

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ARROYO GRANDE DETERMINING THAT EXECUTION OF A CONTRACT FOR THE FCFA STATION 1 EMERGENCY GENERATOR REPLACEMENT PROJECT, PW 2021-09, HAS TERMINATED THE EMERGENCY ACTION

WHEREAS, on September 13, 2022, pursuant to Public Contract Code (PCC) Section 22050, the City Council deemed it was in the public interest to immediately authorize the expenditure of City funds needed to safeguard the health, safety and welfare and to proceed immediately with the replacement of the emergency generator at the Five Cities Fire Authority (FCFA) Station 1; and

WHEREAS, on September 13, 2022, the City Council deemed the immediate replacement of the emergency generator was necessary in order to protect the public health, safety and welfare and would not permit a delay resulting from a competitive solicitation for bids and that prompt action, including authorization to expend all funds required for such replacement without competitive bidding, was necessary to respond to the emergency; and

WHEREAS, on September 13, 2022, the City Council adopted Resolution No. 5219 declaring an emergency and authorizing the City Manager to enter into any contract or agreement in order to immediately replace the emergency generator; and

WHEREAS, 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

WHEREAS, on September 27, 2022, the City Council adopted Resolution No. 5225 determining a need to continue work under emergency contracts to replace the emergency generator and has adopted a similar resolution at all subsequent regular City Council meetings; and

WHEREAS, on March 20, 2023 the City entered into a contract with Electricraft, Inc. to immediately replace the emergency generator, along with related equipment, and perform the generator installation; and

WHEREAS, execution of the contract was necessary to respond to the emergency, and there was substantial evidence in the record that the emergency action was necessary to prevent the inability to rapidly respond to emergencies during a power outage, meaning the circumstances of the emergency would not have permitted a delay resulting from a competitive solicitation of bids; and

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WHEREAS, there are no additional contracts which the City must award in order to respond to the emergency, and the City waits for the generator and associated equipment to be delivered and installed; and

WHEREAS, if it is determined that execution of the contract for the emergency generator replacement at FCFA Station 1 terminated the emergency action, PCC Section 22050 requires a four-fifths vote to terminate the emergency action.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Arroyo Grande that the emergency action declared by the City Council on September 13, 2022 regarding replacement of the generator at FCFA Station 1 shall be deemed to have terminated now that the City has executed a contract to procure the equipment for the emergency generator replacement.

BE IT FURTHER RESOLVED, that the recitals are incorporated herein.

BE IT FURTHER RESOLVED, 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 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.

On motion by Council Member _____, seconded by Council Member _____, and on the following roll call vote, to wit:

AYES:

NOES:

ABSENT:

The foregoing Resolution was passed and adopted this 28th day of March, 2023.

CAREN RAY RUSSOM, MAYOR

ATTEST:

JESSICA MATSON, CITY CLERK

APPROVED AS TO CONTENT:

WHITNEY MCDONALD, CITY MANAGER

APPROVED AS TO FORM:

ISAAC ROSEN, INTERIM CITY ATTORNEY