



# Santa Clara Valley Water District

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**File No.:** 20-0528

**Agenda Date:** 7/28/2020

**Item No.:** 3.5.

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## BOARD AGENDA MEMORANDUM

### **SUBJECT:**

Accept the Work as Complete and Direct the Clerk to File the Notice of Completion of Contract and Acceptance of Work for the Lower Silver Creek Flood Protection and Creek Restoration Project at the Dobern Bridge Crossing (Plant Establishment Maintenance Phase - Stage 2), Gordon N. Ball, Inc., Contractor, Project No. 40264008, Contract No. C0618 (San Jose) (District 6).

### **RECOMMENDATION:**

- A. Accept the work on the Lower Silver Creek Flood Protection and Creek Restoration Project at the Dobern Bridge Crossing, Plant Establishment Maintenance Phase - Stage 2, Gordon N. Ball, Inc., Contractor, Project No. 40264008, Contract No. C0618 as complete; and
- B. Direct the Clerk of the Board to sign the Notice of Completion of Contract and Acceptance of Work and submit for recording to the Santa Clara County Clerk Recorder.

### **SUMMARY:**

The Construction Contractor, Gordon N. Ball, Inc., has completed the Plant Establishment Maintenance Phase (Stage 2) for the Lower Silver Creek Flood Protection and Creek Restoration Project at the Dobern Bridge Crossing (Project). The construction contract was awarded in the amount of \$2,995,174.50 and the final contract amount is \$3,249,405.89. Subject to any withholds required by law or the contract, acceptance of the work by the Board will allow for the release of \$7,684.87 in retention to the contractor.

### ***Project Background***

The objective of the Lower Silver Creek Flood Protection and Creek Restoration Project was to convey the 1 percent chance flood flows and improve stream habitat values. The Dobern Bridge Crossing is located within Reach 4, which is the first segment of the Lower Silver Creek, Reaches 4-6 Project that Valley Water constructed in partnership with the Natural Resources Conservation Service. The Dobern Bridge Crossing project was implemented to raise the existing Dobern pedestrian bridge, re-establish pedestrian access ramps to the bridge in compliance with the Americans with Disabilities Act, and construct approximately 300-feet of channel improvements and floodwalls at the Dobern Bridge area.

The contractor completed the project's construction phase (Stage 1) in January 2017 and the Board accepted that portion of the contract on May 23, 2017. Stage 2 of the work consisted of maintaining

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the plants installed during Stage 1 for a three-year period, which commenced in January 2017. The contractor completed Stage 2 in January 2020. This Board action is only for acceptance of the Plant Establishment Maintenance Phase (Stage 2).

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

On May 10, 2016, the Board adopted the plans and specifications and authorized advertisement for bids for the construction of the Lower Silver Creek Flood Protection and Creek Restoration Project at the Dobern Bridge Crossing.

On June 14, 2016, the Board awarded the subject contract to Gordon N. Ball, Inc., in the amount of \$2,995,174.50 and approved a contingency fund of \$300,000. 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 Unit Manager and Deputy Operating Officer to approve individual changes up to \$50,000 and \$200,000, respectively.

On May 23, 2017, the Board accepted the Construction Phase (Stage 1) of the contract.

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

During the previously accepted construction phase of the Project, a total of five (5) contract change orders totaling an increase in the amount of \$151,291.99 were executed to address various unforeseen site conditions, quantity adjustments, Valley Water-requested changes to benefit the Project, and credits to the contract.

During the Plant Establishment Maintenance Phase, three (3) change orders were executed which resulted in an increase in the amount of \$102,939.40. These change orders were for additional work required to repair a floodwall notch, driveway and maintenance access road, install new bollards, repair a water mainline, and for quantity adjustments based on actual field quantities.

The final contract amount is \$3,249,405.89 which includes a net total increase of \$254,231.39 in contract changes, both additive and deductive, from Stage 1 and Stage 2 work, within the Board-approved contingency fund.

Table 1 presents a summary of the 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>	\$2,995,174.50	\$300,000.00
Change Order No. 1 through 5 (Construction Phase, accepted by the Board on May 23, 2017)	\$151,291.99	<\$151,291.99>
Change Order No. 6 (Staff Approved)	\$51,548.30	<\$51,548.30>
Change Order No. 7 (Staff Approved)	\$52,349.10	<\$52,349.10>
Change Order No. 8 (Staff Approved)	<\$958.00>	\$958.00
<b>Final Contract Amount and Remaining Contingency</b>	<b>\$3,249,405.89</b>	<b>\$45,768.61</b>

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

The California Civil Code allows an owner or its agent to execute a Notice of Completion of Contract Acceptance of the work by the Board. The Notice of Completion of the Contract and Acceptance of all 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 Stage 2 (\$7,684.87) in accordance with the Public Contract Code. Per the construction contract documents, Valley Water is required to release retention funds associated 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 the Stage 2 work.

### ***Project Expenditures***

As indicated in the Summary of Construction Contract and Contingency Amounts (Table 1), the original contract amount of \$2,995,174.50 has been increased by \$254,231.39 to \$3,249,405.89, an

increase of approximately 8.5 percent.

**FINANCIAL IMPACT:**

This Project (Project No. 40264008, Lower Silver Creek Flood Protection and Creek Restoration Project at the Dobern Bridge Crossing) is included in the Five-Year 2021-25 Capital Improvement Program and the remaining cost of this Project is included in the board-adopted FY2020-21 Budget. No additional funding is recommended.

**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  
Attachment 2: Construction Contract Acceptance  
Attachment 3: Project Completion Letter  
Attachment 4: Construction Photos  
Attachment 5: Project Delivery Process Chart

**UNCLASSIFIED MANAGER:**

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