



**TO:** Mayor and Councilmembers

**SUBMITTED BY:** Luz “Nina” Buelna, Public Works Director

**PREPARED BY:** Gerald Comati, Contract Project Manager

**SUBJECT:** Amendment No. 1 to Cooperative Agreement with the Santa Barbara County Flood Control and Water Conservation District for Improvements to and Maintenance of the San Jose Creek Channel and Fish Passage Modification Project.

**RECOMMENDATION:**

Authorize the City Manager to approve Amendment No.1 to the Cooperative Agreement with Santa Barbara County Flood Control and Water Conservation District for Improvements to and Maintenance of the San Jose Creek Channel and Fish Passage resulting from the City’s Hollister Avenue Bridge Project and San Jose Creek Channel Fish Passage Modification Project.

**BACKGROUND:**

The San Jose Creek watershed is the largest creek watershed draining into the City of Goleta (see Attachment 3). The San Jose Creek captures drainage from the Los Padres National Forrest, the Goleta Foothills, and a large portion of the City. The San Jose Creek ends just upstream of Hollister Avenue and flows into the concrete San Jose Creek Channel. The original channel, constructed in 1962, diverted the San Jose Creek so that instead of flowing through Goleta Old Town, it flowed through the channel located east of Old Town and adjacent to State Route 217. The channel terminates at the confluence with San Pedro Creek and flows into the Goleta Slough. The San Jose Creek Channel and natural creek are maintained by the Santa Barbara County Flood Control and Water Conservation District (Flood Control).

In 2014, the City completed the San Jose Creek Channel Capacity Improvement and Fish Passage Project (Phase 1 Project). The Phase 1 Project widened the existing San Jose Creek Channel to increase flood water conveyance capacity and installed a fish-passage facility within the channel to allow steelhead trout to migrate from the Goleta Slough upstream through the concrete channel. The Phase 1 Project represented the first phase of channel capacity and fish passage improvements.

The second phase of improvements is currently under construction through the City's Hollister Avenue Bridge Project, which is part of Project Connect and is referred to as Phase 2 Project. This Phase 2 Project will replace the existing Hollister Avenue Bridge over San Jose Creek Channel with a wider structure and will extend the channel capacity and fish passage improvements from approximately 300 feet downstream of Hollister Avenue Bridge where the existing fish passage facility is located, to the upstream natural creek.

The California Department of Fish and Wildlife (CDFW) mandated the third phase of improvements to modify the existing fish passage facility, as it did not meet the permitting criteria required to provide a viable migration corridor for steelhead trout. This Phase 3 Project was initiated in early 2022 when the City Council authorized and funded a new CIP project, the San Jose Creek Channel Fish Passage Modification Project (CIP No. 9117). The project is currently in the design and permitting phase, with construction anticipated in the summer of 2026. Extensive modeling was conducted in Phase 3 to ensure the fish passage project complied with these criteria. Funding for the construction phase has not been identified.

Upon completion of all ongoing and planned construction projects along San Jose Creek (the City's Hollister Avenue Bridge Project, Fish-Passage modification project, and San Jose Creek Multi-Use Path Project as well as the Caltrans Hwy 217 Bridge Replacements project, and Hwy 101 bridge replacement over San Jose Creek) and acceptance of hydraulic modeling by FEMA, FEMA will approve a Letter of Map Revision (LOMR) which will revise the 100-year floodplain boundaries and thereby eliminate portions of Goleta Old Town from the regulatory flood plain.

## **DISCUSSION:**

In October 2011, the City entered into a cooperative agreement with Flood Control to define the roles and responsibilities associated with the development, construction, and post-construction maintenance of the Phase 1 Project. The agreement defined the City as the California Environmental Quality Act lead agency and the lead agency for project delivery. The agreement also defined the role of both agencies during project development and construction and the maintenance commitments in the post-construction condition. Under the agreement, the City maintains the fish passage facilities within the channel and Flood Control maintains the San Jose Creek Channel. The City agreed to maintain the fish passage facilities, including removing vegetation, trapped sediment, and debris within the fish passage facility as necessary for fish passage.

With the commencement of construction of the Phase 2 Project in 2024 as part of Project Connect, followed in 2026 by the construction of the Phase 3 Project, an amendment to the existing Cooperative Agreement is required to address the Phase 2 and Phase 3 projects. The attached Amendment No.1 to the cooperative agreement, updates the roles and responsibilities for the two projects in terms of project delivery, construction, and post-construction maintenance. Consistent with the existing cooperative agreement with Flood Control, the amendment commits the City to maintain all fish passage facility elements, the new Hollister Avenue Bridge, and the transition basin immediately upstream of the

new bridge. All other components of the channel and upstream creek will continue to be maintained by Flood Control.

