



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Jon Cicirelli
Jacky Morales-Ferrand
Jim Shannon

SUBJECT: SEE BELOW

DATE: March 22, 2023

Approved

Date

3/24/23

**SUBJECT: AGREEMENT WITH SANTA CLARA VALLEY WATER DISTRICT FOR
COYOTE CREEK FLOOD PROJECTS**

RECOMMENDATION

- (a) Adopt a resolution authorizing the City Manager or designee to execute:
- (1) An Agreement between the City of San José and the Santa Clara Valley Water District to fund additional targeted, supportive services to individuals living along certain reaches of the Coyote Creek and to abate encampments within the work zone for the Coyote Creek Flood Management Measures and Coyote Creek Flood Protection Projects, in the amount of \$4,844,414 for an initial term through October 31, 2024, with one three-year option to extend through October 31, 2027; and
 - (2) An amendment to the Agreement to increase funding from the Santa Clara Valley Water District for targeted services during the initial term.
- (b) Adopt the following 2022-2023 Funding Sources Resolution and Appropriation Ordinance amendments in the General Fund:
- (1) Increase the estimate for Revenue from Local Agencies by \$2,906,648; and
 - (2) Establish the Coyote Creek Project Reaches 5-7 (Valley Water) City-Wide Expenses appropriation to the Parks, Recreation and Neighborhood Services Department in the amount of \$2,906,648.

SUMMARY AND OUTCOME

Santa Clara Valley Water District (Valley Water) is required to construct flood protection improvements along a nine-mile stretch of Coyote Creek between Montague Expressway and Tully Road. The Coyote Creek Flood Management Measures Project and Coyote Creek Flood Protection Project (Project) will provide protection from floods up to the level that occurred on

February 21, 2017, approximately a 5% (20-year) flood event.¹ The proposed work zone is encamped by many individuals experiencing homelessness who must be moved safely to begin construction, and new encampments must be prevented from establishing during the construction period. Valley Water has communicated an accelerated construction timeline starting June 2023, which is necessary for it to ensure work completion prior to regulatory prohibition of creek work in the fall. Due to the accelerated timeline and scale of the abatements required, the City of San José and Valley Water propose to enter into a funding agreement. As a result of this agreement, the City will be reimbursed for the cost to provide homeless outreach, abate and prevent the re-encampment of individuals within the work zone during the duration of the Project in an amount not to exceed \$4,844,414 through the initial term. Once the agreement is executed, the resulting abatements will remove property, and trash from the work zone. Prior to abatement, individuals experiencing homelessness will be provided outreach and street-based case management to support finding available shelter or temporary housing. If actual expenses exceed current estimates in the agreement, there is a 90-day period for negotiating prior to the depletion of funds.

BACKGROUND

After the 2017 Coyote Creek flood, Valley Water committed to significant flood improvements along the length of Coyote Creek. In 2020, the Federal Energy Regulatory Commission issued a directive to Valley Water to drain Anderson Dam to dead pool and rebuild/retrofit it to ensure seismic safety. The new retrofit project includes constructing a bypass tunnel that creates the possibility of downstream Coyote Creek areas being subject to flooding during construction. The Valley Water Flood Improvement Project is an important component of the overall Anderson Dam retrofit project—the larger retrofit cannot proceed without the bypass tunnel in place, and the bypass tunnel cannot open until the flood improvements are complete. To reduce the risk of flooding downstream, Valley Water must complete substantial flood improvements prior to the opening of the bypass tunnel.² Valley Water’s Flood Improvement Project spans nine miles of Coyote Creek, is divided into eight main reaches³, and two project phases (**Attachment** - Map of Reaches). Properties adjacent to Coyote Creek are owned by various property owners including Valley Water, the City of San José and private property owners.

The work includes constructing flood walls and other improvements along significant stretches of Coyote Creek on City of San José and Valley Water properties. These construction projects require individuals experiencing homelessness and vehicles to be removed from the work zone for their safety in preparation for, and during, construction. Based on visual assessments by Valley Water and BeautifySJ in recent months, there are an estimated 120 to 200 people and approximately 60 vehicles in the work zone. The actual numbers could be higher, and

¹ [https://www.valleywater.org/project-updates/creek-river-projects/E1-coyote-creek-flood-protection#:~:text=Coyote%20Creek%20Flood%20Management%20Measures%20Project%20\(CCFMMP\)%20will%20be%20constructed,is%20scheduled%20for%20the%20CCFMMP.](https://www.valleywater.org/project-updates/creek-river-projects/E1-coyote-creek-flood-protection#:~:text=Coyote%20Creek%20Flood%20Management%20Measures%20Project%20(CCFMMP)%20will%20be%20constructed,is%20scheduled%20for%20the%20CCFMMP.)

