

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

January 24, 2023

FROM

**DON DAY, Director, Project and Facilities Management Department
VICTOR TORDESILLAS, Director, Department of Risk Management**

SUBJECT

Continuation of Emergency Related to Recovery from Fire at 172 W. 3rd Street in San Bernardino

RECOMMENDATION(S)

Continue the finding, first made by the Board of Supervisors on June 28, 2022, that there is substantial evidence that the fire at 172 W. 3rd Street on June 19, 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 fire remediation activities at 172 W. 3rd Street and remodel/renovations of portions of 268 W. Hospitality Lane, San Bernardino, to allow staff to provide services, and will not permit the delay resulting from a formal competitive solicitation of bids to procure remediation and construction services, and delegate authority, originally by Resolution on June 28, 2022, amended September 13, 2022, 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 \$8,000,000, for any remediation, construction, and modifications of internal and external structures related to the fire, 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 Discretionary General Funding (Net County Cost). It is recommended that the project costs of \$8,000,000 be funded with insurance proceeds. In the event that the estimated fire remediation expenses exceed the approved insurance proceeds, a recommendation for Discretionary General Funding will be presented for Board of Supervisors (Board) consideration at a future meeting.

The Project and Facilities Management Department (PFMD) will closely monitor and evaluate construction costs associated with the accommodation of employees displaced by the fire, which occurred on June 19, 2022, at 172 W. 3rd Street. The costs associated with addressing or preventing the effects of the fire will be applied to an existing Capital Improvement Program (CIP) Project for 268 W. Hospitality Lane renovations (WBSE 10.10.1290), as well as the new 172 W. 3rd Street Fire Damage CIP Project (WBSE 10.10.1312) established to track remediation costs. No budget adjustments are requested at this time but will be presented to the Board for consideration at a future date.

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BACKGROUND INFORMATION

On June 19, 2022, the County experienced severe property loss from a major fire that swept through 172 W. 3rd Street in San Bernardino. This building is County-owned which provided workspace for various County departments, including Land Use Services - Code Enforcement (Code Enforcement). Code Enforcement occupied space on the 4th floor of the building. The County requires office space for Code Enforcement employees to safely work and continue to provide essential public services.

On June 28, 2022 (Item No. 63), the Board found that there is substantial evidence that the fire at 172 W. 3rd Street on June 19, 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 fire remediation activities at 172 W. 3rd Street, and remodel/renovations of portions of 268 W. Hospitality Lane in San Bernardino, to allow for the relocation of staff from Code Enforcement to help provide services and not permit delay resulting from a formal competitive solicitation of bids to procure remediation and construction services. The Board also approved Resolution No. 2022-131 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 \$5,000,000, for any remediation, construction, and modifications of internal and external structures related to the fire, 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, and authorized the Director of PFMD to accept the work when 100% complete and execute and file the Notice of Completion.

On September 13, 2022 (Item No. 44), the Board approved Resolution No. 2022-180 to increase the not to exceed original budget from \$5,000,000 to \$8,000,000 for any remediation, construction, and modifications of internal and external structures related to the fire, which will be used to cover contracts signed and to be signed before the next Board meeting.

On January 10, 2023 (Item No. 31), the Board approved a modified recommendation to continue the emergency, but removed the delegation language authorizing the CEO and Purchasing Agent to approve new contracts, effectively temporarily suspending the delegated authority in order to allow the Board additional time to evaluate the status of the emergency and action taken to date.

While the property at 172 W. 3rd Street undergoes remediation, PFMD continues to evaluate the property loss and options for providing workspace for displaced County departments and is working with the Risk Management Department (Risk Management) on insurance issues. Continuation of the emergency is recommended as immediate action. The continuation of emergency action is required to provide a safe working environment for Code Enforcement employees in order to provide essential public services. Continuation of the delegation to the CEO and Purchasing Agent to approve contracts is recommended so that urgently required work may continue and the need for additional scope of work can be addressed if necessary. 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

To facilitate the remodel/renovations of portions of 268 W. Hospitality Lane in San Bernardino and allow for the relocation of staff from Code Enforcement, PFMD contacted Angeles Contractor Inc. (Angeles) and requested a scope of work, overview of construction, pricing, and schedule (Proposal). On July 14, 2022, Angeles submitted the requested Proposal to PFMD.

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PFMD reviewed the Proposal, and recommended proceeding. On July 21, 2022, PFMD submitted the Proposal and construction contract to the CEO for approval and authorization for the Purchasing Department (Purchasing) to execute the contract and issue a purchase order. PFMD received the executed Interoffice Memo (IOM) and Delegated Authority approving the scope of work by the CEO on July 26, 2022. Purchasing executed the contract on July 27, 2022.

On August 24, 2022, the Interim Director of Purchasing under the direction of the CEO, approved a contract with SafeworkCM to provide consultant services for the remediation of 172 W. 3rd Street in the amount of \$126,300. SafeworkCM will collect, organize, and file all relevant project files for historical record as well as participate in daily coordination meetings with the various contractors and internal stakeholders. SafeworkCM will also manage the compilation of contract documents and support the County in its execution of various additional contracts. It is expected SafeworkCM will complete the contracted work by February 2023.

On November 2, 2022, the Interim Director of Purchasing under the direction of the CEO, approved a contract with Belfor USA Group Inc. (Belfor) to provide remediation, abatement, clean up and demolition services at 172 W. 3rd Street in the amount not to exceed \$4,126,860. Belfor will shore the existing concrete structure, perform demolition work associated with the abatement and remediation scope, clean, store, and return of all fire-damaged contents, office equipment and catalog salvageable assets. On January 5, 2023, the CEO directed the Purchasing Agent to execute Amendment No. 1 with Belfor in the amount of \$2,988,000, to provide additional remediation services. The Purchasing Agent executed Amendment No. 1 with Belfor on January 11, 2023.

On November 23, 2022, the Interim Director of Purchasing approved a contract with Degenkolb for design services to provide a scope narrative to restore 172 W. 3rd Street to its pre-loss event condition, in an amount not to exceed \$89,280.

For any additional projects necessary to address the effects of the fire, 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 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.

REVIEW BY OTHERS

This item has been reviewed by County Counsel (Katherine Hardy, Deputy County Counsel, 387-5455) on December 21, 2022; Risk Management (Victor Tordesillas, Director, 386-8623) on December 27, 2022; Purchasing (Bruce Cole, Supervising Buyer, 387-2148) on December 27, 2022; Project and Facilities Management (Robert Gilliam, Chief of Project Management, 387-5000) on December 21, 2022; Finance (Yael Verduzco, Principal Administrative Analyst, 387-5285) on January 3, 2023; and County Finance and Administration (Valerie Clay, Deputy Executive Officer, 387-5423) on January 3, 2023.

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Record of Action of the Board of Supervisors
San Bernardino County

APPROVED (CONSENT CALENDAR)

Moved: Curt Hagman Seconded: Joe Baca, Jr.

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

Lynna Monell, CLERK OF THE BOARD

BY 
DATED: January 24, 2023



cc: File – Emergency/172 W. 3RD SREET FIRE
CCM 01/26/2023