

**REPORT/RECOMMENDATION TO THE BOARD OF SUPERVISORS
OF SAN BERNARDINO COUNTY
AND RECORD OF ACTION**

January 10, 2023

FROM

DON DAY, Director, Project and Facilities Management Department

SUBJECT

Continuation of Emergency Related to Procurement of Emergency Project Necessary to Recover from Unplanned Mechanical Failures at 157 and 175 W. 5th Street

RECOMMENDATION(S)

AMENDED-Continue the finding, first made by the Board of Supervisors on September 13, 2022, that there is substantial evidence that the unplanned mechanical failures at 157 and 175 W. 5th Street on August 22, 2022, 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 overhaul or replacement of portions of the mechanical system at 157 and 175 W. 5th Street, San Bernardino, to allow staff to provide services, and will not permit the delay resulting from a formal competitive solicitation of bids to procure an urgent mechanical system overhaul or replacement, ~~and delegate authority to the Chief Executive Officer to direct the Purchasing Agent to issue purchase orders and/or execute contracts, in a total amount not to exceed \$2,000,000, for any emergency remediation, construction, and modifications of internal and external structures related to the mechanical failures, 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).~~

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

COUNTY AND CHIEF EXECUTIVE OFFICER GOALS & OBJECTIVES

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 additional Discretionary General Funding (Net County Cost). The cost for the urgent mechanical system overhaul or replacement caused by the mechanical failure and loss of building cooling is \$2,000,000 and will be funded by the Minor Capital Improvement Program (MCIP) (WBSE 10.10.1411). No budget adjustments are requested at this time but may be presented to the Board of Supervisors (Board) for consideration at a future date.

BACKGROUND INFORMATION

The buildings located at 157 and 175 W. 5th Street, San Bernardino were built in 1957 and are in an aging condition. The mechanical systems which feed heating and cooling into these buildings have undergone extreme stress from consistent daily temperature extremes, which have contributed to major failures. Currently, executive leadership and numerous employees from the San Bernardino County Probation Department (Probation), San Bernardino County

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Fire Protection District (County Fire), and Human Resources occupy this building along with their management teams. Sheriff's Court Services also manages an operation in this building.

On August 22, 2022, the County experienced a major emergency in which vibration from an aging and undersized cooling system caused a large refrigerant leak which resulted in the shutdown of cooling to the entire building for one week. Office temperatures ranged from an average of 80°F – 86°F and staff have been forced to either leave the building before afternoon heat or work in unproductive, uncomfortable, and potentially unsafe conditions.

On September 13, 2022 (Item No. 43), the Board found that major mechanical failure on August 22, 2022, 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 mechanical system overhaul or replacement at 157 and 175 W. 5th Street in San Bernardino, to allow staff to continue to provide services and will not permit the delay resulting from a formal competitive solicitation of bids to procure construction services. The Board also approved Resolution No. 2022-183 authorizing the Chief Executive Officer (CEO) to direct the Purchasing Agent to issue purchase orders and/or execute contracts, in a total amount not to exceed \$2,000,000, for any remediation, construction, and modifications of internal and external structures related to the mechanical failures, found 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.

The Project and Facilities Management Department (PFMD), Facilities Management Division, has contracted with an on-call contractor to fix the leak and provide a comprehensive written assessment of the heating and cooling systems which is forthcoming. Preliminary written reports from the contractor have indicated that the cooling system feeding the building is insufficient compared to the size and occupant load the building feeds. The building remains at risk of another major mechanical failure due to the age and size of the system.

A delay to solicit competitive bids for the overhaul or replacement work at the building is not feasible, as immediate action is required to provide a safe working environment and maintain essential services for Probation, County Fire, Sheriff's Court Services, and Human Resources employees, and to continue to provide essential public services. A continuation of the emergency is recommended as immediate action. The continuation of emergency action is required to provide a safe working environment for employees in order to provide essential public services. Emergencies related to Public Contract Code section 22050, once ordered, must be re-affirmed at each subsequent meeting until the emergency is terminated. The action in the Recommendation will meet this requirement.

PROCUREMENT

Upon approval of the Recommendation, the County will not be required to formally solicit competitive bids for the repair of the mechanical failure. For any projects necessary to address the effects of the mechanical failure, PFMD will prepare a scope of work, quote, and/or contract to be approved by the CEO and then signed by the contractor. A purchase order will then be requested and finalized by the Purchasing Department (Purchasing) to engage the architect, engineer, and/or contractor to provide the required construction services. Applicable provisions of the Government Code and Public Contract Code shall not apply.

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On September 28, 2022, the Interim Director of Purchasing under the direction of the CEO, approved a contract with ABM Building Solutions, LLC (ABM) to conduct repairs and replacements necessary to resolve identified problems in the amount of \$75,601.02. ABM will develop a scope of work and bid documents for expedited construction services to replace critical components of the mechanical systems which were found to cause system failure and continuous unplanned automatic shutdowns. ABM will also perform necessary work to resolve the issues found.

REVIEW BY OTHERS

This item has been reviewed by County Counsel (Katherine Hardy, Deputy County Counsel, 387-5455) on December 7, 2022; Purchasing (Bruce Cole, Supervising Buyer, 387-2148) on December 7, 2022; Project and Facilities Management (Robert Gilliam, Chief of Project Management, 387-5000) on December 9, 2022; Finance (Yael Verduzco, Principal Administrative Analyst, 387-5285) on December 14, 2022; and County Finance and Administration (Valerie Clay, Deputy Executive Officer, 387-5423) on December 15, 2022.

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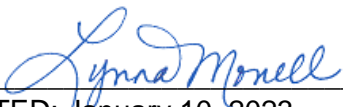
Record of Action of the Board of Supervisors
San Bernardino County

Public Comment: None

DEFERRED/APPROVED AS AMENDED

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

Lynna Monell, CLERK OF THE BOARD

BY 
DATED: January 10, 2023



cc: File – EMERGENCY/UNPLANNED MECHANICAL FAILURE AT
157 AND 175 W. 5TH STREET

CCM 01/26/2023