



City Council Staff Report

From: City Manager

Report Type: CONSENT CALENDAR

Lead Department: Public Works

Meeting Date: June 10, 2024

Report #:2405-2973

TITLE

Approval of a Finding that the Fire Station No. 4 Replacement Project (CIP PE-18004) is "Substantially Complex" Under Public Contract Code Section 7201 and Direction to Increase the Retention Schedule From Five Percent to Ten Percent; CEQA Status – Exempt Under Section 15061(b)(2)

RECOMMENDATION

Staff recommends that Council:

1. Approve a finding that the proposed Fire Station No. 4 Replacement Project is "substantially complex" under Public Contract Code Section 7201 based on the reasons set forth in the staff report; and
2. Direct this project to be advertised for bid with a retention amount of ten percent (10%).

BACKGROUND

Public Contract Code Section 7201 requires public agencies to limit contract retention on public works projects to 5% unless the project is found to be "substantially complex" and therefore requires a higher retention amount. Retention is a contractual withholding of money from payments to the contractor by the City to cover any unexpected expenses, such as stop payment notices or poor workmanship, that may occur before the project is complete and accepted. The standard procedure is to return the retention once the following occurs: work is completed, the contractor provides the maintenance bond, the City accepts the project, and the stop payment notice period expires.

Public Contract Code Section 7201(b)(1) generally caps the retention amount that may be withheld at five percent (5%) of the contract price. However, Section 7201(b)(4) permits an awarding agency to withhold in excess of 5% on specific projects where the governing body approves a finding, during a properly noticed and normally scheduled public hearing and

prior to bidding, that the project is substantially complex and therefore requires a higher retention amount. Section 7201(5) requires such a finding to “include a description of the specific project and why it is a unique project that is not regularly, customarily, or routinely performed by the agency or licensed contractors.” The awarding entity must include in the bid documents details explaining the basis for the finding and the actual retention amount. Staff will include this information in the bid documents.

ANALYSIS

The Fire Station No. 4 Replacement Project is part of the 2014 Council Infrastructure Plan. Fire Station No. 4 is located at 3600 Middlefield Road. The existing Fire Station No. 4 was built in 1953 and does not currently meet the current and future needs of the Fire Department. Due to the growth of the community and advancements in fire safety services, the existing building no longer meets current seismic, accessibility, or regulatory code requirements that are required to meet the Essential Services Buildings Seismic Safety Act (ESBSSA). The new Fire Station No. 4 is approximately 8,000 square feet and will house a crew of five personnel and the following apparatus: a fire engine, an ambulance, and a reserve engine. The new station design will include two drive-through apparatus bays and a separate reserve bay, living quarters, bedrooms for the crew, exercise room, Captain’s office, and training room. The building will be a one-story, LEED-certified building.

The construction contractor will be required to subcontract for numerous specialties including structural steel, fire sprinklers, backup power, communication systems, and ventilation systems. The project will require the coordination of multiple construction disciplines while maintaining right-of-way access within a heavily used intersection by pedestrians, bicyclists, and students.

City staff has determined and recommends that Council find that the Fire Station No. 4 Replacement Project is “substantially complex” and therefore requires a higher retention amount of 10%, based on the large amount of work required, the multi-faceted nature of the project, complex communication systems, and the numerous specialized disciplines and trades involved in the construction. The City Clerk has published the required notice of this hearing in the newspaper starting on May 31, 2024.

The retention will be released as described in the City of Palo Alto’s standard contract General Conditions Section 9.8.1 which states, “Upon receipt of notice from Contractor that the Work is ready for final inspection, City will make such inspection. The City will file a Notice of Completion (NOC) with the County Clerk within ten (10) days after Acceptance by the City. Thirty-five (35) Days after filing the NOC, the City may release the final retention provided the requirements in this paragraph are met.”

Staff plans to issue an IFB for the Fire Station No. 4 Replacement project in July 2024. Construction of Fire Station No. 4 is expected to begin in fall 2024 with completion anticipated in winter 2026.

FISCAL/RESOURCE IMPACT

There are no resource impacts associated with finding the project “substantially complex”.

STAKEHOLDER ENGAGEMENT

Stakeholder engagement is not applicable to this staff report.

ENVIRONMENTAL REVIEW

Council action on this item is exempt from the California Environmental Quality Act (CEQA) review under section 15061(b)(2) of the CEQA Guidelines because the Fire Station No. 4 Replacement Project is categorically exempt under CEQA Guidelines Sections 15302 and 15303 and is not barred by one of the exceptions set forth in Section 15300.2. A notice of CEQA exemption was filed on October 26, 2023.

APPROVED BY:

Brad Eggleston, Director Public Works/City Engineer