

Central Services
Joan Araujo, Director

Engineering Services
Anastasia Seims, Director

Roads & Transportation
Anitha Balan, Director

Water & Sanitation
Vacant, Director

Watershed Protection
Jeff Palmer, Director

January 14, 2025

Board of Supervisors
Ventura County Watershed Protection District

Subject: **Ratification of Contract Change Order No. 5 to the Construction Contract with Toro Enterprises, Inc. for the Coyote Creek Pilot Channel Project, for Additional Channel Excavation and Removal of an Interfering Bridge for \$280,700, Raising the Total Contract Amount from \$1,511,889 to \$1,792,589; Finding that Competitive Bidding is Undesirable and Impractical, Would Be Unavailing and Would Not Produce a Public Advantage. Specification No. WP25-01; Watershed Protection District Zone 1; Project No. P6081176; Supervisorial District No. 1.**

Recommendation:

1. Ratify Contract Change Order No. 5, attached hereto as Exhibit 3, to the construction contract with Toro Enterprises, Inc. of Oxnard, California for the Coyote Creek Pilot Channel Project for additional channel excavation and removal of an interfering bridge for \$280,700, raising the total contract amount from \$1,511,889 to \$1,792,589.
2. Find that competitive bidding for the work is undesirable and impractical, would be unavailing and would not produce a public advantage.

Fiscal/Mandates Impact:

Mandatory:	No
Source of Funding:	Natural Resources Conservation Service, Ventura County Community Foundation, General Fund and Watershed Protection District Zone 1
Funding Match Required:	25% of eligible costs
Impact on Other Department(s):	None



Summary of Revenue and Total Costs:

	<u>FY 2024-25</u>	<u>FY 2025-26</u>
Revenue:	\$ 0	\$ 0
Costs:		
Direct	\$ 280,700	\$ 0
Indirect – Agency/Dept.	\$ 0	\$ 0
Indirect – County CAP	\$ 0	\$ 0
Total Costs	\$ 280,700	\$ 0
Net Costs	\$ 280,700	\$ 0
Recovered Indirect Costs	\$ 0	\$ 0

Current FY Budget Projection:

Current FY 2024-25 Budget Projection for Watershed Protection District Zone 1 - Unit 4211				
	Adopted Budget	Adjusted Budget	Projected Budget	Estimated Savings/(Deficit)
Appropriations	\$9,580,000	\$16,869,121	\$16,869,121	\$0
Revenue	\$13,539,200	\$16,737,912	\$16,737,912	\$0
Net Cost	(\$3,959,200)	\$131,209	\$131,209	\$0

Sufficient appropriations are included in the FY 2024-25 Zone 1 Adjusted Budget.

Executive Summary/Reason for Ratification:

Under the original contract, Toro Enterprises, Inc. (“Toro”) constructed 25-foot-wide pilot channels on either side of the property that is the site of Contract Change Order (CCO) No. 5 work (575 Casitas Vista Road, Ventura). Construction of the channel through that property had been part of a separately bid contract for which no bids were received. CCO No. 5 provided for the construction of 300 linear feet (LF) of a 10-foot-wide pilot channel, and removal of vehicular bridge (a hydraulic obstacle), to connect the two already constructed 25-foot-wide pilot channel reaches. This work was urgent to allow the surface water to continuously flow through the 575 Casitas Vista Road property, thus preventing possible flooding and road closures in the adjacent area, and/or needing to maintain an expensive pumping system to carry the water between the two previously constructed reaches. Thus, the Public Works Agency (PWA) Director approved CCO No. 5. The final channel grading will be done in Spring of 2025.

Discussion:

The project is located within Coyote Creek, a tributary to the Ventura River, in the unincorporated area of Foster Park, near Casitas Springs in Ventura County, California (See Exhibits 1 and 2). The project site is parallel to Casitas Vista Road starting



approximately 500 feet upstream of Camp Chaffee Road and extending about 1,060 feet downstream of the Camp Chaffee Road, for a total project length of approximately 1,700 linear feet (Exhibit 2).

The storm events experienced early in 2023 caused flooding in the areas adjacent to Coyote Creek. The strength and duration of those storms exacerbated sediment buildup in the creek by bringing sediment from the nearby mountains down the creek. After most of the water had receded, the extent of accumulated sediment within the creek was evident, and at Camp Chaffee Road low water crossing, there was approximately 4 feet of sediment on top of the existing road surface, in addition to surface water.

The Watershed Protection District (District) has worked and continues working in collaboration with the U.S. Department of Agriculture Natural Resources Conservation Service (NRCS) to provide funding for private properties adjacent to the channel for the two construction phases of the subject project. Funding for construction is being provided through the NRCS Emergency Watershed Protection Program (EWPP) and was approved by NRCS for Phase One on March 11, 2024, and for Phase Two on September 10, 2024, respectively.

