing the progress made toward performing its obligations under this Agreement. The annual report shall include all of the information required to be made available to the public pursuant to Government Code section 66006.

6. Use of Funds. If at any time within applicable statutory periods of limitation it is determined by the County or a court of competent jurisdiction that funds provided for under the terms of this Agreement have been used by or on behalf of the County or the OCSD in a manner or for purposes not authorized or prohibited by this Agreement or state law, the OCSD hereby obligates itself, at the County's request, to pay to the County an amount equal to one hundred percent of the amount improperly expended.

7. Employment Status. Nothing in this Agreement is intended nor shall be construed to create an employer-employee relationship or a joint venture relationship between the County and the OCSD. Neither the OCSD nor any of the OCSD's agents, employees or contractors are or shall be considered to be agents or employees of the County in connection with the performance of the OCSD's obligations under this Agreement.

8. Records.

- a. All records, accounts, documentation and all other materials relevant to a fiscal audit or examination, as specified by the County, shall be retained by the OCSD for a period of not less than three (5) years from the date of termination of this Agreement. If so directed by the County upon termination of this Agreement, the OCSD shall cause all records, accounts, documentation and all other materials relevant to the work to be delivered to the County as depository. The OCSD understands and agrees that it may be subject to examination and audit by the County Auditor/Controller for a period of three (5) years after the final payment under this Agreement.
- b. All records, accounts, documentation and other materials deemed to be relevant to the undertaking enabled by this Agreement shall be accessible at any time to the

authorized representatives of the County on reasonable prior notice, for the purpose of examination or audit. Any expenditure which is not authorized by this Agreement or which cannot be adequately documented shall be disallowed and must be reimbursed to the County or its designee by the OCSD.

9. Indemnification. To the fullest extent permitted by law, OCSD shall indemnify, defend, and hold harmless the County and its officers, agents, employees, and volunteers from and against all claims, demands, damages, liabilities, loss, costs, and expense (including attorney's fees and costs of litigation) of every nature arising out of or in connection with OCSD's performance or attempted performance of any obligation or duty provided for or relating to this Agreement, except such loss or damage which was caused by sole negligence or willful misconduct of the County.

10. Insurance. OCSD shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the OCSD, its agents, representatives, employees or authorized volunteers.

#### **MINIMUM SCOPE AND LIMIT OF INSURANCE**

Coverage shall be at least as broad as follows and no claims made insurance is allowed:

1. Commercial General Liability (CGL): Insurance Services Office (ISO) Form CG 00 01 covering CGL on an "occurrence" basis for bodily injury and property damage, including products-completed operations, personal injury and advertising injury, with limits no less than \$1,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
2. Automobile Liability: ISO Form Number CA 0001 covering, Code 1 (any auto), or if OCSD has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than \$1,000,000 per accident for bodily injury and property damage.

3. Workers' Compensation insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease. If OCSD will provide leased employees, or, is an employee leasing or temporary staffing firm or a professional employer organization (PEO), coverage shall also include an Alternate Employer Endorsement (providing scope of coverage equivalent to ISO policy form WC 00 03 01 A) naming the County as the Alternate Employer, and the endorsement form shall be modified to provide that County will receive not less than thirty (30) days advance written notice of cancellation of this coverage provision. If applicable to OCSD's operations, coverage also shall be arranged to satisfy the requirements of any federal workers or workmen's compensation law or any federal occupational disease law.

If the OCSD maintains higher limits than the minimums shown above, the County requires and shall be entitled to coverage for the higher limits maintained by the OCSD.

***Additional Insured Status***

The County, its officers, officials, employees, and volunteers are to be covered as insureds on the auto policy with respect to liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of the OCSD; and on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the OCSD including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the OCSD's insurance (at least as broad as ISO Form CG 20 10, 11 85 or both CG 20 10 and CG 23 37 forms if later revisions used).

***Primary Coverage***

For any claims related to this contract, the OCSD's insurance coverage shall be primary insurance as respects the County, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the County, its officers, officials, employees, or volunteers shall be excess of the OCSD's insurance and shall not contribute with it.

***Notice of Cancellation***

Each insurance policy required above shall be endorsed to state that coverage shall not be canceled, except after thirty (30) days' prior written notice (10 days for non-payment) has been given to the County

***Failure to Maintain Insurance***

OCSD's failure to maintain or to provide acceptable evidence that it maintains the required insurance shall constitute a material breach of the Contract, upon which the County immediately may withhold payments due to OCSD, and/or suspend or terminate this Contract. The County, at its sole discretion, may obtain damages from OCSD resulting from said breach.