Public Works recommends that the City Council authorize the City Manager to approve Amendment No. 1 to the Cooperative Agreement with Flood Control. This amendment clarifies construction and maintenance responsibilities for the San Jose Creek Channel and associated creek and fish passage facilities. It does not create any new maintenance obligations for the City, as it already maintains these facilities.

**FISCAL IMPACTS:**

Approval of Amendment No. 1 to the Cooperative Agreement with the Santa Barbara County Flood Control and Water Conservation District will have no additional fiscal impacts. The City's Public Works Streets Maintenance and Parks and Open Space Divisions are currently responsible for maintaining and operating the existing Hollister Avenue Bridge and fish passage facilities. The City will continue maintenance after the modifications to the fish passage facilities, San Jose Creek Channel, and the replacement of the Hollister Avenue Bridge as part of the City's Hollister Avenue Bridge and San Jose Creek Channel Fish Passage Modification projects. These modification projects are expected to be completed by FY 2026-27.

**ALTERNATIVES:**

The Council may not approve Amendment No.1 to the Cooperative Agreement with Flood Control for San Jose Creek Channel and Fish Passage. However, if this occurs Flood Control will not sign off on the construction of the Phase 2 Project or approve the design of Phase 3 Project. If this occurs, the City will be unable to finalize the Hollister Avenue Bridge project, thereby risking Federal funding.

**LEGAL REVIEW BY:** Isaac Rosen, Acting City Attorney

**APPROVED BY:** Robert Nisbet, City Manager

**ATTACHMENTS:**

1. Amendment No. 1 to Cooperative Agreement No. 2011-017, with Santa Barbara County Flood Control and Water Conservation District
2. Original Cooperative Agreement No. 2011-017, with Santa Barbara County Flood Control and Water Conservation District
3. San Jose Creek Watershed Boundary Map

## **ATTACHMENT 1**

Amendment No. 1 to Cooperative Agreement No. 2011-017, with Santa Barbara County  
Flood Control and Water Conservation District

**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.

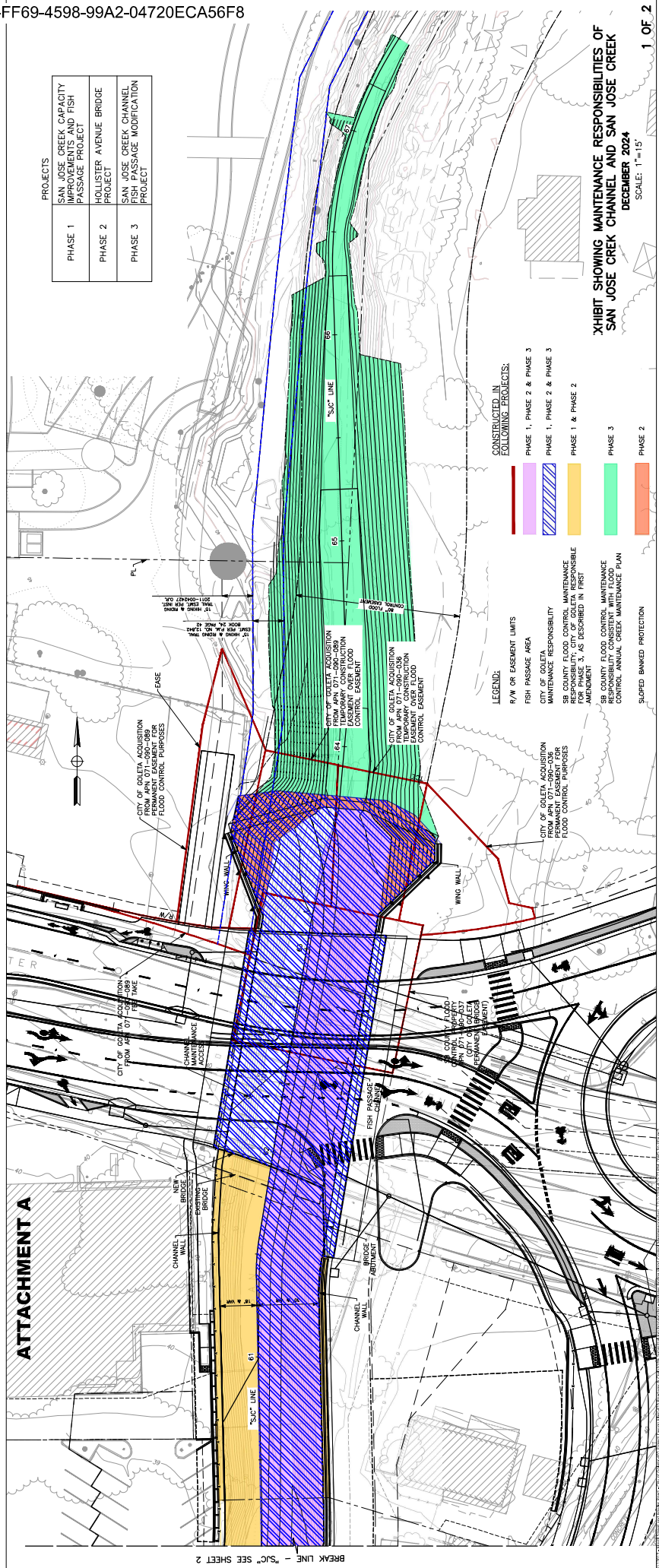
8. To review construction progress on a continuous basis throughout construction of the PHASE 2 PROJECT and PHASE 3 PROJECT to ensure construction is in accordance with the Plans and Specifications and to confirm this in writing to CITY at agreed upon Project milestones. Upon completion of construction 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.

