

**WEST CHANNEL JOINT WALL PROJECT:
OPERATION AND MAINTENANCE AGREEMENT**

(Sunnyvale West Channel)

WEST CHANNEL JOINT WALL PROJECT: OPERATION AND MAINTENANCE AGREEMENT (this “**Agreement**”), is made and entered into as of the date it is fully executed, by and between the CITY OF SUNNYVALE (“**City**”), a California chartered municipal corporation, and the Santa Clara Valley Water District (“**Valley Water**”), a special district of the State of California. City and Valley Water are each sometimes referred to herein as a “**Party**” and, collectively, as the “**Parties**.”

RECITALS

- A. Whereas, on September 9, 2014, the Valley Water Board of Directors certified the Final Environmental Impact Report (“**EIR**”) (SCH No. 2013012041) for and approved the Sunnyvale East and West Channel Flood Protection Project (“**Valley Water Project**”) as lead agency pursuant to the California Environmental Quality Act (Public Resources Code section 2100 et. seq.) (“**CEQA**”); and
- B. Whereas, Valley Water has prepared an addendum, approved by Valley Water Board of Directors on February 22, 2022, to the Valley Water Project EIR, which describes design changes to the previously approved Valley Water Project including design changes to be implemented by the West Channel Joint Wall Project (defined below) and analyzes the environmental effects that could result from the Valley Water Project changes (“**Valley Water Addendum**”). As set forth in the Valley Water Addendum, none of the conditions described in CEQA Guidelines Section 15162(a) would occur because of the Valley Water Project changes, and therefore an addendum is the appropriate level of environmental review under CEQA to support approval of the West Channel Joint Wall Project pursuant to CEQA Guidelines Section 15164(a). Valley Water has considered the EIR and the Valley Water Addendum prior to deciding whether or not to approve this Agreement; and
- C. Whereas, the Valley Water Project is designed to protect certain areas within the City of Sunnyvale against a 100-year flood (non-tidal); and
- D. Whereas, a portion of the Valley Water Project is located on the Sunnyvale West Channel flood protection channel (“**West Channel**”) between Caribbean Drive and the San Francisco Bay (Pond A4) in Sunnyvale, California (“**Valley Water Property**”), as depicted on **Exhibit A**, attached hereto and incorporated herein; and
- E. Whereas, on August 23, 2016, the City Council certified the Program EIR for the Sunnyvale Water Pollution Control Plant (WPCP) Master Plan (SCH #2015062037) (Master Plan PEIR) as lead agency pursuant to CEQA; and
- F. Whereas, the City has prepared an addendum to the Master Plan PEIR dated October 2020, which describes the perimeter floodwall around west and north sides of the WPCP and analyzes the environmental effects that could result from the Sunnyvale WPCP project

changes (**City Addendum**). As set forth in the City Addendum, none of the conditions described in CEQA Guidelines Section 15162(a) would occur because of the Sunnyvale WPCP project changes, and therefore an addendum is the appropriate level of environmental review under CEQA to support approval of the West Valley Joint Wall Project pursuant to CEQA Guidelines Section 15164(a). The City has considered the EIR and the City Addendum prior to deciding whether or not to approve this Agreement; and

- G. Whereas, City is the owner of certain real property adjacent to the Valley Water Property, Assessor Parcel Nos. 110-02-070 and 110-03-144 (“**City Property**”), also as depicted in **Exhibit A**; and
- H. Whereas, on _____, 2025, City and Valley Water entered into a Cost Sharing Agreement for the construction of a Joint Wall located all within City right of way along the City and Valley Water shared right of way adjacent to the West Channel and the City’s existing WPCP, herein referred to as the “**West Channel Joint Wall Agreement**.” The wall constructed pursuant to this West Channel Joint Wall Agreement is hereinafter referred to as the “Joint Wall.” Pursuant to this West Channel Joint Wall Agreement, the Parties have agreed to cost share on the construction of this Joint Wall, where this Joint Wall will serve a dual purpose: (1) serving as a perimeter security wall for the City’s existing WPCP and (2) also serving as a floodwall for the Valley Water Project (collectively, “**West Channel Joint Wall Project**”), as depicted on “**West Channel Joint Wall Project Area**,” attached hereto as **Exhibit A**; and
- I. Whereas, pursuant to the West Channel Joint Wall Agreement, the Parties desire to specify and define the Party or Parties responsible for the operation and maintenance of the West Channel Joint Wall Project’s various infrastructure and improvements constructed by City as part of the West Channel Joint Wall Project; and
- J. Whereas, the various infrastructure and improvements proposed as part of the West Channel Joint Wall Project are to be located along the Valley Water-City joint property line.

