

## ATTACHMENT B

### AMENDMENT NO. FIVE TO PROFESSIONAL SERVICES AGREEMENT WITH BURNS & MCDONNELL ENGINEERING COMPANY, INC. FOR ENGINEERING AND CONSTRUCTION MANAGEMENT SERVICES FOR THE NEWPORT BAY TRASH WHEEL PROJECT

THIS AMENDMENT NO. FIVE TO PROFESSIONAL SERVICES AGREEMENT ("Amendment No. Five") is made and entered into as of this 23rd day of July, 2024 ("Effective Date"), by and between the CITY OF NEWPORT BEACH, a California municipal corporation and charter city ("City"), and BURNS & MCDONNELL ENGINEERING COMPANY, INC., a Missouri Corporation ("Consultant"), whose address is 140 S. State College Boulevard, Suite 100, Brea, CA 92821, and is made with reference to the following:

#### RECITALS

- A. On March 24, 2020, City and Consultant entered into a Professional Services Agreement ("Agreement") for engineering and construction management services for the Newport Bay Trash Wheel Project ("Project").
- B. On January 11, 2022, City and Consultant entered into Amendment No. One to the Agreement ("Amendment No. One") to reflect additional services not previously included in the Agreement, and to increase the total compensation.
- C. On February 28, 2023, City and Consultant entered into Amendment No. Two to the Agreement ("Amendment No. Two") to reflect additional services not included in the Agreement, as amended, to extend the term of the Agreement to December 31, 2024, and to increase the total compensation.
- D. On July 11, 2023, City and Consultant entered into Amendment No. Three to the Agreement ("Amendment No. Three") to reflect additional services not included in the Agreement, as amended, to extend the term of the Agreement to December 31, 2025, to increase the total compensation, and to update the Independent Contractor section.
- E. On December 5, 2023, City and Consultant entered into Amendment No. Four to the Agreement ("Amendment No. Four") to reflect additional Services not included in the Agreement, as amended, and to increase the total compensation.
- F. The parties desire to enter into this Amendment No. Five to reflect additional Services not included in the Agreement, as amended, and to increase the total compensation.

**NOW, THEREFORE**, it is mutually agreed by and between the undersigned parties as follows:

## 1. SERVICES TO BE PERFORMED

Exhibit A to the Agreement shall be supplemented to include the Scope of Services, attached hereto as Exhibit A and incorporated herein by reference ("Services" or "Work"). Exhibit A to the Agreement, Exhibit A to Amendment No. One, Exhibit A to Amendment Two, Exhibit A to Amendment Three, Exhibit A to Amendment No. Four, and Exhibit A to Amendment Five shall collectively be known as "Exhibit A." The City may elect to delete certain Services within the Scope of Services at its sole discretion.

## 2. COMPENSATION TO CONSULTANT

Exhibit B to the Agreement shall be supplemented to include the Schedule of Billing Rates, attached hereto as Exhibit B and incorporated herein by reference. Exhibit B to the Agreement, Exhibit B to Amendment No. One, Exhibit B to Amendment Two, Exhibit B to Amendment Three, Exhibit B to Amendment No. Four, and Exhibit B to Amendment No. Five shall collectively be known as "Exhibit B."

Section 4.1 of the Agreement is amended in its entirety and replaced with the following: "City shall pay Consultant for the Services on a time and expense not-to-exceed basis in accordance with the provisions of this Section and the Schedule of Billing Rates attached hereto as Exhibit B and incorporated herein by reference. Consultant's compensation for all Work performed in accordance with this Agreement, including all reimbursable items and subconsultant fees, shall not exceed **One Million Thirteen Thousand Three Hundred Two Dollars and 00/100 (\$1,013,302.00)**, without prior written authorization from City. No billing rate changes shall be made during the term of this Agreement without the prior written approval of City."

The total amended compensation reflects Consultant's additional compensation for additional Services to be performed in accordance with this Amendment No. Five, including all reimbursable items and subconsultant fees, in an amount not to exceed **Forty Nine Thousand Six Hundred Eighty One Dollars and 00/100 (\$49,681.00)**.

## 3. INTEGRATED CONTRACT

Except as expressly modified herein, all other provisions, terms, and covenants set forth in the Agreement shall remain unchanged and shall be in full force and effect.

**[SIGNATURES ON NEXT PAGE]**

**IN WITNESS WHEREOF**, the parties have caused this Amendment No. Five to be executed on the dates written below.

**APPROVED AS TO FORM:  
CITY ATTORNEY'S OFFICE**

Date: 7/10/24

By: Aaron C. Harp

Aaron C. Harp  
City Attorney

ms  
7/10/24

**CITY OF NEWPORT BEACH,**  
a California municipal corporation

Date: \_\_\_\_\_

By: \_\_\_\_\_

Will O'Neill  
Mayor

**ATTEST:**

Date: \_\_\_\_\_

**CONSULTANT:** Burns & McDonnell  
Engineering Company, Inc., a Missouri  
Corporation

Date: \_\_\_\_\_

By: \_\_\_\_\_

Leilani I. Brown  
City Clerk

By: \_\_\_\_\_

Mark R. Knaack  
Vice President

Date: \_\_\_\_\_

By: \_\_\_\_\_

Christine M. Dority  
Assistant Secretary

**[END OF SIGNATURES]**

Attachments:      Exhibit A – Scope of Services  
                         Exhibit B – Schedule of Billing Rates

# **EXHIBIT A**

## **SCOPE OF SERVICES**

Exhibit A – Scope of Work

C-71273-3 Amendment Number 5

**Task 1: RFI & Submittals, Design Changes and Supplemental Construction Biological Monitoring**

- a. **Irvine Company Request for Change in Vegetation Cover and Extension of Schedule for Revegetation:** The Irvine Company requested prior to mobilization adding container plants to the north side of the project where only hydroseeding was planned. The addition of container plants has added to the overall revegetation schedule. The extension of the schedule has added to the biological inspection timeline and number of visits by Tidal Influence (subcontracted by BMcD).
- b. **Additional RFIs & Submittals for SCADA System:** BMCD has completed the reviews and submitted responses to 39 RFIs and 46 Submittals. An additional budget is requested to cover the review, coordination and submittal of additional multiple submittals for the SCADA remote sensing and control system and the integration of this system into the City's existing systems and operations. The SCADA system was provided as a performance specification to provide flexibility for this integration but requires submittal of system design details.
- c. **Integration of Floating Trash Wheel with Fixed Rail System:** The floating trash wheel system is expected to arrive on-site in late summer and will require integration with the fixed rail system. BMcD shall provide Engineer of Record support services that includes responding to additional RFI's and submittals as the Contractor integrated these systems and with the SCADA system.

**Task 2: Welding Inspection & Testing**

Group Delta will provide additional welding and related steel inspection and testing.

# **EXHIBIT B**

## **SCHEDULE OF BILLING RATES**

**Exhibit A – Billing Rates**

**C-71273-3 Amendment Number 5**

**Task 1: RFI & Submittals, Design Changes and Supplemental Construction Biological Monitoring**

- **Task Cost: \$40,718 (includes Tidal Influence \$5,400 & Anchor \$6,600)**

**Task 2: Welding Inspection & Testing**

- **Task Cost: \$8,963 (includes \$7,487 Group Delta)**

**The total cost of the amendment is \$49,681.**