



NEWPORT BEACH

City Council Staff Report

January 9, 2024
Agenda Item No. 9

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

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TITLE: Amendment No. Four to the Burns & McDonnell Professional Services Agreement for the San Diego Creek Trash Interceptor Project (Contract No. 7127-3, Project No. 17X12)

ABSTRACT:

Staff requests approval of Amendment No. Four to the Burns & McDonnell's Professional Services Agreement for new design and construction-related tasks for the San Diego Creek Trash Interceptor and to provide additional funds for the project's miscellaneous and incidental expenses. Staff also requests approval of a Budget Amendment allocating additional unappropriated Environmental Liability Fund Fees to the project.

RECOMMENDATIONS:

- a) Determine this action is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines because this action will not result in a physical change to the environment, directly or indirectly;
- b) Approve Budget Amendment No. 24-044 appropriating \$100,411 in increased expenditures in Account No. 16001-980000-17X12 (Newport Bay Trash Wheel) from the unappropriated Environmental Liability Fund Fees balance; and
- c) Approve Contract Amendment No. Four to the Burns & McDonnell Professional Services Agreement for an additional not-to-exceed amount of \$75,411, and authorize the Mayor and City Clerk to execute the agreement.

DISCUSSION:

Burns & McDonnell (B&M) began work on the Trash Interceptor project in 2020 as the City of Newport Beach's design consultant for the project. B&M is currently under contract to assist with the construction management. A summary of the previous contractual agreements with B&M for the Trash Interceptor project is as follows.

On March 24, 2020, the City Council approved a Professional Services Agreement with B&M for the consultant to prepare a concept plan, topographic surveys, a detailed drainage analysis, a detailed pile design analysis, construction documents, easement documents, and to prepare and process permit applications.

On January 11, 2022, the City Council approved Amendment No. One for B&M to perform new design tasks required by the County of Orange as part of its permit review process, prepare permit reports for the US Army Corp of Engineers and State Water Quality Control Board, pay agency permit fees on behalf of the City, prepare a site security and operational controls/alerts detail sheets, perform an updated biological survey, and prepare an Operation and Maintenance Plan.

On February 28, 2023, the City Council approved Amendment No. Two for B&M to prepare more detailed design for the unique rail system, piles, catwalk and access ramp, and a remote security and control system to supplement the project's performance specifications.

On July 11, 2023, the City Council approved Amendment No. Three for B&M to provide pre-bid support, review of requests for information, provide field engineering support, prepare an environmental assessment (CERCLA - Phase 1), prepare pre-bid biological surveys, perform biological monitoring, provide geotechnical services, and prepare National Environmental Policy Act documentation.

B&M's approved compensation to date is:

Professional Services Agreement	\$464,925
Amendment No. 1	\$ 85,765
Amendment No. 2	\$ 81,019
Amendment No. 3	<u>\$256,501</u>
TOTAL	\$888,210

Proposed Amendment No. 4 to the Professional Services Agreement

Since the July 11, 2023 award of the construction contract to Jilk Heavy Construction, B&M and its team of subconsultants have been an integral part of the City team managing the construction. The project is now in the fifth month of construction, and with the timely and critical responses by the B&M team, the project is moving forward at a reasonable pace. It is expected the Trash Interceptor will be installed on the float piles in April 2024 and be fully commissioned and operating by winter 2024, before the onset of the storm season.

There are several new design and construction-related tasks requiring immediate support from the B&M team that were not anticipated in the contract or previous amendments. Specifically, these new tasks are:

1. Preparing an automatic irrigation system and planting plan. In a September 29, 2023 conference call with The Irvine Company (TIC), Vice Presidents Mark Denny and Dean Kirk, requested, under discretion provided to TIC under provisions in the Quit Claim property deed, that container plants be added to the landscaping on the North Bank. B&M's biologist subconsultant will advise on soil preparation, plant selection and installation inspection.