<b>CITY OF GOLETA</b>
<b>APPROVED BY:</b>
Robert Nisbet, City Manager
Date:
By:
<b>ATTEST:</b>
Deborah Lopez, City Clerk
By:
<b>APPROVED AS TO FORM:</b>
Winnie Cai, Assistant City Attorney
By:  Signed by: Winnie Cai A1BF8F896161498...

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

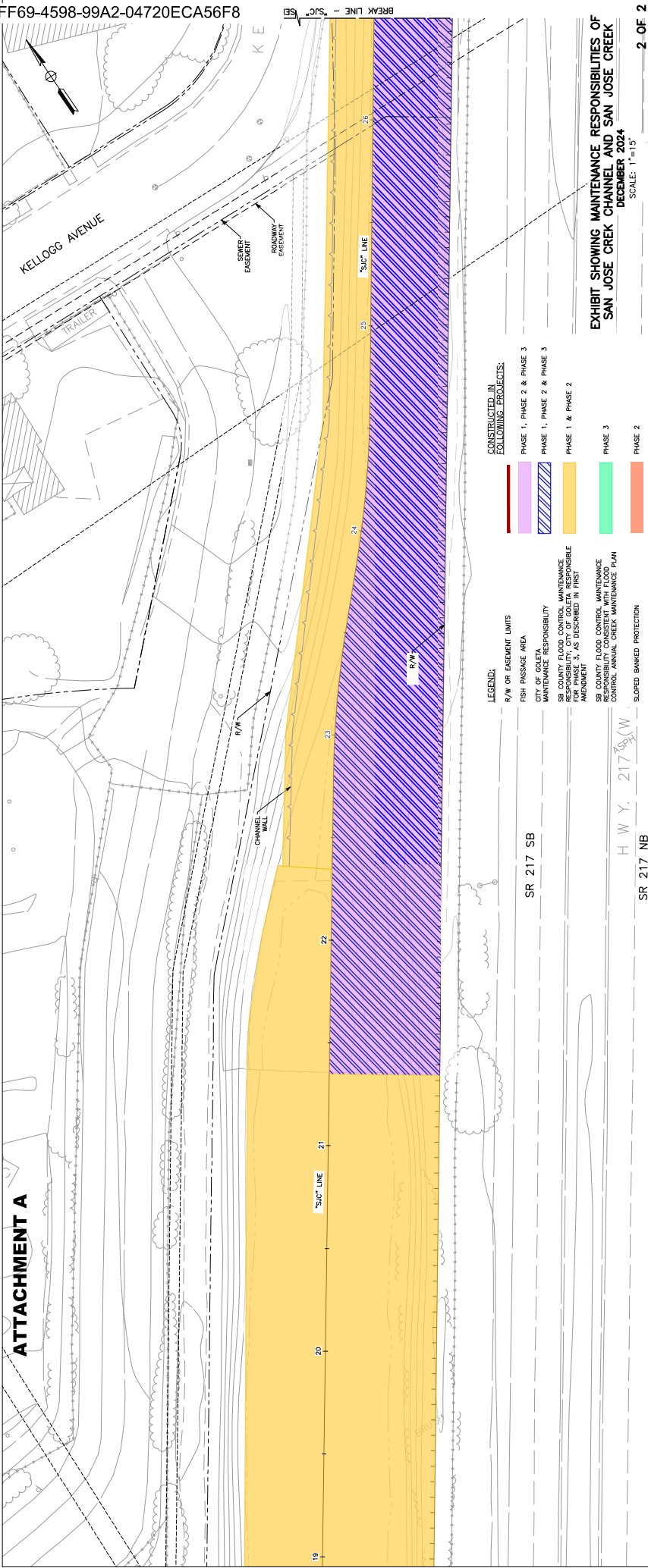


PROJECTS	
PHASE 1	SAN JOSE CREEK CAPACITY IMPROVEMENTS AND FISH PASSAGE PROJECT
PHASE 2	HOLLISTER AVENUE BRIDGE PROJECT
PHASE 3	SAN JOSE CREEK CHANNEL FISH PASSAGE MODIFICATION PROJECT

EXHIBIT SHOWING MAINTENANCE RESPONSIBILITIES OF  
SAN JOSE CREEK CHANNEL AND SAN JOSE CREEK  
DECEMBER 2024  
SCALE: 1"=15'  
1 OF 2

ATTACHMENT A

BREAK LINE - "SJC" SEE SHEET 2



BC 11-046

Agreement No. 2011-017  
City of Goleta, California

**COOPERATIVE AGREEMENT FOR CONSTRUCTION OF IMPROVEMENTS  
ON SAN JOSE CREEK**

THIS AGREEMENT, ENTERED INTO ON Oct 5, 2010, is between the

CITY OF GOLETA, 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**, San Jose Creek is a major watershed that flows through the CITY, and into the Goleta Slough; and

**WHEREAS**, the DISTRICT owns and maintains certain improvements on San Jose Creek generally from Hollister Ave to the Slough, including a concrete lined channel, excepting culverts and bridges within transportation corridors crossing the creek; and

**WHEREAS**, CITY owns and maintains Hollister Avenue Bridge over San Jose Creek; and

**WHEREAS**, Portions of the CITY's "Old Town" are in the 100 year floodplain of San Jose Creek; and

**WHEREAS**, CITY desires to increase the flood flow capacity of the system by improving and widening the existing channel, (hereinafter the PROJECT), and by replacing the Hollister Ave Bridge as additional City funded work, and

**WHEREAS**, the PROJECT and the bridge replacement will reduce flooding from San Jose Creek during serious flood events, and serve to reduce the FEMA 100 year Flood Plain within Old Town Goleta; and

**WHEREAS**, CITY has identified this PROJECT as their highest priority for Flood Control within the City and desires that PROJECT be expedited to protect property within the CITY and to facilitate economic development in the area; and

**WHEREAS**, CITY and DISTRICT have agreed to commit to funding a significant share of the PROJECT partially offset by grants; and

