



Santa Clara Valley Water District

File No.: 20-0005

Agenda Date: 1/14/2020

Item No.: 2.9.

BOARD AGENDA MEMORANDUM

SUBJECT:

Public Hearing on the Proposed Modifications to the Safe, Clean Water and Natural Flood Protection Program's Upper Llagas Creek Flood Protection Project.

RECOMMENDATION:

- A. Open the public hearing to receive comments on the Safe, Clean Water and Natural Flood Protection Program's Project E6: Upper Llagas Creek Flood Protection Project;
- B. Close the public hearing; and
- C. Adopt the resolution APPROVING THE MODIFICATION TO THE UPPER LLAGAS CREEK FLOOD PROTECTION PROJECT OF THE SAFE, CLEAN WATER AND NATURAL FLOOD PROTECTION PROGRAM.

SUMMARY:

The primary objective of the Project is to plan, design, and construct improvements along 13.9 miles of Upper Llagas Creek from Buena Vista Avenue in Gilroy to Llagas Road in Morgan Hill, including West Little Llagas Creek in downtown Morgan Hill. The Project received the last remaining required Regulatory Agency permit in March 2019.

In September 2019, Santa Clara Valley Water District's (Valley Water) construction contractor commenced building Phase 1 of the Upper Llagas Creek Flood Protection Project. While Phase I construction is underway and fully funded, completing the entire 13.9 mile-long two-phased project will require additional external funding.

Valley Water is pursuing external funding, including a grant from the United States Department of Agriculture, Natural Resources Conservation Service, to address approximately \$70-\$80 million Project funding shortfall. Meanwhile, to maximize the efficacy of the available secured funds, Valley Water is proposing changing the reaches to be constructed with local dollars to include building the high-flow underground bypass tunnel and a section of underground reinforced concrete box culverts.

Constructing the tunnel and portions of the proposed box culverts will fully utilize the remaining local funding, thus impacting the ability to fully build Reach 7 (7a and 7b), which is the current local-funding only Key Performance Indicator (KPI). Furthermore, Reach 7b cannot be constructed until the completion of the downstream Reaches 4, 5, 6, and 7a to prevent induced flooding in lower reaches. As a result, Valley Water is proposing to modify the local-funding only KPI that increases the

length of the project to be built by the available local funds from approximately 2.9 miles to approximately 4.9 miles. This modified KPI entails constructing Reaches 4 and 5 (portion), 7a and 8 (portion) as well as the onsite compensatory mitigation at Lake Silveira.

The remaining Project elements, namely Reaches 5 (portion), 6, 7b, 8 (portion) and 14, will be built later once external or other funding sources become available.

In addition to being able to build as much of the Project as possible utilizing available local dollars, this approach keeps the Project construction moving forward, without inducing flooding downstream, and maximizes the potential for external funding opportunities. Construction of the onsite compensatory mitigation reflects collaboration with regulatory permitting agencies that often require early mitigation to offset the Project impacts.

The City of Morgan Hill is supportive of advancing the construction of the tunnel and box culverts. In a December 16, 2019 letter to the Valley Water Board, Mayor Rich Constantine stated, "For the City of Morgan Hill, completing the tunnel work sooner is highly important as this work will require staging on a section of the future Hale Avenue roadway in Morgan Hill. The City is on a tight timetable to complete this roadway improvement, and once completed, the tunnel work will become much more complicated and expensive." The letter is included as Attachment 1.

Proposed modification to the Key Performance Indicator #2:

"With local funding only: Construct flood protection improvements along Llagas Creek from Buena Vista Avenue to Highway 101 in San Martin (Reaches 4 and 5 (portion), Monterey Road to Watsonville Road in Morgan Hill (Reach 7a), approximately W. Dunne Avenue to W. Main Avenue (portion of Reach 8), and onsite compensatory mitigation at Lake Silveira."

The original Project text from the Safe, Clean Water Program showing all proposed modifications in strike-through text is included as Attachment 2.

