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MEMORANDUM

TO: Los Altos Hills County Fire District Board of Commissioners
J. Logan, General Manager

FROM: Christopher Cheleden, Lead Deputy County Counsel

RE: Item 14.A: Emergency Public Works Contracting Necessary to Repair Leak Near
Fire Hydrant Located in the Vicinity of 12774 Viscaino Road, Los Altos Hills
(Project)

DATE: November 17, 2020

RECOMMENDED ACTION:

Recommendation to approve (4/5 vote required):

1. Commission approve and ratify construction agreement with C2R Engineering, Inc. for Emergency Replacement of Damaged Hydrant Lateral in the vicinity of 12775 Viscaino Road, Los Altos Hills for an amount not to exceed \$36,780.00 that was previously executed by the General Manager and reviewed and approved by County Counsel as to form and legality;
2. Approve required findings relating to Item 12.A on the Commission's October 20, 2020 Meeting Agenda on a retroactive basis that, based on substantial evidence, the emergency created by the leaking water infrastructure serving the hydrant would not permit a delay resulting from a competitive solicitation for bids, and that the action to engage the contractor was necessary to respond to the emergency; and,
3. Accept report on status of project and determine that there is a continuing need to act on an emergency basis in order to complete the project.

DISCUSSION:

On October 13, 2020, District representatives met with Purisima Hills Water District (PHWD) representatives to observe a leak that was reported at a fire hydrant near 12775 Viscaino Road,

Memo to Board of Commissioners
Re: Emergency Contracting for Fire Hydrant Leak
Date: November 17, 2020
Page 2

Los Altos Hills. The District's consulting engineer determined that the entire lateral needed to be replaced in order to repair the leak and ensure the functionality of the hydrant and that the existing fire hydrant could be reused. The District's consulting engineer, in consultation with the District General Manager determined that this work needed to be done on an emergency based as a result of the on-going risk of potential pipe ruptures resulting from uneven pressure, as well as to ensure the performance of the hydrant in the event of a fire. This situation fits within Public Contract Code Section 1100's definition of an emergency as a sudden, unexpected occurrence that poses a clear and imminent danger, requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services.

The Commission approved the repair project and necessary funding on an emergency basis as Item 12.A at its October 20, 2020 meeting. Subsequently, the District's engineer obtained two bids on an informal basis and the District has engaged C2R Engineering, Inc. (the informal low bidder) to conduct the work. Staff is asking the Commission to ratify approval of the agreement.

California Public Contract Code Section 22050 authorizes the District to engage a contractor without formal competitive bidding in emergency situations. In order to exercise this authority, Public Contract Code Section 22050(a)(2) requires that the Commission make a finding, based on substantial evidence set forth in the minutes of its meeting, that the emergency will not permit a delay resulting from a competitive solicitation for bids, and that the action is necessary to respond to the emergency. Because the Commission did not make this finding at its October 20, 2020 meeting, staff is requesting that the Commission make this finding on a retroactive basis to ensure compliance with the state Public Contract Code sections applicable to the District.

In addition, Public Contract Code Section 22050(c)(1), requires that the Commission review the emergency action at its next regularly scheduled meeting and, except as specified below, at every regularly scheduled meeting thereafter until the action is terminated, to determine, by a four-fifths vote, that there is a need to continue the action. Staff is also asking the Commission to make this determination in order to comply with state law.

CRC:crc