

**THIRD AMENDMENT TO
MEMORANDUM OF UNDERSTANDING
BETWEEN THE
SANTA CLARA VALLEY WATER DISTRICT
AND THE CITY OF PALO ALTO
FOR RESIDENTIAL AND COMMERCIAL WATER CONSERVATION PROGRAMS
FISCAL YEARS 2017-2022**

This Third Amendment (“Third Amendment”) amends the terms and conditions of the Memorandum of Understanding between the SANTA CLARA VALLEY WATER DISTRICT and the CITY OF PALO ALTO for Residential and Commercial Water Conservation Programs, Fiscal Years 2017-2019 (“MOU”) dated January 1, 2017, as amended by First Amendment entered into June 30, 2019, and Second Amendment entered into December 31, 2019 between the CITY OF PALO ALTO, a California charter municipal corporation (hereinafter referred to as “PALO ALTO”) and the Santa Clara Valley Water District, an independent special district created by the California Legislature, located at 5750 Almaden Expressway, San Jose, California (hereinafter referred to as “WATER DISTRICT”). WATER DISTRICT and PALO ALTO may be individually referred to individually as (“PARTY”) or jointly as (“PARTIES”) hereinafter. This Third Amendment is effective once fully executed by the PARTIES (“Third Amendment Effective Date”).

RECITALS

- A. The MOU was entered into on January 1, 2017 between the PARTIES for WATER DISTRICT to administer Residential and Commercial Water Conservation Programs in PALO ALTO’s service area during Fiscal Years 2017-2019.
- B. The PARTIES now desire to extend the MOU’s Term for an additional two years, with a new termination date of June 30, 2022, and to update and modify Appendix “A”: PROGRAMS, TARGETS, AND BUDGETING.
- C. The PARTIES also now desire to increase the WATER DISTRICT maximum not to exceed cost obligation by Seven Hundred Fifty Thousand Dollars (\$750,000) from current overall “Not to Exceed Amount” of Zero Dollars (\$0) to a new overall total Not to Exceed Amount of Seven Hundred Fifty Thousand Dollars (\$750,000) and the PALO ALTO maximum not to exceed cost obligation by Fifty Thousand dollars (\$50,000) from current overall “Not to Exceed Amount” of Two Hundred and Fifty-Five Thousand Dollars (\$255,000) to a new overall total Not to Exceed Amount of Three Hundred Five Thousand Dollars (\$305,000), to allow the PARTIES to administer residential and commercial water conservation program(s) through the MOU’s Term.
- E. To accomplish these purposes, the PARTIES wish to execute a Third Amendment to the MOU.

NOW, THEREFORE, in consideration of the covenants, terms, conditions, and provisions of this Third Amendment, the PARTIES agree:

SECTION 1. The MOU Section 1. WATER DISTRICT’S RESPONSIBILITIES, subsections 1(a) and 1(h) are hereby amended to read as follows:

“a) Administer PROGRAM 1 (see Appendix “A”: PROGRAMS, TARGETS, AND BUDGETING – REVISED).”

“h) Work cooperatively with PALO ALTO to advertise PROGRAMS to targeted customers. WATER DISTRICT obligation to pay co-funding amounts for the PROGRAM(S) activities, as specified in Appendix “A”: PROGRAMS, TARGETS, AND BUDGETING - REVISED is capped at maximum total Not to Exceed Amount of Seven Hundred Fifty Thousand Dollar (\$750,000) over the Term of the MOU.”

SECTION 2. The MOU Section 2. PALO ALTO’S RESPONSIBILITIES, subsection 2(b) is hereby amended to read as follows:

“b) Work cooperatively with WATER DISTRICT to advertise PROGRAMS to targeted customers. PALO ALTO obligation to pay co-funding amounts for the PROGRAM(S) activities, as specified in Appendix “A”: PROGRAMS, TARGETS, AND BUDGETING - REVISED, is capped at maximum total Not to Exceed Amount of Eighty-Five Thousand Dollars per year (\$85,000) and Three Hundred Five Thousand Dollars (\$305,000) over the Term of the MOU.”

