

COPY

**FIRST AMENDMENT TO
COOPERATIVE AGREEMENT
FOR CONSTRUCTION OF IMPROVEMENTS ON SAN JOSE CREEK**

THIS FIRST AMENDMENT, ENTERED INTO ON _____, is between the

CITY OF GOLETA (CITY), a municipal
corporation, referred to herein as
"CITY",

and

SANTA BARBARA COUNTY FLOOD
CONTROL & WATER
CONSERVATION DISTRICT, a
political subdivision of the State of
California, referred to herein as
"DISTRICT".

WHEREAS, on October 5, 2010, the CITY and DISTRICT entered into the cooperative agreement (AGREEMENT) for the construction of improvements to San Jose Creek Channel (PROJECT); and

WHEREAS, the PROJECT consisted of widening the San Jose Creek Channel in order to increase flood water conveyance capacity, and the installation of a fish-passage facility, consisting of a low flow channel on the east side of the San Jose Creek Channel, fish weirs extending across the entire channel, transition basin immediately upstream of Hollister Avenue, and articulated concrete mat on the bottom of the channel (Fish-Passage Facility), to allow migration of steelhead trout from the Goleta Slough upstream to the natural creek; and

WHEREAS, the first phase of PROJECT (PHASE 1 PROJECT), commonly referred to as San Jose Creek Channel Capacity Improvements and Fish Passage Project, was completed in 2014 and extended from the Goleta Slough along the San Jose Creek Channel terminating approximately 300-feet downstream of Hollister Avenue Bridge, and completed a portion of the Fish-Passage Facility; and

WHEREAS, the second phase of PROJECT (PHASE 2 PROJECT) which is yet to be constructed and is commonly referred to as the Hollister Avenue Bridge Project, extends from approximately 300-feet downstream of Hollister Avenue Bridge to approximately 100-feet upstream of Hollister Avenue Bridge and consists of the completion of channel capacity improvements, replacement of the Hollister Avenue Bridge, and completes the Fish-Passage Facility; and

WHEREAS, the third phase of the PROJECT (PHASE 3 PROJECT), commonly referred to as the San Jose Creek Channel Fish Passage Modification Project, consists of modifications to the fish weirs installed as part of PHASE 1 PROJECT and includes grading of San Jose Creek upstream of Hollister Avenue, within the limits defined in Attachment A up to Station 67+50; and

WHEREAS, CITY was the Lead Agency for the PHASE 1 PROJECT and is the Lead Agency for the PHASE 2 PROJECT and the PHASE 3 PROJECT, and intends to start construction of the PHASE 2 PROJECT in 2024 and start construction of the PHASE 3 PROJECT in 2026; and

WHEREAS, the parties desire to incorporate details of the PHASE 2 PROJECT and PHASE 3 PROJECT into the AGREEMENT; and

NOW, THEREFORE, in consideration of the mutual promises and undertakings herein made and the mutual benefits to be derived therefrom, the parties hereto hereby agree to amend the AGREEMENT through this FIRST AMENDMENT as follows:

SECTION I

CITY SHALL:

1. Be responsible for all costs required to complete the PHASE 2 PROJECT and the PHASE 3 PROJECT.
2. Complete all required Environmental Review processes and acquire all permits to construct and maintain both the PHASE 2 PROJECT and PHASE 3 PROJECT in conformance with said permits.
3. Complete design of the PHASE 2 PROJECT and PHASE 3 PROJECT and secure approvals of the designs by the DISTRICT prior to construction.
4. Advertise the PHASE 2 PROJECT and the PHASE 3 PROJECT and award construction contracts respectively to the lowest responsive and responsible bidders pursuant to State Law.
5. Construct the PHASE 2 PROJECT and PHASE 3 PROJECT in conformance with the approved designs.

