

**AMENDMENT NO. 1
TO THE JOINT USE AGREEMENT
Between City of Morgan Hill and Santa Clara Valley Water District
For West Little Llagas Creek between Monterey Road and Ciolino Avenue**

This Amendment No. 1 to the JOINT USE AGREEMENT A4201M between City of Morgan Hill and Santa Clara Valley Water District for West Little Llagas Creek between Monterey Road and Ciolino Avenue in association with the Upper Llagas Creek Flood Protection Project is made and entered into this _____ day of _____, 2025 ("Effective Date") by and between the CITY OF MORGAN HILL ("City"), a municipal corporation of the State of California, and the SANTA CLARA VALLEY WATER DISTRICT ("District"), a special district created by the California Legislature.

RECITALS

- A. The City and District entered into an agreement entitled "JOINT USE AGREEMENT between City of Morgan Hill and Santa Clara Valley Water District for West Little Llagas Creek between Monterey Road and Ciolino Avenue in association with the Upper Llagas Creek Flood Protection Project" dated September 28, 2018 (A4201M) ("Agreement"). The term of this Agreement (including the rights and obligations contained therein) is twenty-five (25) years commencing on the agreement effective date.
- B. The City and District desire to update certain provisions of the Agreement to address City proposed tree plantings and associated maintenance responsibilities.

In consideration of the above Recitals and the following mutual covenants and obligations, the parties do hereby agree to amend the Agreement as follows:

**Amendment No. 1
Agreement Provisions**

- 1. **Add to "1) Scope of License Grant to City" subsection "d." as follows: "d. To plant and maintain trees per the terms in Exhibit B attached hereto."**
- 2. **All provisions of the Original Agreement, except as modified by this Amendment No.1, remain in full force and effect, and are reaffirmed.**

WITNESS THE EXECUTION HEREOF, the day and year first hereinabove written.

CITY OF MORGAN HILL
A Municipal Corporation

SANTA CLARA VALLEY WATER DISTRICT
a California Special District

DocuSigned by:
By: Christina Turner
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City Manager

By: _____
Melanie Richardson, P.E.
Interim Chief Executive Officer

Approved as to form:

Approved as to form:

DocuSigned by:
Donald Larkin
45E8F0273EA2464...
City Attorney

Susana Inda
District Counsel

ATTEST:

ATTEST:

Signed by:
Michelle Bigelow
66B887310D154F2...
City Clerk

Candice Kwok-Smith
Clerk/Board of Directors

Exhibit B

Tree Planting and Maintenance Requirements:

1. City Responsibilities:

- a. Any trees planted by City are considered City Improvements as referred to in this Agreement.
- b. City is responsible for the installation of all District approved trees.
- c. City is responsible for the installation and maintenance of any and all District-approved trees and irrigation systems per District requirements.
- d. All complaints associated with planted trees shall be responded to and addressed by the City.

2. Approvals:

- a. City must obtain prior approval from the District for the planting of any trees within the Premises, including but not limited to the location and species before the initial tree planting and for any future replacement plantings.

3. Tree Placement Requirements:

- a. No trees may be planted within 75 feet on either side of an ingress ramp.
- b. No trees may be planted within at least 10 feet on either side of an irrigation standpipe.
- c. No trees may be planted directly in front of an outfall.
- d. City is not permitted to plant invasive tree species, including but not limited to Acacia spp., Locust spp., Ash spp., Privet spp., Palm spp., Holly Oak, Olive, Tree of Heaven, and Pepper spp.

4. Irrigation Requirements:

- a. All approved irrigation lines must be buried to prevent damage from Valley Water maintenance activities.
- b. Any leaks communicated to the City by District staff shall be repaired within one week.

5. Maintenance Requirements:

- Any soil or vegetation imported into the Premises must come from a District-approved nursery or be independently tested for Phytophthora before the initial planting and any future replanting.
- Trees shall be pruned according to International Society of Arboriculture (ISA) standards.
- Trees or branches may not encroach upon Valley Water's maintenance road. Branches must not extend into the service road up to a height of 14

feet. Adjustments to this requirement may be made with District approval.

- A biological assessment must be conducted prior to pruning to assess for nesting birds and other ecological considerations. Nesting birds shall be given work buffers, consistent with the Migratory Bird Treaty Act and other state and local regulations.
- Dead and fallen trees and debris shall be promptly removed.
- The use of herbicides is prohibited.
- City must maintain tree wells, including weeding and mowing.
- Any temporary stakes, cages, fabric, or other materials used during the tree establishment period must be removed once no longer needed and properly disposed of.
- As applicable, City must ensure that tree canopies are lifted to allow the District to inspect the inboard levee. Tree limbs must not touch or obstruct the levee surface.