



# Santa Clara Valley Water District

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**File No.:** 19-0882

**Agenda Date:** 11/12/2019

**Item No.:** 6.1.

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## BOARD AGENDA MEMORANDUM

### SUBJECT:

Approve a Budget Adjustment in the Amount of \$4,700,000, from Fund 26 Operating and Capital Reserves to the Permanente Creek Flood Protection Project - Rancho San Antonio Detention Basin, Project No. 26244001, for the Following Purposes: To Increase the Contract Contingency Fund in the Amount of \$3,000,000; To Provide \$1,450,000 Funding for In-House Engineering Support, Construction Inspection, and Contract Management Services; and To Provide \$250,000 Funding for Additional Native American Consultant Services; Approve the Increase to the Contract Contingency Fund; and Approve Amendment No. 1 to Agreement A4170G with Andrew Galvan (Cupertino) (Districts 5 and 7).

### RECOMMENDATION:

- A. Approve a Fiscal Year 2020 budget adjustment in the amount of \$4,700,000, from Fund 26 Operating and Capital Reserves to the Permanente Creek Flood Protection Project - Rancho San Antonio Detention Basin, Project No. 26244001, for the following purposes: to increase the contract contingency fund in the amount of \$3,000,000; to provide \$1,450,000 funding for in-house engineering support, construction inspection, and contract management services; and to provide \$250,000 funding for additional Native American consultant services;
- B. Approve an increase of \$3,000,000 to the construction contract contingency fund for Contract No. C0617 with Granite Construction Company; and
- C. Approve Amendment No. 1 to Agreement A4170G with Andrew Galvan increasing the not-to-exceed compensation limit by \$250,000, for a new Not-To-Exceed Fee of \$398,500 and extending the Agreement term to March 31, 2021.

### SUMMARY:

The Permanente Creek Flood Protection Project (Project) is part of the Safe, Clean Water and Natural Flood Protection Program (Safe, Clean Water Program). This Project protects approximately 2,200 parcels by implementing flood detention and channel improvement works. The Project utilizes two flood detention areas located strategically in the watershed to maximize flood protection benefits at an acceptable cost. The Project is being constructed through three separately bid sub-projects: Rancho San Antonio Detention Basin; McKelvey Park Detention Basin; and the Permanente Creek Channel Improvements.

On October 11, 2016, the Board awarded the Rancho San Antonio Detention Basin construction contract to Granite Construction Company (Granite) in the sum of \$14,432,479.45. The Board also approved a contingency sum of \$1,444,000 for any potential change orders.

During construction, the Project faced numerous challenges, such as delays associated with an existing PG&E gas line situated directly below the new concrete box culvert and concrete structure. Additionally, on May 11, 2017, unanticipated cultural resources were discovered during excavation activities. Project construction was subsequently shutdown from February 6, 2018 to June 20, 2019 for the United States Army Corps of Engineers (USACE) to complete consultation with the State Historic Preservation Officer (SHPO), the designated Most Likely Descendant, the County of Santa Clara Parks and Recreation Department (Rancho San Antonio Park is owned by the County), and Santa Clara Valley Water District (Valley Water), for treatment of cultural resources.

### ***Budget Adjustment***

A budget adjustment of \$4,700,000 is recommended to pay for completing Project construction. With the Project construction duration being extended due to various challenges, Valley Water has decided to have internal construction engineering staff, instead of continuing to have an external firm, provide primary construction management services for the remainder of the Project. Most of the funding remaining in the existing construction management agreement with Harris and Associates for the RSA Project will be reallocated from construction management and inspection tasks, to the environmental services task, in order to fund the increased quantity of services for archeology recovery monitoring during the extended construction period. The recommended budget adjustment includes \$1,450,000 to cover the cost of Valley Water staff providing construction management services. Additional costs for construction of the Project are anticipated as follows:

<b>Item</b>	<b>Amount</b>
1. Additional contingency budget for the construction contract with Granite Construction Company	\$3,000,000
2. Additional budget for Agreement A4170G with Andrew Galvan Native American consultant services	\$250,000
3. Additional budget for In-house staff to provide engineering support, construction inspection, and management of construction contract	\$1,450,000

### ***Contract Change Orders***

A total of ten (10) construction contract change orders totaling \$1,397,616.94 have been executed to address various issues, including unforeseen site conditions and Valley Water-requested

changes. Change orders No. 6 and No. 10 were the most significant change orders to date and are described below.

