

**AGREEMENT FOR
WEST CHANNEL ENHANCEMENT PROJECT COMPLETION AND GOOGLE
CONVEYANCE AND SANTA CLARA VALLEY WATER DISTRICT ACCEPTANCE
OF THE SPECIFIED PROJECT IMPROVEMENTS**

THIS AGREEMENT (this “**Agreement**”) is made and entered into as of _____, 2024 by and between Google LLC, a Delaware limited liability company (“**Google**”) and the Santa Clara Valley Water District (“**Valley Water**”), a special district of the State of California. Google and Valley Water are sometimes referred to collectively as the “**Parties**”.

RECITALS

- A. On September 9, 2014, the Valley Water Board of Directors approved the Sunnyvale West Channel Flood Protection Project (“**Valley Water Project**”). The Valley Water Project is designed to protect certain areas within the City of Sunnyvale against a 100-year riverine flooding.
- B. A portion of the Valley Water Project is located in the relevant part on the Sunnyvale West Channel (“**West Channel**”) between Caribbean Drive and Caspian Court in Sunnyvale, California (“**Valley Water Property**”).
- C. Google is the owner of certain real property adjacent to and on both sides of the Valley Water Property, Assessor Parcel Nos. 110-26-054 and 110-26-055 (“**Google Property**”).
- D. On February 22, 2022, the Parties entered into an agreement for the Construction and Maintenance of the West Channel Enhancement Project (defined below) (“**West Channel Agreement**”). Pursuant to the West Channel Agreement, the Parties agreed to installation and construction of the West Channel Enhancement Project (defined below), including the realignment of a portion of the West Channel, a portion of which would encroach onto Google Property, and to make certain other improvements on Valley Water Property and Google Property, including installation of (i) new publicly accessible multi-use trails for use by pedestrians, bicyclists, and Valley Water and Google maintenance vehicles on the east and west banks of the West Channel; (ii) two new bridges crossing the West Channel on Valley Water Property; (iii) Google utilities; (iv) new plantings for compensatory mitigation purposes; and (v) other appurtenant improvements (collectively, “**West Channel Enhancement Project**”).
- E. The West Channel Agreement requires Valley Water to operate and maintain the Specified Project Improvements (defined below) upon Valley Water Acceptance (defined below) pursuant to the Operation and Maintenance Agreement (“**O&M Agreement**”) separately entered into by the Parties on February 22, 2022 and the Google Caribbean Campus, West Channel Enhancement Restoration and Monitoring Plan (“**RMP**”) attached as Exhibit C to the West Channel Agreement.
- F. Pursuant to the RMP and the Matrix of Expected and Potential Maintenance Activities attached as an Exhibit C to the O&M Agreement, Google is required to complete specified

monitoring and restoration work (“**Outstanding Obligations**”), including but not limited to mitigation plantings (replanting) to meet RMP success criteria (“**Mitigation Plantings**”). Accordingly, the Parties acknowledge that Google’s Outstanding Obligations will continue post-Valley Water Acceptance (defined below) of the Specified Project Improvements (defined below).

- G. Pursuant to the RMP, Google must meet all outstanding post-construction regulatory agency permit conditions, which, as of the date of the Effective Date (defined below) of this Agreement, are limited to ongoing reporting requirements (“**Reporting Requirements**”).
- H. The West Channel Agreement provides that the “**Specified Project Improvements**” shall include the levee, floodwall, channel, and mitigation plantings (constructed and installed as part of the West Channel Enhancement Project), including but not limited to the “**Excess Mitigation Acreage**,” which consists of approximately 1.1 acres of non-tidal enhanced riparian habitat, 1.1 acres of estuarine wetland, and 0.15 acres of tidal waters in excess of the respective mitigation required by the regulatory approvals for the West Channel Enhancement Project. The Excess Mitigation Acreage is intended for use by Valley Water as mitigation for impacts associated with the Valley Water Project.
- I. The West Channel Agreement provides that once the West Channel Enhancement Project has been completed to the satisfaction of both Parties, the Parties shall document Google’s dedication, conveyance, and transfer of the Specified Project Improvements to Valley Water as evidenced by the Parties’ written acknowledgment noting project completion (“**Valley Water Acceptance**”). The Parties’ written acknowledgement of completion of the West Channel Enhancement Project is referred to herein as the “**Project Completion Documentation**.” Google’s dedication, conveyance, and transfer of the Specified Improvements to Valley Water is referred to herein as “**Google’s Conveyance of the Specified Project Improvements**.”
- J. For purposes of this Agreement only, the term “Specified Project Improvements” does not include the Mitigation Plantings.
- K. As required by the West Channel Agreement, on May 16, 2024 a “**Notice of Project Completion**” for the West Channel Enhancement Project was recorded with the County Recorder for the County of Santa Clara against the Google Property as Instrument No. 25637170 of Official Records.
- L. The West Channel Agreement provides that Valley Water Acceptance of the Specified Project Improvements shall be contingent upon (i) Google providing Valley Water with FEMA documentation to certify the applicable Specified Project Improvements as providing 100-year riverine flood protection (referred to herein as “**FEMA Documentation**”) and (ii) Google’s grant of an exclusive perpetual easement to Valley Water over certain Google Property for purposes of allowing Valley Water access to flood protection infrastructure and compensatory mitigation areas to fulfill its flood protection, storm water drainage, and stream stewardship activities (“**Easement**”).

