



## MEMORANDUM

**TO:** City Council

**FROM:** Bill Robeson, Assistant City Manager/Public Works Director

**BY:** Jill McPeck, Capital Improvement Project Manager

**SUBJECT:** Consider Adoption of a Resolution Pursuant to Public Contract Code (PCC) Section 20168 and Authorizing Contracting Without a Competitive Solicitation for Bids Pursuant to PCC Section 22050 for FCFA Station 1 Emergency Generator Replacement Project

**DATE:** September 13, 2022

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### **SUMMARY OF ACTION:**

Adoption of the Resolution will allow for accelerated replacement of the emergency generator at the Five Cities Fire Authority (FCFA) Station 1 by eliminating the formal bid process.

### **IMPACT ON FINANCIAL AND PERSONNEL RESOURCES:**

The FY 2021-22 and FY 2022-23 Capital Improvement Program (CIP) budgets included \$680,018 (\$46,780 General Fund, \$318,738 Sales Tax Funds, and \$314,500 of California Nuclear Power Preparedness (NPP) Program funding) for the subject project. The engineer's construction cost estimate for the project is currently \$646,453. FCFA staff will seek to secure the NPP funding upon completion of the construction documents and associated engineer's construction cost estimate. It is now anticipated that NPP funding will cover approximately 50% or \$323,277. Staff time will be necessary to coordinate construction activities with the contractor and special inspectors.

### **RECOMMENDATION:**

1) Adopt a Resolution finding that an emergency exists within the City related to the replacement of the emergency generator at the Five Cities Fire Authority Fire Station 1 and authorizing contracting without a competitive solicitation for bids; and 2) Authorize the City Manager, or designee, to execute a contract with a qualified contractor for construction of the project.

### **BACKGROUND:**

The City of Arroyo Grande owns the FCFA Station 1 building at 140 Traffic Way, and in accordance with the FCFA Joint Exercise of Powers Agreement between the Cities of

## City Council

### Consider Adoption of a Resolution Pursuant to Public Contract Code (PCC) Section 20168 and Authorizing Contracting Without a Competitive Solicitation for Bids Pursuant to PCC Section 22050 for FCFA Station 1 Emergency Generator Replacement Project September 13, 2022 Page Number

Arroyo Grande and Grover Beach and the Oceano Community Services District, the City remains responsible for insurance and maintenance of the fire station (Section 8 A). FCFA Station 1 is considered an essential services building in accordance with Section 16007 of the California Health and Safety Code. The California Legislature has determined that buildings providing essential services should be capable of providing those services to the public after a disaster. In order to do so, power from an emergency generator is needed in the event of power loss due to a power outage.

On October 12, 2021, the City Council approved an Agreement for Consultant Services with Salas O'Brien for design and construction phase services, including continuous construction inspection, for the replacement of the permanent emergency generator and associated transfer switches, and installation of a properly sized connector for a portable generator as a backup to the emergency generator at Fire Station 1. Since this time, staff has been working with Salas O'Brien to determine generator sizing to power the entire building and to complete the construction documents. The construction documents are currently at 95% completion.

At the time of Council's approval of the design and construction phase services, it was assumed that upon completion of the construction documents, staff would present the item to Council to evaluate overall probable costs and to consider approving the design and authorizing the solicitation of construction bids.

However, since that time, the current emergency generator has become completely non-functional, rendering the FCFA Station 1 building with no back-up power. On the evening of July 8, 2022, there was a power outage that included the FCFA Station 1 building. The entire building was without power, impacting the ability to provide emergency 9-1-1 services to the community. The power outage affected:

- Apparatus Bay Doors – Unlike residential garage door openers, crews had to climb ladders in the dark to manually disable the bay door openers in order to gain access to emergency response vehicles.
- Station Alerting – All communications were shut down, impacting the crew's ability to receive emergency calls for service.
- Lighting – There was no lighting throughout the entire facility.
- Communications/IT Server room – Without power, there was an *inability to charge battery powered equipment (portable radios, thermal imaging cameras, etc.)*.

