

Agreement for Funding of Robles Avenue Sewer Main Replacement Project Design

This agreement ("Agreement") is by and between **South Park County Sanitation District** ("District") and **City of Santa Rosa** ("City").

RECITALS

- A. Sonoma County Water Agency operates the South Park County Sanitation District under contract with District. References to District employees are understood to be Sonoma County Water Agency employees acting on behalf of the District.
- B. The City provides operation and maintenance services for the District's sewer collection system pursuant to the terms of the "Amended and Restated Agreement Regarding South Park County Sanitation District Operations and Transfer to the City of Santa Rosa", dated June 7, 2012.
- C. The Robles Sewer Main Replacement and Abandonment Project ("Project") is located on East Robles Avenue, West Robles Avenue, Brooks Avenue, and Dolores Lane in the unincorporated area of Sonoma County. Project consists of abandonment of a 12" vitrified clay pipe ("VCP") sewer main, and replacement of approximately 3,000 linear feet of 6" sewer main with 8" to 10" sewer main and appurtenances. (Map Exhibit A)
- D. The North Coast Regional Water Quality Control Board issued a Cleanup and Abatement Order R1-2007-0040 to the District in May of 2007, requiring the District implement sewer rehabilitation projects to reduce risks associated with Sanitary Sewer Overflows.
- E. Based on the City's experience operating and maintaining the District's collection system, the City has recommended the Projects be implemented as the next highest priority sewer rehabilitation project within the District's collection system.
- F. On March 8, 2013, the Chief Engineer of the Sonoma County Water Agency made a determination on behalf of the District that a portion of the sewer collection along West Robles Avenue between Moorland Avenue and Highway 101 was structurally compromised. An emergency negotiated construction contract allowed the District to contract with Ghilotti Construction to abandon the portion of pipe that was significantly structurally compromised.
- G. Additional work is required in this area to complete the replacement and abandonment project. In order to facilitate timely completion of the work, the City commenced design of the Project. The City's local operations maintenance crews maintain all the sewer mains in the South Park Sanitation District and identified the sewer mains within the East and West Robles roadways as high priority replacement areas. Design of these two projects was underway when it was determined that sewer main replacements are the responsibility of the District, not the City.
- H. City is requesting \$179,676.93 from South Park County Sanitation District's Construction fund to reimburse costs associated with the Design of the West Robles Avenue portion of

the project (at 90% design stage) and for the East Robles portion of the project (at 40% design stage).

I. District and City do mutually desire to cooperate in the design of said Project.

In consideration of the foregoing recitals and the mutual covenants contained herein, the parties hereto agree as follows:

AGREEMENT

The City and District agree as follows:

1. RECITALS

1.1. The above recitals are true and correct.

2. LIST OF EXHIBITS

2.1. The following exhibits are attached hereto and incorporated herein:

- a. Exhibit A: Location Maps
- b. Exhibit B: Insurance Requirements

3. COORDINATION

3.1. City shall coordinate the work with District's Project Manager. Contact information and mailing addresses:

District	City
Project Manager: Curran Price 404 Aviation Boulevard Santa Rosa, CA 95403-9019 Phone: 707-524-1170 Email: Curran.Price@scwa.ca.gov	Contact: Norman Amidon 69 Stony Circle Santa Rosa, CA 95401 Phone: 707-543-3449 Email: NAmidon@srcity.org
Remit invoices to: Susan Bookmyer Same address as above or Email: susan.bookmyer@scwa.ca.gov	Remit payments to: [Attn: Accounts Receivable]

4. CITY'S RESPONSIBILITIES

4.1. General: City agrees to perform all work in accordance with the requirements of applicable federal, state, and local laws.

4.2. Documentation: City shall provide District with all design, CEQA, permitting, right-of-way and other related information (in electronic and hard-copy formats, as available) that the City and its Consultant(s) has/have compiled specifically for the Project as of the effective date of this Agreement ("Design Documents"):

- a. City shall provide District electronic design files for Project. West Robles design shall be at 90% stage; East Robles design shall be at 40% design stage. Plans shall be in an AutoCAD format acceptable to the District and include
 - i. Surveyed mapping of the project corridor, locating and depicting all relevant topographic and utility features, including but not limited to grades and contours, existing roadway, driveway locations, manholes, cleanouts, electrical boxes, fences, and drainage features.
 - ii. Existing nearby utility information.
 - iii. Existing and proposed sewer alignment.
 - iv. Existing and proposed sewer laterals
- 4.3. Warranty: City warrants that the project design and Design Documents meet generally accepted standards for design of a project of this type.
- 4.4. Insurance Requirements and Indemnification Obligations:
 - a. Insurance Requirements:

