



**AMENDMENT NO. 4 TO
CLEAN, SAFE CREEKS AND NATURAL FLOOD PROTECTION PROGRAM
TRAIL AND OPEN SPACE GRANT AGREEMENT NO. A3536R
BETWEEN THE SANTA CLARA VALLEY WATER DISTRICT
AND THE CITY OF SAN JOSE**

This Amendment No. 4 (Amendment), effective as of the date it is fully executed by the Parties, amends the terms and conditions of the FY 2011 Clean, Safe Creeks and Natural Flood Protection Program Trail and Open Space Grant Agreement No. A3536R (Agreement) dated January 4, 2012, Amendment No. 1 dated December 8, 2015, Amendment No. 2 dated January 2, 2018, and Amendment No. 3 dated January 15, 2019, between the SANTA CLARA VALLEY WATER DISTRICT (Valley Water) and CITY OF SAN JOSE (Grantee), collectively, the "Parties."

RECITALS

WHEREAS, the Agreement provides for Grantee to receive a grant amount of up to \$450,000 from the FY 2011 Clean, Safe Creeks and Natural Flood Protection Program Trail and Open Space Grant funding for the Three Creeks Trail, Trestle, and Interim Improvements Project (Project) to construct a clear-span bridge trestle and add interim trail features near Los Gatos Creek; and

WHEREAS, the Agreement expired on March 20, 2020, at which time, the Project was not completed; and

WHEREAS, the Grantee's ability to perform the scope as described in the Agreement was delayed by legal issues related to the replacement of the wooden trestle bridge with a new steel trestle bridge; and

WHEREAS, a final determination of the legal issues in the Santa Clara County Superior Court was then delayed by the State Emergency Services Act, the Governor's Emergency Declaration related to the COVID-19 pandemic, the Governor's Executive Order N-29-20, and Order of the County of Santa Clara Public Health Officer dated March 16, 2020; and

WHEREAS, after the Agreement expired and the legal issues were resolved, Grantee resumed work on the Project to finish construction and install interim trail features, all of which were completed in November 2020; and

WHEREAS, the Grantee has invoiced and received \$20,000 of the total Project Grant Amount. The remaining grant amount of \$430,000 for work completed can be paid by Valley Water once the Agreement term is retroactively amended; and

WHEREAS, it is in the public's best interest and the Parties now desire to amend the Agreement to revise Grantee's Project Schedule and to retroactively extend the term of the Agreement to provide the time that was required for Grantee to complete the Project.

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NOW, THEREFORE, in consideration of the mutual promises and agreements contained herein and notwithstanding anything to the contrary in the Agreement, Grantee and Valley Water 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 March 20, 2020 with March 30, 2021.
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 March 20, 2020 with March 30, 2021.
3. Section 3. Financial Provisions, J. Notices, is revised to state 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 Valley Water:	To Grantee:
Rachael Gibson Chief of External Affairs Santa Clara Valley Water District 5750 Almaden Expressway San Jose, CA 95118-3686 Email: rgibson@valleywater.org	Yves Zsutty Trail Manager City of San Jose 200 East Santa Clara Street San Jose, CA 95113 Phone: (408) 394-5237 Email: yves.zsutty@sanjoseca.gov
Valley Water Contact:	Grantee Contact:
Kristen Yasukawa Program Administrator Designated Project Manager Santa Clara Valley Water District 5750 Almaden Expressway San Jose, CA 95118 Phone: (408) 630-2876 Email: kyasukawa@valleywater.org	Dean Casale Grant Analyst City of San Jose 200 East Santa Clara Street San Jose, CA 95113 Phone: (408) 793-5567 Email: dean.casale@sanjoseca.gov

4. Revised 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.

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5. All other terms and conditions of Agreement A3536R, Amendment No. 1, Amendment No. 2, and Amendment No. 3 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. 4 TO AGREEMENT A3536R THROUGH THE SIGNATURES OF THEIR DULY AUTHORIZED REPRESENTATIVES.

CITY OF SAN JOSE

“Grantee”

Date: _____

By: _____
Yves Zsutty
Trail Manager

SANTA CLARA VALLEY WATER DISTRICT

“Valley Water”

Date: _____

By: _____
Chair, Board of Directors

ATTEST:

Michele L. King, CMC
Clerk, Board of Directors

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**REVISED APPENDIX B
Project Schedule**

Item	Start Date	Duration	End Date
Task 1 – Design	–	–	Complete
Task 2 – Bid/Award	–	–	–
Task 3 – Construction (Paused)	June 2014	72 months	DELAY (Court challenge)
Task 3 – Construction (Active)	June 2020	6 months	November 2020
Task 4 – Closeout	December 2020	4 months	March 30, 2021

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