



AGENDA REPORT

SAN CLEMENTE CITY COUNCIL MEETING
Meeting Date: August 18, 2020

Agenda Item CON
Approvals:
City Manager ES
Dept. Head DR
Attorney _____
Finance [Signature]

Department: Utilities
Prepared By: Cynthia Mallett, Environmental Programs Supervisor DR

Subject: *CITY COUNCIL ACCEPTANCE AND NOTICE OF COMPLETION FOR THE PIER UNDERSTORY BIRD DETERRENT NETTING, PROJECT NO. 18810.*

Fiscal Impact: Yes. The total project cost is \$105,772 which is within the approved total budget of \$111,022 from the Clean Ocean Improvement Fund.

Summary: Acceptance and Notice of Completion for Bird Solutions International for completion of contract work for the Pier Understory Bird Deterrent Netting. Refer to Attachment 1 for Location Map and Attachment 2 for Notice of Completion.

Background: On February 18, 2020, the City Council awarded a construction contract to Bird Solutions International for the Pier Understory Bird Deterrent Netting (refer to Attachment 3) to install netting from bents three to eight underneath the Fisherman's Restaurant. On June 2, 2020, based on staff's request, the City Council increased the construction contingency of the Pier Understory Bird Deterrent Netting by \$15,472 (Attachment 4) to install netting from bents one through three. As a result of this project, the entire area of the Pier underneath the Fisherman's Restaurant has bird deterrent netting installed to reduce the number of pigeons roosting under the Pier and to improve ocean water quality.

A summary of the total expenditures is provided below:

Administration and Engineering Design	\$ 9,000
Construction Management & Inspection	6,000
<u>Construction</u>	<u>90,772</u>
Total Project Cost	\$105,772

Recommended

Action: STAFF RECOMMENDS THAT the City Council:

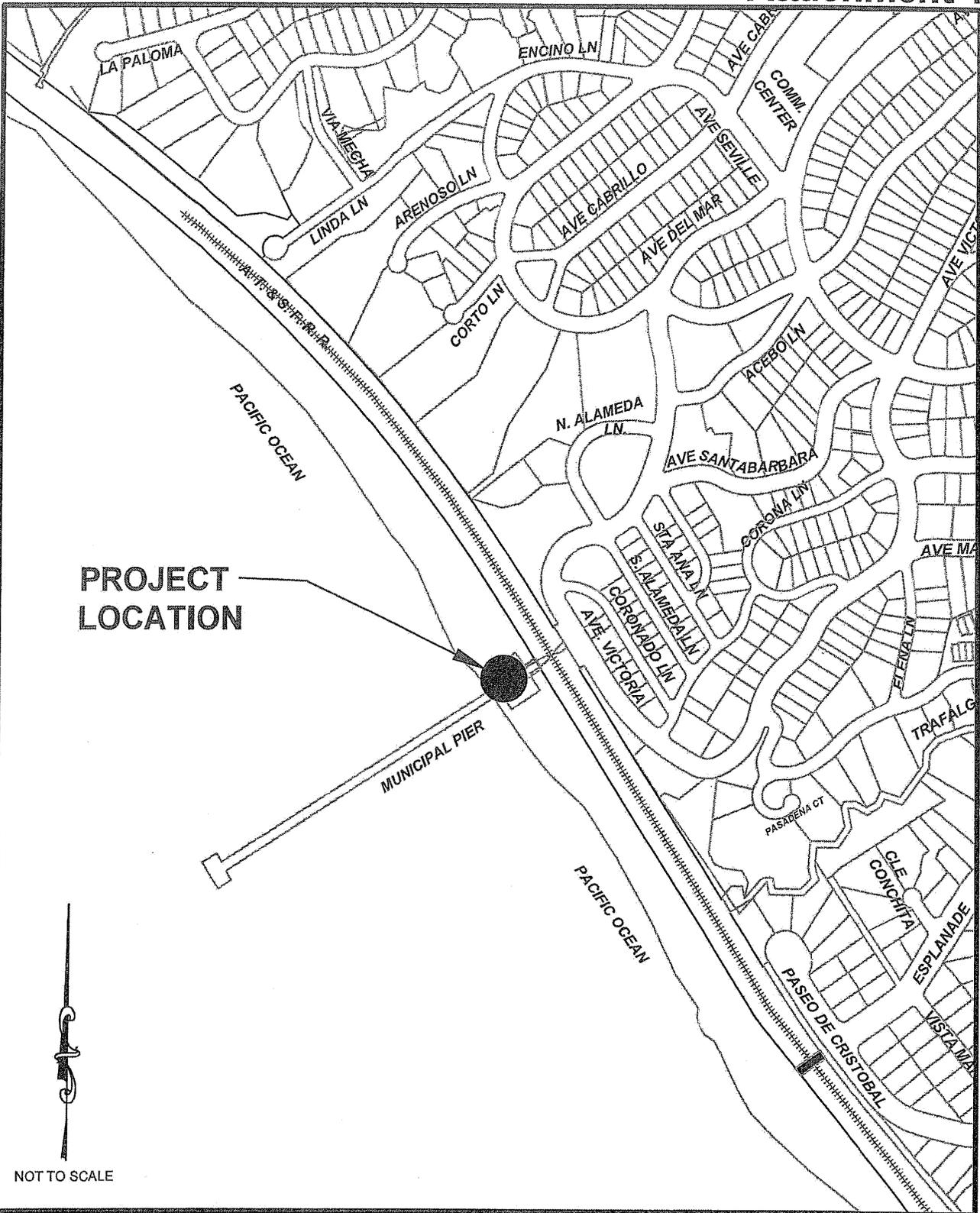
1. Accept the Pier Understory Bird Deterrent Netting, Project No. 18810;
2. Authorize the Public Works Director to execute and the City Clerk to record the Notice of Completion for the Pier Understory Bird Deterrent Netting, Project No. 18810;

