AGREEMENT

BETWEEN CITY OF MENLO PARK AND WEST BAY SANITARY DISTRICT
REGARDING PROVISION OF RECYCLED WATER SERVICE WITHIN
MENLO PARK MUNICIPAL WATER DISTRICT SERVICE AREA

This Agreement is made by and between the West Bay Sanitary District ("West Bay") and the
Menlo Park Municipal Water District ("MPMWD") (collectively the "Parties") and provides as
follows:

RECITALS

WHEREAS, Menlo Park is a municipal corporation and a general law city organized and existing
under the laws of the State of California, and is the operator of the Menlo Park Municipal Water
District, a division of the Menlo Park Public Works Department, and retail supplier of water to
approximately fourteen thousand customers in the Sharon Heights area and portions of Menlo
Park north of El Camino Real; and

WHEREAS, West Bay is a Sanitary District organized and existing under the Sanitary District Act of
1923 (the "Sanitary District Act"—Cal. Health & Safety Code § 6400, et seq.), and provides
wastewater collection and conveyance services to the Cities of Menlo Park, Atherton and Portola
Valley, and portions of East Palo Alto, Woodside and unincorporated San Mateo and Santa Clara
counties; and

requires retail water suppliers, like the MPMWD, to identify potential uses for recycled water
within their service areas, potential customers for recycled water service within their service
areas, and, within a reasonable time, potential sources of recycled water; and

WHEREAS, the Recycling Act requires a retail water supplier that receives a request from a
customer enter into an agreement to provide recycled water, if recycled water is available, or can
be made available, to the retail water supplier for sale to the customer, and authorizes a retail
water supplier to delegate to a recycled water producer or a recycled water wholesaler its
responsibility to provide recycled water;¹ and

WHEREAS, West Bay is authorized, pursuant to Section 6512 of the Sanitary District Act to
"acquire, plan, construct, reconstruct, alter, enlarge, lay, renew, replace, maintain, and operate ...
water recycling and distribution systems..."; and

WHEREAS, West Bay has notified the MPMWD of its future ability to provide recycled water in
accordance with Cal. Government Code Section 65604; and

WHEREAS, Sharon Heights Golf and Country Club ("Sharon Heights") is a corporation duly
organized and existing under the laws of the State of California that owns and operates a golf

¹ Cal. Water Code §13580.5.
course and related facilities located within Menlo Park’s and West Bay’s service areas at 2900 Sand Hill Road, Menlo Park; and

WHEREAS, Sharon Heights’ golf course and landscaping is currently irrigated solely with potable water supplied by the MPMWD from the San Francisco Public Utilities Commission (“SFPUC”), and its current use of water for irrigation purposes is approximately 200 acre-feet per year (65 million gallons per year), with a peak daily demand during the summer irrigation season of approximately 0.400 million gallons per day; and

WHEREAS, in response to current statewide drought conditions and concerns about the long term viability of continuing to irrigate exclusively with SFPUC, and at the direction of Menlo Park City Council, Sharon Heights has for the past several years been exploring options for identifying additional sources of irrigation water to supplement current supplies, including groundwater and recycled water; and

WHEREAS, beginning in 2014, West Bay and Sharon Heights have been meeting and discussing options for jointly pursuing the parties’ mutual interests in conserving available potable water supplies, protecting the environment and natural resources, and reducing the volume of treated wastewater discharged into the San Francisco Bay; and

WHEREAS, West Bay has commissioned a study, jointly funded by West Bay and Sharon Heights, prepared by RMC Water and Environment (the “RMC Study”), demonstrating the feasibility of constructing a pilot recycled water treatment facility (the “Pilot Project”) at Sharon Heights, to be located between the existing golf course and Interstate 280, to irrigate Sharon Heights golf course and landscaped areas during peak demand periods, and to provide a source of recycled water to other nearby potential users including, but not limited to, SLAC National Accelerator Laboratory during off-peak periods; and

WHEREAS, West Bay and Sharon Heights have preliminarily concluded that recycled water will be suitable for use as a substitute for the potable water currently used to irrigate the Sharon Heights golf course area and landscaping, and to that end have entered into that certain Memorandum of Understanding Establishing Principles of Agreement for Design, Construction and Operation of Recycled Water Treatment Facility (the “Sharon Heights MOU”), the purpose of which is to determine the feasibility of substituting recycled water for some or all of the potable water now used to irrigate such facilities, and provide a framework for preparation of a long-term agreement for the design, permitting, construction and operation of the Pilot Project; and

WHEREAS, California’s Urban Water Management Planning Act (“UWMP Act”) (Cal. Water Code §10610, et seq.) requires urban water suppliers that have 3,000 or more connections, or that supply at least 3,000 acre-feet per year (AFY) of water, to submit a UWMP to the California Department of Water Resources (DWR) every five years; and

