

RESOLUTION NO. R23-41

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALOS VERDES ESTATES, CALIFORNIA, (1) RATIFYING EMERGENCY CONTRACT TO PEARCE CONSTRUCTION AND MASONRY, INC. FOR STORM DRAIN REPAIR SERVICES IN THE AMOUNT OF \$63,720; AND (2) APPROPRIATE UNASSIGNED GENERAL FUND (FUND 01) IN THE AMOUNT OF \$63,720

WHEREAS, Public Contract Code section 1102 defines an emergency as “a sudden unexpected occurrence that poses a clear and imminent danger, requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services”; and

WHEREAS, Public Contract Code section 22050 authorizes the City Council of the City of Palos Verdes Estates (“City”), in cases of emergency when repair or replacements are necessary, to 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, and if notice for bids to let contracts will not be given, the City shall comply with Public Contract Code section 22050; and

WHEREAS, Public Contract Code section 22050(a) authorizes the City to proceed with awarding a public works contract to perform emergency work without giving notice for bids to let contracts upon adoption by the City Council by a four-fifths vote of a resolution finding 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; and

WHEREAS, Public Contract Code section 22050(b) permits the governing body of a local agency to delegate authority to its city manager to make an emergency determination and take immediate action related to that emergency, which the City Council did in Municipal Code section 2.08.060(F); and

WHEREAS, On October 27, 2023, when the City's contractor for the Miscellaneous Repairs Project was completing a spot repair of the roadway in front of 1325 Via Cataluna, a sinkhole formed and exposed a cavity under the roadway around an existing 4-foot diameter storm drain line. Once the storm drain line was excavated, it was determined that the cause of the sinkhole was the bottom of the storm drain pipe had deteriorated and resulted in an opening that storm water would flow out of and into the surrounding soil, which caused the surrounding soil to wash away. The deterioration on the bottom of the storm drain line had also caused the pipe to settle and a gap to form at the top of the pipe between adjacent pipe segments. Based on these facts, it was further determined that the City needed to immediately perform repair work so as to avoid further damage to the roadway and adjacent private driveways or the extension of the sink hole that may have impacted the City's ability to provide access to the roadway or adjacent private properties to City residents.

WHEREAS, the City determined that emergency work needed to be performed, which included the excavation and removal of the damaged storm drain line, the installation of a 25-foot segment of new storm drain pipe, backfilling the excavated area

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with slurry, and paving to restore the roadway in the area that was excavated (the "Emergency Work").

WHEREAS, the City Manager determined the emergency did not permit undergoing the formal competitive bidding process, or any other required procurement process, to obtain the Emergency Work required to address the emergency because there is an imminent need to take immediate action to remediate the damage caused by the deteriorated pipe and to prevent damage to adjacent pipes; and

WHEREAS, the City Manager authorized a contract with Pearce Construction and Masonry, Inc. on or about October 30, 2023 in the amount of \$63,720 ("Emergency Contract") for the performance of the Emergency Work, and the Emergency Work, including the pavement repairs, will be completed on November 9, 2023; and

WHEREAS, pursuant to Public Contract Code section 22050(b)(3), the City Manager must 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(s) it took, to the extent applicable, is necessary to respond to the emergency; and

WHEREAS, pursuant to Public Contract Code section 22050(c)(2), the City Council must review the emergency action by the City Manager and determine by a four-fifths vote, not later than seven (7) days or at its next regularly scheduled meeting if that meeting will not occur later than 14 days after the action, and at least at every regularly scheduled meeting thereafter until the action is terminated, that there is a need the continue the action.

WHEREAS, the Emergency Work has cured the emergency, and the City Manager will terminate the emergency, and therefore no further reporting to the City Council is required under Public Contract Code section 22050.

NOW, THEREFORE, the City Council of the City of Palos Verdes Estates, California does hereby RESOLVE, DETERMINE, and ORDER:

Section 1: The above recitals are true and correct and are incorporated herein by this reference; and

Section 2: That the public interest and necessity demand the immediate expenditure of public funds for emergency work related to the emergency in order to prevent or mitigate the loss or impairment of life, health, property, or essential public services; and

Section 3: The City Manager is hereby authorized to take all necessary actions to record this action of the City Council; and

Section 4: That the emergency would not permit a delay that would have resulted from a competitive solicitation for bids and that action was necessary to respond to the emergency; and

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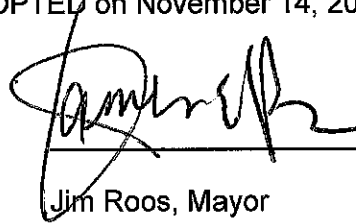
Section 5: The City Council hereby ratifies the Emergency Contract executed by the City Manager; and

Section 6: The budget adjustments as set forth in Exhibit "A" hereof are hereby approved; and

Section 7: The City Manager is hereby authorized to take all necessary actions to record this action of the City Council; and

Section 8: The Interim City Clerk is hereby authorized to certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

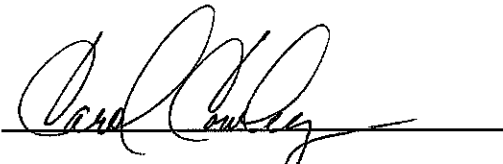
PASSED, APPROVED AND ADOPTED on November 14, 2023.



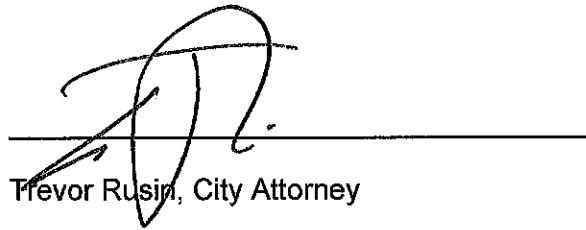
Jim Roos, Mayor

ATTEST:

APPROVED AS TO FORM:



Carol Cowley, Interim City Clerk



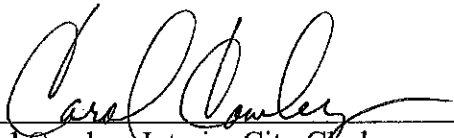
Trevor Rusin, City Attorney

CERTIFICATION

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS:
CITY OF PALOS VERDES ESTATES)

I, Carol Cowley, Interim City Clerk for the City of Palos Verdes Estates, California, do hereby certify that the foregoing Resolution **R23-41** was duly and regularly approved and adopted by the City Council of the City of Palos Verdes Estates at its regular meeting of the City Council on the 14th day of November 2023, by the following vote:

AYES: COUNCILMEMBERS: Lozzi, Kemps, McGowan, Murdock, Roos,
NOES: COUNCILMEMBERS: None
ABSENT: COUNCILMEMBERS: None
ABSTAIN: COUNCILMEMBER: None



Carol Cowley, Interim City Clerk

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EXHIBIT A

**Budget Adjustments
Storm Drain Repairs**

Increase Appropriations in the General Fund:

Org	Dept	Account	Amount	
01-5100	Public Works	64433	\$	63,720

Release Assigned Fund Balance

Fund	Account	Account Description	Amount	
01	25300	Unassigned Fund Balance	\$	63,720