

**FOURTH AMENDMENT TO AGREEMENT
PROVIDING FOR IMPLEMENTATION OF
THE SANTA CLARA VALLEY URBAN RUNOFF
POLLUTION PREVENTION PROGRAM**

THIS FOURTH AMENDMENT TO AGREEMENT PROVIDING FOR IMPLEMENTATION OF THE SANTA CLARA VALLEY URBAN RUNOFF POLLUTION PREVENTION PROGRAM (the "Amendment") is entered into by and between the SANTA CLARA VALLEY WATER DISTRICT, a local public agency of the State of California ("District"); CITY OF CAMPBELL, a municipal corporation of the State of California; CITY OF CUPERTINO, a municipal corporation of the State of California; CITY OF LOS ALTOS, a municipal corporation of the State of California; TOWN OF LOS ALTOS HILLS, a municipal corporation of the State of California; TOWN OF LOS GATOS, a municipal corporation of the State of California; CITY OF MILPITAS, a municipal corporation of the State of California; CITY OF MONTE SERENO, a municipal corporation of the State of California; CITY OF MOUNTAIN VIEW, a municipal corporation of the State of California; CITY OF PALO ALTO, a municipal corporation of the State of California; CITY OF SAN JOSE, a municipal corporation of the State of California; CITY OF SANTA CLARA, a municipal corporation of the State of California; CITY OF SARATOGA, a municipal corporation of the State of California; CITY OF SUNNYVALE, a municipal corporation of the State of California; and COUNTY OF SANTA CLARA, a political subdivision of the State of California.

All of the above-mentioned entities are hereinafter collectively referred to as "Parties" or individually as "Party."

RECITALS

A. The Parties previously entered into that certain Agreement Providing For Implementation of the Santa Clara Valley Urban Runoff Pollution Prevention Program (the "Agreement" or "MOA") pursuant to which the Parties established certain terms and conditions relating to the implementation and oversight of the Santa Clara Valley Urban Runoff Pollution Prevention Program (the "Program"), including a cost sharing allocation, which was appended thereto as Exhibit A. Unless otherwise set forth herein, all terms shall have the meaning set forth in the Agreement as amended. A copy of the Agreement inclusive of Exhibit A is attached hereto as Appendix 1. A copy of the Agreement inclusive of all of its previous amendments is available via the internet at https://scvurppp.org/wp-content/uploads/2019/10/MOA_2016_complete_package_DEC_2016.pdf;

B. The Agreement originally provided for a five-year term, which, based on its execution, was set to conclude on or about March 10, 2005. However, on or about February 20, 2005, the Parties unanimously entered into a First Amendment to the Agreement, which extended the term of the Agreement by one additional year;

C. The Parties thereafter unanimously entered into a Second Amendment to the Agreement, which extended the term of the amended Agreement by “one fiscal year beyond the termination date of the (then) next NPDES Permit issued to the Parties, including any administrative extension of the (then) next NPDES Permit’s term which occurred pursuant to the NPDES regulations.” The next NPDES permit applicable to the Parties (and others) was subsequently adopted by the California Regional Water Quality Control Board, San Francisco Bay Region (“RWQCB SFBR”) on October 14, 2009 and was known as the Municipal Regional Permit (“MRP”) because it covered numerous public agencies in the San Francisco Bay Region in addition to the Parties. The MRP was then administratively extended until a new NPDES Permit applicable to the Parties (and the other public entities in the San Francisco Bay Region) was adopted by the California Regional Water Quality Control Board, San Francisco Bay Region, on November 19, 2015 (“MRP 2.0”). MRP 2.0 became effective on January 1, 2016 and was originally scheduled to terminate on December 31, 2020;

D. The Parties thereafter unanimously entered into a Third Amendment to the Agreement, which once again extended the term of the amended Agreement by “one fiscal year beyond the termination date of the next NPDES Permit issued to the Parties, including any administrative extension of the next NPDES Permit’s term which occurred pursuant to the NPDES regulations.” MRP 2.0 was then administratively extended, largely due to the COVID-19 pandemic, until a new NPDES Permit applicable to the Parties (and the other public entities in the San Francisco Bay Region) was adopted by the California Regional Water Quality Control Board, San Francisco Bay Region, on May 11, 2022 (“MRP 3.0”). MRP 3.0 became effective on July 1, 2022 and is currently scheduled to terminate on June 30, 2027 unless administratively extended;

E. The Parties expect to utilize the Program to continue to represent their interests relative to MRP 3.0 (including with respect to an administrative appeal of its adoption that the State Water Resources Control Board is considering to pursue on its own motion), to help them effectuate certain aspects of compliance with MRP 3.0, and, beyond that, in negotiating the terms of a further renewed NPDES Permit when MRP 3.0 nears the end of its anticipated five-year term and any administrative extension provided thereto;

F. The Parties also expect to continue to utilize the Program’s preferred approach of achieving consensus to resolve issues and reach decisions, and to rely on the Majority Vote mechanism set forth in Section 2.08 of the Agreement at the Management Committee level only when consensus-based resolutions appear or become elusive;

G. The Parties now desire to update the Agreement as previously amended and further extend the term of the MOA as set forth below;

H. Section 7.02 of the MOA provides that it may be amended by the unanimous written agreement of the Parties and that all Parties agree to bring any proposed amendments to their Council or Board, as applicable, within three (3) months following acceptance by the Management Committee; and

I. The Program's Management Committee accepted this Amendment for referral to the Parties' Councils and/or Boards at its meeting on January 19, 2023.

NOW, THEREFORE, THE PARTIES HERETO FURTHER AGREE AS FOLLOWS:

1. Recognition of Current Permit. Recital F of the Agreement, as previously amended, is hereby further amended by the addition of the following subsections:

6. Order No. R2-2009-0074 (the Municipal Regional Permit, NPDES Permit CAS612008); adopted October 14, 2009 and amended by the RWQCB SFBR on November 28, 2011;

7. Order No. R2-2015-0049 (MRP 2.0, NPDES Permit CAS612008); adopted by the RWQCB SFBR on November 19, 2015;

8. Order No. R2-2022-0018 (MRP 3.0, NPDES Permit CAS612008); adopted by the RWQCB SFBR on May 11, 2022.

2. Extension of Term of Agreement. Sections 6.02 and 6.02.01 of the Agreement, as previously amended, are hereby replaced as follows:

This Agreement shall have a term extending one fiscal year beyond the date of termination of MRP 3.0; such termination date shall, however, be deemed to include any administrative extension of MRP 3.0 which occurs or arises pursuant to the NPDES regulations or any modification of the MRP 3.0 termination date that arises from an NPDES permitting action undertaken by the RWQCB SFBR or California State Water Resources Control Board.

3. Superseding Effect. This Fourth Amendment of the Agreement shall supplement all prior amendments of the Agreement and supersede any conflicting provisions of the prior amendments of the Agreement.

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IN WITNESS WHEREOF, the Parties have executed this Fourth Amendment effective as of the last date indicated below or April 19, 2023, whichever arises earlier.

APPROVED AS TO FORM:

CITY OF SAN JOSE

NORA FRIMANN, CITY ATTORNEY

By: _____

Name: _____

By: _____

Title: _____

Colleen Winchester
Senior Deputy City Attorney
CITY OF SAN JOSE

Date: _____