

RESOLUTION NO. _____

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAPITOLA
DECLARING

**A BROKEN STORM DRAIN IN NOBLE GULCH PARK AN EMERGENCY;
AUTHORIZING PROCUREMENT AND SERVICES WITHOUT GIVING NOTICE
FOR BIDS PURSUANT TO PUBLIC CONTRACT CODE SECTION 22050; AUTHORIZING
STAFF TO ENTER INTO A CONTRACT FOR SERVICES WITH GRANITEROCK
CONSTRUCTION; APPROVING A BUDGET TRANSFER OF \$40,000 FROM THE
EMERGENCY RESERVE FUND TO THE CAPITAL IMPROVEMENT PROJECT FUND; AND
AUTHORIZING THE CREATION OF A NEW PROJECT ENTITLED NOBLE GULCH PARK
STORM DRAIN PROJECT**

WHEREAS, California Public Resources Code Section 21060.3 defines an emergency as a “sudden, unexpected occurrence, involving a clear and imminent danger, demanding immediate action to prevent or mitigate loss of, or damage to, life, health, property or essential public services;” and

WHEREAS, Section 22050(a) of the California Public Contract Code allows a public agency, in the event of an emergency, and pursuant to a four-fifths vote of its governing body, to 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; and

WHEREAS, City of Capitola Public Works crews discovered a sink hole above a storm drain pipe in Noble Gulch park; and

WHEREAS, the sink hole presents an immediate danger to pedestrians and park users who could fall into the hole and repairs should be made immediately; and

WHEREAS, compliance with competitive bidding procedures typically takes several months and would not allow prompt action to be taken, as required to safeguard the public; and

WHEREAS, GraniteRock Construction is available and qualified to perform the necessary repair work; and

WHEREAS, it is necessary to adopt the 2021-22 Fiscal Year Budget for all City funds and Capital Improvement Program; and

WHEREAS, the City Council conducted budget study sessions, heard and considered public comments, had modified and proposed a budget accordingly, and on June 24, 2021, adopted such budget for the Fiscal Year July 1, 2021, through June 30, 2022; and

WHEREAS, a \$60,000 transfer from the Emergency Reserve Fund should be sufficient to complete the repairs necessary due to the sinkhole; and

WHEREAS, by the City Council of the City of Capitola that the 2021-2022 Fiscal Year Budget is hereby amended, including Exhibit A (Budget Amendment) to this Resolution

WHEREAS, California Public Resources Code subsections 21080(b)(2) and (4) provide that the California Environmental Quality Act (CEQA) does not apply to emergency repairs to public service facilities or specific actions necessary to prevent or mitigate an emergency, and Section 15269 of the CEQA Guidelines establishes a statutory exemption for emergency repairs to public

Noble Gulch Park Storm Pipe Repairs

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service facilities necessary to maintain service, and other specific actions necessary to prevent or mitigate an emergency; and

WHEREAS, damage to the storm drain is the likely cause of the sink hole and the damage was unexpected and involves a clear and imminent threat demanding immediate action to mitigate the immediate threat to public safety, and therefore emergency repairs to the storm drain and related infrastructure and improvements are exempt under CEQA.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Capitola that:

1. Based on substantial evidence, the broken storm drain and resulting sinkhole at Noble Gulch Park is a “sudden, unexpected occurrence, involving a clear and imminent danger, demanding immediate action to prevent or mitigate loss of, or damage to, life, health, property or essential public services.”
2. The emergency will not permit a delay resulting from competitive solicitation for bids for the repairs associated with the broken storm drain, and that this action is necessary to respond to the emergency.
3. Staff is authorized to proceed with the repair of the storm drain and procurement of the necessary equipment, services, and supplies for that purpose without giving notice for bids to let contracts.
4. Staff is authorized to enter into a contract with GraniteRock Construction for repair services of the storm drain.
5. Staff is authorized to obtain all necessary regulatory authorizations for the repair on an expedited basis using all available emergency procedures.
6. A transfer of \$40,000 from the Emergency Reserve Fund to the Capital Improvement Project Fund is authorized.
7. A project entitled “Noble Gulch Storm Drain Project” is created.

I HEREBY CERTIFY that the foregoing Resolution was passed and adopted by the City Council of the City of Capitola on the 14th day of April 2022, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Sam Storey, Mayor

Attest:

Chloe Woodmansee, City Clerk