6. Administer the PHASE 2 PROJECT and PHASE 3 PROJECT construction contracts and host weekly construction status meetings with construction contractors to address any issues during construction and will invite the DISTRICT to the meetings.
7. Provide construction management and inspection services with a qualified consultant for both the PHASE 2 PROJECT and the PHASE 3 PROJECT. The CITY will invite the DISTRICT to sit on the Consultant Selection Panels.
8. Undertake and fund all Right of Way acquisition costs required for the construction of PHASE 2 PROJECT and PHASE 3 PROJECT including any temporary easements, permanent easements, and private bridge removal or relocation costs.
9. Upon completion of PHASE 2 PROJECT, CITY will not have acquired any right of way that DISTRICT does not already hold an interest in, therefore CITY will not dedicate any right of way to DISTRICT as part of PHASE 2 PROJECT.
10. Upon completion of PHASE 3 PROJECT, if applicable, dedicate to DISTRICT all permanent rights of way necessary for continued maintenance of San Jose Creek Channel and San Jose Creek upstream of the channel, except those portions underlying the Fish Passage Facility in which the DISTRICT does not hold an interest.
11. Retain the Engineer of Record for both the PHASE 2 PROJECT and PHASE 3 PROJECT for consultation with and to approve any design changes or modifications to original designs during construction.
12. To bear the cost of all contractor claims processed against either the PHASE 2 PROJECT or the PHASE 3 PROJECT.
13. For both the PHASE 2 PROJECT and PHASE 3 PROJECT, to forward Construction Contract Change Orders to DISTRICT for review and approval when the Contract Change Order involves works within San Jose Channel and/or San Jose Creek.
14. Upon completion of the PHASE 2 PROJECT and PHASE 3 PROJECT, invite DISTRICT to a final job walkthrough and provide confirmation from the Contract construction management and inspection Team that the project was completed in accordance with the Plans and Specifications for review and acceptance by the District. Confirmation shall include a letter from the CITY summarizing the construction project, discussing any change orders related to work in San Jose Channel and/or San Jose Creek, and providing a set of record drawings.
15. Upon completion of the PHASE 2 PROJECT and PHASE 3 PROJECT, as depicted in ATTACHMENT A, CITY (1) will maintain the Fish Passage Facility, including vegetation, debris, trash and sediment removal, repairs to damage, and future modifications as the City deems necessary and as needed for the purposes of

preserving fish-passage function so as not to disrupt flood water conveyance, (2) repair the articulated concrete floor, including all areas designated as DISTRICT maintenance responsibility, when damaged and when such damage is not caused by the DISTRICT, and (3) maintain and repair the fish weirs extending across the entire channel, including all areas designated as DISTRICT maintenance responsibility. DISTRICT's maintenance obligations for improvements installed as part of PHASE 2 PROJECT and PHASE 3 PROJECT are set forth in Section II.9, below.

16. For both the PHASE 2 PROJECT and PHASE 3 PROJECT, be responsible for compliance with State Storm Water Pollution Prevention Plan SWPPP requirements.

SECTION II

DISTRICT SHALL:

1. Review and approve PHASE 2 PROJECT and PHASE 3 PROJECT designs.
2. Grant CITY authority to access San Jose Creek Channel from the access ramp located at the downstream end of the channel.
3. Issue a Temporary Entry Permit (TEP) to CITY, including all contractors and consultants for access to DISTRICT-owned property necessary for construction of both the PHASE 2 PROJECT and PHASE 3 PROJECT. DISTRICT will provide the TEP permit within four weeks from approval of design plans by DISTRICT.
4. Accept any permanent right of way dedicated by the CITY pursuant to CITY's obligation #10, above, for continued maintenance of San Jose Creek Channel and San Jose Creek upstream of the channel, except those portions underlying the Fish Passage Facility, for the PHASE 3 PROJECT by CITY.
5. Assign a DISTRICT representative to both the PHASE 2 PROJECT and PHASE 3 PROJECT. That DISTRICT representative shall sit on the construction management and inspection services selection panel. That DISTRICT representative shall attend weekly Construction Team meetings and other meetings as deemed necessary by the DISTRICT.
6. Provide and fund additional construction inspection services for PHASE 2 PROJECT and PHASE 3 PROJECT beyond that provided by the respective approved construction management teams, as necessary to satisfy DISTRICT needs.
7. Review Construction Contract Change Orders for both the PHASE 2 PROJECT and PHASE 3 PROJECT and provide comments to CITY on Construction Change Orders

and technical issues arising during construction of PROJECT. Approval of Contract Change Orders shall be limited to work within San Jose Channel and/or San Jose Creek. The DISTRICT shall respond within five working days of receipt of change order for review. If no response is received within five working days, CITY can assume the DISTRICT has no comments.

8. To review construction progress on a continuous basis throughout construction of the PHASE 2 PROJECT and PHASE 3 PROJECT to ensure construction is in accordance with the Plans and Specifications and to confirm this in writing to CITY at agreed upon Project milestones. Upon completion of construction of the PHASE 2 PROJECT and PHASE 3 PROJECT, DISTRICT will accept the CITY's Confirmation that the PHASE 2 PROJECT and PHASE 3 PROJECT was constructed in accordance with the Plans and Specifications.
9. Upon acceptance as described in section II.8 above, except as provided in Section I, Paragraph 15, DISTRICT will maintain all improvements installed as part of the PHASE 2 PROJECT and PHASE 3 PROJECT.

In all other respects, the AGREEMENT remains unchanged and in full effect.

IN WITNESS WHEREOF, the parties hereto have executed this FIRST AMENDMENT to AGREEMENT as of the day and year first above written.

