



Santa Clara Valley Water District

File No.: 22-0571

Agenda Date: 5/24/2022

Item No.: *3.10.

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 Upper Llagas Creek Flood Protection Project, Flood Protection and Civil Work, including Mitigation Plantings and Irrigation Installation, Phase 1, Completion of Milestones 1 and 2, Graniterock Company, Contractor, Project No. 26174052, Contract No. C0645 (Morgan Hill, Gilroy, Santa Clara County Unincorporated Area, Including San Martin) (District 1) *PREVIOUSLY LISTED AS ITEM 3.11.

RECOMMENDATION:

- A. Accept the work on the Upper Llagas Creek Flood Protection Project, Flood Protection and Civil Work, including Mitigation Plantings and Irrigation Installation, Phase, Phase 1, completion of Milestones 1 and 2, Graniterock Company, Contractor, Project No. 26174052, Contract No. C0645 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, Graniterock Company, has completed Milestones 1 and 2 of the Upper Llagas Creek Flood Protection Project, Flood Protection and Civil Work, including Mitigation Plantings and Irrigation Installation, Phase 1 (Phase 1 Project).

Project Background

Santa Clara Valley Water District (Valley Water) is undertaking the Project in partnership with the U.S. Army Corps of Engineers (USACE) and the City of Morgan Hill (City) to provide 1% flood protection to approximately 1,100 homes and 500 businesses along West Little Llagas Creek, East Little Llagas Creek and Llagas Creek. The Project is part of the Safe, Clean Water and Natural Flood Protection Program (Safe, Clean Water Program) that voters approved in 2012 and renewed in 2020 as Project E6 under the flood protection priority. The approximately 13.9 miles-long project encompasses the City of Morgan Hill, City of Gilroy, and various unincorporated areas of Santa Clara County, including San Martin. The Project is being constructed in three phases (Phase 1, Phase 2A, and Phase 2B), and flood protection will only be realized after construction of all three phases are completed. Graniterock Company was awarded Phase 1 construction by the Valley Water Board of Directors on

July 23, 2019.

Llagas Creek and its tributaries are part of the Pajaro Watershed, the area of land over which rain falls and then drains off on its journey to the ocean, or into reservoirs for storage. The Pajaro-Llagas Watershed is a 104-square-mile region that is distinguished by its agricultural lands and natural areas.

The entire Project consists of channel widening and deepening, instream improvements for wildlife and habitat, installation of maintenance roads along top of banks, installation of fencing and gates, instream improvements for wildlife and habitat, revegetation and a three-year plant establishment maintenance period. The entire Project's mitigation elements to offset environmental impacts associated with the construction work includes the following environmental elements:

- Riparian mitigation consisting of approximately 105 acres of native vegetation plantings;
- Creation of the Lake Silveira wetlands, approximately 4 acres;
- Restoration of approximately 2000 linear feet of Llagas Creek
- Invasive plant removal (13.0± acres);
- In-stream complexities-woody debris (464 instream complexity features including divide logs, wing deflectors, rootwads, and boulder clusters);
- Turtle basking sites within the created wetlands (10 turtle basking sites);
- Tree girdling (27 invasive trees girdled for bat/owl habitat);
- Bat boxes (14);
- Upland log piles (148 locations);
- Removal of legacy trash & hardscape debris (2.3± acres of remediation);

Staff recommends the Board accept as complete Phase 1, Milestones 1 and 2. In accordance with the Contract Documents, Special Provisions, Section 12.04. Time Allowance for Completion of Work, F. Milestone Completion, the Milestones are defined as follows:

Milestone # 1 (Flood Protection Completion): Complete all work within the Llagas Creek and its tributaries (within "waters of the U.S.") within 800 calendar days from the First Chargeable Day of the Contract.

Milestone #2 (Substantial Completion): Completion of all civil work, including aggregate maintenance roads, permanent fencing, mitigation and landscape plant installation with operational irrigation systems within 1,000 calendar days from the First Chargeable Day of the Contract.

