



Santa Clara Valley Water District

File No.: 17-0203

Agenda Date: 6/13/2017

Item No.: 3.6.

BOARD AGENDA MEMORANDUM

SUBJECT:

Notice of Completion of Contract and Acceptance of Work for the Lower Berryessa Creek Project, Phase 1, Brosamer & Wall, Inc., Contractor, Project No 40174004, Contract No. C0604 (Milpitas), (District 3).

RECOMMENDATION:

- A. Accept the work as complete; and
- B. Direct the Clerk of the Board to sign the Notice of Completion of Contract and Acceptance of Work and submit for recording to the Santa Clara County Clerk-Recorder.

SUMMARY:

The Construction Contractor, Brosamer & Wall, Inc., has completed the Lower Berryessa Creek Project, Phase 1 (Project). The construction contract was awarded by the Board on June 9, 2015 in the amount of \$12,186,600.00 with 10% contingency of \$1,219,000.00. The Project was completed on Dec 31, 2016 and the final contract amount is \$12,120,515.05 which is 0.5% less than the original contract award amount. Subject to any withholds required by law or the contract, acceptance of the work by the Board will allow for the release of \$1,212,051.51 in retention to the contractor.

The objective of the Project was to increase channel flood protection capacity and improve the ecology of the creek systems.

The Project included the following major items of work:

1. Raising of the left bank levee (facing upstream);
2. Construction and surfacing of a maintenance road on top of the raised left bank levee;
3. Channel widening through removal of the existing right bank levee and replacement with a cast-in-place concrete floodwall;
4. Construction and surfacing of a depressed maintenance road along the right bank flood wall with articulated concrete blocks (ACB); and
5. Construction of the cast-in-place concrete floodwall using cast-in-place concrete piles; and
6. Mitigation planting with tide habitat vegetation.

Previous Board Actions

On March 24, 2015, the Board approved the plans and specifications and authorized advertisement for bids for the construction of the Project. On June 9, 2015, the Board awarded the subject contract to Brosamer & Wall, Inc in the amount of \$12,186,600.00 and approved 10% contingency fund of \$1,219,000.00. The Board authorized the Chief Executive Officer or designee to approve individual change orders up to the total amount of the contingency

Contract Change Orders

One contract change order (CCO No. 01) was executed in March 2016 for this contract to address issues that occurred during Season 1 (Year 2015). CCO No. 1 included cost reduction for quantity adjustments and cost increases for water main repair, delays due to nesting birds, schedule catch-up, and water main protection. The net CCO No. 01 amount was zero. Another contract change order (CCO No. 1A) was executed in May 2017 for cost saving in the bid items including soil disposal to the Pond A8.

A final balancing change order (CCO No. 02) was executed in May 2017 to address all the issues that occurred during Season 2 (Year 2016). The final CCO No. 02 includes the cost increases of \$262,214.89 due to acceptable contractor-requested change orders; and District-requested Project betterment change orders. The staff-approved final CCO No. 02 resulted in \$262,214.89 payment to the Contractor. The net result was a final contract amount that was less than the original contract award amount.

Table 1 presents a summary of the construction contract and contingency amounts.

TABLE 1. SUMMARY OF CONSTRUCTION CONTRACT AND CONTINGENCY AMOUNTS

<u>Description</u>	<u>Contract Amount</u>	<u>Contingency Amount</u>
Original Contract (Board approved)	\$12,185,600.00	\$1,219,000.00
Change Order No. 1 (Staff approved)	\$0.00	\$1,219,000.00
Change Order No. 1A (Staff approved) Cost Savings in bid items	<\$328,299.84>	\$1,219,000.00
Final Change Order No. 2 (Staff approved)	\$262,214.89	\$1,219,000.00
Final Contract Amount and Remaining Contingency	\$12,120,515.05	\$1,219,000.00

Acceptance of the Work and Recording Notice of Completion Contract

The California Civil Code allows an owner or its agent to execute a Notice of Completion of Contract Acceptance of the work by the Board. The Notice of Completion of the Contract and Acceptance of all work is included in Attachment 1. The Designated Engineer has determined that the work has been completed, to the best of his knowledge, in accordance with the plans and specifications, and recommends acceptance. The Designated Engineer's recommendation of construction acceptance is included in Attachment 2. The Project Completion Letter is included as Attachment 3. Photos of the completed Project are included in Attachment 4.

Construction Contract Retention

California law requires the District to release contract retention in accordance with certain time frames, which will commence once the Notice of Completion is recorded. Interest payment on retention due to the contractor may be avoided by meeting the requisite deadlines.

The District is currently withholding retention funds totaling ten percent (10%) of the contract amount (\$1,212,051.51) in accordance with the Public Contract Code. Per the construction contract documents, the District is required to release retention funds associated with the contract 35 days after recording the Notice of Completion of Contract and Acceptance of Work, subject to any withholds required by law or the contract.

FINANCIAL IMPACT:

As indicated in the Summary of Construction Contract and Contingency Amounts (Table 1), the original contract amount of \$12,186,600.00 was decreased as a result of change order No. 1 and final change order No. 2 to the final contract amount of \$12,120,515.05, a reduction of 0.5%. The Project has been completed and no additional funding is recommended. The encumbered savings of \$66,084.95 together with the originally approved 10% contingency fund of \$1,219,000.00, results in a total of \$1,285,084.95 which is available to be transferred to the capital reserve funds.

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: Notice of Completion and Acceptance of Work

Attachment 2: Recommendation of Contract Acceptance
Attachment 3: Project Completion Letter
Attachment 4: PowerPoint
Attachment 5: Project Delivery Process Chart

UNCLASSIFIED MANAGER:
Ngoc Nguyen, 408-630-2632