² Valley Water’s flood improvement projects along Coyote Creek will be conducted in two phases: the Coyote Creek Flood Management Measures Project is considered Phase I, and the Coyote Creek Flood Protection Project is considered Phase II. Collectively, these projects are referred to in this memo as the Valley Water Flood Improvement Project.

³ A “reach” is a term used in civil engineering that refers to a specified portion of the creek.

populations are known to fluctuate over time. The work required to humanely secure the construction area is substantial and important to ensure the personal safety of people immediately impacted by construction, as well as in the path of potential flooding in the future, which the improvements are intended to address. Senior leaders at the City were made aware of Valley Water's desire for support of its construction effort in late August of 2022. The City has negotiated a new funding agreement to specifically cover the Coyote Creek flood improvements, which includes the direct and necessary outreach services and connections to available shelter or temporary housing alternatives needed to safely move people and prevent them from returning to the active work zone.

The City and Valley Water have increased coordination and joint planning on areas of mutual interest including coordination on cleanups and unhoused encampments beyond Coyote Creek; purple pipe expansion; purified water supply expansion; sea-level rise/shoreline levee; trail and parks improvements; emergency interim housing sites; green stormwater infrastructure; Water Board coordination; joint emergency action plan; and grant opportunities. The breadth of these ongoing partnerships is substantial. This agreement is a manifestation of the deepened collaborative effort between Valley Water and the City.

ANALYSIS

The proposed funding agreement would provide the necessary City support to enable Valley Water to achieve its objective of completing a storm wall project as part of broader flood management plans. The City is supporting Valley Water's efforts by working with unhoused individuals in the work zone to protect their safety. Given the experiences of planning and budgeting for large-scale abatements and housing placements (e.g., Coyote Meadows, Spring/Hedding at Guadalupe Gardens), the proposed agreement includes necessary funds for joint abatement activities with Valley Water and homeless outreach and support services for which the City will contract with a non-profit service provider. The size of the work zone and the fluid nature of the residents living in the encampment, may result in either an increase or decrease in the actual work. If the actual number of unhoused individuals living in the work zone are more than the assumption, and costs for services are more than the estimate, the City and Valley Water will negotiate in good faith no later than 90 days before the funding account is anticipated to be depleted.

The Project is over a nine-mile stretch of Coyote Creek and existing service levels at both the City and Valley Water will benefit the Project area. The City anticipates spending approximately \$9.3 million in accordance with previously-authorized service levels for city-wide encampment trash service, homeless street outreach and interim housing and shelter over the Initial Term that could benefit individuals living in the Project area. Valley Water also provides unhoused encampment related services county-wide estimated to cost approximately \$4.68 million that will benefit the Project area. Finally, Valley Water will remit to the City \$4.8 million in this funding agreement for additional City and contracted services that will be reimbursed by Valley Water as described below.

The Valley Water Coyote Creek Flood Improvement construction projects will be phased. Phase I runs from June of 2023 through October of 2024. Phase II will likely begin construction in early 2025.

Phase I of the Valley Water Flood Improvement Project

Phase I – Location and Timeline

The funding agreement has an accelerated Phase I timeline due to state regulations limiting the period during which construction in the waterway can occur. These time constraints have caused Valley Water to seek the City's support with moving the unhoused individuals who currently reside in the work area. The City has learned through previous projects that this type of outreach, engagement, and support for unhoused individuals often takes multiple months to complete.

Phase I is scheduled for construction June 2023 – October 2024 and includes three reaches along portions of Coyote Creek (**Attachment** - Map of Reaches):

- Reach 5 – From the intersection of Corie Ct. & Oakland Rd. to Mabury Rd.
- Reach 6 – From Mabury Rd. through Watson Park
- Reach 7 – From the intersection of E. Santa Clara St. & S. 17th St. to Margaret St. & S. 16th St.

Phase I – Major Milestones

- April 2023 – City and Valley Water will engage unhoused individuals in the work area with advanced conversation and notice about upcoming construction project timing before direct outreach by homeless outreach workers begins.
- May 2023 – City will deploy homeless outreach workers. Engagement will focus on helping unhoused individuals move from the work zone and get connected to services, shelter, and housing.
- May 2023 – City teams will coordinate and conduct abatement activities with Valley Water to secure the work zone for the safety of unhoused individuals and to ensure the project can proceed.
- June 2023 – Valley Water's construction contractor will begin construction and there will be an absolute prohibition of re-entry to the work area for unauthorized personnel.

