

Mayor
Lois Wynne
Mayor Pro Tem
Jeff Chedester
Council Members
Ray Madrigal
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William Siegel



**Office of the
City Manager**

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Staff Report

ITEM NO. 2-6

To: Lemoore City Council
From: Andi Welsh, City Manager
Date: August 12, 2015 **Meeting Date:** August 18, 2015
Subject: Resolution 2015-20 to Delegate Authority to City Manager to Act in Case of Emergency under Public Contract Code

Proposed Motion:

Approve Resolution 2015-20, delegating the City Council's authority to take immediate action to make necessary repairs in case of emergency without soliciting bids as allowed by section 22050 of the California Public Contract Code.

Subject/Discussion:

Similar to a homeowner, the City has buildings and other property which it owns and maintains. Like a home, from time to time, items in these facilities need to be repaired an unexpected failure. However, unlike a homeowner, the City has procedures it must follow in order to make such repairs.

California Public Contract Code section 20160 et seq. requires that public works projects in excess of \$5,000 follow specified competitive bid procedures and be let to the lowest responsible bidder. Section 20161 defines a public works project as "the erection, improvement, painting, or repair of public buildings and works" and specifically includes "sewer work", unless the sewer work is for maintenance or repair. Public works also includes the "furnishing of supplies or materials for any such project". It is unlawful to split or separate a public works project into smaller projects for the purposes of evading the competitive bid statutes. (§ 20163.) A willful violation of this section is a misdemeanor.

The above competitive bidding requirement applies to all City public works projects over \$5,000, even those that could be performed by City employees. (Killeen v. City of San Bruno (1976) 56 Cal.App.3d 479.)

These procedures are not always practical when the item that needs to be repaired needs immediate attention, and so there are provisions for emergencies. California Public Contract Code Section 20168 authorizes the City Council to enter into a contract for necessary emergency repairs or replacements without first soliciting bids.

While this section is helpful, the City Council would need to call a special meeting to implement and vote on the repair. Again this may not be practical since the repair may need to be made before such a meeting could take place. Therefore, the law allows the

City Council to delegate its authority to make these repairs to the City Manager in cases of emergency and then to bring the matter back to the City Council for ratification at the next meeting. In order to delegate its authority, the City Council must adopt a resolution, by a 4 of 5 Council Members.

The resolution defines an emergency and the limit of this authority, as well as describing the procedure for authorizing the repair without using the bidding process.

Financial Consideration(s):

None known.

Commission/Board Recommendation:

Not Applicable.

Staff Recommendation:

Approve Resolution 2015-20 to allow the City Manager to approve emergency repairs without soliciting bids or requiring a formal vote of the City Council to allow for the ability to make timely repairs.

Attachments:

- Resolution
- Ordinance
- Map
- Other _____

Review:

- | | |
|---|---------|
| <input type="checkbox"/> Finance | |
| <input checked="" type="checkbox"/> City Attorney | 8/13/15 |
| <input checked="" type="checkbox"/> City Manager | 8/14/15 |
| <input checked="" type="checkbox"/> City Clerk | 8/14/15 |

Date:

RESOLUTION NO. 2015-20

A RESOLUTION OF THE LEMOORE CITY COUNCIL TO DELEGATE AUTHORITY TO TAKE IMMEDIATE ACTION IN CASE OF EMERGENCY UNDER THE SECTION 22050, ET SEQ. OF THE PUBLIC CONTRACT CODE

WHEREAS, Public Contract Code Section 20168 authorizes the city council to enter into a contract for necessary emergency repairs or replacements without first soliciting bids; and

WHEREAS, Public Contract Code Section 22050 authorizes, by a four-fifths vote of the City Council, the emergency repair or replacement to any of the District's public facilities and to take any action directly related and required by such an emergency and to procure the necessary equipment, services, and supplies for such emergency repairs without giving notice for bids or to let contracts; and

WHEREAS, Public Contract Code Section 22050 further provides that a person delegated such authority shall report to the City Council, at its next regularly scheduled meeting, the reasons justifying why the emergency will not permit a delay resulting from a competitive solicitation for bids, why the action is necessary to respond to the emergency, and requires the City Council to initially review the emergency action not later than seven days after the action, or at the next regularly scheduled City Council meeting if that meeting will occur not later than 14 days after the action, and at every meeting thereafter, and determine by a four-fifths vote to continue the action until the action is terminated; and

WHEREAS, from time to time, emergencies, as defined in Public Contract Code Section 1102, arise which require immediate action and the needs of the City would be best served by delegating the authority to determine that an emergency exists and immediately undertaking repairs without utilizing the competitive bidding process.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Lemoore delegates to the City Manager, or Designee, the authority to repair or replace City facilities in an emergency situation, to report to the City Council 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, and take all actions required by Public Contracts Code 22050.

The City Council also directs that this Resolution shall be effective for a period of two years from the date of its execution. The City Council further directs that the total costs, including the costs of any change orders, for emergency work undertaken under the authority of the Resolution shall not exceed \$50,000 per emergency at any one site.

* * * * *

PASSED AND ADOPTED at a Regular Meeting of the City Council of the City of Lemoore held on August 18, 2015 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

APPROVE:

Mary J. Venegas
City Clerk

Lois Wynne
Mayor