

AGREEMENT BETWEEN THE TOWN OF ATHERTON AND THE COUNTY OF SAN MATEO TO PROVIDE A LOAN FROM COUNTY TO TOWN FOR THE PLANNING, DESIGN, AND ENVIRONMENTAL PERMITTING OF THE BAYFRONT CANAL AND ATHERTON CHANNEL FLOOD MANAGEMENT AND RESTORATION PROJECT

THIS AGREEMENT, made this ____ day of _____, 2017 by and between the County of San Mateo, hereinafter called "County," and the Town of Atherton, hereinafter called "Town," political subdivisions of the State of California for the purpose of stating the terms for a loan of funds to Town by County to be repaid to County by Town as provided herein, for planning, design, and environmental permitting of the Bayfront Canal and Atherton Channel Flood Management and Restoration Project ("Project"), a regional flood management project located in the City of Menlo Park and the City of Redwood City.

WITNESSETH

WHEREAS, the Bayfront Canal (Canal) receives the majority of its runoff from the areas south of Hwy 101, including areas in Redwood City, Menlo Park, and the Town and the County unincorporated area of North Fair Oaks. The Atherton Channel joins the Canal near Marsh Road before the Canal drains into Flood Slough and the Bay adjacent to the Bayfront Bedwell Park. The Atherton Channel receives runoff from the Cities of Redwood City and Menlo Park, the Town of Woodside, the Town, and the County unincorporated areas; and

WHEREAS, the Memorandum of Understanding Among the City of Redwood City, City of Menlo Park, Town of Atherton, and the County of San Mateo (Bayfront Canal and Atherton Channel Flood Management and Restoration Project) [MOU] was fully executed on October 17, 2017, copy of which is attached hereto as Exhibit A; and

WHEREAS, the parties to the MOU are collectively called the "Collaborative"; and

WHEREAS, the MOU supports, among other components, the Project in an amount not to exceed \$1,000,000 by financial contributions from the Collaborative parties as stipulated in the MOU; and

WHEREAS, the Atherton Channel, the majority of which is located in the Town, contributes 38% of the flow to the Project; and

WHEREAS, the County is serving as the lead for the Project and the Collaborative, by managing the consultants, coordinating communications between and amongst the Collaborative, ensuring the quality of the deliverables from consultants, and requesting payment for reimbursement from the Collaborative on a quarterly basis as outlined in the MOU; and

WHEREAS, on October 4, 2017 the Town Council of the Town authorized the Town Manager to execute the MOU to contribute up to one hundred sixty-five thousand dollars (\$165,000) to complete the planning, design, environmental permitting as outlined in the MOU and indicated that a loan from the County to the Town for this amount was desired; and

WHEREAS, the County Board of Supervisors did, on October 17, 2017, adopt Resolution No. 075517, which authorized the County Manager to execute the MOU for the Project; and

WHEREAS, under the Joint Exercise of Powers Act (Gov. Code Sections 6500 et. seq.), the County and the Town may contract to jointly exercise any power common to both entities, and Government Code Section 6504 provides that advances of public funds may be made for the purpose set forth in the agreement with such funds to be provided in the form of a loan and to be repaid as provided in said agreement; and

WHEREAS, subject to the terms and conditions set forth herein, it is necessary and

desirable that the sum of one hundred sixty-five dollars (\$165,000) be loaned to the Town from Measure K Funds to allow the Town to meet its estimated financial obligations to the County for the costs associated with and agreed to in the MOU; and

WHEREAS, it is in the public interest of the County to assist the Town in meeting its financial obligations of the MOU by loaning funds as such loan will enable completion of the Project; and

WHEREAS, in order to ensure timely completion of the Project, it is necessary and desirable that the County loan an amount equal to one hundred sixty-five dollars (\$165,000) to the Town, which funds the Town shall repay with interest to the County as provided herein.

NOW, THEREFORE, in consideration of their mutual promises and obligations, the Parties hereby agree as follows:

1. The Funding Agreement and Bayfront Canal and Atherton Channel Collaborative Agreement Remain Fully Applicable.

The MOU and associated or successor agreements between the Parties remain fully applicable. This Agreement is not intended to affect the applicability of the MOU or associated or successor agreements, which remain in full force and effect.

2. County Loan of Funds to Town for Project and MOU Obligations; Use of Funds.

(a) **Loan Amount** - County agrees to lend the Town an amount not to exceed one hundred sixty-five thousand dollars (\$165,000) ("principal") that will be used by the Town for the Town to meet its financial obligations pursuant to and as outlined in the MOU for the Bayfront Canal and Atherton Channel Flood Management and Restoration Project. The County shall lend the Town said loan amount (\$165,000) upon execution of this Agreement.

(b) **Source of Loan Funds** – County will make the Loan to the Town from the County Measure K Funds.

(c) **Terms of Repayment** - Town shall repay to County the principal and any interest accrued on such funds as calculated pursuant to Section 2(d) (“Loan Interest”). Town shall be allowed to repay County on an accelerated schedule without penalty through its secured property tax revenues upon notification to the County. All money paid by Town to the County toward the satisfaction of this Agreement shall be applied first to the payment of loan interest and then to the retirement of the principal.

(d) **Loan Interest** - Principal shall accrue loan interest at the annual fixed rate equal to one and two-tenths percent (1.2%), with loan interest to begin accruing on the entire principal on the date of the loaning of funds by the County to the Town.

(e) **Repayment Term** - The Town agrees to fully repay the Loan Amount plus accrued interest no later than ten (10) years from the date of the Loan Agreement execution or by December 31, 2027 (“Repayment Term”), whichever date occurs first.

(f) **Minimum Payments** - Minimum payments (“payments”) shall be due twice per year on December 15th and April 15th of each fiscal year (or the following business day if those days fall on weekends or holidays) as provided in payment schedule included in this Agreement. The first payment to the County will be due April 15, 2018.

