



# Santa Clara Valley Water District

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**File No.:** 20-0029

**Agenda Date:** 2/11/2020

**Item No.:** 3.2.

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## BOARD AGENDA MEMORANDUM

### **SUBJECT:**

Receive and Direct the Clerk to file the Notice of Completion of Contract and Acceptance of Work for the Permanente Creek Flood Protection Project - McKelvey Park Detention Basin Project (Stage 1), Kiewit Infrastructure West Company, Contractor, Project No. 26244001, Contract No. C0616 (Mountain View) (District 7).

### **RECOMMENDATION:**

- A. Accept the work as complete for the Permanente Creek Flood Protection Project - McKelvey Park Detention Basin Project (Stage 1), Project No. 26244001, Contract No. C0616; and
- B. Direct the Clerk of the Board to sign the Notice of Completion of Contract and Acceptance of Work for Permanente Creek Flood Protection Project - McKelvey Park Detention Basin Project (Stage 1) and submit for recording to the Santa Clara County Clerk-Recorder.

### **SUMMARY:**

The construction contractor, Kiewit Infrastructure West Company of Fairfield, California (Kiewit), has completed Stage 1 (Milestones 1 and 2) of the Permanente Creek Flood Protection Project - McKelvey Park Detention Basin Project. The construction contract was awarded in the amount of \$28,105,969 and the current contract amount is \$29,591,833.43. Subject to any withholds required by law or the contract, acceptance of the work by the Board will allow for the release of \$1,440,035.02 in retention to the Contractor.

For this construction contract, Milestone 1 is all work required for the opening of the two baseball fields. Milestone 2 is to complete all civil work improvements, including obtaining approvals from City of Mountain View Public Works and Building Department for items owned by the City of Mountain View. Remaining work for the project includes Stage 2, completion of a six-month landscape maintenance period.

The McKelvey Park Detention Basin Project constructed certain recreational improvements on Valley Water land as part of the Permanente Creek Flood Protection Project for the benefit of the City of Mountain View (City) to provide public recreational access to Valley Water lands. The City desires to assume ownership, operation and maintenance responsibility for these recreational improvements.

### ***Project Background***

The Permanente Creek Flood Protection Project is part of the Safe, Clean Water and Natural Flood Protection Program. When completed, the project will protect 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 currently under construction through three separately bid contracts at various stages of completion: Rancho San Antonio Detention Basin; McKelvey Park Detention Basin; and the Permanente Creek Channel Improvements. The construction of the Permanente Creek Channel Improvements Project was accepted by the Board on April 9, 2019, and construction of the Rancho San Antonio Detention Basin is currently in progress and is anticipated for completion in late 2020.

The objective of the McKelvey Park Detention Basin Project (Project) is to construct a flood detention basin at McKelvey Park. The park has been excavated and lowered approximately 15 feet utilizing concrete retaining walls and sheet piles, and is connected to the Permanente Creek channel. The playing fields were restored at the new lowered ground level, and new facilities such as bleachers, dugouts, bullpens, and batting cages were constructed. Other new park amenities include a mini-park, pedestrian bridge, concession and meeting room buildings, scorekeepers' booth, storage room, restrooms, and LED ballfield lights.

Flows higher than approximately the 50-year flood event will spill into the detention area for temporary storage. Once the peak flows pass, the stored flood water will drain back into Permanente Creek by gravity flow and through pumping. Low-flow pumps have been installed in a wet-well adjacent to the inlet structure.

The Contractor has completed Stage 1 (Milestones 1 and 2) of the Project's construction contract. Stage 2 includes landscape and revegetation establishment maintenance work required of the contract and is scheduled for completion in April 2020.

This Board action is for the acceptance of Stage 1 (Milestones 1 and 2) of the contract. Staff will recommend a separate Board action to accept the completion of the contract (Stage 2) after the landscape and revegetation establishment maintenance phase of the contract is completed.

### ***Previous Board Actions***

On August 9, 2016, the Board adopted the plans and specifications and authorized advertisement for bids for the construction of the Project.

On November 8, 2016, the Board awarded a contract to Kiewit Infrastructure West Company in the amount of \$28,105,969.00 and approved a contingency fund of \$2,810,000.00 for construction of the Project. 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 Engineering Unit Manager and Deputy Operating Officer to approve individual changes up to \$100,000 and \$250,000, respectively.

### ***Construction Costs Summary and Contract Change Orders***

A total of nineteen (19) contract change orders totaling \$1,485,864.43 have been executed to date for this contract to address various issues, including unforeseen site conditions and utilities, Valley Water -requested changes, neighborhood concerns, and post-design clarifications.

