

**AMENDMENT NO. 2 TO AGREEMENT A3861R
2015 SAFE, CLEAN WATER PRIORITY D3 GRANT PROGRAM
BETWEEN THE SANTA CLARA VALLEY WATER DISTRICT
AND THE SANTA CLARA COUNTY OPEN SPACE AUTHORITY
NOW KNOWN AS THE SANTA CLARA VALLEY OPEN SPACE AUTHORITY**

This Amendment No. 2 (Amendment), effective as of the date it is fully executed by the Parties, amends the terms and conditions of the 2015 Safe, Clean Water Priority D Grant Program Agreement A3861R (Agreement) dated June 12, 2015, as amended by Amendment No. 1 dated June 29, 2018 by and between the Santa Clara Valley Water District (District) and the Santa Clara County Open Space Authority, now known as the Santa Clara Valley Open Space Authority, a public entity (Grantee), collectively, the Parties.

RECITALS

WHEREAS, the Agreement provides for the Grantee to receive a grant amount of \$200,000.00 from the 2015 Safe, Clean Water Priority D Grant Program to construct a 3.2 mile, multi-use foothills loop trail in conjunction with an outdoor learning center that will serve as an event venue, outdoor classroom and a central meeting location for educational and interpretive programs highlighting the riparian and watershed features, as well as the natural and cultural resources of the Coyote Valley Open Space Preserve; and

WHEREAS, on July 15, 2015 the California State Legislature enacted Senate Bill 422, an Act to amend certain sections of the Public Resources Code including adding section 35122, which formally changed the name of Grantee from the Santa Clara County Open Space Authority to the Santa Clara Valley Open Space Authority. The Parties desire to amend the Agreement to document Grantee's formal name change; and

WHEREAS, the Grantee has not yet invoiced or received any of the Project Grant Amount; and

WHEREAS, the Grantee began the design process for the outdoor learning center and developed the conceptual designs for the facility and adjacent accessible trail. In 2017, the Grantee learned through consultations with local biological experts and the Santa Clara Valley Habitat Agency ("VHA") that the area for the proposed outdoor learning center in the Agreement is a prime habitat for Western Burrowing Owl; and

WHEREAS, due to the need to preserve the Western Burrowing Owl's habitat, Grantee has revised its Project Budget and Project Schedule; and

WHEREAS, the Agreement expires on June 30, 2019, at which time, the revised Project will not be completed; and

WHEREAS, the Parties now desire to amend the Agreement to revise Grantee's Project Budget and Project Schedule, and to extend the term of the Agreement to provide adequate time for Grantee to accomplish the Project.

NOW, THEREFORE, in consideration of the mutual promises and agreements stated herein and notwithstanding anything to the contrary in the Agreement or Amendment No. 1, Grantee and District hereby agree to amend the Agreement as follows:

1. Introduction. Prior to Recitals, is amended by replacing “Santa Clara County Open Space Authority” with “Santa Clara Valley Open Space Authority.”
2. Section 2. General Provisions. H. Agreement Term, Paragraph 1, is amended by replacing the current expiration date of “June 30, 2019” with “June 30, 2021.”
3. Section 4. Miscellaneous Provisions. B. Notices, is revised to state as follows:

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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| To SCVWD: Rick L. Callender Chief of External Affairs Santa Clara Valley Water District 5750 Almaden Expressway San Jose, CA 95118-3686 E-mail: rcallender@valleywater.org | To Grantee: Matt Freeman Assistant General Manager Santa Clara Valley Open Space Authority 33 Las Colinas Lane San Jose, CA 95119 Phone: (408) 224-7476 E-mail: mfreeman@openspaceauthority.org |
| Contact: Sherilyn Tran Program Administrator Santa Clara Valley Water District 5750 Almaden Expressway San Jose, CA 95118-3686 Phone: (408) 630-2772 E-mail: Grants@valleywater.org | Grantee Contact: Donna Plunkett, Planning Manager Santa Clara Valley Open Space Authority 33 Las Colinas Lane San Jose, CA 95119 Phone: (408) 224-7476 E-mail: dplunkett@openspaceauthority.org |

4. Appendix A, Project Scope, Coyote Valley Open Space Preserve, Outdoor Learning Center and Creekside Valley Loop Trail, is revised as stated in Revised Appendix A, Project Scope, Coyote Valley Open Space Preserve, Outdoor Learning Center and Creekside Valley Loop Trail attached hereto and incorporated herein by this reference.
5. Appendix B, Project Schedule, is revised as stated in Revised Appendix B, Project Schedule, attached hereto and incorporated herein by this reference.

6. Appendix C, Project Budget, is revised as stated in the Revised Appendix C, Project Budget, attached hereto and incorporated herein by this reference.
7. All other terms and conditions of Agreement No. A3861R and Amendment No. 1 not amended as stated herein, remain in full force and effect.

IN WITNESS WHEREOF, THE PARTIES HAVE SET FORTH BELOW THEIR CONSENT TO THE TERMS AND CONDITIONS OF THIS AMENDMENT NO. 2 TO AGREEMENT NO. A3861R THROUGH THE SIGNATURES OF THEIR DULY AUTHORIZED REPRESENTATIVES.

