



Santa Clara Valley Water District

File No.: 20-1057

Agenda Date: 11/10/2020

Item No.: *3.1.

BOARD AGENDA MEMORANDUM

SUBJECT:

Notice of Completion of Contract and Acceptance of Work 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:

- A. Accept the work on the Rinconada Water Treatment Plant Reliability Improvement Project, Project No. 93294057, Contract No. C0601 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, Balfour Beatty Infrastructure, Inc., has completed the Rinconada Water Treatment Plant Reliability Improvement Project (Project). The construction contract was awarded in the amount of \$179,850,000 and the final contract amount is \$152,803,135.72. Subject to any withholds required by law or the contract, acceptance of the work by the Board will allow for the release of \$7,640,156.78 in retention to the contractor.

Project Background

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) was 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.

In an effort to address delayed construction progress and other unresolved disputes, Valley Water and BBII commenced Executive Partnering in May 2019. This process resulted in a resolution of past and pending matters, as documented in Amendment One to Contract dated May 26, 2015, Rinconada Water Treatment Plant Reliability Improvement Project (Amendment One), approved by the Board on March 10, 2020.

Amendment One reduced the scope of work of the Contract, resulting in BBII only completing Phases 1 and 2 of the Project, thus eliminating most of Phases 3, 4, 5 and 6. Amendment One required BBII to perform startup and testing of the Phase 2 scope of work. BBII completed startup and testing of Phase 2 improvements in June 2020 and the newly constructed facilities and upgrades have been integrated with current plant operations.

Amendment One reduced the Contract amount from \$187,704,335 to \$147,926,900, but also allowed for up to an additional \$5,000,000 to compensate BBII for equipment and materials procured by BBII and transmitted to Valley Water for future phase construction. Amendment One also made provision for execution of subsequent contract change orders necessary to complete the remaining work.

Phases 3, 4, and 5 of the original Contract scope include construction of the liquid oxygen building, ozone generation building, new filters, fluoride facility, reservoir liner replacement, and demolition of the existing clarifiers and filters. The remaining work and project delivery methods are being evaluated to determine the best approach to effectively complete the remaining phases.

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.

On March 10, 2020, the Board approved Amendment One to the Contract which reduced the scope of work and the contract amount.

Contract Change Orders

Amendment One included provisions to execute future contract change orders as necessary to complete the remaining work. After the Board approved Amendment One, twenty-two (22) change orders and twenty-eight (28) directed change orders totaling \$1,138,208.54 were executed for this contract to address various issues, including unforeseen site conditions, Valley Water-requested changes necessary for plant operation, post-design clarifications, and credits to the contract. These changes included:

- A. \$8,765 for additional work required to address unforeseen site conditions. This includes work ranging from backfill and compaction of a sink hole for \$5,061 to revised allocation of I/O points for \$3,704.
- B. \$452,695 for Valley Water-requested changes necessary for plant operation. This includes work ranging from the addition of SCADA iFix alarm navigation buttons for \$12,897 to modifications to the raw water flow controls for \$7,526.
- C. \$791,785 for additional work required to address post-design clarifications. This includes work ranging from replacing parts of the flash mix injection quills to increase structural stability for \$9,673 to procuring permanent iFix and historian licenses for \$188,627.
- D. \$115,036.46 in credits to the contract for various items.

In addition to the change order amounts, the final contract amount includes a \$3,738,027.18 payment for contractor-procured equipment for future phase construction. As discussed above, Amendment One allowed for up to an additional \$5,000,000 to compensate BBII for equipment and materials procured by BBII and transmitted to Valley Water for future phase construction.

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

TABLE 1. SUMMARY OF CONSTRUCTION CONTRACT AND CONTINGENCY AMOUNTS

	Contract Amount	Contingency Amount
Original Contract	\$179,850,000	\$17,985,000
Amendment One	\$147,926,900	
Change Orders after Amendment One	\$464,089.54	(\$464,089.54)
Directed Change Orders after Amendment One	\$674,119.00	(\$674,119.00)
Equipment for Future Phase Construction	\$3,738,027.18	
Final Contract Amount and Remaining Contingency	\$152,803,135.72	\$16,846,791.46

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 after acceptance of the work by the Board. The Notice of Completion of the 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 and the Project Completion Letter will both be provided with a Supplemental Memorandum to be published on November 5, 2020. Photos of the completed Project are included in Attachment 2.

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%). Amendment One included provisions to incrementally reduce the retention to five percent (5%) upon successful completion of the startup and testing of Phase 2 facilities.

Upon successful completion of the startup and testing of Phase 2 facilities in March 2020, Valley Water reduced retention to five percent (5%) of the contract amount and is currently withholding retention funds totaling \$7,640,156.78 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 work.

Project Expenditures

As indicated in the Summary of Construction Contract and Contingency Amounts (Table 1), the original contract amount of \$179,850,000 has been decreased by \$27,046,864.28 to \$152,803,135.72, a decrease of approximately 15 percent, partially due to the reduction of scope as documented in Amendment One to the contract.

FINANCIAL IMPACT:

Total financial costs were detailed in previous sections of the agenda memorandum. Funds are available in the FY2020-21 budget in the Rinconada Water Treatment Plant Reliability Improvement Project, Project No. 93294057 to cover final closeout of the contract. 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 Photos

Attachment 3: Project Delivery Process Chart

*Supplemental Board Agenda Memo

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*Supplemental Attachment 1: Construction Contract Acceptance

*Supplemental Attachment 2: Project Completion Letter

UNCLASSIFIED MANAGER:

Heath McMahon, 408-630-3126