



# Santa Clara Valley Water District

---

**File No.:** 20-0296

**Agenda Date:** 3/10/2020  
**Item No.:** \*5.1.

---

## BOARD AGENDA MEMORANDUM

### **SUBJECT:**

Amendment One to Contract No. C0601 for the Rinconada Water Treatment Plant Reliability Improvement Project, Balfour Beatty Infrastructure, Inc., Contractor, Project No. 93294057, Contract No. C0601 (Los Gatos) (District 7).

### **RECOMMENDATION:**

Approve Amendment One to Contract dated May 26, 2015, Rinconada Water Treatment Plant Reliability Improvement Project with Balfour Beatty Infrastructure, Inc.

### **SUMMARY:**

On May 26, 2015, the Board awarded a construction contract (Contract) in the amount of \$179,850,000 to Balfour Beatty Infrastructure, Inc. (BBII) for the Rinconada Water Treatment Plant Reliability Improvement Project (Project). The Contract provided for the Project to be constructed in five primary phases within a 5-year period, with a final sixth phase consisting of site restoration and contract closeout. The existing Rinconada Water Treatment Plant (RWTP) is to remain operational during the entire construction period, with the newly-constructed facilities and upgrades integrated with plant operations at the end of each phase.

Phase 1 of the work included activities to prepare the site for construction, including traffic control, installation of temporary construction facilities, vegetation removal, utility potholing, utility relocation, and stormwater pollution prevention requirements. Phase 2 of the work includes the construction of several new facilities for the upgraded treatment system at the RWTP such as: flocculation/sedimentation; ozone contactor building; washwater recovery facilities; an electrical control building and appurtenant wiring and control systems; significant underground piping; and installation of chemical feed systems.

The estimated completion date of Phase 2 work is currently June 2020, approximately 3.5 years beyond the original completion schedule. In an effort to address construction progress and other unresolved disputes, Valley Water and BBII commenced Executive Partnering in May 2019. This process has resulted in a proposed resolution, subject to Board approval, as documented in Amendment One to Contract dated May 26, 2015, Rinconada Water Treatment Plant Reliability Improvement Project (Amendment One). A copy of Amendment One will be provided with the Supplemental Board Memorandum to be published on March 6, 2020.

---

Amendment One would reduce the scope of work of the Contract, resulting in BBII only constructing Phases 1 and 2 of the Project, thus eliminating Phases 3, 4, and 5. Amendment One requires BBII to perform startup and testing of Phase 2 facilities by June 2020, with final completion of the amended Contract, including site restoration, by October 2020. Upon completion of the startup and testing of Phase 2 facilities, the newly-constructed facilities and upgrades will be integrated with current plant operations. The current Contract amount, including approved change orders to date, is \$187,704,335. Amendment One would reduce the current Contract amount by \$39,777,435, from \$187,704,335 to \$147,926,900.

Phases 3, 4, and 5 of the original Contract scope includes construction of the liquid oxygen building, ozone generation building, new filters, fluoride facility, reservoir liner replacement, and demolition of the existing clarifiers and filters. Staff is assessing the remaining work and evaluating project delivery methods to determine the best approach to effectively complete the remaining phases. Staff will provide an update to the Board at a future date.

### ***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 February 10, 2015, the Board found that the Project was substantially complex and required construction contract retention of ten percent (10%). Valley Water is currently withholding this amount. Amendment One would incrementally reduce the retention to five percent (5%) upon successful completion of the startup and testing of Phase 2 facilities.

The determination that the Project was 'substantially complex' was due to the complexity and precision required to construct the work within an operating treatment plant that must remain operational at all times except for brief shutdown periods. Construction of the Phase 2 facilities is approximately 95-percent complete. Furthermore, upon successful completion of the startup and testing of the Phase 2 facilities and integration into plant operations, the circumstances supporting the Board's finding that the Project is 'substantially complex' and supporting 10% retention will no longer exist. Consistent with the Contract, Valley Water would continue to withhold 5% until 35 days after the Project is accepted by the Board and the Notice of Completion is recorded, subject to any withholding required by law or the contract. Taking this action is consistent with statutory requirements.

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

On February 10, 2015, the Board approved the plans and specifications and authorized advertisement for bids for the construction of the Project.

On May 26, 2015, the Board awarded the subject contract to Balfour Beatty Infrastructure, Inc. in the amount of \$179,850,000 and approved a contingency fund of \$17,985,000.

**FINANCIAL IMPACT:**

The recommended action results in a reduction of the current Contract amount by \$39,777,435, from \$187,704,335 to \$147,926,900. Staff will provide a financial impact update to the Board at a future date with regard to Phases 3, 4 and 5.

**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:**

- \*Supplemental Agenda Memorandum
- \*Supplemental Attachment 1: Amendment No. 1
- \*Handout 5.1-A: Revised Amendment No. 1

**UNCLASSIFIED MANAGER:**

Heath McMahon, 408-630-3126