**SANTA CLARA VALLEY OPEN SPACE
AUTHORITY**
"Grantee"

Matt Freeman
Assistant General Manager

Date

APPROVED AS TO FORM:

Legal Counsel
By:
Print Name:

Date

SANTA CLARA VALLEY WATER DISTRICT
"District"

LINDA J. LEZOTTE
Chair, Board of Directors

Date

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REVISED APPENDIX A

PROJECT SCOPE OF WORK

Overview

In 2010, the Santa Clara Valley Open Space Authority (Authority) acquired the 348.1-acre Coyote Valley Open Space Preserve (Preserve). The Preserve is located on the west side of Coyote Valley toward the foothills of the Santa Cruz Mountains, approximately 1 mile south of Bailey Avenue in the City of San José.

The North Meadow Restoration and Public Access Project (Project) comprises trail improvements, hydrologic restoration and a rehabilitation project for western burrowing owl habitat in the Preserve's North Meadow, a site of approximately 35 acres. The public access portion of the Project proposes trail improvements to the existing Heart's Delight Trail to meet ADA-accessibility standards, viewpoints or overlooks along the trail, and interpretive signage. The western burrowing owl habitat enhancements will provide nesting sites for two to four pairs of owls and minimally invasive management of the surrounding meadow grasslands. The hydrologic restoration includes rehabilitation of the two Fisher Creek tributaries that cross the meadow but will not be part of this phase of work.

Background

The Board of Directors adopted the Coyote Valley Open Space Preserve Use and Management Plan (Plan) in 2013. The Plan provides direction for a public access and recreation program and the management of natural resources.

Within the Plan, the Use and Facilities Program includes the development of an ADA-accessible trail to lead from the Preserve's staging area to a proposed outdoor learning center in the area of the Preserve known as the North Meadow. In 2017, the Authority learned through consultations with local biological experts that the North Meadow is prime habitat for western burrowing owl enhancement. The North Meadow Restoration and Public Access Project (Project) proposes an alternative public use plan which is compatible with western burrowing owl habitat restoration on the Preserve.

In the future, additional restoration and public access projects are expected to occur in and around the North Meadow. Restoration activities may include hydrologic improvements to one of the two creeks which seasonally flow through the meadow. A significant tributary of Fisher Creek, Branch D, flows through the North Meadow in a northeasterly direction. This has been identified as a site for future hydrologic restoration activities for floodplain enhancement in Coyote Valley. The Preserve is also situated to provide connections to other parkland and open space in the region, which will be reflected in a range of public access opportunities. Future trail connections at the perimeter of the North Meadow could connect Coyote Valley Open Space Preserve to the Fisher Creek Trail (proposed by the City of San Jose) and the Authority's Fisher Bend Property to the northeast and Calero County Park to the northwest.

Project Description

The North Meadow is located to the northwest of the Preserve's staging area, bordered to the south by the Arrowhead Loop and Heart's Delight Trails leading into the Preserve. It consists of annual grasslands and gives way to oak savanna and oak woodlands in the rising hills of the Santa Cruz Mountains to the west and south. A hill of scrub and serpentine grasslands is located to the north of the meadow. The North Meadow is surrounded by scenic hills which raise up hundreds of feet on three sides and the floor of Coyote Valley extends out from the meadow to the east.

Public Access

The public access portion of the Project consists of trail improvements to the existing Heart's Delight Trail, scenic overlooks, and interpretive signage at the North Meadow site.

For the purposes of this project, the proposed trail improvements begin at the Preserve staging area and extend approximately 1,288 feet or 0.25 miles along the Heart's Delight Trail. The trail passes multiple large oak trees and a picnic area and includes crossing an existing bridge. To increase visibility of the meadow for recreational and educational opportunities, this Project proposes two raised overlooks. The first overlook would be located near an existing picnic area under three large oak trees, approximately 765 feet down the length of the trail. The second overlook would be located near the terminus of the trail improvements, at approximately 1,280 feet down the length of the trail. Overlooks could consist of a raised platform, with a ramp leading to a viewing deck facing the meadow. Rails could provide stability for birdwatching as well as foundations for interpretive signage.

Interpretive signage along the trail and at the above noted overlooks will include panels illustrating the meadow's natural and cultural resources and riparian and watershed features. A future phase of work may include an extension of the accessible interpretive trail based on the design of ecological restoration.

Habitat Restoration

The western burrowing owl is a covered species under the Santa Clara Valley Habitat Plan. Declining habitat has caused a dramatic loss of the number of breeding burrowing owls in the South Bay region. Restoration activities in the North Meadow would include the above-ground installation of artificial burrows, the translocation of owls to the North Meadow, and ongoing maintenance and monitoring of vegetation and burrowing owl activity. Burrowing owl habitat restoration accounts for approximately 12 acres of grassland in the north meadow.

