

**BOARD OF DIRECTORS
SANTA CLARA VALLEY WATER DISTRICT**

RESOLUTION NO. 20-

**APPROVING MODIFICATION TO THE UPPER LLAGAS CREEK
FLOOD PROTECTION PROJECT OF THE SAFE, CLEAN WATER
AND NATURAL FLOOD PROTECTION PROGRAM**

WHEREAS, on July 24, 2012, the Board of Directors of the Santa Clara Valley Water District (Valley Water) adopted Resolution No. 12-62 Providing for the Continuation and Levy of a Special Tax to Pay the Cost of a Safe, Clean Water and Natural Flood Protection Program in the Combined Flood Control Zone of the Santa Clara Valley Water District Subject, Nevertheless, to Specified Limits and Conditions (Resolution No. 12-62); and

WHEREAS, the purpose of the special tax is to supplement other available but limited revenues to keep Valley Water's flood protection system of levees, channels, drains, debris basins, and other improvements in a safe and effective condition; to enable Valley Water to respond to emergencies; to perform maintenance and repair; to acquire, restore, and preserve habitat; to provide recreation; to conduct environmental education; to protect and improve water quality; and, to construct and operate flood protection storm drainage facilities; including in each case the cost of financing such activities; and

WHEREAS, in November 2012, Valley Water's Measure B was overwhelmingly approved by more than a two-thirds majority vote of the electorate of Valley Water, implementing a special tax, the proceeds of which are used solely for the purpose of supporting the five funding priorities of the Safe, Clean Water and Natural Flood Protection Program (Safe, Clean Water Program), which are as follows: Priority A: Ensure a safe, reliable water supply; Priority B: Reduce toxins, hazards, and contaminants in our waterways; Priority C: Protect our water supply from earthquakes and natural disasters; Priority D: Restore wildlife habitat and provide open space; and Priority E: Provide flood protection to homes, businesses, schools, and highways; and

WHEREAS, the Upper Llagas Creek Flood Protection Project (Project) is included under Priority E of the Safe, Clean Water Program; and

WHEREAS, the Safe, Clean Water Program describes the primary objective of the Upper Llagas Creek Project as follows: "Plan, design, and construct improvements along 13.9 miles of Upper Llagas Creek from Buena Vista Avenue in Gilroy to Llagas Road in Morgan Hill, including West Little Llagas Creek in downtown Morgan Hill."; and

WHEREAS, the Safe, Clean Water Program defines the Key Performance Indicator (KPI) for the Upper Llagas Creek Project as follows:

- "1. Preferred project with federal and local funding: Provide flood protection to 1,100 homes, 500 businesses, and 1,300 agricultural acres, while improving stream habitat; and

2. With local funding only: Provide 100-year flood protection for Reach 7 only (up to W. Dunne Avenue in Morgan Hill). A limited number of homes and businesses will be protected.”; and

WHEREAS, the Project has adequate funding to construct Reach 7 (comprised of Reaches 7a, and 7b), and meet the local funding only KPI #2, but the larger preferred Project (as described in KPI #1) is experiencing a funding shortfall and Valley Water is seeking external funding, such as from the United States Department of Agriculture, Natural Resources Conservation Service (NRCS), to complete the entire Project; and

WHEREAS, to maximize the efficacy of available secured funds, Valley Water’s Capital Improvement Program Committee recommended changing the reaches to be built with local dollars (KPI #2) to include constructing certain Project elements, including the high-flow underground bypass tunnel and a section of underground reinforced concrete box culverts (portion of Reach 8); and

WHEREAS, constructing the tunnel and portions of the proposed box culverts will fully utilize the remaining local funding; and

WHEREAS, before constructing Reach 7b (which is a portion of KPI #2), it is vital to construct downstream Reaches 4, 5, 6, and 7a to prevent induced flooding in lower reaches; and

WHEREAS, regulatory permitting agencies often insist on early mitigation for project impacts. The Project has received all regulatory permits and to satisfy various permitting agencies requirements, the construction of Lake Silveira wetlands, the Project’s on-site compensatory mitigation (originally not part of KPI #2), is currently underway; and

WHEREAS, the United States Department of Agriculture Watershed Protection and Flood Prevention Act (PL-566) authorizes NRCS to help local organizations and units of government plan and implement watershed projects; and

WHEREAS, the box culverts and bypass tunnel elements are ineligible for NRCS funding because they were not part of the PL 566 NRCS watershed plan for Llagas Creek, making it prudent for Valley Water to use local available funds to build these elements; and

WHEREAS, NRCS provides cost-share funding for yet-to-be constructed project elements, and, therefore, Valley Water plans to apply for NRCS funding to pay for constructing Reach 7b; and

WHEREAS, this approach keeps the Project moving forward, maintains the construction schedule for Project completion by December 2023 without inducing flooding downstream, maximizes the potential for external funding opportunities, and demonstrates improved collaboration with regulatory permitting agencies; and

WHEREAS, constructing the tunnel and sections of the proposed box culverts will fully utilize the remaining local funding, thus impacting the ability to fully construct Reach 7, specifically 7b, which is the current local-funding only KPI; and

WHEREAS, Valley Water desires to modify the Upper Llagas Creek Project KPI #2, increasing the length of the Project to be constructed by the available local funds from approximately 2.9 miles to approximately 4.9 miles, in addition to constructing the onsite compensatory mitigation; and

WHEREAS, Valley Water's Resolution No. 12-62 authorizes modifications to proposed projects. Paragraph J. reads as follows: "The Board of Directors may direct that proposed projects in the Safe Clean Water and Natural Flood Protection Program be modified or not implemented depending upon a number of factors, including federal and state funding limitations and the analysis and results of CEQA environmental review. The Board of Directors must hold a formal, public hearing on the matter, which will be noticed by publication and notification to interested parties, before adoption of any such decision to modify or not implement a project"; and

WHEREAS, at its special meeting conducted on December 17, 2019, Valley Water's Board of Directors set a time and place for a formal public hearing to occur on January 14, 2020, at which time the Board will consider Proposed Modification to the Upper Llagas Creek Flood Protection Project of the Safe, Clean Water and Natural Flood Protection Program.