Milestone #3 (Phase 1 Project Completion): Completion of the Phase 1 Project, including the three-year mitigation planting establishment and maintenance period, by 2,095 calendar days from the First Chargeable Day of the Contract.

Staff will recommend a separate Board action to accept Milestone 3 after the three-year mitigation

planting establishment and maintenance period of the contract is completed, which is currently in progress and scheduled for completion in March 2025.

Previous Board Actions

On September 22, 2009, the Board approved a cost-sharing agreement with the City of Morgan Hill for preparing the environmental document and the design plans and specifications.

On June 10, 2014, the Board certified the Environmental Impact Report for the Upper Llagas Creek Flood Protection Project and adopted Resolution No. 14-67.

On May 14, 2019, the Board adopted the plans and specifications and authorized advertisement for bids for the construction of the Phase 1 Project.

On July 23, 2019, the Board awarded the subject contract to Graniterock Company, in the amount of \$68,118,602.00 and approved a contingency fund of \$10,217,790.00.

Contract Change Orders

A total of twenty-six (26) contract change orders totaling \$9,016,174.80 were executed to date to address various issues, including unforeseen site conditions and utilities, Valley Water & City of Morgan Hill (City) requested changes, post-design clarifications, and credits back to the contract for adjustments to bid items based on final quantity measurements. This total of \$9,016,174.80 for change orders was within the previously Board-approved Contract contingency amount of \$10,217,790.00.

These changes included:

- A. \$621,676.35 for additional work required to address unforeseen site conditions. This includes unsuitable sub-grade material identified under the Monterey Road Bridge; removal of unregistered well discovered in the field; removal of buried concrete and debris found in slopes of creek alignment; asphalt repairs to a damaged road.
- B. \$195,037.62 for additional work required to address utility conflicts. This includes relocating previously unknown electrical/control conduits found at Watsonville Road Bridge; existing waterline in conflict with channel improvements; PG&E gas main and AT&T joint trench utility relocation support near UPRR bridge and Monterey Road.
- C. \$8,933,344.56 for additional Valley Water and City of Morgan Hill (City) requested changes. This included constructing a maintenance road at Reach 7a to access City sanitary sewer facilities; City trail improvements at Reach 7a adjacent to Monterey Road which includes asphalt paving and City requested ADA parking stall, concrete work and miscellaneous improvements; improvements to existing maintenance roads; improvements in Reach 6 from Union Pacific Railroad Bridge downstream to Llagas Avenue, which included channel widening and deepening, planting, maintenance roads and access ramps, fencing and gates;

improvements to Reaches 5 and 6 from Highway 101 to Murphy Avenue, which included channel excavation, storm drain improvements, rock slope protection, installation of maintenance access roads and ramps, fencing and gate installation, planting, irrigation system, demolition and trash removal. City will reimburse Valley Water an amount estimated at \$962,344 for its requested additional contract change order work in accordance with the City-Valley Water cost-sharing agreement #A4448S executed on April 21, 2021.

- D. \$1,166,077.11 for additional work required to address post-design clarifications. This included work ranging from bollards, gates and security fence installation; storm drain and outfall modifications; installation of additional rock slope protection and engineered streambed material; additional grade control structure; Lake Silveira inlet and outlet structure wingwall modifications; structural protection measures at Monterey Road Bridge; placing bark mulch generated from clearing and grubbing operations along existing maintenance roads to suppress weed growth to reduce future maintenance.
- E. <\$1,899,960.84> in credits back to the contract for adjustments to bid items based on final quantity measurements and removal of unused supplemental bid items.

Table 1 presents a summary of the construction contract and contingency amounts associated with the completion of Milestones 1 and 2.

