

# Resolution No. 2023-XXX N.C.S. of the City of Petaluma, California

## **RATIFYING AWARD OF THE CONSTRUCTION CONTRACT TO MEYLAN CONSTRUCTION, INC. AND ACCEPTING COMPLETION OF THE FIRE STATION 3 KITCHEN REPLACEMENT PROJECT, AUTHORIZING RELEASE OF THE 10% RETENTION, AND AUTHORIZING A BUDGET ADJUSTMENT**

**WHEREAS**, the City of Petaluma owns and operates Petaluma Fire Station 3 located at 831 South McDowell Boulevard, Petaluma, CA; and

**WHEREAS**, in December 2022 mold was discovered growing on a building wall behind furniture, and certain molds are detrimental to occupant health requiring abatement; and

**WHEREAS**, a licensed abatement contractor was hired by the Petaluma Fire Department to clean up the mold, remove contaminated materials from the facility, and eradicate any optimal conditions for future mold growth; and

**WHEREAS**, immediate response was required to reduce staff exposure to the mold which required the removal of half of the existing station kitchen while maintaining crew operations through the rental of a temporary trailer kitchen; and

**WHEREAS**, C11202328 Fire Stations 1, 2, & 3 Remodel was funded \$101,000.00 from Facilities Impact Fees to replace the kitchen cabinetry, countertops, and equipment; and

**WHEREAS**, Public Works staff, along with the City Attorney's office, deemed the removal of contaminated materials and replacement of the kitchen 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 mold resulted in the crews in Fire Department Station 3 from using their kitchen, and having a usable kitchen is necessary for firefighters to maintain proper nutrition and to stay physically and mentally fit while performing their lifesaving duties; 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**, the City was already renting a mobile kitchen trailer, it was not advantageous for the City to pay the additional rental fees while it went through the formal bidding procedures; and

**WHEREAS**, staff prepared Request for Proposal documents, and the City of Petaluma solicited bids from four contractors and awarded a contract to Meylan Construction Inc., to complete an emergency replacement of the kitchen; 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 bid submitted by Meylan Construction for \$90,033.00, with three change orders for a combined total not to exceed \$108,689.00; and

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

**WHEREAS**, Meylan Construction Inc. has submitted a total invoice in the amount of \$109,689.00; and

**WHEREAS**, the total project expenditures, in addition to the construction contract, include staff time and future ADA improvements and are estimated to bring the total project work to \$130,000.00; and

**WHEREAS**, the total project budget requires a budget adjustment of \$29,000.00; 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 or reconstruction), 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. Declares that the above recitals are true and correct and are incorporated herein as findings of this resolution.
2. Finds 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 or reconstruction), 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 \$90,033.00 to Meylan Construction, Inc.
4. The contract entitled Fire Station 3 Kitchen Replacement, Project No. C11202328 with a final contract amount of \$108,689.00 is accepted as complete subject to the Contractor's continuing warranty and other obligations pursuant to the contract.
5. Finds that the City's purchasing requirements were satisfied under both the emergency exemption in Section 4.04.050 and the common law. Here the mold resulted in the crews in Fire Department Station 3 from using their kitchen, and having a usable kitchen is necessary for firefighters to maintain proper nutrition and to stay physically and mentally fit while performing their lifesaving duties. Additionally, as the City was already renting a mobile kitchen trailer, it was not advantageous for the City to pay the additional rental fees while it went through the formal bidding procedures.

6. 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.
7. 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.
8. Authorizes a budget adjustment of \$29,000.00 to the Fire Station 1, 2 & 3 Remodel Project No. C11202328 for the additional work performed by change order, staff hours, and additional ADA site improvements.

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

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**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 11<sup>th</sup> day of September 2023, by the following vote:

Approved as to  
form:

\_\_\_\_\_  
City Attorney

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

**ATTEST:**

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor