



Santa Clara Valley Water District

File No.: 19-0517

Agenda Date: 5/28/2019

Item No.: 3.3.

BOARD AGENDA MEMORANDUM

SUBJECT:

Relinquishment of Hale Avenue and Conveyance Agreement Between the County of Santa Clara, City of Morgan Hill and Santa Clara Valley Water District for the Upper Llagas Creek Flood Protection Project, Project No. 26174051 (Morgan Hill), (District 1).

RECOMMENDATION:

- A. Authorize the Chief Executive Officer to execute the Relinquishment of Hale Avenue and Conveyance Agreement Between the County of Santa Clara, City of Morgan Hill and Santa Clara Valley Water District for the Upper Llagas Creek Flood Protection Project;
- B. Adopt Resolution AUTHORIZING CONVEYANCE OF REAL PROPERTY INTEREST TO THE COUNTY OF SANTA CLARA; and
- C. Authorize the Chief Executive Officer to execute Quitclaim Deeds for Real Estate File Nos. 4029-09.1 and 4029-10.1 to the County of Santa Clara.

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 (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 of Morgan Hill, City of Gilroy, and various unincorporated areas of Santa Clara County (County), including San Martin. A Project Map is attached (Attachment 6).

The County, City, and Valley Water have prepared the attached Conveyance Agreement (Attachment 1) to exchange/quitclaim rights to better align with the respective mission statements of each of three agencies.

On September 23, 2014, the County relinquished a portion of Hale Avenue between West Dunne Avenue and Llagas Avenue to the City, with the County retaining the portion of the Hale Avenue right of way that is currently used to convey storm water flows within the existing West Branch Little Llagas Creek (Attachment 1, Exhibit 1).

The County intends to recommend adoption of a resolution from the County Board of Supervisors relinquishing the remaining portion of Hale Avenue, including a portion of existing West Little Llagas

Creek to the City. The Project includes plans to replace this section of West Little Llagas Creek along Hale Avenue, with underground drainage structures within Hale Avenue (Attachment 1, Exhibit 2). At the completion of the Project, the City of Morgan Hill will be provided a one percent level of flood protection.

In a separate maintenance agreement for the Project between the City and Valley Water, Valley Water will assume operations and maintenance responsibilities for West Little Llagas Creek from the County. In exchange, the County will assume the maintenance responsibilities from Valley Water for two separate existing easements, an existing storm drain facility between Alta Vista Way and Highland Drive within the City of San Jose (Attachment 1, Exhibit 3).

Valley Water desires to quitclaim all rights pertaining to the Valley Water's said easements between Alta Vista Way and Highland Drive to the County and County is willing to accept those rights (Attachment 1, Exhibit 4). Valley Water shall pay to the County a one-time lump sum payment of \$13,500 to reimburse the County for Valley Water's share of one-half the estimated construction repair costs for the Alta Vista Way-Highland Drive storm drain facility. Repairs to this storm drain facility are imminent as the condition of the existing storm drain was recently verified by a camera inspection.

Project Background

The Llagas Creek Flood Protection Project was originally administered by the United States Natural Resources Conservation Service (NRCS), formerly known as the Soil Conservation Service (SCS). In 1999, the Corps was authorized by Congress to take the Project over from NRCS and construct the remaining portion of the Project. However, due to lack of federal funding, the USACE's progress on the Project stalled. To get the Project back on schedule, the 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 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 Valley Water to take on Project tasks normally performed by the USACE, so as to advance the Project work. 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 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 of California Tiger Salamander as threatened species, and have resulted in refinements to the original Project design.

Modifications to original 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 Valley Water 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, Valley Water's Board certified the Final EIR and approved the recommended Tunnel Alternative as the Project.

Certification of the Final EIS

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. On November 30, 2018, USACE issued the Project's Final EIS. Public Review closed on January 11, 2019. On March 26, 2019, USACE signed the Record of Decision.

Next Steps

Phase 1 (Reach 4, Reach 7a diversion, and the on-site mitigation - Lake Silveira) is scheduled to begin construction by Fall 2019. It is anticipated that staff will request Board adoption of the Phase 1 final plans and specifications and authorizing the advertisement of the Project for obtaining construction bids in May 2019. Award of the Phase 1 construction contract is anticipated for consideration by the Board at their July 9, 2019 hearing.

Phase 2 construction (all remaining reaches) is anticipated to be advertised once funding for this phase of the Project has been approved by the Board. Phase 2 final construction documents and permanent acquisition of the remaining 9 parcels required for construction are anticipated for completion by August 2019.

FINANCIAL IMPACT:

Staff estimates a \$13,500 expenditure associated with approval of this item. Funding for this item is included in the FY19 Upper Llagas Creek Project budget.

CEQA:

On June 10, 2014, the Board certified the Environmental Impact Report for the Upper Llagas Creek Project and adopted Resolution No. 14-67. The Notice of Determination is attached (Attachment 5).

ATTACHMENTS:

Attachment 1: Relinquishment Conveyance Agreement
Attachment 2: Resolution
Attachment 3: Quitclaim Deed 4029-09.1
Attachment 4: Quitclaim Deed 4029-10.1
Attachment 5: Notice of Determination
Attachment 6: Map

UNCLASSIFIED MANAGER:

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