Change order No. 6 for \$328,000 included the global settlement for delays associated with finding an existing PG&E gas line located directly below the location of the construction of the new box culvert and control structure. The need to relocate this PG&E gas line resulted in the delay of the construction of the 84-inch inlet pipe, south basin work, box culvert and control structure. The contractor submitted a request for additional compensation for schedule and cost impacts associated with the delay. The construction management firm Harris and Associates (HA) and Valley Water staff negotiated with the contractor the cost and schedule impacts and agreed on the lump sum amount of \$328,000. Major cost items include overhead and facilities time extensions, inefficiencies in soil and equipment mobilization, and escalations with labor, equipment, and materials.

Change order No. 10 for \$665,000 included the global settlement for impacts to the south basin work caused by the shutdown of construction between February 6, 2018 and June 21, 2019 due to the unforeseen discovery of cultural resources. Valley Water staff negotiated with the contractor the cost and schedule impacts and agreed on the lump sum amount of \$665,000. Major cost items included acceleration of south basin construction to ensure completion by the in-channel permit deadline of October 15<sup>th</sup>, overhead and facilities time extensions, additional clearing and grubbing, and escalations with labor, equipment, and materials.

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

**TABLE 1. SUMMARY OF CONSTRUCTION CONTRACT  
AND CONTINGENCY AMOUNTS**

Item	Contract Amount	Contingency Amount
<b>Original Contract</b>	<b>\$ 14,432,479.45</b>	<b>\$ 1,444,000.00</b>
Change Order No. 1 (Staff approved 6/19/17) For additional Fiber Roll installation	\$ 15,591.11	<\$15,591.11>
Change Order No. 2 (Staff approved 6/19/17) For Woodrat relocation	\$ 4,258.74	<\$4,258.74>
Change Order No. 3 (Staff approved 6/29/17) For additional fence installation	\$ 1,185.61	<\$1,185.61>
Change Order No. 4 (Staff approved 9/21/17) For drainfield and parking lot changes	\$ 84,083.70	<\$84,083.70>
Change Order No. 5 (Staff approved 2/21/18) For PG&E power pole relocation and Biochar application in the north basin	\$ 97,646.07	<\$97,646.07>
Change Order No. 6 (CEO approved 3/01/18) Global settlement for PG&E delay	\$ 328,000.00	<\$328,000.00>

Change Order No. 7 (Staff approved 6/19/18) For archeological discovery support during May 2017 to February 2018	\$ 99,389.86	<\$99,389.86>
Change Order No. 8 (Staff approved 7/25/18) Stilling basin dewatering, Gate of Heaven Memorial Day access	\$ 67,657.89	<\$67,657.89>
Change Order No. 9 (Staff approved 6/19/19) For septic tank removal and installation	\$ 34,803.96	<\$34,803.96>
Change Order No. 10 (CEO approved 8/19/19). Global settlement for S. basin work due to the archeology shutdown	\$ 665,000.00	<\$665,000.00>
<b>Total Change orders</b>	<b>\$1,397,616.94</b>	<b>&lt;\$1,397,616.94&gt;</b>
<b>Current Contract Amount and Remaining Contingency</b>	<b>\$ 15,830,096.39</b>	<b>\$ 46,383.06</b>
Contingency Amount Increase (pending Board Approval)		\$ 3,000,000.00
<b>Proposed Final Contract Amount and Remaining Contingency</b>	<b>\$ 15,830,096.39</b>	<b>\$ 3,046,383.06</b>

***Additional Contingency Budget for the Construction Contract No. C0617 with Granite Construction Company***

The issuance of 10 Contract Change Orders brought the total value of the contract up from \$14,432,479.45 to \$15,830,096.39, by utilizing 97 percent of the contingency fund of \$1,444,000.00.