WHEREAS, the UWMP Act was amended in 2009 to require water suppliers to reduce urban water use by twenty percent statewide by 2020; and
WHEREAS, pursuant to the UWMP Act, the MPMWD has adopted its Final Urban Water Management Plan 2010, the purpose of which is to:

- Identify measures to be implemented or projects to be undertaken to reduce water demands and address water supply shortfalls;
- Identify stages of action to address up to 50 percent reduction in water supplies during dry water years;
- Identify actions to be implemented in the event of a catastrophic interruption in water supplies;
- Assess the reliability of the sources during normal, single-dry and multiple-dry water years; and
- Identify when, how and what measures the MPMWD could undertake in order to meet California’s requirements for a 20 percent per capita reduction in urban water use by 2020; and

WHEREAS, in 2004 the MPMWD evaluated the potential for using recycled water to reduce potable water demands, and identified 144 parcels within its service area as potential recycled water users using approximately 800 acre feet of water annually, and several relatively large potential recycled water users, including Sharon Heights, using approximately 233.6 acre feet annually; and

WHEREAS, in 2016 the MPMWD began developing a Water System Master Plan that includes an evaluation of recycled water opportunities as a means of providing a safe and reliable supply of non-potable water for its customers; and

WHEREAS, by enactment of the Recycling Act, the State of California has found and declared that:

1. The State of California is subject to periodic drought conditions.
2. The development of traditional water resources in California has not kept pace with the state’s population, which is growing at the rate of over 700,000 per year.
3. There is a need for a reliable source of water for uses not related to the supply of potable water to protect investments in agriculture, greenbelts, and recreation and to replenish groundwater basins, and protect and enhance fisheries, wildlife habitat, and riparian areas.
4. The environmental benefits of recycled water include a reduced demand for water in the Sacramento-San Joaquin Delta that is otherwise needed to maintain water quality, reduced discharge of waste into the ocean, and the enhancement of groundwater basins, recreation, fisheries, and wetlands.
5. The use of recycled water has proven to be safe from a public health standpoint, and the State Department of Public Health is updating regulations for the use of recycled water.
6. The use of recycled water is a cost-effective, reliable method of helping to meet California’s water supply needs.
7. The development of the infrastructure to distribute recycled water will provide jobs and enhance the economy of the state.
8. Retail water suppliers and recycled water producers and wholesalers should promote the substitution of recycled water for potable water and imported water in order to maximize the appropriate cost-effective use of recycled water in California.

9. Recycled water producers, retail water suppliers, and entities responsible for groundwater replenishment should cooperate in joint technical, economic, and environmental studies, as appropriate, to determine the feasibility of providing recycled water service.

10. Retail water suppliers and recycled water producers and wholesalers should be encouraged to enter into contracts to facilitate the service of recycled and potable water by the retail water suppliers in their service areas in the most efficient and cost-effective manner.

11. Recycled water producers and wholesalers and entities responsible for groundwater replenishment should be encouraged to enter into contracts to facilitate the use of recycled water for groundwater replenishment if recycled water is available and the authorities having jurisdiction approve its use.

12. Wholesale prices set by recycled water producers and recycled water wholesalers, and rates that retail water suppliers are authorized to charge for recycled water, should reflect an equitable sharing of the costs and benefits associated with the development and use of recycled water; and

WHEREAS, the Recycling Act authorizes a recycled water producer or recycled water wholesaler that has identified a potential use or customer that is within the service territory or jurisdiction of a retail water supplier to request a retail water supplier to enter into an agreement to provide recycled water to the potential customer;\(^2\) and

WHEREAS, the proposed Pilot Project is consistent with and in furtherance of the Parties mutual goals, interests, and long-term water supply planning objectives; and

WHEREAS, the Parties have determined that it is desirable, in their mutual interest and consistent with their responsibilities and authority under the UWMP Act and Recycling Act for the MPMWD to delegate to West Bay its responsibility under the Recycling Act to provide recycled water in accordance with the terms of this Agreement; and

WHEREAS, the MPMWD will be developing a Recycled Water Ordinance and establishing a Recycled Water Service Area for the Sharon Heights Golf and Country Club and surrounding areas as part of a future resolution.

NOW, THEREFORE, the Parties agree as follows:

1. That pursuant to California Water Code Section 13580.5(a)(2), Menlo Park hereby designates West Bay Sanitary District as the Recycled Water purveyor to the Sharon Heights Golf and Country Club, and to other commercial customers and/or homeowner’s

\(^2\) Cal. Water Code §13580.
EXECUTED and effective on the date by which it has been duly approved and executed by all Parties hereto.

Dated: 5/23/16

CITY OF MENLO PARK

By: ALEX D. McINTYRE
City Manager

WEST BAY SANITARY DISTRICT

Dated: 4-28-16

By: PHIL SCOTT
District Manager

APPROVED AS TO FORM:

ANTHONY P. CONDOTTI
District Counsel

APPROVED AS TO FORM:

WILLIAM L. McCLURE
City Attorney