



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Katy Allen
Darryl Von Raesfeld

SUBJECT: SEE BELOW

DATE: 10-15-07

Approved

Date

12/17/07

COUNCIL DISTRICT: 9 and 10

SUBJECT: VARIOUS ACTIONS FOR THE RELOCATION OF FIRE STATION NO. 12 AND FIRE STATION NO. 17 CONSTRUCTION CONTRACT.

RECOMMENDATION

- a. Approval of an increase in the construction contingency for the Fire Station Nos. 12 and 17 Relocation projects in the amount of \$170,000 for a total construction contingency authorization of \$510,000.
- b. Approval of the second amendment to the consultant agreement with Banducci Associates Architects to increase the agreement compensation by the amount of \$23,000 from \$346,555 to \$369,555 for the Fire Station No. 17 Relocation project.

OUTCOME

Approval of an increase in the construction contingency for Fire Station No. 12 will provide staff sufficient authority to issue change orders for any unanticipated work necessary to complete the construction of the project. Approval of the second amendment to the Banducci architectural consulting agreement will provide sufficient funds necessary to secure consultant services through to completion of the construction of Fire Station No. 17.

EXECUTIVE SUMMARY

In May of 2007, soon after construction commenced on the Fire Station No. 12 project, some human remains and artifacts were uncovered and identified as ancient Native American. In cooperation with the most likely descendents, staff has secured the services of archeologists and Native American monitors for all earthwork and trenching on and off site. The costs for these services and related contractor expenses, have rapidly consumed approximately 30% of the original construction contingency for the Fire Station No. 12 portion of the project. This has prompted staff to request that Council increase the construction contingency authorization by \$170,000.

In order to take advantage of the “lessons learned” and programmatic updates developed during the concurrent construction of Fire Station Nos. 25, 34 and 35, staff directed the consultants for Fire Station Nos. 12 and 17 to make alterations to the respective projects. Fire Station No. 17 required the most changes to bring the project into compliance with these new standards. Accordingly, staff is requesting an increase to Banducci’s agreement of \$23,000 in funds needed to cover these additional services.

BACKGROUND

In March 2002, San José voters passed the Neighborhood Security Bond Act that approved the issuance of \$159 million in General Obligation bonds to fund the construction of various public safety facilities. A portion of the items funded under the Bond Act is the construction of four new fire stations to replace four existing stations. Fire Station No. 12 is the second replacement station and will be located on a portion of a parcel located at 5912 Cahalan Avenue adjacent to the Santa Teresa Catholic Church. The new station will replace the existing Fire Station No. 12, currently located at 502 Calero Avenue, a little less than one mile from the proposed fire station (map attached). Fire Station No. 17, the third replacement station, will be located at 5170 Coniston Way at the northeast corner of Blossom Hill Road and Coniston Way (map attached). This relocated fire station will replace the existing station currently located at 1494 Ridgewood Drive near the intersection of Dent Avenue and Kooser Road.

On April 10, 2007, the City Council approved the award of the Fire Station No. 12 and Fire Station No. 17 Relocation projects to the low bidder, D.L. Falk Construction Company, Inc., in the amount of \$6,795,729 with a combined construction contingency of 5% or \$340,000. Council also approved the first amendments to the Don Dommer and Banducci Architects consultant agreements to extend the contract terms and increase the maximum compensation to cover the costs for bundling and increased additional services allowances. Construction began in May 2007 with scheduled completion in summer 2008.

ANALYSIS

An Increase in the contingency budget for Fire Station 12:

During excavation of the underground utility trench in Fire Station No. 12, the Contractor uncovered human remains and a large sandstone boulder mortar. As required by state regulations, Public works staff followed the appropriate notification process and ultimately the coroner determined that the human remains are ancient Native American. As of this report, there have been three additional Native American remains with artifacts found. Therefore, an archaeological project is being conducted on behalf of the City of San Jose by the Ohlone Families Consulting Services (OFCS) which is the Cultural Resources Arm of the Muwekma Ohlone Tribe of the San Francisco Bay Region. OFCS has performed very timely field recovery services, on and off site monitoring and laboratory testing work in coordination with the Contractor thereby allowing minimal impacts to the progress of construction to date. As of this

report, there is some remaining on and off site trenching work that will require continuous monitoring and potentially other services if further remains are found.

The discovery of Native American remains has resulted in the project having to expend construction contingency funds on archaeological services and other actions related to the proper removal and reburial of the remains. The funds consumed by these extraordinary activities have amounted to approximately \$50,000 (or almost 30%) of the initial construction contingency while the project was less than 20% complete. This fact has raised concerns by staff that the remaining construction contingency may be insufficient to address more commonly experienced field conditions and coordination expenses. By increasing the construction contingency authority for Fire Station No. 12 up to the standard 10% of the construction contract for new building projects, Council will provide staff sufficient flexibility to quickly and efficiently execute change orders necessary to complete the project.

