



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Jeff Provenzano

SUBJECT: See Below

DATE: May 11, 2026

Approved

Date:

6/5/26

COUNCIL DISTRICT: Citywide

SUBJECT: Grant Agreement with the United States Environmental Protection Agency for the Smart Stormwater Compliance Program

RECOMMENDATION

Adopt a resolution authorizing the City Manager or her designee to negotiate and execute a grant agreement or award documentation and take all other actions necessary to accept the United States Environmental Protection Agency grant for the Smart Stormwater Compliance Program for the term of July 2026 through July 2031, in any amount awarded, but anticipated to be \$3,160,000.

SUMMARY AND OUTCOME

Approval of this recommendation will authorize the City of San José (City) to accept grant funds and deploy local matching funds to implement the City's Smart Stormwater Compliance Program, with a focus on establishing an Alternative Compliance Program (ACP) to address water quality treatment (i.e., green infrastructure) for public and private new development and redevelopment projects. Through this initiative, this program will provide more options by establishing an off-site program and/or an in-lieu fee to treat stormwater runoff and ensure all projects meet the requirements of the Municipal Regional Stormwater Permit (Stormwater Permit).

The ACP will develop a viable, legal, and sustainable pathway for projects with documented infeasibilities to meet Stormwater Permit requirements through alternative means. Eligible public and private developers will have the option to either construct off-site stormwater treatment facilities or contribute an in-lieu payment into a fund to build public stormwater treatment within a specified timeframe in accordance with the Stormwater Permit when on-site green stormwater infrastructure (GSI) installation is not feasible.

In addition, grant funds will be used to enhance database and tracking, to develop a workforce certification program, and to support ongoing operations and maintenance of GSI during the grant term to maximize water quality benefits.

BACKGROUND

Since 2015, the Stormwater Permit requires applicable public and private new development and redevelopment projects to incorporate GSI as post-construction stormwater best management practices to manage and treat stormwater runoff. The difficulty to meet all GSI requirements on-site due to physical and site-specific constraints, such as insufficient space in frontage areas, conflicts with existing utilities or infrastructure, and soil conditions, is a growing concern. While the Stormwater Permit allows for alternative compliance by either constructing off-site stormwater treatment or by paying in-lieu fees, the City prioritized on-site treatment due to the complexity, time, and limited funding and resource availability needed to establish a formal program that met the Water Board's criteria. Without such a program, projects with documented infeasibilities have limited options to achieve full permit compliance, which can delay project approvals and create barriers to both public and private projects.

An ACP, as described in the Stormwater Permit, provides an additional option for public and private developments by allowing eligible projects to satisfy stormwater treatment requirements through alternative means, including:

- Constructing GSI measures at an off-site location or alternative site designated by the City;
- Contributing an in-lieu fee to fund the construction and/or long-term operations and maintenance of public stormwater facilities in the watershed; or
- Off-site treatment systems must be completed within three years or seek Water Board Executive Officer approval for up to two additional years.

Beyond achieving Stormwater Permit compliance, revenue generated through the ACP's in-lieu fee contributions will help fund ongoing operations and maintenance for existing GSI facilities, as well as the planning, design, and construction of new GSI at strategic locations across the city if needed. Establishing an ACP will therefore strengthen the City's ability to ensure all regulated projects achieve compliance with Municipal Regional Stormwater Permit C.3 provisions, generate dedicated funding for GSI maintenance, and provide both public and private projects the flexibility needed to navigate site constraints while meeting regulatory requirements.

ANALYSIS

To address the lack of funding needed to build an ACP, staff applied to the United States Environmental Protection Agency Water Quality Restoration Grants program for funding to develop the legal, engineering, technical, and logistical tools needed to implement a Stormwater Permit-compliant ACP. On May 7, 2026, the United States Environmental Protection Agency notified the City that its Smart Stormwater Compliance Program grant was selected to proceed for funding, with an estimated start date of July 1, 2026.

The Smart Stormwater Compliance Program will utilize the \$3,160,000 in reimbursement grant funds to:

- (1) Develop a Stormwater Permit-compliant ACP for private developers that enables off-site and in-lieu fee pathways to accelerate citywide GSI implementation;
- (2) Establish a legally sound and administratively sustainable governance structure to support ACP implementation, regulatory compliance, and long-term program operation;
- (3) Enhance the City's Environmental Enforcement Data Management System database by evaluating system gaps, and develop and implement targeted enhancements to support ACP implementation and environmental performance monitoring;
- (4) Develop a certified workforce to maintain citywide GSI systems to ensure consistent maintenance practices, long-term infrastructure performance, and sustained water quality outcomes; and
- (5) Fund City-owned GSI operations and maintenance during the grant term.

