

**AGREEMENT  
(Option 1)**

This AGREEMENT, is entered into on \_\_\_\_\_, 2012, by and between the LOS ANGELES COUNTY FLOOD CONTROL DISTRICT, a body corporate and politic (hereinafter referred to as the LACFCD), and the <<CITY OF2>>a municipal corporation (hereinafter referred to as CITY).

RECITALS

WHEREAS, California Regional Water Quality Control Board, Los Angeles Region, has promulgated water-quality regulations, including a Total Maximum Daily Load for Trash (Trash TMDL) for the Los Angeles River, applicable to cities located in the Los Angeles River Watershed; and

WHEREAS, CITY desires to achieve compliance with the Trash TMDL by installing TRASH EXCLUDERS (as hereafter defined) within catch basins owned by the LACFCD, located within CITY streets; and

WHEREAS, CITY will administer the procurement and installation of said TRASH EXCLUDERS;

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the LACFCD and CITY hereto mutually agree as follows:

(1) DEFINITION:

- a. TRASH EXCLUDER, as referred to in this AGREEMENT, shall mean any device, which partially blocks the opening or outlet of a catch basin to prevent trash from entering the storm drain system, including Automatic Retractable Screen devices and Connector Pipe Screen devices, installed by CITY at the opening of or inside any catch basin owned by the LACFCD. Exhibit A identifies the locations of TRASH EXCLUDERS within CITY.
- b. STORM SEASON, as referred to in this AGREEMENT, shall mean the period beginning October 1 and ending April 30 of each year.
- c. MAJOR STORM EVENT, as referred to in this AGREEMENT, shall mean a storm with an intensity of one inch or more of rainfall per 12 hours, occurring within CITY. Countywide, an average storm season produces four major storm events.
- d. DRY SEASON, as referred to in this AGREEMENT, shall mean the period beginning on May 1 and ending September 30 of each year.

(2) LACFCD AGREES:

- a. To permit CITY to utilize catch basins owned by the LACFCD and located within CITY, as identified in Exhibit A, for the purpose of installing, operating, and maintaining TRASH EXCLUDERS.
- b. To maintain all TRASH EXCLUDERS in accordance with the maintenance standards delineated in Exhibit B. The LACFCD may modify these maintenance standards from time to time, provided the LACFCD provides CITY at least 60 days advance written notice of the modifications together with the LACFCD's reason(s) for making the modifications.
- c. To send a billing invoice to CITY, on a quarterly basis, itemizing the services performed and the costs incurred by the LACFCD in connection with the activities described in Section (2)b. above, during that quarter. The amounts billed to CITY shall be in accordance with the schedule of costs attached as Exhibit C.
- d. To indemnify, defend, and hold the CITY and its officers, employees, and agents, harmless from and against any claims, demands, liability, damages or costs to the extent that such claim, demand, liability, damage, or cost arises from or is caused by any negligent or wrongful act or omission of the LACFCD or any of its officers, employees, agents or contractors, in connection with the performance of any of the LACFCD'S duties under this AGREEMENT.
- e. The LACFCD shall include CITY within the protection of any indemnification clause contained in any ancillary contract relating to the TRASH EXCLUDERS.
- f. To pay CITY the amount of \$15.25 in 2012 dollars, adjusted annually according the Consumer Price Index for all urban consumers in the Anaheim, Los Angeles, and Riverside areas, as published by the U.S. Government Bureau of Labor Statistics, per year, for each catch basin identified in Exhibit A. This amount represents the annual amount the LACFCD would otherwise have had to incur for removing trash and debris from the catch basins identified in Exhibit A, had CITY not installed TRASH EXCLUDERS in those catch basins.

(3) CITY AGREES:

- a. To provide Exhibit A identifying the locations of TRASH EXCLUDERS within CITY to be maintained by LACFCD.

- b. To request trash excluder maintenance service through the Los Angeles County Department of Public Works City Services Request Tracking System.
- c. To patrol areas in which any TRASH EXCLUDERS have been installed, during storm events, to verify that all TRASH EXCLUDERS are functioning properly and shall relieve any instances of plugging of any catch basin fitted with a TRASH EXCLUDER. Requests for Service coming to the LACFCD to clean or service any catch basin identified on Exhibit A, during a storm event, will be forwarded to CITY for their prompt handling, action, and closure.
- d. To pay each billing invoice sent by the LACFCD, as described in Section (2)c., above, within 30 days of the date of said invoice.
- e. To indemnify, defend, and hold the LACFCD and the County of Los Angeles and their officers, employees, agents and contractors, harmless from and against any claims, demands, liability, damages or costs arising from or caused by the breach of any of the CITY'S obligations under this AGREEMENT, or the TRASH EXCLUDERS or any of them, except to the extent that such claim, demand, liability, damage or cost arises from or is caused by the negligent or wrongful act or omission of the LACFCD or the County or any of its officers, employees, agents, or contractors.

(4) IT IS MUTUALLY UNDERSTOOD AND AGREED AS FOLLOWS:

- a. The TRASH EXCLUDERS are the property of CITY. The LACFCD shall retain ownership of the catch basins, exclusive of the TRASH EXCLUDERS.
- b. Termination
  - (i) CITY acknowledges that the LACFCD intends to retain a contractor to perform the operation and maintenance services on the TRASH EXCLUDERS described above. In the event that the LACFCD's contract with its contractor(s) is terminated or expires, the LACFCD may terminate this AGREEMENT in accordance with the following:
    - (1) LACFCD shall give CITY not less than 60 days prior written notice of the termination;
    - (2) CITY shall take over the operation and maintenance of the TRASH EXCLUDERS, and shall enter into a new Agreement with the LACFCD providing for said operation and maintenance of the TRASH EXCLUDERS by CITY.