During construction, several unforeseen issues have arisen that will require additional contingency funds to pay for change orders necessary to complete the work. These include:

- Unforeseen Discoveries of Cultural Resources including:
  - Sensitivity of cultural resources training
  - Providing operators, laborers and equipment in support of cultural resources treatment work
- North Basin schedule impacts due to 16 months of construction shutdown including:
  - North basin escalation costs and remobilization
  - Contractor extended overhead beyond January 1, 2020
  - North Basin clearing and grubbing

- Off-hauling of soil from the cultural resource area
- Excavation and finish grading inefficiencies
- Maintenance of storm water best management practices/winterization
- Unanticipated Biological Efforts including:
  - Biological monitoring of the north and south basin
  - Relocation of California Red Legged Frogs in the north basin
  - Installation of animal exclusion fences
  - Dewatering of the north basin
  - Shutdown of concrete pour by California Department of Fish and Wildlife (CDFW)
- Changes Necessary to Address Site Conditions and Utility Conflicts including:
  - Demolition and modifications of an irrigation well
  - Installation of the adjacent cemetery's PG&E gas line
  - Removal and reinstallation of culvert pipe in north basin slope
  - Removal of invasive species during delay

Since the contingency is almost fully expended, staff is recommending Board approval to add \$3,000,000 to the construction contingency amount. An increase of \$3,000,000 in contingency funding will result in a total construction contingency of \$4,444,000 or 31% of the original contract amount.

***Additional budget for Agreement A4170G with Andrew Galvan Native American consultant services***

Construction of the detention basin at Rancho San Antonio Park in the City of Cupertino began in late 2016. In May 2017, a discovery of cultural resources determined to be prehistoric Native American in origin was made at the Rancho San Antonio Project site during Project excavation activities. Pursuant to applicable state laws, the California State Native American Heritage Commission (NAHC) was contacted and they subsequently appointed Mr. Andrew Galvan of the Ohlone Indian Tribe as the Most Likely Descendant (MLD).

In August 2018, Valley Water entered into a consultant agreement with Andrew Galvan to provide Native American consultant services for the Permanente Creek Flood Protection Project. The schedule for Project completion has been delayed due to the complex nature of the Project and a

number of unanticipated circumstances including cultural resource discoveries and the time necessary for the related federal regulatory process to be completed. Additional budget is necessary to implement the recovery, treatment, documentation, and reporting of cultural resources as approved by SHPO. Therefore, staff recommends amending the Agreement to extend its term and increase the not-to-exceed compensation limit by the amount of \$250,000 for additional archaeological monitoring and supplemental services, if needed, as construction progresses. The proposed Amendment No. 1 to the Agreement will extend the Agreement term and increase the not-to-exceed compensation to a revised total amount of \$398,500.

**FINANCIAL IMPACT:**

The recommended budget adjustment would transfer \$4,700,000 from the Safe, Clean Water Program Fund 26 Operating and Capital Reserves to the Permanente Creek Flood Protection Project - Rancho San Antonio Detention Basin, Project No. 26244001, increasing the total project cost. There are adequate funds in the Safe, Clean Water Program Fund 26 Operating and Capital Reserve to fund the recommended budget adjustment; however, the budget adjustment will decrease the Safe, Clean Water Program's approximate \$12,000,000 surplus projected for the end of the Program in Fiscal Year 2028.

**CEQA:**

The recommended action does not constitute a project under CEQA because it does not have the potential for resulting in direct or reasonably foreseeable indirect physical change in the environment.

**ATTACHMENTS:**

Attachment 1: Amendment No. 1

**UNCLASSIFIED MANAGER:**

Ngoc Nguyen, 408-630-2632