City staff will manage this grant and its consultants to achieve these goals. One critical step is to conduct a nexus study to establish the legal and technical basis for the ACP's fee structure. The nexus study is vital to analyze the relationship between development activity and stormwater impacts and to help shape an equitable and defensible in-lieu fee system that reflects the true cost of off-site stormwater treatment and long-term operations and maintenance. Staff will also work with both internal and outside legal counsel specializing in stormwater compliance and municipal policy to ensure that all existing City policies, ordinances, and regulatory requirements are taken into consideration.

The ACP plans to utilize two regional stormwater projects currently in the development queue. The Venetian and Kelly Stormwater Capture Gardens will provide GSI treated acreage credits that the ACP's in-lieu fee framework will use to ensure Stormwater Permit compliance requirements are met via this alternative off-site option. This coordinated approach of having technical engineering expertise with specialized legal counsel will ensure that the resulting ACP is technically sound, legally defensible, and

fully aligned with Stormwater Permit requirements and the City's broader stormwater management and GSI goals.

EVALUATION AND FOLLOW-UP

Staff have identified key activities, expected outcomes, and timelines for each of the Grant's five tasks, and will track progress of the term of the grant. Summaries of work conducted, including outputs and outcomes achieved, along with invoices, will be submitted to the United States Environmental Protection Agency in quarterly reports.

FISCAL IMPACTS

The Smart Stormwater Compliance Program grant is expected to utilize up to \$4,997,269 in total funding, consisting of reimbursement grant funds of \$3,160,000 and local matching funds of up to \$1,837,269. Grant revenue and program expenditures will be accounted for in the General Fund. The matching funds are currently anticipated and/or budgeted and are not expected to require additional General Fund resources.

As a reimbursable grant, the City will initially expend local funds to cover eligible project costs and subsequently submit reimbursement requests to the granting agency in accordance with the grant agreement terms. These terms will be finalized upon acceptance of the final grant award.

Budget actions related to this grant will take place after the award amount and annual spending plan are finalized. The administration expects to recognize this revenue and appropriate funds as part of the 2025-2026 Annual Report process.

COORDINATION

The Environmental Services Department coordinated the grant proposal with the City Attorney's Office, Parks, Recreation, and Neighborhood Services, and the Departments of Public Works and Transportation. Grant letters of support (Attachment from the Office of Mayor Matt Mahan, Save the Bay (a non-profit organization), the San Francisco Bay Regional Water Quality Control Board, and Valley Water accompanied the grant proposal on its submittal deadline – March 3, 2026.

This memorandum was coordinated with the City Attorney's Office, City Manager's Budget Office, and the Planning, Building, and Code Enforcement Department.

HONORABLE MAYOR AND CITY COUNCIL

May 11, 2026

Subject Actions Related to Acceptance of Grant Funds Awarded to the City by The United States Environmental Protection Agency for the Smart Stormwater Compliance Program

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PUBLIC OUTREACH

This memorandum will be posted on the City Council Agenda website for the June 16, 2026 City Council meeting.

BOARD, COMMISSION, COMMITTEE RECOMMENDATION AND INPUT

No board, commission, or committee recommendation or input is associated with this action.

CEQA

Not a Project, File No. PP17-004, Government Funding Mechanism or Fiscal Activity with no commitment to a specific project which may result in a potentially significant physical impact on 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/

JEFFREY PROVENZANO, P.E.
Director, Environmental Services

For questions, please contact Rajani Nair, Deputy Director, Watershed Protection Division, Environmental Services Department, at Rajani.Nair@sanjoseca.gov, or 408-799-7462.

ATTACHMENT:

Attachment – Grant Letters of Support



March 3, 2026

U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

RE: Letter of Support – City of San José Alternative Compliance Program for Green Stormwater Infrastructure (EPA-R9-SFBay-26-01)

Dear Members of the Grant Review Committee:

The City of San José has been on the forefront in demonstrating its commitments to environmental policy. San José has been a leader in engineering creative solutions to address adverse impacts to the City’s storm sewer system and waterways. Keeping our neighborhoods clean is one of five priorities established by the City of San José Council to address the health of our communities. Ensuring the fiscal vitality of our City, it is also important to prioritize the need in growing the City’s local economy while maintaining strong environmental protections. Therefore I am writing in strong support for the City of San José’s application in seeking funds under the U.S. Environmental Protection Agency’s 2026 Notice of Funding Opportunity, EPA-R9-SFBay-26-01, Water Quality Restoration Grant to develop an alternative compliance program that will provide the following:

- Develop and establish a legally sound and sustainable governance structure in accordance to the San Francisco Bay Municipal Regional Stormwater Permit that provides additional options for both public and private projects to treat stormwater runoff both off-site or pay in-lieu fee that will further help accelerate regional green stormwater infrastructure (GSI) implementation within San José.
- Update or implement technological solutions that provides transparency in how the City of San José is improving water quality throughout its jurisdiction.
- Develop a certified workforce to maintain regional GSI systems to ensure consistent maintenance practices, long-term infrastructure performance, and sustained water quality outcomes.
- Fund ongoing city-owned GSI operations and maintenance during the grant term that will support GSI functioning for maximum water quality benefits from existing systems.

