



Santa Clara Valley Water District

File No.: 20-0408

Agenda Date: 1/12/2021

Item No.: 3.3.

BOARD AGENDA MEMORANDUM

SUBJECT:

Adopt Resolution Authorizing the Conveyance of Real Property by a Quitclaim Deed to California Antique Aircraft Museum, for the Upper Llagas Creek Flood Protection Project, Project No. 26174051 (Morgan Hill), (District 1).

RECOMMENDATION:

- A. Adopt a Resolution authorizing the CONVEYANCE OF REAL PROPERTY BY A QUITCLAIM DEED TO CALIFORNIA ANTIQUE AIRCRAFT MUSEUM FOR THE UPPER LLAGAS CREEK FLOOD PROTECTION PROJECT, PROJECT NO. 26174051 (MORGAN HILL);
- B. Authorize the Chief Executive Officer to execute the Real Property Purchase and Sale Agreement; and
- C. Authorize the Chief Executive Officer to execute the Quitclaim Deed Document No. 5010-107.1.

SUMMARY:

The Santa Clara Valley Water District (Valley Water) is undertaking the Upper Llagas Creek Flood Protection Project (Project) in partnership with the U.S. Army Corps of Engineers (USACE) and the City of Morgan Hill to provide 1-percent chance flood protection to approximately 1,100 homes and 500 businesses along West Little Llagas Creek, East Little Llagas Creek, and Llagas Creek. The Project is approximately 13.9 miles long and encompasses the City of Morgan Hill, City of Gilroy, and various unincorporated areas of Santa Clara County, including San Martin.

The attached grant deed (Attachment 2) from Northern California Chapter of the Antique Airplane Association to Valley Water was recorded on December 4, 1980. This conveyed a 25-foot wide x 198-foot long portion of the property (4,950 square feet) adjacent to existing Llagas Creek to be utilized for the Project. The real property was conveyed at no cost to Valley Water. On July 26, 1995, Northern California Chapter of the Antique Airplane Association transferred title to the current owner, California Antique Aircraft Museum (CAAM).

Staff recommends the return of a portion of the property acquired in 1980, as described in Quitclaim Deed Document No. 5010-107.1 (Exhibit A to Exhibit 1 of Attachment 1), to the successor property owner, California Antique Aircraft Museum. The subject property described is not required for the construction of the Project or for any other foreseeable Valley Water purpose. CAAM requested the

return of any of the property not required for the Project, to accommodate additional exhibits for their expanding museum.

Section 31 of the Santa Clara Valley Water District Act provides that the Board of Directors may reconvey real property to the former owner by whom the property was conveyed, or his or her successor in interest for less than fair market value if Valley Water finds that a public purpose exists justifying that reconveyance for less than fair market value. CAAM uses the larger property as a museum open to the public by a charitable organization. Valley Water staff has reviewed potential uses of this remnant parcel, including mitigation planting for its Stream Maintenance Program. The parcel is very small in size (3,832± square feet), and it is an isolated upland parcel with no continuity with the existing riparian corridor. Disposal of this property will yield the following public benefits: release Valley Water from liability associated with the property as well as realizing minor savings in yearly maintenance costs (weed abatement). The property is not appropriate for sale to the public because of its small size and lack of access to a public street. Therefore, staff recommends that the Board find by resolution (Attachment 1) that the property is not required for the construction of the Project or for any other Valley Water purpose, and that the property be sold to the adjacent property owner for the cost of \$1 through the execution of a Real Property Purchase and Sale Agreement (Exhibit 1 to Attachment 1).

Background

The Project was originally administered by the United States Natural Resources Conservation Service (NRCS), formally known as the Soil Conservation Service (SCS). In 1999, USACE was authorized by Congress to take over from NRCS and construct the remaining portion of the Project. However, due to lack of federal funding, USACE progress on the Project stalled. To get the Project back on schedule, USACE approved Valley Water's request to take over as the Project's lead to administer the planning (preparation of the environmental documents) and design phases.

On September 22, 2009, the Board approved a cost-sharing agreement (Agreement A3313S) with the City of Morgan Hill (City) to prepare environmental documents, design plans, and the specifications for the Project. The City agreed to reimburse Valley Water up to \$3 million of the total anticipated cost of these work efforts. On April 7, 2014, Valley Water received final payment in full from the City. This Board action set the course for Valley Water to take on Project tasks, normally performed by USACE, to advance the Project.

Following approval of the cost-sharing agreement with the City, the Board approved design services agreement A3366A with RMC Water and Environment (RMC) on May 11, 2010 to prepare the design plans and specifications. The Board later approved a consultant agreement A3399A to assume responsibility (due to lack of federal funding) of USACE's environmental consultant contract with Cardno ENTRIX (ENTRIX) on July 19, 2011, to complete the environmental document, EIS/EIR for the Project.

