

**AMENDMENT NO. 1 TO AGREEMENT A3974R
2016 SAFE, CLEAN WATER PRIORITY D3 GRANT PROGRAM
BETWEEN THE SANTA CLARA VALLEY WATER DISTRICT
AND THE MID-PENINSULA REGIONAL OPEN SPACE DISTRICT**

This Amendment No. 1 (Amendment), effective as of the date it is fully executed by the Parties, amends the terms and conditions of the 2016 Safe, Clean Water Priority D Grant Program Agreement A3974R (Agreement) dated June 14, 2016, between SANTA CLARA VALLEY WATER DISTRICT (District) and MID-PENINSULA REGIONAL OPEN SPACE DISTRICT, A PUBLIC AGENCY (Grantee), collectively, the Parties.

RECITALS

WHEREAS, the Agreement provides for the Grantee to receive a grant amount of \$484,650.00 from the 2016 Safe, Clean Water Priority D Grant Program to perform the Hendrys Creek Restoration Project; and

WHEREAS, the Grantee has invoiced and received \$27,111.00 of the Project Grant Amount; and

WHEREAS, the initial term of Agreement expires on June 30, 2019, which is not sufficient time to complete the Project, and therefore the Parties seek to extend the term of the Agreement through June 30, 2020; and

WHEREAS, the Grantee worked diligently to move the project forward but delays in permitting has altered the project schedule and pushed construction work to prep for plant revegetation to this year. Extending the timeline an additional year will allow for two years of planting as originally described. Furthermore, due to new information received from the design and permitting process, there are adjustments to the original approach and modifications to the project budget; and

WHEREAS, the original project scope in Task 3: Construction – Earthwork: Road Abandonment and Stream Restoration planned for two construction phases through a contractor. The Grantee has determined that all the construction in Task 3 can be completed in one season with their own crew at no additional cost; and

WHEREAS, during the construction phase, the existing roads are being de-compacted to provide better rainfall infiltration and permanent drainage features will be installed to reduce sedimentation into the creek. Originally, Task 5: Construction – Watering required the construction of a water storage tank, however, vehicle access to the project area will be restricted to maintain the de-compacted roads and drainage features. Thus, the water tank cannot be completed and the Grantee will contract with their subcontractor to perform manual watering instead. Subsequently, the Grantee request to eliminate Task 5 and reallocate the water storage tank budget of \$86,400 to Tasks 2, 4, and 6. The budget re-allocation from Task 5 will not affect the Project Grant Amount; and

WHEREAS, the Grantee has the dedicated human and financial resources to advance the Project; and

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WHEREAS, the District and the Grantee seek to update the contact information in the Agreement.

NOW, THEREFORE, in consideration of the mutual promises and agreements stated herein and notwithstanding anything to the contrary in the Agreement, Grantee and the District hereby agree to amend the Agreement as follows:

1. Section 2. General Provisions. H. Agreement Term., Paragraph 1, is amended by replacing the current expiration date of “June 30, 2019”, with “June 30, 2020”.
2. Revise Appendix A (Project Scope) as follows:
 - i. Replace Task 1 with the following:

| Completed Task 1 Items | Completion Date | Comments |
|--|------------------------------|---|
| Task 1: Plans, Specs, Permitting and Construction Oversight | | |
| Execute Grant Agreement with District | June 2016 | |
| Execute Contract with Acterra (Now Grassroots Ecology) | June 2016 | |
| Prepared Wetland Delineation and Riparian Reports for Permitting | July 2016 | |
| Conducted Invasive Plant Species Survey | August 2016- October 2016 | |
| Prepare 90% Plans | September 2016 | Prepared 95% Plans and updated project report |
| Prepare Storm Water Pollution Prevention Plan (SWPPP) | September 2016 | |
| Submit Permit Applications | December 2016 | Includes USACE, RWQCB, CDFW |
| Initiated French Broom Removal | February 2017 | |
| Permit Reviews by Agencies | March 2017 | Conducted site visit with regulatory agencies to review permits |
| Finalize Construction Documents /Respond to Regulatory Comments | February 2018 | |
| Upcoming Task 1 Items | Completion Date | Status |
| Advertise for Bids | N/A | Task Removed – work will be completed by District Crews |
| Open Bids | N/A | Task Removed – work will be completed by District Crews |
| Update District Grant Administrator on Project Status | June 2018 | |
| Update District Board of Directors on Construction | Early Winter 2018 | Field trip to be scheduled in November/December following completion of project |

