

**RESOLUTION NO. 19-\_\_**

**A JOINT RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMECULA AND THE BOARD OF DIRECTORS OF THE TEMECULA COMMUNITY SERVICES DISTRICT FINDING THAT AN EMERGENCY EXISTS WITHIN THE MEANING OF PUBLIC CONTRACT CODE SECTION 22035 WITH RESPECT TO THE SINKHOLES, ROAD FAILURES AND SLOPE FAILURES ON: YNEZ ROAD, OLD TOWN FRONT STREET, JEFFERSON AVENUE, DEL REY ROAD, CHANDLER DRIVE, SUZI LANE, SHREE ROAD, SKYLINE DRIVE, LIEFER ROAD, NICOLAS ROAD, PECHANGA PARKWAY, REDHAWK PARKWAY, AND THE TEMECULA PARKWAY ON-RAMP TO INTERSTATE 15-SOUTH AND AUTHORIZING THE CITY MANAGER/GENERAL MANAGER PURSUANT TO PUBLIC CONTRACT CODE SECTIONS 22035 AND 22050 TO ENTER INTO ONE OR MORE CONTRACTS ON BEHALF OF THE CITY AND/OR THE TEMECULA COMMUNITY SERVICES DISTRICT TO IMMEDIATELY REPAIR THE DAMAGE AND REPLACE THE ROAD FACILITIES IN AN AMOUNT NOT TO EXCEED \$500,000; MAKING OTHER REQUIRED FINDINGS; AND PROVIDING FOR INCIDENTAL MATTERS RELATED THERETO**

**THE CITY COUNCIL OF THE CITY OF TEMECULA AND BOARD OF DIRECTORS OF THE TEMECULA COMMUNITY SERVICES DISTRICT DO HEREBY RESOLVE AS FOLLOWS:**

**Section 1. Recitals.** The City Council and Board of Directors do hereby find, determine and declare that:

(a) City Staff discovered severe problems with portions of the roadway, underlying soils and surrounding land on February 14 and 15, 2019 consisting of the following: sinkholes; road failures; underlying soil failures; flooding; excessive ground water; and other related problems resulting from these conditions due to the recent rains in the City (“Damaged Roads”). The Damaged Roads include Ynez Road, Old Town Front Street, Jefferson Avenue, Del Rey Road, Chandler Drive, Suzi Lane, Shree Road, Skyline Drive, Liefer Road, Nicolas Road, Pechanga Parkway, Redhawk Parkway, and the Temecula Parkway on-ramp to Interstate 15-South. Ynez Road, Old Town Front Street, and Jefferson Avenue are major roads in the City. Each contains two lanes of traffic in each direction and accommodate both local and regional traffic. At this time, portions of these roads are closed as a result of the Damaged Roads. Until the Damaged Roads are repaired, traffic will continue to be diverted to other roads in the City thereby placing significant additional traffic on those roads. The adverse impacts of the increased traffic on other roads will only get worse if all lanes are closed. Additionally, significant rain is expected over the next week and on-going for the next month that will intensify and expand the damage to Ynez Road, Old Town Front Street, and Jefferson Avenue unless the Damaged Roads are immediately repaired.

(b) Public Contract Code Section 22035 provides:

“(a) In cases of emergency when repair or replacements are necessary, the governing body may proceed at once to replace or repair any public facility without adopting plans, specifications, strain sheets, or working details, or giving notice for bids to let contracts. The work may be done by day labor under the direction of the governing body, by contractor, or by a combination of the two.

“(b) In case of an emergency, if notice for bids to let contracts will not be given, the public agency shall comply with Chapter 2.5 (commencing with Section 22050).”

(c) Public Contract Code Section 22050 provides:

“(a) (1) In the case of an emergency, a public agency, pursuant to a four-fifths vote of its governing body, may repair or replace a public facility, take any directly related and immediate action required by that emergency, and procure the necessary equipment, services, and supplies for those purposes, without giving notice for bids to let contracts.

(2) Before a governing body takes any action pursuant to paragraph (1), it shall make a finding, based on substantial evidence set forth in the minutes of its meeting, that the emergency will not permit a delay resulting from a competitive solicitation for bids, and that the action is necessary to respond to the emergency.

(b) (1) The governing body, by a four-fifths vote, may delegate, by resolution or ordinance, to the appropriate county administrative officer, city manager, chief engineer, or other nonelected agency officer, the authority to order any action pursuant to paragraph (1) of subdivision (a).

(2) If the public agency has no county administrative officer, city manager, chief engineer, or other nonelected agency officer, the governing body, by a four-fifths vote, may delegate to an elected officer the authority to order any action specified in paragraph (1) of subdivision (a).