(g) **Recurring Payment from Tax Revenues** - During the Repayment Term and until all monies owed to County pursuant to this Agreement are paid, Town authorizes and the County Controller (“Controller”) shall pay each payment on the Town’s behalf using the Town’s secured property tax revenues that would otherwise be payable by the Controller to Town on December 15th and April 15th of each fiscal year (or the following business day if those days fall on weekends or holidays). Controller shall make such payments to County prior

to making any other payments to Town or any other person or entity, but after adjustments for any duly authorized property tax refund. In the event that there are insufficient property tax revenues due to Town on any given payment due date, the Town authorizes and the Controller shall take from any other available tax apportionments otherwise due to Town to fulfill the balance of the payment. In the event property and other tax proceeds are insufficient to pay the full amounts due to County under any payment, Town shall remain responsible for payment of, and shall promptly pay to County, such payments due to County.

3. Contingencies

(a) **Repayment Required** - In any event, any amount remaining due and payable by Town to County under this Agreement upon expiration or termination of this Agreement shall be promptly paid to County by Town, unless otherwise agreed in writing by the County Board of Supervisors.

(b) **Withdrawal from Collaborative** - The Town agrees that in the event that Town terminates their participation in the MOU through such process outlined in the MOU the loan must be paid in accordance with this Agreement.

4. Term of Agreement and Provisions for Enforcement

(a) **Effective term** - This Agreement shall become effective upon execution by the parties and shall remain in effect (i) until December 31, 2027 (or such earlier date that all moneys owed pursuant to this Agreement are repaid to County), or (ii) until any temporary or permanent abandonment of the Project by the Collaborative as defined in the MOU, whichever first occurs, provided, however, that this Agreement shall remain effective for the purpose of enforcing any and all obligations of Town under this Agreement including, but not limited to, the Town obligations for repayment of funds to County as set forth in this Agreement.

(b) **Interest** - In the event all amounts advanced, along with accrued loan interest, are not repaid by December 31, 2027 any such amounts that remain outstanding shall accrue interest from and after the expiration of the term at the rate specified by law for prejudgment interest.

(c) **Remedies Not Limited by This Agreement** - Nothing set forth in this section shall preclude any remedies available to County at law or equity to compel payment of any amounts still due and owing at the end of the term of this Agreement.

5. Interpretation of Agreement

The Parties acknowledge that they have each been represented by independent counsel, or had the opportunity to be represented by independent counsel, in entering into this Agreement. Each of the Parties affirms to the other that it has been consulted and discussed the provisions of this Agreement with its counsel and fully understands the legal effect of each provision. The Parties have had the opportunity to equally participate in the drafting and negotiation of this Agreement. For all purposes, this Agreement shall be deemed to have been drafted jointly by each of the Parties, and shall not be construed against any Party due to authorship; the provision of Civil Code section 1654 expressly shall not apply to interpretation of this Agreement.

6. General Provisions

(a) **Waiver** - The waiver by Town or County of any term, covenant or condition herein contained shall not be deemed to a waiver of such term, covenant or condition or any subsequent breach of the same or any other term, covenant or condition herein contained.

(b) **Successors and Assigns** - The covenants and conditions herein contained, subject to the provisions as to assignment, apply and bind the heirs, successors, executors, administrators and assigns of the parties hereto.

(c) **Amendment to Agreements** - No provision of this Agreement may be amended or added to except by an agreement in writing signed by the parties hereto to their respective successors in interest. This Agreement shall not be effective or binding on any party until fully executed by both parties hereto.

(d) **Accounting** - The Town shall maintain an accounting of all funds advanced to it pursuant to this Agreement and shall provide any documentation and records to the County Controller, or his designee, upon request.

(e) **Choice of Law** - This Agreement is subject to the laws and jurisdiction of the State of California and any action related to the Agreement shall be brought in the California Superior Court for the County of San Mateo. In the event that any court action should be brought in conjunction with this Agreement, it shall be subject to interpretation under the laws of the State of California.

(f) **Independent Entities** - This Agreement is by and between two independent entities and is not intended to and shall not be construed to create the relationship of agent, servant, employee, partnership, joint venture, joint employer, or association.

(g) **Authority to Execute Agreement** - The Parties each warrant that they have the authority to execute this Agreement and that all actions have occurred, and all necessary approvals or consents have been obtained to allow each party to enter into this Agreement.

(h) **Notices** - All notices provided for herein shall be in writing and shall be delivered to the appropriate parties as provided below:

For TOWN:

**George Rodericks
91 Ashfield Road
Atherton, CA 94027**

For COUNTY:

**John Maltbie
400 County Center, 1st Floor
Redwood City, CA 94063**

IN WITNESS WHEREOF, TOWN and COUNTY have signed this Agreement on the
dates set forth below.

TOWN OF ATHERTON

Executed By:

Signature: _____

Printed Name: George Rodericks

Title: City Manager

Date: _____

11/14/17

Approved as to form.

[Signature]
City Attorney's Office

COUNTY OF SAN MATEO

Executed By:

Signature: _____

Printed Name: _____

Title: _____

Date: _____

Attachment to Loan Agreement
Payment Schedule - Atherton Loan - Bayfront Canal Project
Fixed Rate Payments