AGREEMENT

NOW, THEREFORE, in consideration of their mutual promises and agreements, and subject to the terms, conditions and provisions hereinafter set forth, the Parties hereto agree as follows:

1. Definitions. The defined terms in the Recitals are incorporated into this Agreement as set forth herein. In addition, the following defined terms shall apply for purposes of this Agreement.

1.1 The term “**Valley Water Maintenance Work**,” as referred to in this Agreement, shall mean the maintenance work specifically listed for Valley Water in the “**Maintenance Matrix**,” attached hereto and incorporated herein as **Exhibit B**, including but not limited to maintenance work related to the Specified Project Improvements (defined below).

1.2 The term “**Valley Water Work**,” as referred to in this Agreement, includes Valley Water Maintenance Work and other Valley Water work not otherwise included in therein, including but not limited to Valley Water’s (i) construction, reconstruction, inspection, operation, maintenance, improvement, and repair of the West Channel flood protection works and appurtenant structures; (ii) planting, trimming, or removing trees or brush; (iii) removal of earth, rock, sand, gravel, or other materials; and (iv) construction, maintenance, installation or management of any mitigation measures as may be required for the West Channel Joint Wall Project by regulatory agencies, including those related to Valley Water’s Stream Maintenance Program.

1.3 The term “**City Maintenance Work**,” as referred to in this Agreement, shall mean the maintenance work specifically listed for the City in the “**Maintenance Matrix**,” attached hereto as **Exhibit B**, including but not limited to maintenance work related to the Specified Project Improvements (defined below).

1.4 The term “**City Work**,” as referred to in this Agreement, includes City Maintenance Work and other City work not otherwise included in therein, including but not limited to City’s (i) construction, reconstruction, inspection, operation, maintenance, improvement, and repair of the WPCP perimeter security wall and appurtenant structures.

1.5 The term “**Specified Project Improvements**,” as referred to in this Agreement, shall include the wall, wall foundation, wall fencing, and appurtenant structures constructed and installed as part of the West Channel Joint Wall Project that will be constructed and owned by the City, subject to the conditions specified in the West Channel Joint Wall Agreement separately agreed to by the Parties.

1.6 The term “**Unexpended Funds**” shall mean the portion of moneys remitted by Valley Water to the City for a repair construction package that, as of either the termination of this Agreement or the Notice of Completion of the repair construction package, have not been committed by binding third-contracts or spent in good-faith performance of the repair construction package, together with any interest actually earned thereon.

1.7 The term “**Warranty Period**” shall refer to the period specified in the City of Sunnyvale Construction Contract language during which their Contractor assumes responsibility to make, at its own expense, all repairs or replacements necessitated by defects in material or workmanship supplied or constructed under the terms of their construction contract and to pay for any damage to other work resulting from such defects that becomes evident within a minimum of the specified amount of year(s) after the date of issuance of the Notice of Completion or within such period of time as may be prescribed by law.

2. City’s Listed Maintenance Obligations. City shall perform the maintenance specific work listed for the City in the Maintenance Matrix, attached hereto as **Exhibit B**. City shall perform the City Maintenance Work to standards determined by the City, and by such means and methods that shall be at the sole discretion of the City, all in accordance with applicable governmental permits, regulations, agreements, and approvals.

3. Valley Water’s Listed Maintenance Obligations. Valley Water shall perform the maintenance specific work listed for Valley Water in the Maintenance Matrix, attached hereto as **Exhibit B**. Valley Water shall perform the Valley Water Maintenance Work to standards determined by Valley Water, and by such means and methods that shall be at the sole discretion of Valley Water, all in accordance with applicable governmental permits, regulations, agreements, and approvals

3.1 Valley Water may request access to the Sunnyvale WPCP to complete any inspections required as part of its maintenance obligation. Such request shall be made to City at least seven (7) days in advance. The City shall act in good faith to accommodate these requests.

