



# Santa Clara Valley Water District

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**File No.:** 21-0360

**Agenda Date:** 4/6/2021

**Item No.:** 2.1.

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## BOARD AGENDA MEMORANDUM

### **SUBJECT:**

Report of Bids Received and Reject All Bids for Contract No. C0666; and Authorize Advertisement for Bids for the Construction of the Lower Calera Creek Flood Protection Project, Project No. 40174005, Contract No. C0666-1 (Milpitas) (District 3).

### **RECOMMENDATION:**

- A. Ratify Addenda No(s). 1, 2, and 3 to the Contract Documents for the Lower Calera Creek Flood Protection Project;
- B. Reject all bids for Contract No. C0666;
- C. Adopt Plans and Specifications and Authorize Advertisement for Bids for the Lower Calera Creek Flood Protection Project; and
- D. Authorize the Designated Engineer to issue addenda, as necessary, during the bidding process.

### **SUMMARY:**

The objective of the Lower Calera Creek Flood Protection Project (Project) is to provide flood protection to the surrounding area from a 1-percent flood event. This Project is part of the Lower Berryessa Creek flood protection improvements in the City of Milpitas. The Project entails constructing new floodwalls with architectural treatment, headwalls, maintenance roads, wetland and landscape plants for mitigation, and three-year plant establishment and maintenance phase.

### ***Project Background***

The Lower Berryessa Creek Project, which extends approximately 1.6 miles from its confluence with Lower Penitencia Creek upstream to Calaveras Boulevard, is part of a number of flood protection improvements within the City of Milpitas (Attachment 1). This Project will protect the surrounding area by removing approximately 1,800 parcels from the 1-percent floodplain and provide improved maintenance access to the channel. Construction of the Lower Berryessa Creek Project is being undertaken in 2 phases.

Phase 1 was completed in December 2016 and included improvements from the Lower Penitencia Creek confluence up to Abel Street. Phase 2 includes the segment along Lower Berryessa Creek between Abel Street and Calaveras Boulevard and a segment of Calera Creek from the Union Pacific Railroad that spans to about 880 feet upstream of Arizona Avenue (i.e. Lower Calera Creek). The civil

construction work for the Phase 2 portion of Lower Berryessa Creek was completed in July 2020. The Lower Calera Creek Flood Protection Project is the last element of Phase 2. Construction of the Project is anticipated to take two construction seasons with civil work estimated to be completed by December 2022, to be followed by a three-year plant establishment and maintenance phase.

### ***Addenda Ratification***

Three (3) addenda (Attachment 2) were issued during the bid period to clarify the Project Contract Documents. To formally incorporate the addenda into the Project Contract Documents, staff recommends that the Board ratify the addenda.

### ***Bid Opening Results***

A report of bids received at the bid opening for the Project on March 3, 2021 is summarized in Table 1.

**Table 1 - Bid Opening Results**

<b>Company, Location</b>	<b>Bid Amount</b>	<b>Award Amount</b>
Granite Construction Company, Watsonville, CA	\$17,423,130.00	
Brosamer & Wall Inc., Walnut Creek, CA	\$19,365,900.00	
Gordon N. Ball, Inc., Alamo, CA	\$19,445,000.00	
Sukut	\$19,505,450.00	
Thompson Builders Corporation	\$23,187,650.00	
Steve P. Rados Inc.	\$24,401,900.00	
Kiewit Infrastructure West Co., Fairfield, CA	\$27,214,800.00	
<b>Engineer's Estimate: \$20,856,319.00</b>		

### ***Rejection of All Bids***

The Engineer's Estimate of \$20,856,319.00 is 16.5% higher than the apparent low bid. The apparent low bid from Granite Construction Company and the next three lowest bids from Brosamer & Wall Inc., Gordon N. Ball, Inc., and Sukut, were all determined non-responsive. These four bids were determined to be non-responsive because pursuant to Bid Form No. 1, Proposal and Bid Items, the bidder was required to specify the name of the certified landfill they intended to use for disposal of surplus materials generated as described in Bid Item No. 11, Channel Excavation.

After careful review of information and documentation provided by the bidders, the disposal sites

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designated in the four lowest bids, were determined not to be state certified landfills as required by the bidding and contract documents. However, after reviewing this requirement and the bids submitted by four of the seven bidders, staff determined the requirement could have been stated more clearly and possibly allowed for some flexibility in disposal of surplus materials.

The Engineer's Estimate of \$20,856,319.00 is 16.5% higher than the apparent low bid, which was determined nonresponsive. Thompson Builders Corporation submitted the lowest responsive bid; however, its price is \$2,331,331.00 higher than the Engineer's Estimate and \$5,764,520.00 higher than the lowest bid by Granite Construction Company. Staff has reviewed the Engineer's Estimate and finds it to be reasonable based on the unit prices proposed in bids submitted by recent projects with similar elements.

Staff recommends rejecting all bids because the certified landfill requirement appears to have been unclear to the bidders and the circumstances do not warrant awarding the contract at a significantly higher price as a result of this possible confusion, which can be clarified in the revised documents issued to rebid this Project.

### ***Board Authorization to Re-Advertise for Bids***

To accomplish the original Project objectives, staff recommends promptly re-bidding, which is subject to Board authorization to re-advertise. Authorizing the Designated Engineer to issue addenda during the bidding allows modifications to the Contract Documents, if necessary, during the bidding period before the contract is awarded.

### ***Project Status and Next Steps***

Valley Water has obtained all the necessary environmental permits for the Project including the Water Quality Certification from the San Francisco Regional Water Quality Control Board, the Lake or Streambed Alteration Agreement from the California Department of Fish and Wildlife, and the Department of the Army Section 404 permit.

If the Board approves the recommendations, staff will proceed to re-advertise for bids for Project construction. The next step will be to award the construction contract, tentatively scheduled for May 25, 2021. Substantial completion of the civil construction work is anticipated to be complete by December 2022.

### **FINANCIAL IMPACT:**

The Berryessa Creek, Lower Penitencia Creek to Calaveras Blvd. Phase 2, Project No. 40174005 is included in the Five-Year 2021-2025 Capital Improvement Program and in the Board-adopted FY 2020-2021 Budget. The estimated construction contract cost of the Project is approximately \$18.9 million to \$24.2 million. Construction costs encumbered for this Project will be phased over two years. The Project has adequate funding in the FY21 and FY22 budget for the construction.

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**CEQA:**

Valley Water is the lead agency under the California Environmental Quality Act for the implementation of the Project. On December 13, 2011, the Board adopted a resolution certifying the Final EIR and Mitigation Monitoring and Reporting Program and approved the Project. On October 2018, staff completed the First Addendum to the Lower Berryessa Creek Program Final Environmental Impact Report to address design changes along Lower Calera Creek. Staff determined the Lower Berryessa Creek Trail Paving work that will be completed for the City of Milpitas as part of this Project qualifies for a Class 1 Categorical Exemption under CEQA guidelines, CCR Title 14 Code of Regulations, Section 15301 Existing Facilities. A Notice of Exemption was recorded with the County of Santa Clara Office of the Clerk Recorder on December 2, 2020.

**ATTACHMENTS:**

Attachment 1: Map  
Attachment 2: Addenda No. 1, No. 2, and No. 3  
Attachment 3: Notice to Bidders  
Attachment 4: Plans  
Attachment 5: Specifications

**UNCLASSIFIED MANAGER:**

Rechelle Blank, 408-630-2632