- (3) If CITY fails to enter into said new Agreement within 90 days of the written notice of the termination by the LACFCD, LACFCD may, in its sole discretion, provide CITY with a written notice to remove the TRASH EXCLUDERS, or any of them, and restore the affected catch basin(s) to a condition similar to or better than that which existed prior to installation of the TRASH EXCLUDERS.
  - (4) If the LACFCD provides CITY with a notice to remove the TRASH EXCLUDERS, CITY shall complete all work required to comply with the notice within ninety (90) days. If CITY fails to do so, the LACFCD may, in its sole discretion, complete said work at CITY'S expense.
- (ii) CITY may take over the operation and maintenance of the TRASH EXCLUDERS, or any of them, by giving a thirty (30)-day prior written notice to the LACFCD of CITY'S intent to do so, and by entering into a new agreement with the LACFCD, for CITY to perform the operation and maintenance of the TRASH EXCLUDERS. Upon the execution of the new agreement by both CITY and the LACFCD, this AGREEMENT shall be deemed terminated.
- (iii) CITY may unilaterally terminate this AGREEMENT without cause, in CITY'S sole discretion, at any time, by giving a thirty (30)-day prior written notice to the LACFCD. In the event this AGREEMENT is terminated, pursuant to this Section, the LACFCD may, in its sole discretion, provide CITY with a written notice to remove the TRASH EXCLUDERS, or any of them, and restore the affected catch basin(s) to a condition similar to or better than that which existed prior to installation of the TRASH EXCLUDERS. If the LACFCD provides CITY with such a notice, CITY shall complete all work required to comply with the notice within ninety (90) days. If CITY fails to do so, the LACFCD may, in its sole discretion, complete said work at CITY'S expense.
- (iv) If CITY fails to comply with any of the terms or conditions of this AGREEMENT, the LACFCD may, in its sole discretion, terminate this AGREEMENT and provide CITY with a written notice to remove the TRASH EXCLUDERS, or any of them, and restore the catch basin(s) to a condition similar to or better than that which existed prior to installation of the TRASH EXCLUDERS. If the LACFCD provides CITY with such a notice, CITY shall complete all work required to comply with the notice within ninety (90) days. If CITY fails to do so, the LACFCD may, in its sole discretion, complete said work at CITY'S expense.

- (v) If the LACFCD removes any TRASH EXCLUDER pursuant to Sections (4)b.(i), (4)b.(iii), or (4)b.(iv), the LACFCD shall submit a billing invoice to CITY indicating the costs and expenses incurred by the LACFCD in connection with the removal of the TRASH EXCLUDER, specifically including any work required to restore the affected catch basin to a condition similar or better than that which existed prior to installation of the TRASH EXCLUDER, and CITY shall reimburse the LACFCD all such costs and expenses within thirty (30) days of the billing invoice.
  
- c. The LACFCD may remove any TRASH EXCLUDER if the LACFCD determines, in its reasonable discretion, that removal of the TRASH EXCLUDER is necessary to prevent or mitigate flooding of any public or private property. CITY expressly releases the LACFCD from, and waives, all claims for any damages, loss, costs, or expenses resulting from the LACFCD'S removal of any TRASH EXCLUDER pursuant to this Section (4)c. In such case, CITY may thereafter reinstall the TRASH EXCLUDER only after first consulting with the LACFCD with regards to the reasons for the removal and obtaining the LACFCD'S approval of the reinstallation. If CITY thereafter chooses to reinstall the TRASH EXCLUDER, it must do so at its sole expense.
  
- d. The LACFCD is not responsible for assisting CITY with any regulatory compliance activities related to the TRASH EXCLUDERS including for example, conducting monitoring, weighing of trash, and reporting amounts of trash collected from inside catch basins where TRASH EXCLUDERS have been installed.
  
- e. This AGREEMENT may be modified only by the mutual written consent of both parties.
  
- f. This AGREEMENT contains the complete and final understanding of the parties in connection with the subject matter herein and shall supersede any and all previous contemporaneous oral or written agreements between the parties regarding said subject matter.
  
- g. The provisions of this AGREEMENT shall be interpreted and enforced pursuant to the laws of the State of California.

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The parties hereto have caused this AGREEMENT to be duly executed by their respective duly authorized officers, by the CITY OF \_\_\_\_\_ on \_\_\_\_\_, 2012, and by the LOS ANGELES COUNTY FLOOD CONTROL DISTRICT, on \_\_\_\_\_, 2012.

LOS ANGELES COUNTY FLOOD CONTROL DISTRICT,  
a body corporate and politic

By \_\_\_\_\_  
Chief Engineer

APPROVED AS TO FORM:

JOHN F. KRATTLI  
County Counsel

By \_\_\_\_\_  
Deputy

City of <<City of 2>>

By \_\_\_\_\_  
Director of Public Works

APPROVED AS TO FORM:

By \_\_\_\_\_  
City Attorney

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