RESOLUTION NO. ______

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS AWARDING A CONSTRUCTION CONTRACT TO AND AUTHORIZING THE CITY MANAGER TO EXECUTE A CONSTRUCTION CONTRACT WITH THE LOWEST RESPONSIBLE BIDDER SUBMITTING A RESPONSIVE BID, D & D PIPELINES, INC., IN THE AMOUNT OF $1,058,850.00 AND AUTHORIZING THE DIRECTOR OF ENGINEERING/CITY ENGINEER TO NEGOTIATE AND EXECUTE CHANGE ORDER(S) IN AN AGGREGATE AMOUNT NOT TO EXCEED $211,770.00 FOR THE DANIEL COURT WATER MAIN AND SERVICES REPLACEMENT, PROJECTS NO. 7110 AND NO. 7131

WHEREAS, on May 5, 2017, the City Council approved the plans and specifications and authorized the advertisement for construction bid proposals for the Daniel Court Water Main and Services Replacement, Projects No. 7110 and No. 7131 (“Project”), which provides for replacement of approximately 1,100 linear feet of 6-inch diameter asbestos cement pipe (ACP) water main, including replacement of water services, meters, and fire hydrants on both legs of Daniel Court; and

WHEREAS, the Engineer’s Estimate for the base bid Project work is $796,020.00; and

WHEREAS, the Project was advertised and one sealed bid proposal was received on June 5, 2017. The lowest responsible bidder submitting a responsive bid is D & D Pipelines, Inc., in the amount of $1,050,750.00; and

WHEREAS, D & D Pipelines, Inc.’s bid contained a bid irregularity wherein the bid failed to list a total extended line item price for each bid item and incorrectly calculated the total bid amount; and

WHEREAS, the City has broad discretion to determine responsiveness and accept a responsive bid even if there are minor irregularities or mistakes, as long as such mistakes are immaterial. (See Menefee v. County of Fresno (1985) 163 Cal. App. 3d 1175; Ghilloti Construction Co. v. City of Richmond (1996) 45 Cal.App.4th 897); and

WHEREAS, the bid documents for the Project include provisions for addressing inconsistencies between the unit price and the extended price and total bid amount, which resolved the bid error thus rendering it immaterial; and

WHEREAS, correcting the bid error increased the amount of the bid to $1,058,850.00; and

WHEREAS, no bid protest was filed with the City within five (5) days of the bid opening as set forth in the Project specifications; and

WHEREAS, sufficient funds to award the Project are available in the Project budgets. In accordance with state law, staff recommends the City Council authorize the City Manager to award to and execute a construction contract with the lowest responsible bidder submitting a responsive bid for the Project; and

WHEREAS, due to the Project’s tight completion schedule and staff’s ability to respond swiftly to unanticipated construction conditions in order to limit potential claims or risk to the City, staff recommends the City Council authorize the Acting Director of Engineering/City Engineer to negotiate and execute change order(s) in an amount not to exceed the construction contingency of $211,770.00 established for this Project, which is approximately twenty (20) percent of the estimated construction cost.
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. The City Council hereby waives the aforementioned immaterial bid irregularity.

3. The City Council hereby awards the construction contract to and authorizes the City Manager to execute a construction contract and related documents with the lowest responsible bidder submitting a responsive bid, D & D Pipelines, Inc., for the Project in the amount of $1,058,850.00.

4. The Acting Director of Engineering/City Engineer is hereby authorized to negotiate and execute contract change order(s) for the Project in an aggregate amount not to exceed the construction contingency of $211,770.00 for the Project.

PASSED AND ADOPTED this _______ day of _________, 2017 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:  
_____________________________  
Mary Lavelle, City Clerk

APPROVED:  
_____________________________  
Rich Tran, Mayor

APPROVED AS TO FORM:

_____________________________  
Christopher J. Diaz, City Attorney