

IN THE CITY COUNCIL OF THE CITY OF SAN LEANDRO

**RESOLUTION NO. 2023-XX**

**RESOLUTION TO FIND THAT EMERGENCY CONDITIONS EXIST THAT DO NOT PERMIT A DELAY RESULTING FROM A COMPETITIVE SOLICITATION FOR BIDS; THAT CEQA DOES NOT APPLY BECAUSE THE ACTION CONTEMPLATED IS TO MITIGATE A POTENTIAL ENVIRONMENTAL HAZARD OR CONTAMINATION; TO AUTHORIZE THE CITY MANAGER TO NEGOTIATE AND AWARD AN EMERGENCY CONSTRUCTION CONTRACT TO MCGUIRE & HESTER FOR THE DEMOLITION, REMOVAL, AND HAULING OF THE FORMER BLUE DOLPHIN RESTAURANT PIER STRUCTURE; AND TO APPROPRIATE \$245,355.54 FROM 210-57-203-5240 FOR THIS EMERGENCY PROJECT.**

**WHEREAS**, on June 5, 2023 Alameda County Fire Department (ACFD) responded to an outside fire located at the former Blue Dolphin restaurant at the San Leandro Marina; and

**WHEREAS**, ACFD monitored the smoldering fire for 48 hours while City of San Leandro Public Works staff used an excavator to spread the embers to cool the fire. The charred wood (some of it with creosote) posed a danger of falling into the water, which would cause an environmental hazard; and

**WHEREAS**, to prevent significant adverse impacts to the local waterways, staff sought assistance from McGuire & Hester to provide environmental protection (floating booms), demolition of the remaining structure, and disposal of the environmentally hazardous/creosote coated debris; and

**WHEREAS**, to avoid creating a dangerous condition of public property, an attractive nuisance, and to mitigate the effects of wind and other elements spreading the creosote contaminated/environmentally hazardous debris into the air, the rest of the Marina, and the local waterways, and to haul the contaminated debris to a permitted landfill facility as soon as possible, in the interests of public health, safety, and welfare, the City Council must declare an emergency condition exists.

**NOW, THEREFORE**, the City Council of the City of San Leandro does RESOLVE as follows:

- That the Recitals above, and the matter as described in the associated staff report, are true and correct and adopted by the City Council; and
- That CEQA is not applicable because the proposed action herein is to award a contract to mitigate a potential environmental hazard; and
- That said City Council finds by a four fifths vote that an emergency under Public Contract Code Section 22050 exists, based on substantial evidence set forth here and in the minutes of its meeting, that the emergency will not permit a delay resulting from a competitive solicitation for bids, and that this action is necessary to respond to the emergency; and
- That the City Manager or her designee is authorized to award an emergency construction contract to McGuire & Hester to demolish, remove, and haul creosote contaminated/environmentally hazardous debris from the Marina to a permitted landfill facility as quickly as possible; and

- That the City Manager or her designee is authorized to take all actions necessary to effect the intent of this Resolution, including all actions in the interests of public health, safety and welfare accruing from demolition, removal and hauling of the debris from the former Blue Dolphin Restaurant piers structure as described here and in the attached staff report, and to take any directly related and immediate action required by this emergency, and to procure the necessary equipment, services, and supplies for those purposes, without giving notice for bids to let contracts.

Introduced by Councilmember \_\_\_\_\_ and passed and adopted this 17<sup>th</sup> day of July 2023, by the following vote:

AYES:

NOES:

ABSENT:

ATTEST:

\_\_\_\_\_  
Kelly B. Clancy, CMC  
City Clerk