



# Santa Clara Valley Water District

File No.: 17-0280

Agenda Date: 5/23/2017

Item No.: \*6.1.

## BOARD AGENDA MEMORANDUM

### SUBJECT:

Report of Bids Received and Award of Construction Contract to Robert A. Bothman Construction for Construction of Permanente Creek Flood Protection Project - Permanente Creek Channel Improvements, Project No. 26244001, Contract No. C0616 (Mountain View, Los Altos) (District 5).

### RECOMMENDATION:

- A. Consider the Third Addendum to the Final Subsequent Environmental Impact Report (Final Subsequent EIR) for the Permanente Creek Flood Protection Project;
- B. Ratify Addenda No. 1 through No. 3 to the Contract Documents for the Permanente Creek Flood Protection Project - Permanente Creek Channel Improvements Project;
- C. Award the Construction Contract to Robert A. Bothman Construction in the sum of \$7,027,917; and
- D. Approve a contingency sum of \$700,000 and authorize the Interim Chief Executive Officer or designee to approve individual change orders up to the designated amount.

### SUMMARY:

The Permanente Creek Flood Protection Project (Project) is part of the Safe, Clean Water Program. This Project protects approximately 2,200 parcels by implementing flood detention and channel improvement elements. The proposed Project utilizes two strategically located flood detention areas throughout the watershed to maximize flood protection benefits at an acceptable cost. The Project will be constructed through three separately bid sub-projects: Rancho San Antonio Detention Basin; McKelvey Park Detention Basin; and the Permanente Creek Channel Improvements. The construction contracts for Rancho San Antonio Detention Basin and McKelvey Park Detention Basin were awarded by the Board on October 11, 2016 and November 8, 2016, respectively.

#### Permanente Creek Channel Improvements

Moving from upstream to downstream, the Hale Creek Mountain View culvert will be replaced with a larger concrete box culvert. The existing Hale Creek concrete channel will be replaced with vertical-walled concrete channel from its confluence with Permanente Creek to 615 linear feet upstream. The U-shaped concrete channel on Permanente Creek will be deepened and enlarged from its confluence with Hale Creek to Mountain View Avenue. A Project Map is provided at

**Attachment 1.**

From US-101 north to Charleston Road, floodwalls will be constructed on the outboard (land) side of the levee crest and will extend two to four feet above the existing crest elevation. From Charleston Road to Amphitheatre Parkway, a dry swale between the existing levee and adjacent corporate building will be filled. Finally, approximately 500 feet of the existing levee will be raised two to three feet north of Amphitheatre Parkway.

On February 28, 2017, the Board adopted final plans and specifications for the Project and authorized staff to advertise for construction bids. Staff is recommending that the Board award the construction contract to Robert A. Bothman Construction for \$7,024,917. This construction work will create or sustain approximately 70 to 140 jobs in the community.

**Third Addendum to the Final Subsequent EIR**

Design of the Permanente Creek Channel Improvement Project has been updated from the version approved by the Board in November 2012, necessitating Board consideration before taking any further action on the Project. Based on updated hydraulics the height of the floodwalls and levee were increased up to 12 inches to comply with new sea level rise criteria.

Staff has determined that an addendum to the certified Final Subsequent EIR would be appropriate to evaluate the environmental impacts associated with the above described Project changes. At the time of publication of this memorandum, a Third Addendum to the certified Final Subsequent EIR is still being prepared. Staff will prepare a supplemental board agenda memo which includes the Third Addendum before the scheduled May 23 Board meeting.

**Addenda Ratification**

Three addenda (Attachment 2) were issued during the bid period to clarify the Project Contract Documents. To formally incorporate the addenda into the Project Contract Documents, staff recommends that the Board ratify the addenda.

**Contract Award**

A report of bids received at the bid opening for the Project on April 26, 2017 is summarized in Table 1, Bid Results. The apparent low bid was submitted by Robert A. Bothman Construction of Santa Clara, California (Bothman Construction). In accordance with the Bid Documents, all bids submitted will expire forty-five (45) days after the public bid opening.

Staff has reviewed the bid proposals and, for the reasons stated below, recommends the Board award the contract to Bothman Construction as the responsible bidder submitting the lowest responsive bid:

1. All bid entries and requirements in the proposal submitted by Bothman Construction are in order;

2. Bothman Construction's license is current, active and in good standing;
3. Bothman Construction has complied with the District's Small Business Enterprise (SBE) Outreach program; and
4. Bothman Construction is in compliance with the requirements of the California Labor Code §1771.1. Bothman Construction and its subcontractors are registered with the California Department of Industrial Relations and qualified to perform public works pursuant to Section 1725.5 of the Labor Code.