Consultant agreement Amendment:

During the bidding and award stage for Fire Station No. 12, staff “bundled” this project with Fire Station No. 17, in order to achieve cost efficiencies in a challenging and volatile construction marketplace. This strategy extended the bid and award as well as construction phases for both projects. Upon the award of the combined Fire Station Nos. 12 and 17 construction contract, Council also approved the first amendment to Banducci’s consultant agreement. The first amendment increased the maximum compensation and extended the contract term to address the consultant costs for the “bundling” effort and to increase available additional services allowance during construction.

Based on “lessons learned” and some operational changes that occurred during the construction of Fire Station Nos. 25, 34 and 35, staff has since amended a portion of the programmatic requirements for all new fire stations; including Nos. 12 and 17. These adjustments include upgraded communications equipment requirements, modifications to some interior finish specifications, clarified and updated operational equipment and constructability changes. In order to accommodate these adjustments, staff has worked with all of the consultants currently engaged in both design and construction of the remaining fire stations to ensure consistency of quality and functionality. Among the current projects under construction, Fire Station No. 17 has had the most adjustments in building elements to accommodate these recent changes. This has resulted in unanticipated shortfalls in the additional services budget for the consultant on Fire Station No. 17.

In order to insure that Fire Station No. 17 was constructed to accommodate these required programmatic changes, staff directed Banducci to perform additional work necessary to implement them utilizing a portion of their construction administration phase fee. Staff took this measure because the additional services portion their contract was insufficient to cover the added scope of work. Staff therefore recommends that the consultant agreement with Banducci Associates be amended to increase compensation for construction administration phase services for Fire Station No. 17. Since the consultant is currently engaged in the construction

management portion of their contract with the City of San Jose, staff recommends amending both the payment schedule, and amount of funding for construction administration services. No appropriation action is required as the current funding level for this project is sufficient to cover this recommendation.

EVALUATION AND FOLLOW-UP

The projects are currently within budget and on schedule with a projected completion in Summer 2008. No additional follow up actions with the Council are expected at this time.

POLICY ALTERNATIVES

Recommendation No. 1:

Alternative #1: An alternative to approving recommendation no. 1 in this memo is to direct staff to eliminate scope items from the project via deductive change order in order to maintain the current aggregate construction and contingency authority values for the Fire Station No. 12 contract.

Pros: This alternative would reduce the use of Fire C&C funds that could be repurposed for the deferred maintenance needs of other fire facilities.

Cons: The reduction in scope needed to cover the requested contingency increase would require either elimination of operational components or reductions in quality and/or durability of portions of the project.

Reason for not recommending: This alternative is not recommended for several reasons. Eliminating or reducing other contract work items would reduce the quality, durability and/or operational effectiveness of the fire station. Furthermore, the net value of scope reduction change orders will not result in savings that are equal to the cost of installing the same items at a later date. Staff therefore does not recommend this alternative.

Recommendation No. 2:

Alternative #1: An alternative to approving recommendation no. 2 in this memo is to direct staff to assign additional City staff to provide additional architectural and engineering support for the balance of the construction administrative services for Fire Station No. 17 not covered by Banducci's existing agreement.

Pros: This alternate would meet one of the goals of the Contracting-in policy by increasing the utilization of City staff for design and engineering services.

Cons: City staff with the required expertise is currently fully engaged at this time and their incorporation into this project in the midst of construction will cause delays in the execution of the project.

Reason for not recommending: During our analysis of the projected workload, it became apparent that City staff is fully utilized and there are no available existing City resources with the appropriate architectural and engineering expertise. Even if the appropriate staff became available, their lack of direct knowledge regarding the design and engineering of the subject project will require a greater level of funding and will not result in timely execution of the project already under construction.

PUBLIC OUTREACH/INTEREST

- Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criterion 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criterion 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

Council approval of these recommendations does not meet any of the above criteria. However, this memorandum will be posted on the City's website for the November 6, 2007 Council agenda.

COORDINATION

This project and memorandum have been coordinated with the City Attorney's Office and the City Manager's Budget Office.

FISCAL/POLICY ALIGNMENT

This project is consistent with the Council-approved Budget Strategy Economic Recovery section in that it will spur construction spending in our local economy.