3. Authorize the City Clerk to release the Payment Bond 35 days from the recordation of the Notice of Completion upon verification with the Engineering Division that no liens have been levied against Bird Solutions International; and
4. Authorize the City Clerk to release the Performance Bond upon receipt of a Warranty Bond in the amount of 25% of the construction cost.

- Attachments:**
1. Location Map
 2. Notice of Completion
 3. Agenda Report Dated February 18, 2020 (without attachments)
 4. Agenda Report Dated June 2, 2020 (without attachments)

Notification: None.

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PROJECT
LOCATION



NOT TO SCALE

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City of San Clemente

910 Calle Negocio, Suite 100
San Clemente, CA 92673
Tel (949) 361-6100
Fax (949) 361-8316

LOCATION MAP

**Pier Understory Bird
Deterrent Netting**

PN 18810

Recording Requested By:
City of San Clemente

When Recorded, Mail To:
Public Works Department
City of San Clemente
910 Calle Negocio
San Clemente, CA 92673

Recorded for the benefit of the City of San Clemente and exempt from recording fees pursuant to Government Code Section 27383.

Space above this line is for Recorder's Use Only

NOTICE OF COMPLETION

Notice is hereby given by the City of San Clemente, a Municipal Corporation, that a public work of improvement has been completed as follows:

1. *Project title or description of work:* Pier Understory Bird Deterrent Netting, Project No. 18810
2. *Date of completion:* June 24, 2020
3. *Street address or legal description of the project site:* San Clemente Pier, City of San Clemente
4. *Name of owner:* City of San Clemente
5. *Interest or estate of owner:* Public Right-of-Way
6. *Address of owner:* 910 Calle Negocio, San Clemente, CA 92673
7. *Name and address of contractor:* Bird Solutions International, B.O. Box 927, Vista, CA 92085

I am the Public Works Director/City Engineer for the City of San Clemente, a Municipal Corporation, the owner of the indicated interest or estate in the property described above. I make this verification on behalf of the City of San Clemente. I have read this Notice of Completion and know its contents. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on _____ in San Clemente, California.

