

**AGREEMENT
BETWEEN THE
ORANGE COUNTY SANITATION DISTRICT
AND THE
COUNTY OF ORANGE**

THIS AGREEMENT is entered into this First day of June 2023, which date is enumerated for purposes of reference only, by and between the ORANGE COUNTY SANITATION DISTRICT, hereinafter referred to as "DISTRICT", a district as defined by Government Code section 31468, and the COUNTY OF ORANGE, a political subdivision of the State of California, hereinafter referred to as "COUNTY".

RECITALS:

WHEREAS, DISTRICT wishes to contract with COUNTY for supplemental law enforcement services during meetings of DISTRICT within the COUNTY OF ORANGE, and

WHEREAS, COUNTY is agreeable to the rendering of such services on the terms and conditions hereinafter set forth,

NOW, THEREFORE, IT IS MUTUALLY AGREED AS FOLLOWS:

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1 **A. TERM:**

2 The term of this Agreement shall commence July 1, 2023 and terminate
3 June 30, 2024. This Agreement may be terminated by either party in the
4 manner set forth herein.

5 **B. OPTIONAL TERMINATION:**

6 COUNTY or DISTRICT may terminate this Agreement, without cause, upon
7 thirty (30) days written notice to the other party.

8 **C. REGULAR SERVICES BY COUNTY:**

9 COUNTY, through its Sheriff-Coroner and deputies, officers and employees,
10 hereinafter referred to as "SHERIFF", shall be responsible for and render to
11 DISTRICT law enforcement services at public meetings of DISTRICT where
12 DISTRICT has requested said services, hereinafter referred to as "DISTRICT
13 OFFICE", as follows:

- 14 1. SHERIFF shall provide all staffing, supervision, services, supplies,
15 transportation, training and equipment necessary to deliver services, as
16 required by this Agreement.
- 17 2. During requested services at meetings, if DISTRICT notifies SHERIFF in the
18 manner set forth below of a scheduled meeting, SHERIFF shall enforce
19 State statutes during said meeting at DISTRICT OFFICE.
- 20 3. No later than ten (10) days before a scheduled meeting where services are
21 required, DISTRICT representative, Safety and Health Supervisor or
22 designee, shall notify SHERIFF of the nature of the scheduled meeting.
23 SHERIFF shall then ascertain the deployment of law enforcement personnel
24 and equipment needed to enforce State statutes at the meeting in the
25 absence of unforeseen circumstances and shall notify Safety and Health
26 Supervisor, or designee, of the estimated cost of said personnel and
27 equipment, and the County shall invoice DISTRICT for services and
28 equipment after all documentation is received to compute actual

C. REGULAR SERVICES BY COUNTY: (Continued)

costs after the meeting.

4. SHERIFF shall provide law enforcement services at said meeting, using the number and type of personnel and equipment as determined necessary. If unforeseen circumstances occur requiring more or different personnel or equipment to enforce State statutes at the meeting, SHERIFF, in SHERIFF's sole discretion, may increase or decrease the number and type of personnel and equipment utilized at said event.
5. Notwithstanding the above, when said services are not in conflict with the operational needs of SHERIFF, SHERIFF shall endeavor to deploy a Sheriff's Special Officer II at said meetings whenever possible.

D. PAYMENT:

1. DISTRICT agrees to pay COUNTY the costs of performing the services mutually agreed upon in this Agreement. The costs of services described in Section C of this Agreement include salaries, wages, benefits, services, supplies, equipment, transportation, and divisional, departmental and COUNTY General overhead.
2. The rates charged to DISTRICT by COUNTY shall be as follows:
 - a. The hourly rate charged to DISTRICT shall be at an overtime rate computed by the ORANGE COUNTY SHERIFF-CORONER in accordance with COUNTY's law enforcement cost study in effect at the time the services are provided. The overtime hourly rate shall include salaries, wages, benefits, services, supplies, equipment, and divisional, department and County General overhead rates in effect at the time the services are provided.
 - b. Other costs, such as supplies, telephones, transportation and communications equipment, will be billed at COUNTY's cost.
3. COUNTY shall render quarterly to DISTRICT an invoice for services

D. PAYMENT: (Continued)

reflected in Section C of this Agreement.

