

RESOLUTION NO. 22-247

RESOLUTION OF THE MENDOCINO COUNTY BOARD OF SUPERVISORS APPROVING AN EMERGENCY AGREEMENT WITH KIRBY CONSTRUCTIONS COMPANY, INC. IN THE AMOUNT OF \$250,000 FOR THE CAPITAL IMPROVEMENT PROJECT TO REPLACE THE COOLING EQUIPMENT SERVING THE ADMINISTRATION CENTER SERVER ROOM FOR THE PERIOD OF ONE HUNDRED TWENTY DAYS FROM ISSUANCE OF NOTICE TO PROCEED AND AUTHORIZING THE PURCHASING AGENT OR DESIGNEE TO SIGN AND EXECUTE THE AGREEMENT, AND ANY CHANGE ORDERS AND OTHER DOCUMENTS RELATED TO THE AGREEMENT

WHEREAS, according to Public Contract Code Section 22050(a)(1) in the case of an emergency, the Board of Supervisors, pursuant to a four-fifths vote, may repair or replace a public facility, take any directly related and immediate action required by that emergency, and procure the necessary equipment, services, and supplies for these purposes, without giving notice for bids to let contracts; and

WHEREAS, Public Contract Code Section 1102 defines 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"; and

WHEREAS, before the Board of Supervisors takes any such action it shall 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; and

WHEREAS, On September 9, 2022 the General Services Agency, Facilities and Fleet Division issued bid 039-22 for the Administration Center Server Room Cooling Project using informal bidding procedures intended for projects costing up to \$200,000; and

WHEREAS, On October 11, 2022 two bids were initially received for bid 039-22 the lower of which was subsequently withdrawn leaving a single responsive bid from Kirby Constructions Company, Inc. which was in excess of the informal bidding limit of \$200,000 as well as the limit set by Public Contract Code Section 22034(d), requiring the County to re-bid the project under formal bidding procedures; and

WHEREAS, on November 1, 2022, the conditions of the existing Administration Center Server Room cooling system declined significantly, resulting in the failure of one of the units providing redundant capacity to cool this critical data processing facility; and

WHEREAS, any further loss of cooling capacity would place the County's primary data processing and storage facility at significant risk of overheating and resulting loss of data and system functionality constituting an emergency that requires immediate action to prevent or mitigate the loss or impairment of County property and ability to provide essential public services; and

WHEREAS, completing a formal bidding process typically takes two months, which, given the deteriorating state of the server room's cooling system, would expose the County to a greater additional risk of loss of cooling capacity and possibly a loss of server functionality; and

WHEREAS, the existing state of emergency related to COVID-19 has affected the supply chain for goods and appliances, such that the County expects a two to three month wait time for replacement cooling units, compounding the delay of the project if rebid pursuant to formal bidding procedures; and

WHEREAS, the General Services Agency, Facilities and Fleet Division has negotiated an agreement for the work of to complete the Administration Center Server Room Cooling project with Kirby Constructions Company, Inc. in the amount of \$250,000; and

WHEREAS, the General Services Agency Facilities and Fleet division recommends the County award this contract on an emergency basis in order to expedite the ordering, delivery and installation of the replacement cooling system for the Administration Center server room as soon as possible.

NOW, THEREFORE, BE IT RESOLVED that the Mendocino County Board of Supervisors hereby:

1. Finds that, based on this resolution and the staff memoranda accompanying it, the failure of a cooling unit and other deteriorating conditions of the Administration Center Server Room constitute an emergency that requires immediate action to prevent or mitigate the loss or impairment of County property and ability to provide essential public services, and that this emergency will not permit a delay resulting from a competitive solicitation for bids and immediate action is necessary to respond to the emergency.
2. Approves the emergency agreement with Kirby Constructions Company, Inc. in the amount of \$250,000.00 for the capital improvement project to replace the cooling equipment serving the Administration Center server room at 501 Low Gap Road in Ukiah for the period of one hundred twenty days from the date of issuance of the Notice to Proceed.
3. Authorizes the Purchasing Agent or designee to sign and execute the agreement, change orders and other documents related to the agreement;


The foregoing Resolution introduced by Supervisor Haschak, seconded by Supervisor Mulheren, and carried this 13th day of December, 2022, by the following vote:

AYES: Supervisors McGourty, Mulheren, Haschak, Gjerde, and Williams
NOES: None
ABSENT: None

WHEREUPON, the Chair declared said Resolution adopted and SO ORDERED.

ATTEST: DARCIE ANTLE
Clerk of the Board



TED WILLIAMS, Chair
Mendocino County Board of Supervisors


Deputy

I hereby certify that according to the provisions of Government Code Section 25103, delivery of this document has been made.

APPROVED AS TO FORM:
CHRISTIAN M. CURTIS
County Counsel

BY: DARCIE ANTLE
Clerk of the Board


Deputy