The first phase of the project consisted of the sediment removal and pilot channel construction from channel station 17+00 to channel station 21+00 (Schedule III) and from channel station 24+00 to channel station 34+00 (Schedule V). On July 23, 2024, your Board approved the contract for Phase One and gave the PWA Director authority to award it to the lowest responsible bidder. The second phase (Schedule IV) consisted of the sediment removal and pilot channel construction from channel station 21+00 to channel station 24+00 and the demolition of all existing structures within the property located at 575 Casitas Vista Road. On September 10, 2024, your Board approved the contract for Phase Two and gave the PWA Director authority to award it to the lowest responsible bidder. Phase One of the project was bid out on August 6, 2024, and Phase Two was bid out on October 10, 2024. Both projects received no bids on their respective bid opening days.

Since no bids were received, the PWA Director selected two qualified contractors with whom to negotiate the construction contract for the Phase One. Therefore, the District staff, in consultation with the PWA Director, negotiated a contract to construct Phase One for \$1,467,889 with Toro, which your Board awarded on September 10, 2024.

Construction of Phase One started on September 23, 2024. As this phase of the project started moving forward, the PWA Director, in collaboration of County Counsel, were still in negotiations for the buyout of the property located at 575 Casitas Vista Road, Ventura, CA. The buyout of the above-mentioned property pertains to Schedule IV of the construction, the second phase, as described in the above paragraphs. Due to many complications during the negotiations and the escrow process, this phase was delayed since no action could have been taken on private property. After all outstanding issues were resolved, the escrow was closed on November 28, 2024, and the District took ownership of the said property on December 2, 2024.



The Contractor was on schedule to complete Phase One of the project on November 26, 2024. Based on the current events, the District had two critical and valid concerns. The first concern was that the pilot channel section from station 21+00 to station 24+00 (Schedule IV at 575 Casitas Vista) had not been excavated (due to the fact that bids were not received and the delays in closing the escrow for the purchase of the 575 Casitas Vista property). This condition created a channel discontinuity (or a dam) between the upstream and the downstream reaches of the already excavated 25-foot-wide pilot channel; thus, not allowing the constant surface and seepage waters to flow downstream of station 24+00. The second concern was once the contractor completed the construction of Phase One, the water control and diversion system in place would be removed. This would create a back water effect and potentially inundate the residents upstream, as well as Camp Chaffee Road. Note that Camp Chaffee Road had already been uncovered from approximately four feet of deposited sediment (mud), and was currently operational. Having Camp Chaffee Road opened and functional is important for the nearby residents as an alternative route to Sky-high Drive. The Foster Park community has anxiously awaited the opening of Camp Chaffee Road for over two years.

To prevent flooding of the adjacent properties to the channel upstream of station 24+00 (due to the critical circumstances and concerns cited in the above paragraph), the District in consultation and with the PWA Director negotiated Contract Change Order (CCO) No. 4 for \$44,000.00 (increasing the contract amount to \$1,511,8890). The purpose of CCO No. 4 was to preserve in place and extend the duration of the current water control and diversion system. This relieved flooding concerns and allowed the District time to negotiate CCO No. 5. Once the 575 Casitas Vista property was acquired, CCO No.5 was negotiated for \$280,700.00. The purpose of this CCO was to connect the upstream channel reach at station 24+00 to the downstream channel reach at station 21+00, Schedule IV. This channel connection consists of a 10-foot-wide pilot channel with 2:1 (horizontal: vertical) channel slopes. This last CCO was urgently needed to alleviate the need to continue to maintain the expensive water diversion system in order to prevent flooding upstream of station 24+00 and help Camp Chaffee remain passable during a storm event. Therefore, the PWA Director approved CCO No. 5. Based on the exigency of the required Phase Two work and the need for Board authorization, the District is seeking your Board's ratification of CCO No. 5.

The delay that would be caused by bidding out the CCO No. 5 work would impose significant additional cost because, as noted above, the District would have to maintain an expensive water diversion system to prevent flooding during that time; further, Toro was already mobilized on site. Therefore, competitive bidding of the work is undesirable and impractical. Competitive bidding is not required where it is undesirable or impractical, because it would be unavailing and would not produce an advantage with reference to the public interest and the purposes of competitive bidding, namely, to guard against favoritism, improvidence, extravagance, fraud, and corruption; to prevent the waste of public funds; and to obtain the best economic result for the public. (*Graydon v. Pasadena Redevelopment Agency* (1980) 104 Cal.App.3d 631, 635-36.)



The estimated total project costs are as follows:

Preliminary Engineering:	\$ 142,750
Construction Contract:	\$ 1,792,589
Construction Engineering:	\$ 150,000
Right of Way:	\$ 15,000
Contingencies:	\$ 0
Total	\$ 2,100,339

*\$124,319 in Preliminary Engineering and Right of Way Costs was incurred in previous fiscal year.

Strategic Plan:

This item contributes to the Board of Supervisors (Board's) 2024-2027 strategic priority to provide:

- III. Reliable infrastructure and sustainability through
 - 3. Investing in sustainable infrastructure, renewable energy, and preservation of our natural resources.

This letter has been reviewed by the County Executive Office, the Auditor-Controller's Office, and County Counsel. The Contract Change Order is on a standard form previously reviewed by County Counsel.

If you have any questions regarding this item, please contact the undersigned at 805 654-2040.

Sincerely,



Jeff Palmer, P.E.
Director
Watershed Protection District

Attachments:

- Exhibit 1 – Vicinity Map
- Exhibit 2 – Location Map
- Exhibit 3 – Contract Change Order No. 5

