



DATE: March 6, 2023

TO: Honorable Mayor and Members of the City Council through City Manager

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SUBJECT: Resolution Ratifying Award of Contract, Accepting Completion of the Emergency Restoration of the Ellis Creek Water Recycling Facility Outfall Relocation Project as Performed by Coastside Concrete & Construction, Inc., Authorizing Release of the 10% Retention and Finding This Item Has Been Addressed in a Previously Certified Environmental Impact Report and No Separate, Subsequent, or Supplemental Review is Warranted.

RECOMMENDATION

It is recommended that the City Council adopt the attached Resolution ratifying award of contract, accepting completion of the Emergency Restoration of the Ellis Creek Water Recycling Facility Outfall Relocation Project as performed by Coastside Concrete & Construction, Inc., authorizing release of the 10% retention and finding this item has been addressed in a previously certified Environmental Impact Report and no separate, subsequent, or supplemental review is warranted.

BACKGROUND

The City's Ellis Creek Water Recycling Facility (ECWRF) has been in operation since early 2009 and currently processes an average dry weather daily flow of 4.8 MGD (million gallons per day). The ECWRF site currently has an outfall that extends from a junction box immediately south of the developed ponds and extends southerly to a structure located within the Petaluma River. This existing outfall was constructed of a fiberglass-based composite material in the 1970s, which has become known for becoming brittle and prone to failure over time. During a September 2016 inspection, signs of severe stress and imminent failure were observed including longitudinal cracks along the top and bottom of the pipe, separating pipe joints and sections of pipe.

On August 8, 2022, the City Council awarded the contract to NBC Engineering & Construction Inc. (NBC) for the relocation of the outfall. NBC was not able to complete the project as specified in the project plans and within the limitations of the project's permit restrictions. The site condition

left by NBC upon their termination was not permit-compliant, lacked proper erosion control standards, and was not adequately stabilized, which posed a risk to both the environment as well as the Ellis Creek Water Recycling Facility itself.

To bring the project into compliance with the conditions of the permits as quickly and safely as possible, the City issued an emergency Purchase Order to Coastside Concrete & Construction, Inc. (Coastside). The initial purchase order included the restoration activities to properly backfill excavations, correct erosion controls, clean the site, hydroseed the slopes, reinstall the temporary discharge pipeline, and install a temporary apron to stabilize the modified discharge location in preparation for activation of the temporary discharge pipeline. The first Purchase Order was based on time and materials (T&M) according to an estimate provided by Coastside, with a value not-to-exceed (NTE) of \$70,000.

During the design of the temporary discharge apron, it was determined by staff and confirmed by the City's consultants that additional steel trench plates would be needed to provide a stable foundation for the emergency discharge. The cost of these plates when added to the restoration work already performed, exceeded the initial estimate. Therefore, a second Purchase Order was issued for the requisition of up to 10 steel plates to be provided by Coastside.

DISCUSSION

Coastside's work began with surveying to determine the full extent of the area requiring restoration due to disturbance from activities performed by NBC. The surveying confirmed that the disturbed area was not fully within the originally designated location and that the new outfall could not be constructed as designed, in a timely manner, or as intended. Based on field observations, the project's geotechnical engineer concluded that the material at the toe of the slope, previously installed by NBC, including sandbags and metal sheeting, should remain in place until the work for the outfall relocation project could resume during the next permit work window in 2023. This determination was made to avoid further destabilization of the slope immediately adjacent to the waterway and to mitigate the additional risk of slope failures. That timing recommendation was supported by the specified permit conditions and discussions with regulators, who required that the removal of this material not be completed until the fall of 2023.

Coastside corrected the erosion controls and scheduled the restoration work to occur in November during dry weather, as required by permit conditions. The restoration was completed in November, except for the temporary discharge apron which required additional design and review to ensure compliance with permit conditions, prevent erosion, and maintain slope stability. An extended wet-weather period began in December and the temporary discharge apron was installed between January 4 and 12, 2023. The restoration work was completed, is satisfactory, and meets the intent of the permits.

