

AMENDMENT NO. 1 TO HABITAT MITIGATION REIMBURSEMENT AGREEMENT

This AMENDMENT NO. 1 TO HABITAT MITIGATION REIMBURSEMENT AGREEMENT (this “**Amendment No. 1**”) is dated and effective as of the date the last of the parties hereto executes this Amendment No. 1 (the “**Amendment No. 1 Effective Date**”) and is entered into by and between the **San Bernardino County Flood Control District**, a public body, corporate and politic of the State of California, (“**District**”) and the **City of Highland**, a California municipal corporation (“**City**”).

RECITALS

- A. On January 28, 2020, concurrent with the parties’ execution of the First Amended and Restated Purchase and Sale Agreement and Joint Escrow Instructions, the parties entered into a Habitat Mitigation Reimbursement Agreement (“Reimbursement Agreement”) for City to perform certain habitat mitigation work (“Habitat Mitigation Work”), as more specifically set forth in Section 1.3.4 of the Reimbursement Agreement, with said work to be completed by City within five (5) years after the mutual execution of the Reimbursement Agreement or through January 27, 2025 (“Mitigation Work Completion Deadline”).
- B. By letter dated October 21, 2024, City advised District of the occurrence of an “Enforced Delay,” as defined in Section 6.9 of the Reimbursement Agreement, with respect to the City’s performance of the Habitat Mitigation Work, resulting in a twelve (12) month delay to the Mitigation Work Completion Deadline, which was acknowledged by District’s governing body on November 19, 2024, and resulted in an extended Mitigation Work Completion Deadline through January 27, 2026.
- C. The parties now desire to extend the Mitigation Work Completion Deadline by mutual agreement for eighteen (18) months through July 27, 2027 and amend other provisions on the terms and conditions set forth in this Amendment No. 1.

NOW, THEREFORE, in consideration of the foregoing recitals and the terms and conditions contained herein, District and City hereby agree that, as of the Amendment No. 1 Effective Date, the Reimbursement Agreement is amended as follows:

1. The recitals set forth above are true and correct and incorporated herein by this reference.
2. Section 1.3.4 of the Reimbursement Agreement is hereby deleted in its entirety and replaced with the following:
 - 1.3.4 “**Habitat Mitigation Work**” means and is strictly limited to the acquisition of real property for dedication as habitat to mitigate the loss of habitat, if any, existing on the Site prior to the Removal Work (as defined in the First Amended and Restated Purchase and Sale Agreement and Joint Escrow Instructions, as amended), and the dedication thereof prior to commencement of any ground disturbance activities on the Site.
3. Section 1.3.7 of the Reimbursement Agreement is hereby deleted in its entirety and replaced with the following:

- 1.3.7 **“Mitigation Work Completion Deadline”** shall mean July 27, 2027.
4. Add a new Section 4.6 to the Reimbursement Agreement, which shall read as follows:
- 4.6 **Mitigation Work Completion Notice.** City shall provide written notice to District upon City’s completion of the Habitat Mitigation Work.
5. Add a new Section 6.11 to the Reimbursement Agreement, which shall read as follows:
- 6.11 **Electronic Signatures.** This Amendment No. 1 and any subsequent amendments may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts shall together constitute one and the same agreement. The parties shall be entitled to sign and transmit an electronic signature of this amendment (whether by facsimile, PDF or other mail transmission), which signature shall be binding on the party whose name is contained therein. Each party providing an electronic signature agrees to promptly execute and deliver to the other party an original signed amendment upon request.
6. Delete that portion of the existing Exhibit “A” to the Reimbursement Agreement below the title of said exhibit that reads “[District Work – Berm Removal Areas]” and replace it with the following “[City Work – Berm Removal Areas]”
7. Except as otherwise amended by this Amendment No. 1, all terms and conditions of the Reimbursement Agreement remain the same, which are hereby incorporated by reference, and are in full force and effect. In the event of any conflict between the Reimbursement Agreement and this Amendment No. 1, the terms and conditions of this Amendment No. 1 shall control.

REMAINDER OF THIS PAGE LEFT BLANK INTENTIONALLY

IN WITNESS WHEREOF, the parties hereto have duly executed this Amendment No. 1 as of the dates set forth below.

CITY:

CITY OF HIGHLAND

By: _____ Date: _____

APPROVED AS TO LEGAL FORM:

By: _____ Date: _____

Maricela Marroquin
City Attorney

DISTRICT:

**SAN BERNARDINO COUNTY FLOOD
CONTROL DISTRICT**

By: _____ Date _____
Dawn Rowe
Chair, Board of Supervisors

APPROVED AS TO LEGAL FORM:

Laura Feingold, County Counsel
San Bernardino County, California

By: _____

Agnes Cheng
Deputy County Counsel

Date: _____