City shall maintain insurance as described in Exhibit B. Evidence of insurance shall be submitted as specified in Exhibit B.
 - b. Mutual Indemnification:

Each party shall indemnify, defend, hold harmless, and release the other, its officers, agents, and employees, from and against any and all claims, loss, proceedings, damages, causes of action, liability, costs, or expenses arising from or in connection with, or caused by any act, omission, or negligence of such indemnifying party or its agents, employees, contractors, subcontractors, or invitees. This indemnification shall not be limited in any way by any limitation on the amount or type of damages or compensation payable to or for the indemnifying party under the workers' compensation acts, disability benefit acts, or other employee benefit acts.
 - c. Documentation: City shall provide evidence of such insurance to District in a form satisfactory to District.
- 4.5. Records: City shall maintain complete and accurate records of all transactions in compliance with generally accepted accounting principles for enterprise accounting as promulgated by the American Institute of Certified Public Accountants and the Governmental Accounting Standards Board. Such records shall be available to District at all reasonable times for inspection and analysis.

5. DISTRICT'S RESPONSIBILITIES

- 5.1. Plans and Specifications: District will produce the final drawings and specifications for the Project. District is responsible for any changes made to the drawings produced by the City. District will stamp and sign the final plans and specifications.

- 5.2. Design Review Meetings: District will schedule a 90% design review meeting and provide the City with at least two weeks notice. District will email a copy of the 90% design plans and specifications prior to the meeting.
- 5.3. Permits and Right of Way: District will be responsible for obtaining any permits and right of way necessary for the construction of the project.
- 5.4. Construction: District will be responsible for the Project advertisement, awarding of the Project, and inspection of the Project construction.

6. ADDITIONAL REQUIREMENTS

- 6.1. Term of Agreement: This Agreement shall expire on December 31, 2016.
- 6.2. Project Costs: Total costs under this Agreement shall not exceed \$179,676.93
 - a. Reimbursement amount for 90% (west) is \$62,550.86
 - b. Reimbursement amount for 40% (east) is \$117,126.07
- 6.3. Payment
 - a. Upon receipt of the AutoCAD drawings with topographical information, utility mapping information, technical specification, video inspection of the sewer main, and right of way/easement information obtained for the project, and evidence of insurance, District will reimburse City for design costs for East and West Robles in accordance with paragraph 6.2 (Project Costs) within 60 days.
 - b. City shall not be entitled to any additional payment for any expenses incurred in completion of the services.
- 6.4. Authority to Amend Agreement: Changes to the Agreement may be authorized only by written amendment to this Agreement, signed by both parties. Minor changes, which do not increase the amount paid under the Agreement, and which do not significantly change the scope of the agreement or significantly lengthen time schedules may be executed by the Water Agency's General Manager in a form approved by County Counsel.
- 6.5. No Waiver of Breach: The waiver by District of any breach of any term or promise contained in this Agreement shall not be deemed to be a waiver of such term or promise or any subsequent breach of the same or any other term or promise contained in this Agreement.
- 6.6. Construction: To the fullest extent allowed by law, the provisions of this Agreement shall be construed and given effect in a manner that avoids any violation of statute, ordinance, regulation, or law. The parties covenant and agree that in the event that any 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.

City and District acknowledge that they have each contributed to the making of this Agreement and that, in the event of a dispute over the interpretation of this Agreement, the language of the Agreement will not be construed against one party in favor of the other. City and District acknowledge that they have each had an adequate opportunity to consult with counsel in the negotiation and preparation of this Agreement.

- 6.7. No Third-Party Beneficiaries: Nothing contained in this Agreement shall be construed to create and the parties do not intend to create any rights in third parties.
- 6.8. Applicable Law and Forum: This Agreement shall be construed and interpreted according to the substantive law of California excluding the law of conflicts. Any action to enforce the terms of this Agreement or for the breach thereof shall be brought and tried in the County of Sonoma.
- 6.9. Captions: The captions in this Agreement are solely for convenience of reference. They are not a part of this Agreement and shall have no effect on its construction or interpretation.
- 6.10. Merger: This writing is intended both as the final expression of the Agreement between the parties hereto with respect to the included terms and as a complete and exclusive statement of the terms of the Agreement, pursuant to Code of Civil Procedure Section 1856. No modification of this Agreement shall be effective unless and until such modification is evidenced by a writing signed by both parties.
- 6.11. Survival of Terms: All express representations, waivers, indemnifications, and limitations of liability included in this Agreement will survive its completion or termination for any reason.
- 6.12. Time of Essence: Time is and shall be of the essence of this Agreement and every provision hereof.

