



DATE: September 17, 2024

TO: Mayor and City Council

FROM: Director of Public Works

SUBJECT: Adopt Resolution Authorizing the City Manager to Execute Change Order No. 42 with S.J. Amoroso for the Global Settlement in an Amount not-to-exceed \$2,425,000 to Address Contractor's and its Subcontractors' Any and All Outstanding Change Orders and Any and All Outstanding and Future Claims and Authorizing the City Manager to Transfer and Appropriate Additional Funds in an Amount of \$3,231,824 for the Final Project Cost for the Fire Station 6 and Fire Training Center Project, Project Nos. 07481 and 07482

RECOMMENDATION

That Council adopts the attached resolution (Attachment II) authorizing the City Manager to execute Change Order No. 42 with S.J. Amoroso (SJA) for the global settlement in an amount not-to-exceed \$2,425,000 to address contractor's and its subcontractors' any and all outstanding change orders and any and all outstanding and future claims, and authorizing the City Manager to transfer and appropriate additional funds in the amount of \$3,231,824 for the final project cost.

SUMMARY

The Fire Station 6 and Fire Training Center (FS6/FTC) project commenced construction on August 17, 2020, and was anticipated to be completed in the Fall of 2022. While Fire Department personnel have moved into the new fire station and Las Positas Chabot College District faculty and students have been using the facility, there are remaining outstanding construction items that need to be completed in order to close out the project. It was anticipated that these items would be completed by the end of July 2024; however, several systems still need to be completed. The construction of the project has extended past the contract duration and SJA and its subcontractors have requested time extension including monetary compensation for extended general conditions. Staff have negotiated with SJA to include conditions and is recommending approval for a change order of \$2,425,000. This amount plus \$793,360 for increases in approved change orders and other project costs will be needed to close out the project. Staff is also requesting the transfer and appropriation of additional funds in the amount of \$3,231,824 from the Measure C Fund.

BACKGROUND

In 2014, voters in the City approved Measure C which authorized the City to increase the sales tax rate by one-half cent for, among other things, the restoration and maintenance of City services and facilities, including firefighting/emergency medical services. This project includes partnership with the Chabot-Las Positas Community College District (District) in the shared use of the FTC.

On November 19, 2019¹, Council adopted a resolution approving the plans and specifications for the construction of FS6 and the FTC and call for bids after approval from FAA and DSA. On July 7, 2020, Council awarded the construction contract to S. J. Amoroso Construction (SJA).

Construction of FS6/FTC started on August 17, 2020, and with 480 contract working days plus 7 adverse weather days, the substantial completion date was August 9, 2022. Actual construction exceeded the contract duration. Student classes began in August of 2023, when the main building, which is the fire station and classrooms, was ready for occupancy. Fire Station 6 personnel moved into the new fire station in October 2023. While there has been occupancy, there are remaining outstanding construction items that need to be completed in order to have a fully functioning fire station and training center and to close out the project. Some of these items include a fully functional solar photovoltaic system and battery backup system, fueling system, liquid petroleum gas system, lighting system, completion of punch list and providing closeout documentation.

DISCUSSION

The remaining work as well as completed work took longer due to a number of factors. This complex project included many systems that resulted in over 1300 request for information (RFIs), over 600 change orders and over 2 years of monthly schedule updates. There were also issues with extended procurement time for materials including the electrical switchgear. These changes added one year to the project construction which SJA indicated would amount to \$2 million in extended general conditions cost. Staff initially negotiated with SJA for a global settlement of \$1 million that included resolving all remaining issues with SJA as well as all of SJA's subcontractors. These issues included completion of the remaining change order work, subcontractors' potential claim on material and labor cost escalation, delays, and inefficiencies. Negotiations were put on hold because SJA received change orders from their subcontractors for monetary compensation for their extended general conditions due to delays. This included one in the amount of \$2.4 million. The negotiation was further complicated when a number of systems needed to be re-designed by the design team due to unforeseen proprietary equipment requirements. This included the HVAC system and the solar photovoltaic system and battery backup system which caused additional work and delays.

