

## BOARD AGENDA MEMORANDUM

### **SUBJECT:**

Delegate Authority to the Chief Executive Officer to Execute Change Order No. 048 up to the Amount of \$17,000,000.00 for Final Tunnel Lining Changes, for the Anderson Dam Tunnel Project (Project), Project No. 91864006, Contract No. C0663 (Morgan Hill) (District 1).

### **RECOMMENDATION:**

- A. Delegating Authority to the Chief Executive Officer to Execute Contract Change Order No. 048 up to the Amount of \$17,000,000.00 for the Final Tunnel Lining Changes on the Anderson Dam Tunnel Project.

### **SUMMARY:**

#### ***Project Background***

Santa Clara Valley Water District (Valley Water) is undertaking the Anderson Dam Federal Energy Regulatory Commission Order Compliance Project (FOCP) as a result of the February 20, 2020, directive from the Federal Energy Regulatory Commission (FERC) to implement interim risk reduction measures at Anderson Dam. One of those measures is the Anderson Dam Tunnel Project (ADTP).

On April 27, 2021, Valley Water's Board of Directors awarded the construction contract for the ADTP to the top-ranked, best-value proposer, Flatiron West, Inc. (Flatiron), in the sum of \$161,140,321 and approved a contingency amount of \$40,000,000. The Board directed staff to discuss delegating authority for contingency expenditures with the CIP Committee.

By unanimous roll call vote at its May 17, 2021, meeting, the Committee approved recommending to the full Board that it consider delegating authority to staff to approve change orders for the ADTP at the amounts stated below and that the CIP Committee receive regular monthly reports with information regarding approved change orders, pending change orders, and the cumulative amounts. Valley Water's Board of Directors accepted the CIP Committee recommendations at its regular meeting on May 25, 2021.

Unit Manager: Up to \$100,000

Assistant Operating Officer: Up to \$250,000

Deputy Operating Officer: Up to \$500,000

Assistant Chief Executive Officer: Up to \$2.5 million

Chief Executive Officer: Up to \$5 million

On January 28, 2025, the Board of Directors approved an increase of \$40,000,000 to the construction contract contingency sum, bringing the total construction contract contingency to \$80,000,000.

***Proposed Construction Contract Change Order No. 048 for Board of Directors Approval to Delegate Authority to the Chief Executive Officer to Execute Contract Change Order No. 048.***

There is a pending Contract Change Order No. 048 regarding the Final Tunnel Lining Changes, which will have a cost value that exceeds the Chief Executive Officer (CEO) approval authority limit. Flatiron's cost proposal is being negotiated which would result in a change order amount up to \$17,000,000 for the Final Tunnel Lining described below. Staff finds the proposed amount reasonable and recommends Board approval to delegate authority to the CEO to execute the proposed Contract Change Order No. 048.

***Final Tunnel Lining Changes***

Given to the complexity of the final tunnel lining for the Anderson Dam Tunnel Project, the design underwent multiple revisions, including three separate Contract Document Clarifications, over a three-year period before reaching its final iteration. This process included addressing comments from both the Division of Safety of Dams (DSOD) and FERC, developing subsequent design modifications to address constructability challenges arising from DSOD and FERC's initial requirements, and increasing the total quantity of specialized articulated joint segments to accommodate differing site conditions identified after the completion of tunnel excavation.

Additionally, to ensure the design is constructable due to the significant amount of rebar in the articulated joint sections, a full-scale mockup of the tunnel lining articulated joint segments was constructed outside of the tunnel to simulate the two lengths of articulated joint sections (5-foot and 10-foot) that will be installed in the tunnel. During mockup construction, additional modifications were made to the reinforcing steel to address identified conflicts.

The scope of this Contract Change Order 048 covers all costs associated with the revised concrete final tunnel lining which encompasses procurement and installation of rebar for the articulated joints, fabrication and installation of all required formwork, concrete work for encasement of the articulated joints and continuous lining, curing and removal of formwork, and finishing the concrete surface.

The increased costs associated with constructing the final tunnel lining with these changes are estimated to be valued up to \$17,000,000.00. The Contractor's estimate accounts for material cost escalation from the time of bid and includes activities to expedite project completion.

***Contract Change Orders***

A total of forty-three (43) contract change orders totaling \$30,867,358.58 have been executed for this contract. They have been funded from the original contingency amount of \$40,000,000.00, reducing the total remaining contingency amount to \$9,132,641.42. A contingency increase was approved for this contract on January 28. 2025, bringing the current total remaining contingency to \$49,132,641.42. These 43 contract change orders increased the contract amount to \$192,007,679.58.