SECTION 3. The MOU Section 5. TERM is hereby amended to read as follows:

“5. TERM

The term of this MOU shall be from January 1, 2017 through June 30, 2022 unless terminated earlier pursuant to Section 11 of this MOU. The term of the MOU may be extended by a written amendment executed by the PARTIES acting through their authorized representatives.”

SECTION 4. The MOU Section 6. NOTICE is hereby amended to read as follows:

“6. NOTICE

Any notice, payment, credit or instrument required or permitted to be given hereunder is deemed received upon personal delivery or five (5) calendar days after deposit in any United States mail depository, first class postage prepaid and addressed to the PARTY for whom intended; or on the same day as a facsimile or email transmission is sent as long as original is placed in the mail, as provided above, on the same day.

If to WATER DISTRICT: Santa Clara Valley Water District
5750 Almaden Expressway
San Jose, CA 95118-3614
Attn: Metra Richert, Unit Manager, Water Supply Planning & Conservation, or her designee

If to PALO ALTO: City of Palo Alto Utilities
250 Hamilton Ave., 3rd Floor
Palo Alto, CA 94301
Attn: Karla Dailey, Interim Utility Program Services Manager/Senior Resource Planner, or her designee

Either PARTY may change its address or contact person noted above by notice given to the other PARTY as provided in this Section 6.”

SECTION 5. Appendix “A”: PROGRAMS, TARGETS, AND BUDGETING to the MOU is hereby amended to read as set forth in attached Appendix “A”: PROGRAMS, TARGETS, AND BUDGETING - REVISED, which is hereby incorporated into this Amendment.

SECTION 6. Legal Effect. Except as modified by this Amendment, all other provisions of the MOU, including any exhibits and subsequent amendments thereto, shall remain in full force and effect.

SECTION 7. Incorporation of Recitals. The recitals set forth above are terms of this Amendment and are fully incorporated herein by this reference.

(SIGNATURE BLOCK FOLLOWS ON THE NEXT PAGE.)

SIGNATURES OF THE PARTIES

IN WITNESS WHEREOF, the PARTIES have by their duly authorized representatives executed this Third Amendment to be effective on the Third Amendment Effective Date set forth above.

CITY OF PALO ALTO

By: _____

Date: _____

Name: _____

Title: _____

Approved as to Form:

By: _____

Name: _____

Title: Deputy City Attorney

SANTA CLARA VALLEY WATER DISTRICT

By: _____

Date: _____

Name: Norma J. Camacho

Title: Chief Executive Officer

By: _____

Name: Joseph D. Aranda

Title: Assistant District Counsel

Attachments:

Appendix "A": PROGRAMS, TARGETS, AND BUDGETING - REVISED

Appendix “A”: PROGRAMS, TARGETS, AND BUDGETING - REVISED

Each PARTY agrees to compensate the other PARTY for services performed in accordance with the terms and conditions of this MOU, and as set forth in the budget schedule below. Compensation shall be calculated based on the Revised TABLE 2. Responsibilities by Program below up to the not to exceed budget amount for each program set forth below.

PARTIES shall perform the needed work as a Program Administrator, respectively for their designated program(s), as outlined and budgeted in the Tables below.

DEFINITIONS

- Basic Services shall mean performance of Programs 1 through 8, as set forth in the Program Tables below.
- Additional Services, if authorized, shall mean any work that is agreed by PARTIES to be appropriate additional water conservation programs or services, which are not included within Programs 1 through 8.