While power was restored to the station within minutes and no negative results occurred because of this specific incident, the lack of a working generator created a serious risk to the community. This prompted an immediate interim course of action where the non-functioning emergency generator was removed and a portable generator was put in its place and connected directly to an existing electrical panel that provides minimum power needs. This immediate action provided two things: 1) it did not require additional wiring

**Item 8.j.**

**City Council**

**Consider Adoption of a Resolution Pursuant to Public Contract Code (PCC) Section 20168 and Authorizing Contracting Without a Competitive Solicitation for Bids Pursuant to PCC Section 22050 for FCFA Station 1 Emergency Generator Replacement Project**

**September 13, 2022**

**Page 3**

from the building's electrical panel that would be essentially be throw away work, and 2) allows for the opening of the vehicle bay doors and some lighting but does not provide power to the server room or the station alerting system, which are critical needs.

**ANALYSIS OF ISSUES:**

Normally, the Public Contract Code (PCC) requires a competitive solicitation for bids on all public works projects. However, PCC Section 20168 allows the Council to adopt a Resolution by four-fifths vote declaring that the public interest and necessity demand the immediate expenditure of public money to safeguard life, health or property. In addition, pursuant to this section and PCC Section 22050, in the case of an emergency, the Council by a four-fifths vote may procure the necessary services to repair a public facility without giving notice for bids. PCC Section 1102 defines an emergency as a sudden, unexpected occurrence that poses a clear and imminent danger, requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services.

In this case, there is an imminent danger to public health and safety for various reasons including, without limitation, the delay of public safety services during the event of a power outage as the emergency generator is no longer functional. Without an emergency generator, emergency 9-1-1 services provided FCFA Station 1 become impaired and/or delayed which poses a serious risk to the community as response time is critical in the event of an emergency situation

. If the project were to go through the formal bid process, it is estimated that the project would be advertised in October 2022, a construction contract awarded in November 2022, and start of construction in January 2023. This would result in approximately four months before the start of construction while the station remains without the critical power needed for an essential service building.

Should the Council adopt a Resolution finding that an emergency exists within the City and authorizing contracting without a competitive solicitation for bids, upon completion of the plans, staff can immediately contract with a qualified contractor and the start of construction could begin as early as October 2022, a time savings of about three months. While not necessary under an emergency finding, it is staff's intention to contact three qualified contractors to obtain quotes to ensure the best pricing possible before entering into a contract. It is further intended that the selected contractor begin work immediately on the installation of a portable generator docking station that powers the entire station. This will allow for the portable generator to be moved over to and plugged into the new docking station thereby fully powering FCFA Station 1 while site preparations are made along with the ordering, delivery, and installation of a permanent emergency generator. Adopting the proposed Resolution will ratify the emergency, authorize staff to execute the appropriate contract with a qualified contractor, and ensure that the contractor will be properly compensated for its emergency response and repair.

**Item 8.j.**

**City Council**

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**September 13, 2022**

**Page 4**

It should be noted that Public Contract Code Section 22050 requires that after proceeding with an emergency project, the City Council will also need to review the emergency action at its next regularly scheduled meeting and at every regularly scheduled meeting thereafter until the action is terminated, to determine, by a four-fifths vote, that there is a need to continue the action. Therefore, staff will be returning to the City Council with updates as required by the statute.

**ALTERNATIVES:**

The following alternatives are provided for the Council's consideration:

1. Approve staff's recommendations;
2. Modify and approve staff's recommendation;
3. Do not approve staff's recommendations and direct staff to proceed through the formal bid process; or
4. Provide other direction to staff.

**ADVANTAGES:**

Adoption of the Resolution will allow the City to immediately enter into a contract with a qualified contractor to install a replacement emergency generator at the FCFA Station 1, an essential services building, without the delays that would occur if the project were to be formally bid, including the completion of work necessary to enable a temporary generator to power immediate needs at the station during a power outage.

**DISADVANTAGES:**

None identified at this time.

**ENVIRONMENTAL REVIEW:**

The project is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guideline Section 15302(c) covering the replacement of existing utility systems involving negligible or no expansion of capacity.

**PUBLIC NOTIFICATION AND COMMENTS:**

The Agenda was posted at City Hall and on the City's website in accordance with Government Code Section 54954.2.

Attachment:

1. Proposed Resolution

**Item 8.j.**