4. DISTRICT shall pay COUNTY in accordance with COUNTY Board of Supervisors' approved County Billing Policy, which is attached hereto as Attachment A and incorporated herein by this reference.

5. The Cost of potential future salary and benefit increases or decreases are not included in the costs set forth in Subsection D-2 of this Agreement. If COUNTY incurs or becomes obligated to pay for any such increases for or on account of personnel whose costs are included in the calculations of costs charged to Orange County Sanitation District hereunder, Orange County Sanitation District shall pay COUNTY, in addition to the cost of service set forth in Subsection D-2 of this Agreement, the full costs of said increases to the extent such increases are attributable to work performed by such personnel after July 1, 2023, and Orange County Sanitation District's cost of service hereunder shall be deemed to have increased accordingly. Orange County Sanitation District shall pay COUNTY in full for such increases on a pro-rata basis over the portion of the period after COUNTY notifies Orange County Sanitation district that increases are payable.

In the event that salaries and benefits cost for COUNTY employees decrease for or on account of personnel whose cost are included in the calculations of costs charged to Orange County Sanitation District hereunder, COUNTY shall notify Orange County Sanitation District of decreased cost and bill accordingly.

E. ALTERATION OF TERMS:

This Agreement fully expresses all understanding of DISTRICT and COUNTY with respect to the subject matter of this Agreement and shall constitute the total Agreement between the parties for these purposes. No addition to, or

E. ALTERATION OF TERMS: (Continued)

alteration of, the terms of this Agreement shall be valid unless made in writing, formally approved and executed by duly authorized agents of both parties.

F. STATUS OF COUNTY:

COUNTY is, and shall at all times be deemed to be, an independent contractor and shall be wholly responsible for the manner in which it performs the services required of it by the terms of this Agreement. Nothing herein contained shall be construed as creating the relationship of employer and employee, or principal and agent, between DISTRICT and COUNTY or any of COUNTY's agents or employees. COUNTY and its SHERIFF shall retain all authority for rendition of services, standards of performance, control of personnel, and other matters incident to the performance of services by COUNTY pursuant to this Agreement. COUNTY, its agents and employees, shall not be entitled to any rights or privileges of DISTRICT employees and shall not be considered in any manner to be DISTRICT employees.

G. INDEMNIFICATION:

COUNTY, its officers, agents, employees, subcontractors and independent contractors shall not be deemed to have assumed any liability for the negligence or any other act or omission of DISTRICT or any of its officers, agents, employees, subcontractors or independent contractors, or for any dangerous or defective condition of any work or property of DISTRICT.

DISTRICT shall indemnify and hold harmless COUNTY and its elected and appointed officials, officers, agents, employees, subcontractors and independent contractors from any claim, demand or liability whatsoever based or asserted upon the condition of any work or property of DISTRICT, or upon any act or omission of DISTRICT, its elected and appointed officials, officers, agents, employees, subcontractors or independent contractors, related to this Agreement, for property damage, bodily injury or death or any other element of

G. INDEMNIFICATION: (Continued)

damage of any kind or nature, and DISTRICT shall defend, at its expense including attorney fees, and with counsel approved in writing by COUNTY, COUNTY and its elected and appointed officials, officers, agents, employees, subcontractors and independent contractors in any legal action or claim of any kind related to this Agreement based or asserted upon such condition of work or property, or alleged acts or omissions.