ADMINISTRATIVE PROGRAM CHANGES

As agreed in writing, the PARTIES’ Project Managers are authorized and may approve the transfer of budget amounts between any of the Program(s) or changes to the number of units or the reimbursement rate per unit/measure listed in the Program Tables below, provided the total compensation for Basic Services, including reimbursable expenses, and the total compensation for Additional Services do not exceed the amounts set forth in TABLE 1B. Budget Summary of the MOU. TABLE 1B shows the maximum amount payable by PALO ALTO to the WATER DISTRICT for the WATER DISTRICT’S administration of Programs 1 through 6, and it shows the maximum amount payable by the WATER DISTRICT to PALO ALTO for PALO ALTO’S administration of Programs 7 and 8. Administrative program changes approved by PARTIES’ Project Managers will be incorporated by reference into this MOU, but will not require a formal amendment to the MOU.

REVISED Table 1. Summary of MOU:

MOU	Maximum Total Compensation NOT TO EXCEED AMOUNT For Term of the MOU		Increase to NOT TO EXCEED AMOUNT For Term of the MOU		Term of the MOU (Effective Date)
	WATER DISTRICT	PALO ALTO	WATER DISTRICT	PALO ALTO	
Original MOU	\$255,000 (\$85,000 per year for year 1-3 ½)	\$0	N/A		2 ½ Years (1/1/17 - 6/30/19)
Amendment No.1					3 Years (1/1/17 - 12/31/19)
Amendment No.2					3 ½ Years (1/1/17 - 6/30/20)
Amendment No.3	\$305,000	\$750,000	\$750,000	\$50,000	5 ½ Years (1/1/17 - 6/30/22)

PALO ALTO NOT TO EXCEED COMPENSATION

The compensation to be paid to PALO ALTO for performance of the Services described in this Appendix (“Basic Services”), and reimbursable expenses, shall not exceed Six Hundred Twenty-Five Thousand Dollars (\$625,000). PALO ALTO agrees to complete all Basic Services within this amount. In the event Additional Services are authorized, the total compensation for Basic Services, Additional Services and reimbursable expenses shall not exceed Seven Hundred Fifty Thousand Dollars (\$750,000). The applicable rates and schedule of payment are set forth in “Revised TABLE 2. Responsibilities by Program,” which is below. Any work performed, or expenses incurred for which payment would result in a total exceeding the maximum amount of compensation set forth herein shall be at no cost to the WATER DISTRICT.

WATER DISTRICT NOT TO EXCEED COMPENSATION

The compensation to be paid to WATER DISTRICT for performance of the Services described in this Appendix (“Basic Services”), and reimbursable expenses, shall not exceed Two Hundred Forty-Four Thousand Dollars (\$244,000). WATER DISTRICT agrees to complete all Basic Services within this amount. In the event Additional Services are authorized, the total compensation for Basic Services, Additional Services and reimbursable expenses shall not exceed Three Hundred Five Thousand Dollars (\$305,000). The applicable rates and schedule of payment are set forth in “Revised TABLE 2. Responsibilities by Program,” which is below. Any work performed, or expenses incurred for which payment would result in a total exceeding the maximum amount of compensation set forth herein shall be at no cost to PALO ALTO.

ADDITIONAL SERVICES

Additional Services shall mean any work that is determined by PARTIES’s to be necessary for the proper completion of the Project/Program, but which is not included within the scope of services described within this MOU. A PARTY shall provide Additional Services only by advanced, written authorization from the other PARTY. The administering PARTY, upon request by the other PARTY’s Project Manager, shall submit a detailed written proposal including a description of the scope of services, schedule, level of effort, and administering PARTY’s proposed maximum compensation. The Additional Services scope, schedule and maximum compensation shall be negotiated and agreed to in writing by the PARTIES prior to commencement of the services. Payment for Additional Services is subject to all requirements and restrictions in this MOU. All requests for payment of expenses or Additional Services shall be accompanied by appropriate documentation. Any expense anticipated to be more than \$0 shall be approved in advance by the other PARTY’s project manager.