4. Maintenance Obligations Not Specifically Addressed or Designated by Maintenance Matrix. The Parties agree to meet and confer to discuss any maintenance obligations not specifically addressed or designated by the Maintenance Matrix, to allocate cost responsibilities based upon the nature of the work, the location of the work, and the Party to be primarily benefitted by the work. To the extent the Parties fail to reach agreement on allocation of costs after meeting and conferring, the Parties shall pursue mediation before a neutral third-party mediator. The applicable statute of limitations to initiate a judicial action shall be tolled from the time any Party provides written notice of the intent to mediate until the time that the mediation has concluded.

5. Amendment of Maintenance Matrix. The Maintenance Matrix may be amended in writing by the authorized representatives of both Parties. The Valley Water Board has delegated authority to the Chief Executive Officer (“CEO”) or CEO designee to amend the Maintenance Matrix. The City Council has delegated authority to the City Manager or Public Works Director to amend the Maintenance Matrix.

6. Costs. Each Party shall agree to appropriate the funds necessary to bear and solely pay for its own costs in fulfilling its maintenance obligations specified herein.

6.1 Valley Water will share on a 50%/50% basis the costs for both minor structural repairs and major structural failure of the joint wall by a Force Majeure event. As used herein, a Force Majeure event includes, but is not limited to, floods, earthquakes, epidemics, pandemics, government orders and restrictions, and other extraordinary acts of nature, war or insurrection, riots, or other similar catastrophic events, not caused or maintained by the Party seeking relief, which event is not reasonably within the ability of that Party to intervene in or control to the extent that such event has a materially adverse effect on the ability of that Party to perform its obligations hereunder. No event, the effects of which could have been prevented by reasonable precautions, including compliance with any applicable laws, shall be a Force Majeure event. Cost sharing will not apply to structural failure of the joint wall by design failure.

6.1.1 Minor structural repairs include, but are not limited to, minor spalling, cracks, gaps, and efflorescence on the joint wall.

- 6.1.2 Minor structural repairs shall not include basic maintenance and repair of any fencing, including fencing fabric.
- 6.1.3 Major structural failure will be determined jointly by the City and Valley Water to have occurred when the Joint Wall no longer meets one or more of the functional criteria defined in Attachment 1 as a result of a Force Majeure event.
- 6.2 City and Valley Water will jointly determine when structural repairs are required. Each Party has a responsibility to report issues to the other Party within fourteen (14) calendar days of becoming aware of structural issues.
- 6.3 The Parties will discuss the repairs necessary to address identified issues and restore the functional criteria of the wall. Either Party may propose a repair solution. It is anticipated that major structural repairs may require more extensive consideration of alternatives. However, each Party agrees to remain engaged and respond to proposed solutions within 30 days. To the extent the Parties fail to reach agreement on a repair solution after meeting and conferring, the Parties shall pursue mediation before a neutral third-party mediator. The applicable statute of limitations to initiate a judicial action shall be tolled from the time any Party provides written notice of the intent to mediate until the time that the mediation has concluded.
- 6.4 Minor structural repairs may be completed by the City or by contractors procured by the City. Prior to committing to repairs, the City will provide Valley Water with an estimate of costs.
 - 6.4.1 City will invoice Valley Water for 50% of costs associated with minor structural repairs that have been mutually agreed upon.
 - 6.4.2 Valley Water agrees to remit payment in full to City within thirty (30) calendar days of receipt of City invoice, along with any supporting documentation for 50% of said costs associated with minor structural repairs.
- 6.5 The City will lead efforts to design and construct major structural repairs. Valley Water will provide input and agreement on the damage assessment, preliminary design solution, and at 50% design and 90% design. Valley Water will provide comments on designs within 30 days of receipt of plans.
- 6.6 City will advertise and publicly bid a construction package for major structural repairs.

