



# Santa Clara Valley Water District

File No.: 23-0129

Agenda Date: 1/24/2023

Item No.: \*3.1.

## BOARD AGENDA MEMORANDUM

Government Code Section 84308 Applies: Yes ☐ No ☒  
(If "YES" Complete Attachment A)

### SUBJECT:

Adopt Plans and Specifications and Authorize Advertisement for Bids for the Federal Energy Regulatory Commission (FERC) Order Compliance Project Coyote Percolation Dam Replacement Project, Project No. 91864009, Contract No. C0693 (San Jose) (District 1).

### RECOMMENDATION:

- A. Adopt Plans and Specifications and Authorize Advertisement for Bids for the FERC Order Compliance Project (FOCP) Coyote Percolation Dam Replacement Project, per the Notice to Bidders; and
- B. Authorize the Designated Engineer to issue addenda, as necessary, during the bidding process.

### SUMMARY:

The FOCP Coyote Percolation Dam Replacement Project (Project) is one of several Anderson Dam FERC Order Compliance Projects which are a set of interim risk reduction measures required prior to construction and operation of the Anderson Dam Seismic Retrofit Project. The objective of this Project is to minimize adverse impacts of groundwater recharge and increased creek flow velocity on aquatic resources by replacing the existing steel flashboard dam with a rubber bladder dam. The Project entails constructing a new dam foundation and rubber dam, a new control building to house the rubber dam air blowers, constructing erosion protection, and fish passage improvements to the existing fish ladder and downstream dam section.

Staff is recommending the Board approve the Project's final plans and specifications and authorize staff to advertise for construction bids.

### *Project Background*

Anderson Dam is under the jurisdiction of FERC and California Department of Water Resources, Division of Safety of Dams (DSOD) and must meet their dam safety design standards. FERC has jurisdiction over Anderson Dam safety measures and operations due to licensing a small hydroelectric facility on this reservoir.

---

Pursuant to FERC's authority, for public health and safety reasons, on February 20, 2020, Santa Clara Valley Water District (Valley Water) received an Order from FERC to immediately implement the following interim risk reduction measures: (a) immediately lower and maintain the reservoir operating level no higher than elevation 565 feet; (b) lower the reservoir to elevation 488 feet (deadpool) beginning no later than October 1, 2020, as safely and quickly as possible and maintain deadpool to the extent feasible; (c) immediately design and construct the low-level outlet tunnel (Anderson Dam Tunnel) to more reliably and quickly drawdown the reservoir after an earthquake and/or to better maintain deadpool during significant precipitation; and (d) implement the dam safety directives, including design and construction of the proposed low-level outlet, while securing alternative water supplies and working with FERC staff, and federal, state and local resource agencies to minimize environmental effects.

Pursuant to FERC's Order, Valley Water immediately restricted the reservoir operating level to elevation 565 feet; began defining the interim risk reduction measures; and initiated emergency consultation processes regarding adverse environmental impacts of these interim risk reduction measures with the regulatory agencies, as appropriate.

The FOCPP is a set of proposed interim risk reduction measures as set forth in the FERC Order during the interim time period prior to construction and operation of the Anderson Dam Seismic Retrofit Project (ADSRP). The FOCPP consists of four broad categories of actions. The Coyote Percolation Dam Replacement is part of Category IV. Avoidance and Minimization Measures.

The current Coyote Percolation Dam is a steel flashboard dam used to impound water in the Coyote Percolation Pond, an in-stream groundwater recharge pond along Coyote Creek located about 11 miles north of Anderson Dam. Operation of the proposed Anderson Dam Tunnel will increase flows above the safe operating capabilities of Coyote Percolation Dam; however, removing the dam altogether to accommodate higher flows would compromise Valley Water's ability to recharge the groundwater basins in this area. Groundwater is the main water supply source for the Coyote Valley and South San Jose residents in the Santa Teresa area. Groundwater recharge in the Coyote Percolation Pond is necessary to provide water supply reliability for these areas.

Valley Water proposes to replace the existing flashboard dam with an inflatable bladder dam that could quickly be raised when flows are low (to facilitate percolation) and then lowered to allow higher flows to pass safely. Completion of the bladder dam facilities would be required by May 2024, when the Anderson Dam Tunnel is anticipated to be finished, to minimize the impacts to water supply, groundwater recharge, subsidence, and aquatic species and habitats.

### ***Permits***

Staff has obtained regulatory permits for construction of the Project from the State Water Resources Control Board (Water Quality Certification), the U.S. Army Corps of Engineers (Section 404 of the Clean Water Act), and the California Department of Fish and Wildlife Services (Lake or Streambed Alteration Agreement).

Staff has been working with DSOD staff on their design review comments and is waiting for their final

---

approval. Based upon feedback from DSOD, Valley Water anticipates receiving DSOD's written approval of the Project design documents during the bid advertisement period. No construction contract will be awarded until DSOD's written approval of the Project design documents is received.

Contractor-obtained permits necessary for work within City of San Jose right of way are described in and required by the Contract Documents.

### ***Rights-of-Way***

All rights-of-way necessary for this Project have been secured. The Project is being constructed on Valley Water property and with land rights obtained from the County of Santa Clara.

### ***Board Adoption of Plans and Specifications and Addenda Authorization***

Board adoption of plans and specifications and Board authorization to advertise is needed to proceed to bid the Project for construction. Authorizing the Designated Engineer to issue addenda during the bidding allows for modifications to the construction Contract Documents, if necessary, during the bidding period and before the contract is awarded.

### ***Relevant Prior Board Action(s)***

On June 9, 2020, the Board adopted a resolution providing for the notice and time and place of Public Hearing on the Engineer's Report and CEQA Exemption determination for the Anderson Dam Federal Energy Regulatory Commission Order Compliance Project to occur on June 23, 2020, at 6:00 PM by teleconference Zoom meeting.