Period	Year	Date	Amount	Rate	Number of Days in Period	Number of Days in Year	Interest	Interest Payment	Principal Payment	Total Payment	Notes
0	2018	Jan. 2, 2018	165,000.00	1.200%							Payment
1	2018	April 15, 2018	165,000.00	1.200%	45	365	244.11	244.11	8,504.64	8,748.75	
2	2018	Dec. 15, 2018	156,495.36	1.200%	244	365	1,255.39	1,255.39	7,493.36	8,748.75	
3	2019	April 15, 2019	149,001.99	1.200%	121	365	592.74	592.74	8,156.01	8,748.75	
4	2019	Dec. 15, 2019	140,845.98	1.200%	244	365	1,129.85	1,129.85	7,618.90	8,748.75	
5	2020	April 15, 2020	133,227.08	1.200%	122	366	532.91	532.91	8,215.85	8,748.75	Leap year
6	2020	Dec. 15, 2020	125,011.24	1.200%	244	366	1,000.09	1,000.09	7,748.66	8,748.75	Leap year
7	2021	April 15, 2021	117,262.57	1.200%	121	365	466.48	466.48	8,282.27	8,748.75	
8	2021	Dec. 15, 2021	108,980.30	1.200%	244	365	874.23	874.23	7,874.52	8,748.75	
9	2022	April 15, 2022	101,105.78	1.200%	121	365	402.21	402.21	8,346.55	8,748.75	
10	2022	Dec. 15, 2022	92,759.23	1.200%	244	365	744.11	744.11	8,004.65	8,748.75	
11	2023	April 15, 2023	84,754.58	1.200%	121	365	337.16	337.16	8,411.59	8,748.75	
12	2023	Dec. 15, 2023	76,342.99	1.200%	244	365	612.42	612.42	8,136.34	8,748.75	
13	2024	April 15, 2024	68,206.65	1.200%	122	366	272.83	272.83	8,475.93	8,748.75	Leap year
14	2024	Dec. 15, 2024	59,730.72	1.200%	244	366	477.85	477.85	8,270.91	8,748.75	Leap year
15	2025	April 15, 2025	51,459.81	1.200%	121	365	204.71	204.71	8,544.04	8,748.75	
16	2025	Dec. 15, 2025	42,915.77	1.200%	244	365	344.27	344.27	8,404.49	8,748.75	
17	2026	April 15, 2026	34,511.28	1.200%	121	365	137.29	137.29	8,611.47	8,748.75	
18	2026	Dec. 15, 2026	25,899.82	1.200%	244	365	207.77	207.77	8,540.99	8,748.75	
19	2027	April 15, 2027	17,358.83	1.200%	121	365	69.05	69.05	8,679.70	8,748.75	
20	2027	Dec. 15, 2027	8,679.13	1.200%	244	365	69.62	69.62	8,679.13	8,748.75	
	2027	Term	0.00	1.200%	0	0	0.00	0.00	0.00	0.00	
								9,975.08	165,000.00	174,975.08	
		Term (Yrs)	10.00								
		Interest rate	1.20								
		Payments/yr	2.00								
		Principal	165,000.00								
		Payments	8,748.75								

Exhibit A

MEMORANDUM OF UNDERSTANDING AMONG THE CITY OF REDWOOD CITY, CITY OF MENLO PARK, TOWN OF ATHERTON, AND COUNTY OF SAN MATEO (BAYFRONT CANAL AND ATHERTON CHANNEL FLOOD MANAGEMENT AND RESTORATION PROJECT)

This Memorandum of Understanding (“MOU”) is made and entered into this 27 day of October, 2017 by and between the City of Redwood City, the City of Menlo Park, and the Town of Atherton (“Cities”), municipal corporations of the State of California, and the County of San Mateo (“County”), collectively referred to as Bayfront Canal/Atherton Channel Collaborative (“Collaborative”).

1. **Purpose.** The purpose of this MOU is to establish the terms and conditions for the cost sharing and responsibilities for the design phase of the Bayfront Canal and Atherton Channel Flood Management and Restoration Project (hereinafter referred to as “PROJECT”), which will include the engineering planning, design drawings, technical specifications, and cost estimates; environmental compliance and construction permitting; and securing property access rights necessary to initiate construction bidding. This includes initial site surveys, hydraulic analysis, environmental and construction permitting approval, design drawings, specifications and engineering design estimates for the Bayfront Canal and Atherton Channel Flood Management and Restoration Project, as listed in the “Scope” section of Exhibit A to this MOU titled, Bayfront Canal and Atherton Channel Flood Management and Restoration Project. This MOU is for design only, does not include construction and operation and maintenance activities, and does not bind any member agency’s participation in construction or operations and maintenance activities, but it may serve as a template for future agreements with the Collaborative.

This MOU outlines responsibilities for the first of a series of projects that will provide a regional approach for flood risk management. The Collaborative will maintain a comprehensive list of the current known flood risk reduction projects in the Bayfront Canal and Atherton Channel watersheds. Contributing percentages, as shown in Section 5 of the MOU and Exhibit A, will be used to determine the initial expected financial contribution of each member in the Collaborative. The flow contributions will be reviewed in the initial hydraulic modeling task performed by the design consultant, and confirmed by the Collaborative. This MOU and Exhibit A describes the process to modify contribution percentages following the consultant’s hydraulic analysis. Additional projects that could impact flow contributions, including but not limited to the projects described in Table 2 of Exhibit A, will not be included until significant design and funding of those projects is completed.

PROJECT construction, operation, and maintenance cost responsibilities will be addressed in future Agreements, or MOUs, subject to the agreement of all parties.

2. Term of MOU and Termination. This MOU is effective upon the day and date last signed and executed by the duly authorized representatives of the Collaborative to this MOU and the governing bodies of the Collaborative's respective jurisdictions and shall remain in full force and effect until the completion of the PROJECT, until December 31, 2019. This MOU includes all consultant costs to complete this PROJECT incurred as of the Notice to Proceed to the consultant(s) executed on or after October 4, 2017. This MOU may be terminated, without cause, by any of the parties in the Collaborative upon 60 days written notice to all members of the Collaborative. If a party terminates the MOU, they will be responsible for their share of the cost of work performed up to the effective date of the termination. At the conclusion of the 60 days, the remaining Collaborative parties will stop work temporarily to address this change and may continue the PROJECT if agreed upon through an amendment to the MOU. A final invoice will be sent to all Collaborative parties for costs incurred through the term of the MOU. All members in the Collaborative will have 30 days from the date of the final invoice to remit payment for services to the County.

3. Authorizations. The City Managers of the City of Redwood City, the City of Menlo Park, and the Town of Atherton are authorized to approve extensions to the term of this MOU, to modify due dates, to resolve conflicts, or otherwise grant approvals on behalf of the Cities, provided such approvals are not vested in the authority of the Cities' Council, and provided that any approval requiring payment of funds in excess of appropriated funds shall require Cities' Council approval of the appropriations of those funds.

