

**REPORT/RECOMMENDATION TO THE BOARD OF DIRECTORS
OF SAN BERNARDINO COUNTY FIRE PROTECTION DISTRICT
AND RECORD OF ACTION**

July 23, 2024

FROM

**DAN MUNSEY, Fire Chief/Fire Warden, San Bernardino County Fire Protection District
DON DAY, Director, Project and Facilities Management Department**

SUBJECT

Continuation of Emergency Lead Based Paint Remediation Project and Emergency Roof Project at 120 S. D Street in San Bernardino

RECOMMENDATION(S)

Acting as the governing body of the San Bernardino County Fire Protection District:

1. Continue the finding, first made by the San Bernardino County Fire Protection District Board of Directors on August 22, 2023, that there is substantial evidence the finding of lead-based paint contamination at 120 S. D Street in San Bernardino created an emergency pursuant to Public Contract Code section 22050 requiring immediate action to prevent or mitigate the loss or impairment of life, health, property and essential public services, necessitating an urgent project to remediate the hazardous materials, to allow staff to continue to provide essential public safety services, and would not permit the delay resulting from a formal competitive solicitation of bids to procure construction services, and delegating authority, by Resolution on August 22, 2023, to the Chief Executive Officer to direct the Purchasing Agent to issue purchase orders and/or contracts, in a total amount not-to-exceed \$2,994,472, for any emergency remediation, construction, and modifications of internal and external structures related to the lead-based paint contamination at 120 S. D Street in San Bernardino, finding that the issuance of these purchase orders and/or contracts is necessary to respond to this emergency pursuant to Public Contract Code sections 22035 and 22050 (Four votes required).
2. Continue the finding, first made by San Bernardino County Fire Protection District Board of Directors on February 6, 2024, that there is substantial evidence that the finding of major roof leaks at 120 S. D Street in San Bernardino, which, as part of the emergency identified in Recommendation No. 1, investigated and confirmed by the Project and Facilities Management Department on January 3, 2024, created an emergency pursuant to Public Contract Code section 22050, requiring immediate action to prevent or mitigate the loss or impairment of life, health, property and essential public services, necessitating an urgent project to remediate the major roof leaks, including a full roof replacement project, to allow staff to continue to provide essential public safety services, and will not permit the delay resulting from a formal competitive solicitation of bids to procure construction services (Four votes required).

(Presenter: Don Day, Director, 387-5000)

COUNTY AND CHIEF EXECUTIVE OFFICER GOALS & OBJECTIVES

Operate in a Fiscally-Responsible and Business-Like Manner.

Provide for the Safety, Health and Social Service Needs of County Residents.

FINANCIAL IMPACT

Approval of this item will not result in the use of Discretionary General Funding (Net County Cost). The Emergency Remediation Project (Project) (WBSE 10.10.1495) budget of \$2,994,472 will be funded by the San Bernardino County Fire Protection District (SBCFPD) through the use of available reserves and may potentially be offset by insurance proceeds. This budget is inclusive of lead remediation and roof replacement costs. No budget adjustments are requested at this time but will be presented to the appropriate governing body for consideration at a future date, if necessary.

BACKGROUND INFORMATION

The building located at 120 S. D Street in San Bernardino (Premises) is a 22,000 square foot facility used by SBCFPD as a mechanic shop. On June 15, 2023, SBCFPD received an environmental testing report from a contracted vendor which confirmed that the facility was contaminated by Lead Based Paint (LBP) dust and paint flakes. The Environmental Protection Agency categorizes LBP as a toxic substance regulated by the Toxic Substances Control Act.

Upon confirmation of the LBP contamination, SBCFPD immediately ceased operations in the contaminated portion of the facility and relocated staff temporarily to another facility, which provides challenges for SBCFPD mechanics to support emergency services. SBCFPD sought consultation from an LBP remediation company who confirmed the amount of remediation required to properly and safely clean the facility is extensive.

On August 22, 2023 (Item No. 92), the Board of Directors (Board) found there was substantial evidence that the finding of LBP contamination at the Premises on June 15, 2023, created an emergency, requiring immediate action, and necessitating an urgent project to remediate the hazardous materials, to allow staff to continue to provide essential public safety services. The Board also adopted Resolution No. 2023-158 authorizing the Chief Executive Officer (CEO) to direct the Purchasing Agent to issue purchase orders and/or contracts, in a total amount not-to-exceed \$2,994,472, for any emergency remediation, construction, and modifications of internal and external structures related to the finding of LBP contamination at the Premises. The Director of the Project and Facilities Management Department (PFMD) is authorized to accept the work when 100% complete and execute and file the Notice of Completion.