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date last signed by the parties to the Agreement.

Reviewed as to substance:

By: _____
Water Agency General Manager

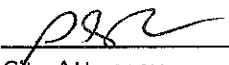
Reviewed as to funds:

By: _____
Water Agency Division Manager -
Administrative Services

Approved as to form:

By: _____
David McFadden, Deputy County Counsel

Approved as to form by City Attorney:

By:  _____
City Attorney

City of Santa Rosa

By: _____
Chair, Board of Public Utilities

Date: _____

Attest:

By: _____
City Clerk

South Park County Sanitation District

By: _____
Chair, Board of Directors

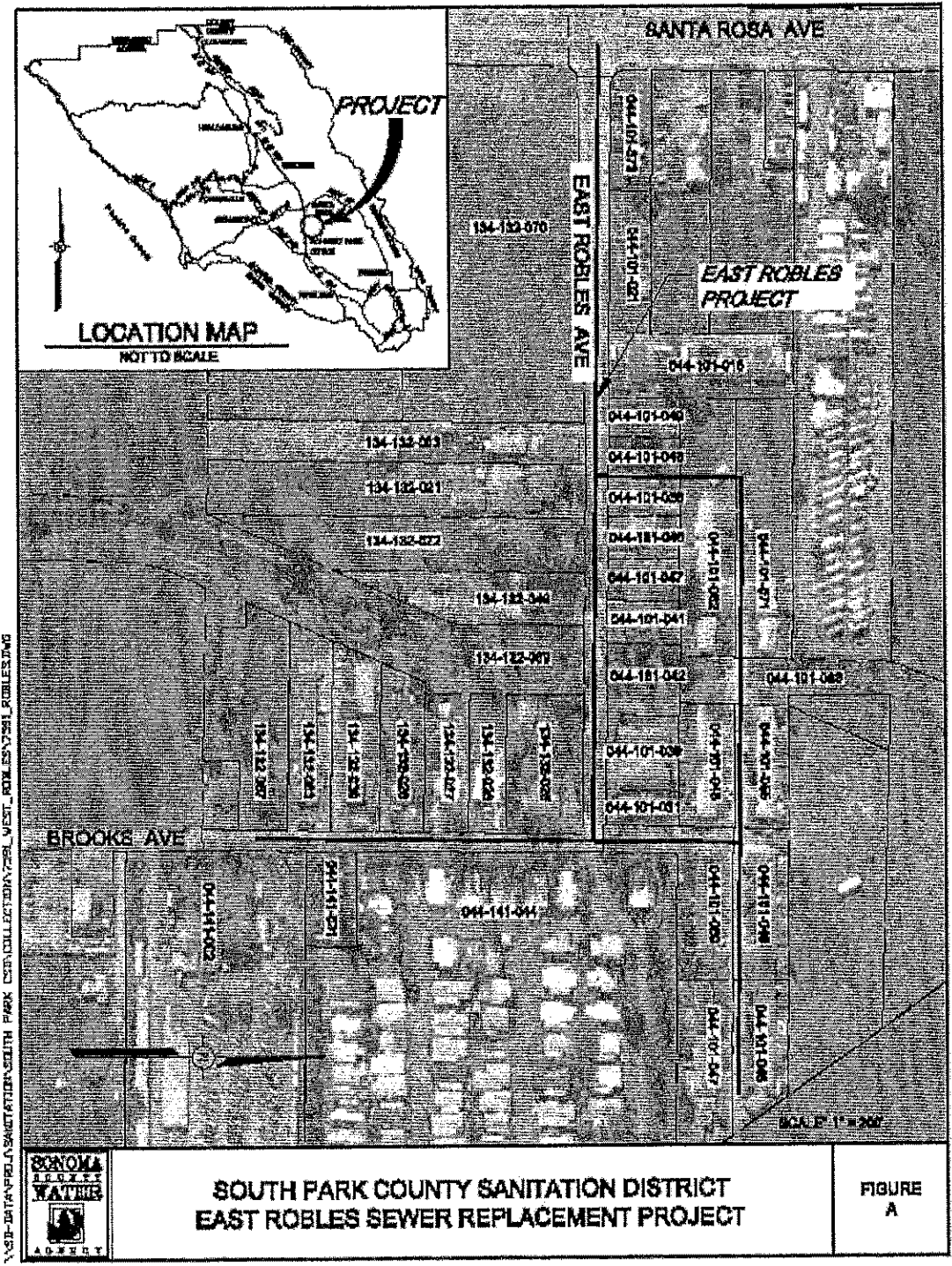
Date: _____

Attest:

By: _____
Clerk of the Board

Exhibit A

Location Map



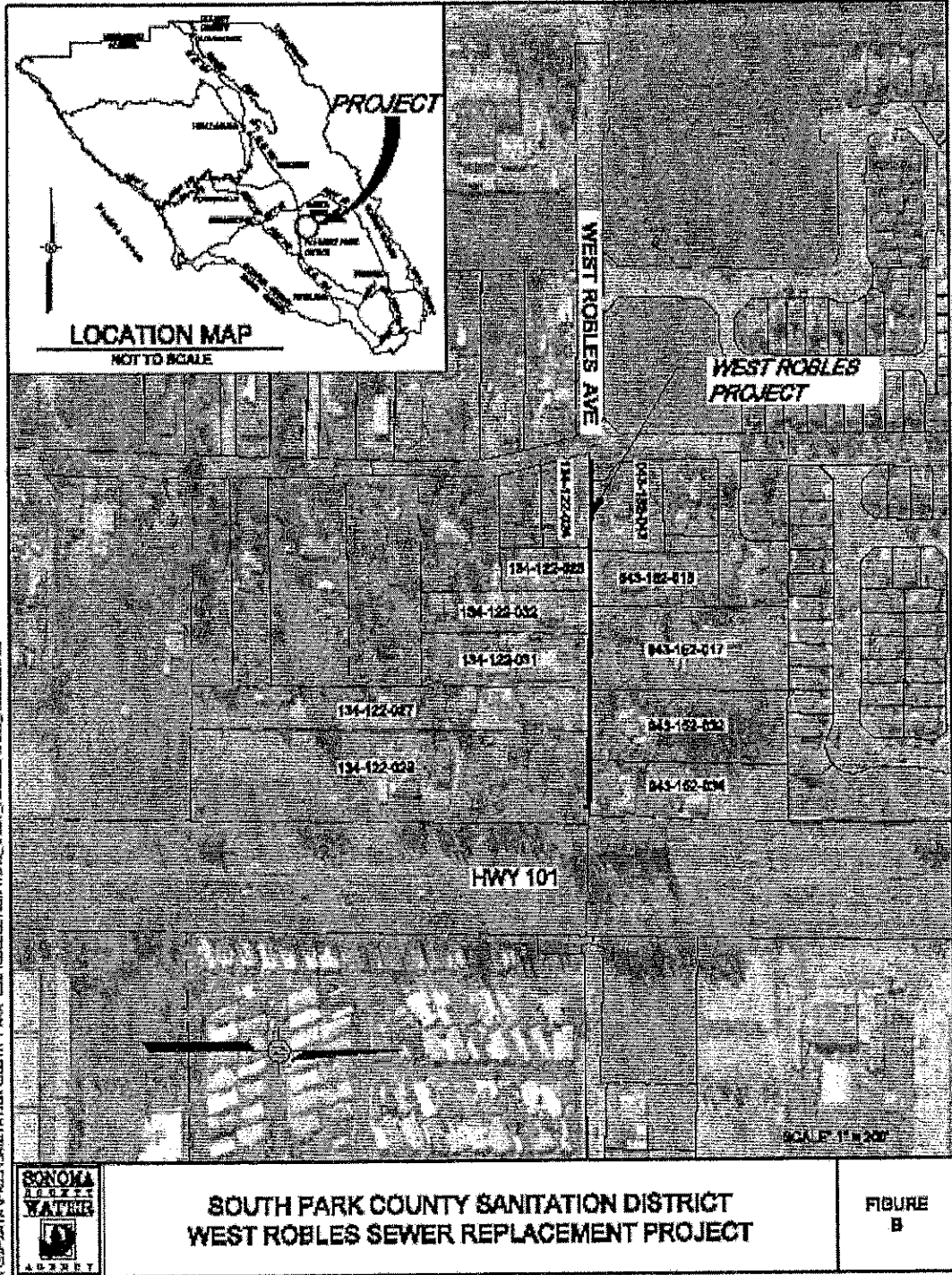


Exhibit B

Insurance Requirements

1. **INSURANCE TO BE MAINTAINED BY CITY OF SANTA ROSA**

City shall maintain insurance and/or self insurance as described below unless such insurance has been expressly waived by the attachment of a *Waiver of Insurance Requirements*. The insurance shall be maintained for one year after all funds have been disbursed.

