



Santa Clara Valley Water District

File No.: 18-0069

Agenda Date: 2/27/2018

Item No.: *6.2.

BOARD AGENDA MEMORANDUM

SUBJECT:

Authorization to Apply for and Accept a Grant from the United States Natural Resources Conservation Service (NRCS) for the Cunningham Flood Detention Facility Certification Project, Project No. 40264011 (San Jose) (District 1).

RECOMMENDATION:

- A. Authorize the Chief Executive Officer (CEO) to execute and submit a grant application, including the Supplemental Watershed Agreement No. 3 a component of the application, to NRCS for the Cunningham Flood Detention Facility Certification Project (Project).
- B. Authorize the CEO, if the NRCS grant is awarded to the District, to:
 - 1. Accept and execute a grant agreement for funding in the amount of \$4,243,516, with the Natural Resources Conservation Service (NRCS) for the Cunningham Flood Detention Facility Certification Project (Project);
 - 2. Sign and submit invoices and requests to NRCS for grant fund disbursements to be made pursuant to the Cooperative Agreement between SCVWD and NRCS to Construct the Lake Cunningham Water Control Structure on the Lower Silver Creek Watershed; and
 - 3. Delegate such other authority as is needed to provide management and support services required for performance of the work and administration pursuant to the grant agreement, as deemed necessary and appropriate.

SUMMARY:

Natural Resources Conservation Service Watershed Flood Prevention Operations Program

According to the Watershed Protection and Flood Prevention Act (Public Law 83-566) passed in 1954, the United States Department of Agriculture's (USDA) Secretary of Agriculture is authorized to provide financial assistance to state and local governments for projects that protect and restore watersheds up to 250,000 acres. On October 4, 2017, it was announced that the USDA agency, NRCS, would invest \$150 million in 48 new projects.

District staff has evaluated the grant program requirements and criteria and determined that the Cunningham Flood Detention Facility Certification Project (Project) is eligible and competitive for funding. In order for the grant application to be considered, the District must complete and submit an application to NRCS, which includes a signed original of the Supplemental Watershed Agreement No.

3 (Attachment 1) for the Lower Silver Creek Watershed, and execute a grant agreement, Notice of Grant and Agreement Award (Attachment 2), with NRCS.

The original Watershed Agreement for the Lower Silver Creek Watershed, signed by the District and NRCS, was executed on September 23, 1983 and modified by Watershed Agreements numbered 1 and 2, dated September 27, 1991 and April 16, 2001. The Supplemental Watershed Agreement No. 3, now required with the grant application, is required to document that the Cunningham Flood Detention Certification Project is included in the scope of the Watershed Agreement, a required component of the NRCS grant program.

Background and Project Description

The Project is situated within the City of San Jose's Lake Cunningham Regional Park in the southeast section of San Jose and is just upstream of the District's Lower Silver Creek Flood Protection Project. The Park was designed and constructed in accordance with the Park's Master Plan originally developed in 1976 by the City of San Jose (City) to function dually as a recreational and flood detention facility. Lower Silver, Flint, and Ruby Creeks flow along the perimeter of the Park. In 1978, the District entered a Joint Use Agreement with the City to develop a joint recreational-flood detention facility at the Park site and that Agreement is still active.

The Park area functions as a detention basin and attenuates the 100-year flood peak flow from upstream. However, the detention facility does not have sufficient freeboard along the edge for it to be certified by the Federal Emergency Management Agency (FEMA). In order to meet the objective of having it certified, the District is proposing to raise the existing levee ranging from 0 to 4 feet high along Capitol Expressway and Cunningham Avenue and adjacent to Lower Silver Creek, and to construct a floodwall ranging from 2 to 4 feet in height along Cunningham Avenue and Flint Creek; these improvements are necessary to satisfy FEMA freeboard requirements for flood protection facilities.

Other Project elements include in-kind replacement of the existing chain-link fence along the Cunningham Avenue park frontage, relocation of an existing trash compactor and greenwaste collection area; removal of concrete slabs at the existing trash compactor and greenwaste collection area, construction of a new pedestrian path, and regrading of approximately 70 feet of trails near the Lake Cunningham shoreline.

Once the flood protection improvements are completed, the District and the City will jointly apply to FEMA to certify the levee and floodwall that would remove about 3,200 parcels from the flood hazard area, eliminating the requirement for the property owners to purchase flood insurance.

Relevant Prior Board Action(s)

On January 9, 2018, the Board adopted a Resolution adopting the Final Initial Study/Mitigated Negative Declaration (IS/MND) and approved the Project.

FINANCIAL IMPACT:

The estimated construction contract cost of the Project is approximately \$4.6 million. If this NRCS grant is awarded to the District, \$3,743,516 will go towards construction costs, and \$500,000 will go towards construction quality control and assurance costs that will be subcontracted by the general contractor for the total grant amount of \$4,243,516. The District received approximately \$1 million from a California Department of Water Resources (DWR) Stormwater Flood Management Grant for the Lower Silver Creek Reaches 4 - 6 and Lake Cunningham Projects that will cover soft costs, including construction management, tree mitigation, utility relocation, and trails installation.

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.

On January 9, 2018, the Board adopted a resolution adopting the Final IS/MND and Mitigation Monitoring and Reporting Program (MMRP) and approved the Project.

ATTACHMENTS:

Attachment 1: NRCS Supplemental Watershed Agreement No. 3

Attachment 2: Notice of Grant and Agreement Award

UNCLASSIFIED MANAGER:

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