TABLE 1B. Budget Summary of the MOU:

PARTY		NOT TO EXCEED AMOUNT					
		Basic Services		Additional Services		Maximum Total Compensation	
		Per FY	Over Term	Per FY	Over Term	Per FY	Over Term
PALO ALTO	Utilities	NA	\$204,000	NA	\$51,000	NA	\$255,000
		Pooled for Program 1,5, & 6		Other		Pooled for Program 1,5,6, & Other	
	Pooled for Program 2,3, & 4		Pooled for Program 2,3,4, & Other				
	Public Works	\$20,000	\$40,000	\$5,000	\$10,000	\$25,000	\$50,000
\$20,000		\$244,000	\$5,000	\$61,000	\$25,000	\$305,000	
Total		\$20,000	\$244,000	\$5,000	\$61,000	\$25,000	\$305,000
WATER DISTRICT		Pooled for Program 7 & 8		Other		Pooled for Program 7, 8, & Other	
		\$312,500	\$625,000	\$62,500	\$125,000	\$375,000	\$750,000

TABLE 2. Responsibilities by Program (Effective Date January 1, 2017 – June 30, 2020)

1. PROGRAM 1

WATER DISTRICT Responsibilities

Program Designation	Program Description	WATER DISTRICT Program Cost Per Measure	Annual Not-to-Exceed Amount	Total Not-to-Exceed Amount over Term
Program 1 Landscape Rebate Program (LRP)	LRP: Landscape Conversion Rebates	\$0	\$0	\$0
		\$0		

PALO ALTO Responsibilities

Program Designation	Program Description	PALO ALTO Program Cost Per Measure	Annual Not-to-Exceed Amount	Total Not-to-Exceed Amount over Term
Program 1 Landscape Rebate Program (LRP)	LRP: Landscape Conversion Rebates	Up to \$1,000 per residential site	\$85,000	\$255,000
		Up to \$10,000 per commercial site		

Revised TABLE 2. Responsibilities by Program (Effective Date July 1, 2020 – June 30, 2022)

PALO ALTO Cost Per Program Responsibilities, PROGRAMS 1-6

Program Administrator			Cost-Sharing Partner						
#	PARTY	Description	PALO ALTO Cost Per Program		Total Not-to-Exceed Amount		Effective Period (Year)		
			Department	Reimbursement* Rate Per Unit/Measure**	Annual	Over Term			
1	WATER DISTRICT	Landscape Conversion Rebate	Utilities	Match \$1.00 per sq ft Up to \$1,000 per qualified Residential site and eligible for WATER DISTRICT rebate	NA	\$204,000 Pooled for Program 1,5, & 6	1/1/17- 6/30/22		
2				Match \$1.00 per sq ft Up to \$10,000 per qualified Commercial site and eligible for WATER DISTRICT rebate					
3		Rain Barrel Rebate	Public Works	Match up to \$35 per qualifying rain barrel (40-199 gallons) and eligible for WATER DISTRICT rebate.	If WATER DISTRICT Cap is Met: customer is still eligible for PALO ALTO rebate if PALO ALTO rebate cap has not been met. Only PALO ALTO portion will be processed as long as all issued under one rebate application. If customer has already reached WATER DISTRICT cap in the past and is now applying for these components, they will only receive PALO ALTO rebate(s) directly from PALO ALTO.	\$20,000 Pooled for Program 2,3,&4		\$40,000 Pooled for Program 2,3,&4	TBD By approval in writing by the PARTIES including a description of the scope of services, schedule, and level of effort of PARTIES prior to effective period of program(s).
4		Cisterns Rebate	Palo Alto lifetime rebate cap by property (may be applied to any combination of rebate types and amounts): \$1,000 residential and \$5,000 commercial	Match \$0.50 per gallon for diverting existing downspouts to qualifying cisterns (200 gallon min) and eligible for WATER DISTRICT rebate.					
5		Rain Garden Rebate		Match \$1.00 per sq. ft. of roof area diverted (up to \$300 per site) and eligible for WATER DISTRICT rebate.					
6									
5		Graywater Laundry to Landscape Rebate	Utilities	Match up to \$200 for each completed, qualifying Graywater Laundry to Landscape system installed and eligible for WATER DISTRICT rebate	NA	\$204,000 Pooled for Program 1,5, & 6	7/1/20 – 6/30/22		
6		Submeter Rebate		Match up to \$150 per installed submeter and eligible for WATER DISTRICT rebate					
Basic Services Subtotal			Public Works Pooled for Program 2,3,&4		\$20,000	\$40,000			
			Utilities Pooled for Program 1,5, & 6		NA	\$204,000			
			Basic Services Total		\$20,000	\$244,000			
Other	Additional Services		Public Works	By Approval in writing by the PARTIES prior to commencement of the service	\$5,000	\$10,000	TBD As needed		
			Utilities		NA	\$51,000			
			Additional Services		\$5,000	\$61,000			
			Maximum Total Compensation		\$25,000	\$305,000			

