

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS DELEGATING TO THE PUBLIC WORKS DIRECTOR THE AUTHORITY TO TAKE EMERGENCY ACTION AND TO LET EMERGENCY CONTRACTS WITHOUT GIVING NOTICE SOLICITING COMPETITIVE BIDS**

**WHEREAS**, in the event of an emergency which results in damage to City public facilities requiring immediate remedial action, it could be very detrimental to public health, safety and welfare if the remedial action were to be delayed by the issuance of a formal notice for bids to let out contracts; and

**WHEREAS**, pursuant to Sections 20168 and 22050 of the Public Contract Code, a general law city may undertake immediate action to repair or replace public facilities and to procure the necessary equipment, services and supplies for those purposes, without giving notices soliciting competitive bids for contracts, in the case of actual emergencies; and

**WHEREAS**, pursuant to Section 22050 of the Public Contract Code, the City Council of a general law city, by a four-fifths vote, may delegate by resolution the authority to order such emergency action to the agency’s administrative officer or other nonelected official in order to safeguard public health, safety and welfare.

**NOW THEREFORE, BE IT RESOLVED** by the City Council of the City of Milpitas that:

1. Pursuant to Public Contract Code Sections 20168 and 22050(b)(1), the authority to order emergency remedial action and to let emergency contracts without giving notice soliciting competitive bids is delegated to the Director of Public Works by a four-fifths vote of this City Council.
2. If the Director of Public Works, pursuant to the authorization set forth herein, orders any emergency action, he or she shall report to the City Council the reasons justifying why the emergency did not permit any delay that would have been caused by a competitive solicitation for bids and why the action was necessary to respond to the emergency. Furthermore, the Board shall review the action at every regularly scheduled meeting thereafter until the action is terminated.
3. At each review, the Board shall determine, by a four-fifths vote, whether there is a need to continue the action, unless the Public Works Director terminates the action prior to the City Council reviewing the emergency action and making a determination pursuant to this resolution and Section 22050 of the Public Contract Code.
4. When the City Council reviews the emergency action pursuant to this resolution, it shall terminate the action at the earliest possible date that conditions warrant so that the remainder of the action may be completed by giving notice for bids to let contracts.

PASSED AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_ 2008, by the following vote:

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:

ATTEST:

APPROVED:

\_\_\_\_\_  
Mary Lavelle, City Clerk

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Jose S. Esteves, Mayor

APPROVED AS TO FORM:

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Michael J. Ogaz, City Attorney