

FIRST ADDENDUM TO SETTLEMENT AGREEMENT AND RELEASE

This First Addendum to the Settlement Agreement and Mutual Release of Claims dated August 15, 2017 ("Addendum"), effective as of the date of signing by all parties, is made by and between Plaintiff Water Audit California and any of its agents, affiliates, directors, employees, officers, principals, or other related persons or entities (collectively, "Water Audit") and defendant City of St. Helena ("City"), a political subdivision of the State of California. Water Audit and the City are sometimes hereinafter each referred to as a "Party" or collectively as the "Parties."

RECITALS

- A. The City and Water Audit entered into a Settlement Agreement and Mutual Release of Claims ("Agreement"), effective as of August 15, 2017 to fully and finally resolve the action Water Audit filed against the City styled *Water Audit California v. City of St. Helena, et al.*, Napa County Superior Court Case number 16CV000680 ("Action").
- B. Pursuant to Paragraph 4 of the Agreement, concurrently with transmission to the City of an offer of settlement consistent with the terms of the Agreement, Water Audit was to make a demand for payment for its investigative, expert, and attorneys' fees and costs. The Parties agreed that payment of the aforesaid demand will constitute full satisfaction and payment of all of Water Audit's costs of litigation for pursuing this litigation, all of Water Audit's anticipated fees and costs to monitor compliance with the Agreement, and any and all of the fees and costs incurred by Water Audit's experts to review, comment upon, and negotiate the Scope of Work, IBP, and FBP, as defined in the Agreement.

AGREEMENT

1. Incorporation of Recitals

The Recitals set forth above are incorporated herein as part of this Agreement.

2. Payment by City

Pursuant to Paragraph 4 of the Agreement, Water Audit has demanded, and the City agrees to pay Water Audit, seventy-eight thousand, four hundred dollars (\$78,400.00), which the Parties hereby agree shall constitute full satisfaction and payment of all of Water Audit's investigative, expert, and attorneys' fees and costs, including all of Water Audit's costs of litigation to the effective date of the Agreement, Water Audit's anticipated fees and costs to monitor compliance with the Agreement, and the fees and costs of Water Audit's experts to review, comment upon, and negotiate the Scope of Work described in Agreement paragraph 3(b), the Interim Bypass Plan described in Agreement paragraph 3(d), and the Final Bypass Plan described in Agreement paragraph 3(e) ("Payment").

Water Audit agrees that in exchange for the Payment, with the exception of attorneys' fees and costs as may be incurred during Dispute Resolution Procedures described in paragraph 8 of the Agreement (if any), Water Audit will not seek any additional attorneys' fees or costs in connection with the Action, including, without limitation, any costs of litigation to the effective date of the Agreement, Water Audit's anticipated fees and costs to monitor compliance with the Agreement, and any fees or costs of Water Audit's experts to review, comment upon, and negotiate the Scope of Work described in Agreement paragraph 3(b), the Interim Bypass Plan described in Agreement paragraph 3(d), and the Final Bypass Plan described in Agreement paragraph 3(e).

The Payment shall be made to Water Audit within ten (10) days following the effective date of this Addendum by delivery of a single check payable to "Water Audit California," mailed to William McKinnon, Attorney at Law, P.O. Box 3161, Grass Valley, CA 95945-3161.

3. Relationship to Agreement

This Addendum shall form a part of, be governed by, and be construed in accordance with, the Agreement, and any capitalized terms set forth herein shall have the same meaning as set forth in the Agreement.

The Parties hereby enter into this Addendum.

Date: Apr 16, 2017

WATER AUDIT CALIFORNIA

By: 

Name: Grant Reynolds

Title: Director

Date: 08-17, 2017

WATER AUDIT CALIFORNIA

By: 

Name: KRISTEN AVERY

Title: Director

Date: 2/28/18, 2017

CITY OF ST. HELENA


By: 

Name: Mark T. Prestwich

Title: City Manager

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2/28/18


Alan Galbraith
Mayor

APPROVED AS TO FORM:

For Water Audit California:

Date: 08.17, 2017

WILLIAM McKINNON, ATTORNEY AT LAW

By: 

William McKinnon
Attorney for Water Audit California

For the City of St. Helena:

Date: 8-22, 2017

BURKE, WILLIAMS & SORENSEN, LLP

By: 

~~Thomas B. Brown~~ J. Leah Castella
Attorneys for the City of St. Helena