Tom Bonigut, Public Works Director/City Engineer
City of San Clemente



AGENDA REPORT

SAN CLEMENTE CITY COUNCIL MEETING
Meeting Date: February 18, 2020

Agenda Item 6H
 Approvals: _____
 City Manager [Signature]
 Dept. Head DR
 Attorney _____
 Finance [Signature]

Department: Utilities
Prepared By: Cynthia Mallett, Environmental Programs Supervisor *CAM*

Subject: **CONSTRUCTION CONTRACT AWARD TO BIRD SOLUTIONS INTERNATIONAL FOR PHASE II OF THE PIER BIRD DETERRENT NETTING, PROJECT No. 18810.**

Fiscal Impact: Yes. The project was originally budgeted for \$375,000, but due to approximately \$307,000 in expenditures from Phase I of the Pier Bird Deterrent Netting Project and the Pier Bacteria Source Characterization Study (Pier Bacteria Study) a supplemental appropriation in the amount of \$27,500 is recommended from the Clean Ocean Improvement Fund to complete this project. There is available fund balance within the Clean Ocean Improvement Fund for this expenditure. The estimated total project cost for Phase II is \$95,550.

Summary: Staff recommends approval of a construction contract with Bird Solutions International for a total amount of \$59,650 for Phase II of the Pier Bird Deterrent Netting Project.

Background: The City of San Clemente is required to conduct Fecal Indicator Bacteria (FIB) water quality sampling and analysis at 11 beach segments along the City's coastline to comply with the Bacteria Total Maximum Daily Load (Bacteria TMDL) which is a requirement under the National Pollutant Discharge Elimination System (NPDES) Municipal Separate Storm Sewer Permit (MS4 Permit). The Environmental Protection Agency (EPA) has determined FIB levels, also known as water quality objectives, in the shoreline waters that are protective of human health. The MS4 Permit has set specific water quality objectives for dry weather and wet weather periods during the year. The City of San Clemente is required to meet these water quality objectives or could be subject to fines if these levels are not met by April 4, 2021, for dry weather and April 4, 2031 for wet weather.

The City has seen improvements at nine of the eleven beach segments where storm drainage systems discharge to the ocean. One beach segment not meeting Bacteria TMDL requirements is directly under the San Clemente Municipal Pier and consists of two storm drain pipes that discharge to the shoreline. In 2015, the Regional Water Quality Control Board changed its monitoring criteria for testing directly at storm drain and channel ocean outlets. This change required Bacteria TMDL testing under the Municipal Pier at the storm drain outlets. Since testing began at this location, the site has seen FIB exceedances on a regular basis during dry weather periods. The monitoring locations 450 feet upcoast (San Clemente City Beach at Lifeguard Headquarters) and downcoast (San Clemente City Beach at Trafalgar Canyon) meet Bacteria TMDL water quality objectives during dry weather. As soon as exceedances were noted under the Pier, the City conducted a study in 2016 to determine the source

of the FIB exceedances. The 2016 study focused on Human and Canine Genetic Markers to determine if either of these sources were the cause of the FIB exceedances. Neither Human nor Canine Genetic Markers were detected. Due to a process of elimination, the hundreds of birds living underneath the pier that deposit fecal matter to the shoreline below were assumed to be the source of the exceedances. Based on the water quality data from the 2016 study, the City Council approved funding in the amount of \$375,000 for installation of bird deterrent netting. Phase I consisted of the installation of bird deterrent netting in the understory of the Municipal Pier from the west side of Fisherman's Restaurant to Lifeguard Tower Zero to prevent birds from roosting there. Phase I of the netting was completed in conjunction with a Pier Rehabilitation Project since the prime contractor had equipment that allowed for access to areas of the Municipal Pier over the ocean. Phase I netting was completed in May 2018.

Shortly after Phase I was completed, local water quality laboratories acquired the ability to analyze water quality samples for Avian (bird) Genetic Markers at a reasonable price. Previously, samples had to be sent across the country to analyze for the Avian Genetic Marker which was cost prohibitive. With the availability of the Avian Genetic Marker at local laboratories, Phase II to install netting directly under the Fisherman's Restaurant was delayed to allow the City to conduct a study to analyze the Avian Genetic Marker prior to the installation of netting in an area with significant infrastructure to serve the Fisherman's Restaurant. The Pier Bacteria Source Characterization Study (Pier Bacteria Study), which utilizes the Avian DNA Marker in addition to the Human and Canine DNA Markers, began in May 2019 and includes a Stakeholder Advisory Committee to review and provide feedback on the study. The Pier Bacteria Study is expected to be complete by late summer 2020.