***Waiver of Subrogation***

OCSD hereby grants to County a waiver of any right to subrogation which any insurer of said OCSD may acquire against the County by virtue of the payment of any loss under such insurance. OCSD agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the County has received a waiver of subrogation endorsement from the insurer.

***Deductibles and Self-Insured Retentions***

Any deductibles or self-insured retentions must be declared to and approved by the County. The County may require the Subcontractor to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

***Acceptability of Insurers***

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the County.

***Separation of Insureds***

*All liability policies shall provide cross-liability coverage as would be afforded by the standard ISO (Insurance Services Office, Inc.) separation of insureds provision with no insured versus insured exclusions or limitations.*

***Verification of Coverage***

OCSD shall furnish the County with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the County before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the OCSD's obligation to provide them. The County reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

Certificates and copies of any required endorsements shall be sent to:

San Luis Obispo County  
Department of Planning and Building, Housing and Economic Development  
Attention: Wes Drysdale, County Planner  
976 Osos Street, Room 300  
San Luis Obispo, CA 93408

***Subcontractors***

OCSD shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein.

***Special Risks or Circumstances***

County reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

11. Entire Agreement and Modification. This Agreement sets forth the full and entire understanding of the parties regarding the matter set forth herein, and any other prior or existing understandings or agreements by the parties, whether formal or informal, regarding any matters are hereby superseded or terminated in their entirety. No changes, amendments, or alterations shall be effective unless in writing and signed by all parties hereto. The OCSD specifically acknowledges that in entering into and executing this Agreement the OCSD relies solely upon the provisions contained in this Agreement and no others.

12. Laws and Regulations. The OCSD agrees that it is familiar with and will comply with all County and State laws and regulations that pertain to health and safety, labor, fair employment practices, equal opportunity and all other matters applicable to the OCSD, its subcontractors, and the undertaking enabled by this Agreement. The OCSD agrees that it is familiar with and will comply with all laws and regulations applicable to the expenditure of public facility fees.

13. Non-Assignment of Agreement. Inasmuch as this Agreement is intended to secure the specialized services of the OCSD, the OCSD shall not have the right to assign or transfer this Agreement, or any part hereof or monies payable hereunder, without the prior written consent of the County, and any such assignment or transfer without the County's prior written consent shall be considered null and void.

14. Covenant. This Agreement has been executed and delivered in the State of California, and the validity, enforceability and interpretation of any of the clauses of this Agreement shall be determined and governed by the law of the State of California. All duties and obligations of the



parties created hereunder are performable in San Luis Obispo County, and such County shall be that venue for any action, or proceeding that may be brought, or arise out of, in connection with or by reason of this Agreement.

15. Enforceability. If any term, covenant, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.

16. Agreement Binding. All provisions of this Agreement shall be binding on the parties and their heirs, assigns and successors in interest.

17. Waivers. County's waiver or breach of any one term, covenant or other provision of this Agreement shall not be a waiver of a subsequent breach of the same term, covenant or provision of this Agreement or of the breach of any other term, covenant or provision of this Agreement.

18. Notices. 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, to the following addresses:

To the County: Department of Planning and Building  
Attention: Wes Drysdale, County Planner  
976 Osos Street, Room 300  
San Luis Obispo, California 93408

To the OCSD: General Manager and Board President  
Oceano Community Services District  
P.O. Box 599  
Oceano, California 93475-0599

Provided that any party may change such address by notice in writing to the other parties and thereafter notices shall be transmitted to the new address.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day

and year first above written.

OCEANO COMMUNITY SERVICES DISTRICT

By: Linda M Austin  
Linda Austin, President

ATTEST:

Clyde  
Clerk of the District

APPROVED AS TO FORM AND LEGAL EFFECT:

JEFFREY A. MINNERY  
District General Counsel

By: [Signature]  
District General Counsel

COUNTY OF SAN LUIS OBISPO

By: Debbie Arnold  
Chair of the Board of Supervisors

ATTEST:

WADE HORTON  
Clerk of the Board of Supervisors

By: [Signature]  
Deputy Clerk

APPROVED AS TO FORM AND LEGAL EFFECT:

RITA L. NEAL  
County Counsel

By: [Signature]

The undersigned Deputy Clerk of the Board of Supervisors certifies that, pursuant to Section 25103 of the Government Code, delivery of this document has been made on August 16, 2019

**WADE HORTON**  
County Clerk of the Board and Ex-Officio Clerk of the Board of Supervisors

By: [Signature]  
Deputy Clerk

Deputy County Counsel

Date: 7.10.19