(3) If a person with authority delegated pursuant to paragraph (1) or (2) orders any action specified in paragraph (1) of subdivision (a), that person shall report to the governing body, at its next meeting required pursuant to this section, the reasons justifying why the emergency will not permit a delay resulting from a competitive solicitation for bids and why the action is necessary to respond to the emergency.

(c) (1) If the governing body orders any action specified in subdivision (a), the governing body shall review the emergency action at its next regularly scheduled meeting and, except as specified below, at every regularly scheduled meeting thereafter until the action is terminated, to determine, by a four-fifths vote, that there is a need to continue the action. If the governing body meets weekly, it may review the emergency action in accordance with this paragraph every 14 days.

(2) If a person with authority delegated pursuant to subdivision (b) orders any action specified in paragraph (1) of subdivision (a), the governing body shall initially review the emergency action not later than seven days after the action, or at its next regularly scheduled meeting if that meeting will occur not later than 14

days after the action, and at least at every regularly scheduled meeting thereafter until the action is terminated, to determine, by a four-fifths vote, that there is a need to continue the action, unless a person with authority delegated pursuant to subdivision (b) has terminated that action prior to the governing body reviewing the emergency action and making a determination pursuant to this subdivision. If the governing body meets weekly, it may, after the initial review, review the emergency action in accordance with this paragraph every 14 days.

(3) When the governing body reviews the emergency action pursuant to paragraph (1) or (2), it shall terminate the action at the earliest possible date that conditions warrant so that the remainder of the emergency action may be completed by giving notice for bids to let contracts.

(d) As used in this section, “public agency” has the same meaning as defined in Section 22002.

(e) A three-member governing body may take actions pursuant to subdivision (a), (b), or (c) by a two-thirds vote.

(f) This section applies only to emergency action taken pursuant to Section 22035.”

(d) The City Council adopted Resolution No. 90-03 electing to become subject to the Uniform Cost Accounting procedures pursuant to Public Contract Code Section 22010. Chapter 3.32 of the Temecula Municipal Code governs the procedures for public works bidding pursuant to the Uniform Cost Accounting Act, including Section 3.32.050 governing emergency work pursuant to Public Contract Code Section 22050.

**Section 2. Declaration of Emergency.** Pursuant to the authority of Public Contract Code Section 22035 and other applicable law, and based on the facts set forth in Section 1.(a) of this Resolution, the City Council and Board of Directors hereby declare that the Damaged Roads constitute an emergency and justifies the emergency work described in this Resolution. The authorizations set forth in this Resolution are necessary to respond to the emergency created by the Damaged Roads.

**Section 3. Authority of City Manager/General Manager to Approve Contracts for Repair of Damaged Road.** The City Council and Board of Directors hereby authorize and direct the City Manager/General Manager to enter into one or more contracts on behalf of the City and/or Temecula Community Services District to repair or replace portions of the Damaged Roads and associated rights of way as a result of the Damaged Roads, take any directly related and immediate action required to repair, replace or mitigate the Damaged Roads, and procure the necessary equipment, services, and supplies for those purposes, without giving notice for bids to let contracts, in a combined amount not to exceed five hundred thousand dollars (\$500,000). Nothing herein restricts the authority of the City Manager/General Manager to enter into contracts pursuant to his existing authority under the applicable ordinances and Municipal Code of the City of Temecula.

**Section 4. Authority of City Engineer to Approve Plans and Designs.** The City Council and Board of Directors hereby delegate to the City Engineer the authority to approve plans, specifications and designs for the repair or replacement of the Damaged Roads and associated rights of way resulting from the Damaged Roads.

**Section 5. Ratification of Staff Actions to Repair Damaged Road.** The City Council and Board of Directors hereby ratify and affirm the actions of the City Manager/General Manager and City employees and contractors taken so far to repair or replace portions of Damaged Roads and associated rights of way as a result of the Damaged Roads, any directly related and immediate action required to mitigate the Damaged Roads, and procurement of the necessary equipment, services, and supplies for those purposes.

**Section 6. Continued City Council/Board of Directors Review of the Emergency Work.** The City Council and Board of Directors shall review the emergency action at their next regularly scheduled meetings to determine, by a four-fifths vote, that there is a need to continue the action and to take a similar action at each regularly scheduled meeting thereafter until the emergency is terminated.

**Section 7. Certification.** The City Clerk shall certify to the adoption of this Resolution.

**PASSED, APPROVED, AND ADOPTED** by the City Council of the City of Temecula this 26<sup>th</sup> day of February, 2019.

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Michael S. Naggar, Mayor

ATTEST:

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Randi Johl, City Clerk

**PASSED, APPROVED, AND ADOPTED** by the Board of Directors of the Temecula Community Services District of the City of Temecula this 26<sup>th</sup> day of February, 2019.

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James Stewart, President

ATTEST:

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Randi Johl, Secretary

[SEAL]