

**AMENDMENT TO THE SECOND MEMORANDUM OF UNDERSTANDING
AMONG THE CITIES OF
MOUNTAIN VIEW, PALO ALTO AND SUNNYVALE
RELATING TO THE CONSTRUCTION AND OPERATION OF A
MATERIALS RECOVERY AND TRANSFER STATION AND
THE LONG TERM DISPOSAL OF MUNICIPAL SOLID WASTE
AT KIRBY CANYON**

This Amendment to the Second Memorandum of Understanding Among the Cities of Mountain View, Palo Alto and Sunnyvale Relating to the Construction and Operation of a Materials Recovery and Transfer Station and the Long Term Disposal of Municipal Solid Waste at Kirby Canyon (this **"Amendment"**), is entered into as of _____, 2021, by and among the City of Mountain View, the City of Palo Alto, and the City of Sunnyvale (collectively **"Cities"**).

RECITALS

A. WHEREAS, the Cities entered into that certain agreement entitled "Memorandum of Understanding Among the Cities of Mountain View, Palo Alto and Sunnyvale Relating to the Construction and Operation of a Materials Recovery and Transfer Station and the Long Term Disposal of Municipal Solid Waste at Kirby Canyon," dated September 30, 1991 (the **"First MOU"**); and

B. WHEREAS, the Cities subsequently entered into that certain agreement entitled "Second Memorandum of Understanding Among the Cities of Mountain View, Palo Alto and Sunnyvale Relating to the Construction and Operation of a Materials Recovery and Transfer Station and the Long Term Disposal of Municipal Solid Waste at Kirby Canyon," dated May 4, 1992 (the **"Second MOU"**), which superseded the First MOU; and

C. WHEREAS, the Cities now wish to amend the Second MOU in order to extend its term through December 31, 2021;

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

SECTION 1. Definitions. The following definitions shall apply to this Amendment:

- a. **Capitalized Terms.** Capitalized terms used and not defined in this Amendment shall have the meanings assigned to such terms in the Second MOU.

SECTION 2. Section V.6 of the Second MOU currently reads as follows:

"6. The term of this Second MOU is 30 years from the effective date of the first MOU (i.e., October 15, 1991). The Second MOU will terminate prior to October 15, 2021, if all three

Cities have exhausted their Allocation Quantities prior thereto. After 25 years or after 6,700,000 Tons of the Cities' Allocation Quantity has been utilized, whichever occurs first, the three cities will meet to discuss all issues relevant to the possible extension of the Term by one or more Cities under Section 1.03 of the contracts with Waste Management. These meetings will continue for a period of six (6) months so as to permit the greatest degree of coordination and cooperation in the extensions. Sunnyvale is not required to operate the SMaRT Station beyond October 15, 2021, even if one or both of the other Cities wishes to extend the Term of its or their contracts with Waste Management, unless Sunnyvale elects to extend the Term of its contract with Waste Management and then only for so long as it extends the Term of its contract, unless other arrangements satisfactory to Sunnyvale are made.”

Such section is hereby amended in its entirety to read as follows:

“6. The term of this Second MOU is 30 years and approximately 10 weeks from the effective date of the first MOU (i.e., October 15, 1991), expiring on December 31, 2021. The Second MOU will terminate prior to December 31, 2021, if all three Cities have exhausted their Allocation Quantities prior thereto. After 25 years or after 6,700,000 Tons of the Cities' Allocation Quantity has been utilized, whichever occurs first, the three cities will meet to discuss all issues relevant to the possible extension of the Term by one or more Cities under Section 1.03 of the contracts with Waste Management. These meetings will continue for a period of six (6) months so as to permit the greatest degree of coordination and cooperation in the extensions. Sunnyvale is not required to operate the SMaRT Station beyond December 31, 2021, even if one or both of the other Cities wishes to extend the Term of its or their contracts with Waste Management, unless Sunnyvale elects to extend the Term of its contract with Waste Management and then only for so long as it extends the Term of its contract, unless other arrangements satisfactory to Sunnyvale are made.”

SECTION 3. Legal Effect. Except as modified by this Amendment, all other provisions of the Second MOU, including any exhibits thereto, shall remain in full force and effect.

SECTION 4. 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 CITIES

IN WITNESS WHEREOF, the Cities have by their duly authorized representatives executed this Amendment effective as of the date first above written.

CITY OF MOUNTAIN VIEW

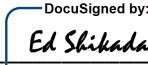
By: _____
City Manager

Date: _____, 2021

Approved as to form:

Assistant City Attorney

CITY OF PALO ALTO

By:  _____
City Manager

Date: 5/27/2021, 2021

Approved as to form:

 _____
City Attorney

CITY OF SUNNYVALE

By: _____
City Manager

Date: _____, 2021

Approved as to form:

City Attorney