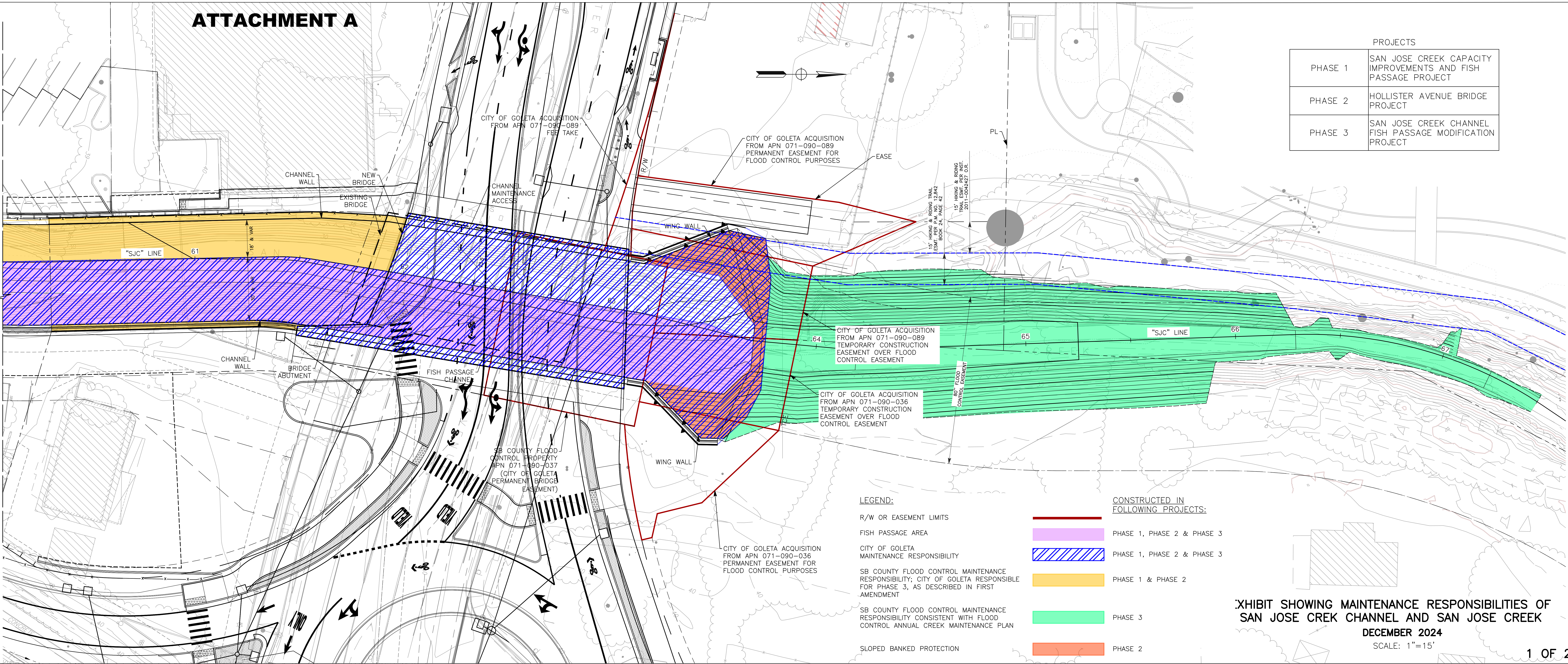
CITY OF GOLETA
APPROVED BY:
Robert Nisbet, City Manager
Date:
By:
ATTEST:
Deborah Lopez, City Clerk
By:
APPROVED AS TO CONTENT:
Nina “Luz”, Public Works Director
By:
APPROVED AS TO FORM:
Megan Garibaldi, City Attorney
By:

SANTA BARBARA COUNTY FLOOD CONTROL & WATER CONSERVATION DISTRICT
APPROVED BY:
Chris Sneddon, Public Works Director
Date:
By:
APPROVED AS TO FORM:
Greg Milligan, ARM, Risk Manager
By:
APPROVED AS TO FORM:
Rachel Van Mullem, County Counsel
By:
APPROVED AS TO ACCOUNTING FORM:
Betsy M. Schaffer, CPA, Auditor-Controller
By:

ATTACHMENT A

PROJECTS	
PHASE 1	SAN JOSE CREEK CAPACITY IMPROVEMENTS AND FISH PASSAGE PROJECT
PHASE 2	HOLLISTER AVENUE BRIDGE PROJECT
PHASE 3	SAN JOSE CREEK CHANNEL FISH PASSAGE MODIFICATION PROJECT

BREAK LINE - "SJC" SEE SHEET 2



ATTACHMENT A