- M. Google provided the initially required FEMA Documentation to Valley Water on August 30, 2023 for the purposes of obtaining a Conditional Letter of Map Revision (“**CLOMR**”), and the Easement was recorded on March 13, 2024 with the County Recorder for the County of Santa Clara as Instrument No. 25609190 of Official Records (“**Additional Conditions Precedent**”).
- N. Google and Valley Water believe that Google has provided all of the necessary FEMA Documentation. However, if FEMA requires subsequent documentation for the CLOMR, which must be issued prior to construction of the Valley Water Project, or Letter of Map Revision (“**LOMR**”) upon completion of the Valley Water Project, Google shall provide such documentation as provided in Section 1.18 of the West Channel Agreement, which survives termination of the West Channel Agreement.
- O. The West Channel Agreement requires Google to represent and warrant that the Specified Project Improvements are free and clear of all mechanics liens, stop notices, security interests, or other encumbrances related to the work performed as described in the West Channel Agreement as of Valley Water Acceptance. This requirement is referred to herein as the “**Google Representation Documentation**.”

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises herein contained and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereto agree as follows:

1. Remaining Google Obligations. This Agreement does not change or otherwise affect Google’s obligation to satisfy the Outstanding Obligations and Reporting Requirements.
2. Google Representation Documentation. Google hereby represents and warrants that the Specified Project Improvements and Mitigation Plantings are free and clear of all mechanics liens, stop notices, security interests, or other encumbrances related to the work performed as described in the West Channel Agreement as of the Effective Date (defined below) of this Agreement. Thus, this Agreement serves as the Google Representation Documentation.
3. Project Completion Documentation. Based on Valley Water’s inspection of the Specified Project Improvements, the Parties agree that said components have been constructed and installed in compliance with the encroachment permit issued by Valley Water for the West Channel Enhancement Project, and the approved construction documents, in conformance with the West Channel Agreement. The Parties further agree that the West Channel Enhancement Project has been completed to the satisfaction of both Parties pursuant to the Notice of Project Completion. Thus, this Agreement serves as the Project Completion Documentation.
4. Conditions Precedent. The Parties agree that the requirements for Valley Water Acceptance of the Specified Project Improvements have been met, including the Google Representation Documentation, the Project Completion Documentation, and the Additional Conditions Precedent.

5. Google's Conveyance of the Specified Project Improvements. Google hereby dedicates, conveys, and transfers, as applicable, the Specified Project Improvements to Valley Water as of the Effective Date (defined below) of this Agreement. Thus, this Agreement serves as documentation of Google's Conveyance of the Specified Project Improvements to Valley Water and Valley Water's Acceptance of the Specified Project Improvements.

6. Google's Conveyance of the Mitigation Plantings. The Parties acknowledge that Google's Outstanding Obligations and Reporting requirements apply to the Mitigation Plantings, including but not limited to achievement of the final success criteria for the Mitigation Plantings pursuant to the RMP and any additional remediation measures required by regulatory agencies ("**Final Success**"). Once the applicable regulatory agencies approve the Final Success of the Mitigation Plantings, the Mitigation Plantings shall be automatically conveyed from Google to Valley Water. For the avoidance of doubt, no separate agreement will be required for that conveyance.

7. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their successors and assigns.

8. Counterparts; Governing Law. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original but all of which taken together shall constitute one and the same instrument. This Agreement shall be governed by the laws of the State of California.

9. Effective Date. This Agreement shall be effective upon execution of this Agreement by both Parties ("**Effective Date**").

10. Amendments. Any changes to this Agreement must be in writing in the form of an amendment approved by both Parties.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the date first written above.

GOOGLE

Google LLC,
a Delaware limited liability company.

By: _____
Parham Khoshkbari Director of
Infrastructure

Dated: _____

VALLEY WATER

Santa Clara Valley Water District, a Special District
of the State of California

By: _____
Nai Hsueh
Chair, Board of Directors

Dated: _____

ATTEST:

By: _____
Michele L. King, CMC
Clerk, Board of Directors

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