



# Santa Clara Valley Water District

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**File No.:** 16-0247

**Agenda Date:** 5/9/2017

**Item No.:** 3.4.

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## BOARD AGENDA MEMORANDUM

### **SUBJECT:**

Resolution Authorizing the Acquisition of a Grant Deed from, and Conveyance of a Quitclaim Deed to, Leona M. Reif, as Trustee of the Reif Family Trust dated September 2, 1997, and Leona Reif, as Trustee of the Reif Living Trust dated July 25, 1988 for the Upper Llagas Creek Flood Protection Project, Project No. 26174051 (Morgan Hill), (District 1).

### **RECOMMENDATION:**

Adopt the Resolution AUTHORIZING THE ACQUISITION OF A GRANT DEED FROM AND CONVEYANCE OF A QUITCLAIM DEED TO THE REIF FAMILY TRUST AND THE REIF LIVING TRUST FOR THE UPPER LLAGAS CREEK FLOOD PROTECTION PROJECT, PROJECT NO. 26174051 (MORGAN HILL) that does the following:

- i. Approves the Real Property Exchange Agreement for Real Estate File Nos. 5037-54 & 5037-10.1 and authorizes the Interim Chief Executive Officer to execute the Real Property Exchange Agreement;
- ii. Authorizes the Interim Chief Executive Officer to execute the Certificate of Acceptance for Grant Deed 5037-54; and
- iii. Authorizes the Interim Chief Executive Officer to execute the Quitclaim Deed 5037-10.1.

### **SUMMARY:**

The Santa Clara Valley Water District (District) is undertaking the Upper Llagas Creek Flood Protection Project (Project) in partnership with the U.S. Army Corps of Engineers (Corps) and the City of Morgan Hill (City) to provide 1% 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, City of Gilroy, and various unincorporated areas of Santa Clara County, including San Martin (Attachment 1).

The proposed acquisition of a Grant Deed for \$4,900 from Leona M. Reif, as Trustee of the Reif Family Trust dated September 2, 1997, and Leona Reif, as Trustee of the Reif Living Trust dated July 25, 1988, Real Estate File No. 5037-54, is required for Phase 2 construction of the Project.

### ***Background of Real Property Exchange Agreement***

In 2016, a Phase I Hazardous Substance Liability Assessment (HSLA) investigation was performed and the results were satisfactory (Attachment 3).

The District will quitclaim a portion of its existing easement interests described in Deed Document No. 5037-10.1 to the property owner, Ms. Reif. The District previously acquired easement lands (Deed #3781398, Recorded March 24, 1970) from Herman M. Reif and Leona M. Reif. This acquisition was for an approximate 40-foot wide by 230-foot long easement for Flood Control and/or Storm Drainage purposes along the western riverbank of East Little Llagas Creek (Reach 14). Please refer to Quitclaim Deed 5037-10.1 (Exhibit 2 of Attachment 2) for the legal plat and description for the proposed portion of the existing District easement not required for the construction of the Project. Staff recommends approval of Quitclaim Deed 5037-10.1 (6,539± square feet) from the District to the property owners, the Reif Family Trust and Reif Living Trust, through their trustee Ms. Reif.

The District hired an independent appraiser, Smith and Associates, Inc., to appraise the subject parcels. The appraisal evaluated "just compensation" for the Conveyance of Quitclaim Deed (5037-10.1) from the District to Ms. Reif at \$100 and evaluated the Grant Deed (5037-54, 4,612± square feet) for three separate parcels from Ms. Reif to the District at \$4,900 (rounded). The District presented an offer package to Ms. Reif to acquire her lands in fee for \$4,900. The District also presented the option to Ms. Reif to accept the District Conveyance of Quitclaim Deed (appraised value of \$100). Ms. Reif accepted both offers and signed the District offer involving the Real Property Exchange Agreement (Exhibit 3 of Attachment 2).

### ***Project Background***

The Upper Llagas Creek Flood Protection Project was originally administered by the United States Natural Resources Conservation Service (NRCS), formally known as the Soil Conservation Service (SCS). In 1999, the Corps was authorized by Congress to take over from NRCS and construct the remaining portion of the Project. However, due to lack of federal funding, the Corps' progress on the Project stalled. To get the Project back on schedule, the Corps approved the District's request to take over 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 with the City of Morgan Hill (City) to prepare the environmental document and the design plans and specifications for the Project. This Board action set the course for the District to take on Project tasks normally performed by the Corps so as to advance the Project work. The City agreed to reimburse the District up to \$3 million of the total anticipated cost of these work efforts. On April 7, 2014, the District received final payment in full from the City of Morgan Hill.

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

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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;
8. New 1.25-mile-long diversion channel (Reach 7a).

#### Certification of the Final EIR and Adoption of the Findings and MMRP

The Draft EIR was completed, a Notice of Completion was filed with the California Office of Planning and Research (OPR), and the Draft EIR was released for public review on January 6, 2014. A public meeting to receive comments on the Project was held on January 15, 2014, within the 45-day public review period. Resource agencies requested additional time for review and comment, which District staff granted. Ten letters with comments were received from the public and agencies in addition to oral comments received at the public meeting. Formal responses to each comment were incorporated into the Final EIR.

On June 10, 2014, the District's Board certified the Final EIR and approved the recommended Tunnel Alternative as the Project.

#### Certification of the Final EIS

U.S. Army Corps of Engineers (USACE) San Francisco Regulatory Division released the Project's Draft Environmental Impact Statement (EIS) for Public Review and 45-day comment period on December 31, 2015. The Public Review comment period ended on February 16, 2016. The USACE Regulatory addressed the comments in their Final EIS, with Corps Regulatory certification of the EIS anticipated in approximately May 2017.

The Project has been divided into two phases for construction as identified in Attachment 1. Phase 1 [Reaches 4, 5 (a portion), 7A, and Lake Silveira] construction is approximately 4.2 miles in length. Phase 2 [Reaches 5 (a portion), 6, 7B, 8, and 14] is approximately 9.7 miles in length. Phase 1 construction cost estimate is \$34 million and Phase 2 construction cost estimate is \$82 million (2017 value).

#### **Next Steps**

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Phase 1 construction (Reach 4, Reach 7a diversion, and the on-site mitigation - Lake Silveira) is currently estimated to be advertised for construction in Fall 2017, subject to receipt of the Resource Agency permits. Phase 2 construction (all remaining reaches) will require approximately an additional 100 parcels to be acquired. Approximately 80 of these parcels have been acquired to date with the remaining parcels to be acquired by July 2018.

**FINANCIAL IMPACT:**

There is sufficient Project funding in the FY17 budget for the acquisition of this parcel.

The Project's property acquisition costs, including appraisal costs and fees, are eligible for 100% reimbursement by the Department of Water Resources State Subventions Program.

**CEQA:**

On June 10, 2014, the Board certified the Environmental Impact Report for the Upper Llagas Creek Project, Resolution no. 14-67. The Notice of Determination is attached (Attachment 4).

**ATTACHMENTS:**

- Attachment 1: Project Map
- Attachment 2: Resolution
- Attachment 3: Phase I HSLA
- Attachment 4: Notice of Determination

**UNCLASSIFIED MANAGER:**

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