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DATE: September 11, 2023

TO: Honorable Mayor and Members of the City Council through City Manager

FROM: Diane Ramirez – Project Manager, Public Works & Utilities (PW&U)  
Gina Benedetti-Petnic, PE – Assistant Director, PW&U  
Christopher J. Bolt MPA, PE, ICMA-CM–Director, PW&U

SUBJECT: Resolution Ratifying Award of the Construction Contract to Meylan Construction Inc. and Accepting the Completion of the Fire Station 3 Kitchen Replacement Project by Meylan Construction, Inc., Authorizing Release of the 10% Retention, and Authorizing a Budget Adjustment

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### **RECOMMENDATION**

It is recommended that the City Council adopt the attached resolution ratifying award of the construction contract to Meylan Construction Inc. and accepting the completion of the Fire Station 3 Kitchen Replacement Project by Meylan Construction, Inc., authorizing release of the 10% Retention, and authorizing a budget adjustment.

### **BACKGROUND**

In December 2022, Fire Department staff were performing a routine cleaning of Fire Station 3 and discovered mold growth on the back of furniture and posters hung against the wall shared by the Captain's Office and the kitchen. The facilities department hired a mold abatement firm to clean the wall and determine whether mold was present within the wall cavity. Confirmation of mold within the wall cavity required additional, destructive abatement. Mold abatement requires the removal and disposal of gypsum board as it is a porous surface that will continue to harbor mold spores. Gypsum board is also removed to expose the wall cavity so the interior wood framing can be scrubbed of mold spores, treated with a biocide, and dried to ensure that mold spores are not left behind which would foster subsequent growth. Confirmation testing was performed in the affected area. Mold abatement protocols require that building materials are removed twenty-four inches (24") beyond the furthest visual occurrence of mold. All abatement work was performed within a containment structure, with constant HEPA filtration and negative pressure to prevent the release of mold spores within the Fire Station.

During the abatement activities, a trailer kitchen was rented and parked in the rear of the station for the crews. This piece of equipment was procured to support the meal preparation that crews

typically do at the station during their shift. The cost of the kitchen rental was paid for by Fire Administration Fund 1100.13500.54210.

Mold was present within approximately one-third of the kitchen perimeter, concentrated in the northwest corner. It is suspected that the dishwasher water line had a very small hole that provided a minimal amount of water, so the leak went undetected but provided enough water to foster mold growth.

The removal of contaminated materials required the demolition of approximately one-half of the kitchen cabinetry and countertop area. After consulting with the abatement contractor and Fire Department, the project was modified to proceed with the full demolition and replacement of the kitchen cabinetry, countertops, and equipment. Once staff determined that the entire kitchen would be replaced, asbestos testing was also performed which identified that the original flooring, floor glue, and the wall and ceiling texture contained asbestos. While the abatement firm was still on-site, they removed the asbestos-containing materials within the kitchen area so a general contractor could proceed swiftly with replacement work.

Once the kitchen replacement budget was established, staff documented the scope of work and prepared a request for proposals.

## **DISCUSSION**

On January 4, 2023, staff contacted four contractors to provide costs for the kitchen replacement project. Each contractor was walked through the site to review site conditions. On January 25, 2023, three contractors provided bids, but staff did not select the lowest bid. After a couple of back-and-forth bid clarifications with the low bidder, staff was not confident the low-bid contractor understood the scope of work and was concerned that the project would not start in a timely fashion and that there would be excessive change orders. This bid was considered non-responsive. Meylan Construction Inc., located in San Rafael, was the lowest responsive bidder in the amount of \$90,033.00. The contract was executed with Meylan Construction Inc. on March 23, 2023, for the Fire Station 3 Kitchen Replacement project.

The final construction contract cost is \$108,689.00. Three change orders were executed for this contract, which included the costs of required contract bonds and the replacement of the countertop material with stainless steel.

- Change Order #1 \$2,985.00 Project Bonds
- Change Order #2 \$13,143.00 Stainless steel countertops
- Change Order #3 \$2,528.00 Additional stainless-steel materials

There are no disputed claims, and the project was completed satisfactorily without any significant incidents.

The kitchen replacement project was submitted to the Building Department for a building permit and the contractor's work was inspected by the City's Building Inspector. All building improvements must include ADA-related improvements. The work completed within the kitchen

replacement project included accessible counter heights and appropriate turning radius. The additional ADA improvement is scheduled for the front walk of the Station and is estimated to cost \$6,000. This work will be bid to local contractors in the Fall.

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.” 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, 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). 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. While the City may dispense with bidding requirements due to both the emergency exemption and common law, the City did perform informal bidding here to ensure a fair price.

### **PUBLIC OUTREACH**

This agenda item appeared on the City’s tentative agenda document on August 7, 2023, which was a publicly noticed meeting.

### **COUNCIL GOAL ALIGNMENT**

This proposed action supports the FY 2021-2023 City Council Goals and Priorities and the following Workplan items:

- #42: “Find ways for City Operations to reduce greenhouse gas emissions, conserve water, decrease waste, and minimize the use of fossil fuels and investigate and pursue options for carbon sequestration.”
- #70: “Continue to focus on water conservation and urban recycled water expansion.”
- #81: “Promote emergency preparedness and resiliency strategies to our residents and businesses.”

### **CLIMATE ACTION/SUSTAINABILITY EFFORTS**

The materials selected for the project are durable and expected to withstand constant use by Fire Department crews while residing in the station. Durable materials are expected to hold up longer and not require replacement which will keep additional materials out of landfill.

The removal of mold and asbestos materials contributes to a healthier interior environment for staff.

## **ENVIRONMENTAL REVIEW**

The Fire Station 3 Kitchen Replacement project was determined to be categorically exempt under CEQA Guidelines, sections 15301 (Existing Facilities) and 15302 (Replacement) as the project consists of a minor alteration to existing facilities in the City of Petaluma.

## **FINANCIAL IMPACTS**

The purchase and installation of the required materials were funded by the City Facilities Impact Fees. Due to the emergency nature of this project, staff did not have adequate time to prepare a detailed project estimate. The total project costs, including staff time for project and construction management, were not included in the original budget request but are itemized in the final project budget below. Staff requested a budget adjustment of \$29,000.

Fire Station 3 Kitchen Replacement Project (C11202328)	Approved Project Budget	Final Project Budget
<b>Uses</b>		
Design/Planning/Environmental	\$ 0	\$ 8,000
Administration/Legal	\$ 0	\$ 0
Construction - Kitchen	\$100,000	\$109,000
Construction – Front Walk	\$ 0	\$ 6,000
Construction Management	\$ 0	\$ 7,000
CIP Overheads	\$ 1,000	\$ 0
Contingency	\$ 0	\$ 0
Total Uses	\$101,000	\$130,000
<b>Sources</b>		
City Facilities Impact Fees	\$101,000	\$130,000
Total Sources	\$101,000	\$130,000

## **ALTERNATIVES**

City Council may choose to not make the required findings in this report. This would risk delays in the project completion and payment to the contractor of which the contractor may make a claim against the City, which would require additional staff time to respond to and resolve the claim.

## **ATTACHMENTS**

1. Resolution