DISTRICT, its officers, agents, employees, subcontractors and independent contractors shall not be deemed to have assumed any liability for the negligence or any other act or omission of COUNTY or any of its officers, agents, employees, subcontractors or independent contractors, or for any dangerous or defective condition of any work or property of COUNTY. COUNTY shall indemnify and hold harmless DISTRICT and its elected and appointed officials, officers, agents, employees, subcontractors and independent contractors from any claim, demand or liability whatsoever based or asserted upon the condition of any work or property of COUNTY, or upon any act or omission of COUNTY, its elected and appointed officials, officers, agents, employees, subcontractors or independent contractors, related to this Agreement, for property damage, bodily injury or death or any other element of damage of any kind or nature, and COUNTY shall defend, at its expense including attorney fees, and with counsel approved in writing by DISTRICT, DISTRICT and its elected and appointed officials, officers, agents, employees, subcontractors and independent contractors in any legal action or claim of any kind related to this Agreement based or asserted upon such condition of work or property, or alleged acts or omissions.

If judgment is entered against DISTRICT and COUNTY by a court of competent jurisdiction because of the concurrent active negligence of either party related to this Agreement, DISTRICT and COUNTY agree that liability will be

G. INDEMNIFICATION: (Continued)

apportioned as determined by the court. Neither party shall request a jury apportionment.

H. NOTICES:

All notices, reports and correspondence between the parties hereto respecting this agreement shall be in writing and deposited in the United States Mail, postage prepaid, addressed as follows:

COUNTY: ORANGE COUNTY SHERIFF-CORONER

ATTN: LAW ENFORCEMENT CONTRACT MANAGER

320 N. FLOWER STREET, SUITE 108

SANTA ANA, CA 92703

DISTRICT: ORANGE COUNTY SANITATION DISTRICT

ATTN: LORENZO TYNER

ASSISTANT GENERAL MANAGER,

10844 ELLIS AVENUE

FOUNTAIN VALLEY, CA 92708

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IN WITNESS WHEREOF, the parties have executed the AGREEMENT in the
County of Orange, State of California.

DATED: MAY 1, 2023

Tyner,
BY: Lorenzo

Digitally signed by
Tyner, Lorenzo
Date: 2023.05.01
07:47:48 -0700

ORANGE COUNTY SANITATION DISTRICT
LORENZO TYNER,
ASSISTANT GENERAL MANAGER

DATED: _____

COUNTY OF ORANGE

BY: _____
Chairman of the Board of Supervisors
County of Orange, California

SIGNED AND CERTIFIED THAT A COPY OF THIS
AGREEMENT HAS BEEN DELIVERED TO THE CHAIR
OF THE BOARD PER G.C. Sec. 25103, Reso 79-1535
Attest:

Robin Stieler
Clerk of the Board
County of Orange, California

APPROVED AS TO FORM:
Office of the County Counsel
County of Orange, California

BY: **Annie Loo**
Deputy

Digitally signed by Annie Loo
DN: cn=Annie Loo, o=County Counsel,
ou, email=annie.loo@coco.ocgov.com,
c=US
Date: 2023.04.18 10:10:07 -0700

DATED: 4/18/23

ATTACHMENT A**COUNTY BILLING POLICY
APPROVED BY BOARD MINUTE ORDER DATED OCTOBER 27, 1992****I. POLICY**

All County agencies/departments/districts (County) governed by the Board of Supervisors shall bill contracting entities for materials and/or services provided under contract in accordance with the following standardized billing and collection policy. Billing frequency is dependent on whether the contract is a fixed price or actual cost contract. Payment due date is designed to be both responsive to the County's cash flow needs and reasonable enough as to not require special processing by the contracting entity. If payments are not received by the required due dates, a late payment fee shall be computed and billed to the contracting entity in accordance with the requirements of this procedure.

Nothing herein shall affect the liability, including pre-judgment interest, of the contracting party for services or materials in as much as this is a policy to enact standard billing practices.