**WHEREAS**, Design of the PROJECT will also include Fish Passage features within the reconstructed channel, herein referred to as "FISH PASSAGE CHANNEL"; and

**WHEREAS**, CITY is willing to act as the lead agency the design, compliance with CEQA, Construction, and implementation of PROJECT;

**NOW THEREFORE**, it is mutually agreed as follows:

**SECTION I**

**CITY SHALL BE OBLIGATED TO:**

1. Pay for all costs required to complete PROJECT less contribution by DISTRICT as outlined below.
2. Complete all required Environmental Review process and acquire all permits to construct PROJECT in conformance with said permits.
3. Complete design of the PROJECT and secure approval of the design by DISTRICT and include into the design the Fish Passage Channel.
4. Advertise PROJECT and award construction contract to the lowest responsive and responsible bidder pursuant to State Law.
5. Construct the PROJECT in conformance with the approved Design.
6. Administer Construction Contract and provide weekly construction status meeting to address any issues during construction.
7. Provide Construction Inspection services with a qualified contractor. Such contractor to be mutually acceptable to DISTRICT.
8. Undertake and fund all Right of Way acquisition costs required for the construction including any temporary easements, permanent easements, and private bridge removal or relocation costs.
9. Transfer to DISTRICT all permanent rights of way necessary for continued maintenance of PROJECT, except those portions of the work that constitutes the Fish Passage Channel,
10. Retain the Engineer of Record for consultation with and to approve any design changes or modifications to original design.
11. To bear the cost of all contractor claims processed against PROJECT.
12. To forward Contract Change Orders to DISTRICT for review and approval;
13. Upon completion of PROJECT, provide confirmation from the Contract Inspection Team that the project was completed in accordance with the Plans and Specifications.
14. Upon completion of PROJECT, turn over PROJECT and all channel improvements to DISTRICT, excepting the FISH PASSAGE CHANNEL.
15. Upon completion of construction of PROJECT, be responsible for sediment removal, maintenance, future modification, and repair of the constructed FISH PASSAGE CHANNEL.

