

Resolution No. 2024-XXX N.C.S.
of the City of Petaluma, California

**RATIFYING AWARD OF THE CONSTRUCTION CONTRACT TO DOWNING HEATING, INC.
AND ACCEPTING COMPLETION OF THE PETALUMA COMMUNITY CENTER HVAC
REPLACEMENT PROJECT, AUTHORIZING RELEASE OF THE BOND**

WHEREAS, the City of Petaluma owns and operates the Petaluma Community Center located at 320 N McDowell Ave, Petaluma, CA; and

WHEREAS, in June 2024 the Petaluma Community Center HVAC unit servicing Craft Room 2 was found to be nonfunctioning and no cooling or heating was available for use requiring replacement; and

WHEREAS, a licensed HVAC contractor was hired by the Parks and Recreation Department to remove the broken HVAC unit from the facility and dispose of any refrigerant offsite; and

WHEREAS, immediate response was required to provide staff and the public heating and cooling in the Craft Room 2 at the Community Center; and

WHEREAS, C11202223 Council Chambers Remodel was funded \$26,504.00, ARPA funds; and

WHEREAS, Parks and Recreation staff, along with the City Attorney's office, deemed the replacement of HVAC unit an emergency; and

WHEREAS, the immediacy of the repairs did not allow sufficient time to bid the work through standard procedures; and

WHEREAS, pursuant to Petaluma Municipal Code Section 4.04.050, the City's bidding requirements, "may be dispensed ... when an emergency requires that an order be placed with the nearest available source of supply;" and

WHEREAS, the lack of HVAC resulted in the staff renting and installing a portable HVAC unit that could not adequately cool or heat Craft Room 2 in 100 degree plus weather creating extreme heat conditions for those participating summer camp; and

WHEREAS, the common law recognizes a bidding exception for circumstances where competitive bidding of public contracts otherwise required by statute may be excused, including circumstances where the contract is such that competitive proposals would be unavailing or would not produce an advantage, and the advertisement for competitive bid would thus be undesirable, impractical, or impossible (*Graydon v. Pasadena Redevelopment, Agency* (1980) 104 CA3d 631); and

WHEREAS, staff solicited site review and quotes from three contractors and awarded a contract to Downing Heating Inc., to complete an emergency replacement of the HVAC; and

WHEREAS, in accordance with the City of Petaluma Charter and Municipal Code, California Public Contract Code Section 21321, and other applicable laws, City staff executed a construction agreement for the emergency replacement per the quote submitted by Downing Heating for \$47,136.00, with one change order for a combined total not to exceed \$49,122; and

WHEREAS, City staff have inspected the emergency repair and determined that work has been completed in accordance with the emergency purchase order requirements; and

WHEREAS, Heating Downing Inc. has submitted a total invoice in the amount of \$26,504.00; and

WHEREAS, the Project was determined to be categorically exempt pursuant to the California Environmental Quality Act under Title 14, the California Code of Regulations Sections 15301 (Existing Facilities) and 15302 (Replacement), because the project consists of reconstruction of existing systems and/or minor new construction involving negligible or no expansion of capacity; and

WHEREAS, based on the foregoing, staff recommends acceptance of the Project on behalf of the City.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Petaluma as follows:

1. Finds that the above recitals are true and correct and incorporated herein as findings.
2. Finds that this action is categorically exempt pursuant to the California Environmental Quality Act under Title 14, the California Code of Regulations Sections 15301 (Existing Facilities) and 15302 (Replacement), because the project consists of reconstruction of existing systems and/or minor new construction involving negligible or no expansion of capacity.
3. Ratifies the award of the construction contract in the amount of \$26,504.00 to Downing Heating, Inc and that the City satisfied its purchasing requirements.
4. The contract entitled Emergency HVAC Repair- Petaluma Community Center, Project No. C11202223 with a final contract amount of \$26,504.00 is accepted as complete subject to the Contractor's continuing warranty and other obligations pursuant to the contract.
5. The City Clerk/Recording Secretary is hereby authorized and directed to file a Notice of Completion concerning the Project with the Sonoma County Clerk's Office within ten (10) days of the date of this Resolution.
6. Staff is hereby authorized and directed to release all undisputed retention not subject to pending change orders within sixty (60) days of the date of this Resolution and in accordance with the terms of the Project contract, the Petaluma City Charter, California Public Contract Code Section 7107 and applicable law.

Under the power and authority conferred upon this Council by the Charter of said City.

REFERENCE:

I hereby certify the foregoing Resolution was introduced and adopted by the Council of the City of Petaluma at a Regular meeting on the 21st day of October 2024, by the following vote:

Approved as to
form:

City Attorney

AYES:
NOES:
ABSENT:
ABSTAIN:

ATTEST:

City Clerk

Mayor