This proposed alternative compliance program offers a forward-looking solution by providing greater regulatory clarity and flexibility for capital improvement projects and private development required to meet Stormwater Permit requirements while ensuring revenues received are strategically directed to projects that deliver the greatest improvement in water quality. This program aligns closely with the City’s priorities to accelerate sustainable development, modernize infrastructure delivery, and protect public resources. It will provide options for both public and private development projects to fund green stormwater infrastructure at a scale and in locations that maximize watershed benefits, including in communities that are disproportionately affected by flooding, heat, and environmental burdens. At the same time, it supports economic vitality by reducing uncertainty and unnecessary delays in the development process.



SAN JOSE
MAYOR
MATT
MAHAN

EPA investment through this Notice of Funding Opportunity (EPA-R9-SFBay-26-01) would enable San José to build a replicable framework that strengthens compliance with Clean Water Act objectives, advances climate adaptation, and improves long-term water quality outcomes for the San Francisco Bay. The City is committed to implementing this program transparently and in close coordination with its internal and external stakeholders, regional and community partners.

Thank you for your consideration of this important application. I respectfully urge the Environmental Protection Agency to give favorable consideration to the City of San José's proposal.

Sincerely,

Matt Mahan
Mayor of San José



San Francisco Bay Regional Water Quality Control Board

February 26, 2026

U.S. Environmental Protection Agency
Region 9, Watersheds Office
Attn: Luisa Valiela
75 Hawthorne Street
San Francisco, CA 94105

Subject: Letter of Support – City of San José Alternative Compliance Program for Green Stormwater Infrastructure (EPA-EE-25-01)

Dear Selection Committee:

The San Francisco Bay Regional Water Quality Control Board (Water Board) is pleased to support the City of San José's (City's) proposal to secure funding through U.S. EPA's 2026 Notice of Funding Opportunity, EPA-EE-25-01. The proposed project would develop a standardized Alternative Compliance Program for Green Stormwater Infrastructure (GSI) within the City, consistent with the Municipal Regional Stormwater National Pollutant Discharge Elimination System (NPDES) Permit (MRP). This effort represents a significant step toward improving stormwater management and advancing regional water quality goals within the City.

The Water Board issues and oversees the MRP, including Provision C.3, which requires permittees to address stormwater runoff pollutant discharges and prevent increases in runoff flows from new development and redevelopment projects, primarily through the implementation of low impact development techniques such as green stormwater infrastructure (GSI). GSI has proven multipurpose benefits such as improved water quality, flood management, and climate resiliency.

The proposed grant funding will help develop a standardized Alternative Compliance Program that will include the following:

- Develop a legally sound and sustainable governance structure, consistent with MRP requirements, that provides additional options to treat stormwater runoff in the City. This will accelerate regional GSI implementation by giving both public and private projects the option to treat stormwater runoff off-site or through an in-lieu fee.
- Update or implement technological solutions that increase transparency and demonstrate how the City is improving water quality throughout its jurisdiction.
- Develop a certified workforce to maintain regional GSI systems to ensure consistent maintenance practices, long-term infrastructure performance, and sustained water quality outcomes.
- Fund ongoing operations and maintenance of city-owned GSI systems during the grant term to support maximum water quality benefits from existing GSI systems.

DONALD YOUNG, CHAIR | EILEEN M. WHITE, EXECUTIVE OFFICER

A standardized Alternative Compliance Program in the City will help ensure that compliance actions generate meaningful pollutant reductions; improve hydrologic performance; and support broader regional objectives. By enabling flexibility in how compliance is achieved, the proposed program can expand opportunities to direct investments to priority locations where GSI can produce enhanced water quality outcomes. These outcomes include increased infiltration; reduced runoff velocity and volume; and removal of stormwater pollutants at scale. Additionally, the program can help streamline regulatory compliance; reduce barriers for both public and private development projects; and encourage collaborative planning among various stakeholders.

Finally, we recognize that the City will consider working with additional interested partners, such as the Santa Clara Valley Water District, the California Department of Transportation, the City of Mountain View, and the West Valley Stormwater Authority.

The Water Board supports approaches that leverage innovative, multi-benefit strategies to protect and restore water quality while promoting practical and cost-effective implementation. The City's proposed Alternative Compliance Program provides a structured, science-based mechanism for permittees to fulfill GSI obligations through investments in off-site, strategically planned projects that deliver measurable watershed improvements. For these reasons, we respectfully urge the grant selection committee to give this application strong consideration.

