



**Sonoma
Water**



MEMORANDUM

DATE: May 19, 2021

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SUBJECT: Suggested Actions for Green Valley Creek HMGP Grant

EXECUTIVE SUMMARY:

Sonoma Water and TPW staff respectfully recommend withdrawal of the Green Valley Creek project from the current FEMA grant, and that TPW and Sonoma Water share costs to fund design and environmental compliance. Factors uncovered during the early design phase have shown that the project as currently defined would result in higher than projected environmental, construction, and regulatory mitigation costs. Due to grant program constraints on project approvals, award amounts, and completion timeframes, the grant limits our ability to revise the design to reduce costs or to pursue better design approaches. The recommended approach will not slow down the overall project schedule.

Withdrawal of the current grant project will reduce Sonoma Water and TPW's financial risk associated with the insufficient grant funds that cannot support Phase 2 construction costs, which are 2.5 – 4 times higher than anticipated in the grant application. It will also allow TPW and Sonoma Water to produce a true "shovel-ready" project that is well-positioned for construction grant funding opportunities, with known construction costs, and design and environmental compliance completed, while removing grant-related constraints on the schedule and design options considered.

If this recommendation is accepted, Sonoma Water will delay the Board action associated with the engineering design contract. We will revise the summary to update the Board on the HMGP grant status and seek approval for the joint funding request by TPW and Sonoma Water.

BACKGROUND:

The Green Valley Hazard Mitigation Grant Program (HMGP) phased grant for flood mitigation and creek restoration at Green Valley Creek was awarded by CalOES and FEMA to Transportation and Public Works (TPW) on December 18, 2019 for Phase 1. The Phase 1 scope of work is for final project design of a previously selected alternative, environmental compliance, and labor for right of way. The deadline for Phase 1 is December 18, 2021. Phase 2, which includes right-of-way acquisitions and construction, would be considered for award following completion of Phase 1. TPW is the subrecipient of the grant, and Sonoma Water is the implementing agency for the project.

TIME EXTENSION AND BUDGETARY ISSUES:

Time Extension Issues:

The project is not on track to meet its December 18, 2021 Phase 1 deadline for multiple reasons:

- During the consultant RFP process, all bids received were significantly higher than the grant's budget for design and environmental compliance (environmental permitting and CEQA) services.
- Despite negotiations, the final design and permitting budget for the selected consultant is still significantly higher than the grant budget.
- Due to these higher costs, financial concerns stopped project progress as Sonoma Water evaluated Flood Zone 5A's financial capacity, and explored options with TPW to fund the local match and maintenance. This was resolved and the consultant contracting process resumed.
- The consultant recently determined that an Environmental Impact Report (EIR) would potentially be necessary for the selected alternative. This added \$200,000 to the consultant costs, and would further extend the schedule.
- At this point, the project is at least one year behind schedule for Phase 1.

Sonoma Water discussed these timeline concerns with CalOES in March 2021. At that time, CalOES indicated that a one-year time extension for Phase 1 would be possible, **but very unlikely**. This is for two reasons:

- CalOES and FEMA have been getting more stringent with accepting time extensions. They are less and less likely to approve them in general.
- Extending Phase 1 for one year would push it out to December 18, 2022. The Period of Performance for the DR-4308 HMGP funding source expires in April 2023. Thus, Phase 2 could not feasibly be constructed before April 2023, and federal approval of a time extension would be required for the entire DR-4308 HMGP funding source. This level of extension requires approval from FEMA Headquarters, and they are unlikely to approve these requests.

Furthermore, even if a one-year extension was approved, it is uncertain that the Phase 1 design and permitting deliverables could be completed by December 18, 2022, particularly if an EIR is necessary.

If a Phase 1 time extension is denied by CalOES, the only option available is to withdraw the project.

Budgetary Issues:

CalOES also explained that there are no additional funds in the DR-4308 HMGP funding source. Thus, there are no additional grant funds available to contribute towards higher Phase 1 or Phase 2 costs. Nevertheless, we are required to submit a budget change request to update CalOES on the new total Phase 1 cost, from increased consulting costs.

Furthermore, while construction costs still have a large contingency because design is only conceptual, our current construction estimates have increased significantly from the grant budget as well. Below are summaries of the updated Phase 1 and Phase 2 costs for this project.

Phase 1: Awarded Funds & Total Budgeted Costs

Phase I				
Grant Tasks	Grant Funds	Match Funds	Overhead Not Allowed Under Grant Project	Total Project Cost
Design	\$ 175,066	\$ 201,839	\$ 49,311	\$ 426,216
Environmental	\$ 150,246	\$ 453,123	\$ 26,430	\$ 629,799
Right-of-Way	\$ 35,971	\$ 11,991	\$ 37,129	\$ 85,091
Project Management	\$ 15,389	\$ 10,638	\$ 20,157	\$ 46,184
Total	\$ 376,672	\$ 677,591	\$ 133,027	\$ 1,187,290

NOTE: Total consultant costs for Phase I are estimated to be \$809,878, with \$313,228 in Design and \$496,650 in Environmental; this includes the potential cost of \$200,000 for an EIR. These costs are under Grant and Match funds in the above budget table.

Phase 2: Estimated Construction Costs

Total estimated construction costs are between \$2.2M and \$3.4M. This includes costs for construction, inspection, and project management. **Total estimated grant funding that we expect be awarded for Phase 2 construction is \$547,295.** This would leave \$1.65M to \$2.85M in costs to be covered by Sonoma Water and TPW.