- 6.7 Costs for damage assessment, design, and construction will be split on a 50%/50% basis between the City and Valley Water for major structural repairs as a result of a Force Majeure event.
- 6.7.1 With respect to major structural repairs as a result of a Force Majeure event, City will provide Valley Water with an estimate of design costs prior to commencing the design. Valley Water will reimburse the City for 50% of the design costs at the 50% design and at 100% design milestones.
- 6.7.2 Valley Water agrees to remit payment in full to City within thirty (30) calendar days of receipt of City invoice, along with any supporting documentation for 50% of said costs associated with the design for major structural repairs.
- 6.7.3 Thirty (30) calendar days prior to advertising the bid for a major structural repair construction package, Valley Water will deposit with the City 50% of the amount the construction-phase costs based on the engineer's estimate. The estimated costs will include a 10% contingency for change orders.
- 6.7.3.1 If bid item pricing is less than the engineer's estimate, City will remit the excess deposit amount to Valley Water, reserving a 10% contingency to fund potential future change orders required in association with repair construction package.
- 6.7.3.2 If bid item pricing exceeds engineer's estimate by less than or equal to 40%, Valley Water will remit an additional deposit to the City for 50% of the excess cost, within ten (10) calendar days after City's award of a construction contract for the repair construction package.
- 6.7.3.3 If bid item exceeds the engineer's estimate by more than 40%, the City must either:
- (1) Reject all bids; or
 - (2) Negotiate and reach agreement with Valley Water for a mutually agreed-upon cost share for Valley Water's portion of the repair construction package not to exceed 50% of the repair construction package lowest responsive bid item price within twenty one (21) calendar days after City's bid opening.
- 6.7.4 City agrees to provide Valley Water with notice and documentation regarding any modifications, revisions, change orders, and/or extra work required in association with the major

structural repair to Valley Water within seven (7) calendar days of City becoming aware of or initiating such matter.

- 6.7.5 Valley Water will respond to City regarding such matters within seven (7) calendar days of receipt of such information.
- 6.7.6 If any modifications, revisions, change orders, and/or extra work required in association with the major structural repair result in an expense above the amounts for which it already remitted payment to City, Valley Water agrees to remit payment in full to City within thirty (30) calendar days of receipt of City invoice, along with any supporting documentation for 50% of said additional costs associated with the major structural repair.
- 6.7.7. The City shall return any Unexpended Funds within ninety (90) days of the termination of this Agreement or within ninety (90) days from when the City issues a Notice of Completion for the repair construction package.

7. Indemnification. In lieu of and notwithstanding the pro rata risk allocation, which might otherwise be imposed between the Parties pursuant to Government Code Section 895.6, the Parties agree that all losses or liabilities incurred by a Party shall not be shared pro rata but, instead, Valley Water and City agree that, pursuant to Government Code Section 895.4, each of the Parties hereto shall fully indemnify and hold each of the other Parties, their officers, board members, employees, and agents, harmless from any claim, expense or cost, damage or liability imposed for injury (as defined in Government Code Section 810.8) occurring by reason of the negligent acts or omissions or willful misconduct of the indemnifying Party, its officers, employees, or agents, under or in connection with or arising out of any work delegated to such Party under this Agreement. No Party, nor any officer, board member, or agent thereof shall be responsible for any damage or liability occurring by reason of the negligent acts or omissions or willful misconduct of the other Party hereto, its officers, board members, employees, or agents, under or in connection with or arising out of any work delegated to such other Party under this Agreement. The defense and indemnification obligations of this agreement are undertaken in addition to, and shall not in any way be limited by, the insurance obligations contained in this Agreement. Parties' responsibility for such defense and indemnity obligations shall survive the termination or completion of this agreement.

8. Insurance. The Parties agree to procure and maintain for the duration of the Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work by the Parties, their agents, representatives, or employees.

8.1 The Parties shall maintain limits no less than:

- 1. **Commercial General Liability:** coverage written on an occurrence basis with limits not less than \$1,000,000 per occurrence and

\$2,000,000 aggregate for bodily injury, personal injury and property damage. ISO Form shall be at least as broad as CG 0001.

2. **Automobile Liability:** coverage with a combined single limit of not less than \$1,000,000 per occurrence applying to all owned, non-owned, or hired vehicles used in conjunction with this contract for bodily injury and property damage. ISO Form shall be at least as broad as CA 0001.
3. **Workers' Compensation: Statutory Limits and Employer's Liability:** \$1,000,000 per accident for bodily injury **or** disease.

8.2 Deductibles, Self-Insured Retentions and Other Coverages

Any deductibles or self-insured retentions must be declared and reviewed by each Party. The Parties shall guarantee payment of any losses and related investigations, claim administration and defense expenses within the deductible or self-insured retention.

The aforementioned insurance requirements can be met through any combination of self-insured, primary and excess/umbrella policies that fulfill the stipulated coverage as cited above.