The San Mateo County Manager, serving as the County Board of Supervisors' designee, is authorized to approve extensions to the term of this MOU, to modify due dates, to resolve conflicts, or otherwise grant approvals on behalf of the County, provided that any approval requiring payment of funds in excess of appropriated funds requires the County Board of Supervisors' approval of the appropriation of those funds.

4. Responsibilities of the Collaborative. The County will serve as the lead and contracting agency for the PROJECT's design and environmental consultants. Consultants will be selected from the County's On-Call Engineering Service Agreements by a Collaborative Selection Committee. The County will manage the day to day work of the consultants as it relates to the objectives of the PROJECT, handle official communications regarding the contract, and reimburse the consultants under contract with the County for the work performed. Temporary and permanent land and easement negotiations with Caltrans, Cargill, West Bay Sanitary District, and other organizations will be facilitated by the County. The County of San Mateo Real Property Services will provide support for right of way acquisition services and real property expertise if the Collaborative needs these services. Each jurisdiction may be party to negotiating and securing easements or access for construction activities within their jurisdiction, and will be responsible for purchasing these easements, with the cost to be borne by the Collaborative. Land rights resulting from legal transfer and holding of easements will belong to the jurisdiction in which the land exists.

A designated staff member from each party in the Collaborative will participate in a working committee to ensure that the PROJECT direction and guidance needed from the Collaborative is

communicated to the County. The working committee will update their respective jurisdictions as progress is made to obtain feedback that will form the final design.

5. Payment. Up to \$1,000,000 (depending on final cost of PROJECT) of the PROJECT outlined in this MOU will be paid for by the Collaborative. The costs will be allocated based on the contributing percentages of the Cities and the County in the Atherton Channel and Bayfront Canal watershed boundaries. A description of the contribution percentages is outlined in Exhibit A. The Town of Woodside has decided not to participate and the 3.5% (up to \$35,000) financial responsibility will be distributed by flow contribution across the Collaborative. The maximum financial contribution for the Town of Atherton has been capped at \$165,000. The residual cost resulting from a jurisdictional cap will be distributed by flow percentages to the remaining members of the Collaborative. The updated MOU financial contribution percentages are as follows: Town of Atherton 16.5% (up to \$165,000); City of Redwood City 36.2% (up to \$362,000); County of San Mateo 31.3% (up to \$313,000); City of Menlo Park 16.0% (up to \$160,000), and Town of Woodside 0.0% (\$0). The flow contributions may be amended through the term of this MOU pending initial consultant review and review of additional projects in the watershed area that reduce or alter flow contributions. Any modifications to the contributing percentages will require approval of each party in the Collaborative and an Amendment to this MOU.

The intent of this MOU is to cover consulting costs for planning, design, environmental permitting and land acquisition. This MOU includes all consultant costs to complete this PROJECT incurred as of the Notice to Proceed to the consultant(s). This Agreement and terms may be amended at a future date to include construction, operations, and maintenance. Any funding opportunities, including but not limited to grants and co-op agreements, that are awarded for planning, design, and environmental permitting throughout the duration of this MOU will be prorated by the same contribution percentage of each Collaborative member at the date of the execution of that funding agreement. This is intended to decrease the overall PROJECT cost to the Collaborative. Grants or additional funding received will be used to first reimburse members of the collaborative that have agreed to absorb residual costs not funded by capped jurisdictions. Any jurisdiction that is capped will not receive grants or additional funding until the residual cost of their cap has been absorbed. Funding opportunities for construction will be assessed in a subsequent Agreement or Agreements.

The County will serve as the Project Manager and as such will coordinate with the consultant teams and manage the consultant contracts. The County will invoice the Collaborative for payment to the On-Call Engineering Service Agreements as described in Exhibit A. The Town of Atherton will enter into a separate agreement with the County of San Mateo for a loan to fulfill their financial responsibility to this MOU. Project management support by the County will include invoicing the Collaborative, managing the consultant contracts, and project coordination. Each of the Cities in the Collaborative will be invoiced for the consultant services on a quarterly basis and will remit a check payable to the County of San Mateo within 30 days of the invoice date. A table that illustrates the financial responsibilities of each member of the Collaborative is included in Exhibit A.

6. General Provisions

A. Indemnification. Pursuant to Government Code Section 895.4, each party agrees to fully indemnify, defend, and hold the other party (including its appointed and elected officials, officers, employees, and agents) harmless from any damage or liability imposed for injury (as defined by Government Code section 810.8) occurring by reason of the negligent acts or omissions or willful misconduct of the indemnifying party, its appointed or elected officials, officers, employees, or agents, under or in connection with any work, authority, or jurisdiction delegated to such party under this MOU. No party, nor any appointed or elected official, officer or employee, or agent thereof shall be responsible for any damage or liability occurring by reason of the negligent acts or omissions or willful misconduct of the other party hereto, its appointed or elected officials, officers, employees, or agents, under or in connection, with any work, authority, or jurisdiction delegated to such other party under this MOU.

B. Amendments. Each party in the Collaborative may request changes to this MOU. Any changes, modifications, revisions or amendments to this MOU including contribution limits by parties, which are mutually agreed upon by and between the Collaborative to this MOU, shall be incorporated by written instrument, and effective when executed and signed by all parties in the Collaborative to this MOU.

C. Severability. If any provision of this MOU shall be held to be invalid, void, or unenforceable, the validity, legality, or enforceability of the remaining portions hereof shall not in any way be affected or impaired thereby.

D. Applicable Law. The construction, interpretation and enforcement of this MOU shall be governed by the laws of the State of California. The courts of the State of California shall have jurisdiction over any action arising out of this MOU and over the Collaborative.

E. Notices. Any and all notices required to be given hereunder shall be deemed to have been delivered upon deposit in the United States mail, postage prepaid, addressed to each party in the Collaborative at the following address or such other address as is provided by such party in writing:

To City: City of Redwood City Melissa Stevenson Diaz City Hall 1017 Middlefield Road Redwood City, CA 94063 Attn: City Manager	To City: City of Menlo Park Alex McIntyre Admin Bldg /City Hall, 2nd Floor 701 Laurel St Menlo Park, CA 94025 Attn: City Manager	To Town: Town of Atherton George Rodericks 91 Ashfield Drive Atherton, CA 94027 Attn: City Manager	To County: County of San Mateo John Maltbie 400 County Center, 1 st Floor Redwood City, CA 94063 Attn: County Manager
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F. Entirety of Agreement. This MOU, consisting of five pages, signature pages, one Exhibit A represents the entire and complete MOU between each party in the Collaborative and supersedes any prior negotiations, representations and agreements, whether written or oral.

