



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Matt Loesch

**SUBJECT:** See Below

**DATE:** April 1, 2025

Approved

Date:

4/10/25

**COUNCIL DISTRICT: 4**

**SUBJECT: Agreement with Microsoft Corporation for the Construction of  
Access to the Guadalupe River Trail**

## **RECOMMENDATION**

Adopt a resolution authorizing the Director of Public Works to execute a funding agreement with Microsoft Corporation, a Washington corporation, for the payment of costs related to the construction of regional non-vehicular access to the Guadalupe River Trail from Component Drive, including authorization for the Director of Public Works to execute associated grant deeds for a temporary construction staging area easement and a permanent easement for the location of the trail connector upon Microsoft's property.

## **SUMMARY AND OUTCOME**

Microsoft Corporation (Microsoft) has voluntarily offered to fund the construction of a publicly accessible trail connector ramp from Component Drive to the Guadalupe River Trail for a not-to-exceed amount of \$1,000,000. Upon execution of the funding agreement, City staff will prepare a Capital Improvement Project to construct a 20-foot wide, non-vehicular, multi-use trail access. In addition, the agreement provides that Microsoft will grant to the City easements for construction access and future public access, to be executed on behalf of the City by the Director of Public Works.

## **BACKGROUND**

In 2017, the Parks, Recreation and Neighborhood Services Department and the Santa Clara Valley Water District (Valley Water) jointly agreed to a North San José Access and Ramp Study for Guadalupe River and Coyote Creek Trails. Under this study, a public non-vehicular multi-use trail from Orchard Parkway to Guadalupe River Trail was

identified across the property in question as a recommended and desired public improvement.

In November 2022, Microsoft filed an application for a Conditional Use Permit (File No. CP23-008) with the Planning Division within the Planning, Building, and Code Enforcement Department for the development of its property located at 2515 Orchard Parkway (Assessor Parcel Numbers 101-02-019 and 101-02-020) at the northwest intersection of Orchard Parkway and Component Drive. The site is bounded by Orchard Parkway to the east and the Guadalupe River and Guadalupe River Trail to the west.

As a condition of approval for a Conditional Use Permit (File No. CP23-008), Microsoft will be required to construct and dedicate for public use a 20-foot wide non-vehicular multi-use trail on its property adjacent to Component Drive from Orchard Parkway to the lands of Valley Water, on which the Guadalupe River Trail resides. The funding agreement associated with this City Council action would provide funding for a trail connector from the non-vehicular multi-use trail adjacent to Component Drive (**Attachment** – Location Map) constructed by Microsoft as part of its Conditional Use Permit to the Guadalupe River Trail. The agreement also includes agreed-upon forms of grant deeds for a temporary construction staging area easement on Microsoft's property and a permanent easement for the trail connector if it is determined that it needs to be located upon Microsoft's property.

## **ANALYSIS**

Microsoft has voluntarily offered to fund the construction of a publicly accessible trail connector ramp to the Guadalupe River Trail, for an amount not to exceed \$1,000,000. The estimated cost of the trail connector project as of July 2023 was \$600,000, which is inclusive of costs for California Environmental Quality Act clearance, permitting, and project administration. Upon execution of the funding agreement, Microsoft will deposit the funds with the City within 30 days after the later of the following occur: (1) finalizing the amendments to all existing easements on the trail connector site in a manner that allows the regional trail connector to occur on the property as contemplated; or (2) the City's issuance of the building permit for the vertical construction of Microsoft's project.

Upon receipt of the funds from Microsoft in accordance with the agreement, City staff will prepare a Capital Improvement Project for the construction of the trail connector ramp that will proceed either concurrently or following the construction of the non-vehicular trail by Microsoft as part of its project.

The funding agreement gives the City 25 years to complete the trail connector ramp after the City's acceptance of the Component Drive trail constructed by Microsoft. However, the funding agreement does not require the City to approve the land use

permit. If Microsoft's land use project is not approved by the City, the agreement allows for termination. The City may also end the agreement if:

- The estimated cost of the trail connector at the time of construction exceeds the \$1,000,000 provided by Microsoft.
- Legal restrictions, easements, or other property issues make the project infeasible.
- The City cannot get the necessary permits or approvals from government agencies or property owners with jurisdiction over or a property interest in the trail connector site.

If the City decides not to move forward with the project, any unused funds from Microsoft will be returned as outlined in the agreement.

In order to construct and operate the trail connector, the City may need a combination of temporary and permanent easements on Microsoft's property. First, the City will need to stage construction equipment and materials on a portion of Microsoft's property near Component Drive and the Guadalupe River. The agreement includes the format for such a temporary construction staging easement and requires that the City would be liable for damages that may occur from its use of the temporary construction staging area easement. Additionally, the agreement also includes a format for a permanent easement for the location (to be determined by the parties) of the trail connector that will only be necessary if the trail connector cannot be located entirely upon Valley Water property. The permanent trail connector easement requires that the City would be liable for damages occurring from its use of the trail connector easement as a public trail.

The recommended action requests the City Council to approve a resolution to authorize the Director of Public Works to execute the funding agreement, a temporary construction staging area easement and, if needed, a permanent trail connector easement.

## **EVALUATION AND FOLLOW-UP**

Upon entering into the agreement and the receipt of the funds from Microsoft, a Capital Improvement Project will be initiated, and no additional follow-up is required related to this funding agreement.

The trail connector project will require evaluation and clearance under the California Environmental Quality Act and may require approvals or permits from third-party agencies.

### **COST SUMMARY/IMPLICATIONS**

The recommended funding agreement will provide \$1,000,000 to support a future project to construct a trail connector ramp to connect the Component Drive trail to the Guadalupe River Trail. This project will be included in a future budgeting process once the project start date is identified.

### **COORDINATION**

The agreement and this memorandum have been coordinated with the City Attorney's Office, City Manager's Budget Office, the Parks, Recreation, and Neighborhood Services Department, the Planning, Building and Code Enforcement Department, and the Transportation Department.

### **PUBLIC OUTREACH**

This memorandum will be posted on the City's Council Agenda website for the April 22, 2025 City Council meeting.

### **COMMISSION RECOMMENDATION AND INPUT**

No commission recommendation or input is associated with this action.

### **CEQA**

Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment.

### **PUBLIC SUBSIDY REPORTING**

This item does not include a public subsidy as defined in section 53083 or 53083.1 of the California Government Code or the City's Open Government Resolution.

/s/  
MATT LOESCH  
Director of Public Works

HONORABLE MAYOR AND CITY COUNCIL

March 24, 2025

**Subject: Agreement with Microsoft Corporation for the Construction of Access to the Guadalupe River**

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For questions, please contact J. Guevara, Deputy Director, at [j.guevara@sanjoseca.gov](mailto:j.guevara@sanjoseca.gov) or (408) 807-1801.

**ATTACHMENT – Location Map**



# Attachment - Location Map



Guadalupe River Trail

Guadalupe River

CONNECTOR  
RAMP BY CITY

MUTI USE TRAIL FROM ORCHARD PARKWAY/  
COMPONENT DRIVE TO GUADALUPE RIVER  
LEVEE BY MICROSOFT

Orchard Pkwy

Component Dr