

**FIRST AMENDMENT TO THE COST-SHARING AGREEMENT
BETWEEN CITY OF SAN JOSE**

AND

**WEST VALLEY SANITATION DISTRICT OF SANTA CLARA COUNTY
FOR CONSTRUCTION, OPERATION AND MAINTENANCE OF JOINT
USE SANITARY SEWERS**

This First Amendment (“First Amendment”) to the Cost-Sharing Agreement Between City of San José (“City”) and West Valley Sanitation District of Santa Clara County (“District”) for Construction, Operation and Maintenance of Joint Use Sanitary Sewers is made and entered into this _____ day of _____, 2020 by and between the City of San Jose, a municipal corporation and West Valley Sanitation District of Santa Clara County (formerly County Sanitation District No. 4), a sanitation district organized and existing pursuant to the provision of the Health and Safety Code of the State of California, Division 5, Part 3, Chapter 3 (“Party” individually or “Parties” collectively).

RECITALS

WHEREAS, on June 25, 2002, City and District entered into an agreement entitled “Cost-Sharing Agreement between City of San José and West Valley Sanitation District of Santa Clara County for Construction, Operation and Maintenance of Joint Use Sanitary Sewers” (“Agreement”); and

WHEREAS, the term of Agreement is July 2, 2000 through June 30, 2020; and

WHEREAS, the Parties wish to extend the term of the Agreement by two (2) years in order to provide sufficient time to negotiate the remaining terms of Agreement.

NOW THEREFORE, in consideration of the promises made and recited herein and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties do hereby agree to enter into this First Amendment, which modifies and amends Agreement as follows:

1. **Recitals.** The foregoing recitals are true and correct and hereby incorporated herein.
2. **Defined Terms.** All capitalized terms not defined herein shall have the meanings ascribed to them in the Agreement.
3. **Section VI.A. entitled “Term of the Agreement”** is deleted in its entirety and replaced with the following:

VI. TERM OF THE AGREEMENT

A. TERM OF AGREEMENT. This AGREEMENT shall be in full force and effect for a period retroactive to July 1, 2000 through June 30, 2022, inclusive, unless terminated earlier by mutual agreement or by operation of law or due to a material breach by either party.

4. **Effect of First Amendment.** Except as expressly modified by the First Amendment, all terms and conditions in the Agreement dated June 25, 2002 shall remain in full force and effect and the Parties hereby ratify and affirm all their respective rights and obligations under the Agreement, including but not limited to the indemnification obligations. In the event of any conflict between the First Amendment or Agreement, the provisions of this First Amendment shall govern.

5. **Counterparts.** This Agreement may be executed in any number of counterparts and by each party in separate counterparts, each of which when so executed and delivered shall be deemed to be an original and all of which taken together shall constitute one and the same instrument.

WITNESS THE EXECUTION HEREOF, the parties hereto have executed this First Amendment on the day and year first hereinabove written.

City of San Jose
A municipal corporation

**West Valley Sanitation District
of Santa Clara County**
A sanitation district

By _____
Toni Taber
City Clerk

By _____
Paul Resnikoff
Chairperson, Board of Directors

APPROVED AS TO FORM:

Jennifer Pousho
Senior Deputy City Attorney

Laura McKinney
District Counsel