Public Hearing Notice Requirements:

On July 24, 2012, the Board adopted Resolution No. 12-62, which specified the limits and conditions by which Valley Water is authorized to institute a special parcel tax for the Safe, Clean Water Program. As per the Resolution, the Board of Directors may modify or not implement proposed project/s in the Safe, Clean Water Program based on various factors, including federal and state funding limitations. To modify a proposed project, the Board must hold a formal, public hearing on the matter, which will be noticed by publication and notification to interested parties, before adoption of any such decision to modify or not implement a project. At its special meeting on December 17, 2019, the Board set the time and place for a formal public hearing on this matter to take place on January 14, 2020.

Staff prepared and published an advertisement in Santa Clara County consistent with the two-week notice requirements stated in California Government Code section 6066. The list of newspapers that published the advertisement and a copy of the Public Notice Ad is included as Attachment 3.

FINANCIAL IMPACT:

The financial impact of holding the public hearing is the cost of translating and advertising the Public Notice Ad outlined in Attachment 3, which is estimated to be approximately \$30,000. This cost will be charged to the Safe, Clean Water Program Implementation Project (26061012) and is included in the current fiscal year's budget.

CEQA:

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

ATTACHMENTS:

Attachment 1: Letter from City of Morgan Hill
Attachment 2: Upper Llagas Creek Project KPI #2 Modification
Attachment 3: Schedule and Sample Ad
Attachment 4: Resolution

UNCLASSIFIED MANAGER:

Tim Bramer, 408-630-3794

December 16, 2019

Valley Water
Board of Directors
5750 Almaden Expressway
San Jose, CA 95188

Dear Board of Directors,

As you are aware, the City of Morgan Hill has partnered with Valley Water for decades on the Upper Llagas Creek Flood Protection Project. The City has appreciated the commitment of Valley Water to this project, and the commencement of the Phase 1 work south of the City is a huge achievement. However, while Phase 1 is necessary to move to the next phase, it provides only limited impact to the flooding in Morgan Hill. The completion of Phase 2 of the project will provide the desperately needed protection for our community.

The City has been encouraged by the progress on Phase 2 with the designs now almost complete. City representatives were recently informed of the shortfall in funding for Phase 2 of the project. While this is discouraging, the Morgan Hill City Council and staff is committed to supporting Valley Water in advocating for the future funding needed for the project.

Valley Water staff has recommended a funding scenario which would allow construction of the Upper Llagas Creek Project to move forward with the existing funding to construct a portion of Phase 2. This portion will include the construction of a tunnel in Downtown Morgan Hill. The City supports this approach for multiple reasons. It demonstrates the commitment to utilize the secured local funding for a project that has been committed, while continuing to keep the project moving forward. For the City of Morgan Hill, completing the tunnel work sooner is highly important as this work will require staging on a section of the future Hale Avenue roadway in Morgan Hill. The City is on a tight timetable to complete this roadway improvement and once completed, the tunnel work will become much more complicated and expensive.

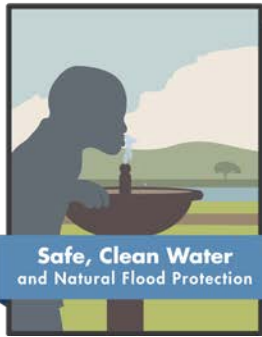
The City of Morgan Hill urges the Board of Directors to approve the staff recommendation to fund this project and begin construction on Phase 2 as quickly as possible. Thank you for your time and consideration.

Sincerely,



Rich Constantine, Mayor

CC: Morgan Hill City Council
Christina Turner, City Manager
Chris Ghione, Public Services Director



Safe, Clean Water and Natural Flood Protection Program



The Safe, Clean Water and Natural Flood Protection Program is a voter approved, 15-year program to ensure uninterrupted water resources services in Santa Clara County.

