



Midpeninsula Regional
Open Space District

R-20-91
Meeting 20-19
August 26, 2020

AGENDA ITEM 8

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Contract Amendment with Top Line Engineers to Remove an Underground Oil/Water Separator at the South Area Field Office Project Site

GENERAL MANAGER'S RECOMMENDATIONS

1. Authorize the General Manager to amend the original contract of \$46,650 with Top Line Engineers by \$61,180, bringing the base contract amount to \$107,830 to remove an underground oil/water separator discovered at the South Area Field Office Project site.
2. Authorize a 15% contingency of \$16,175 to be awarded, if necessary, to cover unforeseen conditions, for a new total not-to-exceed contract amount of \$124,005.

SUMMARY

In October 2019, the Board awarded a construction contract to Agbayani Construction (Agbayani) for the South Area Field Office Project. Agbayani's activities began in November 2019 and continued with only a slight delay due to COVID-19 shelter-in-place restrictions that affected construction activities in March and April. In June 2020, a second contractor, Top Line Engineers, was added to the project through a competitive bidding process to remove an underground storage tank (UST). During recent routine excavation activities, an oil/water separator was discovered. Removal of the oil/water separator is necessary to continue with the site improvements. In order to keep to the schedule and avoid occupancy delays, the General Manager recommends amending the contract with Top Line Engineers to remove the oil/water separator. The scope of work for the separator removal is similar to that of the UST removal, with the exception of sludge disposal. The quote submitted by Top Line Engineers was comparable to the competitive UST removal quote and factors in the sludge disposal price. The adopted fiscal year 2020-21 (FY21) project budget includes sufficient funds for this contract amendment.

BACKGROUND

The site of the new South Area Field Office (SAO or Project) is located in a light-industrial zone at 240 Cristich Lane in Campbell, CA and was formerly used as a bus yard. In August 2019, the Midpeninsula Regional Open Space District (District) received permit approval from the City of Campbell (City) to repurpose the industrial building as a new field office. In October 2019, the Board of Directors (Board) authorized the General Manager to enter into a contract with Agbayani Construction Corporation (Agbayani) for a not-to-exceed total contract amount of \$4,133,350 (R-19-138) to deliver the Project. In June 2020, a second contractor, Top Line Engineers, was added to the project through a competitive bidding process under the General Manager's purchasing authority to remove an underground storage tank (UST).

DISCUSSION

Recently while excavating for the installation of the site's bio-retention area (a stormwater management permitting requirement), Agbayani discovered an intact underground concrete structure. Upon investigation, Agbayani discovered that the unknown structure is an oil/water separator, with approximately 1,000-gallons of sludge in it. The oil/water separator is located in the new bio-retention area and its removal is needed to complete the construction activities. There is no operational need for the oil/water separator.

Expedited quotes to clean and remove the oil/water separator were requested from Agbayani and Top Line Engineers because they are the two contractors currently working onsite and able to meet the project schedule. Agbayani declined to remove the oil/water separator, citing insufficient licensing to proceed with this work. Top Line Engineers possesses the appropriate licensing and provided an acceptable quote for the work. The Santa Clara County Fire Department (County Fire) is the governing agency for underground storage facility removal. County Fire has strict protocols for these removals, which must be followed without exception. As such, only a select number of contractors are able to perform the work. Top Line Engineers' quote for the separator removal is in line with their quote for the UST removal, with the exception of a slightly higher price to remove and properly dispose the sludge within the separator. Based on the similar scope and price, staff determined the quote to be acceptable. Agbayani has agreed to accommodate the District and Top Line Engineers during removal activities.

The General Manager recommends amending the contract with Top Line Engineers to expediently commence the removal work. Staff has coordinated with County Fire regarding permitting for the oil/water separator removal. The proposed scope of work under this recommended contract amendment includes:

- Pump out and properly dispose sludge
- Steam clean the separator
- Break up the separator into small, removable pieces
- Off haul and properly dispose debris
- Backfill and grade the void created by the separator

If the amendment with Top Line Engineers is not acceptable, staff will need to solicit quotes from other qualified contractors to perform the removal. Soliciting additional quotes and entering into another contract will delay Agbayani's work and occupancy of the site by approximately five months. Moreover, the District would incur additional costs from the five-month delay and resulting stand-down time that would be required of Agbayani, who is unable to complete certain portions of the work until the oil-water separator is removed. Finally, per County Fire, the permit to remove the UST (which must also be done expeditiously to avoid project delays) will not be released until an application for the separator removal is submitted by a licensed contractor on the District's behalf.

FISCAL IMPACT

The FY21 adopted budget includes \$3,473,483 for the New South Area Field Office Facility #31601. There are sufficient funds in the project budget to cover the recommended action and expenditures. Agbayani's construction work is expected to be completed under the Board approved budget and contingency.

Funding for the project continues to be available via the 2017 Parity Bond and/or in the Committed for Infrastructure Reserve Fund (total of \$4.1 million) and lease revenue from the SAO property (\$132,500). During the project design and permitting process, the District leased the property to the prior owner to secure lease revenue prior to entering into construction to offset project costs.

The table below shows the total project budget. A budget adjustment will be forthcoming in mid-Quarter 1 to roll unspent project funds from FY20 forward to FY21 (as a reminder, the project experienced a delay in FY20 due to COVID-19 construction restrictions).

New South Area Field Office Facility #31601	Prior Year Actuals	FY21 Adopted	FY22 Projected	FY23 Projected	TOTAL
Total Budget:	\$1,189,891	\$3,473,483	\$0	\$0	\$4,663,374
Spent-to-Date (as of 8/10/20):	(\$1,189,891)	\$0	\$0	\$0	(\$1,189,891)
Encumbrances (as of 8/10/20):	\$0	(\$185,917)	\$0	\$0	(\$185,917)
Top Line Engineers Contract Amendment:	\$0	(\$61,180)	\$0	\$0	(\$61,180)
15% Contingency:	\$0	(\$16,175)	\$0	\$0	(\$16,175)
Budget Remaining (Proposed):	\$0	\$3,210,211	\$0	\$0	\$3,210,211

The project and recommended action are not funded by Measure AA.

PUBLIC NOTICE

Public notice of this agenda item was provided as required by the Brown Act.

CEQA COMPLIANCE

District staff prepared a Categorical Exemption for the UST and oil/water separator, determining that the work would not result in any impacts to the environment. The District found that this work is categorically exempt from CEQA pursuant to CEQA Guidelines Sections 15304 and 15330.

Section 15304 – Minor Alterations to Land: The project includes minor trenching for production piping and buried debris removal, and backfilling to restore the surface. There will be no extensive grading on site.

Section 15330 – Minor Actions to Eliminate the release or Threat of Release of Hazardous Substances: The project includes removal of the UST and oil/water separator contaminated structures, piping, materials and contaminated soil, and restoration of the site.

NEXT STEPS

Pending Board approval, the General Manager will direct staff to amend the contract with Top Line Engineers to remove the oil/water separator. Agbayani's work is 50% complete. All demolition work is complete, and the new sanitary sewer and storm drain utilities are installed. Structural steel framing and foundation improvements are complete on the inside of the building. In August 2020, the building siding will be removed and replaced, and the parking lot improvements will be installed. In addition, Top Line Engineers is currently working with County Fire on permitting the UST removal. The full project is expected to be substantially completed by Fall 2020 with a move-in date of Winter 2020 (December – January).

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