On June 23, 2020, the Board approved the CEQA emergency exemption determination for the FERC Order Compliance Project; adopted a resolution approving the Engineer's Report; and approved the Project.

### ***Public Outreach***

The Coyote Percolation Dam Replacement Project has incorporated noise and vibrating mitigating measures into the Contract Documents including requiring the contractor to adhere to stringent noise levels per City of San Jose Noise Ordinance, noise and vibration monitoring, and use quiet equipment. To ensure meaningful engagement of the community in the decision-making process, the staff held a public meeting with the community in October 2022. At that time, there were many questions that Staff answered in the meeting but no comments that affected the design from the community or stakeholders.

### ***Outreach to Bidders***

The Notice to Bidders will be sent to the following recipients: approximately 27 Builders Exchange plan rooms, 20 Chambers of Commerce and small business enterprise groups, approximately 500

contractors and local and regional firms that have the appropriate license for this type of work, and the Santa Clara and San Benito Counties Building and Construction Trades Council, which maintains contacts with at least 100 union representatives for distribution to their members and contractors.

### ***Water Infrastructure Finance and Innovation Act (WIFIA) Loan***

The United States Environmental Protection Agency (EPA) offers the WIFIA loan program to accelerate investment in our nation's water infrastructure by providing long-term, low-cost supplemental loans for regionally and nationally significant projects. Valley Water submitted a Letter of Intent (LOI) on September 8, 2022 to apply for WIFIA loan funding for the Anderson Dam Seismic Retrofit Project, including certain eligible portions of the FOCIP interim risk reduction measures (i.e. Coyote Percolation Dam). The EPA selected the projects on October 19, 2022 and Valley Water submitted the Loan application on December 6, 2022. The WIFIA loan package was approved by the Board on December 13, 2022 and is expected to be executed by February 2023.

The WIFIA loan package will help fund up to 49% of the Anderson Dam Seismic Retrofit Project and the Coyote Percolation Dam Replacement Project. In anticipation of the receipt of WIFIA loan funding, Valley Water is including the EPA's federal compliance requirements in the Project's Bid and Contract Documents, which include provisions regarding equal employment opportunity, drug free work policies, Davis-Bacon prevailing wage requirements, American Iron and Steel requirements, among others.

Valley Water staff has implemented an electronic system to identify and track compliance responsibilities for external funding sources such as grants and WIFIA loans. Staff has reviewed and confirmed all WIFIA loan requirements to ensure ongoing compliance with the loan terms and conditions.

### ***Supplemental Agenda Memo Attachments***

The Notice to Bidders will be provided with a Supplemental Board Agenda Memorandum to be distributed on Friday, January 20, 2023.

### ***Next Steps***

Upon Board approval of the recommendations, staff will proceed to advertise for bids for Project construction. The next Board action is award of the construction contract, tentatively scheduled for March 28, 2023. The Project Delivery Process chart (Attachment 3) highlights the current Project phase and the staff recommendations before the Board.

### **ENVIRONMENTAL JUSTICE IMPACT:**

The FOCIP Coyote Percolation Dam Replacement Project addresses water supply equity by ensuring a cost-effective, high-quality supply is available for all of Santa Clara County, including disadvantaged communities. Construction of the FOCIP Coyote Percolation Dam Replacement Project does not disproportionately impact underserved or disadvantaged communities.

**FINANCIAL IMPACT:**

There is no financial impact associated with the recommendation to Adopt Plans and Specifications and Authorize Advertisement for Bids. The FOCP Coyote Percolation Dam Replacement Project, Project No. 91864009 is part of the Anderson Dam Seismic Retrofit Project included in the Capital Improvement Program (CIP) Fiscal Year (FY) 2023-27 Five-Year Plan and in the FY 2022-23 Adopted Budget. The estimated construction contract cost is approximately \$11.5 million to \$13.3 million. Based on current estimates, there are adequate funds in the Project's Board-adopted FY2022-23 budget to encumber the planned expenditures for construction to be incurred during this fiscal year. Funds to cover the remaining anticipated construction costs will be included in the biennial budget process and recommended by staff during the annual fiscal year budget process or thorough budget adjustment(s), if needed.

The Project is funded through the Water Utility Enterprise Fund (Fund 61), with 81.9% of the costs allocated to North County Zone W-2, and South County Zones as follows; 7.9% allocated to Zone W-5 and 10.3% allocated to Zone W-7. A WIFIA loan package was approved by the Board on December 13, 2022 and is expected to be executed by February 2023. The WIFIA loan package will help fund the Anderson Dam Seismic Retrofit Project, including certain eligible portions of the FOCP interim risk reduction measures which includes the Coyote Percolation Dam Replacement Project.

**CEQA:**

CEQA provides a statutory exemption for emergency projects, which include specific actions necessary to prevent or mitigate an emergency (Public Resources Code §21080(b)(4) and CEQA Guidelines §15269(c)). After analysis of the facts and applicable law, on June 23, 2020, following a public hearing, the Board determined that the FOCP, inclusive of the Coyote Percolation Dam Replacement Project, qualifies for this exemption. Valley Water filed a Notice of Exemption with the County of Santa Clara Clerk/Recorder on June 29, 2020.

**ATTACHMENTS:**

- Attachment 1: Map
- Attachment 2: Project Delivery Process Chart
- Attachment 3: Plans
- Attachment 4: Specifications
- \*Supplemental Agenda Memo
- \*Supplemental Attachment 1: Notice to Bidders

**UNCLASSIFIED MANAGER:**Bhavani Yerrapotu, 408-630-2735

---

**File No.:** 23-0129

**Agenda Date:** 1/24/2023  
**Item No.:** \*3.1.

---