Phase I- Detail of Services Provided

Valley Water and the City want to ensure the safety of unhoused individuals living along work zones, which will have substantial heavy equipment and will be an active construction site. To that end, the entities have ensured adequate funding resources to collaborate on outreach, project execution, and ongoing coordination to maximize success of the overall project. The following are some of the types of support funded by the agreement with Valley Water. See the cost summary/implications section for a general breakdown of services and costs.

- The deployment of outreach⁴ will be required prior to the abatement of the site. Outreach will be conducted in English, Spanish, and Vietnamese for people experiencing homelessness in the work zone including;
 - Inform individuals about Projects and any other environmental or safety concerns.
 - Conduct Vulnerability Index - Service Prioritization Decision Assistance Tool surveys to determine housing options and evaluate immediate needs of individuals.
 - Develop a by-name list of individuals living in the work zone.
 - Provide separate bags for garbage and storable personal property.
 - Explain the process of how to retrieve personal belongings after abatement.
 - Provide referrals to available shelter and housing options if available. Individuals will be offered temporary housing assistance, specifically a time-limited rental subsidy, or one-time financial assistance/diversion. Existing funding will allow for residents living in the project areas to be offered beds at emergency interim housing locations if available.
- Abatement, trash, and vehicle removal
 - Sorting and storage of personal belongings of people.
 - Trash, vehicle and debris removal from the construction area.

As part of Phase I, the City has already begun providing general outreach and flexible support in the larger project area, and will develop a list of unhoused individuals who currently live along the work zone of the Valley Water Flood Improvement Project. The people who will be added to this list will be the only ones for whom the limited housing and storage resources noted above will be available; new unhoused individuals will be actively discouraged from moving into the work areas, not only for their personal safety, but also because limited available resources are only for the population currently living in the work areas.

Phase II of the Valley Water Flood Improvement Project

Phase II will likely begin construction in early 2025. In addition to paying for the work described in Phase I, the funding provided in part three of the agreement will also cover outreach and engagement in advance of Phase II construction activities. Although Phase II will not begin until early 2025, the City worked with Valley Water to enable City teams to begin outreach and engagement well in advance. Both agencies agree this preferred approach allows City staff or contract providers to build relationships with people who live in these areas and help connect them to resources, support, shelter and housing options well in advance of construction beginning.

⁴ Outreach is essential services for meeting the immediate needs of unhoused people such as referring them to emergency shelter, housing and/or emergency health services. These may include engagement, transportation, case management and related services, provision of financial support, emergency and/or limited duration housing if available.

Need for Funding Agreement – Competing Priorities

The City is working with Valley Water to execute this agreement for two reasons. First, the City does not have the resources to take on this unexpected work in support of Valley Water’s construction project. Second, the City has several competing priorities for its existing resources and cannot redeploy them to support this work without undermining existing operations and priority projects. One example is the successful award of the state Encampment Resolution Grant for the Safe Encampment Resolution Program. The City committed to deploy outreach and housing resources along a portion of the Guadalupe River that requires the use of existing contract outreach workers that cannot be redeployed to the Coyote Creek effort. In addition, the City provides services to sixteen Services, Outreach, Assistance and Resources sites across the City where unhoused residents receive sanitation, trash pickup services, and outreach support to get connected to resources. Although there is a small amount of flexibility for these resources, any redirection further strains the system and the City’s ability to respond to the needs that exist in many areas of the City. Moreover, due to the extreme weather and emergency in January of this year, the City’s limited resources were further compromised to quickly establish Evacuee Transition Facilities, which required redeploying Services, Outreach, Assistance and Resources outreach teams for this work.

The City contracts for a total of 63 outreach workers across multiple programs, but there are at least 4,975 unsheltered individuals at any point in time across all ten City Council Districts. While the County of Santa Clara also deploys outreach resources, these numbers reveal the dramatic imbalance and the need for new support for this Coyote Creek project.

EVALUATION AND FOLLOW-UP

Staff will provide an information memorandum within 90 days of the completion of Phase I of the Valley Water Flood Improvement Project that includes an analysis of success of the approach and lessons learned, including the effort to provide outreach, shelter, housing and support resources as well as Valley Water’s ability to complete the overall construction project.

COST SUMMARY/IMPLICATIONS

The Agreement identifies outlines services performed by the City and funded by Valley Water that specifically benefit the Valley Water Flood Improvement Project totaling \$4.8 million.

