



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Katy Allen
Darryl Von Raesfeld
Jennifer A. Maguire

**SUBJECT: FIRE STATION NO. 19
VARIOUS ACTIONS**

DATE: 03-01-10

Approved

Date

3/9/10

COUNCIL DISTRICT: 4

RECOMMENDATION

- a. Approval of an increase in the construction contingency for the Fire Station No. 19 construction contract with Applegate Johnston Construction Company, Inc., (AJI) by \$100,000 for a total contingency amount of \$272,775.
- b. Approval of the Second Contract Amendment for Don Dommer Associates, Inc., (DDA) for the Fire Station No. 19 Project, and increasing the amount of compensation by \$52,000 from \$360,000 to \$412,000 and extending the term of the agreement from March 31, 2010 to December 31, 2010.
- c. Adoption of the following Appropriation Ordinance amendments in the Neighborhood Security Bond Fund (Fund 475) for 2009-2010.
 1. Increase the Fire Station 19 – Relocation (Piedmont) appropriation by \$150,000; and
 2. Decrease the Fire Station 36 Silver Creek/Yerba Buena appropriation by \$150,000.

OUTCOME

The proposed actions are recommended to address unanticipated conditions in the construction and staff costs needed to complete Fire Station No. 19.

EXECUTIVE SUMMARY

Fire Station No. 19 project was awarded with a five percent contingency instead of the standard ten percent contingency for building projects as prescribed by Council Policy. Although five percent was thought to be sufficient, a number of unforeseen conditions and other changes have nearly exhausted the original contingency. Staff is recommending an additional \$100,000 for a total contingency allowance of 7.9 percent.

Due to increased construction time, staff is recommending to amend the DDA agreement by \$47,000 and to extend the basic service by eight months to expire on December 31, 2010. The additional services budget has also been replenished to allow for services to address any unanticipated field conditions of up to \$5,000.

BACKGROUND

On April 24, 2007, Council approved the consultant agreement with DDA for architectural services related to the planning, design and construction of the Fire Station No. 19 project for a maximum compensation of \$325,000 with the contract term ending June 30, 2009.

On June 24, 2008, Council adopted a resolution authorizing the City Manager to award the Fire Station No. 19 project to the low bidder, and approved a five percent contingency in a combined amount not to exceed \$3,675,000.

On July 24, 2008, the City Manager awarded the project to AJI in the amount of \$3,455,500 with a contingency amount of \$172,775. Construction began in September, 2008 and is currently approximately 85 percent complete. The project is scheduled to be completed in spring of 2010.

On May 19, 2009, Council approved a first amendment to the consultant agreement with DDA increasing compensation as a result of additional work that was required during the design and early portions of the construction of the station, which added \$35,000 for a maximum contract amount of \$360,000 and extending the term to March 31, 2010.

ANALYSIS

The requested increased funding and contingency authority is required to address unanticipated costs necessary to complete the Fire Station No. 19 project. The analysis below outlines the contributing factors to the project cost increases.

Construction Contingency

As noted above, the construction contract for this project was awarded with only a five percent construction contingency, which is below the Council standard policy level of ten percent for new building projects. This lower than standard contingency was initially recommended by staff due in large part to the limited funding available and the funding needs of other public safety bond projects. To date, the executed and potential change orders have nearly exhausted the current contingency.

Five contract change orders have been executed for the project totaling \$170,834 to compensate the contractor for added work and extension to the contract schedule. The list on the following page summarizes the status of the project's contingency and time extension to date.

1. Additional requirements for a State of California Department of Water Resources permit received after the contract was awarded. These requirements necessitated changes in landscaping, infrastructure and concrete work, both off and on site.
2. Changes in off-site infrastructure based on information received after the contract was awarded. Streetlight and electrical service plans necessitated changes in the public right of way design in both underground and overhead electrical and concrete work within the public right of way.
3. City requesting changes for plumbing, electrical, lighting and mechanical systems to meet operational and maintenance objectives.
4. Fifty six (56) calendar days (of which 13 were compensable) have been added to the contract to address the above changes as well as recognize impacts from inclement weather in the early portions of the site work.