The Authority would work with the Santa Clara Valley Habitat Agency (VHA) to oversee the installation, operations, and maintenance of the restoration project, with VHA providing funding for costs associated with burrowing owl enhancements and monitoring through a future Burrowing Owl Management Plan and Funding Agreement.

Hydrologic Restoration (future phase – not part of this request)

Two tributaries to Fisher creek also flow through the North Meadow. Past agricultural activities have resulted in the partial realignment and modification of these two tributaries to support cultivation activities. Hydrologic restoration activities in the North Meadow would aim to re-establish natural channel functions, notably, the creeks' natural sinuosity and ability to regularly

access their floodplains and fan out over the surrounding grasslands. This work would aim to restore the North Meadow's hydrology, so it can support additional riparian and seasonal wetland habitats. Hydrologic restoration would be conducted in a future phase of work, however maintaining the feasibility of this work will be incorporated into the updated plan for the North Meadow.

In October 2018, OSA staff held a meeting of the Board of Directors' Use and Management Committee (U and M) jointly with our Citizens Advisory Committee (CAC) to review the new conceptual plan on the attached diagram. The purpose was to inform committee members of the project changes and to gather feedback on the new plans. The committee members supported the plan and asked staff to move ahead with planning and design.

Scope of Work, Deliverables and Schedule

The scope of work, deliverables and cost estimates outlined below are for the public access element of the project outlined above and as mapped on the attached conceptual site plan. The burrowing owl habitat enhancement and re-location portion of the project will be funded in partnership with Santa Clara Valley Habitat Agency. Funding is not requested for conceptual design or engineering of the hydrologic restoration as part of this request. Some of the inventory and data collection that we will undertake as part of this phase of the project will be helpful in determining feasibility and scope of work for that phase of the project.

Scope of Work/Cost Estimate (costs are not inclusive of OSA staff time)

Task 1 Pre-design Data Inventory and Analysis (\$30,000) (Jan-Apr 2019)

Collection and analysis of relevant data to inform the existing site conditions and subsequent environmental analysis. Examples of data collection include biological and cultural resources data at a minimum. Slope and topography survey will be necessary to ensure accessibility as well as drainage and stormwater requirements. Other data may be necessary including soils and geotechnical-related information, but the full extent of surveys needed is not known at this time. Initial outreach with permit agencies will begin to determine permit requirements that may also suggest additional data collection.

Deliverables

- Inventory Reports and Findings
- Feasibility/Cost Estimate
- Preliminary Permit Requirements Summary
- Preliminary CEQA Checklist

Task 2 Pre-design and Schematic Design (\$50,000) (Apr-Sep 2019)

Utilizing the information from site and data analysis, preliminary design options will be developed that show alternatives for an accessible trail, interpretive stations and signage for all features. Options will be evaluated based on potential impacts to resources, user experience, engineering feasibility and preliminary cost estimates. Public outreach will commence to receive feedback on preliminary options for the project. Depending on the environmental compliance required (California Environmental Quality Act ("CEQA")) it will be initiated at this stage to determine possible impacts to resources such that the project design can be altered to

avoid such impacts. Based on public feedback and potential environmental impacts, the preferred option will be further developed to schematic design (30% design).

Deliverables

- Site Analysis Memorandum and Map(s)
- Public Outreach
- Draft Preliminary CEQA Scoping/Documents
- Revised Cost Estimate
- Preliminary Permit Applications

Task 3 Design Development (\$40,000) (Sep 2019-Feb 2020)

Develop the preferred alternative complete with finishes, all materials, details and specifications up to 60% complete. Finalize or revise permit documents to reflect current design and submit to permitting agencies. Prepare updated cost estimate and revised design to stay within budget. Prepare draft CEQA documents based on any design changes.

Deliverables

- 60% Construction Documents
- Updated Cost Estimate
- Draft and Final CEQA Documents
- Final Permit Applications and Submittal

Task 4 Construction Documents and Bidding (\$30,000) (Feb-May 2020)

Complete the construction document package as required for bidding and construction up to 100% completion. Prepare the Request for Proposals as required for public bidding, secure bids and make an award for construction. Secure last permit documents for the start of work.

Deliverables

- 100% Construction Documents
- Bid Documents
- Contract Award and Project Kick-off

Task 5 Site Construction (\$1.8M) (Summer/Fall 2020)

REVISED APPENDIX B

PROJECT SCHEUDLE

1. Pre-design Data Inventory and Analysis: January 2019 – April 2019
2. Pre-design and Schematic Design: April 2019 – September 2019
3. Design Development: September 2019 – February 2020
4. Construction Documents and Bidding: February 2020 – May 2020
5. Site Construction: Summer/Fall 2020

REVISED APPENDIX C

PROJECT BUDGET

| | |
|---|---|
| Task 1 | \$30,000 |
| Task 2 | \$50,00 |
| Task 3 | \$40,000 |
| Task 4 | \$30,000 |
| Planning and Design Contingency (15%) TOTAL Pre-construction Costs | \$140,000 \$21,000 \$161,000 |
| Task 5 | \$1,800,000 |
| TOTAL Project Costs | \$1,961,000 |

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