



# Santa Clara Valley Water District

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**File No.:** 19-0950

**Agenda Date:** 2/11/2020

**Item No.:** 3.1.

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## BOARD AGENDA MEMORANDUM

### **SUBJECT:**

Receive and Direct the Clerk to File the Notice of Completion of Contract and Acceptance of Work for the Uvas Creek Levee Rehabilitation Project Phase 2 (Construction Stage 1 - Milestones 1, 2 and 3), Odin Construction Solutions, Inc., Contractor, Project No. 62084001, Contract No. C0648 (Gilroy, District 1).

### **RECOMMENDATION:**

- A. Accept the Work on the Uvas Creek Levee Rehabilitation Project Phase 2 (Construction Stage 1 - Milestones 1, 2 and 3), Project No. 62084001, Contract No. C0648 as complete; and
- B. Direct the Clerk of the Board to sign the Notice of Completion of Contract and Acceptance of Work for Uvas Creek Levee Rehabilitation Project Phase 2 (Construction Stage 1 - Milestones 1, 2 and 3) and submit for recording at the Santa Clara County Clerk-Recorder.

### **SUMMARY:**

The Construction Contractor, Odin Construction Solutions, Inc. (Odin), has completed Construction Stage 1 (Milestones 1, 2 and 3)\* for the Uvas Creek Levee Rehabilitation Project Phase 2 (Project). On May 28, 2019, the Board awarded the construction contract in the amount of \$3,754,817 and approved a 10% contingency of \$375,482.

*\*Milestones 1, 2 and 3 include completing all required civil construction components of the project, including levee embankment reconstruction, chain link fabric installation over the finished slopes, restoration of the asphalt concrete trail, and hydroseeding of the finished slopes and constructed impacted areas.*

Construction Stage 1 of the Project was completed on November 25, 2019 and the final contract amount incurred for Construction Stage 1 is \$3,347,543. Subject to any withholds required by law or the contract, acceptance of the work by the Board will allow for the release of \$167,377 in retention to the Contractor.

Construction Stage 2 of the Project consists of the three-year planting establishment period and maintenance work of the Contract (Milestone 4), which commenced on November 26, 2019. One-hundred thousand dollars of the original Board awarded contract amount of \$3,754,817 has been encumbered in the original Contract to complete this stage of the Project.

### *Project Background*

The objective of the Project was to address the rodent damage along the inboard side of the levee of the U.S. Army Corps of Engineers' certified Uvas Creek Levee from Miller Avenue to end of Levee for 4,100 linear feet of the levee facility, and to minimize the threat of erosion to the impacted areas. In addition, 6,700 feet of trail access road was rehabilitated by re-construction of the asphalt pavement and shoulder.

The Project included the following major items of work:

1. Compliance with National Pollutant Discharge Elimination System Permit and Valley Habitat Plan, including Storm Water Pollution Prevention Plan preparation, and installation of Best Management Practices;
2. Clearing and grubbing within the project limits, including the removal of vegetation, and other miscellaneous items;
3. Levee excavation, reconstruction and replacement of unsuitable material, as required, in order to re-establish the channel as-built geometry;
4. Installation and anchoring of chain link fabric along the finished surface of the levee/embankment slopes;
5. Traffic control;
6. Establishment of construction staging areas;
7. Hydroseeding, with topsoil, of the finished levee surface;
8. Three (3)-year chain-link-fabric mesh maintenance and hydroseed establishment period;
9. Coordination of trail closure activities with the City of Gilroy and neighboring residential community;
10. Other miscellaneous construction work and items necessary to satisfactorily complete the work.

### *Construction Costs Summary*

One contract change order (CCO No. 01 FINAL) for \$48,810 was executed for this contract to 1) restore the trail to a better condition than pre-project condition, as agreed by the City of Gilroy (City) and Valley Water, which included deletion of regular and supplemental bid items pertinent to pre-project trail rehabilitation work, to arrive at a one lump sum payment to the Contractor; 2) reimburse the Contractor for delays due to the Gilroy Garlic Festival Shooting investigations; and 3) obtain credit from the Contractor for inspector overtime costs, per Contract.