After months of negotiations with the contractor and working closely with the team hired by the City for the construction management of the project, along with consultation with the City Attorney's Office, staff and SJA agreed on the amount of \$2,425,000 for a global settlement to address SJA and its subcontractors' any and all outstanding change orders and any and all

¹ <https://hayward.legistar.com/LegislationDetail.aspx?ID=4244335&GUID=13F11749-D9CB-4507-95F3-813DF74D04F2&Options=&Search=>

outstanding and future claims for this project.

ECONOMIC IMPACT

This project added classrooms and spaces for training and use by others which may result in positive economic benefits for businesses around the area. Additionally, the local economy and local workforce have been positively impacted during construction of the facilities.

FISCAL IMPACT

	Estimated project cost at the time of award of the construction contract	Estimated project cost from January 2023 for the additional funding of \$5,596,800	Estimated project cost from November 2023 for the additional funding of \$2,030,000	Current project cost estimates
Construction Contract	\$52,397,000	\$52,397,000	\$52,397,000	\$52,397,000
Construction Contingency (ACO)	\$5,239,700	\$5,239,700	\$6,400,000	\$6,690,676
Global Settlement (paid through ACO)	n/a	n/a	n/a	\$2,425,000
Consultant Design	\$5,000,000	\$4,692,270	\$4,692,270	\$4,692,270
Construction Management Administration	\$4,000,000	\$5,787,000	\$5,992,000	\$5,955,217
Inspector of Record Service & Special Testing	\$1,500,000	\$2,070,000	\$2,070,000	\$2,209,187
Demolition of old Fire Station and FTC	\$425,000	\$378,494	\$378,494	\$378,492
Temporary Housing	\$500,000	\$610,000	\$720,117	\$763,079
Permit & Utility Fees	\$940,000	\$400,000	\$400,000	\$496,909
Fixture, Furniture & Equipment	\$600,000	\$4,300,000	\$4,655,364	\$4,802,866
Staff Construction Administration	\$300,000	\$624,000	\$823,219	\$936,128
Total	\$70,901,700	\$76,498,464	\$78,528,464	\$81,746,824

The current project cost estimate column with items in bold are the changes from the

November 2023 project cost estimate and the subject of this request.

At award of contract, \$5,239,700 (10% of the construction contract) for construction contingency was approved. The current \$6,690,676 construction contingency represents 12.8% the construction contract amount. This percentage increases by 4.6% with the global settlement amount of \$2,425,000 added to construction contingency.

Appropriation of Additional Funds

The Adopted FY25 CIP includes a total of \$78,515,000 for the FS6/FTC project. The current figure of \$78,515,000 is more accurate than what was presented in November 2023 as it includes all expenses, including staff time, and encumbrances through the end of fiscal year 2024. Since the November 2023 project cost estimate, many items have increased resulting in an increased amount of \$793,360. These items consist of construction contingency in approved change orders, inspector of record service & special testing, temporary housing, permit & utility fees, FF&E and staff construction administration. The additional \$793,360 plus the global settlement amount of \$2,425,000 for a total \$3,218,360, make the current total estimated project cost \$81,746,824 which exceeds the approved project cost amount of \$78,515,000. Therefore, staff recommends that Council authorize the City Manager to transfer additional funds in the amount of \$3,231,824 from Measure C Operating (Fund 101) to Measure C Capital (Fund 406) and appropriate the same amount to the Project.

STRATEGIC ROADMAP

This agenda item supports the Strategic Priority of Invest in Infrastructure. Specifically, this item relates to the implementation of the following project:

- Invest in City Facilities and Property
- N10 Construct the Fire Station 6 and Fire Training Center

SUSTAINABILITY FEATURES

This project incorporates sustainability features as they relate to water, energy, and the environment. Additionally, the buildings have been designed to meet Leadership in Energy and Environmental Design (LEED) Silver, or better. The project received LEED Silver from the U.S. Green Building Council.

PUBLIC CONTACT

There is no public contact needed for this item.

NEXT STEPS

If Council approves the resolution, the Change Order No. 42 with S.J. Amoroso for the Global Settlement in an Amount not-to-exceed \$2,425,000 will be executed by the City Manager. Staff will also transfer funds in the amount of \$3,231,824 from Fund 101 to Fund 406 and appropriate them to the project.

Prepared by: Dave Hung, Senior Civil Engineer
Kathy Garcia, Deputy Director of Public Works

Recommended by: Alex Ameri, Director of Public Works

Approved by:



Dustin Claussen, Interim City Manager