

**AMENDMENT NO. 3 TO
THE CLEAN, SAFE CREEKS AND NATURAL FLOOD PROTECTION PROGRAM
AGREEMENT NO. A3536R
BETWEEN THE SANTA CLARA VALLEY WATER DISTRICT
AND THE CITY OF SAN JOSE**

This Amendment No. 3 (Amendment), effective as of December 31, 2018, amends the terms and conditions of the 2011 Clean, Safe Creeks and Natural Flood Protection Program Trail and Open Space Grant Agreement—No. A3536R (Agreement) dated January 4, 2012 by and between the SANTA CLARA VALLEY WATER DISTRICT (District) and CITY OF SAN JOSE (Grantee), collectively, the “Parties”.

RECITALS

WHEREAS, the Agreement provides for the Grantee to receive up to \$450,000 in 2011 Trail and Open Space Grant Program funding for the Three Creeks Trail, Trestle, and Interim Improvements Project (Project); and

WHEREAS, the Grantee has received \$20,000 of the Project Grant Amount; and

WHEREAS, per Amendment No. 1, the Agreement’s expiration date was extended from December 30, 2015 to December 30, 2017; however, despite Grantee’s good faith efforts to complete the project on time, circumstances beyond its control will not allow it to do so; and

WHEREAS, per Amendment No. 2, the Agreement’s expiration date was extended from December 30, 2017 to December 31, 2018; however, again, despite the Grantee’s good faith efforts to complete the project on time, circumstances beyond its control will not allow it to do so; and

WHEREAS, the Parties now desire to extend the term of Agreement for an additional fifteen months with a revised Agreement expiration date of March 20, 2020; and

WHEREAS, per Amendment No. 2, the Agreement’s expiration date was December 31, 2018 and in order to continue the contractual coverage, the Parties desire that Amendment No. 3 extend the Agreement from December 31, 2018 through March 20, 2020; and

WHEREAS, the Parties agree an Agreement expiration date of March 20, 2020, is necessary in order to provide Grantee with sufficient time to complete the Project and it is in the public’s best interest that the Project be completed.

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

1. Section 2. General Provisions A. Definitions, Paragraph 10 and B. Project Execution, paragraph 10 are hereby revised to replace the current expiration date of December 31, 2018 with March 20, 2020.

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2. Section 3. Financial Provisions, E. Invoicing, paragraph 2, F. Project Completion, paragraph 4 and H. Agreement Term, paragraph 1 are hereby revised to replace the current expiration date of December 31, 2018 with March 20, 2020.
3. Appendix B to the Agreement, Project Schedule, is amended to revise the schedule as set forth in Revised Appendix B, Project Schedule, attached hereto and incorporated herein by this reference.
4. Section 3. Financial Provisions, J. Notices, is hereby revised as follows:

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:

To SCVWD:	Norma Camacho Chief Executive Officer Santa Clara Valley Water District 5750 Almaden Expressway San Jose, CA 95118-3686 E-mail: grants@valleywater.org	To Grantee:	Yves Zsutty Trail Manager City of San Jose 200 E. Santa Clara St. San Jose, CA 95113 Phone: (408) 394-5237 Email: yves.zsutty@sanjoseca.gov
Contact:	Sherilyn Tran Supervising Program Administrator Santa Clara Valley Water District 5750 Almaden Expressway San Jose, CA 95118 Phone: (408) 630-2772 E-mail: grants@valleywater.org	Grantee Contact:	Dean Casale Grant Analyst City of San Jose 200 E. Santa Clara St. San Jose, CA 95113 Phone: (408) 793-5567 Email: dean.casale@sanjoseca.gov

5. All other terms and conditions of the Agreement not revised as stated herein remain in full force and effect.

(SIGNATURES FOLLOW ON NEXT PAGE)

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IN WITNESS WHEREOF, the parties have executed this Amendment No. 3 to Agreement No. A3536R and agree its term commences on December 31, 2018.

CITY OF SAN JOSE

APPROVED AS TO FORM:

YVES ZSUTTY
Trail Manager

Dated: _____

CITY ATTORNEY
Legal Counsel

Dated: _____

SANTA CLARA VALLEY WATER DISTRICT

NORMA J. CAMACHO
Chief Executive Officer

Dated: _____

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REVISED APPENDIX B

PROJECT SCHEDULE

Three Creeks Trail, Trestle, and Interim Improvements

Item	Start Date	Duration	End Date
Task 1 – Design	-	-	Complete
Task 2 – Bid/Award	-	-	-
Task 3 – Construction	6/15/2019	5.5 months	11/30/19
Task 4 – Closeout	12/1/19	14 months, 20 Days	3/20/2020