II. DEFINITIONS

- A. Contract for the purposes of this policy - A contract is a formal written agreement, a purchase order from the contracting entity, or any other acceptable mutual understanding between the contracting parties.
- B. Received by the County - The phrase "received by the County", as used in Section VI of this policy, refers to the date a payment is received by the County. It is defined as the date the payment is in the County's possession. It is not the date the payment is posted or deposited by the County.

III. FIXED PRICE CONTRACTS

- A. Fixed Price (One-Time/Non-Recurring Contracts) - Invoices that represent a billing for a one-time, non-recurring provision of materials and/or services shall be issued no later than five (5) working days after delivery by the County of the materials and/or services. Examples of such one-time, non-recurring provision of materials and/or services might be a city contracting with the Sheriff for security service at a parade or sporting event; or, a city purchasing a computer listing containing certain city-requested data. Payment due date shall be invoice date plus 30 days.
- B. Fixed Price (Ongoing/Recurring Contracts) - Invoices that represent a billing for an ongoing, recurring provision of materials and/or services shall be issued according to the following frequency:
 - 1. Annual Billings that total \$10,000 or less per 12-month period shall be billed via one (1) annual invoice. Annual invoices will be issued for each 12-month period of the contract, or portions thereof. Invoices shall be issued no later than five working days after the beginning of each 12-month period. Payment due date shall be invoice date plus 30 days.

2. Quarterly Billings that are greater than \$10,000 but not more than \$200,000 per 12-month period, shall be billed in quarterly installments. Quarterly invoices will be issued representing the contract amount for each 12-month period of the contract, or portions thereof, prorated into four (4) installments. Invoices shall be issued no later than 30 days after the beginning of each quarter. Payment due date shall be 60 days after the beginning of each calendar quarter.
3. Monthly Billings that are greater than \$200,000 per 12-month period shall be billed in monthly installments. Monthly invoices will be issued representing the contract amount for each 12-month period of the contract, or portions thereof, prorated into 12 installments. Invoices shall be issued on or before the first day of each service month. Payment due date shall be 30 days after the beginning of each service month.

An example of a fixed price contract for ongoing, recurring provision of materials and/or services might be a city contracting with the Sheriff for law enforcement services.

IV. ACTUAL COST CONTRACTS

- A. Actual Cost (One-Time/Non-Recurring Contracts) - Invoices that represent a billing for a one-time, non-recurring provision of materials and/or services shall be issued after delivery by the County of the materials and/or services and no later than 15 days after actual cost data is available. Payment due date shall be invoice date plus 30 days.
- B. Actual Cost (Ongoing/Recurring Contracts) - Invoices that represent a billing for an ongoing, recurring provision of materials and/or services shall be issued on a monthly basis and shall represent the cost of materials and/or services provided to the contracting entity during the previous calendar month. Such invoices shall be issued no later than 15 days after the close of the monthly billing period. If the County agency/department/district does not utilize a monthly billing cycle, the invoice shall be issued no later than 15 days after actual cost data is available. Payment due date shall be invoice date plus 30 days.

Examples of actual cost contracts for the ongoing, recurring provision of materials and/or services might be a city contracting with the County for communications equipment repair or waste disposal at a County landfill.

V. PAYMENT DUE DATES

Notwithstanding the provisions of Sections II and III above, payment due date shall be at least invoice date plus 30 days. If the County is late in issuing an invoice, the contracting entity would always have at least invoice date plus 30 days to pay. If the County is early in issuing an invoice, the contracting entity would still have a payment due date of either 60 days after the beginning of the quarter (quarterly invoices) or 30 days after the beginning of the service month (monthly invoices).

(EXAMPLES: An invoice for October service, dated and issued October 8 (late) would have a payment due date of November 7. An invoice for August service, dated and issued July 20 (early) would have a payment due date of August 30.)

VI. LATE CHARGES

The late payment of any invoiced amount by a contracting entity will cause the County to incur costs not contemplated by the County/contracting entity agreement, the exact amount of such cost will be extremely difficult to ascertain. Such costs include, but are not limited to, costs such as administrative follow-up and processing of delinquent notices, increased accounting costs, etc.