Project E6

Upper Llagas Creek Flood Protection Project Buena Vista Avenue to Wright Avenue – Morgan Hill, San Martin, Gilroy

Preferred project: A federal-state-local partnership

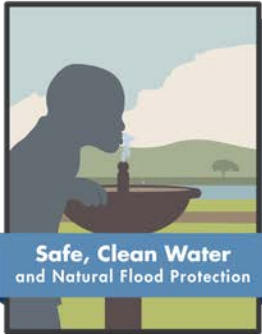
This project continues a Clean, Safe Creeks project in partnership with the U.S. Army Corps of Engineers (USACE) and the state to plan, design, and construct improvements along 13.9 miles of channel. The project extends from Buena Vista Avenue to Wright Avenue, including West Little Llagas Creek in downtown Morgan Hill. The federally authorized preferred project protects the urban area of Morgan Hill from a 1% (or 100-year) flood, and reduces the frequency of flooding in surrounding areas. Construction includes channel modifications and replacement of road crossings. Valley Water continues to work with Congress to aggressively pursue federal funds to bring this project to full fruition. In 2012, project limits were extended 2,700 feet upstream to Llagas Road to address public concerns.

Flooding History and Project Background

The area sustained damage in 1937, 1955, 1958, 1962, 1963, 1969, 1982, 1986, 1996, 1997, 1998, 2002, 2004, 2008, 2009, 2011 and 2017. In 2009, many businesses and residences in downtown Morgan Hill were flooded under 1 foot of water. The project builds on the planning, design and property acquisition initiated under the Clean, Safe Creeks plan of 2000.

Benefits

- Preferred project provides 1% flood capacity for 4 miles of channel in downtown Morgan Hill, protecting approximately 1,100 homes and 500 businesses
- Preferred project provides 10-year flood protection to approximately 1,300 agricultural acres in Morgan Hill, Gilroy and San Martin
- Locally-funded-only project provides 1% flood protection for a limited number of homes and businesses in Morgan Hill
- Improves stream habitat and fisheries
- Creates additional wetlands
- Improves stream water quality
- Identifies opportunities to integrate recreation improvements with the City of Morgan Hill and others as appropriate



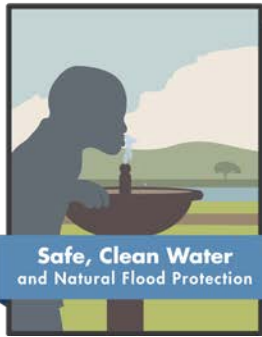
Safe, Clean Water and Natural Flood Protection Program



Key Performance Indicators (15-year Program)

1. Preferred project with federal and local funding: Provide flood protection to 1,100 homes, 500 businesses, and 1,300 agricultural acres, while improving stream habitat.
2. With local funding only: **Construct flood protection improvements along Llagas Creek from Buena Vista Avenue to Highway 101 in San Martin (Reaches 4 and 5 (portion), Monterey Road to Watsonville Road in Morgan Hill (Reach 7a), approximately W. Dunne Avenue to W. Main Avenue (portion of Reach 8), and onsite compensatory mitigation at Lake Silveira. Provide 100-year flood protection for Reach 7 only (up to W. Dunne Avenue in Morgan Hill). A limited number of homes and businesses will be protected.**

Geographic Area of Benefit: Morgan Hill, San Martin and Gilroy



Safe, Clean Water and Natural Flood Protection Program



The Safe, Clean Water and Natural Flood Protection Program is a voter approved, 15-year program to ensure uninterrupted water resources services in Santa Clara County.

