



Santa Clara Valley Water District

File No.: 17-0782

Agenda Date: 12/12/2017

Item No.: 5.1.

BOARD AGENDA MEMORANDUM

SUBJECT:

Reduction of Construction Contract Retention for the Wolfe Road Recycled Water Facilities Project, JMB Construction, Inc., Contractor, Project No. 91244001, Contract No. C0607 (Sunnyvale) (District 5).

RECOMMENDATION:

Authorize reducing the current construction contract retention of ten percent (10%) to five percent (5%), consistent with the minimum amount required by the California Public Contract Code.

SUMMARY:

The Board awarded the subject contract to JMB Construction, Inc. in the amount of \$8,868,584 on February 9, 2016. The physical construction of the Wolfe Road Recycled Water Facilities Project (Project) is complete. A reduction to the construction contract retention is recommended since substantially complex work is complete and the remaining work is of minimal risk, consisting of equipment training and submittal of closeout items. Taking this recommended action is consistent with statutory requirements.

Project Background

The Project is a partnership between the District, the City of Sunnyvale, California Water Service Company, and Apple, Inc. Its purpose is to expand the recycled water distribution system in the City of Sunnyvale and provide service to Apple's new campus in Cupertino (Apple Campus 2). The Project includes the construction of approximately 13,300 linear feet of 24-inch diameter recycled water pipeline, a booster pump station, and appurtenances. The recycled water pipeline was installed along Wolfe Road in the City of Sunnyvale from just south of Kifer Road to Homestead Road, where it connects to the Homestead Crossing pipe to deliver water to the Apple Campus 2 in Cupertino. The booster pump station is located on the City of Sunnyvale's San Lucar Pump Station site near the intersection of Kifer and Wolfe Roads.

Physical construction and testing of the pipeline, appurtenances and pump station are complete. The system is ready to provide water to the Apple Campus 2.

Construction Contract Retention

The California Public Contract Code requires public entities to withhold no less than five percent (5%) contract retention for public works construction contracts. Additionally, the code limits retention amounts to a maximum of 5% unless the governing body finds the proposed project is 'substantially complex' and requires contract retention greater than 5%. On November 10, 2015, the Board found that the Project was substantially complex and required construction contract retention of ten percent (10%). The District is currently withholding this amount.

The determination that the Project was 'substantially complex' was due to risks associated with the extensive number of existing utilities both in Wolfe Road and at the new booster pump station site, and the significant traffic control requirements and constraints required for the Project. The Contractor has completed all underground construction on the Project and no further traffic control is required. Furthermore, testing and startup activities for the Project are complete. Since the 'substantially complex' work is complete, the circumstances supporting 10% retention no longer exist.

The purpose of staff's recommendation to reduce retention at this time is to allow for release of \$459,105 of the total retention now instead of the contractor waiting until after the District's Board of Directors accepts the Project as complete to receive the full 10% of the contract price withheld. The District would continue to withhold the remaining 5% until 35 days after the Project is accepted by the Board and the Notice of Completion is recorded, subject to any withholds required by law or the contract. Taking this recommended action is consistent with statutory requirements.

Previous Board Actions

On November 10, 2015, the Board approved the plans and specifications and authorized advertisement for bids for the construction of the Project. Additionally, the Board found that the Project was substantially complex and required a construction contract retention of ten percent (10%).

On February 9, 2016, the Board awarded the subject contract to JMB Construction, Inc. in the amount of \$8,868,584 and approved a contingency fund of \$1,330,000. 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 and Deputy Operating Officer to approve individual changes up to \$100,000 and \$250,000 respectively.

Contract Change Orders

A total of three (3) staff-approved contract change orders totaling \$427,914.35 have been executed to date for this contract to address various issues, including unforeseen site conditions, unforeseen utility conflicts, District-requested changes, and design clarifications. The original contract amount of \$8,868,584 has been increased by \$427,914.35 to \$9,296,498.35, an increase of approximately 4.8 percent.

FINANCIAL IMPACT:

The recommendation does not result in a financial impact. The approved action reduces the contract

retention of 10% (\$918,210) to 5% (\$459,105) from funds due to JMB Construction, Inc. upon completion and acceptance of the contract.

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:

None

UNCLASSIFIED MANAGER:

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