Late charges will be assessed in the following situations:

- Over-the-counter payments will be assessed a late charge if any payment is not received by the County by the payment due date.
- Payments transmitted to the County via the U.S. Mail that have the payer's postage meter mark will be assessed a late charge if any payment is not received by the County by the payment due date plus one day.
- Payments transmitted to the County via the U.S. Mail that have a U.S. Post Office postmark dated after the payment due date will be assessed a late charge.

The late charge assessed in each of these situations shall be three-quarters of one percent (0.75%) of the payment due and unpaid plus \$100.00 for late payments made within 30 days of the payment due date. An additional charge of three-quarters of one percent (0.75%) of said payment shall be added for each additional 30-day period that the payment remains unpaid. Late charges shall be added to the payment and invoiced to the contracting entity in accordance with this policy.

VII. COLLECTIONS

Any invoice remaining unpaid 90 days after the invoice date shall be referred to the Auditor-Controller for subsequent collection action, such as deduction from contracting entity moneys on deposit with the County Treasurer in accordance with Government Code Section 907 and any other applicable provision of law. Non-payment of invoices and applicable late charges will constitute a breach of contract for which the County retains all legal remedies including termination of the contract.

VIII. DISCOUNT FOR EARLY PAYMENT

Any payment received by the County from a contracting entity 20 days or more before the payment due date shall be entitled to a discount of one-quarter of one percent (0.25%). If the contracting entity takes a discount, and the payment is received by the County less than 20 days before the payment due date, County staff shall immediately notify the contracting entity by telephone that the discount should not have been taken and that the balance is due by the original payment due date.

If the balance is not received by the County in accordance with the dates as specified in Section VII, applicable late charges shall be calculated on the balance due.

IX. DEFERRED REVENUE

At fiscal year end, any portion of revenue invoiced (not necessarily received) during the fiscal year being closed out that represents charges or prepayment for materials and/or services for the upcoming fiscal year shall be reclassified from a revenue account to a deferred revenue account (liability). In the new fiscal year the deferred revenue shall be reclassified to a revenue account. (EXAMPLE: On June 1, 19X1, a city is invoiced \$48,000 which represents charges for the 12-month period June 1, 19X1 to May 31, 19X2. The amount to be reclassified to deferred revenue would be \$44,000, representing 11/12ths of the total amount. In July 19X1, the \$44,000 would be reclassified to revenue.) Reclassification entries shall be made by Auditor-Controller Agency Accounting units, or for those agencies/departments/districts without such a unit, the agency/department/district shall notify the Auditor-Controller of the amounts to be reclassified.

X. COST RECOVERY

All County agencies/department/districts shall include all costs of providing contracted services in contract rates. Including all direct costs, allocated indirect costs such as departmental and County (CWCAP) overhead, and cost of capital financing.

XI. EXISTING CONTRACTS

Billing terms and provisions contained in existing contracting entity agreements (existing as of the date this policy is approved by the Board of Supervisors) shall remain in effect for the life of the contract. However, when these existing contracts are renegotiated, they shall contain the billing provisions as set forth in this policy.

XII. DEVIATIONS FROM POLICY

Deviations from this policy shall be approved by the Board of Supervisors. Proposed deviations by agencies/departments/districts shall be submitted to the CEO for concurrence in advance of filing an Agenda Item Transmittal (AIT) with the Clerk of the Board. The CEO, or his/her designee, shall advise the agency/department/district of approval or disapproval of the proposed deviations. If a County agency/department/district submits a contract to the Board of Supervisors for approval, and the billing provisions in the contract deviate from this policy, the agency/department/district shall specifically advise the Board of Supervisors in the AIT of the deviation, the reason for the deviation, and of the CEO's recommendation relative thereto.