8.3 Other Insurance Provisions

1. During the term of the contract, each Party shall name the other, its officials, employees, agents and volunteers as an additional insured in the Party's commercial general liability policy with respect to liability arising out of activities performed by or on behalf of a Party; products and completed operations of a Party; premises owned, occupied or used by a Party. The coverage shall contain no special limitations on the scope of protection afforded to a Party, its officers, employees, agents or volunteers.
2. During the term of the agreement, the Parties shall have no right of subrogation against the other Party for any Workers' Compensation claim filed with respect to liability arising out of activities performed by or on behalf of such other Party pursuant to this Agreement. Policy shall be endorsed with a waiver of subrogation in favor of the other Party.
3. For any claims related to this WORK, each Party's insurance shall be primary. Any insurance or self-insurance maintained by a Party, its officers, officials, employees, agents and volunteers shall be excess of the other Party's and shall not contribute with it and shall be at least as broad as ISO CG 20 01 04 13.
4. Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to the other Party, its officers, officials, employees, agents or volunteers.

5. A Party's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
6. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, cancelled by either Party, reduced in coverage or in limits except after thirty (30) days' prior written notice by email, has been given to the other Party.
7. Any umbrella or excess insurance liability policies shall be true "following form" of the underlying policy coverage, terms, conditions, and provisions and shall meet all of the insurance requirements stated in this document.
8. The policy limits of coverage shall be made available to the full limits of the policy. The minimum limits stated above shall not serve to reduce a Party's policy limits of coverage. Therefore, the requirements for coverage and limits shall be (1) the minimum coverage and limits specified in this agreement, or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the named insured and also available to the Additional Insured, whichever is greater.

8.4 Acceptability of Insurers:

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than Superior or Excellent, and who are admitted and authorized to do business and in good standing in California unless otherwise acceptable to the other Party.

8.5 Verification of Coverage:

Each Party shall email the other requesting proof of insurance for this Agreement through an electronic insurance verification system, which includes instructions on how to upload insurance documents electronically. Parties shall furnish the requesting Party with an electronic Certificate of Insurance effecting the coverage required.

The certificates are to be signed by a person authorized by that insurer to bind coverage on its behalf and name City of Sunnyvale, Attn: Risk Management, 456 W. Olive Ave, Sunnyvale, CA 94088 or Santa Clara Valley Water District, Attn: Risk Manager, 5750 Almaden Expressway, San Jose, CA 95118, as the certificate holder. All certificates are to be received and approved by the Risk Manager for the other Party other Party prior to commencement of work.

Each Party shall provide the other Party with electronic certificate(s) evidencing renewals of all insurance required herein prior to the expiration

date of any such insurance. Parties shall submit insurance certificates, reflecting the policy renewals through the other Party's electronic insurance verification system. Each Party reserves the right to require complete, certified copies of all required insurance policies, at any time.

8.6 Contractors and Subcontractors:

Each Party shall require all Contractor and Subcontractors to procure and maintain insurance policies subject to these requirements. Failure of either Party to verify existence of their Contractor or Subcontractor's insurance shall not relieve a Party from any claim arising from their Contractor or Subcontractors work on behalf a Party.

8.7 Self-Insurance.

The requirements of this Section 8 may be satisfied by each Party with the provision of similar coverage through a self-insurance program and such self-insurance shall be certified in writing in form and content acceptable to the other Party.

9. **Breach of an Obligation.** There shall be a breach of an obligation under this Agreement if a Party fails to perform, in a timely manner, any of the maintenance obligations for which such Party is responsible as set forth in this Agreement.

10. **Remedies from a Breach of Obligations.** If a Party breaches any obligation hereunder and such breach continues for thirty (30) calendar days after written notice from any nonbreaching Party (or, if such breach is not reasonably susceptible of cure within thirty (30) calendar days, then for such longer period of time as may be reasonably required to effectuate such cure, provided that the breaching Party commences such cure within said thirty (30) calendar day period and thereafter diligently prosecutes such cure to completion), and if such breach of an obligation presents a public health or safety concern, then the nonbreaching Party (following reasonable efforts to consult and coordinate with the breaching Party) may take appropriate steps to cure such breach, in which event the breaching Party shall reimburse the curing Party for all reasonable, actual costs and expenses incurred by the curing Party to effectuate such cure within forty-five (45) calendar days after receipt of an invoice therefor, together with reasonable supporting evidence of such costs and expenses.