Discussion: The Orange County Health Care Agency (OCHCA) Laboratory, which collects and analyzes water samples for the Bacteria TMDL, acquired the ability to analyze samples for the Avian DNA Marker. Prior to the current Pier Bacteria Study, the OCHCA began analyzing water samples collected at the Municipal Pier site for the Avian Genetic Marker. Between October 2018 and May 2019, the OCHCA collected and analyzed 25 surfzone samples from the Municipal Pier monitoring site and all 25 samples detected the Avian Genetic Marker.

Data from the Pier Bacteria Study also indicates that pigeons roosting and living under the pier are contributing to the FIB exceedances. 1,879 pigeons were counted over 81 observations days versus 25 sea gulls. In addition, a sample of sand was collected from underneath the pier and the Avian Genetic Marker was detected at levels that exceeded FIB water quality objectives. Data from the OCHCA and Pier Bacteria Study clearly indicate that pigeons are contributing to the FIB exceedances under the pier.

Prior to recommending the Phase II Pier Bird Deterrent Netting Project, staff met with the Stakeholder Advisory Committee on January 29, 2020. Based on the data from the two studies that showed Avian Genetic Markers as one of the sources of Bacteria TMDL exceedances and the requirement to eliminate bacteria exceedances by April 4, 2021, the Stakeholder Advisory Committee voted 4-2 in support of the Phase II Pier Bird Deterrent Netting Project.

2-18-20 / 6H-2

8-18-20 / 6N-6

A Construction Bid for Phase II of the Pier Netting Project was advertised on Planet Bids on December 18, 2019. The project entails the installation of bird deterrent netting with stainless steel guidewires from Bents Three to Eight underneath the Fisherman's Restaurant area of the Municipal Pier. A Bent is a row of pier pilings that parallel the shoreline. There are Eight Bents in total underneath the Fisherman's Restaurant (see Attachment Six to this agenda report). The project also includes the humane trapping and removal of pigeons to be taken to an aviary and a biologist to oversee the proper handling of nests with eggs and fledglings removed from the area prior to netting installation. An additional phase is needed in the future to eliminate pigeons roosting in Bents One to Three. The final phase may not be able to use netting due to the low vertical clearance from the sand to the bottom of the Municipal Pier which is subject to human interaction. This area may require alternative devices that are currently being evaluated by City staff.

The City opened public bids for the project on 12/18/2019 and received two bids in the amount of \$59,650 and \$116,860. Bird Solutions International provided the lowest cost bid. Bird Solutions International installed the Phase I netting as a subcontractor for the Pier Rehabilitation Project in 2018 and completed their portion of the work within budget and in a timely manner. Based on the bid, project costs are estimated as follows:

Administration, Permitting and Engineering Design	\$ 9,000
Construction Management and Inspection	9,000
Construction	59,650
Construction Contingency (30%)	<u>17,900</u>
Total Estimated Project Cost	\$ 95,550

As required by City Policy and State Law, the contractor will be required to provide performance and payment bonds simultaneously with execution of the construction contract. A warranty bond will also be required prior to City Council acceptance of the project.

Recommended

Action: STAFF RECOMMENDS THAT the City Council:

1. Approve the plans and specifications for the Phase II of the Bird Deterrent Netting, Project No. 18810;
2. Approve a supplemental appropriation in the amount of \$27,500 from the Clean Ocean Improvement Fund to Account Number 057-543-45300-000-18810; and
3. Approve and Authorize the City Manager to execute Contract _____, by and between the City of San Clemente and Bird Solutions International, for \$59,650 for the Phase II of the Pier Bird Deterrent Netting, Project No. 18810.

Attachments: 1. Location Map

2. Bidder's List

3. Agenda Report Pier Rehabilitation Notice of Completion
4. Agreement for Construction of Public Works with Bird Solutions International
5. Bid Proposal for Project No. 18810 – Bird Solutions International
6. Plans & Specifications for Project No. 18810

Notification: None.