NOW, THEREFORE BE IT RESOLVED by the Board of Directors of the Santa Clara Valley Water District as follows:

1. Pursuant to the requirements stated in California Government Code section 6066, staff prepared and published advertisements in Santa Clara County newspapers of general circulation.
2. Pursuant to the requirements stated in Valley Water's Resolution No. 12-62, Paragraph J. a noticed public hearing was held.
3. Modify the KPI #2 for the Upper Llagas Creek Project under Priority E, as set forth in the Safe, Clean Water Program, as follows:

"With Local funding only: Construct flood protection improvements along Llagas Creek from Buena Vista Avenue to Highway 101 in San Martin (Reaches 4 and 5 [portion]), Monterey Road to Watsonville Road in Morgan Hill (Reach 7a), approximately W. Dunne Avenue to W. Main Avenue (portion of Reach 8), and onsite compensatory mitigation at Lake Silveira."

4. Valley Water's Safe, Clean Water and Natural Flood Protection Program Category of Priority E, Provide Flood Protection to Homes, Businesses, Schools, and Highways Projects, Upper Llagas Creek Flood Protection Project, KPI #2, is hereby modified as stated in Exhibit A hereto, Modified KPI #2.

PASSED AND ADOPTED by the Board of Directors of the Santa Clara Valley Water District by the following vote on January 14, 2020:

AYES: Directors

NOES: Directors

ABSENT: Directors

ABSTAIN: Directors

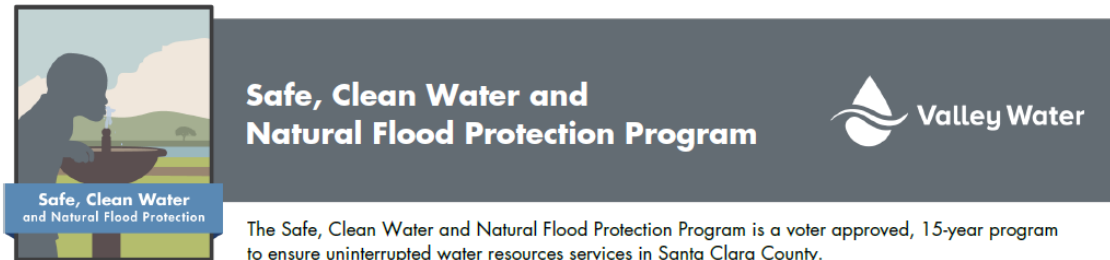
SANTA CLARA VALLEY WATER DISTRICT

Chair, Board of Directors

ATTEST: MICHELE L. KING, CMC

Clerk, Board of Directors

EXHIBIT A: Modified KPI #2



Project E6

Upper Llagas Creek Flood Protection Project Buena Vista Avenue to Wright Avenue – Morgan Hill, San Martin, Gilroy

Preferred project: A federal-state-local partnership

This project continues a Clean, Safe Creeks project in partnership with the U.S. Army Corps of Engineers (USACE) and the state to plan, design, and construct improvements along 13.9 miles of channel. The project extends from Buena Vista Avenue to Wright Avenue, including West Little Llagas Creek in downtown Morgan Hill. The federally authorized preferred project protects the urban area of Morgan Hill from a 1% (or 100-year) flood, and reduces the frequency of flooding in surrounding areas. Construction includes channel modifications and replacement of road crossings. Valley Water continues to work with Congress to aggressively pursue federal funds to bring this project to full fruition. In 2012, project limits were extended 2,700 feet upstream to Llagas Road to address public concerns.

Flooding History and Project Background

The area sustained damage in 1937, 1955, 1958, 1962, 1963, 1969, 1982, 1986, 1996, 1997, 1998, 2002, 2004, 2008, 2009, 2011 and 2017. In 2009, many businesses and residences in downtown Morgan Hill were flooded under 1 foot of water. The project builds on the planning, design and property acquisition initiated under the Clean, Safe Creeks plan of 2000.

Benefits

- Preferred project provides 1% flood capacity for 4 miles of channel in downtown Morgan Hill, protecting approximately 1,100 homes and 500 businesses
- Preferred project provides 10-year flood protection to approximately 1,300 agricultural acres in Morgan Hill, Gilroy and San Martin
- Locally-funded-only project provides 1% flood protection for a limited number of homes and businesses in Morgan Hill
- Improves stream habitat and fisheries
- Creates additional wetlands
- Improves stream water quality
- Identifies opportunities to integrate recreation improvements with the City of Morgan Hill and others as appropriate



Key Performance Indicators (15-year Program)

1. Preferred project with federal and local funding: Provide flood protection to 1,100 homes, 500 businesses, and 1,300 agricultural acres, while improving stream habitat.
2. With local funding only: Construct flood protection improvements along Llagas Creek from Buena Vista Avenue to Highway 101 in San Martin (Reaches 4 and 5 (portion), Monterey Road to Watsonville Road in Morgan Hill (Reach 7a), approximately W. Dunne Avenue to W. Main Avenue (portion of Reach 8), and onsite compensatory mitigation at Lake Silveira.

Geographic Area of Benefit: Morgan Hill, San Martin and Gilroy