11. **Notices.** Unless otherwise specified in this Agreement, any communication, notice or demand of any kind whatsoever that any Party may be required or may desire to give to the other in connection with this Agreement shall be in writing, delivered by personal delivery by third party courier, or by Federal Express, DHL or other similar overnight delivery service, or by registered or certified mail, postage prepaid. Any such notice shall be deemed delivered as follows: (a) if personally delivered, on the date of delivery to the address of the person to receive such notice; (b) if sent by Federal Express, DHL or other similar courier service, the date of delivery to the address of the person to receive such notice; (c) if mailed, two (2) calendar days after depositing same in the U.S. Postal Service. Any notice required or given under this Agreement shall be addressed as follows, provided that any Party may change its address for notice by written notice

given to the other at least five (5) calendar days before the effective date of such change in the manner provided in this Section 10.

To Valley Water: Santa Clara Valley Water District
Attn: Watersheds Operation and Maintenance
Engineering and Support Unit
5750 Almaden Expressway
San Jose, CA 95118

With a copy to: Santa Clara Valley Water District
Attn: Community Projects Review Unit
5750 Almaden Expressway
San Jose, CA 95118

To City: City of Sunnyvale
Attn: Real Property Manager
456 W. Olive Avenue
Sunnyvale, CA 94086

With a copy to: City of Sunnyvale
Attn: Assistant Director of Public Works/City
Engineer
456 W. Olive Avenue
Sunnyvale, CA 94086

12. **Successors and Assigns.** Parties may not assign this Agreement without prior written consent of the other Party.

13. **Effective Date and Term.** This Agreement shall be effective on the date a notice of completion has been filed for the West Channel Joint Wall Project and continue in perpetuity for the life of the Joint Wall until the Parties agree to either amend or terminate it.

14. **Amendment or Modification or Termination.** This Agreement may not be modified or amended or terminated except by written agreement executed by the Parties.

15. **Interpretation; Headings.** In the event of a dispute between the Parties hereto over the meaning of this Agreement, both Parties shall be deemed to have been the drafter hereof, and any applicable law that states that contracts are construed against the drafter shall not apply. The headings in this Agreement are inserted for convenience purposes only and shall not affect the interpretation of this Agreement.

16. **No Third-Party Beneficiaries.** This Agreement is entered into only for the benefit of the Parties executing this Agreement and not for the benefit of any other individual, entity, or person.

17. **Counterparts.** 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.

18. **Governing Law.** This Agreement shall be governed and construed in accordance with the laws of the State of California without giving effect to any conflict of law provisions thereof. The federal and state courts within the County of Santa Clara, California shall be the exclusive jurisdiction to adjudicate any dispute arising out of or related to this Agreement. Each Party expressly consents to the personal jurisdiction of and venue in such courts.

19. **Entire Agreement.** This Agreement, together with the Exhibits A and B attached hereto, constitute the entire agreement between the Parties regarding Operation and Maintenance of the West Channel Joint Wall Project and supersedes all prior written or oral understandings.

20. **Exhibits.** The following listed Exhibits referred to herein are incorporated in this Agreement as though set forth in full:

Exhibit A – West Channel Joint Wall Project Area

Exhibit B – Maintenance Matrix

Attachment 1 – Joint Wall Functional Criteria

IN WITNESS WHEREOF, the Parties have executed the Agreement the day and year set forth below, when fully executed.

City:

CITY OF SUNNYVALE, a California chartered municipal corporation

By: _____
Tim Kirby
City Manager

Date: _____

APPROVED AS TO FORM:

By: _____
Susan Yoon
Assistant City Attorney

Date: _____

ATTEST:

By: _____
David Carnahan
City Clerk

Date: _____

Valley Water:

SANTA CLARA VALLEY WATER DISTRICT, a special district

By: _____
Tony Estremera
Chair, Board of Directors

Date: _____

ATTEST:

By: _____
Candice Kwok-Smith
Clerk, Board of Directors

Date: _____

EXHIBIT A

West Channel Joint Wall Project Area

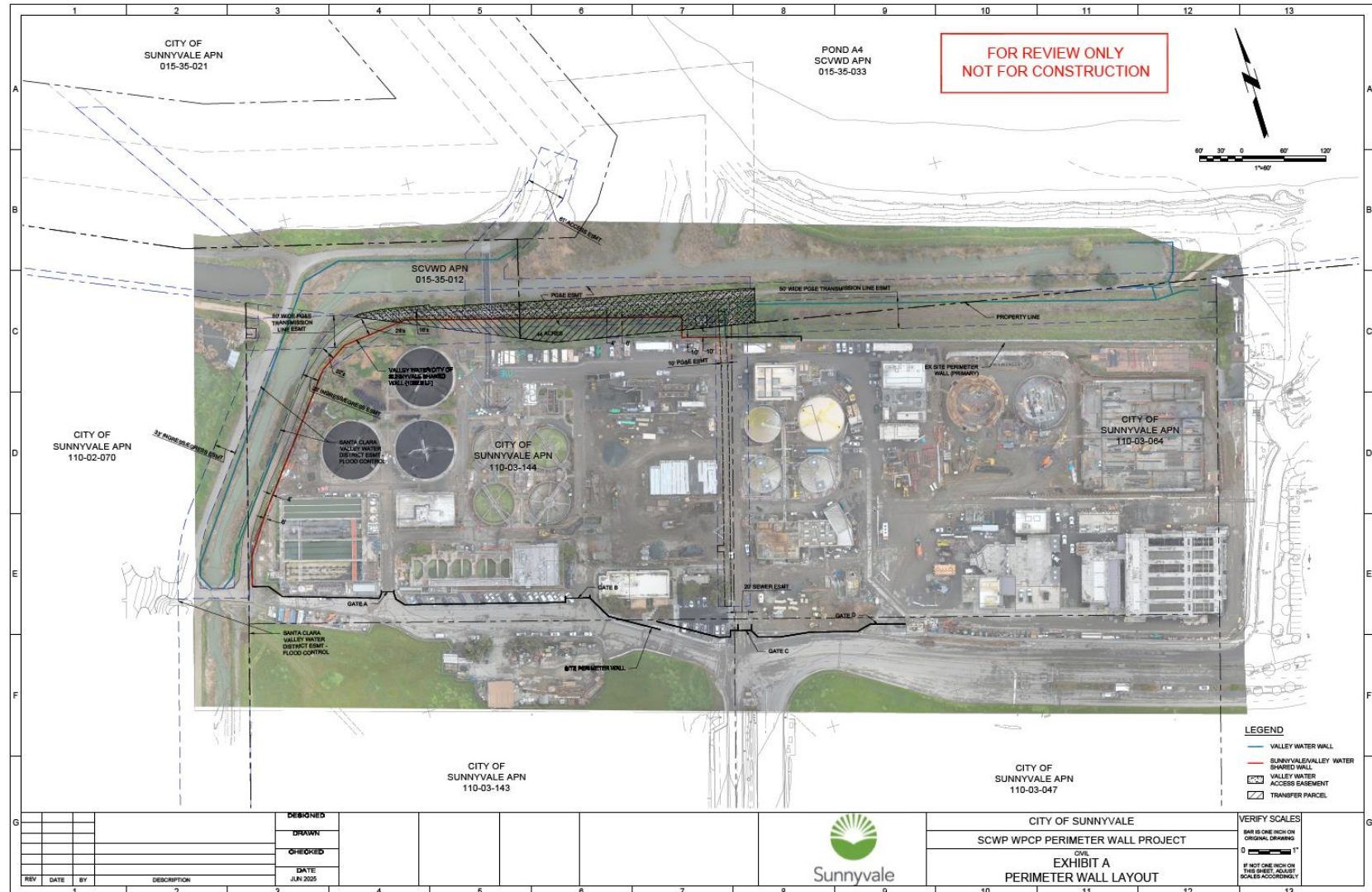


EXHIBIT B

Maintenance Matrix

Joint Wall				
Maintenance Activity	Expected Frequency	Notes	Implementing Entity (during Warranty Period as defined in Agreement)	Implementing Entity (after Warranty Period)
Structural Integrity Inspection of Joint Wall	As determined by Valley Water (typically once a year)	Valley Water to inspect wall for structural deficiencies (i.e. cracks) to assess if repairs are necessary for floodwall compliance. Valley Water inspection access shall be from the inboard side of the joint wall. Additionally, Valley Water may request access to the WPCP to inspect the outboard side of the joint wall. Such request shall be made to the City Sunnyvale at least seven (7) days in advance. The City of Sunnyvale shall act in good faith to accommodate these requests.	City of Sunnyvale	Valley Water
Security Integrity Maintenance of Joint Wall	As determined by the City of Sunnyvale	City of Sunnyvale to inspect wall to maintain WPCP security, including the inspection and repair of any fencing, including any fencing fabric needing to be repaired/replaced. City inspection/repairs access for said work shall be from either side of the joint wall	City of Sunnyvale	City of Sunnyvale
Graffiti Removal	Inspections quarterly; paint over/removal graffiti as needed	City of Sunnyvale, its agents, or designated/assigned third party will paint over/remove graffiti on the joint wall.	City of Sunnyvale	City of Sunnyvale
Minor Structural Repairs	As determined by Valley Water and City of Sunnyvale	To remedy minor spalling, cracks, gaps, and efflorescence on the joint wall.	City of Sunnyvale	City of Sunnyvale will make the necessary repairs where the shared cost will be equally split (50%-50%)