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

	Contract Amount	Contingency Amount
Original Contract	\$68,118,602.00	\$10,217,790.00
Change Order No. 1 (Staff approved) - Credit	<\$55,730.63>	\$55,730.63
Change Order No. 2 (DOO approved)	\$184,680.30	<\$184,680.30>
Change Order No. 3 (Staff approved)	\$58,480.27	<\$58,480.27>
Change Order No. 4 (Staff approved)	\$84,226.30	<\$84,226.30>
Change Order No. 5 (Staff approved)	\$30,386.37	<\$30,386.37>
Change Order No. 6 (Staff approved)	\$78,533.00	<\$78,533.00>
Change Order No. 7 (Staff Approved)	\$87,627.83	<\$87,627.83>
Change Order No. 8 (Staff Approved)	\$40,432.67	<\$40,432.67>
Change Order No. 9 (CEO Approved)	\$710,000.00	<\$710,000.00>
Change Order No. 10 (DOO Approved)	\$192,187.41	<\$192,187.41>
Change Order No. 11 (DOO Approved)	\$126,487.80	<\$126,487.80>
Change Order No. 12 (Staff Approved)	\$81,585.84	<\$81,585.84>
Change Order No. 13 (Staff Approved)	\$64,991.01	<\$64,991.01>
Change Order No. 14 (DOO Approved)	\$191,386.39	<\$191,386.39>
Change Order No. 15 (CEO Approved)	\$4,501,518.00	<\$4,501,518.00>

Change Order No. 16 (DOO Approved)	\$199,500.00	<\$199,500.00>
Change Order No. 17 (Staff Approved)	\$92,903.50	<\$92,903.50>
Change Order No. 18 (CEO Approved)	\$2,718,897.00	<\$2,718,897.00>
Change Order No. 19 (Staff Approved)	\$34,639.86	<\$34,639.86>
Change Order No. 20 (DOO Approved)	\$198,457.00	<\$198,457.00>
Change Order No. 21 (Staff Approved)	\$7,434.83	<\$7,434.83>
Change Order No. 22 (DOO Approved)	\$196,640.00	<\$196,640.00>
Change Order No. 23 (Staff Approved)	\$61,474.41	<\$61,474.41>
Change Order No. 24 (DOO Approved)	\$124,475.63	<\$124,475.63>
Change Order No. 25 (DOO Approved) - Credit	<\$1,161,317.18>	\$1,161,317.18
Change Order No. 26 (DOO Approved)	\$166,277.19	<\$166,277.19>
Current Contract Amount and Remaining Contingency	\$77,134,776.80	\$1,201,615.20

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 their 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. The Project Delivery Process Chart is included in Attachment 5.

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 with the Santa Clara County Clerk-Recorder. 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 Phase 1, Milestones 1 and 2 in the amount of \$3,660,279.94 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 Phase 1, Milestones 1 and 2 work and a second Notice of Completion will be recommended once Milestone 3 work is completed. Retention withheld for Milestones 1 and 2 will be released as a result of this Board item. Retention withheld for Milestone 3 will be released once work is completed and a Notice of Completion is recorded.

Total Project Expenditures

As indicated in the Summary of Construction Contract and Contingency Amounts (Table 1), the original contract amount of \$68,118,602.00 has been increased by \$9,016,174.80 in approved change orders to \$77,134,776.80, an increase of approximately 13.2 percent (13.2%) and well under the Board approved contingency.

ENVIRONMENTAL JUSTICE IMPACT:

There are no Environmental Justice impacts associated with this item.

FINANCIAL IMPACT:

Upper Llagas Creek Flood Protection Project Phase 1, completion of Milestones 1 and 2, Project No. 26174052 is included in the Five-Year 2020-24 Capital Improvement Program (CIP) and in the FY 2021-22 Board adopted Budget. Total financial costs were detailed in previous sections of the agenda memorandum.

The current estimated reimbursement from the City of Morgan Hill is \$962,344 for its requested additional contract change order work in accordance with the City-Valley Water cost-sharing agreement #A4448S executed on April 21, 2021. 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/Acceptance of Work
- 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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