

EXECUTORY COPY

JAN 08 2016

**AMENDMENT NO. 1 to
THE CLEAN, SAFE CREEKS AND NATURAL FLOOD PROTECTION PROGRAM
AGREEMENT NO. A3536R**

ACCEPTED
REJECTED

**Between the Santa Clara Valley Water District
And the City of San Jose**

WHEREAS, the parties desire to amend the Clean, Safe Creeks and Natural Flood Protection Program Trail and Open Space Grant Program Agreement Between the Santa Clara Valley Water District (District) and City of San Jose (Grantee), Agreement No. A3536R (Agreement) dated January 4, 2012 in order to revise the Agreement Term; and

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

WHEREAS, the District and Grantee entered into 2011 Trail and Open Space Grant Agreement on January 4, 2012 providing for Project funding. The initial term of the Agreement expires on December 30, 2015, at which time, the Project will not be completed; and

WHEREAS, the Agreement provides that the grant funds are to be spent on constructing a clear-span bridge trestle and an interim trail near the Los Gatos Creek; and

WHEREAS, due to a legal challenge regarding removal of the existing trestle, Grantee was delayed in completing construction of the Project and an extension of the term of the Agreement is therefore necessary to allow for sufficient time for Project completion;

WHEREAS, the parties agree that a two-year extension of the term of the Agreement is necessary in order to complete the Project and it is in the public's best interest to do so.

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 30, 2015 with December 30, 2017.
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 30, 2015 with December 30, 2017.
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. If the Project is not completed by the revised expiration date of the Agreement as stated in this Amendment No. 1, Grantee shall refund any and all reimbursed grant funds from the District, originating from January 4, 2012.

**AMENDMENT NO. 1 to
THE CLEAN, SAFE CREEKS AND NATURAL FLOOD PROTECTION PROGRAM
AGREEMENT NO. A3536R**

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

IN WITNESS WHEREOF, the parties have executed this Amendment No. 1 to Agreement No. A3536R and agree its term commences on the date of full execution.

SANTA CLARA VALLEY WATER DISTRICT



Beau Goldie
Chief Executive Officer
Santa Clara Valley Water District

12/08/15
Date

CITY OF SAN JOSE



JULIE EDMONDS-MARES
Deputy City Manager

1/8/16
Date

**APPROVED AS TO FORM AND
LEGALITY**



DEPUTY CITY ATTORNEY

By:

Print Name:

Date:

JOHNNY V. PHAN

1/5/16

**AMENDMENT NO. 1 to
THE CLEAN, SAFE CREEKS AND NATURAL FLOOD PROTECTION PROGRAM
AGREEMENT NO. A3536R**

REVISED APPENDIX B

PROJECT SCHEDULE

**THREE CREEKS TRAILS, TRESTLE
AND INTERIM IMPROVEMENTS**

Item	Start Date	Duration	End Date
Task 1 - Design	-	-	2/19/14
Task 2 - Bid/Award	02/13/16	2 months	4/07/16
Task 3 - Construction	6/15/16	1 year and 4.5 months	10/31/17
Task 4 - Close Out	11/1/17	2 months	12/30/17

THIS PAGE INTENTIONALLY LEFT BLANK