Joint Wall				
Maintenance Activity	Expected Frequency	Notes	Implementing Entity (during Warranty Period as defined in Agreement)	Implementing Entity (after Warranty Period)
Complete Structural Failure of Joint Wall by Design Failure	As determined by Valley Water and City of Sunnyvale	Joint Wall no longer meets one or more of the functional criteria defined in Attachment 1.	City of Sunnyvale	City of Sunnyvale will make the necessary structural repairs to the joint wall at City's sole cost to satisfy both Valley Water and City objectives as stated in Attachment 1.
Complete Structural Failure of Joint Wall by Force Majeure event as defined by Section 6.1	As determined by Valley Water and City of Sunnyvale	Joint Wall no longer meets one or more of the functional criteria defined in Attachment 1.	Both Parties	City of Sunnyvale will make the necessary structural repairs where the shared wall repair costs will be equally split (50%-50%) to satisfy both Valley Water and City joint wall objectives as stated in Attachment 1.

Attachment 1
City of Sunnyvale Water Pollution Control Plant Joint
Wall Functional Criteria

A. Hydraulic and Wave Loading

- The Joint Wall shall be designed to match the design elevation of 17 ft NAVD88 as specified for the floodwall in the plans and specifications for the Valley Water Project.
 - This design wall elevation is based on Valley Water design criteria, which exceeds FEMA criteria and considers up to 2.6 ft of sea level rise as well as both 100-year riverine and coastal events (100-year flow with 10-year tide and 10-year flow with 100-year tide).
- Wave effects in the vicinity of the Joint Wall do not need to be considered; a 2014 study prepared by BakerAECOM titled "A South San Francisco Bay Coastal Flood Hazard Study" indicates that wave height in the area of the proposed Joint Wall would be less than one foot tall.
- The Joint Wall will be designed to resist hydrostatic fluid forces of 64 pcf (density of salt water) and the flood impact load.

B. Geotechnical Criteria

- The bearing capacity for the soil beneath the Joint Wall will be designed in accordance with the procedure outlined in section 7.3.1 of the Geotechnical Investigation Report "Sunnyvale East and West Channels Flood Protection Project" developed by Amec Geomatrix, Inc. and Parikh Consultants, Inc. dated January 27, 2012.
- Minimum soil cover of Joint Wall footings and position of the Joint Wall from the levee hinge point for stability shall be designed in accordance with the Final Supplemental Geotechnical Memorandum for Sunnyvale East and West Channel prepared by AMEC Geomatrix in cooperation with PARIKH Consultants, Inc. dated December 20, 2013.
- Seepage Prevention
 - Where the Joint Wall is constructed on old levees and clay material, sheet piling to prevent seepage is not required since the clay will prevent the seepage of floodwaters.

C. Structural Loading

- Flood wall stability analysis shall be designed for 4 loading conditions.
 - 1. Permanent Condition, Dead Load + Soil/Earth Weight + Live Load Surcharge
 - 2. Critical Flood Stage Condition, Dead Load + Soil/Earth Weight + Flood + Flood Impact
 - 3. Sudden Draw Down, Dead Load + Saturated Soil/Earth Weight + Live 50%Load Surcharge

- 4. Seismic Condition, Dead Load + Soil/Earth Weight + Seismic
- Static and Seismic lateral earth pressure shall be designed in accordance with Section 7.8 of the Geotechnical Investigation Report, Sunnyvale East and West Channels Flood Protection Project, dated January 27, 2012, prepared by AMEC in cooperation with PARIKH Consultants, Inc.
- Load combinations to combine wall weight, geotechnical loading and hydraulic loading
- Joint Wall design for site specific seismic criteria (USGS Ground Acceleration Calculator):
 - Sos of 1.0g
 - Soi of 0.6g

D. Security Requirements

- Secure barrier of minimum 8 feet from grade with three (3) strands of barbed wire (City design criteria).