As of the writing of this report staff has identified additional potential change orders that will require additional funding to satisfactorily complete the project. In addition, the requested increase to the construction contingency will provide staff the necessary funding to address future changes that are necessary to complete the project. If approved this would bring the total construction contingency to approximately 7.9 percent.

Project Delivery:

In addition to the construction costs, staff and consultant costs have increased as well. The increased length of the construction period by approximately four or more months has necessitated additional staff time, as well as additional consultant services. Also, as results of citywide staffing reductions, the original project manager as well as several inspection staff's positions were affected. This causes additional costs for the transition of project staff.

During the construction phase, following the first amendment to their agreement, DDA was authorized to perform further additional services to provide architectural and engineering services for the executed change orders. These services have exhausted the Additional Services component of their current agreement. Don Dommer Associate's agreement also anticipated that the project would be constructed and closed out over 64 week period or by December 2009. Based on the current construction progress their services (including project closeout) will be extended by up to thirty (30) weeks to as late as June or July 2010. In exchange for an increase in compensation, DDA has and will have to maintain a consistent level of service to address contractor coordination and quality issues during the extended period of construction and closeout. Don Dommer Associates will continue to attend biweekly project meetings with the contractor. Staff also anticipates that some additional services will be necessary to address any unanticipated field and City changes necessary to complete the project.

The recommended amendment to DDA's consulting agreement will increase their compensation by \$52,000 and extend the term to December 31, 2010. This includes an additional \$47,000 for basic construction administration/close-out services, as well as \$5,000 for future additional services which if not required will be liquidated from the agreement. This will allow sufficient

fees, additional services and time to secure construction administration and document support services through the extended construction schedule and project close out phase.

Project Schedule/ Contractor Performance:

As of this report the project is approximately 85 percent complete. As noted in the January 26, 2010 staff report on the award of the Fire Station No. 36 project, AJI has had performance challenges with some sub-contractors resulting in a delay of the delivery of Fire Station No. 19. Although they have been able to improve upon their projected delays somewhat, AJI is projected to complete the contract work in late March 2010, which is 50 or more days beyond the current contract end date of January 22, 2010. While some of the delays are attributable in part to inclement weather and minor change order work, the majority of the schedule impacts appear to be driven by subcontractor performance and inadequate management thereof on the part of AJI. Staff has on multiple occasions communicated to AJI the City's concerns regarding their schedule performance and emphasized their contractual obligations regarding late completion of the project; including the City's rights to impose liquidated damages.

Funding Strategy:

As noted in the staff report for the January 26, 2010 Council award of the Fire Station No. 36 construction contract, there was a projected project savings of up to \$500,000. Staff is recommending that Council reallocate \$150,000 of these savings to fund the completion of Fire Station No. 19. Of the recommended amount of \$152,000, the remaining \$2,000 to fund the amendments to the project contingency and the second amendment to the agreement with DDA will be funded with the existing project budget.

EVALUATION AND FOLLOW-UP

With the adoption of the recommendations the project will be brought back to within budget with a projected completion in late spring of 2010. No further Council follow-up is anticipated at this time.

POLICY ALTERNATIVES

Alternative #1: Deny the requested increase of the contingency amount and total project budget.

Pros: The final negotiated value of the proposed change orders and other impacts to the project budget would be known and Council would take action.

Cons: The change orders could not be executed in time to avoid delays to the critical path of the contract and the project could incur additional costs for delays. The overall project budget would not be adequate to cover the extended time period for construction and close out.

Reason for not recommending: Staff will not be able to implement any future change orders and other project costs.

Alternative #2: Deny approval of the requested amendment to the DDA consultant agreements and direct staff to assign available City employees to perform these services

Pros: Additional work will be available for staff to perform.

Cons: City Staff are not the Architects and Engineers of Record for the subject project responsible for certifying that the construction was implemented in accordance with the contract documents and for producing the Record Documents once the projects are completed.

Reason for not recommending: To assume the role of the Architects and Engineers of Record for this project of this type requires greater resources in multiple disciplines than are currently available. Also, by having City staff assume the above role this late date in the project, the project would incur further delays and the City would be at increased liability for any changes and corrections made to the contract documents.

