



Agenda Date: 4/25/2006
Agenda Placement: 6L

NAPA COUNTY BOARD OF SUPERVISORS Board Agenda Letter

TO: Board of Supervisors
FROM: Michael Stoltz for Robert Peterson - Director
Public Works
REPORT BY: Juan Arias, PRINCIPAL PUB WORKS ENGINEER , 259-8374
SUBJECT: Juvenile Justice Center - Phase II Partial Release of Retention

RECOMMENDATION

Director of Public Works requests partial release of retention for Phase II of the "Juvenile Justice Center Project," PW 02-17, per Public Contract Code Section 7107.

EXECUTIVE SUMMARY

Phase II of the Juvenile Justice Center (JJC) Project has been substantially completed to the satisfaction of the Public Works and Probation departments per Public Contract Code Section 7101. The facility has been turned over to the Probation Department for occupation and beneficial use of the improvement. Public Contract Code Section 7107 requires release of retention to Flintco, Inc. for the work performed under the completed Phase II.

FISCAL IMPACT

Is there a Fiscal Impact?	Yes
Is it currently budgeted?	Yes
Where is it budgeted?	Capital Improvement Program
Is it Mandatory or Discretionary?	Mandatory
Is the general fund affected?	Yes
Future fiscal impact:	none
Consequences if not approved:	The County will be out of compliance with the Public Contract Code for not releasing partial retention to Flintco, Inc. for Phase II.

Additional Information:

ENVIRONMENTAL IMPACT

ENVIRONMENTAL DETERMINATION: The proposed action is not a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable.

BACKGROUND AND DISCUSSION

On March 11, 2003 the Board of Supervisors awarded the construction contract for the "Juvenile Justice Center Project," PW 02-17, to Flintco, Inc. of Rancho Cordova, California, for their low bid of \$11,949,000 and authorized the Chair to sign the construction contract. Construction of the Juvenile Justice Center consisted of two phases. Phase I was the construction of the new 42,000 square foot Juvenile Justice Center adjacent to and west of the existing Juvenile Hall. Phase II was the demolition of a portion of the existing Juvenile Hall and construction of an exercise area adjacent to and east of the new Juvenile Justice Center. On November 22, 2005 the Board accepted Phase I work as complete and authorized a partial release of all retention due Flintco, Inc. less 150% of liquidated damages for Phase I.

Notice to Proceed for Phase II was issued by the Director of Public Works effective August 8, 2005 and the contractual completion date was December 6, 2005. Due to unexpected subsurface soil conditions, weather conditions and design issues related to a canopy installation, substantial completion was not issued until March 10, 2006. Liquidated damages were not assessed during this period since the delays were not attributable to the Contractor but rather to unforeseen conditions and design issues. Since Flintco still needs to address punchlist and closeout items for Phase II, a Notice of Completion for the entire project will not be filed until those items are completed.

The County has been withholding 10% of the progress payments due monthly to the Contractor for completed Phase II work as retention funds and has been forwarding this amount to an escrow account as provided for in the construction contract. Section 7107 of the Public Contract Code stipulates that within 60 days after the date of completion of the work of improvement, the retention held by the public entity shall be released. Completion, per Section 7107, means the occupation, beneficial use, and enjoyment of work of improvement, excluding any operation only for testing, startup, or commissioning, by the public agency, or its agent, accompanied by cessation of labor on the work of improvement. The Director of Public Works therefore requests authorization to release all retention due the Contractor for Phase II of the Juvenile Justice Center Project - such release being considered a partial release of retention for the "Juvenile Justice Center Project," PW 02-17 per Section 7107 of the Public Contract Code.

The Department of Public Works is currently under negotiations with the Contractor and Architect regarding delay responsibilities for all phases. Once the Contractor completes the punchlist and closeout items for Phase II and all negotiations are completed, staff will request the Board to accept all work as complete and the Notice of Completion will be filed.

SUPPORTING DOCUMENTS

None

CEO Recommendation: Approve

Reviewed By: Andrew Carey