

RESOLUTION NO. ____**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 ALLOW EMERGENCY CONTRACTS TO BE
EXECUTED 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 for 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, the City Council of the City of Milpitas hereby finds, determines, and resolves as follows:

1. The City Council has considered the full record before it, which may include but is not limited to such things as the staff report, testimony by staff and the public, and other materials and evidence submitted or provided to it. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.
2. Pursuant to Public Contract Code Sections 20168 and 22050(b)(1), the authority to order emergency remedial action and to execute 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.
3. 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 City Council shall review the action at every regularly scheduled meeting thereafter until the action is terminated.
4. At each review, the City Council 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.

5. 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 for contracts.

6. The City Council does find, based upon the administrative report and testimony and materials presented at the City Council meeting of February 19, 2013, that a current emergency does exist and that the public interest and necessity demand the immediate expenditure of public money to safeguard life, health and property in that the current buildings at 1650-1690 and 1740-1830 McCandless Drive are unsecured, prone to break-ins and illegal uncontrolled use and have been subject to vandalism, graffiti, homeless encampments, burglary, public dumping and other public nuisances constituting a hazard to human safety, and are subject to damage or risk of fire to buildings and improvements on the site and to nearby properties. Based on advice of staff, the City Council finds that contracting for the immediate demolition of the building structures at the site is the most expeditious means of addressing the emergency and authorizes the Director of Public Works to take all necessary action resulting in such demolition.

PASSED AND ADOPTED this _____ day of _____, 2013, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

(requires 4/5 vote)

ATTEST

APPROVED:

Mary Lavelle, City Clerk

Jose S. Esteves, Mayor

APPROVED AS TO FORM:

Michael J. Ogaz, City Attorney

















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