The City reimbursed Valley Water the amount of \$185,865 for betterment of the trail pavement through a separate agreement, executed by both entities on October 17, 2019. Various cost reductions for quantity adjustments attributed to value engineering; non-implementation of supplemental bid items such as winterization for early termination of work, resulted in a net savings amount of \$407,274 less than the original contract award amount. **Therefore, the total savings, including net savings of the original contract and City's reimbursement (less the \$100,000 encumbered for Construction Stage 2), amounts to \$493,139. The contingency amount of**

**\$375,482 was not needed for this Project.**

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

**TABLE 1**  
**SUMMARY OF CONSTRUCTION CONTRACT AND CONTINGENCY AMOUNTS**

<b>Description</b>	<b>Contract Amount</b>	<b>Contingency Amount</b>
Original Contract (Board Approved)	<b>\$3,754,817</b>	<b>\$375,482</b>
Construction Stage 1 Civil Contract Work Items Performed (Milestones 1, 2 and 3)	<\$3,298,733>	
Construction Stage 1 CCO No. 1 FINAL (Staff approved)	<\$48,810>	
Construction Stage 1 Contract Amount and Contingency Used	< <b>\$3,347,543</b> >	<b>\$0</b>
Original Contract Remaining Amount	\$407,274	
Construction Stage 2, Three-year planting establishment and maintenance work (Milestone 4)	<\$100,000>	
City of Gilroy Trail Repairs Reimbursement	\$185,865	\$375,482
<b>Final Contract Cost Savings and Remaining Contingency</b>	<b>\$493,139</b>	<b>\$375,482</b>

***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 and Acceptance of the work by the Board. The Notice of Completion and Acceptance of 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 Contractor’s confirmation that Project Construction Stage 1 (Milestones 1, 2 and 3) have been completed is included in Attachment 2. The Project Completion Letter addressed to the Contractor from the District’s construction manager, confirming completion of the contract work, is included in Attachment 3. The Designated Engineer’s Recommendation of the construction work acceptance is included in Attachment 4. Photos of the completed Project are included as Construction Summary in Attachment 5.

***Construction Contract Retention***

California law requires Valley Water to release contract retention in accordance with certain time frames, which will commence once the Notice of Completion of Contract is recorded at the Santa Clara County Office of the Clerk-Recorder. Interest payment on retention due to the contractor may

be avoided by meeting the requisite deadlines.

Valley Water is currently withholding retention funds totaling approximately five percent (5%) of the contract amount for work performed including change orders (\$167,377), in accordance with the Public Contract Code. Per the construction contract documents, Valley Water 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:**

The Project Construction Stage 1 (Milestones 1, 2 and 3) has been completed and no additional funding is recommended. As indicated in Table 1, the original contract amount of \$3,754,817 was decreased to the contract amount of \$3,347,543 for the civil construction work (Milestones 1, 2 and 3). As described in the **Construction Costs Summary** section above, as part of Change Order No. 1, the City reimbursed Valley Water the amount of \$185,865 through a separate agreement, executed by both entities on October 17, 2019.

With the City reimbursement amount of \$185,865 and the remaining unspent encumbrance amount of \$407,274, less the \$100,000 encumbered for Construction Stage 2 of the Project for the three-year planting establishment and maintenance work (Milestone 4), the total project savings is \$493,139. This amount of \$493,139, together with the unused, but encumbered contingency of \$375,482, can be released to the Watersheds Asset Rehabilitation Program (WARP), Fund 12 budget, and be available to be spent for the other future WARP projects.

**CEQA:**

The recommended action does not constitute a project under California Environmental Quality Act 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/Acceptance of Work
- Attachment 2, Contractor Project Milestone Completion Letter
- Attachment 3, Project Completion Letter
- Attachment 4, Construction Contract Acceptance
- Attachment 5, Construction Summary
- Attachment 6, Project Delivery Process Chart

**UNCLASSIFIED MANAGER:**

Ngoc Nguyen, 408-630-2532