



DATE: April 19, 2021

TO: Mayor and Members of the City Council

VIA: Peter Pirnejad, City Manager

FROM: Paul Nagengast, Project Advisor, Regional Government Services

SUBJECT: LEVEE PROTECTION PLANNING & IMPROVEMENTS PROJECT (CIP 327-657) – GENERAL UPDATE AND BUDGET AND COST INFORMATION

RECOMMENDATION

It is recommended that the City Council, by Minute Order, consider and accept this progress update and the budget and cost information to date on the Levee Protection Planning & Improvements Project (Project). No further action is required by the City Council.

EXECUTIVE SUMMARY

Staff will provide a verbal update of the latest Project activities at the City Council meeting. Following the verbal updates and highlights below will be a presentation of Project Budget and Cost Information to date.

Highlights of Project progress, since the last City Council update on March 15, 2021 are listed below:

- Contractor has closed the Bay Trail and installed fencing as part of Phase 3 between Bridgeview Park and Anchor Road.
- Recreational Water Users have dedicated web page as part of the Levee Improvements Project online information. The web page provides up to date information, maps indicating closures/fencing and frequently asked questions and answers related to recreational water use at Baywinds Park.
- Fourth Community Update forum with presentations and question and answer

will be held on April 21, 2021. Representatives from Police and Fire and Rescue will be available to answer questions regarding recreational water use emergencies during construction.

- Outreach to community continues with quick turnarounds to questions asked, timely email notices and press releases.
- Contractor Project work intensification anticipated Spring – Winter 2021. Work scheduled to be included in all three Phases of Project along 6.5-mile Project length.
- Contractor continuing sheet pile work for Phase 2 of Project from Shorebird Park to San Mateo Bridge. Contractor has encountered undisclosed obstructions with minimal delays to Project beneath the ground surface during sheet pile installation.

Current Schedule Timeline

Award of Contract: July 20, 2020

Notice to Proceed: September 28, 2020

Phase 1 Bay Trail Closure – Opening: October 2020 – January 2023

Phase 2 Bay Trail Closure – Opening: January 2021 -November 2022

Phase 3 Bay Trail Closure – Opening: April 2021 – January 2023

Project Substantial Completion: August 2023

Project Completion: January 2024

PROJECT BUDGET AND COST ANALYSIS

Background and Project Plans and Specifications

Before going into the specifics of a seven to ten-year Project budget and cost analysis, it is important to recognize there has not been a public agency ‘blueprint’ for what it looks like for a local agency to approve a bond measure, design and construct over 6 miles of levee protection impacting the Foster City community and users of the Bay Trail for 3+ years.

The finalization of the Project plans and specifications, advertising of Project and award of contract and commencement of construction all happened during the unprecedented Covid-19 pandemic during 2020. In addition, there were Consultant contracts finalized and Foster City key personnel changes during this same period of time.

The various cause and effects associated with the aforementioned realizations culminated in December 2020 with an overload of tasks presented to staff to deliver the Project that could not have been anticipated. An immediate Project communications enhancement was implemented with Tripepi Smith. In addition, through various memorandums beginning in January 2021, City Council has been advised of tasks and

associated costs necessary to be completed as part of the Project. These tasks and costs are not necessarily added costs, they are costs always associated with the Project but were identified at this time. When most of the major impacts to the community have been identified or completed, the Project will enter into its own rhythm or cadence and be able to be proactively managed in lieu of the past reactive responses to Project related community concerns.

It needs to be noted the Project plans and specifications reflect the design engineer's recommended type of levee to be permitted and constructed (sheet pile, reinforced concrete and earthen fill) and all the appurtenant work to construct a current version of the Bay Trail (18-foot wide; with paved and compacted decomposed granite trails). The Project plans and specifications can provide restrictions, requirements or preferred methods of construction to construct the Project. However, the more restricted the methods and means of construction specified, the more costly a project will be to prospective bidders since their imagination or ingenuity to construct a project would be limited. There will always be a trade-off between knowing an artificially increased project award price if loaded with restrictions and worse case assumptions versus a lower bid price that may need increased management of a project to ensure the contractor's means and methods are following the Project specifications.

A Project of this size requires the services of a Construction Manager. A Construction Manager provides the level of detailed oversight during construction to ensure the contractor is performing the work in accordance with the Project plans and specifications as approved by the City Council. Consequently, there may be situations where the Construction Manager does not stop the contractor from performing an activity in a manner not desired by the community since the plans and specifications do not prohibit the contractor from performing. The owner (City) can always direct the contractor to do otherwise but there will be a cost. Recent estimates requested by the City Council regarding expediting work on the Project came with a \$10M price tag.