Service Provided by the City and Reimbursed by Valley Water	Service Provider	Cost
Coordination of abatement activities, personal property, and security efforts	City of San José (PRNS),	\$312,544
Unhoused Services, Support, Outreach, and limited duration housing options (including wrap-around services)	Contractor: HomeFirst	\$3,611,870
Trash Disposal (Cost of Dump Tags)	City of San José (PRNS)	\$100,000
San José Police Department (SJPD) Secondary Employment Unit – Initial Abatement	City of San José (SJPD)	\$100,000

Service Provided by the City and Reimbursed by Valley Water	Service Provider	Cost
Tow Officers	City of San José (SJPD)	\$50,000
Processing of Personal Property (Vendor)	City of San José (PRNS)	\$75,000
Conex boxes for storage of personal property	City of San José (PRNS)	\$20,000
Removing, towing, disposing of vehicles by City Tow Vendors	City of San José (PRNS, DOT, SJPD)	\$225,000
Installation and Repair of structural deterrents	City of San José (PRNS)	\$350,000
Total Amount for Reimbursement		\$4,844,414

Within 30 days of the Agreement’s effective date, Valley Water shall remit the first installment to the City in the amount of \$2,906,648, with the remaining \$1,937,766 due on or before October 30, 2023. Actions included in this memorandum recognize receipt and appropriation of the initial installment. The second installment will be recognized and appropriated during the 2023-2024 fiscal year. The City will provide Valley Water quarterly reports that confirm the actual costs incurred for the services 30 days after the end of each quarter: beginning September 30, 2023 through the term of this Agreement. The City will return any remaining balance within 60 days of the effective date of termination of the Agreement.

The estimated total funding of \$4.8 million required from Valley Water during the Initial Term is based on certain assumptions and is subject to change depending on actual conditions and cost of services. If the actual cost for services exceeds or will likely exceed the estimate before October 31, 2024, the City of San Jose and Valley Water agree to negotiate and execute an amendment to increase the funding, which would then be recommended for appropriation as part of a future budget action. The City shall provide Valley Water a minimum of 90 days-notice for an opportunity to negotiate an amendment before terminating services. The City reserves the right to suspend all services if both are unable to execute an amendment to pay for the cost to continue services.

BUDGET REFERENCE

The table below identifies the fund and appropriations recommended to be amended as part of this memorandum.

Fund #	Appn. #	Appn. Name	Current Appn.	Recommended Budget Action	2022-2023 Adopted Operating Budget Page	Last Budget Action (Date, Ord. No.)
001	R090	Revenue from Local Agencies	\$20,414,379	\$2,906,648	281	10/18/2022, 80717
001	NEW	Coyote Creek Project Reaches 5-7 (Valley Water)	N/A	\$2,906,648	N/A	N/A

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COORDINATION

This memorandum has been coordinated with the City Attorney's Office and Public Works Department.

PUBLIC OUTREACH

This memorandum will be posted on the City's Council Agenda website for the April 4, 2023 City Council meeting.

COMMISSION RECOMMENDATION AND INPUT

No commission recommendation or input is associated with this action.

CEQA

Statutorily Exempt, File No. ER23-051, CEQA Guidelines Statute and Guidelines Section 15269(c) Emergency Projects.

PUBLIC SUBSIDY REPORTING

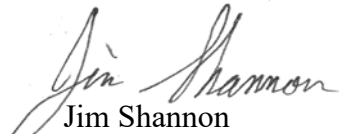
This item does not include a public subsidy as defined in section 53083 or 53083.1 of the California Government Code or the City's Open Government Resolution.

/s/

Jon Cicirelli
Director, Parks, Recreation and
Neighborhood Services

/s/

Jacky Morales-Ferrand
Director, Housing


Jim Shannon
Budget Director

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I hereby certify that there will be available for appropriation in the General Fund in the Fiscal Year 2022-2023 moneys in excess of those heretofore appropriated there from, said excess being at least \$2,906,648.

A handwritten signature in cursive script that reads "Jim Shannon".

JIM SHANNON
Budget Director

For questions, please contact Ragan Henninger, Deputy Director, Housing at ragan.henninger@sanjoseca.gov and Andrea Flores Shelton, Deputy Director, Parks, Recreation and Neighborhood Services at andrea.floresshelton@sanjoseca.gov.

ATTACHMENT:
Map of Project Reaches

ATTACHMENT- Map of Project Reaches

Map of Reaches 4-8 for the Valley Water Coyote Creek Flood Protection Project and Coyote Creek Flood Management Measure Project.

