



# Santa Clara Valley Water District

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**File No.:** 19-0186

**Agenda Date:** 3/26/2019

**Item No.:** 6.1.

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## BOARD AGENDA MEMORANDUM

### **SUBJECT:**

Budget Adjustment in the Amount of \$946,500 from Fund 26 Operating and Capital Reserves to Permanente Creek Flood Protection Project, and Amendments to Consultant Agreements A3932A and A3933A with Harris and Associates for Construction Management Services for the Permanente Creek Flood Protection Project - Rancho San Antonio Detention Basin and McKelvey Park Detention Basin (Project No. 26244001) (Cupertino and Mountain View) (Districts 5 and 7).

### **RECOMMENDATION:**

- A. Approve a budget adjustment transferring an amount of \$946,500 from Fund 26 Operating and Capital Reserves to the Permanente Creek Flood Protection Project;
- B. Approve Amendment No. 2 to Agreement A3932A with Harris and Associates to provide \$350,000 for additional construction management services for the Permanente Creek Flood Protection Project - Rancho San Antonio Detention for a new Not-To-Exceed Fee of \$2,503,362 and extend the Agreement term to March 31, 2020; and
- C. Approve Amendment No. 2 to Agreement A3933A with Harris and Associates to provide \$596,500 for additional construction management services for the Permanente Creek Flood Protection Project - McKelvey Park Detention for a new Not-To-Exceed Fee of \$3,899,521.

### **SUMMARY:**

Harris and Associates (Consultant) is performing construction management services for the Permanente Flood Protection Project detention basin elements being constructed at Rancho San Antonio County Park in the City of Cupertino and at McKelvey Park in the City of Mountain View. The overall Permanente Project protects approximately 2,200 parcels by implementing flood detention and channel improvement elements. Construction of both detention projects began in late 2016 and staff recommends amending both Agreements to provide for additional construction management services and archaeological support as construction progresses.

### **Consultant Agreements**

On January 26, 2016, the Board of Directors (Board) approved the original Agreements with the Consultant to perform the construction administration, construction management, and inspection-related services for the construction of the Rancho San Antonio (RSA) Detention for a “not-to-exceed” (NTE) amount of \$1,270,410 and the construction of the McKelvey Park (McKelvey) Detention for a NTE amount of \$2,769,851. On February 27, 2018, the Board approved an

Amendment No. 1 to each Agreement to provide for additional construction management services and archaeological support, increase the compensation NTE in the amount of \$882,952 for the RSA Detention and \$533,170 for the McKelvey Detention, and extend the Agreement terms.

An Amendment No.2 to each Agreement is now recommended to provide additional compensation for the firm to perform additional services as follows:

1. Perform additional inspection work on overtime due to an accelerated construction schedule
2. Manage additional submittals and contractor-Requests for Information
3. Evaluate additional potential change orders
4. Coordinate resolution of Notices of Potential Claims (NOPCs)
5. Increase supplemental services budget for additional archaeological support (RSA)

The recommendation is to increase the compensation NTE in the amount of \$350,000 for the RSA Detention Basin and \$596,000 for the McKelvey Detention Basin, and extend the RSA Agreement term.

### **Additional Construction Management Services**

Both basin projects are very complex as they involve large scale excavations and have many stakeholders. For the RSA location, the site is in a natural setting and requires close coordination with the environmental resource agencies (i.e., U.S. Fish & Wildlife Service, CA Department of Fish & Wildlife, U.S. Army Corps of Engineers (USACE), and Regional Water Quality Control Board). In addition, the site is on County of Santa Clara Parks land but is operated by the Midpeninsula Open Space District.

The McKelvey site is located very close to urban downtown Mountain View and involves the rebuilding of the City's little league fields in the detention basin. Extensive coordination has been required with the City, the utility company providers, and neighbors residing close to the Project. Those challenges have resulted in the expansion of the Consultant's scope and costs.

The following is a list of some of the unanticipated scope items for each project site that resulted in additional investigations and coordination between the Consultant, Designer, District, Construction Contractor, and other stakeholders:

#### *Rancho San Antonio*

1. Differences between the design topography, field topography, and Contract Documents direction regarding site earthwork volumes.
2. Discovery of septic tank, storm drain discharge, and five-foot wide timber water line.
3. Coordination of irrigation well re-drilling.
4. Grading/drainage discrepancies and pervious pavement condition in the constructed parking lot.
5. Issues with the hydroseeding of slopes.
6. Relocation of PG&E gas line that prevented the reconstruction of maintenance bridge and

detention basin inlet.