The Construction Manager performs various contracted scope of work items (inspection, shop drawing submittal, Request for Information (RFI) process, Contract Change Order (CCO) verification, etc.) during construction, but also engages with the contractor during the construction process to minimize the potential for contractor submitted construction claims from disputed extra work or unresolved construction change orders. Participating in a partnering workshop with a contractor on a large project are also methods to ensure the agency/contractor relationship is established to complete work on time and within budget.

The Construction Manager, Tanner Pacific, Inc., (TPI) has advised City staff the contract negotiations with the City was for a Project completion date in April 2023. The contract plans and specifications provided a contract completion date January 2024. TPI has indicated they will be assessing their resources to try and maintain their Project

burn rate to meet January 2024. However, any work assigned to TPI outside of their Project Scope of Work is work not accounted for and may need an amendment to their current contract. Work tasks performed by TPI to help the City with irrigation issues from HOA's, the creation of the Quality Management Plan for an independent 3rd party testing lab, and other assorted tasks not specifically indicated in their scope of work, provides increased pressure to keep their contract current to January 2024 without any amendments. TPI will be providing as part of a contract amendment an independent quality control testing firm to perform the earthwork and asphalt concrete compaction and the concrete cylinder tests estimated at \$1,500,000. Staff will be submitting to City Council a contract amendment to TPI's contract to reflect the increased scope of work in the very near future.

The design engineer, Schaaf & Wheeler still has an active role during the Project construction to answer Contractor's RFI's, necessary design changes due to undisclosed utilities or buried obstructions and review potential contract change orders. In addition, Schaaf & Wheeler contract includes five (5) subconsultant contracts active with the Project during construction. There will be a need to amend Schaaf & Wheeler contract to account for nesting rail surveys provided by Terry Huffman & Associates not previously anticipated as well as including Interpretive sign design by BFS Landscape Architects not previously included in the contract. Please note there will be cost savings to Schaaf & Wheeler contract due to the geotechnical engineer not performing quality control work to be included as part of TPI contract amendment mentioned above. Staff will be submitting to City Council a contract amendment in the amount of \$47,000 to the Schaaf & Wheeler contract to reflect the increased scope of work to provide interpretive signs as required by the Project's San Francisco Bay Conservation and Development Commission (BCDC) permit in the very near future.

Project Management by Regional Government Services Authority (RGS) has been addressing the various Project impacts and providing information to the City Council and public. The project management Scope of Services included 20-hour work week to assist the City's Project Manager as a bridge between external forces (construction manager, contractor, design engineer) to internal forces (City staff). Until the City is able to fill the recently advertised Senior Engineer position, it has been necessary for RGS to increase weekly project management time to complete services which causes an increase in the weekly contract burn rate.

Through Project memorandums dated February 15 and March 15, 2021, the City Council was advised by the Project Manager of the following but not limited to previously undisclosed and/or unbudgeted items:

1. Obtaining Rights of Entry for entering neighboring properties. **Status:** Ongoing, City staff and City Attorney negotiating with property owners.
2. Beach Park Boulevard detour and ongoing safety. **Status:** Contractor to

perform as Contract Change Order (CCO) pavement repair, provide signage and stenciling on pavement, estimated at \$80K.

3. Removal of 60 streetlights along Beach Park Boulevard and intersection safety lighting. **Status:** Contractor to purchase, provide and maintain six (6) intersection lights as CCO, estimated at \$150K.
4. City of San Mateo Encroachment Permit. **Status:** Contractor provided as CCO detour noticing mailings and potential detour plan if necessary (awaiting Caltrans response to requested movement of sign in detour route), estimated at \$10K.
5. Caltrans Encroachment Permit for work under Highway 92 bridge and storage yard along East 3rd Avenue. **Status:** No permit issued yet. Awaiting word from Caltrans all permit requirements have been addressed. No permit cost provided by Caltrans.
6. Private property line surveyed north of Shorebird Park and located in field. **Status:** Completed and cost of \$16,518 reflected in Project summary of costs.
7. Develop Quality Management Plan for qualified independent 3rd party testing laboratory. **Status:** Completed. Services estimated at \$1.5M to be included as part of Tanner Pacific Inc., contract with amendment to be provided to City Council for approval in near future.
8. Interpretive Signs for Bay Trail required by BCDC permit. **Status:** Proposal completed and services to be included as part of Schaaf & Wheeler contract with an amendment in the amount of \$47K to be provided to City Council for approval in the near future.
9. Coordination with San Mateo Foster City School District regarding in school resuming at Bowditch Middle School on April 19, 2021. **Status:** Ongoing coordination to minimize impacts due to Beach Park Boulevard detour.
10. Communication with recreational water users at Baywinds Park. **Status:** Ongoing, created a dedicated Recreational Water Use Information page on the Project website, including maps, detailed information, and FAQs.
11. Community forum meetings. **Status:** Completed January 21, February 6, March 11 and to be held April 21, 2021.
12. Levee Live discussion. **Status:** Ongoing, weekly since February 25, 2021.
13. Project work intensification-Spring to early Winter 2021. **Status:** The third phase of three (3) phases of Bay Trail closed April 1, 2021. Contractor preparing to work along 6.5 miles of Project once nesting bird surveys are reviewed by Fish and Wildlife officials.

