



Santa Clara Valley Water District

File No.: 20-0936

Agenda Date: 11/10/2020

Item No.: 9.1.

BOARD AGENDA MEMORANDUM

SUBJECT:

Authorize the Chief Executive Officer to Apply for and Submit a Grant from the California Department of Water Resources; Adopt a Resolution Authorizing a Proposal for Funding and Designating a Representative to Execute an Agreement and Amendments; Authorize District Counsel to Execute Attorney's Certification; and Authorize the Chief Executive Officer or Designee to Sign and Submit Invoices and Requests for Reimbursement, and Provide Management Support Services, as Deemed Necessary and Appropriate, for the Lower Penitencia Creek Improvements Project, Project No. 40334005 (San Jose) (District 3).

RECOMMENDATION:

- A. Authorize the Chief Executive Officer (CEO) or designee to execute and submit a grant application in the amount of \$9 million to the California Department of Water Resources (DWR) and if the grant is awarded, to execute the agreement and any amendments thereto, for the Lower Penitencia Creek Improvements Project (Project No. 40334005);
- B. Adopt the resolution AUTHORIZING A PROPOSAL FOR FUNDING FROM THE DEPARTMENT OF WATER RESOURCES AND DESIGNATING A REPRESENTATIVE TO EXECUTE THE AGREEMENT AND ANY AMENDMENTS THERETO, FOR THE LOWER PENITENCIA CREEK IMPROVEMENTS PROJECT;
- C. Authorize the District Counsel to execute the Attorney's Certification form required as part of the grant application;
- D. Authorize the CEO or designee to submit the grant application by the deadline of November 20, 2020 while staff concurrently conducts an internal review of the grant terms and conditions. If the grant is awarded, and staff determines all terms and conditions can be met by Valley Water, a subsequent agenda item will be scheduled for Board approval to accept the grant;
- E. Provided a grant agreement is entered into between Valley Water and DWR, delegate authority to the CEO or designee to sign and submit invoices and requests to DWR for grant fund reimbursements to be made pursuant to the Grant Agreement; and
- F. Delegate to the CEO or designee such other authority as 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:

Valley Water staff recommends the board approve applying for \$9 million in grant funds pursuant to the Coastal Watershed Flood Risk Reduction Program administered by the California Department of Water Resources (DWR). Board authorization of the resolution (Attachment 1) and Attorney's Certification Form (Attachment 2) are required by DWR in order to apply for this grant. The grant funds will be used to reimburse Valley Water for a portion the total estimated construction costs of \$18 million for the Lower Penitencia Creek Improvements Project (Project No. 40334005), which is scheduled for construction to commence in summer 2021.

Project Description

The Lower Penitencia Creek Improvements Project will provide long-term sustainable benefits for the community including enhancing public safety by reducing flood risk in adjacent communities; enhancing wildlife habitat; and expanding recreational opportunities. The wetland bench component of the Project will have numerous environmental benefits by creating higher quality habitats for a diverse range of species. Completion of Lower Penitencia Creek Improvements Project is necessary to maintain the current existing Federal Emergency Management Agency accreditation along the east levee located between California Circle and Berryessa Creek.

Grant Opportunity and Schedule

Valley Water has demonstrated a successful record of working with the DWR and other state as well as federal agencies to complete grant-funded projects. The Project benefits and Valley Water's long term, positive relationship with DWR will hopefully result in a successful grant application.

Valley Water staff submitted the required grant concept proposal by DWR's deadline of August 7, 2020 and provided the board authorizes submission of a full grant proposal, staff will submit the required documents by the deadline of November 20, 2020. The grant application must include an executed Attorney's Certification form (Attachment 2) which affirms legal authority for Valley Water to enter into a grant agreement with the State of California.

Staff recommends the Board approve submission of the grant application by DWR's deadline of November 20, 2020. While DWR is reviewing applications and making award decisions, staff will concurrently conduct an internal review of all grant terms and conditions. This thorough review will involve staff in various business units and determining if any additional staff or board actions will be necessary for Valley Water to fully comply.

Submitting the grant application does not obligate Valley Water to accept a grant that may ultimately be awarded by DWR for this Project.

FINANCIAL IMPACT:

The Lower Penitencia Creek Improvements Project (Project No. 40334005) is included in the current FY 2021-25 Capital Improvement Program. The Project budget currently includes funding sources from the Watershed Stream Stewardship Fund in the amount of \$23,022,000 and \$5 million from an

existing Proposition 1E grant from the DWR, for a total Project cost of \$28,022,000 million. The Proposition 1E grant was for planning work which has been completed and Valley Water has been fully reimbursed less retainage for this grant. The Coastal Watershed Flood Risk Reduction Program grant would partially fund construction costs. If awarded by DWR, the \$9 million grant funds from the Coastal Watershed Flood Risk Reduction Program would reduce the funding requirements from the Watershed Stream Stewardship Fund by a corresponding amount.

CEQA:

The recommended action does not constitute a project under California Environmental Quality Act (CEQA) because it does not have a potential for resulting in direct or reasonably foreseeable indirect change in the physical environment.

ATTACHMENTS:

Attachment 1: Resolution

Attachment 2: Attorney's Certification Form

Attachment 3: Project Map

UNCLASSIFIED MANAGER:

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