WATER DISTRICT Cost Per Program Responsibilities – PROGRAMS 7-8

Program Administrator			Cost-Sharing Partner				
#	PARTY	Description	WATER DISTRICT Cost Per Program Reimbursement* Rate Per Unit/Measure**		Total Not-to-Exceed Amount		Effective Period (Year)
					Annual	Over Term	
7	PALO ALTO (Utilities)	Water Efficient Technologies Program	\$4 per 100 cubic feet of water saved per year, or 50% of the project cost, whichever is less, up to \$50,000 per project and eligible for WATER DISTRICT rebate		\$312,500 Pooled for Program 7 & 8	\$625,000 Pooled for Program 7 & 8	TBD By approval in writing by the PARTIES prior to effective period of program.
8		Water Use Reports	up to 50% of the cost of water use reports (both Residential and Commercial) up to \$4.50 per connection per year				
			Basic Services Total Pooled for Program 7 & 8		\$312,500	\$625,000	
Other	Additional Services		By Approval in writing by the PARTIES prior to commencement of the service		\$62,500	\$125,000	TBD As needed
			Maximum Total Compensation		\$375,000	\$750,000	

* This reimbursement will add to the rebate amount Program Administrator (PARTY) provides to qualified participant and/or to cover program(s) cost.

** PARTY will provide written notice to other PARTY and PARTIES retain the right to add, delete, modify or limit the Eligible Measures, Cost per Unit, maximum number of individual Eligible Measures per customer or per year or other characteristics set forth in this column as described in "Administrative Program Changes" above.

NEW MEASURES AND PROGRAM IMPROVEMENTS

Each PARTY will submit an annual report every Fiscal Year (FY) starting July 1st and ending June 30th on potential program improvements, including savings numbers for potential new measures submitted in a format or template defined and agreed upon by the PARTIES. PARTIES will approve new measures by written agreement under the applicable process for “Additional Services” or “Administrative Program Changes” set forth above.

Table 3: Eligible Measures – Estimated Savings and Compensation Reported Annually

Each PARTY requests that the other Party annually update the Program information for any Program the other Party administers or proposes to administer, to include the information outlined below. For any current or proposed new Eligible Measure, the administering Party shall report savings numbers in this table, source(s) for savings assumptions data, EUL (Estimated Useful Life) of the measure, and any additional data requested by the PARTIES. Sixty (60) days before the start of each FY, and within sixty (60) days from a request by any PARTY, the other PARTY will submit a proposed updated version of Table 3 based on the PARTY’s determined requirements, using the agreed format in TEMPLATE 1. Annual reports will include new measures as well as measures ending, according to effective period. Starting in FY2022 (July 1, 2021 to June 30, 2022) PARTIES will update measures list, using the following TEMPLATE 1.

TEMPLATE 1: Table 3. Eligible Measure Cost Per Unit Summary

#	Eligible Measure Description	Unit of Measure	Maximum Quantity per Site	Hardware cost/Unit	Labor & Admin Costs/Unit	Annual Savings Per Unit			Estimated Useful Life	Source for Savings Assumptions
						CCF	kWh	Therm		