

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; AND AUTHORIZE THE CITY MANAGER TO NEGOTIATE AND AWARD AN EMERGENCY CONSTRUCTION CONTRACT, TO A YET TO BE DETERMINED RESPONSIBLE CONTRACTOR, FOR THE LAKE CHABOT ROAD UPSLOPE REPAIR PROJECT, PROJECT NO. 2023.4020; TO AUTHORIZE THE CITY MANAGER TO NEGOTIATE AND APPROVE INDIVIDUAL CHANGE ORDERS UP TO 5% OF THE AWARDED CONTRACT AMOUNT; TO AUTHORIZE THE CITY MANAGER TO NEGOTIATE AND APPROVE CUMULATIVE CHANGE ORDERS UP TO 10% OF THE AWARDED CONTRACT AMOUNT, AND TO APPROPRIATE \$450,000 FROM GENERAL FUNDS TO THE SUBJECT PROJECT

WHEREAS, the 2022-2023 winter storms caused severe erosion to the upslope hillside of Lake Chabot Road depositing falling boulders onto the roadway below and exposing a structural threat to two residential Astor Court properties above the erosion site; and

WHEREAS, on April 3, 2023, the City Council by Resolution No. 2023-033 proclaimed a local emergency related to persistent storm damage; and

WHEREAS, the City Engineer has determined the existing condition, if subjected to winter storms, may endanger support to the above structures ; and

WHEREAS, FEMA representatives have visited the erosion site, documented the scope of damage and proposed repair, and are anticipated to register the damage eligible for repair funds; and

WHEREAS, the schedule to complete repairs before potential 2023-2024 winter storms cannot be achieved with standard competitive solicitation and award procedures, therefore, an emergency exists for the timely repairs to be completed; and

WHEREAS, in order to expedite the delivery of public projects on schedule and on budget, provide that subcontractors and workers are paid in a timely fashion, avoid as much as possible costly delay claims, and insure that the City completes projects and products that are to the City's highest standards, the City Council finds that providing authorization to negotiate and approve change orders is in the best interest of public health, safety and welfare.

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

- That the Recitals above are true and correct and adopted by the City Council; 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 negotiate and award an emergency construction contract, to a yet to be determined responsible contractor; and

- That the City Manager or her designee is authorized to negotiate and approve individual change orders up to a maximum of 5% of the awarded contract amount; and
- That the City Manager or her designee is authorized to negotiate and approve cumulative change orders up to a maximum of 10% of the awarded contract amount;
- That the City Manager or her designee is authorized to take all actions necessary to effect the intent of this Resolution, including the repair or replacement of land or facilities 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.
- That \$450,000 is appropriated for Fiscal Year 2023-2024 from the General Fund Undesignated Fund Balance to Account 210-38-834

Introduced by Councilmember _____ and passed and adopted this 17th day of July 2023, by the following vote:

AYES:

NOES:

ABSENT:

ATTEST:

Kelly B. Clancy, CMC
City Clerk