16. Upon completion of the construction of the PROJECT, be responsible for future FISH PASSAGE CHANNEL performance discussions, evaluations and modifications if necessary as required by NOAA and State DFG.
17. Be responsible for compliance with State SWPPP requirements, both current and as may be amended.

## SECTION II

### **DISTRICT SHALL BE OBLIGATED TO:**

1. To issue an encroachment permit to CITY, including all contractors and consultants for access necessary for construction of PROJECT.
2. To accept permanent right of way acquired for construction of PROJECT by CITY, as determined to be needed for PROJECT by DISTRICT
3. To assign a DISTRICT representative to PROJECT and that DISTRICT representative attend weekly Construction Team meetings and other meetings as necessary.
4. To provide and fund additional construction inspection services for PROJECT beyond that provided by approved construction management team as necessary to satisfy DISTRICT needs.
5. To review construction bids and provide comments to CITY on identification of Lowest Responsible Bidder.
6. To pay CITY a total amount of no more than \$5 Million towards the cost of construction of channel improvements on San Jose Creek provided such costs are attributed to the channel improvements not associated with the Bridge replacement at Hollister Ave or any other costs not attributed to the Channel, as determined by DISTRICT.
7. That the construction cost contribution of by DISTRICT will be paid to CITY in proportional increments each month based on monthly progress report submitted by CITY to DISTRICT.
8. To review and approve Contract Change Orders as appropriate and provide comments to CITY on Construction Change Orders and technical issues arising during construction of PROJECT.
9. To approve change orders associated to the project, but provided that no additional costs from such change orders will increase DISTRICT's contribution.
10. That upon completion of construction of PROJECT, DISTRICT will accept the PROJECT and continue to maintain the new improvements excepting the FISH PASSAGE CHANNEL.



**SECTION III**

**IT IS FURTHER MUTUALLY AGREED THAT:**

1. Nothing in the provisions of this agreement is intended to create duties or obligations to or rights in third parties not party to this agreement.
2. Communications on this project will go through the following parties

<u>DISTRICT</u>	<u>CITY</u>
Thomas D. Fayram, Deputy Public Works Director 123 E. Anapamu Street, STE 240 Santa Barbara, CA 93101 Ph 805-568-3436 <a href="mailto:tfayram@cosbpw.net">tfayram@cosbpw.net</a>	Steve Wagner, Community Services Director 130 Cremona Drive, STE B Goleta, CA 93117 PH 805-961-7560 <a href="mailto:swagner@cityofgoleta.org">swagner@cityofgoleta.org</a>

**SECTION IV**

**INDEMNITY AND DISCLAIMER**

Neither the DISTRICT nor any officer or employee thereof shall be responsible for any damage or liability occurring by reason of anything done or omitted to be done by the CITY under or in connection with any work, authority or jurisdiction delegated to city under this Agreement. It is also agreed that, pursuant to California Government Code Section 895.4, CITY shall fully indemnify and hold DISTRICT harmless from any liability imposed for injury (as defined by Government Code Section 810.8) occurring by reason of anything done or omitted to be done by City under or in connection with any work, authority or jurisdiction delegated to CITY under this Agreement.

Neither CITY nor any officer or employee thereof shall be responsible for any damage or liability occurring by reason of anything done or omitted to be done by DISTRICT under or in connection with any work, authority or jurisdiction delegated to DISTRICT under this Agreement. It is also agreed that, pursuant to California Government Code Section 895.4, DISTRICT shall fully indemnify and hold CITY harmless from any liability imposed for injury (as defined by Government Code Section 810.8) Occurring by reason of anything done or omitted to be done by DISTRICT under or in connection with any work, authority or jurisdiction delegated to DISTRICT under this Agreement.

**SECTION V**

**AMENDMENT**

This Agreement may be amended or adjusted by the parties, from time to time, only in writing approved by both parties.

**SECTION VI**

**APPLICABLE LAW**

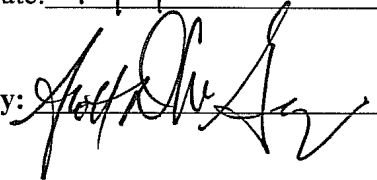
This Agreement shall be subject to the laws, rules, and regulations in effect within the County of Santa Barbara, California, and any interpretation of the law that may be necessary shall be pursuant to the laws applicable within those jurisdiction. If any provision of this Agreement determined to be invalid, illegal or unenforceable for any reason, that provision shall be deleted from this Agreement and such deletion shall in no way affect, impair, or invalidate any other provision of this Agreement, unless it was material to the consideration for the performance required. If a provision is deleted which is not material to such consideration, the remaining provisions shall be given the force and effect originally intended.

