

RESOLUTION NO. 4404

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOLEDAD
DECLARING AN EMERGENCY PURSUANT TO SECTION 20168 OF THE PUBLIC
CONTRACT CODE AND SECTION 3.24.040 OF THE SOLEDAD MUNICIPAL CODE
AND AUTHORIZING EMERGENCY REPAIR WORK TO WELL 7 BY MAGGIORA
BROS. DRILLING COMPANY IN AN AMOUNT NOT TO EXCEED \$42,328**

WHEREAS, on June 28, 2009, the pump on Well #7 failed and abruptly stopped running; and

WHEREAS, Staff called Salinas Pump to assist in determining the problem, and Salinas Pump has subsequently determined that numerous major components of the pump assembly must be replaced before the pump can be used again; and

WHEREAS, operation of Well 7 is critical to the balance of City water production, particularly when the City is in the midst of the four month period running from May through August when City water demand is at its highest; and

WHEREAS, Staff is of the opinion that lack of water production at Well No. 7, when paired with the potential failure and/or overuse of any of the other operational City wells, creates a real possibility that the City would be without sufficient water to meet fire suppression and public water demand needs; and

WHEREAS, Staff believes that there is a need to perform the above- referenced well maintenance, repair and remedial work on an expedited basis in order to protect the City's water supply and delivery system and ensure the general health, safety and welfare of the citizens of Soledad; and

WHEREAS, Staff is of the opinion that adherence to purchase bidding requirements set forth in Chapter 3.24 of the Soledad Municipal Code, and contract bidding procedures established in the Public Contract Code, will result in unacceptable delays of a minimum of six weeks before the City can commence action to place Well 7 back on line; and

WHEREAS, Section 3.24.040 of the Soledad Municipal Code provides an exception to the bidding requirements for the purchase of equipment when an "emergency" (defined in part as a breakdown in machinery or an essential service which requires the immediate purchase of supplies or services to protect the public health, welfare and safety) arises, and the failure of Well No. 7 has created a City emergency; and

WHEREAS, Section 20168 of the Public Contract Code provides that in the case of an emergency, the City Council, by four-fifths vote, may pass a resolution declaring that the public interest and necessity demand the immediate expenditure of public funds to safeguard life, health and property, and that such monies may be expended without compliance with mandatory contract bidding procedures; and

WHEREAS, Section 1102 of the Public Contract Code defines emergency as a sudden, unexpected occurrence that poses a clear and imminent danger, requiring action to prevent or mitigate the loss or impairment of life, health or property, and the circumstances surrounding the sudden dramatic failure of Well 7 created the need to take immediate action to address the cause of said failure, meeting this definition of emergency; and

WHEREAS, Staff and the City Manager previously determined that an emergency situation exists and authorizes Staff to Contract with Maggiora Bros. Drilling Company to order parts and perform repairs and provide services to place Well 7 back into service as promptly as possible.

NOW THEREFORE, BE IT HEREBY RESOLVED, that the City Council of the City of Soledad hereby resolves as follows:

1. Based on the recitals set forth above, which are incorporated herein by reference, the City Council hereby declares that an emergency situation, as defined in both Soledad Municipal Code Chapter 3.24 and Public Contract Code Section 1102, exists with respect to the need to take immediate action to maintain, repair, and rehabilitate City Well No. 7 so as to ensure adequate water supply to the citizens of Soledad.
2. By this Resolution, and the authority granted by Soledad Municipal Code Chapter 3.24 and Public Contract Code Section 20168, the City Council finds that the public interest and necessity demanded the immediate obligation of funds to maintain, repair and rehabilitate City Well No. 7 without need to comply with formal bidding procedures, and ratifies the action of Staff to contract with Maggiora Bros. Drilling Company to provide the necessary analytical and remedial services, in an amount not to exceed \$42,328.
3. In order to provide funding for the repair work set forth herein, the Council approves expenditure of an amount not to exceed \$42,328 from the Water Fund Maintenance Account.

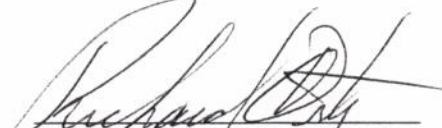
PASSED AND ADOPTED at a regular meeting of the City Council of the City of Soledad duly held on the 1st day of July, 2009, by the following vote:

AYES, and in favor thereof, Councilmembers: Richard J. Perez, Juan Saavedra, Patricia Stephens, Mayor Pro Tem Martha Camacho, Mayor Richard Ortiz

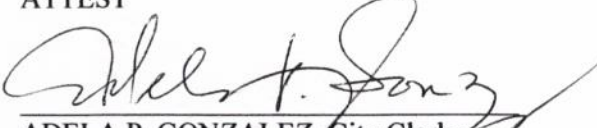
NOES, Councilmembers: None

ABSENT, Councilmembers: None

ABSTAIN, Councilmembers: None


RICHARD V. ORTIZ, Mayor

ATTEST


ADELA P. GONZALEZ, City Clerk