



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Katy Allen

SUBJECT: ANIMAL CARE CENTER PROJECT
3RD AMENDMENT W/ GEORGE MIERS

DATE: 06-09-04

Approved

Date

Council District: Citywide

REASON FOR REPLACEMENT MEMO

To provide additional information to Council about the status of the project that was not available at the time the original memo was written.

RECOMMENDATION

Approval of a third amendment to the agreement with George Miers & Associates, for architectural services needed to continue construction administration services for the San José Animal Care Center Project, extending the term of the agreement to November 30, 2004 and increasing the compensation by \$79,000, from \$1,041,000 to \$1,120,000.

CEQA: Negative Declaration, H01-01-003.

BACKGROUND

In July of 2001, the City assumed responsibility for all animal control services. The Humane Society is currently providing sheltering and adoption services through a contract with the City.

On February 15, 2000 Council authorized the City Manager to negotiate and execute an agreement with George Miers & Associates (“GMA”) for design of the Animal Care Center. Two amendments were previously approved for scope revisions related to rescoping of the project and to provide contract administration services.

The construction contract for the Animal Care Center Project was awarded to Dennis J. Amoroso Construction Company, Inc. (“DJA”) by Council in June 2002. A Notice To Proceed was issued on July 9, 2002. On March 2, 2004, the City terminated performance of the contract by DJA due to the contractor’s failure to perform its obligations under the contract. Subsequently, the City made written demand on Travelers Casualty & Surety Company (“Travelers”) to perform its obligations under the performance bond for the project to complete the project.

Under the terms of the second amendment, the agreement with GMA would have expired on December 31, 2003. In accordance with Exhibit D of the amended agreement, the Director of Public Works authorized the extension of the term of the agreement to June 30, 2004.

ANALYSIS

The completion of the Animal Care Center has been significantly delayed by the poor performance of the original contractor and by the process of executing a takeover agreement with Travelers. The compensation for consultant support during the construction phase of the project has been exhausted during the eight months of delay. On January 27, 2004, Council approved additional funding for the Animal Care Center Project. Included in the additional funding were anticipated additional fees for the consultant architect, George Miers & Associates.

The takeover agreement with Travelers for completion of the construction contract was executed on May 10, 2004. Travelers has indicated that this takeover agreement was the first agreement it executed in Northern California for the numerous public projects that DJA failed to complete.

Travelers selected a replacement general contractor, Sausal Corporation, to complete the construction project. On May 17, 2004, Sausal began work on the project, resuming construction of the Animal Care Center. The progress to date has been slower than anticipated because a number of the major subcontractors have not agreed with Travelers on the terms of resuming work. To date, Travelers has replaced three of the major subcontractors. City staff is continuing to work closely with Travelers to convey the importance of completing this project as quickly as possible. City staff is also working closely with Travelers on the resolution of outstanding subcontractor prevailing wage issues and stop notices. The project completion is estimated to be in late September 2004. Liquidated damages are continuing to accrue.

The availability of the consultant architect for continued support of the construction project is essential to its completion. The agreement with the consultant will need to be amended for both time and compensation for the City to have those services.

Included in the additional project funding that Council approved in January 2004 was funding for additional features to the facility to improve its operation, such as upgrading the laundering facilities and a vehicle wash element. The City is working with Travelers to include the construction of the additional improvements as part of project completion. The design of the additional improvements will require additional services of the GMA design team.

This proposed amendment would increase the compensation by \$79,000 in order to continue the contract administration services and to complete the additional design work. The recommended third amendment to the GMA agreement will extend the term of service to November 30, 2004. Staff has negotiated the fee with the consultant and believes that the amount is reasonable for the services.

A portion of the additional fee, \$20,000, is related to the impacts of the failure of the original general contractor and the process of takeover by the surety, Travelers. That cost will be presented to Travelers for reimbursement.

PUBLIC OUTREACH

This project was published in the *San José Mercury News* at various times for community participation for master planning and programming. A community meeting was held at the adjacent Chateau La Salle Mobile Home Park on June 22, 2000. A follow up community meeting presenting the proposed design was held on March 28, 2002 at the Solari Community Center.

COORDINATION

The proposed amendment and memorandum have been coordinated with the Departments of Parks, Recreation and Neighborhood Services and Finance, and the City Attorney's Office and City Manager's Budget Office.

COST IMPLICATIONS

1. AMOUNT OF RECOMMENDATION: \$79,000

2. COST OF PROJECT:

Project Delivery	\$2,482,000	*
Land Acquisition	3,321,000	
Site Improvement Construction Contract	266,000	
Original Construction Contract	9,579,000	
Landscaping	260,000	
Cages and Kennel System	864,000	
Public Art	181,000	
Contingency For Construction Contract	616,000	
Consultant Agreement (Third Amendment)	79,000	**
TOTAL	\$17,648,000	

* A total of \$16,722,000 was expended or encumbered as of January 7, 2004. The project spans multiple fiscal years.

** A total of \$79,000 for the 3rd Amendment is from the reserve for the contingency for construction contract.

BUDGET REFERENCE

Fund #	Appn #	Appn Name	RC #	Total Appn.	Amt. for Contract	Budget Page	Last Budget Action (Date, Ord. No.)
001	4813	Animal Shelter Facility	108603	\$1,087,000	\$79,000	2003-2004 Adopted Operating Budget, Section 2.26, Page 1	01-27-04, Ord. No. 27062.

CEQA

Negative Declaration, H01-01-003.

KATY ALLEN
Director, Public Works Department