COST /IMPLICATIONS

| | | | |
|----|--------------------------------|---------------------|----|
| 1. | AMOUNT OF RECOMMENDATION: | \$ 23,000 | |
| 2. | COST OF PROJECT: * | | |
| | Project Delivery | \$ 3,016,000 | |
| | Construction | 6,924,729 | |
| | Contingency | 510,000 | |
| | TOTAL PROJECT COSTS | \$10,450,729 | |
| | Prior Year Expenditures | 9,150,618 | ** |
| | REMAINING PROJECT COSTS | \$1,300,111 | |

* Combined total for both projects

** A total of \$9,150,618 was expended and encumbered from 2002-2003 thru 2006-2007 for project delivery and construction costs for Fire Station Nos. 12 and 17 combined.

3. COST ELEMENTS:

a. ELEMENTS OF CONSTRUCTION CONTRACT: \$6,795,729
 This is a Lump Sum Contract.

| b. ELEMENTS OF AGREEMENTS: * | ORIGINAL** | AMENDMENT | |
|--|------------------|------------------|------------|
| Program Review / Design Scoping | 25,905 | 0 | |
| Schematic Design | 38,855 | 0 | |
| Design Development | 84,255 | 0 | |
| Construction Documents | 264,478 | 0 | |
| Bidding and Award | 75,955 | 0 | |
| Construction Administration | 104,005 | 23,000 | |
| Record Documents / Project Closeout | 10,072 | 0 | |
| Additional Services | *90,959 | 0 | |
| TOTAL ORIGINAL AGREEMENTS: | \$694,484 | \$23,000 | *** |
| TOTAL ORIGINAL PLUS AMENDMENTS: | | \$717,484 | |

* Combined total for both agreements (Dommer & Banducci)

** Including Amendment No. 1 for both agreements

*** Amendment Breakdown: \$0 (Don Dommer Associates Inc)
 \$23,000 (Banducci Associates Architects)

4. SOURCE OF FUNDING: 475 – Neighborhood Security Bond Fund
 392 – Construction and Property Conveyance Tax Fund:
 Fire Protection Purposes

5. OPERATING COSTS: The relocated Fire Stations Nos. 12 and 17 will have a combined annual operating and maintenance impact of \$38,400 starting in 2008-2009. Augmentations to annual budgets will be submitted through the budget process in that year, subject to approval by the City Council.

BUDGET REFERENCE

On October 16, 2007, Council adopted the 2006-2007 Annual Report adjustments which included \$400,000 in additional Fire Construction & Conveyance funds for the Fire Station No. 12 project to cover this request as well as provide for sufficient funding of staff management and inspection costs.

The table below identifies the fund and appropriations proposed to fund the contract recommended as part of this memorandum and remaining project costs, including project delivery, construction and contingency costs.

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Subject: Various Actions for Relocation of Fire Station No. 12 and Fire Station No. 17 Construction Contract

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| Fund No. | Appn. No. | Appn. Name | RC No. | Total Appn. | Amt. For Contracts | | 2007-2008 Adopted Budget Page | Last Budget Action (Date, Ord. No.) |
|--|-----------|---|--------|------------------|--------------------|------------|-------------------------------|-------------------------------------|
| Remaining Project Costs | | | | \$1,300,111 | | | | |
| Current Funding Available | | | | | | | | |
| 475 | 4545 | Fire Station 12-Relocation (Calero) | 122865 | \$ 208,000* | | | V-861 | 10/16/07 Ord No 28071 |
| 392 | 4545 | Fire Station 12-Relocation (Calero) | TBD | \$ 400,000* | | | V-861 | 10/16/07 Ord No 28071 |
| 475 | 4807 | Fire Station 17 – Relocation (Cambrian) | 128965 | \$ 693,000* | \$23,000 | (Banducci) | V-862 | 10/16/07 Ord No 28071 |
| Total Current Funding Available | | | | 1,301,000 | \$ 23,000 | | | |

* This recommendation in this memorandum is contingent upon approval of clean-up and rebudget actions recommended in the 2006-2007 Annual Report.

CEQA

Fire Station No. 12: Mitigated Negative Declaration, PP05-071: Planning has issued a mitigated negative declaration for this project. The mitigated negative declaration identifies a number of mitigations that need to be implemented in order to address environmental impacts. These mitigation measures and their manner of implementation are identified in the Mitigation Monitoring and Reporting Program for the project. These mitigations have been incorporated into the project design and the construction documents. On April 10, 2007 Council approved these mitigations and their manner of implementation, as set forth in the Mitigation Monitoring and Reporting Program, and directed the implementation of these mitigations as part of the project.

Fire Station No. 17: Exempt, PP05-275



KATY ALLEN
Director, Public Works Department



DARRYL VON RAESFELD
Fire Chief

For questions please contact DAVE SYKES, ASSISTANT DIRECTOR PUBLIC WORKS DEPARTMENT, at (408) 535-8300.

KJ:dp:lw:ek
Attachments
Fire Station No. 12 and 17