Total Project Costs

The overall project cost, combining Phase 1 and Phase 2, is estimated to be between \$3.4M and \$4.6M. When accounting for grant funding, SCWA and TPW would have to cover between \$2.5M to \$3.7M in remaining project costs.

SUGGESTED ACTIONS:

Option 1: Withdraw Project and TPW & Sonoma Water Self-Fund the Design

Withdraw the HMGP Phase 1 grant. TPW and Sonoma Water share costs to self-fund design and environmental compliance. Consider pursuing another grant for construction once design and environmental work is complete. This option would involve preparing a cooperative agreement for Sonoma Water and TPW to fund the design and environmental compliance at Green Valley Creek.

The advantages of this option include:

- Eliminates the risk of CalOES/FEMA denying a time extension and forcing us to withdraw. It also avoids the risk of CalOES and FEMA deobligating the grant.
- Design and permitting can be completed on our own timing, without the constraints of the grant scope and deadlines. This will allow for design to consider broader design refinements or alternatives focused on achieving the best desired result, including potential reductions in construction and maintenance costs, and permitting requirements. A design may even be developed that doesn't require an EIR, which will save \$200,000 in environmental compliance costs.

- TPW & Sonoma Water can consider pursuing grant funds for construction once design is complete and costs are known. This would likely result in grant funds covering significantly more construction costs than the current grant could in Phase 2, due to lack of additional funds in the HMGP DR-4308 fund.
- Preserve more of Sonoma Water's Flood Zone 5A funds for future options at this site by eliminating grant administration and management related costs throughout design.

Option 2: Continue with Phase 1 grant project

Continue with HMGP Phase 1 grant project. Submit one-year Time Extension request. Submit budget change request.

Considerations related to this option include:

- If Time Extension is denied by CalOES, likely in Fall 2021, then: 1) Sonoma Water will most likely have incurred approximately \$200K in design costs for field studies and conceptual designs by Fall 2021, and 2) with no way to meet the grant deliverables by Dec 2021 we would be required to withdraw the project, or risk CalOES/FEMA deobligating the grant.
- If Time Extension is approved by CalOES, then Phase 1 would be extended to Dec 18, 2022. It is not guaranteed that final design and environmental compliance could be completed by then, especially if an EIR is required. So there is a possibility to need another time extension for Phase 1. After Phase 1 is complete, this scenario would require a DR-4308 Period of Performance extension at the federal level to complete Phase 2 after the April 2023 deadline. This is also not guaranteed.
- For the budget change request and project costs, CalOES explained that there are no additional funds available in the DR-4308 HMGP fund. Nevertheless, we are required to submit a budget change request to update them on the new total Phase 1 cost, with increased consulting costs. In the event of no additional grant funds, the total Phase 1 and Phase 2 costs shown above would be the responsibility of Sonoma Water and TPW. The \$1 million in local match that Sonoma Water has offered to contribute towards this project would deplete the Flood Zone 5A fund balance, limiting future flood control and stream maintenance options for this site and region.
- Sonoma Water and TPW need to finalize the two cooperative agreements that are being drafted. These agreements include: 1) agreement for TPW to pass grant funds through to Sonoma Water, and 2) agreement for TPW to share responsibility for the local match and maintenance costs.

Option 3: Withdraw Project and Continue Routine Maintenance

Withdraw the HMGP Phase 1 grant. Continue routine maintenance of existing channel.

Considerations related to this option include:

- Regulatory agencies have indicated they strongly recommend finding a long-term fix for this site.
- The recurrent and frequent flooding will worsen as sediment aggradation continues, exacerbating the existing public safety concerns.
- Each emergency fix will come with increasing mitigation requirements from regulatory agencies, as they intensify pressure to find a long-term fix.

- Fish stranding will continue during flood events, requiring fish rescue efforts from Sonoma Water.
- Road damage will continue during flood events, requiring repair from TPW.
- This option would also forfeit the time, effort, and costs already expended, including: completed RFP, negotiations with a selected consultant, refinement of design and environmental compliance requirements, identification of site opportunities and constraints.

CONCLUSIONS:

Sonoma Water and TPW staff respectfully recommend pursuing Option 1: Withdraw project from the current grant and share costs to fund the design and environmental compliance portions of the project.

The level of grant funds currently available are insufficient to support the higher Phase 1 and 2 project costs. The current estimated construction costs are 2.5 to 4 times greater than what the grant anticipated for Phase 2, and this grant's DR-4308 HMGP fund does not have additional funding to offer.

Advantages are to:

- Reduce Sonoma Water and TPW's financial risk associated with the insufficient grant funds that cannot support Phase 2 construction costs 2.5 – 4 times higher than anticipated in grant application.
- Produce a true "shovel-ready" project that is well-positioned for construction grant funding opportunities, with known construction costs, and design and environmental compliance completed.
- Remove unrealistic schedule constraints and limitations on design options imposed by the grant project's scope.
- Pursue design alternatives that will produce best possible results for flood control and potentially lower costs for permitting, construction, and long-term maintenance.

If this recommendation is accepted, Sonoma Water will also delay the Board action to authorize the execution of the engineering design contract with Interfluve, scheduled for May 25, 2021. We will revise the summary to update the Board on the HMGP grant status and seek approval for the joint funding request by TPW and Sonoma Water.