7. Archaeological discoveries during excavation and subsequent, ongoing permit process to resolve.
8. General project management: original construction award date was 10/11/16 with anticipated completion of improvements in nine months (Contractor estimated completion by 12/31/17); current estimate of project construction completion date is December 2019.

### *McKelvey Park*

1. Six months of delay by PG&E in relocating electrical overhead lines.
2. Issues with the installation of sheet piles and design modifications.
3. Additional City of Mountain View Building Permit requirements.
4. Low sand-equivalency in the placed structural backfill.
5. Managing changes to thirteen different traffic control and utility phases.
6. Extremely tight horizontal and vertical physical dimensions at the project site.
7. Due to changes in site conditions, design changes for rebar in retaining walls, pavement, sanitary sewer connection, interior lighting package, and fence fabric.
8. Field-verified differences between bid quantities and Contractor-submitted quantities.
9. General project management: original construction award date was 11/1/16 with anticipated completion of improvements in 15 months (Contractor estimated completion by 1/31/19); current estimate of project construction completion date is July 2019.

Based on the changes encountered during construction, the following additional services are provided for in the two Amendments:

### Rancho San Antonio Detention Construction Management Agreement A3932A, Amendment No. 2:

#### *Task 1-Construction Administration*

The Consultant will continue managing their services pursuant to the Agreement and all amendments thereto throughout construction and completion of the project. The impacts described above require coordination between multiple entities (i.e., District, County of Santa Clara Parks Department and the Department of Environmental Health, Midpeninsula Regional Open Space District, Gate of Heaven Cemetery, PG&E, the design services consultant firm Mott MacDonald, and subconsultant archaeological team CH2M/Jacobs); and extensive negotiations on costs and schedule with the construction contractor. An additional \$140,000 is recommended for this task.

#### *Task 3-Inspections, Special, and Specialty Inspections*

The increased scope and budget in this Task is mainly due to the additional work during the construction schedule extension. For the RSA Detention, the civil construction period has been extended for another year since Amendment No. 1 from December 2018 to December of 2019. The necessary additional budget to complete this task is \$160,000.

*Task 4-Supplemental Services*

The unforeseen archaeological finds occurred in May 2017 and additional funds were authorized per Amendment No. 1 to implement a Treatment and Monitoring Plan (Plan). However, work was halted in February 2018 when the United States Army Corps of Engineers (USACE) required additional coordination between the State Historic Preservation Office (SHPO) and the tribe's designated Most Likely Descendant (MLD) related to the archaeological discovery. At this time, the additional amount for revising the Plan and executing a Memorandum of Agreement with USACE is estimated to be \$50,000; the process is ongoing.

McKelvey Park Detention Construction Management Agreement A3933A, Amendment No. 2:

*Task 1-Construction Administration*

The Consultant will continue managing their services pursuant to the Agreement and all amendments thereto throughout construction and completion of the project. The impacts described above require coordination between multiple entities (i.e., District, City of Mountain View Public Works and Building Departments, PG&E, Comcast, the design consultant firm Mott MacDonald, and special inspection firm Berlogar Stevens and Associates) to evaluate changes and find solutions, and involve negotiations on costs and schedule with the construction contractor. The extensive amount of coordination is reflected in the documentation thus far. As of January 31, 2019, there have been 390 submittals, 304 Requests for Information, 107 change order proposals, and 5 Notice of Potential Claims; all quantities have exceeded the anticipated amounts. An additional \$265,500 is recommended for this task for McKelvey.

*Task 3-Inspections, Special, and Specialty Inspections*

The increased scope and budget in this Task is mainly due to the additional work during the construction schedule acceleration. To mitigate for the six months of PG&E delay, since October 2018, the contractor has extended their weekday work hours by two hours and began performing work on Saturdays. Therefore, overtime coverage by the inspector is necessary. The additional budget to complete this task is \$331,000.

**FINANCIAL IMPACT:**

The total additional cost for RSA Detention and McKelvey Detention Construction Management Agreements are \$350,000 and \$596,000, respectively. These amendments will increase the NTE compensation limits for the RSA Detention and McKelvey Detention Basins Construction Management Agreements to \$2,503,362 and \$3,899,521, respectively. A budget adjustment is required to fund these additional costs in FY19 and represents an increase in the total cost of the Permanente Project. Funds are available from Fund 26 Operating & Capital Reserves.

**CEQA:**

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

**ATTACHMENTS:**

Attachment 1: Amendment No. 2 Rancho San Antonio Detention Basin

Attachment 2: Amendment No. 2 McKelvey Park Detention Basin

**UNCLASSIFIED MANAGER:**

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