An Environmental Impact Statement/Environmental Impact Report (EIS/EIR) was prepared in 1982 that analyzed the original Llagas Creek Flood Watershed Project developed by the United States Department of Agriculture's SCS in the late 1960s. Since the approval of the 1982 EIS/EIR,

numerous changes have occurred within the Project limits, including increased urbanization and riparian habitat, changes in runoff conditions, the federal listing of steelhead, and state/federal listings of California Tiger Salamander as threatened species, have resulted in refinements to the original Project design.

Project elements include:

1. Widening (generally by constructing against one bank) and deepening the channel in all reaches;
2. Construction of a geomorphically stable channel form that includes a sinuous low-flow channel, with geomorphic benches at bankfull elevation where the channel is widened;
3. Permanent maintenance access roads along the top of both banks;
4. Aquatic habitat enhancements;
5. Grade control structures;
6. Modifications to culverts and bridges;
7. Construction of a tunnel beneath Nob Hill through downtown City of Morgan Hill to bypass high flows from a portion of existing West Little Llagas Creek through the City's downtown that can remain natural (as-is), thus preserving the existing vegetation and habitat; and
8. New 1.25-mile-long diversion channel (Reach 7a).

Certification of the Final EIR

On June 10, 2014, the Valley Water Board certified the Final EIR and approved the recommended Tunnel Alternative as the Project.

Resource Agency Permits

- CA Department of Fish & Wildlife executed a 1600 Permit on January 11, 2017;
- Central Coast Regional Water Quality Control Board executed a 401 Water Certification on July 27, 2017; and
- U.S. Army Corps of Engineers - Regulatory Branch issued a Record of Decision (ROD) and their 404 permit for the Project on March 26, 2019.

Phase 1, currently under construction, consists of Reach 4, a portion of Reach 5, Reach 7A, and Lake Silveira (the on-site compensatory mitigation component of the Project). Phase 1 construction began on September 3, 2019. Project map attached (Attachment 3).

Phase 2 of the Project has recently been separated by Valley Water Board action into a Phase 2A and a Phase 2B.

Phase 2A consists of construction a portion of Reach 8 from Ciolino Avenue upstream to approximately 300 feet north of the existing West Main Avenue and Hale Avenue intersection. Phase 2A includes construction of the proposed approximately 2,300 linear feet horseshoe-shaped underground high-flow diversion tunnel and approximately 1,600 linear feet of twin reinforced concrete box culverts upstream and downstream of the proposed tunnel. Construction will include traffic control, detours, road work, utility relocations and coordination, fencing, soil testing as required for off-site disposal, concrete and other miscellaneous work, community outreach and coordination. A

portion of the proposed Phase 2A improvements are within the City of Morgan Hill's proposed Hale Avenue Extension Project, so Valley Water's portion should be constructed first to avoid significant additional costs to the Project if the City's Hale Avenue Extension Project is constructed first. Therefore, Phase 2A construction advertisement is anticipated to occur in August 2020 and to take approximately 2.5 years to complete.

Phase 2B consists of construction of the remaining portion of Reach 5 and all of Reach 6 (Highway 101 upstream to Monterey Road), Reach 7B (Watsonville Road to Ciolino Avenue), the remaining portion of Reach 8 (approximately West Main Avenue to Llagas Road), and Reach 14 (confluence with Reach 4 upstream to Sycamore Avenue). Phase 2B construction consists of approximately 1,900 linear feet of twin reinforced concrete box culverts, creek modifications/excavation by widening and deepening, installation of culverts at various street crossings, construction of an inlet basin weir split flow structure, bridge underpinning work, installation of instream complexities, removal of plantings and non-native plantings, habitat enhancements, revegetation, utility relocations and coordination, outfall modifications, aggregate base maintenance roads, access ramps, traffic controls/detours, fencing, soil testing as required for off-site disposal, concrete and other miscellaneous work, community outreach and coordination. Construction is anticipated to take approximately three years to complete followed by a three-year plant establishment period. Currently Phase 2B construction advertisement is undetermined, since Valley Water staff are pursuing external funding, including a grant from the United States Department of Agriculture, Natural Resources Conservation Service, to address the estimated \$70-\$80 million Project shortfall to complete Phase 2B construction.

FINANCIAL IMPACT:

There are minor onetime costs associated with preparing and filing the Quitclaim Deed and minimal savings to Valley Water from reduction in yearly weed abatement requirements.

CEQA:

Valley Water staff prepared a CEQA Categorical Exemption (Attachment 4) in accordance with CEQA Guidelines §15312 that defines the Class 12 categorical exemption for Surplus Government Property Sales. None of the conditions identified in CEQA Guidelines Section 15206(b)(4) for disqualification of an exemption were applicable.

ATTACHMENTS:

- Attachment 1: Resolution
- Attachment 2: Quitclaim Deed
- Attachment 3: Project Map
- Attachment 4: CEQA Categorical Exemption

UNCLASSIFIED MANAGER:

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