

**AMENDMENT TO  
COST REIMBURSEMENT AGREEMENT  
BETWEEN  
THE CITY OF SAN JOSE  
AND  
SANTA CLARA VALLEY WATER DISTRICT**

This Amendment to Cost Reimbursement Agreement between the SANTA CLARA VALLEY WATER DISTRICT, an independent special district of the State of California ("VALLEY WATER") and the CITY OF SAN JOSE, a municipal corporation ("CITY") is entered into as of the date it is fully executed (hereinafter "Amendment Effective Date").

**WHEREAS**, on June 20, 2019, VALLEY WATER and CITY entered into an agreement entitled "Cost Reimbursement Agreement Between the City of San José and Santa Clara Valley Water District" ("Agreement"); and

**WHEREAS**, VALLEY WATER encountered unexpected permit conditions from the California Department of Fish and Wildlife ("CDFW") for the repair of CITY's outfall and associated damages on Thompson Creek ("PROJECT"); and

**WHEREAS**, CDFW is requiring that VALLEY WATER monitor the health of the 60-inch-diameter live oak tree ("oak tree") at the PROJECT site for a period of three years upon completion of the PROJECT;

**NOW, THEREFORE**, the parties hereby agree to amend the Agreement as follows:

1. Consistent with CDFW permit requirements, upon completion of the PROJECT, VALLEY WATER shall perform monitoring of the health of the 60-inch diameter live oak tree ("oak tree") at the PROJECT for a period of three years ("TREE MONITORING"). If the oak tree is found to be in accelerated decline or dies during the TREE MONITORING, VALLEY WATER shall mitigate the loss of the oak tree ("MITIGATION WORK") consistent with CDFW permit requirements. VALLEY WATER shall take all reasonable precautions to minimize impacts to the health of the oak tree, including utilization of a professional arborist for required tree trimming, cutting roots in accordance with standard arboricultural practice, and not driving over ground adjacent to the tree with equipment.

2. Section 2, "Term" is hereby amended to read as follows:

"The term of this Agreement shall commence upon the Effective Date and terminate at the end of three-year TREE MONITORING on January 31, 2023, or upon the start of VALLEY WATER's MITIGATION WORK (if required), whichever is shorter."

3. Section 4.2, "Not-to-Exceed Project Cost" is hereby amended to read as follows:

"Parties' financial responsibilities and estimated costs of PROJECT are outlined in Thompson Creek City Outfall, Cost Share (**Revised Exhibit C**) of this Agreement. CITY agrees to compensate VALLEY WATER in accordance with the "CITY'S SHARE" column in **Revised Exhibit C** for VALLEY WATER's actual, reasonable, and documented costs associated with administration, design, and construction of the PROJECT in a total amount not-to-exceed four hundred twenty-five thousand dollars (\$425,000)."

4. Exhibit C, "Thompson Creek City Outfall, Cost Share" is amended to read as shown in Revised Exhibit C, attached and incorporated into this Amendment.
5. All other terms and conditions of the Agreement not specifically modified by this Amendment remain in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Amendment to the Agreement the day and year last written below.

APPROVED AS TO FORM:

**"CITY"**

CITY OF SAN JOSE, a municipal corporation

  
JENNIFER POUSHO  
Senior Deputy City Attorney

  
TONI J. TABER, CMC  
City Clerk

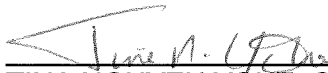
11/21/19  
Date

APPROVED AS TO FORM:

**"VALLEY WATER"**

SANTA CLARA VALLEY WATER DISTRICT, an independent special district

  
ANTHONY FULCHER  
Sr. Assistant District Counsel

  
TINA NGUYEN YOKE, C.P.M.  
Chief Operating Officer  
Information Technology and  
Administrative Services  
Acting for Norma J. Camacho  
Chief Executive Officer

11/14/19  
Date

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**REVISED EXHIBIT C**  
**THOMPSON CREEK CITY OUTFALL**  
**Cost Share**

<b>Activities</b>	<b>Overall Costs</b>	<b>VALLEY WATER's SHARE</b>	<b>CITY's SHARE</b>
2018 construction work to repair bank erosion caused largely by outfall (completed)	\$270,000	\$270,000	
2019 advanced cavern survey using 3D Laser scanner (completed)	\$30,000	\$30,000	
Engineering preliminary design for remaining work (completed)	\$30,000	\$30,000	
Engineering final design and construction support, etc. for remaining work	\$50,000		\$50,000
Remaining field construction work, including replacement of CITY's outfall	\$330,000		\$330,000
CEQA and permits (10% Project costs)	\$30,000		\$30,000
TREE MONITORING	\$5,000		\$5,000
MITIGATION WORK (if required)	\$10,000		\$10,000
<b>TOTAL</b>	<b>\$755,000</b>	<b>\$330,000</b>	<b>\$425,000</b>