**IN WITNESS WHEREOF**, the parties hereto have executed this agreement as of the day and year first above written.

**APPROVE AS TO CONTEXT:**

Scott McGolpin  
Public Works Director

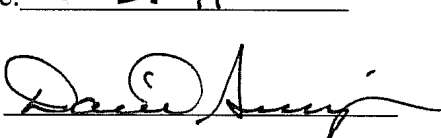
Date: 10/5/10

By: 

**CITY OF GOLETA**

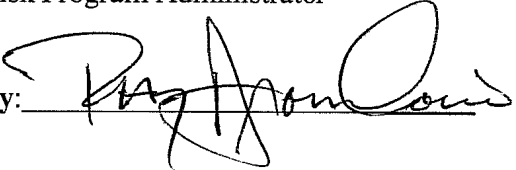
Daniel Singer  
City Administrator

Date: 3-31-11

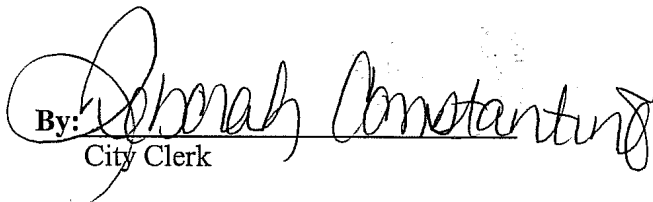
By: 

**APPROVED AS TO FORM:**

Ray Aromatario  
Risk Program Administrator

By: 

**ATTEST:**

By:   
City Clerk

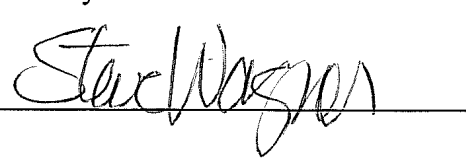
**APPROVED AS TO FORM:**

Dennis Marshall  
County Counsel

By:   
Deputy

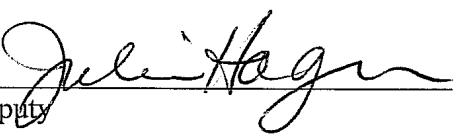
**APPROVED AS TO CONTENT:**

Steven Wagner  
Community Services Director

By: 

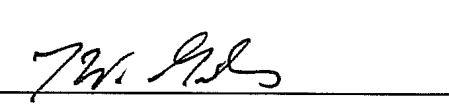
**APPROVED AS TO ACCOUNTING FORM:**

Robert W. Geis, C.P.A.  
Auditor-Controller

By:   
Deputy

**APPROVED AS TO FORM:**

Tim W. Giles  
City Attorney

By: 

## **ATTACHMENT 2**

Original Cooperative Agreement No. 2011-017, with Santa Barbara County Flood  
Control and Water Conservation District

**COOPERATIVE AGREEMENT FOR CONSTRUCTION OF IMPROVEMENTS  
ON SAN JOSE CREEK**

THIS AGREEMENT, ENTERED INTO ON Oct 5, 2010, is between the

CITY OF GOLETA, 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**, San Jose Creek is a major watershed that flows through the CITY, and into the Goleta Slough; and

**WHEREAS**, the DISTRICT owns and maintains certain improvements on San Jose Creek generally from Hollister Ave to the Slough, including a concrete lined channel, excepting culverts and bridges within transportation corridors crossing the creek; and

**WHEREAS**, CITY owns and maintains Hollister Avenue Bridge over San Jose Creek; and

**WHEREAS**, Portions of the CITY's "Old Town" are in the 100 year floodplain of San Jose Creek; and

**WHEREAS**, CITY desires to increase the flood flow capacity of the system by improving and widening the existing channel, (hereinafter the PROJECT), and by replacing the Hollister Ave Bridge as additional City funded work, and

**WHEREAS**, the PROJECT and the bridge replacement will reduce flooding from San Jose Creek during serious flood events, and serve to reduce the FEMA 100 year Flood Plain within Old Town Goleta; and

**WHEREAS**, CITY has identified this PROJECT as their highest priority for Flood Control within the City and desires that PROJECT be expedited to protect property within the CITY and to facilitate economic development in the area; and

**WHEREAS**, CITY and DISTRICT have agreed to commit to funding a significant share of the PROJECT partially offset by grants; and