Ad Placement Schedule, and Sample Public Notice Ad

Newspapers	Dates
Chinese News	Jan. 1
El Observador	Jan. 3 and 10
Gilroy Dispatch/Morgan Hill Times	Jan. 3 and 10
Los Altos Town Crier	Jan. 1 and 8
Mercury News	Jan. 2 and 9
Metro	Jan. 1 and 8
Milpitas Post	Jan. 3 and 10
Mountain View Voice/Palo Alto Weekly	Jan. 3 and 10
Santa Clara Weekly	Jan. 1 and 8
San Jose Post	Jan. 2 and 9
Silicon Valley Community Newspaper Weeklies (Almaden, Cambrian, Campbell, Cupertino, Los Gatos, Rose Garden, Saratoga, Sunnyvale and Willow Glen)	Jan. 3 and 10
Vietnam Daily News	Jan. 4 and 11

**BOARD OF DIRECTORS
SANTA CLARA VALLEY WATER DISTRICT**

RESOLUTION NO. 20-

**APPROVING MODIFICATION TO THE UPPER LLAGAS CREEK
FLOOD PROTECTION PROJECT OF THE SAFE, CLEAN WATER
AND NATURAL FLOOD PROTECTION PROGRAM**

WHEREAS, on July 24, 2012, the Board of Directors of the Santa Clara Valley Water District (Valley Water) adopted Resolution No. 12-62 Providing for the Continuation and Levy of a Special Tax to Pay the Cost of a Safe, Clean Water and Natural Flood Protection Program in the Combined Flood Control Zone of the Santa Clara Valley Water District Subject, Nevertheless, to Specified Limits and Conditions (Resolution No. 12-62); and

WHEREAS, the purpose of the special tax is to supplement other available but limited revenues to keep Valley Water's flood protection system of levees, channels, drains, debris basins, and other improvements in a safe and effective condition; to enable Valley Water to respond to emergencies; to perform maintenance and repair; to acquire, restore, and preserve habitat; to provide recreation; to conduct environmental education; to protect and improve water quality; and, to construct and operate flood protection storm drainage facilities; including in each case the cost of financing such activities; and

WHEREAS, in November 2012, Valley Water's Measure B was overwhelmingly approved by more than a two-thirds majority vote of the electorate of Valley Water, implementing a special tax, the proceeds of which are used solely for the purpose of supporting the five funding priorities of the Safe, Clean Water and Natural Flood Protection Program (Safe, Clean Water Program), which are as follows: Priority A: Ensure a safe, reliable water supply; Priority B: Reduce toxins, hazards, and contaminants in our waterways; Priority C: Protect our water supply from earthquakes and natural disasters; Priority D: Restore wildlife habitat and provide open space; and Priority E: Provide flood protection to homes, businesses, schools, and highways; and

WHEREAS, the Upper Llagas Creek Flood Protection Project (Project) is included under Priority E of the Safe, Clean Water Program; and

WHEREAS, the Safe, Clean Water Program describes the primary objective of the Upper Llagas Creek Project as follows: "Plan, design, and construct improvements along 13.9 miles of Upper Llagas Creek from Buena Vista Avenue in Gilroy to Llagas Road in Morgan Hill, including West Little Llagas Creek in downtown Morgan Hill."; and

WHEREAS, the Safe, Clean Water Program defines the Key Performance Indicator (KPI) for the Upper Llagas Creek Project as follows:

- "1. Preferred project with federal and local funding: Provide flood protection to 1,100 homes, 500 businesses, and 1,300 agricultural acres, while improving stream habitat; and

2. With local funding only: Provide 100-year flood protection for Reach 7 only (up to W. Dunne Avenue in Morgan Hill). A limited number of homes and businesses will be protected.”; and

WHEREAS, the Project has adequate funding to construct Reach 7 (comprised of Reaches 7a, and 7b), and meet the local funding only KPI #2, but the larger preferred Project (as described in KPI #1) is experiencing a funding shortfall and Valley Water is seeking external funding, such as from the United States Department of Agriculture, Natural Resources Conservation Service (NRCS), to complete the entire Project; and

WHEREAS, to maximize the efficacy of available secured funds, Valley Water’s Capital Improvement Program Committee recommended changing the reaches to be built with local dollars (KPI #2) to include constructing certain Project elements, including the high-flow underground bypass tunnel and a section of underground reinforced concrete box culverts (portion of Reach 8); and