As part of the emergency work related to LBP contamination at the Premises, on January 3, 2024, PFMD investigated and confirmed the existence of major roof leaks at the Premises.

On February 6, 2024 (Item No. 58), the Board found the roof leaks created an emergency pursuant to Public Contract Code section 22050, requiring immediate action to prevent or mitigate the loss or impairment of life, health, property and essential public services, necessitating an urgent project to remediate the major roof leaks, including a full roof replacement project, to allow staff to continue to provide essential public safety services, and will not permit the delay resulting from a formal competitive solicitation of bids to procure construction services. This emergency work is also related to the emergency work associated with LBP, as the full roof replacement project will ensure the effectiveness of the remediation of

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the LBP in the internal rafters of the Premises. The Board also adopted Resolution No. 2024-20 authorizing the CEO to direct the Purchasing Agent to issue purchase orders and/or contracts for the roof replacement project, utilizing the same not-to-exceed amount of \$2,994,472 as authorized for the LBP emergency remediation.

PFMD continues to evaluate the emergency and work to complete the required remediation with the goal of releasing the Premises back to SBCFPD to resume normal operations. A continuation of the emergency is recommended as immediate action is required to provide a safe working environment for SBCFPD personnel and enable SBCFPD to provide essential public safety services. Emergencies related to Public Contract Code section 22050, once ordered, must be affirmed at each subsequent meeting until terminated. The recommended action will meet this requirement.

PROCUREMENT

On September 28, 2023, PFMD prepared a scope of work and issued a Request for Proposals to obtain proposals from contractors for remediation/construction services. Two proposals were received on November 1, 2023. Based on review and evaluation of the proposals by PFMD and SBCFPD, Brickley Construction Company Inc. dba Brickley Environmental (Brickley) was recommended for award of a contract for these services.

On January 8, 2024, the Director of the Purchasing Department, under the direction of the CEO, approved a contract with Brickley to provide LBP remediation to the Premises in the amount of \$679,298. Services to be provided by Brickley under this contract include emergency remediation, construction, and modifications of internal and external structures related to the finding of LBP contamination at the Premises.

On January 17, 2024, PFMD and SBCFPD approved a recommendation to replace the roof on the Premises as part of the LBP remediation project to ensure the effectiveness of the remediation of LBP in the internal rafters of the building, and as well as address the major roof leaks. The additional cost for roof remediation will not exceed the total approved amount.

On April 16, 2024, the Purchasing Agent executed, with the CEO's approval, Amendment No. 1 to the contract with Brickley, in the amount of \$150,594, for a total contract amount of \$829,892, and an increase in the contract duration from 101 calendar days to 126 calendar days, for additional work on the abatement of asbestos in the roofing materials and replacement of joint caulking.

On April 17, 2024, the Purchasing Agent executed a contract, with the CEO's approval, for the roof replacement with Rite-Way Roof Corporation (Rite-Way), in the amount of \$328,797, including an allowance of \$8,320 for roof deck sheeting replacement.

Lead abatement construction efforts with Brickley are ongoing with the external portion of the warehouse, and administrative building being completed, and the internal remediation of the warehouse building abatement efforts continuing. The roof abatement has been completed by Brickley with Rite-Way commencing with the roof replacement work.

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REVIEW BY OTHERS

This item has been reviewed by County Counsel (Julie Surber and Scott Runyan, Principal Assistant County Counsels, 387-5455) on July 3, 2024; San Bernardino County Fire Protection District (Bertral Washington, Deputy Fire Chief, 387-5974) on June 26, 2024; Risk Management (Gregory Ustaszewski, Staff Analyst II, 386-9008) on June 26, 2024; Purchasing (Jessica Barajas, Supervising Buyer, 387-2065) on July 3, 2024; Project and Facilities Management (Robert Gilliam, Chief of Project Management, 387-5000) on July 5, 2024; Finance (Garrett Baker, 387-3077, and Ivan Ramirez, 387-4020, Administrative Analysts) on July 5, 2024; and County Finance and Administration (Robert Saldana, Deputy Executive Officer, 387-5423) on July 5, 2024.

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Record of Action of the Board of Directors
San Bernardino County Fire Protection District

APPROVED (CONSENT CALENDAR)

Moved: Curt Hagman Seconded: Joe Baca, Jr.
Ayes: Col. Paul Cook (Ret.), Dawn Rowe, Curt Hagman, Joe Baca, Jr.
Absent: Jesse Armendarez

Lynna Monell, CLERK OF THE BOARD

BY 
DATED: July 23, 2024



cc: File - Emergency/120 S. D Street
JLL 07/25/2024