G. Debt Limitation. The Collaborative is subject to laws or policies which limit their ability to incur debt in future years. Nothing in this MOU shall constitute an obligation of future legislative bodies of the Cities or County to appropriate funds for the purpose of this MOU.

H. Conflict of Interest. The Collaborative shall avoid all conflicts of interest in the performance of this MOU and shall immediately notify the Collaborative should a conflict of interest arise that would prohibit or impair the Collaborative's ability to perform under this MOU.

I. Disputes. The Collaborative agrees that, with regard to all disputes or disagreements arising under this MOU that are not resolved informally at the staff level after a good faith attempt by the Collaborative, the Collaborative may, at their sole and mutual discretion, agree to engage in mediation. The costs of the mediation shall be divided equally between the parties of the Collaborative, unless otherwise agreed.

J. Non-Discrimination. Neither the Cities nor County will discriminate, in any way, against any person based on sex, pregnancy, childbirth or related medical conditions, race, veteran status, religion, color, national origin or ancestry, physical or mental disability, medical condition, marital status, age, gender (including gender identity and gender perception), sexual orientation, use of family medical leave, genetic testing, or any other basis protected by federal or state law. This policy shall apply to all employment practices.

K. Counterparts. This Agreement may be executed in any number of counterparts, each of which, when executed and delivered, shall be deemed to be an original, and all of which, taken together, shall be deemed to be one and the same instrument.

7. Signatures. In witness whereof, the Collaborative to this MOU through their duly authorized representatives have executed this MOU on the days and dates set out below, and certify that they have read, understood, and agreed to the terms and conditions of this MOU as set forth herein.

The effective date of this MOU is the date of the signature last affixed to this page.

Exhibit A - Bayfront Canal and Atherton Channel Flood Management and Restoration Project, October 24, 2017.

[SIGNATURES ON FOLLOWING PAGES]

**MEMORANDUM OF UNDERSTANDING AMONG
THE CITY OF REDWOOD CITY, CITY OF MENLO PARK,
TOWN OF ATHERTON, AND COUNTY OF SAN MATEO
FOR THE BAYFRONT CANAL AND ATHERTON CHANNEL
FLOOD MANAGEMENT AND RESTORATION PROJECT**

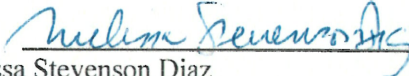
IN WITNESS WHEREOF, the Collaborative hereto, by their duly authorized representatives, have executed this Memorandum of Understanding.

Each party in the Collaborative has executed a separate signature page.

APPROVED AS TO FORM:

City of Redwood City, a California
Municipal Corporation

By: 
Veronica Ramirez
City Attorney

By: 
Melissa Stevenson Diaz
City Manager

Date: 10/27/17

Date: 10/27/17

cc: Aaron Akin, Redwood City; Ramana Chinnakotla, P.E., Redwood City; Justin Murphy, P.E., Menlo Park; Marty Hanneman, Town of Atherton; Jim Porter, P.E. County of San Mateo


**MEMORANDUM OF UNDERSTANDING AMONG
THE CITY OF REDWOOD CITY, CITY OF MENLO PARK,
TOWN OF ATHERTON, AND COUNTY OF SAN MATEO
FOR THE BAYFRONT CANAL AND ATHERTON CHANNEL
FLOOD MANAGEMENT AND RESTORATION PROJECT**

IN WITNESS WHEREOF, the Collaborative hereto, by their duly authorized representatives, have executed this Memorandum of Understanding.

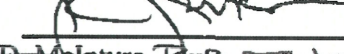
Each party in the Collaborative has executed a separate signature page.

APPROVED AS TO FORM:

City of Menlo Park, a California
Municipal Corporation

By: 

William L. McClure
City Attorney

By: 

Alex D. McIntyre Robert Johnson
A | City Manager

Date: 10/25/17

Date: 10/25/17

cc: Aaron Akin, Redwood City; Ramana Chinnakotla, P.E., Redwood City; Justin Murphy, P.E., Menlo Park; Marty Hanneman, Town of Atherton; Jim C. Porter, P.E. County of San Mateo


**MEMORANDUM OF UNDERSTANDING AMONG
THE CITY OF REDWOOD CITY, CITY OF MENLO PARK,
TOWN OF ATHERTON, AND COUNTY OF SAN MATEO
FOR THE BAYFRONT CANAL AND ATHERTON CHANNEL
FLOOD MANAGEMENT AND RESTORATION PROJECT**

IN WITNESS WHEREOF, the Collaborative hereto, by their duly authorized representatives,
have executed this Memorandum of Understanding.

Each party in the Collaborative has executed a separate signature page.

APPROVED AS TO FORM:

**Town of Atherton, a California
Municipal Corporation**

By: 
William B. Conners
City Attorney

By: 
George Rodericks
City Manager

Date: 10/25/17

Date: 10-25-2017

cc: Aaron Akin, Redwood City; Ramana Chinnakotla, P.E., Redwood City; Justin Murphy,
P.E., Menlo Park; Marty Hanneman, Town of Atherton; Jim Porter, P.E. County of San Mateo

**MEMORANDUM OF UNDERSTANDING AMONG
THE CITY OF REDWOOD CITY, CITY OF MENLO PARK,
TOWN OF ATHERTON, AND COUNTY OF SAN MATEO
FOR THE BAYFRONT CANAL AND ATHERTON CHANNEL
FLOOD MANAGEMENT AND RESTORATION PROJECT**

IN WITNESS WHEREOF, the Collaborative hereto, by their duly authorized representatives, have executed this Memorandum of Understanding.