Pursuant to Petaluma Municipal Code Section 4.04.050, the City's bidding requirements, "...may be dispensed ...when an emergency requires that an order be placed with the nearest available source of supply." The restoration work completed by Coastside was required to maintain the continued operation of the Ellis Creek Water Recycling Facility, reduce the danger to the City's property and surrounding environment, and bring the site conditions into compliance with permit

requirements, and therefore constituted an emergency. The work was completed in a timely manner, to stabilize the construction site before the atmospheric rain events and reinstall the temporary discharge pipeline to allow the use of the secondary discharge location. Additionally, due to the narrow window authorized by permits of the State, the stabilization work needed to be completed within this window. As Public Works & Utilities staff deemed the stabilization work an emergency, the City complied with its purchase requirements in awarding the contract to Coastside. Moreover, “It has been held that where competitive proposals work an incongruity and are unavailing as affecting the final result, or where competitive proposals do not produce any advantage, or where it is practically impossible to obtain what is required and to observe such form, competitive bidding is not applicable.” (*Graydon v. The Pasadena Redevelopment Agency* (1980) 104 Cal. App. 3d 631, 636). The initial project was put out to bid but nobody responded. Accordingly, due to the narrow permit windows and the fact that nobody originally bid on the project, it would have been unavailing to place this emergency work out for bid and have the project completed within the permit window. The Resolution seeks to ratify the award of the contract to Coastside and accept its completion.

PUBLIC OUTREACH

Due to the emergency nature of the work and its location, public outreach was not performed prior to the work. This agenda item appeared on the City’s tentative agenda document on February 27, 2023, which was a publicly-noticed meeting.

COUNCIL GOAL ALIGNMENT

The project was not anticipated as part of a specific goal, however, a safe and environmentally responsible discharge from the Ellis Creek Water Recycling Facility promotes a healthy river and is part of maintaining the City’s critical infrastructure.

CLIMATE ACTION/SUSTAINABILITY EFFORTS

The emergency work completed by Coastside was performed with environmental responsibility and sustainable practices as a standard of care. Materials such as steel trench plates and concrete blocks used in stabilizing the site were selected to reduce waste and maximize reusability.

ENVIRONMENTAL REVIEW

Environmental Impact Report

The Environmental Impact Report (EIR) for the facility (Water Recycling Facility and River Access Improvements EIR – State Clearinghouse #2001052089) included maintenance of the existing outfall. The EIR was certified by the City of Petaluma in 2002 and subsequently amended by certified addenda in 2004, 2005, 2006, 2007, and twice in 2016. An addendum that was certified in August 2022 included the relocation of the outfall. The work was performed in part of the implementation of the outfall relocation; therefore, no separate, subsequent, or supplemental review is warranted.

Permitting

The work was located within areas that require great care in protecting the environment and habitat. As part of the outfall relocation project, a Mitigation Monitoring Plan (MMP) was developed to

ensure that the project is constructed in compliance with best practices and the restrictions required by various permitting agencies. This MMP was followed as closely as possible given the constraints of the emergency nature of the work. The agency permits and approvals active on this project include:

- **San Francisco Regional Water Quality Control Board (RWQCB)**
 - Section 401 Water Quality Certification
- **California Department of Fish and Wildlife (CDFW)**
 - Streambed Alteration Agreement
- **Army Corps of Engineers (ACOE)**
 - Section 404 Nationwide Permit
- **Bay Conservation and Development Commission (BCDC)**
 - Regionwide Permit 2

Of note, work within the riverine habitat area was restricted to September 1 through October 15. Limited extensions were granted for the purpose of stabilizing the site and performing erosion control. The work to install the new outfall was not permitted to continue beyond the limits imposed by the regulating agencies.

FINANCIAL IMPACTS

The total amount invoiced by Coastside is \$77,920.52, inclusive of the time and materials purchase order and procurement of steel plates. The invoiced amount is less than the amount authorized by the emergency Purchase Orders, which set a not to exceed amount of \$98,576.40. The Ellis Creek Outfall Replacement Project C66501838 is funded by Wastewater Enterprise funds. The new outfall is currently in the 22/23 CIP budget. However, the emergency restoration efforts required were necessitated by NBC's inability to complete the project. It is the intent to seek reimbursement through the appropriate methods to minimize the fiscal impact.

| Itemized Budget Breakdown | FY 22/23 CIP Budget |
|----------------------------------|----------------------------|
| Uses | |
| Planning/Environmental | \$ - |
| Land & Easements | \$ - |
| Design | \$ 75,000 |
| Legal Services | \$ - |
| Administration | \$ - |
| Construction Contracts | \$ 1,466,000 |
| Construction Management | \$ 70,000 |
| Contingency | \$ 200,000 |
| CIP Overheads | \$ 15,000 |
| TOTAL | \$ 1,826,000 |

ALTERNATIVES

The project was completed satisfactorily by the contractor. Not accepting completion would likely lead to a contractual dispute with the contractor. If the City Council does not approve the resolution, a revised resolution would be necessary to release the retention of payment due to the contractor for completing the emergency work.

ATTACHMENTS

1. Resolution
2. Emergency Purchase Orders
3. Site Plan
4. Site Photos