2. Relocating the bio-infiltration unit. During initial grading of the site during the first week of September, soft and highly erodible conditions were discovered near the creek bank where the biofiltration unit and outfall is to be installed. This substandard soil condition requires relocating the unit further away from the creek bank. This will entail modification of the truck turnaround area.
3. Adding a stop (safety) mechanism at the end of the rail system. B&M will provide structural design services to design a stop mechanism at the end of the rail system.
4. Providing additional review services of design and product submittals. While Amendment No. Three provided funding for reviews and responses to requests for information, and product and design submittals, a supplemental budget is needed now for (a) additional submittal reviews of connection details between the railway piles and the rail system, catwalk and gangway. Additional funding is also needed for the review of design submittals for the supervisory control and data acquisition system (SCADA) and integration of SCADA into the City's existing systems and operations. The design of the SCADA system was provided as a performance specification to provide flexibility for this integration; however, the performance specification requires submittal of system design details.

Note that the construction contract is a performance contract that requires the contractor to work in concert with the City's construction management consultants to prepare detailed design submittals, per the construction document specifications, for many project elements. The major components to the Trash Interceptor facility include the (1) trash wheel, canopy, floating pontoon system and guide piles; (2) railway, support piles, railway canopy and winch; and (3) catwalk and gangway. Each major component has many smaller elements requiring detailed design submittals such that all the components of the Trash Interceptor fit together properly.

5. Providing additional biological monitoring. Based on the positive identification of the presence of California Gnatcatcher, on October 12, 2023, per permit conditions, B&M's biologist subconsultant, Tidal Influence, will conduct additional biological monitoring. Additional coordination with the resource agencies is also caused by this siting.
6. Coordinating with permitting agencies. To assist City staff, Tidal Influence will coordinate with the California Department of Fish & Wildlife and California Coastal Commission staff to provide required information and documentation of compliance with approved project permits. The permit condition support includes developing a permit conditions matrix and tracking compliance.

The requested budget for these tasks in the proposed Amendment No. Four is \$75,411.

Miscellaneous and Incidental Expenses

Staff requests an additional \$25,000 be added to the project budget for miscellaneous and incidental expenses to cover potential additional costs for the Trash Interceptor project construction including County of Orange inspection fees, Irvine Ranch Water District (IRWD) design and installation fees for water service, and construction document reproduction costs.

FISCAL IMPACT:

The proposed Budget Amendment appropriates \$100,411 from the Environmental Liability Fund Fees (ELFF) program unappropriated fund balance.

ELFF are authorized for use by the City for any expense associated with facilitating a City-hired commercial hauler in disposing of trash collected in the City to fulfill State, federal or local law requirements. Recently promulgated State regulations require a higher rate of trash capture and removal. Because construction of the Trash Interceptor facility provides direct access for one of the City’s commercial trash haulers to collect trash that is captured directly from San Diego Creek, the ELFF can fund the budget amendment. The ELFF program has approximately \$8.2 million in reserves.

With approval of the budget amendment, sufficient funding is available from the Fiscal Year 2023-24 Capital Improvement Program (CIP) budget for completion of this contract and to provide additional project funds for City incidental expenses as described above.

The funds will be expended from the following account:

<u>Account Description</u>	<u>Account Number</u>	<u>Amount</u>
ELFF	16001-980000-17X12	\$ 100,411
Total:		\$ 100,411

Proposed fund uses are:

<u>Vendor</u>	<u>Purpose</u>	<u>Amount</u>
B&M	Amendment No. Four	\$ 75,411
Various	Miscellaneous and Incidentals Expenses	\$ 25,000
Total:		\$ 100,411

ENVIRONMENTAL REVIEW:

Staff recommends the City Council determine this action is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines because this action will not result in a physical change to the environment, directly or indirectly.

NOTICING:

The agenda item has been noticed according to the Brown Act (72 hours in advance of the meeting at which the City Council considers the item).

ATTACHMENTS:

Attachment A – Budget Amendment

Attachment B – B&M Professional Services Agreement Amendment No. Four Scope of Work