Each party in the Collaborative has executed a separate signature page.

APPROVED AS TO FORM:

County of San Mateo, a California
Municipal Corporation

By: _____

Brian Wong

Deputy County Council

COUNCIL BW

By: _____

John Maltbie

County Manager

Date: _____

10/27/17

Date: _____

10.27.17

cc: Aaron Akin, Redwood City; Ramana Chinnakotla, P.E., Redwood City; Justin Murphy, P.E., Menlo Park; Marty Hanneman, Town of Atherton; Jim Porter, P.E. County of San Mateo



COUNTY OF SAN MATEO
DEPARTMENT OF PUBLIC WORKS
FLOOD RESILIENCE PROGRAM

Exhibit A

Bayfront Canal and Atherton Channel Flood Management and Restoration Project

Prepared by County of San Mateo

October 24, 2017

Purpose:

The purpose of this MOU is to complete the planning, design, environmental permitting, and secure property access rights for the Bayfront Canal and Atherton Channel Flood Management and Restoration Project (Project) on behalf of the Cities of Redwood City and Menlo Park, the Town of Atherton (Cities), and the County of San Mateo (the County) also referred to as the Bayfront Canal/Atherton Channel Collaborative (Collaborative). This MOU is for design only, does not include construction and operation and maintenance activities, and does not bind any member agency's participation in construction or operations and maintenance activities. This is the first in a series of anticipated future projects that will provide flooding relief to this cross-jurisdictional region.

Project Background:

The Bayfront Canal is located just north of Highway 101 in the City of Redwood City. The Bayfront Canal extends from west to east, from Douglas Court to Marsh Road and is bounded to the north by Cargill's salt ponds and to the south by residential and industrial properties. The Atherton Channel has approximately 6.5 square miles of tributary drainage area and discharges into the Bayfront Canal near Marsh Road. The Bayfront Canal has an additional 3 square miles of tributary drainage area, most of which is located on the south side of Highway 101. The combined flow from the Atherton Channel and Bayfront Canal, a total of 9.5 square miles of contributing area, discharges into Flood Slough through a tide gate control structure. The watershed area, Project location, and planned future projects within the watershed are summarized in Figure 1.

Hydrology:

The peak flow rates from the Bayfront Canal Hydrology and Hydraulic Evaluation, prepared for Stanford Hospital & Clinic in June 2017 by BKF, was used to calculate the proportional jurisdictional flow based on watershed areas. The flow contribution percentages presented in Table 1 will provide a baseline funding strategy. These contributions will be expanded upon based on participation and for funding of the construction and operation and maintenance phases of the Project. A reduction of flow contributions per jurisdiction will be evaluated if upstream detention and storm water capture projects are implemented within the watershed.

Table 1. Jurisdictional Contributions

Jurisdiction	Watershed Area %	Flow Contribution %	Financial Contribution %	Financial Contribution \$
Town of Atherton	44	38.0	16.5	165,000
City of Redwood City	13	26.0	36.2	362,000
San Mateo County	20	22.0	31.3	313,000
City of Menlo Park	17	10.5	16.0	160,000
Town of Woodside	6	3.5	0.0	0

This Project is the first step towards providing capacity for future projects within the watershed to reduce flooding. The most recent proposed solution that recommends the installation of 4 – 63" HDPE siphon pipes is shown in Figure 2. The alignment passes under Marsh Road to the north of Highway 101 and



Exhibit A

connects to Pond S5 of the South Bay Salt Pond Restoration Project. This alternative needs to be developed adequately to be considered in the environmental permitting process.

Stakeholders

- **Project partners (the Collaborative):** The Collaborative is composed of the City of Redwood City, City of Menlo Park, Town of Atherton, and the County of San Mateo.
- **Regulatory Stakeholders:** Regulatory stakeholders who require permits include but are not limited to the California Department of Fish and Wildlife (CAFWS), the Regional Water Quality Control Board (RWQCB), the US Army Corps of Engineers, the US Fish and Wildlife Services (USFWS), Caltrans, and the San Francisco Bay Conservation and Development Commission (BCDC).
- **Additional Stakeholders:** Additional key stakeholders who have contributed to the evolution of the Project improvements include but are not limited to Cargill, Stanford University, Stanford Medical, the South Bay Salt Pond Restoration Project (SBSPRP), and the San Francisco Estuary Partnership (SFEP).

Preliminary Design Workshop:

The Collaborative hosted a Preliminary Design Workshop to validate and agree on the preferred design of the proposed Project. The Preliminary Design Workshop included planning, hydraulic, geotechnical, structural engineering, and environmental compliance resources from the County's On-Call Engineering Service Agreements. The goal of the Preliminary Design Workshop effort was to validate and optimize the proposed design and to ensure that it considers environmental permitting and operational limitations and conditions that may impact the life and resiliency of the Project. The following list summarizes the goals and outcomes of the workshop:

- **Review of existing conditions and Information.** Summarize existing information and garner support for a comprehensive alternative to use in the environmental permitting process
- **Implementation strategy.** Collaborate on most recent hydraulic model results and agree on an implementation approach that best meets the environmental compliance and permitting requirements for the preferred alternatives
- **Funding.** Develop high level engineering cost estimate for the preferred alternative and a funding strategy, which explores and considers multiple sources of funding in addition to Capital and traditional sources of funding
- **Schedule.** Develop a preliminary schedule that includes Local, Regional, State and Federal stakeholder updates at key milestones

Following the Preliminary Design Workshop, a representative member from each jurisdiction of the Collaborative participated in the selection of the planning and design team. Regular Review Sessions will be held to incorporate stakeholder input and generate the most effective and resilient solution. Collaboration will take place through subject-specific workshops with Project owners and stakeholders.

Scope:

The scope of work for this Project is defined below. Representatives from the Collaborative will review and select consultants based on proposals submitted by planning, design, and environmental permitting teams from the County's On-Call Engineering Services Agreements to deliver the scope of services listed below. The Consultants will be responsible for validating and calibrating technical information and ensuring that the Project objectives, budget, and key milestones are met.