Table 1 - Bid Results

Company, Location	Bid Amount	Award Amount
Robert A. Bothman Construction	\$7,027,917.00	\$7,027,917.00
Granite Construction of Santa Clara, CA	Non-responsive	
Gordon N. Ball	\$7,815,925.00	
Brosamer & Wall, Inc	\$7,853,910.00	
Graniterock of San Jose, CA	\$9,098,320.30	
Shimmick Construction	\$9,124,489.80	
Sierra Mountain Construction	\$9,290,100.00	
Kiewit Infrastructure West Co. Of Fairfield, CA	\$9,295,390.00	
<b>Engineer's Estimate:</b> \$ 5,941,945.00		

There is a \$1.1 million difference between the lowest bid and the engineer's estimate. The discrepancy is mainly due to the bid items for mobilization and concrete removal/demolition. For mobilization, the cost for the Contractor to secure his own staging area exceeded staff's estimate. For concrete removal/demolition, the estimate was based on Caltrans information and did not account adequately for local conditions (i.e., limited access in the urban environment.)

### Contingency Funds

To allow staff to quickly address unforeseen or changed site conditions and other unanticipated occurrences, without causing unnecessary delays or consequential costs to the Project, staff recommends the Board approve a total contingency amount of \$700,000 which amounts to 10% of the contract award amount.

The contingency amount is estimated due to known and unknown risks, such as, concealed conditions and/or field conditions that may be different from the baseline or as-built information used in preparation of Project Contract Documents.

Approval of individual change orders for the Project will be made up to the designated amounts as

follows:

Engineering Unit Manager: \$100,000

Deputy Operating Officer: \$250,000

CEO: up to the total amount of the contingency

### **Outreach to Bidders**

As part of the District's customary small and local business outreach, the following routine steps were taken: the Notice to Bidders was sent to 20 minority business Chambers of Commerce and small business groups. In addition, the Notice was sent to certified small business contractors and local and regional firms that have the appropriate license for this type of work. The Notice was provided to the Santa Clara and San Benito Counties Building and Construction Trades Council, which maintains contacts with at least 500 contractors and 70 union representatives, for distribution to their members.

### **Public Outreach**

The District will use a variety of outreach approaches to keep the community informed of the Project progress and important milestones. During the Project's design phase, outreach tactics included numerous public meetings and mailed notices (

<http://www.valleywater.org/services/PermanenteMeetingsandnotices.aspx>) to collect input, a Project website (<http://www.valleywater.org/services/PermanenteCreek.aspx>), Project fact sheets for each work element, and media relations.

During construction, outreach will be targeted to the surrounding neighborhoods and include pre-construction and post-construction public meetings. In addition to the outreach tactics used during the design phase, construction phase outreach will include regular email updates and construction site signage.

### **Next Steps**

If the Board approves the recommendations, staff will proceed with administering construction of the Project. The construction work is anticipated to be completed in December 2018. Project Delivery Process Attachment 3 (Project Delivery Process Schematic) highlights the current Project phase and the staff recommendations before the Board.

### **FINANCIAL IMPACT:**

The total cost for the recommended construction contract of \$7,027,917, including the change order contingency sum of \$700K, is \$7,727,917. Funds in the amount of \$2,427,917 for the award of a construction contract are included in the Board adopted FY 2017 Budget, project #26244001. The remaining funds of \$4.5M have been requested in the FY 2018 Proposed Budget, and the remaining \$800K will be requested in the FY 2019 Budget.

---

**CEQA:**

On June 17, 2010, the Board considered the environmental effects of the Project as presented in the Environmental Impact Report (EIR) and adopted Resolution 10-58 certifying the June 2010 Final (EIR), Findings of Fact and Statement of Overriding Considerations, and adopting the Mitigation Monitoring and Reporting Program for the Project.

On November 20, 2012, the Board considered the environmental effects of the Permanente Creek Flood Protection Project as presented in the Final Subsequent Environmental Impact Report (FSEIR) and adopted Resolution 12- 76 certifying the FSEIR, Findings of Fact and Statement of Overriding Considerations, and adopting the Mitigation Monitoring and Reporting Program for the Project. The Board also approved the Permanente Creek Flood Protection Project.

On May 28, 2013, the Board considered an Addendum to the certified FSEIR and approved the Project changes relating to the McKelvey Park Detention Basin.

On October 11, 2016, the Board considered a second Addendum to the certified FSEIR and approved the Project changes relating to the Rancho San Antonio Detention Basin.

On May 23, the Board will be asked to consider a Third Addendum to the certified FSEIR before approving the proposed Project changes. As described above, the addendum will be provided to the Board before the scheduled Board meeting.

All the necessary permits and real estate acquisitions for the Project have been obtained.  
Attachment 3 is the Project Delivery Process Chart

**ATTACHMENTS:**

Attachment 1: Project Map  
Attachment 2: Addenda Nos. 1 through 3  
Attachment 3: Project Delivery Process Chart  
Supplemental Agenda Memo  
Supplemental Attachment 1

**UNCLASSIFIED MANAGER:**

Ngoc Nguyen, 408-630-2632