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|---|-----------|---|
| Update District Grant Administrator on Project Status | Fall 2018 | |
| Grant Close-out | June 2020 | Request additional year of planting due to permitting delays requiring project to be constructed entirely in one year |

ii. Replace Task 2 with the following:

Task 2: Construction - Obtain Native Plants

- Conduct Seed Collection (including the collection of additional buckeye nut and acorn seeds) to accommodate additional planting on upland areas and former roads and seeds that will be required to replace plants that did not survive the first year of planting. (Dates: June 2017 – Oct. 2019)
- Obtain Native Plants (Dates: October 2017 – October 2019)

iii. Replace Task 3 with the following:

Task 3: Construction – Earthwork: Road Abandonment and Stream Restoration

This Task 3 will be completed in one season from May 2018 through October 2018

iv. Replace Task 4 with the following:

Task 4: Construction – Planting and Weeding

- Removal of Invasive Species
 - o Removal of Invasive Plants – Season 1 (Dates: January 2017 – March 2018)
 - o Removal of Invasive Plants – Season 2 (Dates: January 2018 – March 2019)
- Native Plants Installation
 - o Install Native Plants (includes additional plants funded by Amendment 1 of the Agreement) – Season 1 (Dates: October 2017 – March 2019)
 - o Install Native Plants (includes additional plants funded by Amendment 1 of the Agreement) – Season 2 (Dates: October 2019 – June 2020)
- Water Native Plants Manually
 - o Regularly Water Native Plants Manually as Needed – Season 1 (Dates: October 2018- September 2019)
 - o Regularly Water Native Plants Manually as Needed – Season 2 (Dates: October 2019- October 2020)

v. Delete Task 5 in its entirety.

vi. Replace Task 6 with the following:

Task 6 Items

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- A. Habitat Maintenance – Monitor Restoration (Dates: October 2018 – June 2020)
 - Perform storm checks during significant rainfall events
 - Weed, water and uncage native plants
 - Continue Removal of invasive species
 - Undertake adaptive management actions as needed to ensure native plant survival and/or replacement of native plants.
- B. Monitoring and Public Outreach (Dates January 2017 – June 2020)

- 3. Appendix B to the Agreement, Project Schedule, is amended to revise the schedule as set forth in the Revised Appendix B, Project Schedule, attached hereto and incorporated herein by this reference.
- 4. Appendix C to the Agreement, Project Budget, is amended to revise the budget as set forth in the Revised Appendix C, Project Budget, attached hereto and incorporated herein by this reference. Below is a summary of the budget reallocation:

| Task | Increased | Decreased |
|---|------------------|------------------|
| Task 2 – Construction – Obtain Native Plants | \$32,000* | |
| Task 4 – Construction – Planting and Weeding | \$52,900** | |
| Task 5 – Construction – Contract Watering, Basin Weeding and Water Delivery | | \$86,400 |
| Task 6 – Site Maintenance and Monitoring | \$1,500*** | |
| Total: | \$86,400 | \$86,400 |

*The increase to the Task 2 budget is attributable to the Grantee promise to perform an additional 150 buckeye nut and 350 acorn seed collection.

** The increase to the Task 4 budget is attributable to the Grantee promise to have its subcontractor carry out manual watering of the installed native plantings.

*** The increase to the Task 6 budget is attributable to the Grantee promise to provide additional site maintenance and monitoring.

- 5. Section 4. Miscellaneous Provisions. B. Notices, is deleted in its entirety and replaced with the following:

B. Notices

All notices and other communication required or permitted to be given under this Agreement shall be in writing and shall be personally serviced or mailed, postage prepaid and return receipt requested, addressed to the respective parties as follows:

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| | |
|---|--|
| <p>To District: Rick Callender Chief of External Affairs Santa Clara Valley Water District 5750 Almaden Expressway San Jose, CA 95118-3686</p> | <p>To Grantee: Ana Ruiz General Manager Midpeninsula Regional Open Space District 330 Distel Circle Los Altos, CA 94022 Phone: 650-691-1200 E-mail: aruiz@openspace.org</p> |
| <p>Contact: Sherilyn Tran Program Administrator Santa Clara Valley Water District 5750 Almaden Expressway San Jose, CA 95118 Phone: (408) 630-2772 E-mail: Grants@valleywater.org</p> | <p>Grantee Contact: Meredith Manning Senior Planner Midpeninsula Regional Open Space District 330 Distel Circle Los Altos, CA 94022 Phone: (650) 691-1200 E-mail: mmanning@openspace.org</p> |

6. All other terms and conditions of Agreement No. A3974R, not amended as stated herein, remain in full force and effect.