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Task 1. Initial Hydraulic Analysis, Conceptual Design, and Review: A planning and design team will review previous hydraulic analysis and prepare preliminary designs necessary to initiate environmental permit negotiations. These initial designs will be reviewed in an Initial Design Review Workshop. This workshop will provide an opportunity for key stakeholders to review the proposed design. Consultants with potential conflict of interest will be excluded as the lead for this initial task.

Task 2. Land and Easement Negotiations: Land and easement negotiations with agencies such as Cargill, Caltrans, and West Bay Sanitary District will be facilitated by the planning and design team to secure anticipated easements or to negotiate access for construction activities.

Task 3. Environmental Review and CEQA/NEPA Documentation: The environmental permitting team will prepare the necessary documents. The planning and design team will support the environmental permitting team through review, project description, and the purpose and need statements. This task will build upon the work completed by others for the SBSRP Phase 2 EIR/EIS.

Task 4. Final Design and Construction Documents: Plans and specifications will be prepared at the 60%, 90%, and 100% design stages. The final deliverable will be a set of construction ready plans, specifications and engineering estimates (PS&E). This Task will include construction permitting and grant acquisition.

Task 5. Bidding and Construction: Construction services such as contract bidding support, support for requests for information (RFI), and construction services will be part of an amended MOU or separate agreement.

Cost and Funding:

Current estimates for planning, design, environmental permitting, and land negotiation tasks are estimated at approximately \$1,000,000. The initial funding contribution for this work from each jurisdiction was estimated based on the percentages listed in the flow allocations listed in Table 1, which will be reviewed under consultant Task 1. The Town of Woodside has decided not to participate and the 3.5% financial responsibility will be distributed by flow contribution across the Collaborative. The Town of Atherton has a contribution maximum of \$165,000 for the MOU. The residual cost resulting from a jurisdictional cap will be distributed by flow percentages to the remaining members of the Collaborative. The updated MOU financial contribution percentages are as follows: Town of Atherton - 16.5%, City of Redwood City - 36.2%, County of San Mateo - 31.3%, City of Menlo Park - 16.0%, and Town of Woodside - 0.0%. This MOU includes all consultant costs to complete this Project incurred as of the Notice to Proceed to the Consultants of October 4th, 2017. This MOU is for design only and does not include or bind any member agency's participation in construction or operation and maintenance activities. Funding contributions per jurisdiction, for construction, and operations and maintenance will need to be assessed and negotiated in an amended MOU or separate agreement.

The Collaborative will actively pursue grant opportunities for funding planning, design, and construction throughout the duration of the MOU. This is intended to decrease the overall Project cost to the Collaborative. Any grant awards will be distributed by contribution percentages. Grants or additional funding received will be used to first reimburse members of the collaborative that have agreed to absorb residual costs not funded by capped jurisdictions. Any jurisdiction that is capped will not receive grants or additional funding until the residual cost of their cap has been absorbed.



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Public Outreach and Education:

A public outreach and education plan will be developed as part of the Project. This outreach plan will be used to inform and educate the public and other stakeholders on the specifics of existing flood risks, potential solutions, and necessary green/grey infrastructure and operation and maintenance investments needed to alleviate flooding in the area. Consistent messaging and informational materials will be shared with the Collaborative to publish on their respective websites and for public distribution. The goal of this effort is to ensure that the impacted communities and stakeholders have a clear understanding of the flood risk reduction this Project will provide, and to educate them on other projects in the system that will need to be completed to ensure the region remains resilient to flooding to the extent possible.

Future Work:

The Project is limited to the planning, design, environmental permitting, and easement negotiations necessary to advertise for bidding. Land rights resulting from legal transfer and holding of easements will belong to the jurisdiction in which the land exists. Negotiations of any necessary easements or land acquisitions will be facilitated with support from the County, the Collaborative, and the design Consultant. Future Addendums, MOUs, or Agreements will be required to address the construction and maintenance of the Project.

In addition to this Project, potential flood mitigation provided by upstream stormwater retention projects in the Bayfront Canal and Atherton Channel watersheds will be analyzed by the Collaborative as needed. Flow allocations per jurisdiction may be adjusted if it appears that upstream detention improvements reduce flow contributions to the Project and once the improvements have obtained significant design and funding. Table 2 below describes the potential future projects that may affect the existing flow contribution allocations listed in Table 1.

Table 2. Potential Future Projects

<u>Project</u>	<u>Responsible Party</u>	<u>Goal</u>	<u>Cost¹</u>	<u>Contribution²</u>
Bayfront Canal and Atherton Channel Flood Management and Restoration Project	All Parties	Mitigate flooding adjacent to Bayfront Canal	\$7,000,000-\$8,000,000	N/A
Holbrook-Palmer Detention Basin (Las Lomas School District)	Town of Atherton	Retain dry weather flow and first flush for water quality treatment	\$13,600,000	TBD
Tide Gate Upgrades	All Parties	Prevent high tide waters from entering the watershed	TBD	N/A
South Bay Salt Pond Restoration Phase II	Coastal Conservancy	Receive flood waters from Bayfront Canal/Atherton Channel	TBD	TBD
Chrysler Pump Station	Menlo Park	Convey flood waters to Flood Slough	\$7,000,000	TBD
Douglas Ave Pump Station	Redwood City	Convey flood waters to Bayfront Canal	TBD	TBD
Broadway Pump Station	Redwood City	Convey flood waters to Bayfront Canal	TBD	TBD
Fifth Ave Pump Station	Redwood City	Convey flood waters to Bayfront Canal	TBD	TBD
Athlone Terrace Pump Station	San Mateo County	Convey flood waters to Atherton Channel (ultimately Bayfront Canal)	TBD	TBD

¹ Costs are approximate and do not include construction permitting, easements, or O&M.

² Flow reductions to system will be determined following hydrologic analysis.