The proposed Contract Change Order No. 048 being presented is currently being negotiated with Flatiron for an amount up to \$17,000,000.00 and will be funded from the remaining contingency of \$49,132,641.42.

As a result of Contract Change Order No. 048, including prior pending change orders No. 044 – 047, the current contract amount would be increased from \$192,007,679.58 to \$217,269,012.40 or an increase of approximately 13.16%.

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

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

<b><u>SUMMARY OF CONSTRUCTION CONTRACT COST AND CONTINGENCY</u></b>		
<b>Item</b>	<b>Contract Amount</b>	<b>Contingency Amount Remaining</b>
Contract Amount at Award	\$161,140,321.00	\$40,000,000.00
Change Order No. 1 through No. 43	\$30,867,358.58	\$9,132,641.42
Contract and Remaining Contingency through Change Order No. 43	\$192,007,679.58	\$9,132,641.42
Contract Contingency Increase from January 28, 2025	\$192,007,679.58	\$49,132,641.42
Pending Change Orders No. 44 – No.47	\$8,261,332.82	\$40,871,308.60
<b>Change Order No. 48 (Pending Board Approval)</b>	<b>\$17,000,000.00</b>	<b>\$23,871,308.60</b>
<b>Proposed Contract and Remaining Contingency</b>	<b>\$217,269,012.40</b>	<b>\$23,871,308.60</b>

Contract Change Order No. 048 would increase the current construction contract amount and be paid by utilizing the project's contingency fund. Upon approval by the Board, Change Order No. 048 will be submitted to the CEO for approval. Upon execution of this Contract Change Order, \$23,871,308.60 will remain in the contingency fund.

**ENVIRONMENTAL JUSTICE AND EQUITY IMPACT:**

There are no environmental justice impacts associated with this item. This action is unlikely to or will not result in adverse impacts and is not associated with an equity opportunity.

**FINANCIAL IMPACT:**

The Anderson Dam Tunnel Project, Project No. 91864006, is included in the Capital Improvement Program (CIP) Final Fiscal Years (FY) 2025-29 Five-Year Plan and in the FY 2023-24 Adopted Budget. There are adequate funds in the Project's FY 2023-24 Adopted Budget to encumber the planned expenditures for construction to be incurred during this fiscal year. Funds to cover the remaining anticipated construction costs are included in FY 2024-25 Adopted Budget.

Authorization for the Chief Executive Officer to execute Contract Change Order No. 048 up to the amount of \$17,000,000.00 does not change the overall total Project cost reflected in the CIP Final FY 2025-29 Five-Year Plan.

The Project is funded through the Water Utility Enterprise Fund (Fund 61), with 81.3% of the costs allocated to North County Zone W-2, and South County Zones as follows: 7.9% to Zone W-5, 10.8% to Zone W-7, and 0% to Zone W-8.

**CEQA:**

Approval of the revised Final Tunnel Lining is covered by the emergency Project statutory exemption. The recommended action does not alter any of the Project CEQA documents or permits.

The Board approved the FERC Order Compliance Projects (FOCP) on June 23, 2020, after determining that the Project is not subject to CEQA pursuant to the statutory exemption for emergency projects, which include specific actions necessary to prevent or mitigate an emergency. Pub. Res. Code section 21080(b)(4) and CEQA Guidelines section 15269(c). CEQA (Pub. Res. Code § 21060.3) defines an “emergency” as a sudden, unexpected occurrence, involving a clear and imminent danger, demanding immediate action to prevent or mitigate loss of, or damage to, life, health, property, or essential public services. Dam failure leading to catastrophic flooding would be a “sudden unexpected occurrence” were it to occur.

FERC's dam safety order in February 2020 clearly reflects a regulatory determination that seismic risks associated with Anderson Dam and the existing outlet constitute an emergency that requires immediate action by Valley Water. Each FOCP component, including the Coyote Creek Modifications, is necessary for an integrated emergency response to the FERC Order, both to mitigate the potential for a catastrophic dam

failure, and to avoid and minimize environmental, flood management, groundwater recharge, and water supply impacts of such emergency response actions.

**ATTACHMENTS:**

Attachment 1: January 28, 2025 Board Agenda Memorandum, File No. 24-1074, Approve an Increase of \$40,000,000.00 to the Construction Contract Contingency Sum for ADTP

Attachment 2: May 25, 2021, Board Agenda Memorandum, File No. 21-0615, Construction Contract Contingency Sum Delegated Authority

Attachment 3: April 27, 2021 Board Agenda Memorandum, File No. 21-0448, Reports of Bids Received and Award of Contract to Flatiron West Inc.

Attachment 4: Powerpoint Presentation

**UNCLASSIFIED MANAGER:**

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