



Santa Clara Valley Water District

File No.: 19-0806

Agenda Date: 11/10/2020

Item No.: 6.1.

BOARD AGENDA MEMORANDUM

SUBJECT:

Approve Amendment No. 3 to Agreement No. A3967A with Wood Rodgers, Inc. for Design Consultant Services for the Lower Penitencia Creek Improvements Project, Project No. 40334005, CAS No. 4680, Increasing the fee by \$455,132 for a Total Revised Not-to-exceed Fee of \$2,573,886 (Milpitas) (District 3).

RECOMMENDATION:

Approve Amendment No. 3 to Agreement No. A3967A with Wood Rodgers, Inc. (Consultant), for design consultant services for the Lower Penitencia Creek Improvements Project, increasing the not-to-exceed fee by \$455,132 resulting in a revised total not-to-exceed amount of \$2,573,886 and extending the Agreement term.

SUMMARY:

The Consultant is currently performing design services for the Lower Penitencia Creek Improvements Project (Project). The Project will increase capacity to allow Lower Penitencia Creek to convey the increased 1-percent flow from Upper and Lower Berryessa Creek Projects.

On May 24, 2016, the Board approved an agreement (Agreement No. A3967A) with Consultant for professional engineering design services for the Project for a not-to-exceed fee of \$2,118,754. The Agreement requires Consultant to prepare the plans, specifications, and cost estimates, and to provide bid and contract award support services. The original Agreement did not include construction phase engineering support and engineer-of-record services but stated that Valley Water may choose to negotiate an amendment for these services. The Project is currently at the final design stage and staff anticipates advertising the construction contract in January 2021 for construction to begin in June 2021.

Amendment No. 3 to this Agreement will increase the not-to-exceed fee by \$455,132 for the Consultant to provide engineering services during the construction phase of the Project. This Amendment was considered by the Capital Improvement Program (CIP) Committee on August 12, 2019, and they supported the full board approving staff's recommendation to approve. This Amendment was brought to the CIP Committee again on September 14, 2020 to provide an update on the Project. Since August 2019, staff worked on preparing the construction documents and

addressing City of Milpitas and California Department of Transportation (Caltrans) comments to obtain encroachment permits. The timing is now appropriate to amend the Agreement to add engineering support services during construction.

Project Background

The Lower Penitencia Creek Improvements Project begins just upstream of its confluence with Coyote Creek, and extends to San Andreas Drive, just upstream of its confluence with Berryessa Creek. The Project is located in the City of Milpitas and is approximately 1 mile long.

Berryessa Creek is a major tributary to Lower Penitencia Creek. Immediately east of Lower Penitencia Creek, Valley Water has two capital flood protection projects, the Upper Berryessa Creek Flood Risk Management Project and Lower Berryessa Creek Flood Protection Project. Completion of improvements along the Upper and Lower Berryessa Creek Projects will result in an increase to the 1-percent flow to Lower Penitencia Creek. Lower Penitencia Creek, in its existing condition, lacks capacity to convey the increased 1-percent flow.

The Upper Berryessa Creek Flood Risk Management Project (Calaveras Boulevard to I-680) was completed in 2018. Construction of the Lower Berryessa Creek Flood Protection Project (Lower Penitencia Creek to Calaveras Boulevard) began in 2015 and was completed in 2019. Together, the Upper and Lower Berryessa Creek Projects will protect 3,400 homes, businesses, and public facilities from the 1-percent flood event. Lower Penitencia Creek construction is necessary to convey the increased 1-percent flow from Upper and Lower Berryessa Creek Projects.

Consultant Work Performed to Date

The original design services Agreement with Wood Rodgers, Inc. for the Lower Penitencia Creek Improvements Project includes the following tasks:

- Task 1 - Project Management
- Task 2 - Data Collection and Investigations
- Task 3 - Basis for Design
- Task 4 - 30% Design Document Preparation
- Task 5 - 60% Design Document Preparation
- Task 6 - 90% Design Document Preparation
- Task 7 - Final Design and Specifications
- Task 8 - Bid and Award Services
- Task 9 - Supplemental Services

Task 1 is ongoing. Tasks 2-7 are complete. Work has not commenced on the scope of Task 8.

The budget of \$318,546 for Task 9, Supplemental Services, has been spent primarily to fund additional geotechnical investigations, hydraulic analyses, and design revisions in response to City of Milpitas and Caltrans comments. Supplemental Services were carefully scoped by staff and formalized in individual task orders. Expenditures for these task orders have been closely monitored and deliverables have been reviewed for timeliness and completeness.

Staff Management of Consultant Agreements

Staff has been monitoring and managing the Consultant's performance to meet the goals and terms of the Agreement. Bi-weekly progress meetings and monthly design meetings are held with the Consultant to assess progress of the Project. As generally required in all Valley Water consultant agreements, consultants must submit detailed monthly progress/status reports with their invoices. These reports are scrutinized by Valley Water staff before approval of any payment to the consultants.

Another requirement in Valley Water's consultant agreement is the preparation and implementation of an internal Quality Assurance and Quality Control (QA/QC) Plan by the Consultant for all deliverables transmitted to Valley Water. As part of the deliverable acceptance process, Valley Water also performs QA/QC review of all deliverables received from the Consultant for compliance with project scope, budget, and schedule.

Agreement A3967A Amendment History

On December 2, 2016, the CEO approved Amendment No. 1 to the Agreement to add additional Consultant Key Personnel Project role classifications and hourly rates to the hourly/unit rate table.

On April 17, 2019, the CEO approved Amendment No. 2 to the Agreement to extend its term from June 30, 2019 to December 31, 2020 to allow the Consultant sufficient time to complete the design and to provide engineering support during the anticipated schedule for the bidding process.

Amendment No. 3 to Consultant Agreement

Approving staff's recommendation to amend the design services Agreement will allow the Consultant to perform critical engineering support and engineer-of-record services during Project construction, as well as any Supplemental Services needed during the construction phase. A summary of the tasks and fees for the recommended Amendment No. 3 is presented in Table 1.

**Table 1. Summary of Wood Rodgers, Inc. Design Services Agreement
Tasks and Fees**

Task	Description	Original	Amendment No. 3	Total
1	Project Management	\$202,153		\$202,153
2	Data Collection and Investigations	\$519,002		\$519,002
3	Basis for Design	\$208,798		\$208,798
4	30 Percent Design Document Preparation	\$237,217		\$237,217
5	60 Percent Design Document Preparation	\$263,965		\$263,965

6	90 Percent Design Document Preparation	\$237,427		\$237,427
7	Final Design and Specifications	\$116,141		\$116,141
8	Bid and Award Services	\$15,505		\$15,505
9	Supplemental Services	\$318,546		\$318,546
10	Engineering Support During Construction		\$290,590	\$290,590
11	Supplemental Services During Construction		\$164,542	\$164,542
Total Not-to-Exceed Fees		\$2,118,754	\$455,132	\$2,573,886

NOTE: Amendment Nos. 1 and 2 were no-cost amendments

FINANCIAL IMPACT:

There are adequate funds in the Project's Board-adopted Fiscal Year 2021 budget to encumber the planned expenditures for the Consultant's scope of work as recommended in this Amendment No. 3. This action will not increase the overall Project cost.

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: Amendment No. 3

UNCLASSIFIED MANAGER:

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