District reserves the right to review any and all of the required insurance policies and/or endorsements, but has no obligation to do so. Failure to demand evidence of full compliance with the insurance requirements set forth in this Agreement or failure to identify any insurance deficiency shall not relieve City from, nor be construed or deemed a waiver of, its obligation to maintain the required insurance at all times during the performance of this Agreement.

1.1. **Workers Compensation and Employers Liability Insurance**

- a. Workers Compensation insurance with statutory limits as required by the Labor Code of the State of California.
- b. Employers' Liability with minimum limits of \$1,000,000 per Accident; \$1,000,000 Disease per employee; \$1,000,000 Disease per policy.
- c. Required Evidence of Insurance: Certificate of Insurance

1.2. **General Liability Insurance**

- a. Commercial General Liability Insurance on an occurrence form, no less broad than Insurance Services Office (ISO) form CG 00 01.
- b. Minimum Limits: \$2,000,000 per Occurrence; \$4,000,000 General Aggregate; \$4,000,000 Products/Completed Operations Aggregate.
- c. Any deductible or self-insured retention shall be shown on the Certificate of Insurance. City is responsible for any deductible or self-insured retention and shall fund it upon District's written request, regardless of whether City has a claim against the insurance or is named as a party in any action involving the District.
- d. Sonoma County Water Agency, South Park County Sanitation District, their officers, agents, and employees, shall be additional insureds for liability arising out of City's operations.
- e. The insurance provided to the additional insureds shall be primary to, and non-contributory with, any insurance or self-insurance program maintained by them.

- f. The policy definition of "insured contract" shall include assumptions of liability arising out of both ongoing operations and the products-completed operations hazard (broad form contractual liability coverage including the "f" definition of insured contract in ISO form CG 00 01, or equivalent).
- g. The policy shall cover inter-insured suits between District and City and include a "separation of insureds" or "severability" clause which treats each insured separately.
- h. Required Evidence of Insurance:
 - i. Copy of the additional insured endorsement or policy language granting additional insured status;
 - ii. Copy of the endorsement or policy language indicating that insurance is primary and non-contributory; and
 - iii. Certificate of Insurance.

1.3. Automobile Liability Insurance

- a. Minimum Limits: \$1,000,000 combined single limit per accident.
- b. Insurance shall cover all owned and non-owned and hired vehicles.
- c. Required Evidence of Insurance: Certificate of Insurance.

1.4. Public Officials Errors and Omissions Liability Insurance

- a. Minimum Limit: \$2,000,000 per claim or per occurrence.
- b. Any deductible or self-insured retention shall be shown on the Certificate of Insurance.
- c. If the insurance is on a Claims-Made basis, the retroactive date shall be no later than the commencement of the work.
- d. Required Evidence of Insurance: Certificate of Insurance.

1.5. Documentation

- a. The Certificate of Insurance must include the following reference: TW14/15-006.
- b. All required Evidence of Insurance shall be submitted prior to the execution of this Agreement. City agrees to maintain current Evidence of Insurance on file with District for the required period of insurance.
- c. The name and address for mailing Additional Insured endorsements and Certificates of Insurance is: South Park County Sanitation District, its officers, agents, and employees, c/o Sonoma County Water Agency, 404 Aviation Boulevard, Santa Rosa, CA 95403-9019.
- d. Required Evidence of Insurance shall be submitted for any renewal or replacement of a policy that already exists, at least ten (10) days before expiration or other termination of the existing policy.

- e. City shall provide immediate written notice if: (1) any of the required insurance policies is terminated; (2) the limits of any of the required policies are reduced; or (3) the deductible or self-insured retention is increased.

1.6. **Policy Obligations**

- a. City's indemnity and other obligations shall not be limited by the foregoing insurance requirements.