



Santa Clara Valley Water District

File No.: 17-0245

Agenda Date: 5/23/2017

Item No.: *3.7.

BOARD AGENDA MEMORANDUM

SUBJECT:

Notice of Completion of Contract and Acceptance of Work for the Lower Silver Creek Flood Protection and Creek Restoration Project, Reaches 4-5B (Plant Establishment Maintenance Phase), R&L Brosamer, Inc., Contractor, Project No. 40264008, Contract No. C0564 (San Jose) (District 6).

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, R&L Brosamer, Inc., has completed the three-year Plant Establishment Maintenance Phase for the Lower Silver Creek Flood Protection and Creek Restoration Project, Reaches 4-5B. The construction contract was awarded in the amount of \$25,952,000 and the final contract amount is \$28,806,755.41. Subject to any withholds required by law or the contract, acceptance of the work by the Board will allow for the release of \$5,354.48 in retention to the contractor.

Project Background

The objective of the Lower Silver Creek Flood Protection and Creek Restoration Project, Reaches 4-5B (Project) is to convey the 1 percent flood flows and improve stream habitat values. The Project reach extends approximately 5,200 feet between Interstate 680 and Story Road. This Project is the first segment of the Lower Silver Creek, Reaches 4-6 Project that the District is constructing in partnership with the Natural Resources Conservation Service. The District has received \$20.2 million for the Reaches 4-6 Project from a federal grant as part of the American Recovery and Reinvestment Act of 2009 to construct improvements along 2.3 miles of the creek. Completion of the Reaches 4-6 Project, together with future improvements planned by the District's Lake Cunningham project, will provide flood protection for a total of 3,800 parcels in the surrounding area.

The Project segment between Interstate 680 and Story Road includes the following elements:

- Channel excavation and embankment construction

- Construction of a maintenance road along the channel
- Concrete box culvert at Jackson Avenue
- Concrete box culvert addition at Capitol Expressway
- Replacement of the pedestrian bridge at Lyndale Avenue
- Flood walls
- Retaining walls
- Concrete-lined channel near Jackson Avenue
- Rock slope toe protection along the channel
- Revegetation planting and irrigation system
- Three-year plant establishment maintenance period

The Contractor has completed the three-year *Plant Establishment Maintenance Phase* of the contract which is the final element of the contract. The Board accepted the *Construction and Plant Installation Phase* of the contract in October 2014. This Board action is for the acceptance of the three-year *Plant Establishment Maintenance Phase*.

Previous Board Actions

On June 8, 2010, the Board adopted the plans and specifications and authorized advertisement for bids for the construction of the Lower Silver Creek Flood Protection and Creek Restoration Project, Reaches 4-5B.

On August 24, 2010, the Board awarded the subject contract to R&L Brosamer, Inc., in the amount of \$25,952,000 and approved a 15% contingency fund of \$3,892,800. The Board authorized the Chief Executive Officer (CEO) or designee to approve individual change orders up to the total amount of the contingency, with the Senior Project Manager/Senior Engineer and Deputy Operating Officer to approve individual changes up to \$30,000 and \$50,000 respectively.

On October 14, 2014, the Board accepted the Construction and Plant Installation Phase of the contract.

Contract Change Orders

During the Construction and Plant Installation Phase of the Project, a total of thirty-seven contract change orders totaling \$2,834,333.87 were executed for this contract to address various unforeseen field conditions, quantity adjustments, and owner requested items to provide benefit to the Project. As stated earlier, the Board accepted the Construction and Plant Installation Phase of the contract on October 14, 2014.

During the Plant Establishment Maintenance Phase of the Project, three contract change orders in the amount of \$20,421.54 were executed to address quantity adjustments and owner requested items to benefit the Project.

The final contract amount is \$28,806,755.41, which includes an increase of \$2,854,755.41 in contract

changes within the Board-approved contingency fund.

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

TABLE 1: SUMMARY OF CONSTRUCTION CONTRACT AMOUNT

Original Contract	\$25,952,000.00
Construction and Plant Installation Phase (accepted October 14, 2014):	
Change Order Nos. 01 to 37	\$2,834,333.87
Plant Establishment Maintenance Phase:	
Change Order No. 38 (Staff approved)	\$27,265.03
Change Order No. 39 (Staff approved)	\$5,135.66
Change Order No. 40 (Staff approved)	<\$11,979.15>
Final Contract Amount	\$28,806,755.41

As a result of the contract change orders, the Board-approved contingency amount was reduced from \$3,892,800.00 to \$1,026,065.44.

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 her 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 five percent (5%) of the Plant Establishment Maintenance Phase of the contract (\$5,354.48). 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:

The construction contract was awarded in the amount of \$25,952,000 and the final contract amount is \$28,806,755.41, an increase of 11 percent. The Project has been completed and no additional funding is recommended.

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/Acceptance of Work

Attachment 2: Recommendation of Contract

Attachment 3: Project Completion Letter

Attachment 4: PowerPoint

*Attachment 5: Project Delivery Process Chart

UNCLASSIFIED MANAGER:

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