

AGREEMENT FOR THE ADJUSTMENT OF MANHOLE and VALVE COVERS

Date: _____

PARTIES:

1. State of California, acting by and through the Department of Transportation ("Department"). "Department" includes the Department, its officers, agents, employees and contractors.
2. Burney Water District ("Owner"). "Owner" includes the Owner, its officers, agents, employees and contractors.

RECITALS:

- A. Owner owns, operates or maintains underground utility facilities in the State of California.
- B. In order to facilitate the planning, design and construction of Department's projects, to ensure the safety of the traveling public, and to ensure the continuity of the roadway/highway, manhole and valve cover adjustments need to be made on a routine basis. Utility owners may or may not be responsible for the cost of performing such adjustments, depending upon the liability determination made by the Department, with the cost of such activities allocated as provided by California law, contracts and the Department's policies.
- C. The Department frequently needs to adjust said manhole and valve covers more expeditiously than Owner can readily or economically accomplish.
- D. Department is willing to assume some control of the operation and cost of such adjustments to some manhole and valve covers in order to facilitate the Department's project needs from time to time as provided herein.

THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. This Agreement for the Adjustment of Manhole and Valve Covers ("Agreement") is made and executed by the parties hereto in connection with the provisions of Sections 680.5 and 707.5 of the California Streets and Highways Code. This Agreement shall exclusively govern the determination of

the obligations and costs to be borne by each party hereto in regard to work described herein in lieu of determination in connection with and under the provisions of Sections 673, 680 and 700 to 707, inclusive, of said Streets and Highways Code, as now or hereafter existing, or under any other laws applicable to said subject matter.

2. This Agreement shall apply throughout the State of California to all of the Department's projects and related activities and to all of the Owner's manhole and valve covers. With regard to any other agreements or parties, this Agreement is not intended to, and shall not, establish any precedent, principle, rule or guide to interpretation.
3. For purposes of this Agreement, manhole and valve cover adjustment includes, but it is not limited to, adjusting manhole frames and covers, replacing existing manhole frames, and adjusting manhole rings and valve covers.
4. In the event that the Department initiates a project and the Department determines that some of the Owner's manhole and valve covers are in physical conflict with Department's highway project, the Department shall issue a conflict letter ("Conflict Letter") to the Owner that (a) identifies the manhole and valve covers that are in physical conflict with Department's highway project and (b) includes a document (the "Reply") in which the Owner will designate the manhole and valve covers that the Owner is responsible to adjust in order to meet the Department's project requirements. Owner shall return the Reply to the Department within 30 days of the date that they receive the Conflict Letter. The Department is authorized to adjust the manhole and valve covers that are not designated by Owner as those for which the Owner is responsible. The work to be performed under this Agreement is expressly limited to the work required to adjust the manhole and valve covers that are listed in the Conflict Letter, and the Reply cannot expand the list of manhole and valve covers.
5. The Department may, at its sole option, elect to NOT adjust-to-grade manhole and valve covers that do not satisfy Caltrans standard specifications, as amended from time to time (including without limitation manhole and valve covers that do not use standard rings or covers).

6. This Agreement does not apply to the relocation, rearrangement, removal or protection of utility facilities.
7. All existing manhole and valve covers will be reused unless the manhole or valve cover requires replacement. Replacement of manhole and valve covers with ancillary parts must meet Buy America compliance by the Departments contractor.
8. All work under this Agreement shall be preceded by the delivery of a written Notification to Owner ("NTO") by the Department to the Owner. The Department shall list the manhole and valve covers that the Department is authorized to adjust pursuant to the Reply, and the Department will identify the manhole and valve covers that it elects to adjust. If the Department elects to not adjust manhole and/or valve covers which the Owner authorized the Department to adjust pursuant to the Reply, then the Owner shall be responsible for the adjustment of those manhole and valve covers in accordance with the provisions of the NTO, and the Owner shall allocate sufficient staff and resources to meet all of the schedules established for the project design and construction work.
9. Following receipt of the NTO, the Owner shall provide confirmation regarding the identity and typical characteristics (including size, material, contents, pressure or capacity) of Owner's utility facility and related activities, including, but not limited to, inspection services at no expense to the Department, in accordance with the Department's time schedule. Owner provide its written confirmation to the Department within 30 days of the date that they receive the NTO.
10. When manhole and valve cover adjustment work is performed by the Department under this Agreement, the cost of the work shall be borne by the Department. When manhole and valve cover adjustment work is performed by the Owner under this Agreement, the cost of the work shall be allocated according to the liability determination made by the Department.
11. The Department may perform its work under this Agreement or it may perform the work through the services of a third-party contractor.

12. It is intended that all work under this Agreement performed by the Department shall be performed using the contractors that are acceptable to the Department. Owner grants to Department, immediately upon receipt of the NTO and in accordance with the Department's time schedule, permission to perform manhole and valve cover adjustments within Owner's private rights of way and facilities, wherever located. Owner retains the right to require reasonable controls and restrictions provided such items are set forth in writing and delivered to the Department in the Owner's "Reply" described in paragraph 4.

(a) As part of this Agreement, Owner shall submit, in writing, its preliminary specifications for the adjustment of manhole and valve covers to grade to the Department.

(b) Owner will approve, in writing, the Department's final specifications for the adjustment of manhole and valve covers to grade.

13. Owner shall have access to all phases of the work to be performed by the Department for the purpose of inspection in order to ensure that the work being performed for the Owner is in accordance with the specifications contained in the highway contract, provided such access is made at no cost to the Department.

14. Upon completion of the work performed by Department, Owner agrees to accept ownership and the responsibility for the maintenance of the manhole and valve covers.

15. This Agreement supersedes and replaces any previous agreement between the parties relating to the work required to adjust identified manhole and valve covers in physical conflict with Department's highway projects.

16. This Agreement may only be amended, changed or altered by mutual written agreement of the parties.

17. This Agreement may be terminated by either party upon ninety (90) days written notice from the terminating party to the other party.

18. Time shall be of the essence of this Agreement.

For The Utility Owner:

Date

Name

Title

For The State of California:

Tiaira T. Moering, Chief
Office of Railroad and Utility Relocations
Division of Right of Way and Land Surveys
California Department of Transportation

Date

DISTRIBUTION:

- 1 – HQ Right of Way, Office of Railroads and Utility Relocations
- 1 – District
- 1 – Utility Owner