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

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

	<b>Contract Amount</b>	<b>Contingency Amount</b>
<b>Original Contract</b>	<b>\$28,105,969.00</b>	<b>\$2,810,000.00</b>
Change Order No. 1 (staff approved) PG&E delay initial inefficiency cost	\$100,000.00	<\$100,000.00>
Change Order No. 2 (staff approved) Load/unload/store steel piles at San Joseph's School	\$46,322.98	<\$46,322.98>
Change Order No. 3 (staff approved) Remove unknown transit pipe, sheet pile subcontractor remobilization cost	\$80,629.16	<\$80,629.16>
Change Order No. 4 (staff approved) Kiewit support for sheet pile subcontractor remobilization	\$59,237.30	<\$59,237.30>
Change Order No. 5 (staff approved) Additional telecom boxes and conduits	\$55,555.47	<\$55,555.47>
Change Order No. 6 (staff approved) Delay cost for sheet pile installation	\$55,000.00	<\$55,000.00>
Change Order No. 7 (staff approved) Park Drive sewer conflict with existing storm drain and gas line conflict with waterline	\$93,312.00	<\$93,312.00>
Change Order No. 8 (staff approved) Light pole lead testing, rock road winterizing, and extended work hours' premium for July thru October 2018.	\$37,811.00	<\$37,811.00>
Change Order No. 9 (staff approved) 60" RCP field collar tie-ins, broken irrigation line repair, and City Building Department permit shut down	\$45,872.04	<\$45,872.04>
Change Order No. 10 (staff approved) Staff premium cost and craft subsistence for November 2018, January 2019 Partnering meeting cost.	\$85,098.60	<\$85,098.60>
Change Order No. 11 (staff approved) Staff premium cost and craft subsistence for December 2018 and January 2019.	\$86,782.71	<\$86,782.71>

Change Order No. 12 (staff approved) Staff premium cost and craft subsistence for February 2019, February Partnering cost.	\$61,040.22	<\$61,040.22>
Change Order No. 13 (staff approved) Staff premium cost and craft subsistence for March 2019, March Partnering cost, added manhole at Miramonte Avenue, added fire service at Mountain View Avenue, and water proofing buildings.	\$145,072.43	<\$145,072.43>
Change Order No. 14 (staff approved) Staff premium cost and craft subsistence for April 2019.	\$50,194.71	<\$50,194.71>
Change Order No. 15 (staff approved) Staff premium cost and craft subsistence for May 2019, and design clarification/changes costs.	\$122,369.89	<\$122,369.89>
Change Order No. 16 (staff approved) Design clarification/changes costs, and decorative screen.	\$93,376.09	<\$93,376.09>
Change Order No. 17 (staff approved) Additional handrails, bio-retention and landing curb design changes, Channel Improvement Project impact on RW#2	\$99,385.67	<\$99,385.67>
Change Order No. 18 (staff approved) Relocating the utility lines under City sidewalk, Light poles relocation, sewer line modification, anti-theft for speakers	\$84,092.61	<\$84,092.61>
Change Order No. 19 (staff approved) Additional structural backfill costs and additional PG&E work.	\$84,711.55	<\$84,711.55>
<b>Current Contract Amount and Remaining Contingency</b>	<b>\$29,591,833.43</b>	<b>\$1,324,135.57</b>

### ***Acceptance of the Work and Recording Notice of Completion of Contract***

The California Civil Code allows an owner or agent to execute a Notice of Completion of Contract after acceptance of the work by the Board. The Notice of Completion of Contract and Acceptance of Work is included in Attachment 1. The Designated Engineer has determined that the work has been completed, to the best of his 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 Valley Water 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.

Valley Water is currently withholding retention funds totaling five percent (5%) of the contract items associated with Milestones 1 and 2 in accordance with the Public Contract Code. Per the construction contract documents, Valley Water is required to release retention funds associated

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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.

Recording a Notice of Completion is recommended for Stage 1 (Milestones 1 and 2). A final Notice of Completion will be recommended once remaining work for Stage 2, revegetation establishment maintenance phase, is complete.

### ***Outstanding Construction Claims to be Resolved After Board Acceptance of Completed Work***

The Contractor has submitted a number of notices of potential claims with an estimated additional cost of \$6 million. Staff is reviewing these claims and requesting additional information from the Contractor in order to complete review and evaluation of those claims. Staff anticipates that resolution of those potential claims will require additional funds beyond the remaining contingency fund of the contract. As evaluation and negotiation of those claims are complete, staff will report back to the Board and request additional funds to resolve the outstanding claims.

### **FINANCIAL IMPACT:**

Contract Change Order Nos. 1 through 19 have increased the total contract amount by \$1,485,864.43 from \$28,105,969 to \$29,591,833.43 by utilizing a portion of the original Board-approved contingency sum of \$2,810,000. As shown in the table above, the remaining contingency is \$1,324,136. The Contractor has submitted a number of significant potential claims and change order requests. These items are under review by staff and are at various stages of negotiation. Once the comprehensive review of the cost items is completed, staff will recommend a final contract amount to the Board. Acceptance of the work by the Board will also allow for the release of \$1,440,035.02 in retention to the Contractor.

### **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 and Acceptance of Work  
Attachment 2: Construction Contract Acceptance  
Attachment 3: Project Completion Letter  
Attachment 4: Construction Summary  
Attachment 5: Project Delivery Process Chart

### **UNCLASSIFIED MANAGER:**

Ngoc Nguyen, 408-630-2632

