

RESOLUTION NO.

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL
APPROVING AND AUTHORIZING THE CITY MANAGER TO FURTHER
NEGOTIATE AND EXECUTE AN AMENDMENT TO THE FEMA GRANT # EMW-
2014-FR-0084 (TELECOMMUNICATIONS AND OTHER EQUIPMENT)
MEMORANDUM OF UNDERSTANDING WITH THE SOUTH SANTA CLARA
COUNTY FIRE DISTRICT, DETERMINING THAT COMPETATIVE BIDS, UPON
NOTICE, WOULD NOT BE LIKELY TO RESULT IN A LOWER PRICE TO THE
CITY FROM A RESPONSIBLE BIDDER OR WOULD CAUSE UNNECESSARY
EXPENSE OR DELAY UNDER THE CIRCUMSTANCES, AND AUTHORIZING THE
CITY MANAGER TO PURCHASE TWO SCBA FILL STATIONS FROM LN CURTIS.**

WHEREAS, in December 2014, the City of Morgan Hill ("City") and the South Santa Clara County Fire Protection District ("District") applied for a regional grants through the Federal Emergency Management Agency ("FEMA") Assistance to Firefighters ("AFG") Program in order the receive essential equipment for firefighter operations; and

WHEREAS, in August 2015, pursuant to Resolution No. 15-186, the City Council approved a memorandum of understanding between the City and the District for FEMA Grant # EMW-2014-FR-0084 (Telecommunications and Other Equipment) ("MOU") in order for the City to purchase equipment received under the grant and distribute the equipment to the City and the District; and

WHEREAS, on November 4, 2015, City Council adopted a resolution accepting the grant award and appropriating \$484,819 for associated grant expenditures and activities; and

WHEREAS, as the MOU was executed before the final grant was awarded, the City and the District intended to amend the MOU once the final grant amount and the purchases to be made and the distribution of those purchases between the City and the District were finalized; and

WHEREAS, the Fire Department desires to purchase two SCBA fill stations with the grant funds as contemplated by the MOU between the City and the District; and

WHEREAS, pursuant to Morgan Hill Municipal Code ("MHMC") Section 3.04.150, purchases in excess of \$45,000 must be made through competitive bid; and

WHEREAS, pursuant to MHMC Section 3.04.150(2), the City Council may waive the competitive bid requirements and purchases may be made cooperatively if, by a majority vote of the councilmembers, a determination is made that competitive bids, upon notice, would not be likely to result in a lower price to the City from a responsible bidder, or would cause unnecessary expense or delay under the circumstances; and

WHEREAS, the pursuant to MHMC Section 3.04.180, the purchasing officer may join with other public jurisdictions in cooperative purchasing plans or programs; and

WHEREAS, the Fire Department has identified pricing for the SCBA fill stations as a member of the Fire Rescue Group Purchasing Organization ("FRGPO") which is part of a national cooperative purchasing organization, serving government and non-profit organizations and has access to publicly solicited bids specific to their industry; and

WHEREAS, the City is the not likely to obtain a lower price for the SCBA fill stations upon competitive bidding; and

WHEREAS, further supporting the entrance of the City into that certain agreement described in, and that is the subject of, this Resolution are set forth in detail in that certain City Council Staff Report entitled "Award Purchase Agreement for SCBA Fill Stations" submitted for City Council consideration at its meeting of December 16, 2015, submitted to the City Council by the City Manager (the "Staff Report"), the contents of which Staff Report are incorporated herein by this reference; and

WHEREAS, the activities allowed under this Resolution are categorically exempt under the provisions of the California Environmental Quality Act of 1970, together with guidelines promulgated thereunder, and more specifically pursuant to Sections 15301 of the CEQA Guidelines (Existing Facilities) in that the subject work involves the repair, maintenance or minor alteration of existing facilities involving negligible or no expansion of use of those facilities; and

WHEREAS, the consideration by City Council of the adoption of this Resolution has been duly noticed pursuant to applicable laws and has been placed upon the City Council Meeting Agenda on the date set forth in the Staff Report, or to such date that the City Council may have continued or deferred consideration of this Resolution, and on such date the City Council conducted a duly noticed public hearing on the adoption of this Resolution at which hearing the City Council provided members of the public an opportunity to comment and be heard and considered any and all testimony and other evidence provided in connection with the adoption of this Resolution; and

WHEREAS, the City Council determines that adoption of this Resolution is in the public interest.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY FIND, DETERMINE, RESOLVE AND ORDER AS FOLLOWS:

Section 1. Recitals. The City Council does hereby find, determine and resolve that all of the foregoing recitals are true and correct.

Section 2. Approval and Authorization. The City Council does further resolve, order and/or direct as follows:

- a. That the amendment to the memorandum of understanding with the South Santa Clara County Fire District FEMA for Grant # EMW-2014-FR-0084

(Telecommunications and Other Equipment), substantially in the form attached hereto as Exhibit A and incorporated herein by this reference (the "Amendment") is hereby approved; and

- b. That the City Manager is hereby delegated authority to and is authorized and directed to further negotiate and execute, and subsequently administer including the authority to terminate as necessary or appropriate, the Amendment substantially in the form attached hereto as Exhibit A; and
- c. That that competitive bids, upon notice, would not be likely to result in a lower price to the City from a responsible bidder, or would cause unnecessary expense or delay under the circumstances pursuant to MHMC Section 3.04.150(2) for the purchase of the two SCBA fill stations; and
- d. That the City Manager is authorized to purchase two SCBA fill stations from LN Curtis, provided, specifically, that the total amounts to be paid by City for the purchase shall in no event exceed ninety five thousand nine hundred thirteen dollars (\$94,913.00); and
- e. That the City Manager is hereby delegated authority to and is authorized to take all other ministerial actions that may be necessary or appropriate to implement the provisions of this Resolution.

Section 3. This Resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED by the City Council of the City of Morgan Hill at its meeting held on this 16th day of December, 2015 by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

COUNCIL MEMBERS:
COUNCIL MEMBERS:
COUNCIL MEMBERS:
COUNCIL MEMBERS:

DATE: _____

Steve Tate, MAYOR

∞ **CERTIFICATION** ∞

I, Irma Torrez, City Clerk of the City of Morgan Hill, California, do hereby certify that the foregoing is a true and correct copy of Resolution No.XXXX, adopted by the City Council at the meeting held on December 16, 2015.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

Irma Torrez, CITY CLERK