If you have any questions or need additional information in support of this request, please contact Rebecca Nordenholt, Senior Environmental Scientist, of my staff at (510) 622-1013 or Rebecca.Nordenholt@waterboards.ca.gov. Thank you very much for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Eileen M. White".

Eileen M. White, P.E.
Executive Officer



March 3, 2026

U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

RE: Letter of Support – City of San José Alternative Compliance Program for Green Stormwater Infrastructure (EPA-R9-SF Bay-26-01)

Dear Members of the Grant Review Committee:

Valley Water’s core goals and strategic priorities focus on (1) diversifying water supply and maintaining groundwater levels (2) protecting and restoring streams to reduce toxins entering the waterway and (3) ensuring communities are safe and resilient from flooding. I am writing in support of the City of San José’s application for funding to establish an Alternative Compliance Program for Green Stormwater Infrastructure/GSI. This proposal seeks to:

- Develop and establish a legally sound and sustainable governance structure in accordance with the San Francisco Bay Municipal Regional Stormwater Permit that provides additional options for both public and private projects to treat stormwater runoff. These options will include both off-site or pay in-lieu fees that will help to further accelerate regional green stormwater infrastructure (GSI) implementation within San Jose city limits, in Santa Clara County.
- Update or implement technological solutions that provide transparency in how the City of San Jose is improving water quality throughout its jurisdiction.
- Develop a certified workforce to maintain regional GSI systems to ensure consistent maintenance practices, long-term infrastructure performance, and sustained water quality outcomes.
- Fund ongoing city-owned GSI operations and maintenance during the grant term that will support GSI functioning for maximum water quality benefits from existing systems.

This proposal offers a forward-looking solution to address challenges associated with urban stormwater runoff. By establishing a standardized compliance pathway, the City will provide greater regulatory clarity and flexibility for capital improvement projects and development while ensuring revenues received are strategically directed to projects that deliver the greatest improvement in water quality. This program aligns closely with Valley Water’s priorities to accelerate sustainable development, modernize infrastructure delivery, and protect public resources. The project will allow the City to leverage revenues generated to fund green stormwater infrastructure in locations that maximize watershed benefits, by reducing flooding and heat island impacts, while supporting economic vitality through reduced delays.



EPA investment through this Notice of Funding Opportunity (EPA-R9-SFBay-26-01) would enable San José to build a replicable framework throughout Santa Clara County that strengthens compliance with Clean Water Act objectives and improves long-term water quality outcomes for the San Francisco Bay. The City of San José is committed to implementing this program in close coordination with its internal and external stakeholders.

Thank you for your consideration of this important application. I respectfully urge the United States Environmental Protection Agency to give favorable consideration to the City of San José's proposal.

Sincerely,

A handwritten signature in black ink, appearing to read 'John Bourgeois', with a long horizontal flourish extending to the right.

John Bourgeois
Deputy Operating Officer
Watershed Stewardship and Planning
Santa Clara Valley Water District (Valley Water)



February 27, 2026

U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

RE: Letter of Support – City of San José Alternative Compliance Program for Green Stormwater Infrastructure (EPA-EE-25-01)

Dear Members of the Grant Review Committee:

On behalf of Save The Bay, we are pleased to express our strong support for the City of San Jose’s application for funding under the U.S. Environmental Protection Agency’s 2026 Notice of Funding Opportunity, EPA-EE-25-01. We support the City’s proposal to establish an Alternative Compliance Program for Green Stormwater Infrastructure (GSI) consistent with the Municipal Regional NPDES Stormwater Discharge Permit (MRP), with the goal of reducing polluted urban runoff to the San Francisco Bay.

Urban stormwater runoff is one of the largest remaining sources of pollution entering the Bay. In highly urbanized areas like San Jose, impervious surfaces generate rapid runoff that transports sediment, trash, nutrients, metals, and other contaminants into local creeks and downstream receiving waters. Save The Bay supports the development of an Alternative Compliance Program because it creates an additional and much-needed funding stream for stormwater management.

California’s Proposition 218 has made it difficult for cities to raise stable, dedicated local revenue for stormwater programs, and communities often struggle to finance the scale of green infrastructure necessary to meaningfully improve water quality and climate resilience. An alternative compliance pathway can help close this funding gap while maintaining regulatory compliance. Through a responsibly developed program, the City can direct much needed investments to green stormwater infrastructure projects in priority areas that might otherwise go unfunded.

We support the City of San Jose in creative efforts to implement green infrastructure projects that not only treat stormwater, but also enhance habitat, reduce flood risk, expand urban greening, and provide community amenities. Thank you for your consideration of funding.

Sincerely,
Laura Walsh
Laura Walsh
Policy Manager
Save The Bay