



MEMORANDUM

TO: City Council

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

BY: Steve Kahn, Interim City Engineer

SUBJECT: Consider Adoption of a Resolution Terminating the Emergency Related to the FCFA Station 1 Emergency Generator Replacement Project, PW 2021-09 Pursuant to Public Contract Code Section 22050(c)(3)

DATE: March 28, 2023

SUMMARY OF ACTION:

Adoption of the Resolution by the required four-fifths vote will terminate the emergency action authorizing replacement of the emergency generator at the Five Cities Fire Authority (FCFA) Station 1 through the authority granted by Public Contract Code § 22050.

IMPACT ON FINANCIAL AND PERSONNEL RESOURCES:

There are no additional fiscal impacts from adoption of this Resolution. 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 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) Receive and file an update of the emergency generator replacement project at the FCFA Station 1; 2) Adopt a Resolution determining that award/execution of a contract for the FCFA Station 1 emergency generator replacement project, PW 2021-09, has terminated the emergency action; and 3) Find that the termination of the emergency action and the update of the Emergency generator replacement project at FCFA Station 1 is categorically exempt from the California Environmental Quality Act ("CEQA") under the Class 2 exemption, which applies to the replacement or reconstruction of existing

Item 9.g.

City Council

Consider Adoption of a Resolution Terminating the Emergency Related to the FCFA Station 1 Emergency Generator Replacement Project, PW 2021-09 Pursuant to Public Contract Code Section 22050(c)(3)

March 28, 2023

Page 2

structures and facilities where the new structure will be located on the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced, and where none of the exceptions to the exemption apply. (State CEQA Guidelines, § 15302.) Additionally, the action is exempt under pursuant to State CEQA Guidelines sections 15060(c)(2), 15061(b)(3), and 15378(b)(5).

BACKGROUND:

Public Contract Code (PCC) Section 22050 allows a public agency, in the case of an emergency, to repair or replace a public facility, take any immediate action required by that emergency, and procure the necessary equipment, services, and supplies for those purposes without going through a formal bid process. At its regular meeting on September 13, 2022, the City Council adopted Resolution No. 5219 declaring an emergency and authorizing the accelerated replacement of the emergency generator at the FCFA Station 1 by eliminating the formal bid process.

PCC Section 22050 requires that after proceeding with an emergency project, the City Council shall review the emergency action at its next regularly scheduled meeting and at every regularly scheduled meeting thereafter until the emergency action is terminated, and if it is determined that there is a need to continue the action, authorize continuation of the emergency action by a four-fifths vote. On September 27, October 11 and 25, November 22, December 13, 2022, January 10 and 24, February 14 and 28, and March 14, 2023 the Council adopted Resolution Nos 5225, 5231, 5239, 5243, 5250, 5253, 5262, 5266, 5271, and 5274 respectively, determining a need to continue work under emergency contracts to replace the emergency generator at the FCFA Station 1. Upon conclusion of the emergency action, the legislative body is to terminate the emergency action. (Public Contract Code § 22050(c)(3).)

On March 20, 2023 the City awarded the contract for the generator and other equipment to Electricraft, Inc. With an executed contract, the City is now awaiting delivery of the necessary supplies and to allow the contractor to move forward with installation, based on when those supplies can be obtained. Since there are no remaining contracts which the City must award in order to respond to the emergency necessitating the procurement of the generator and related equipment, the emergency can be terminated.

ANALYSIS OF ISSUES:

Since the March 14, 2023 City Council meeting, the status of the project is as follows:

- *Staff has awarded the bid on the Project to Electricraft, Inc. and the Project is starting. The first order of work on the Project is to order the generator and other long lead time equipment. When these are ordered the contractor will let us know the estimated delivery date, but the initial estimate is up to a year away. The next*

Item 9.g.

City Council

Consider Adoption of a Resolution Terminating the Emergency Related to the FCFA Station 1 Emergency Generator Replacement Project, PW 2021-09 Pursuant to Public Contract Code Section 22050(c)(3)

March 28, 2023

Page 3

step, after that, is to complete the site work at Fire Station #1 and then install the generator when it arrives.

Termination of the emergency action still allows Electricraft, Inc. to continue to operate pursuant to the terms of the executed contract.

ALTERNATIVES:

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

1. Receive and file an update of the emergency generator replacement project at the FCFA Station 1; and adopt the proposed Resolution finding that the emergency action for the replacement of the emergency generator in accordance with Public Contract Code Section 22050 can be terminated;
2. Provide other direction to staff.

ADVANTAGES:

Adoption of the Resolution will terminate the emergency action. The emergency action allowed for the accelerated replacement of the emergency generator at the FCFA Station 1 which will ensure power during the event of a power outage thereby providing rapid response time in the event of an emergency situation.

DISADVANTAGES:

No disadvantages are identified at this time.

ENVIRONMENTAL REVIEW:

The continuation of the emergency action and the update of the emergency generator replacement project at FCFA Station 1 is categorically exempt from the California Environmental Quality Act (“CEQA”) under the Class 2 exemption, which applies to the replacement or reconstruction of existing structures and facilities where the new structure will be located on the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced, and where none of the exceptions to the exemption apply. (State CEQA Guidelines, § 15302.). Further, the Resolution is not subject to the California Environmental Quality Act (“CEQA”) pursuant to State CEQA Guidelines sections 15060(c)(2), 15061(b)(3), and 15378(b)(5). The activity is not subject to CEQA because it will not result in a direct or reasonably foreseeable physical change in the environment; and the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity may have a significant effect on the environment, the activity is not subject to CEQA. This action merely recognizes that the emergency action has terminated when the contract was awarded, and therefore has no potential to have any effect on the environment.

Item 9.g.

City Council

Consider Adoption of a Resolution Terminating the Emergency Related to the FCFA Station 1 Emergency Generator Replacement Project, PW 2021-09 Pursuant to Public Contract Code Section 22050(c)(3)

March 28, 2023

Page 4

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
2. Executed Contract with Electricraft, Inc.