



AGENDA REPORT SUMMARY

Meeting Date: April 23, 2019

Subject: Resolution No. 2019-15: Making Findings of Substantial Complexity and Authorizing Ten Percent Retention for Construction of the Los Altos Community Center Project

Prepared by: Andrea Trese, Assistant Civil Engineer

Reviewed by: Aida Fairman, Interim Engineering Services Director

Approved by: Chris Jordan, City Manager

Attachment(s):

1. Resolution No. 2019-15

Initiated by:

City Council

Previous Council Consideration:

April 23, 2019; March 12, 2019; September 11, 2018; July 10, 2018; March 13, 2018; December 12, 2017; September 26, 2017; August 22, 2017; April 25, 2017

Fiscal Impact:

No fiscal impact for resolution making findings of substantial complexity and authorizing 10% retention for the Los Altos Community Center Project (“Project”). Council has approved a total of \$34.7M for the Project.

Environmental Review:

Not applicable for resolution making findings of substantial complexity and authorizing 10% retention for the Project. (CEQA process has been performed separately for Community Center Project)

Policy Question(s) for Council Consideration:

None

Summary:

- Adopting a 10% retention, rather than the standard 5% retention, is permitted per the California Public Contract Code Section 7201(b)(4)-(5) for projects determined to be substantially complex by a public agency
- The project scope for construction of the Project includes the following complex elements, which are not regularly or routinely performed by the City or licensed contractors and which

Reviewed By:

City Manager

CJ

City Attorney

CD

Finance Director

SE



Subject: Resolution No. 2019-15: Making Findings of Substantial Complexity and Authorizing Ten Percent Retention for Construction of the Los Altos Community Center Project

causes the Project to qualify as substantially complex thereby allowing for retention up to 10%:

- Rain screens with wood framing
- Metal roofing system
- Retaining payment from the contractor in an amount greater than the standard 5% retention adds a measure of protection against a contractor's potential failure to complete required work in a timely and non-defective manner.

Staff Recommendation:

Move to adopt Resolution No. 2019-15 making findings of substantial complexity and authorizing ten percent retention for construction of the Los Altos Community Center Project



Subject: Resolution No. 2019-15: Making Findings of Substantial Complexity and Authorizing Ten Percent Retention for Construction of the Los Altos Community Center Project

Purpose

To adopt Resolution No. 2019-15 making findings of substantial complexity and authorizing 10% retention for construction of the Los Altos Community Center Project.

Background

In February 2017, the Council set a goal to have a new or refurbished community center built by December 2020. The Project site occupies approximately 4.46 acres on the southeast portion of the Civic Center campus adjacent to Hillview Avenue. After extensive community involvement through a survey, a Task Force, public meetings, and other forms of engagement, the Project was developed to incorporate community input and has now reached the 100% design phase. The design consultant for the new Community Center, Noll & Tam Architects, was selected after an RFP process involving review of proposals and interviews in 2017. The Project plans are currently in the review process.

Discussion/Analysis

Retaining payment from the contractor in an amount greater than the standard 5% retention adds a measure of protection against a contractor's potential failure to complete required work in a timely and non-defective manner. Adopting a 10% retention, rather than the standard 5% retention, is permitted per Public Contract Code Section 7201(b)(4)-(5) for projects determined to be substantially complex by a public agency during a properly noticed and normally scheduled public hearing.

The scope of the Project includes complex elements, which are not regularly or routinely performed by the City or licensed contractors. These complex elements include rain screens with wood framing and a metal roofing system. The Project qualifies as substantially complex thereby allowing for retention up to 10%.

Options

- 1) Adopt Resolution No. 2019-15 making findings of substantial complexity and authorizing ten percent retention for construction of the Los Altos Community Center Project.

Advantages: Retaining payment from the contractor in an amount greater than the standard 5% retention adds a measure of protection against a contractor's potential failure to complete required work in a timely and non-defective manner

Disadvantages: None



Subject: Resolution No. 2019-15: Making Findings of Substantial Complexity and Authorizing Ten Percent Retention for Construction of the Los Altos Community Center Project

2) Do not adopt Resolution No. 2019-15

Advantages: None

Disadvantages: Retaining only the 5% retention provides a lower level of protection against the contractor's potential failure to complete required work in a timely and non-defective manner.

Recommendation

The staff recommends Option 1.

RESOLUTION NO. 2019-15

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS
MAKING FINDINGS OF SUBSTANTIAL COMPLEXITY AND
AUTHORIZING 10 PERCENT RETENTION FOR CONSTRUCTION
OF THE LOS ALTOS COMMUNITY CENTER PROJECT**

WHEREAS, Section 7201 of the California Public Contract Code sets the limits for retention proceeds withheld from payment by a public entity from the original contractor; and

WHEREAS, under Public Contract Code Section 7201(b)(4)-(5) the retention proceeds withheld by the City may exceed 5 percent on specific projects where the governing body has approved a finding, during a properly noticed and normally scheduled public hearing, that the project is substantially complex; and

WHEREAS, the Los Altos Community Center project (“Project”) includes various complex elements such as rain screens with wood framing and a metal roofing system; and

WHEREAS, neither the construction of rain screens with wood framing nor the construction of metal roofing systems is regularly, customarily, or routinely performed by the City of Los Altos or by licensed contractors.

NOW THEREFORE, BE IT RESOLVED, that the City Council of the City of Los Altos hereby

- 1) Finds that the Project is substantially complex and therefore requires a higher retention amount than 5 percent.
- 2) Establishes a 10 percent retention for the Project.

I HEREBY CERTIFY that the foregoing is a true and correct copy of a Resolution passed and adopted by the City Council of the City of Los Altos at a meeting thereof on the ____ day of ____, 2019 by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Lynette Lee Eng, MAYOR

Attest:

Jon Maginot, CMC, CITY CLERK