**WHEREAS**, Design of the PROJECT will also include Fish Passage features within the reconstructed channel, herein referred to as "FISH PASSAGE CHANNEL"; and

**WHEREAS**, CITY is willing to act as the lead agency the design, compliance with CEQA, Construction, and implementation of PROJECT;

**NOW THEREFORE**, it is mutually agreed as follows:

**SECTION I**

**CITY SHALL BE OBLIGATED TO:**

1. Pay for all costs required to complete PROJECT less contribution by DISTRICT as outlined below.
2. Complete all required Environmental Review process and acquire all permits to construct PROJECT in conformance with said permits.
3. Complete design of the PROJECT and secure approval of the design by DISTRICT and include into the design the Fish Passage Channel.
4. Advertise PROJECT and award construction contract to the lowest responsive and responsible bidder pursuant to State Law.
5. Construct the PROJECT in conformance with the approved Design.
6. Administer Construction Contract and provide weekly construction status meeting to address any issues during construction.
7. Provide Construction Inspection services with a qualified contractor. Such contractor to be mutually acceptable to DISTRICT.
8. Undertake and fund all Right of Way acquisition costs required for the construction including any temporary easements, permanent easements, and private bridge removal or relocation costs.
9. Transfer to DISTRICT all permanent rights of way necessary for continued maintenance of PROJECT, except those portions of the work that constitutes the Fish Passage Channel,
10. Retain the Engineer of Record for consultation with and to approve any design changes or modifications to original design.
11. To bear the cost of all contractor claims processed against PROJECT.
12. To forward Contract Change Orders to DISTRICT for review and approval;
13. Upon completion of PROJECT, provide confirmation from the Contract Inspection Team that the project was completed in accordance with the Plans and Specifications.
14. Upon completion of PROJECT, turn over PROJECT and all channel improvements to DISTRICT, excepting the FISH PASSAGE CHANNEL.
15. Upon completion of construction of PROJECT, be responsible for sediment removal, maintenance, future modification, and repair of the constructed FISH PASSAGE CHANNEL.

16. Upon completion of the construction of the PROJECT, be responsible for future FISH PASSAGE CHANNEL performance discussions, evaluations and modifications if necessary as required by NOAA and State DFG.
17. Be responsible for compliance with State SWPPP requirements, both current and as may be amended.

## SECTION II

### **DISTRICT SHALL BE OBLIGATED TO:**

1. To issue an encroachment permit to CITY, including all contractors and consultants for access necessary for construction of PROJECT.
2. To accept permanent right of way acquired for construction of PROJECT by CITY, as determined to be needed for PROJECT by DISTRICT
3. To assign a DISTRICT representative to PROJECT and that DISTRICT representative attend weekly Construction Team meetings and other meetings as necessary.
4. To provide and fund additional construction inspection services for PROJECT beyond that provided by approved construction management team as necessary to satisfy DISTRICT needs.
5. To review construction bids and provide comments to CITY on identification of Lowest Responsible Bidder.
6. To pay CITY a total amount of no more than \$5 Million towards the cost of construction of channel improvements on San Jose Creek provided such costs are attributed to the channel improvements not associated with the Bridge replacement at Hollister Ave or any other costs not attributed to the Channel, as determined by DISTRICT.
7. That the construction cost contribution of by DISTRICT will be paid to CITY in proportional increments each month based on monthly progress report submitted by CITY to DISTRICT.
8. To review and approve Contract Change Orders as appropriate and provide comments to CITY on Construction Change Orders and technical issues arising during construction of PROJECT.
9. To approve change orders associated to the project, but provided that no additional costs from such change orders will increase DISTRICT's contribution.
10. That upon completion of construction of PROJECT, DISTRICT will accept the PROJECT and continue to maintain the new improvements excepting the FISH PASSAGE CHANNEL.

**SECTION III**

**IT IS FURTHER MUTUALLY AGREED THAT:**

1. Nothing in the provisions of this agreement is intended to create duties or obligations to or rights in third parties not party to this agreement.
2. Communications on this project will go through the following parties

<u>DISTRICT</u>	<u>CITY</u>
Thomas D. Fayram, Deputy Public Works Director 123 E. Anapamu Street, STE 240 Santa Barbara, CA 93101 Ph 805-568-3436 <a href="mailto:tfayram@cosbpw.net">tfayram@cosbpw.net</a>	Steve Wagner, Community Services Director 130 Cremona Drive, STE B Goleta, CA 93117 PH 805-961-7560 <a href="mailto:swagner@cityofgoleta.org">swagner@cityofgoleta.org</a>

**SECTION IV**

**INDEMNITY AND DISCLAIMER**

Neither the DISTRICT nor any officer or employee thereof shall be responsible for any damage or liability occurring by reason of anything done or omitted to be done by the CITY under or in connection with any work, authority or jurisdiction delegated to city under this Agreement. It is also agreed that, pursuant to California Government Code Section 895.4, CITY shall fully indemnify and hold DISTRICT harmless from any liability imposed for injury (as defined by Government Code Section 810.8) occurring by reason of anything done or omitted to be done by City under or in connection with any work, authority or jurisdiction delegated to CITY under this Agreement.