(SIGNATURES FOLLOW ON NEXT PAGE)

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IN WITNESS WHEREOF, THE PARTIES HAVE SET FORTH BELOW THEIR CONSENT TO THE TERMS AND CONDITIONS OF THIS AMENDMENT NO. 1 TO AGREEMENT NO. A3974R THROUGH THE SIGNATURES OF THEIR DULY AUTHORIZED REPRESENTATIVES.

Mid-peninsula Regional Open Space District
"Grantee"

Ana Ruiz
General Manager

Date

SANTA CLARA VALLEY WATER DISTRICT
"District"

Norma J. Camacho
Chief Executive Officer

Date

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**Revised Appendix B – Project Schedule
Hendrys Creek Restoration Project
Midpeninsula Regional Open Space District**

| <u>Task 1 (Completed Items)</u> | <u>Completion Date</u> |
|--|-------------------------------|
| Execute Grant Agreement with District | June 2016 |
| Execute Contract with Acterra (Now Grassroots Ecology) | June 2016 |
| Prepared Wetland Delineation and Riparian Reports for Permitting | July 2016 |
| Conducted Invasive Plant Species Survey | Aug. 2016- Oct. 2016 |
| Prepare 90% Plans | Sept. 2016 |
| Prepare Storm Water Pollution Prevention Plan (SWPPP) | Sept. 2016 |
| Submit Permit Applications | Dec. 2016 |
| Initiated French Broom Removal | Feb. 2017 |
| Permit Reviews by Agencies | March 2017 |
| Finalize Construction Documents /Respond to Regulatory Comments | February 2018 |

| <u>Task 1 (Uncompleted Items)</u> | <u>Completion Date</u> |
|---|-------------------------------|
| Advertise for Bids (Removed) | N/A |
| Open Bids (Removed) | N/A |
| Update District Grant Administrator on Project Status | June 2018 |
| Update District Board of Directors on Construction | Early Winter 2018 |
| Update District Grant Administrator on Project Status | Fall 2018 |
| Grant Close-out | June 2020 |
| <u>Task 2</u> | |
| Conduct Seed Collection | June 2017 – Oct2019 |
| Obtain Native Plants | Oct 2017-Oct. 2019 |
| <u>Task 3</u> | |
| Construction Phase – Season 1 (majority of work) | May 2018 –Oct 2018 |
| <u>Task 4</u> | |
| <u>Invasive Species Removal</u> | |
| Remove Invasive Plants – Season 1 | Jan 2017 – March 2018 |
| Remove Invasive Plants – Season 2 | Jan 2018-March 2019 |
| <u>Native Plants Installation</u> | |
| Install Native Plants – Season 1 | Oct. 2018 –March 2019 |
| Install Native Plants – Season 2 | Oct 2019-June2020 |
| <u>Manual Watering</u> | |

2016 Safe, Clean Water Project D3 Grant Program
District/Mid-peninsula Regional Open Space District – Hendrys Creek Restoration Project
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|---|----------------------|
| Manual Watering – Season 1 | Oct. 2018-Sept 2019 |
| Manual Watering – Season 2 | Oct. 2019-Oct. 2020 |
| Task 5 Deleted | |
| Task 6 Items | |
| <u>A. Habitat Maintenance - Monitor Restoration</u> | Oct. 2018 –June2020 |
| Perform storm checks during significant rainfall events | Oct. 2018 –June2020 |
| Weed, water and uncage native plants | Oct. 2018 –June 2020 |
| Continue removal of invasive species | As Needed |
| Undertake adaptive management actions as needed | As Needed |
| <u>B. Monitoring and Public Outreach</u> | Jan 2017 – June 2020 |

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Revised Appendix C – Project Budget

Any changes in project budget allocation will be reported in the progress reports, as long as the Grantee assures that the changes do not affect the overall scope and District's contribution needed to complete the project.