WHEREAS, constructing the tunnel and portions of the proposed box culverts will fully utilize the remaining local funding; and

WHEREAS, before constructing Reach 7b (which is a portion of KPI #2), it is vital to construct downstream Reaches 4, 5, 6, and 7a to prevent induced flooding in lower reaches; and

WHEREAS, regulatory permitting agencies often insist on early mitigation for project impacts. The Project has received all regulatory permits and to satisfy various permitting agencies requirements, the construction of Lake Silveira wetlands, the Project’s on-site compensatory mitigation (originally not part of KPI #2), is currently underway; and

WHEREAS, the United States Department of Agriculture Watershed Protection and Flood Prevention Act (PL-566) authorizes NRCS to help local organizations and units of government plan and implement watershed projects; and

WHEREAS, the box culverts and bypass tunnel elements are ineligible for NRCS funding because they were not part of the PL 566 NRCS watershed plan for Llagas Creek, making it prudent for Valley Water to use local available funds to build these elements; and

WHEREAS, NRCS provides cost-share funding for yet-to-be constructed project elements, and, therefore, Valley Water plans to apply for NRCS funding to pay for constructing Reach 7b; and

WHEREAS, this approach keeps the Project moving forward, maintains the construction schedule for Project completion by December 2023 without inducing flooding downstream, maximizes the potential for external funding opportunities, and demonstrates improved collaboration with regulatory permitting agencies; and

WHEREAS, constructing the tunnel and sections of the proposed box culverts will fully utilize the remaining local funding, thus impacting the ability to fully construct Reach 7, specifically 7b, which is the current local-funding only KPI; and

WHEREAS, Valley Water desires to modify the Upper Llagas Creek Project KPI #2, increasing the length of the Project to be constructed by the available local funds from approximately 2.9 miles to approximately 4.9 miles, in addition to constructing the onsite compensatory mitigation; and

WHEREAS, Valley Water's Resolution No. 12-62 authorizes modifications to proposed projects. Paragraph J. reads as follows: "The Board of Directors may direct that proposed projects in the Safe Clean Water and Natural Flood Protection Program be modified or not implemented depending upon a number of factors, including federal and state funding limitations and the analysis and results of CEQA environmental review. The Board of Directors must hold a formal, public hearing on the matter, which will be noticed by publication and notification to interested parties, before adoption of any such decision to modify or not implement a project"; and

WHEREAS, at its special meeting conducted on December 17, 2019, Valley Water's Board of Directors set a time and place for a formal public hearing to occur on January 14, 2020, at which time the Board will consider Proposed Modification to the Upper Llagas Creek Flood Protection Project of the Safe, Clean Water and Natural Flood Protection Program.

NOW, THEREFORE BE IT RESOLVED by the Board of Directors of the Santa Clara Valley Water District as follows:

1. Pursuant to the requirements stated in California Government Code section 6066, staff prepared and published advertisements in Santa Clara County newspapers of general circulation.
2. Pursuant to the requirements stated in Valley Water's Resolution No. 12-62, Paragraph J. a noticed public hearing was held.
3. Modify the KPI #2 for the Upper Llagas Creek Project under Priority E, as set forth in the Safe, Clean Water Program, as follows:

"With Local funding only: Construct flood protection improvements along Llagas Creek from Buena Vista Avenue to Highway 101 in San Martin (Reaches 4 and 5 [portion]), Monterey Road to Watsonville Road in Morgan Hill (Reach 7a), approximately W. Dunne Avenue to W. Main Avenue (portion of Reach 8), and onsite compensatory mitigation at Lake Silveira."

4. Valley Water's Safe, Clean Water and Natural Flood Protection Program Category of Priority E, Provide Flood Protection to Homes, Businesses, Schools, and Highways Projects, Upper Llagas Creek Flood Protection Project, KPI #2, is hereby modified as stated in Exhibit A hereto, Modified KPI #2.

