



Santa Clara Valley Water District

File No.: 18-0117

Agenda Date: 4/24/2018

Item No.: 3.5.

BOARD AGENDA MEMORANDUM

SUBJECT:

Memorandum of Understanding By and Between Google LLC and the Santa Clara Valley Water District to Negotiate a Cost-Sharing Agreement for a Portion of the District's Sunnyvale East and West Channels Flood Protection Project, Project No. 26074002 (Sunnyvale), (District 3).

RECOMMENDATION:

Approve the Memorandum of Understanding By and Between Google LLC and the Santa Clara Valley Water District to Negotiate a Cost-Sharing Agreement for a Portion of the District's Sunnyvale East and West Channels Flood Protection Project.

SUMMARY:

In September 2014, the Board of Directors (Board) certified an environmental impact report (EIR) for the District's Sunnyvale East and West Channels Flood Protection Project (Project). Since Project approval, District staff have completed the design documents and are currently working with regulatory agencies to obtain the necessary permits for Project construction. In October 2017, Google LLC approached District management regarding a potential partnership to modify the Project along an approximate 1,110 linear foot section of the Sunnyvale West Channel where Google is currently planning a campus development project. As described below, the proposed modification to the Project along this section of the channel would potentially enhance the biological resources value and recreational opportunities for the District's Project. In recent months, staff have worked with Google staff to discuss concepts of the Project modifications and negotiate terms of the partnership. This effort resulted in a Memorandum of Understanding (Attachment 1) which is before the Board for consideration.

Project Background

The Clean, Safe Creeks & Natural Flood Protection Program, approved by the voters in 2000, whose funding was subsumed into the more recently voter-approved Safe, Clean Water measure in November 2012, provides funding for the planning, design and construction of flood improvements to provide flood protection to residents and businesses of the City of Sunnyvale (City) and unincorporated Santa Clara County situated along both the Sunnyvale East and Sunnyvale West Channels. The Project, when completed, is expected to provide 100-year flood protection to an

estimated 1,618 parcels in the Sunnyvale East Channel Watershed and to approximately 47 acres of industrial and government lands in the Sunnyvale West Channel Watershed.

The District's Project team has completed 100% design documents to construct the District's Sunnyvale East and West Channels Flood Protection Project (hereinafter referred to as the District's Project) and staff is currently in the process of negotiating and acquiring permits to construct the Project. Upon receipt of the required permits, staff will recommend the Board adopt the plans and specifications and authorize advertisement for bids.

Since Project approval, District staff have achieved the following key milestones:

- A Joint Use Agreement (JUA) and a Cost Sharing agreement with City of Sunnyvale to construct recreation trails on behalf of the City as part of the District's Project were executed in June 2016 and May 2016, respectively;
- Cost Sharing agreement with Moffett Place to construct a portion of the floodwalls north of Bordeaux Drive was executed in October 2016. Construction of floodwalls was completed by Moffett Place in December of 2017;
- Permanent right-of-way acquisitions required for the Project were completed in 2017;
- Project permit applications submitted to the various Resource Agencies in June 2017.

Google, LLC Proposal

In October 2017, Google, LLC (Google) approached Santa Clara Valley Water District (District) management to propose a partnership to modify the approved District design of a portion of the Sunnyvale West Channel adjacent to a proposed Google campus development project along the channel between Caribbean Drive and Caspian Court within the City of Sunnyvale. Google currently owns real property on both sides of the channel along this segment [approximately 1,100 linear feet (LF)] and is proposing, in a future cost-sharing agreement, to dedicate easement right of way of this property to the District for the Sunnyvale East and West Channels Project.

Google's proposal to dedicate land rights to the District would increase the width of this segment of the Sunnyvale West Channel, and allow Google to modify the District's current design of leveed floodwalls with:

- Maintenance roads along both channel banks to raised setback earthen levees with multi-use trails; and
- Installation of mitigation landscape plantings along this 1,100 LF segment.

This design modification would continue to provide the same level of flood protection (one percent), and provisions for sea-level rise. It would provide for a similar level of maintenance access, potentially create additional habitat, and would enhance recreational opportunities along this segment of the channel.

Proposed Memorandum of Understanding with Google

The proposed Memorandum of Understanding (MOU) was developed by Google and the District to negotiate and assess the potential cost sharing in development of approximately 1,100 linear feet of the existing Sunnyvale West Channel from Caribbean Drive upstream to approximately Caspian Court.

This MOU memorializes the parties' intent to negotiate and develop a future cost-sharing agreement for construction and operation/maintenance of the modified project in the above-described segment along the channel. The MOU outlines the responsibilities of the parties in general terms and does not restrict the District from considering other mitigation measures or alternatives before making a decision on the later cost-sharing agreement.

Next Steps

If the Board approves staff's recommendation, the following are the anticipated next steps:

- District staff will continue to coordinate with Google staff on the development of their project);
- City of Sunnyvale, as the CEQA lead agency, will prepare a CEQA document for the Google project (the parties anticipate that the CEQA document would include review of the impacts of the modified District Project);
- Once the CEQA review process is completed, District and Google LCC will execute a cost sharing agreement for this enhancement project;
- District's Project team will continue to negotiate with and endeavor to obtain the permits required from the various regulatory agencies for the District's Project.

FINANCIAL IMPACT:

There is no financial impact associated with this item.

CEQA:

The recommended action does not constitute a project under CEQA because it does not have a potential for resulting in direct or reasonable foreseeable indirect physical change in the environment.

ATTACHMENTS:

Attachment 1: Memorandum of Understanding

UNCLASSIFIED MANAGER:

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