



# TOWN OF FAIRFAX

## STAFF REPORT

### March 1, 2017

**TO:** Mayor and Town Council

**FROM:** Garrett Toy, Town Manager *GT*

**SUBJECT:** Adoption of a resolution declaring the existence of a local emergency at or near 300 Tamalpais Road, 92 Madrone Road, and 355 Forrest Avenue and authorizing the emergency procurement of materials and labor without competitive bidding

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#### RECOMMENDATION

Adopt a resolution declaring the existence of a local emergency and authorizing the emergency procurement of materials and labor without competitive bidding.

#### DISCUSSION

In February 2017, severe rainfalls caused portions of the roadways located near 300 Tamalpais Road, 92 Madrone Road, and 355 Forrest Avenue in Fairfax, to become unstable and collapse, causing conditions of extreme peril to persons and property. The Town finds that in order to stabilize the hillsides to prevent and mitigate loss or impairment of life, health, property, and reopen the roads to the public, it must act in an expeditious manner.

Specifically, the following conditions support the declaration of a local emergency regarding the above roads:

- The affected portion of the Tamalpais and Madrone roadways provide the only route for emergency vehicles to access the homes in the area. The closure of a portion of Forrest Avenue creates a perilous situation in which emergency vehicles are severely hampered by the inability to access the area (i.e., in some cases emergency vehicles could be required to back up if they go to the wrong side of closure).
- Residents on the affected portion of Tamalpais cannot access their homes by car and must walk a significant distance from their parked vehicles outside the affected portion of the road. In addition, these homes cannot be reached by service vehicles such as garbage, PG&E, delivery service, post office service, and others.
- Homes on the affected portion of Madrone cannot be reached by heavier service vehicles and emergency vehicles such as garbage trucks and fire engines, respectively.
- The Town's consulting engineer reports that the roads will continue to deteriorate until the slopes beneath the roads are stabilized with retaining walls and other improvements.
- The Town's consulting engineer reports it would be best to address the situation sooner rather than later due to uncertainty of how future rain storms would impact the existing damage.

The adoption of the resolution will authorize the Town Manager to do everything necessary and appropriate, including exceeding the Town Manager's purchasing authority up to \$60,000 for construction and \$25,000 for design/construction management costs for each project, to let contracts pursuant to Public Contract Code Section 22035 to reopen the roadway as soon as possible. As a matter of practice, the Town's consulting engineer works to obtain estimates from 2-3 qualified contractors for the Town's consideration. The Mayor may need to call a special Council meeting to approve contracts that exceed the Town Manager's authority under this resolution.

### **FISCAL IMPACT**

The Town has contracted with Miller Pacific to prepare the plans and specifications for the repair work for each road. The costs of design are under the Town Manager's current contractual authority (\$15,000). Our preliminary estimates are that it could cost upwards of the \$60,000 each to repair Madrone and Tamalpais roads and over \$100,000 to repair Forrest Avenue. The authority granted under the resolution would allow the Town Manager to contract for construction management services and complete repair on Madrone and Tamalpais roads. The contract to repair Forrest Avenue will most likely require Council approval. The mid-year budget report on this evening's agenda will propose funding sources for the work. The Town is working with the County of Marin to seek reimbursement from state and/or federal emergency relief funds.

### **ATTACHMENT**

Resolution

## EMERGENCY RESOLUTION 17-\_\_

### A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FAIRFAX DECLARING THE EXISTENCE OF A LOCAL EMERGENCY AT OR NEAR 300 TAMALPAIS ROAD, 92 MADRONE ROAD, AND 355 FORREST AVENUE, FAIRFAX, AND AUTHORIZING THE EMERGENCY PROCUREMENT OF MATERIALS AND LABOR WITHOUT COMPETITIVE BIDDING

**WHEREAS**, Sections 22035 and 22050 of the Public Contracts Code authorize the Town of Fairfax to proceed with awarding a public works contract to perform emergency work upon adoption by the Town Council by a four-fifths vote of a resolution declaring that the public interest and necessity demand the immediate expenditure of public funds to safeguard life, health, or property; and