PASSED AND ADOPTED by the Board of Directors of the Santa Clara Valley Water District by the following vote on January 14, 2020:

AYES: Directors

NOES: Directors

ABSENT: Directors

ABSTAIN: Directors

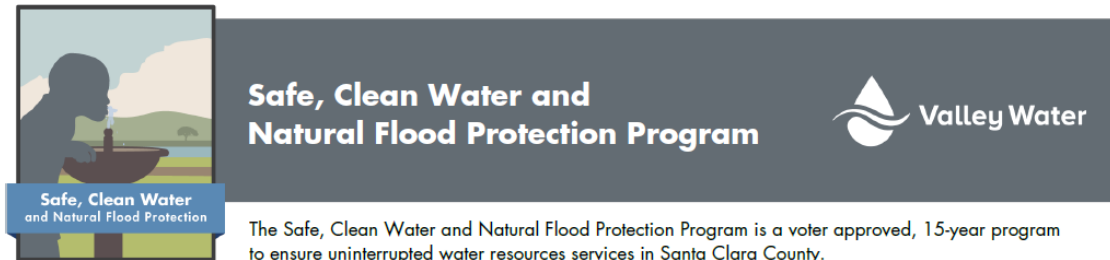
SANTA CLARA VALLEY WATER DISTRICT

Chair, Board of Directors

ATTEST: MICHELE L. KING, CMC

Clerk, Board of Directors

EXHIBIT A: Modified KPI #2



Project E6

Upper Llagas Creek Flood Protection Project Buena Vista Avenue to Wright Avenue – Morgan Hill, San Martin, Gilroy

Preferred project: A federal-state-local partnership

This project continues a Clean, Safe Creeks project in partnership with the U.S. Army Corps of Engineers (USACE) and the state to plan, design, and construct improvements along 13.9 miles of channel. The project extends from Buena Vista Avenue to Wright Avenue, including West Little Llagas Creek in downtown Morgan Hill. The federally authorized preferred project protects the urban area of Morgan Hill from a 1% (or 100-year) flood, and reduces the frequency of flooding in surrounding areas. Construction includes channel modifications and replacement of road crossings. Valley Water continues to work with Congress to aggressively pursue federal funds to bring this project to full fruition. In 2012, project limits were extended 2,700 feet upstream to Llagas Road to address public concerns.

Flooding History and Project Background

The area sustained damage in 1937, 1955, 1958, 1962, 1963, 1969, 1982, 1986, 1996, 1997, 1998, 2002, 2004, 2008, 2009, 2011 and 2017. In 2009, many businesses and residences in downtown Morgan Hill were flooded under 1 foot of water. The project builds on the planning, design and property acquisition initiated under the Clean, Safe Creeks plan of 2000.

Benefits

- Preferred project provides 1% flood capacity for 4 miles of channel in downtown Morgan Hill, protecting approximately 1,100 homes and 500 businesses
- Preferred project provides 10-year flood protection to approximately 1,300 agricultural acres in Morgan Hill, Gilroy and San Martin
- Locally-funded-only project provides 1% flood protection for a limited number of homes and businesses in Morgan Hill
- Improves stream habitat and fisheries
- Creates additional wetlands
- Improves stream water quality
- Identifies opportunities to integrate recreation improvements with the City of Morgan Hill and others as appropriate



Key Performance Indicators (15-year Program)

1. Preferred project with federal and local funding: Provide flood protection to 1,100 homes, 500 businesses, and 1,300 agricultural acres, while improving stream habitat.
2. With local funding only: Construct flood protection improvements along Llagas Creek from Buena Vista Avenue to Highway 101 in San Martin (Reaches 4 and 5 (portion), Monterey Road to Watsonville Road in Morgan Hill (Reach 7a), approximately W. Dunne Avenue to W. Main Avenue (portion of Reach 8), and onsite compensatory mitigation at Lake Silveira.

Geographic Area of Benefit: Morgan Hill, San Martin and Gilroy