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2-18-20 / 6H-4

8-18-20 / 6N-8



AGENDA REPORT

SAN CLEMENTE CITY COUNCIL MEETING
Meeting Date: June 2, 2020

Attachment 4

Agenda Item CoF
 Approvals:
 City Manager BD
 Dept. Head DR
 Attorney _____
 Finance S

Department: Utilities Department
Prepared By: Cynthia Mallett, Environmental Programs Supervisor

CAM

Subject: APPROVAL OF CONTINGENCY INCREASE FOR THE PIER BIRD DETERRENT NETTING, PROJECT NO. 18810.

Fiscal Impact: Yes. A supplemental appropriation in the amount of \$15,472 is needed from the Clean Ocean Improvement Reserve and there is available funding for the proposed expenditure. The previously approved project budget is \$95,550.

Summary: Staff recommends approval of an increased contingency for the San Clemente Municipal Pier (Pier) Bird Deterrent Netting Project.

Background: In order to meet bacteria water quality objectives in the ocean shoreline underneath and around the Pier, the Clean Ocean Program has conducted two scientific studies to determine the source(s) causing the bacteria exceedances. The studies used genetic markers including human, canine and avian markers.

During the 2016 study, no canine or human markers were detected and thus the pigeons roosting in the understory of the Pier were assumed to be the source causing the bacteria exceedances. Based on data from this study, the City Council approved Phase I of bird deterrent netting to be installed as part of the 2018 Pier Rehabilitation Project. Phase I consisted of the installation of bird deterrent netting in the understory of the Pier from the west side of Fisherman's Restaurant to Lifeguard Tower Zero to prevent birds from roosting there. Phase I was completed in May 2018.

During the most recent 2019-20 study, the avian marker was detected in all water quality samples taken from underneath the Pier. On February 4, 2020, the City Council approved the plans and funding for Phase II of the bird deterrent netting and awarded a contract to Bird Solutions International for this work. This project began in April 2020 and involves construction of deterrent netting underneath the restaurant area of the Pier. One section of the understory, not included in Phase II of the project was the area underneath the Pier from bents one through three where a significant amount of utilities are located including electrical, water and sewer.

A variety of deterrents were researched to block off cubbies where birds could roost in this area, including: installation of blocks made from composite material, gel packs, bird spikes/wires and additional netting. The contractor currently installing the bird deterrent netting, Bird Solutions International, researched these options and is recommending that additional bird deterrent netting be installed rather than installing other devices due to the cost of installation and long term effectiveness.

Throughout bents one through three, there are a significant amount of utilities. The southern 1/3 section of bents one through three, which are labeled A to E on page 2 of Attachment 1 Location Map and the northern section (K to O) have less utilities than section E through K which has a much more concentrated amount of utilities. See page 3 of Attachment 1 for sections E through K.

The current project contingency approved by City Council on February 4, 2020 is \$17,900. A change order was approved for Bird Solutions International to install netting between bents one and three in sections A to E and K to O in the amount of \$15,830, leaving \$2,070 in the contingency.

To complete the bird deterrent project, the City requested a proposal from the contractor to install deterrents in sections E through K between bents one and three. The contractor assessed the costs of installing both composite blocking and netting. Based on the concentrated amount of utilities in this section, Bird Solutions International is suggesting netting, rather than blocking, due to the netting being able to provide better coverage than the blocking to deter birds from roosting in in the cubbies and on the pipes. In addition, the netting will be placed against the wood structure of the Pier to minimize impacts to future maintenance of the utilities.

Bird Solutions International submitted a proposal in the amount of \$17,542 (Attachment 4) to install bird deterrent netting in sections E to K. If approved by City Council, this change order would complete the netting for the understory area from the base of the Pier to Zero Tower. The remaining contingency is \$2,070; therefore, \$15,472 is needed to complete the proposed work (see Attachment 4). Staff recommends City Council approve the contingency increase.

Recommended

Action:

STAFF RECOMMENDS THAT the City Council:

1. Approve a supplemental appropriation in the amount of \$15,472 from the Clean Ocean Improvement Reserve to Account No. 057-543-45300-000-18810; and
2. Approve a \$15,472 increase in construction contingency for the Pier Bird Deterrent Netting, Project No. 18810.

Attachments:

1. Location Map
2. Staff Report Dated February 18, 2020
3. Original Construction Agreement with Bird Solutions International
4. Bird Solutions International Proposal

Notification: None.