Hendry's Creek Restoration Project Consultant costs

| <u>Item Description</u> | <u>Total</u> | <u>District Grant Request</u> | <u>Midpen Measure AA Funding Match</u> |
|--|------------------|-------------------------------|--|
| 1. Plans, Specs, Permitting and Construction Oversight | | | |
| Consultant - Doc prep | \$10,000 | | \$10,000 |
| Consultant- Biological monitoring during construction | \$30,000 | | \$30,000 |
| Consultant - Construction oversight | \$18,000 | | \$18,000 |
| Consultant - Permitting application | \$30,000 | \$30,000 | \$0 |
| Storm Water Pollution Prevention Plan | \$7,000 | | \$7,000 |
| Project Management - Midpen general, reveg specialist | \$51,105 | | \$51,105 |
| Project Management - Volunteer Management | \$37,000 | | \$37,000 |
| Plans, Specs, Permitting and Construction Oversight Subtotal | \$183,105 | \$30,000 | \$153,105 |
| 2. Obtain, Grow, and Install Native Plants | | | |
| Seed Collection | \$7,390 | \$7,390 | |
| Obtain Native Plants | \$42,610 | \$42,610 | |
| Obtain Native Plants subtotal | \$50,000 | \$50,000 | \$0 |
| 3. Construction - Earthwork Road Abandonment and Stream Restoration | | | |
| Equipment Operation and Labor Costs (District Construction Crew) | \$106,984 | \$106,984 | |
| Erosion Control and Check Dam Materials | \$20,000 | \$20,000 | |
| Equipment Rental and HazMat testing/remediation | \$113,500 | \$81,016 | \$32,484 |
| Construction - Earthwork Road Abandonment and Stream Restoration Subtotal | \$240,484 | \$208,000 | \$32,484 |
| 4. Construction - planting, weeding, and watering | | | |
| Install native plants, invasive species removal, manual watering | | | \$0 |
| A. Stream Restoration - Riparian & Adjacent Upland Habitat Planting | | | |
| Install Native Plants - Acterra Staff and Volunteers | \$75,473 | \$75,473 | |
| Planting Materials - Mulch, Caging, tools and other materials | \$2,000 | \$2,000 | |
| Riparian and Adjacent Upland Habitat Planting Subtotal | \$77,473 | \$77,473 | \$0 |
| B. Invasive Species Removal | | | |
| Remove Invasive Plant Species - Acterra staff supervising volunteers | \$53,340 | \$53,340 | |
| Invasive Species Removal Subtotal | \$53,340 | \$53,340 | \$0 |
| C. Contract Watering and basin weeding | | | |
| Contract Watering, basin weeding | \$25,837 | \$25,837 | |
| Contract Watering Subtotal | \$25,837 | \$25,837 | \$0 |
| 5. Construction - contract watering, basin weeding and water delivery | | | |
| Yr 1 - 2017-2018 | | \$0 | \$0 |
| Yr 2 - 2018 - 2019 | | \$0 | \$0 |

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| | | | |
|--|------------------|------------------|-------------------|
| Construction - contract watering, basin weeding, and water delivery Subtotal | \$0 | \$0 | \$0 |
| 6. Site Maintenance and Monitoring: | | | |
| A. Invasive Species Removal and Native Plant Installation Habitat Maintenance | | | |
| 3 Year Maintenance Period - Acterra staff supervising volunteers and youth | <u>\$28,000</u> | <u>\$28,000</u> | <u> </u> |
| Habitat Maintenance Subtotal | \$28,000 | \$28,000 | \$0 |
| B. Monitoring and Public Outreach | | | |
| 3 Year Monitoring Site Visits - Acterra Staff | <u>\$12,000</u> | <u>\$12,000</u> | <u> </u> |
| Monitoring and Public Outreach Subtotal | \$12,000 | \$12,000 | \$0 |
| PROJECT COST SUMMARY | | | |
| Plans, Specs, Permitting, and Construction Oversight | \$183,105 | \$30,000 | \$153,105 |
| Obtain Native Plants | \$50,000 | \$50,000 | \$0 |
| Construction - Earthwork | \$240,484 | \$208,000 | \$32,484 |
| Construction - Planting and Weeding | \$130,813 | \$156,650 | \$0 |
| Construction - Watering | \$25,837 | \$0 | \$0 |
| Site Maintenance and Monitoring | \$40,000 | \$40,000 | \$0 |
| Change Order and Contingency Allowance | \$124,791 | \$0 | \$124,791 |
| Total Project Cost Estimate | \$795,030 | \$484,650 | \$310,380 |

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