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)**

This action does not meet any of the criteria above; however, this memorandum will be posted on the City's website for the March 23, 2010 Council agenda.

COORDINATION

This memorandum has been coordinated with the City Attorney's Office and the Planning, Building and Code Enforcement Department.

FISCAL/POLICY ALIGNMENT

This project is consistent with Council-approved Budget Strategy Economic Recovery section in that it will help to stimulate the economy.

COST SUMMARY/IMPLICATIONS

1. AMOUNT OF RECOMMENDATION/COST OF PROJECT:	\$52,000	
Project Delivery		\$2,116,225
Construction		3,600,000 *
Previous Change Orders Nos. 1 thru 5		170,834
Remaining Contingency		1,941
Proposed Increased Contingency		100,000
TOTAL PROJECT COSTS		\$5,989,000
Prior Year Expenditures		\$5,222,654 **

REMAINING PROJECT COSTS **\$766,346**

- * The construction budget includes costs for certain adjacent offsite street improvements, utility fees, and owner provided equipment that are not part of the construction contract. Those costs are estimated at approximately \$144,500 and are captured in the overall construction cost line item above.
- ** A total of \$5,222,654 was expended and encumbered from 2002-2003 through 2008-2009 for project delivery and construction costs for Fire Station No. 19.

2. COST ELEMENTS OF AGREEMENT/CONTRACT:

a. ELEMENTS OF CONSTRUCTION CONTRACT: \$3,455,500
 This is a Lump Sum Contract.

b. ELEMENTS OF AGREEMENTS:

	CURRENT *	AMENDMENT
Schematic Design	17,088	0
Design Development	46,425	0
Contract Documents	187,140	
Bidding and Award	3,765	0
Construction Administration	79,000	42,000
As-Built Drawings & Record Documents	Included above	5,000
Additional Services	26,582	5,000
TOTAL CURRENT AND AMENDMENT:	\$360,000	\$52,000
TOTAL CURRENT PLUS AMENDMENT:		\$412,000

*Including all prior reallocations authorized by the Director of Public Works

3. SOURCE OF FUNDING: 475 – Neighborhood Security Bond Fund
 392 – Construction and Property Conveyance Tax Fund:
 Fire Protection Purposes
4. OPERATING COSTS: Due to the increased square footage of the new fire station facility, additional maintenance and operations costs, as well as additional utility costs, were assumed in the 2009-2010 Adopted Operating Budget.

BUDGET REFERENCE

Fund #	Appn #	Appn. Name	RC #	Total Appn	Amt. for Contracts	2009-2010 Adopted Budget (Page)	Last Budget Action (Date, Ord. No.)
Remaining Project Costs				\$766,346			
Current Funding Available							
475	5162	Fire Station 19 - Relocation (Piedmont)	139775	\$392,000	\$52,000	V-740	10/20/09 Ord. No. 28653
392	5162	Fire Station 19 - Relocation (Piedmont)	139775	\$225,000		V-740	6/23/09 Ord. No. 28593

Total Current Funding Available				\$617,000			
Recommended Budget Actions							
Fund #	Appn #	Appn. Name	RC #	Total Appn	Amt. for Contracts	2009-2010 Adopted Budget (Page)	Last Budget Action (Date, Ord. No.)
475	4878	Fire Station 36 Silver Creek/ Yerba Buena	132015	\$150,000*		V-743	10/20/2009 Ord. No. 28653
Proposed Funding Available				\$767,000			

* The Fire Station 36 Silver Creek/Yerba Buena appropriation has \$6,880,000 in 2009-2010. As noted in the staff report for the January 26, 2010 Council award of the Fire Station No. 36 construction contract, there was a projected project savings of up to \$500,000. Staff is recommending that Council reallocate \$150,000 of these savings to fund the completion of Fire Station No. 19.

CEQA

CEQA: Exempt, PP06 – 116 (Fire Station No. 19)

CEQA: Exempt, PP08 – 232 (Fire Station No. 19) for monopole



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

KJ:dp:pt
Attachments