**WHEREAS**, Public Contract Code Section 22050 also provides that the Town Council may, by resolution, delegate the authority to order any action required by the emergency and to procure the necessary equipment, services, and supplies for those purposes, without giving notice for bids to let the contracts to the Town Manager, his designee, or any other officer; and

**WHEREAS**, the Town may exercise its emergency powers under Section 22050 by making 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 Town's action is necessary to respond to the emergency; and

**WHEREAS**, the Town of Fairfax had severe rainstorms during the months of January and February, 2017, causing local flooding, landslides, roadway subsidence, and fallen trees; and

**WHEREAS**, during one of said severe rainfall events, a portion of the roadway located at or near 300 Tamalpais Road, Fairfax, became unstable, causing conditions of extreme peril to persons and property, including a landslide and no access for vehicles including for emergency vehicles; and

**WHEREAS**, during another of said severe rainfall events, a portion of the roadway located at or near 92 Madrone Road, Fairfax, became unstable, causing conditions of extreme peril to persons and property, including a landslide and no access for large trucks including service vehicles and larger emergency vehicles; and

**WHEREAS**, during another of said severe rainfall events, a portion of the roadway located at or near 355 Forrest Avenue, Fairfax, became unstable, causing conditions of extreme peril to persons and property, including a landslide and severely hampering access to the area by emergency vehicles; and

**WHEREAS**, the Town closed a portion of Tamalpais Road and Forrest Avenue to any traffic in order to protect persons and property; and

**WHEREAS**, the Town closed a portion of Madrone Road to trucks, including larger emergency vehicles, in order to protect persons and property; and

**WHEREAS**, the Town finds that in order to stabilize the hillsides at the three sites to prevent and mitigate loss or impairment of life, health, property, and reopen the roads to the public, it must act in an expeditious manner; and

**WHEREAS**, the hillside conditions on Tamalpais Road, Madrone Road and Forrest Avenue pose a clear and imminent danger, requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, and essential public services; and

**WHEREAS**, time does not permit the preparation of specifications and the solicitation of competitive bids before commencement of the emergency hillside stabilization and road re-opening; and

**NOW, THEREFORE, BE IT RESOLVED** that the Town Council of the Town of Fairfax hereby declares and orders as follows:

**SECTION 1.** The Town Council hereby finds, by a four-fifths majority, that the recitals in this Emergency Resolution are true and correct. The Town Council finds and determines based on substantial evidence in the staff report and oral testimony the existence of a local emergency at or in the vicinity of 300 Tamalpais Road, 92 Madrone Road, and 355 Forrest Avenue, Fairfax. These emergency findings shall be deemed to be entered into the minutes of the meeting at which this Emergency Resolution is passed.

**SECTION 2.** The Town Manager is hereby ordered and authorized to provide for the emergency repair or replacement of those public facilities necessary to stabilize the hillside conditions and reopen the roadways located at or near 300 Tamalpais Road, 92 Madrone Road, and 355 Forrest Avenue, to take any directly related and immediate action required by those emergency conditions, and to procure the necessary equipment, services, and supplies for those purposes, without giving notice for bids to let contracts pursuant to Public Contract Code Sections 22035 and 22050. Said contract(s) may exceed the Town Manager's purchasing authority, but shall not exceed \$60,000 for construction and \$25,000 for design/construction management costs for each project without further approval by the Town Council. To the extent said funding is required to be spent from the Town's general fund, such amounts are hereby deemed budgeted and appropriated for such improvements.

**SECTION 3.** The Town Council shall review the emergency action at its next regularly scheduled meeting and at every regularly scheduled meeting thereafter

until the work ordered hereby is terminated. Such review shall be for the purpose of determining, by a four-fifths vote, that there is a need to continue the work. Said review may be conducted as a consent calendar item.

**SECTION 4.** This resolution shall be effective immediately upon adoption by four affirmative votes of the Town Council of the Town of Fairfax.

The foregoing resolution was duly passed and adopted at a special meeting of the Town Council of the Town of Fairfax held in said Town on the 1st day of March 2017 by the following vote:

AYES:  
NOES:  
ABSENT:

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John Reed, Mayor

Attest: \_\_\_\_\_  
Michele Gardner, Town Clerk