ACCEPTANCE OF CONDITIONAL RESOLUTION AND WAIVER OF RIGHT TO HEARING

By signing below and returning this Acceptance of Conditional Resolution and Waiver of Right to Hearing (Acceptance and Waiver) to the Regional Water Quality Control Board (Regional Water Board), City of San Jose (City) hereby accepts the "Offer to Participate in Expedited Payment Program" and waives the right to a hearing before the Regional Water Board to dispute the allegations of violations described in the Notice of Violation which is attached hereto as Exhibit A and incorporated herein by reference.

The City agrees that the attached Exhibit A shall serve as a complaint pursuant to Article 2.5 of the California Water Code (CWC) and that no separate complaint is required for the Regional Water Board to assert jurisdiction over the alleged violations through its Assistant Executive Officer. The City agrees to pay the penalties authorized by CWC section 13385, which shall be deemed payment in full of any civil liability pursuant to the CWC sections 13385 and 13385.1 that otherwise might be assessed for the violations described in the attached Exhibit A.

The City understands that this Acceptance and Waiver does not address or resolve liability for any violation that is not specifically identified in the attached Exhibit A.

Upon execution by the City, the Acceptance and Waiver shall be returned to:

Expedited Payment Program
California Regional Water Quality Control Board
San Francisco Bay Region
NPDES Enforcement Section, Regulatory Measure ID No. 387671
Attention: Farhad Azimzadeh
1515 Clay Street, Suite 1400
Oakland, California 94612

The City understands that federal regulations set forth at title 40, Code of Federal Regulations, section 123.27(d)(2)(iii) require the Regional Water Board to publish notice of and provide at least 30 days for public comment on any proposed resolution of an enforcement action. Accordingly, this Acceptance and Waiver, prior to execution by the Executive Officer of the Regional Water Board, will be published as required by law for public comment.

If no comments are received within the notice period which causes the Executive Officer of the Regional Water Board to reconsider the Expedited Payment Amount, the Executive Officer will execute the Acceptance and Waiver. Resolution of these violations by the Regional Water Board will preclude State Water Board action for these same violations.

The City understands that if significant comments are received in opposition to the Expedited Payment Amount, the offer on behalf of the Regional Water Board to resolve the violations set forth in the attached Exhibit A may be withdrawn. In that circumstance, the City will be advised of the withdrawal and an administrative civil liability complaint may be issued and the matter may be set for a hearing before the Regional Water Board or the State Water Board. For such a liability hearing the City understands that this Acceptance and Waiver executed by the City will be treated as a settlement communication and will not be used as evidence in that hearing.

The City understands that once the Acceptance and Waiver is executed by the Executive Officer of the Regional Water Board, payment of the amount in full no later than 30 days after the date of the Executive Officer's signature is a condition of this Acceptance and Waiver. The City must submit its payment in full by check made out to "California Regional Water Quality Control Board" and sent to the address indicated above, together with a copy of this Acceptance and Waiver after execution by the Executive Officer.

I hereby affirm that I am duly authorized to act on behalf of and to bind the City in the making and giving of this Acceptance and Waiver.

City of San Jose

By: _____ November 15, 2012
(Signed Name) (Date)

Richard A. Keit
(Printed or typed name)

Managing Director
(Title) Successor Agency to The Redevelopment Agency of the City of San Jose

IT IS SO ORDERED (R2-2012-0079) PURSUANT TO CALIFORNIA WATER CODE SECTION 13385

Digitally signed by Bruce H. Wolfe
Date: 2013.01.02 16:44:15 -08'00'

By: _____

Bruce H. Wolfe
Executive Officer
Regional Water Quality Control Board

Note to the City: Please return the signed waiver with Exhibit A, together.

Regulatory Measure ID: 387671

EXHIBIT A
Notice of Violation

City of San Jose Successor of the Redevelopment Agency
Adobe Phase II Groundwater Cleanup System
Located at 345 Park, San Jose, Santa Clara County

Mandatory Minimum Penalties without Regional Water Quality Control Board Hearing

The following table lists this facility's alleged permit exceedance of California Water Code (CWC) Sections 13385(h) and 13385(i) for which the Water Board has not assessed a mandatory minimum penalty. Final calculation of MMP amounts owed, and descriptions of the abbreviations that appear in the table are also listed in the table below.

No	CIWQS Violation ID No.	Date of Occurrence	Effluent Limitation Description (Unit)	Effluent Limit	Reported Value	Percent a Group I or Group II Pollutant is over Effluent Limitation	Type of Exceedance	CWC Section 13385(h) and/or (i) Required MMP
1	907558	6/6/2011	Tetrachloroethene Daily Maximum (µg/L)	1.6	8.0	400%	C1, S	$3,000
2	921820	8/24/2011	Tetrachloroethene Daily Maximum (µg/L)	1.6	4.7	194%	C2, S	$3,000
3	933121	7/28/2012	Tetrachloroethene Daily Maximum (µg/L)	1.6	4.6	188%	C1, S	$3,000
							Total	**$9,000**

Legend for Table:
CIWQS = California Integrated Water Quality System database used by the Water Boards to manage violation and enforcement activities.
Violation ID = Identification number assigned to a permit exceedance in CIWQS.
CWC = California Water Code.
C = Count – The number that follows represents the number of exceedances the City has had in the past 180 days, including this violation. A count greater than three (> C3) means that a penalty under CWC Section 13385(i) applies.
S = Serious, which means that a penalty under CWC Section 13385(h) applies when an effluent limitation is exceeded 40% or more for a Group I pollutant or 20% or more for a Group II pollutant.

Regulatory Measure ID: 387671
Place ID: 202466
WDID: 2 438501002