Neither CITY nor any officer or employee thereof shall be responsible for any damage or liability occurring by reason of anything done or omitted to be done by DISTRICT under or in connection with any work, authority or jurisdiction delegated to DISTRICT under this Agreement. It is also agreed that, pursuant to California Government Code Section 895.4, DISTRICT shall fully indemnify and hold CITY harmless from any liability imposed for injury (as defined by Government Code Section 810.8) Occurring by reason of anything done or omitted to be done by DISTRICT under or in connection with any work, authority or jurisdiction delegated to DISTRICT under this Agreement.

**SECTION V**

**AMENDMENT**

This Agreement may be amended or adjusted by the parties, from time to time, only in writing approved by both parties.

**SECTION VI**

**APPLICABLE LAW**

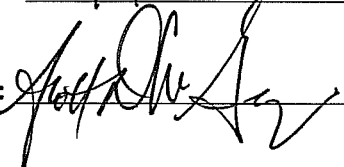
This Agreement shall be subject to the laws, rules, and regulations in effect within the County of Santa Barbara, California, and any interpretation of the law that may be necessary shall be pursuant to the laws applicable within those jurisdiction. If any provision of this Agreement determined to be invalid, illegal or unenforceable for any reason, that provision shall be deleted from this Agreement and such deletion shall in no way affect, impair, or invalidate any other provision of this Agreement, unless it was material to the consideration for the performance required. If a provision is deleted which is not material to such consideration, the remaining provisions shall be given the force and effect originally intended.

**IN WITNESS WHEREOF**, the parties hereto have executed this agreement as of the day and year first above written.

**APPROVE AS TO CONTEXT:**

Scott McGolpin  
Public Works Director

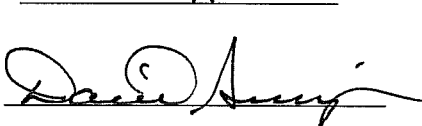
Date: 10/5/10

By: 

**CITY OF GOLETA**

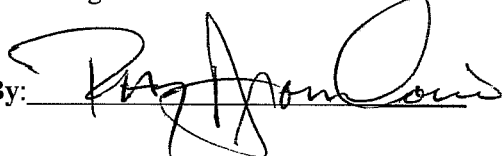
Daniel Singer  
City Administrator

Date: 3-31-11

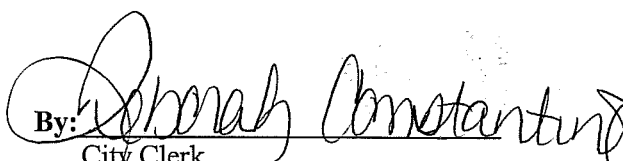
By: 

**APPROVED AS TO FORM:**

Ray Aromatario  
Risk Program Administrator

By: 

**ATTEST:**

By:   
City Clerk

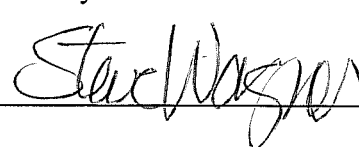
**APPROVED AS TO FORM:**

Dennis Marshall  
County Counsel

By:   
Deputy

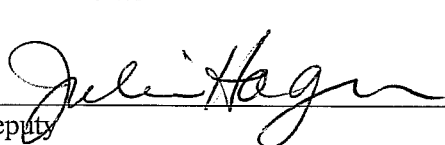
**APPROVED AS TO CONTENT:**

Steven Wagner  
Community Services Director

By: 

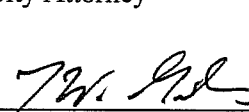
**APPROVED AS TO ACCOUNTING FORM:**

Robert W. Geis, C.P.A.  
Auditor-Controller

By:   
Deputy

**APPROVED AS TO FORM:**

Tim W. Giles  
City Attorney

By: 



**ATTACHMENT 3**

San Jose Creek Watershed Boundary Map

# SAN JOSE CREEK WATERSHED BOUNDARY MAP