Exhibit A

Figure 1. Bayfront Canal and Atherton Channel Project Location and Future Projects within Watershed

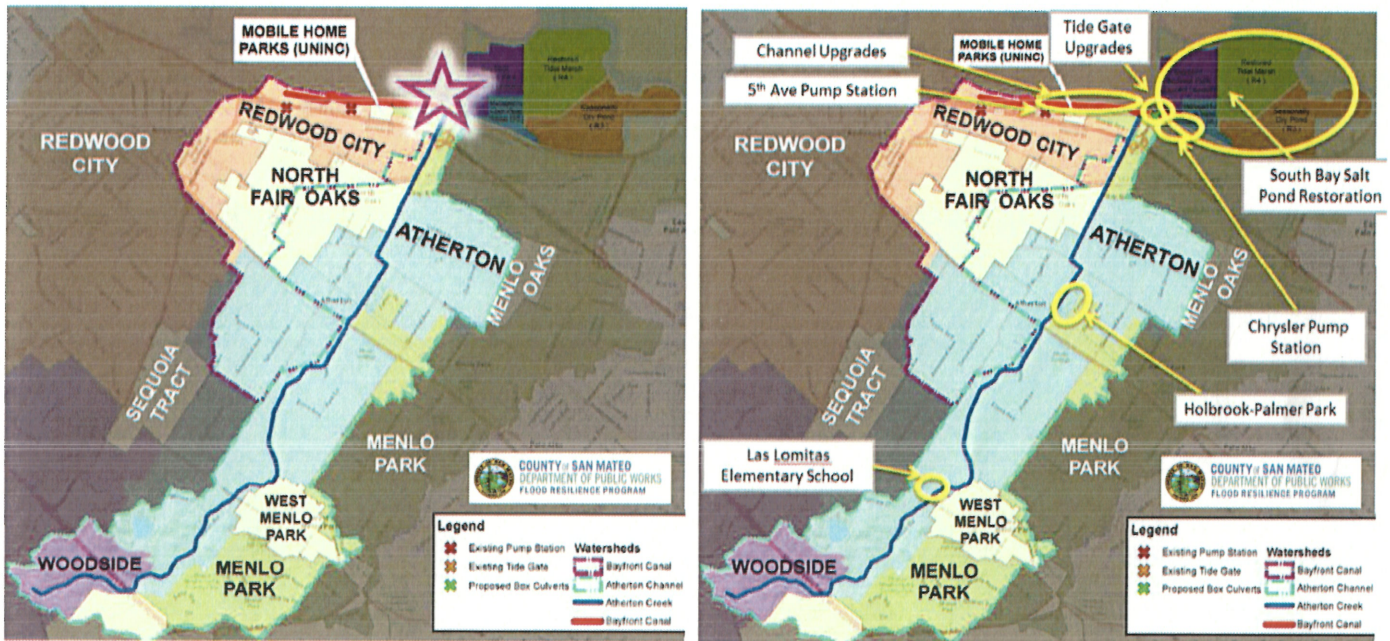
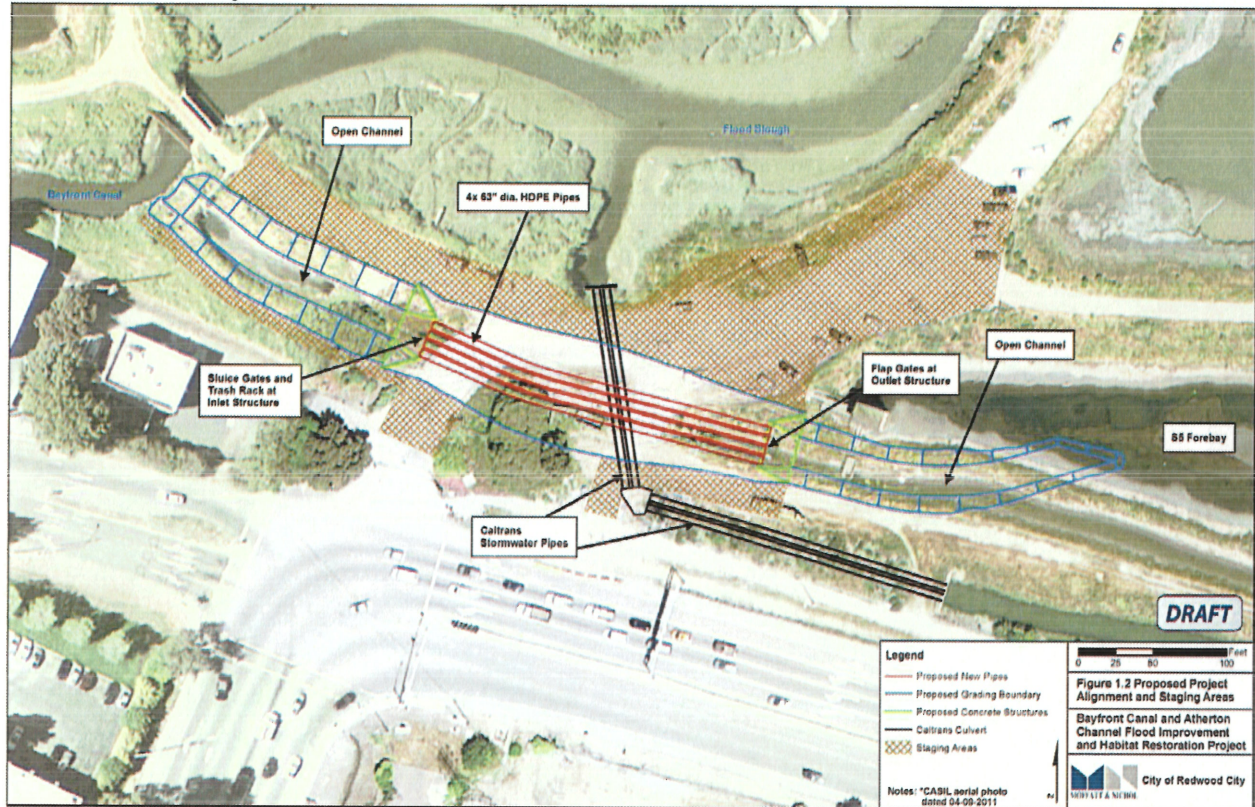




Exhibit A

Figure 2. Moffat and Nichol Design Alternative





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