

**AMENDMENT NO.2
TO AGREEMENT FOR FUNDING OF ENGINEERING WORK**

This Amendment No. 2 to Agreement for Funding of Engineering Work (“Amendment No. 2”) is made and entered into the 22 day of JANUARY, 2013 by and between the COUNTY OF MONTEREY, a political subdivision of the State of California (“County”), and AROMAS WATER DISTRICT, a County Water District (“Aromas”) (collectively the “Parties”).

RECITALS

1. In or about December of 2009, the Parties executed and entered into an Agreement for Funding of Engineering Study (“Engineering Study Agreement”) whereby the County agreed to pay to Aromas a sum not to exceed \$7,500 to fund an engineering study associated with a proposal to connect the Aromas system to a water distribution system in the Oak Ridge subdivision located in the County.

2. In or about April of 2010, the Parties executed and entered into an Agreement for Funding of Engineering Work (hereafter “Engineering Work Agreement”) in an amount not to exceed \$155,000 whereby the County would pay to Aromas a sum not to exceed \$155,000 to fund additional engineering and other work associated with the proposal to connect the Aromas system to the Oak Ridge System, and also to a portion of the Via Del Sol subdivision, also located in the County.

3. In or about May of 2012, the Parties executed and entered into an Amendment 1 to the Agreement for the Funding of Engineering Work (hereafter “Amendment No.1”) increasing the amount of \$155,000, by \$50,000, not to exceed \$205,000, to fund additional engineering and other work associated with the proposal to connect the Aromas System to the Oak Ridge System and also to a portion of the Via Del Sol subdivision, also located in the County.

4. The Parties now desire to amend Sections 1,2 and 3 of the Engineering Work Agreement to increase the amount payable by \$58,000 for a new total amount not to exceed \$263,000 for the Engineering Work Agreement, and a total amount not to exceed \$270,500 for both the Engineering Study Agreement and the Engineering Work Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual agreements contained in the Agreement and herein, and other good and valuable consideration, the Parties agree as follows:

1. Section 1 of the Engineering Work Agreement is hereby amended to provide as follows:

“1. **Contract for Performance of Work.** In reliance on the agreement, Aromas will

contract with Freitas and others to conduct the engineering work necessary for connecting Oak Ridge to Aromas, and for other services necessary or appropriate for that purpose, including the payment of fees to the Monterey County Local Agency Formation Commission, and pay Freitas and others based on the funds paid by the County as set forth herein. The parties agree that if the costs of the foregoing work exceed \$263,000 Freitas will notify both parties prior to incurring additional costs and the additional costs shall be approved by both County and Aromas in writing before additional work is performed. Aromas shall cause appropriate defense and indemnification clauses, and insurance requirements, to be placed in the contract with Freitas for the County's benefit. Aromas and County shall consult with respect to these requirements."

2. Section 2 of the Engineering Work Agreement is hereby amended to provide as follows:

"2. **Payment by County.** County agrees to pay to Aromas the sum of \$263,000, in payments as required by the Freitas contract, or contracts or invoices from others, within thirty (30) days of receipt of each invoice from Aromas or others. To the extent permitted by law, Aromas will repay to County the sum of \$270,500, and any additional sums advanced by County, if any, if an assessment district is successfully formed to implement the proposed project to connect Oak Ridge to Aromas. In the event that such an assessment district is not formed, no repayment by Aromas to County shall be required."

3. Section 3 of the Engineering Work Agreement is hereby amended to provide as follows:

"3. **No Additional Payments.** Unless specifically agreed to in writing by County, or as specifically set forth in this agreement, County shall not be liable to Aromas for any further payments, costs or expenses of any kind with respect to the proposed project to connect Oak Ridge to Aromas other than the sum of \$270,500, which is the total payments agreed to by County pursuant to the Engineering Study Agreement and the Engineering Work Agreement, as may be amended."

4. The Parties further agree that any reference in the Engineering Work Agreement, as may be amended, to "Oak Ridge" shall mean to the Oak Ridge subdivision and a portion of the Via Del Sol subdivision in Monterey County.

5. This Amendment No. 2 shall take effect immediately upon execution by all of the Parties.

6. Except as specifically set forth in this Amendment No. 2, all other terms and conditions of the Engineering Work Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, County and Aromas have caused this Amendment No. 2 to be executed as of the dates set forth below.


DATED: 1/30/13

COUNTY OF MONTEREY


Benny Young
Resource Management Agency Director

DATED: 1/22/2013

AROMAS WATER DISTRICT

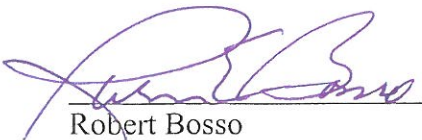

Vicki Morris
General Manager

APPROVED AS TO FORM AND LEGALITY

CHARLES J. MCKEE, County Counsel

By 
Leslie J. Girard
Chief Assistant County Counsel

District Counsel, Aromas Water District


Robert Bosso