These aforementioned item costs will be shown as a CCO if the contractor is performing the work or included as a miscellaneous cost or identified vendor/expense.

Project Budget and Cost Information

The Project Budget and Cost Information will be broken into sub-headings; Closed Contracts and Expenses, and On-going and Future Contracts and Expenses. When

completing a 10-year Project, it is necessary to acknowledge costs approved by one City Council 10 years ago may not be the same City Council approving costs today. Project updates become vital to informing the City Council and community members the current, future and potential costs to the Project.

Closed Contracts and Expenses

Subsequent to Foster City being advised by the Federal Emergency Management Agency (FEMA) of Foster City's deficient levee system, and a new FEMA Flood Insurance Rate Map (FIRM) would place Foster City in a flood hazard zone a number of studies were initiated by Foster City beginning in 2015. These vendors and their costs reflect the early Project related work to determine if FEMA was correct about Foster City's deficient levee system and its affect requiring property owners to purchase flood insurance if there was no action taken to raise the levees. Included are the associated legal and financial expertise costs to secure bonds and the campaigns to approve Measure P to generate funds for the Project. In addition, as part of closed contracts and expenses are Phases I and II of Schaaf & Wheeler contracts which were associated with the design of the Project. Schaaf & Wheeler is performing work during construction as part of the Phase III contract approved by City Council in November 2020.

The amount of Project expenditures of closed contracts as of December 31, 2020, including Schaaf & Wheeler Phases I and II with an Amendment to Phase II totals \$4,249,641.77.

On-going and Future Contracts and Expenses

The on-going and future contracts and expenses currently totals approximately \$82.6M. Included in this amount are the Project construction contract and the construction management contract with varying contingency amounts. For example, the Project contractor, Shimmick Construction Company, Inc., (SCCI) contract authority includes \$60,218,000 for contract bid items and \$9M in contingencies for CCOs encountered during construction; and TPI contract authority includes a not to exceed amount of \$6,698,877 for their construction management scope of work and \$300K in contingencies for work performed outside of the contracted scope of work. Currently, approved SCCI CCO's are -\$526K, with potential CCO's estimated at \$4M. There have been no amendments to TPI scope of work or authorized use of \$300K contingency monies.

The total Project budgeted amount for the closed, ongoing and estimated future contracts is approximately \$87M. While at first glance it appears this amount is over the \$85M in Measure P bond proceeds issued to date, there are over \$9.3M in Project contingency monies explained above that may or may not be fully expended. Staff will

be monitoring costs and expenditures to determine how much of the \$9.3M in Project contingency monies will be remaining to utilize for other Project costs before requesting any action by City Council.

In addition, there remains \$5M in Measure P monies available to issue if necessary as well as an additional \$10M in City General Funds identified to be available if Project expenses will exceed the \$90M in total bond proceeds.

It is estimated it will take 3 months to issue the \$5M in Measure P funds remaining minus any professional financial and legal expenses, and one City Council meeting to secure any of the \$10M reserve general funds if/when necessary. It is too soon to tell if the full contingencies will be used on the Project. City Council and staff have placed various Project related professional consultants and the Levee Bond Oversight Committee to monitor and review expenditures to advise City Council if funding shortfalls become apparent and recommend City Council to add funding sources.

The Project's expenditure trajectory is within the Measure P bond funds availability of \$90M and is still within the initial release of the \$85M of Measure P funds. This Project has exhibited a natural and expected path of expenditures for a project of this size and scope. Staff has been identifying and completing work items through contractor change orders or contracted vendors and will continue to look to rebalance existing professional consultant contracts to include identified work. Staff provides the City Council monthly updates and/or Project memorandums about the Project to disclose new work items and cost implications to ensure the Project construction remains on time and within budget. The Levee Bond Oversight Committee is provided expenditure reports to ensure Project expenditures are only Project related. Staff is confident there is sufficient Project cost oversight in place to monitor activities and costs to provide the timely notification to City Council for additional Project funding if/when necessary.

FISCAL IMPACT

There is no fiscal impact associated with this Project update report. Fiscal impacts to Project requiring City Council approval will be presented to City Council as a separate agenda item with appropriate recommendations. This report identified several items to be presented to City Council in the near future related to completing identified work and rebalancing current contracts.

CITY COUNCIL VALUE/PRIORITY AREA

This item is directly related to the Levee Project under the "Facilities and Infrastructure" Value/Priority Area. The key outcome is to make substantial progress toward an improved levee project on time and budget to protect the community and critical infrastructure from storms and high tide.

Attachment:

- Attachment 1 - Monthly Construction Manager's Report – March 2021