



BOARD OF SUPERVISORS
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Department Name: Public Works/Flood Control
Department No.: 054
For Agenda Of: March 12, 2024
Placement: Administrative
Estimated Time: N/A
Continued Item: No
If Yes, date from:
Vote Required: 4/5 vote

TO: Board of Directors, Flood Control and Water Conservation District

FROM: Department

Director(s) Scott D. McGolpin, Public Works Director, (805) 568-3010

Contact Info: Walter Rubalcava, Deputy Director - Flood Control, (805) 568-3436

SUBJECT: **Public Works Director's Report on Emergency Response Actions from Impacts of Flooding and Storms and Continuation of Emergency Actions, Various Supervisorial Districts**

County Counsel Concurrence

As to form: Yes

Other Concurrence: N/A

Auditor-Controller Concurrence

As to form: N/A

Recommended Actions:

Board of Directors of the Flood Control and Water Conservation District (4/5 vote required):

- a) Receive and review a report from the Public Works Director regarding emergency actions taken pursuant to Resolution No. 19-327 and Public Contract Code section 22050 related to emergency operations responding to flooding, storms, and debris removal projects following the 2023 and 2024 winter storm events and the necessity of the action and the reasons the emergency will not permit delay resulting from competitive solicitation of bids;
- b) Determine that there is a need to continue the emergency actions ordered by the Public Works Director (4/5 vote required);
- c) Direct staff to return to the Board every 14 days to allow the Board to review the emergency actions and determine, by a 4/5 vote, whether there is a need to continue the emergency actions until the actions are terminated; and
- d) Determine that the recommended actions related to and continuations of the January 31 - February 2024 storms are statutorily exempt under the California Environmental Quality Act (CEQA), pursuant to CEQA Guidelines Section 15269(c), and a Notice of Exemption was filed on this basis on February 27, 2024, and the proposed action is within the scope of that Notice of Exemption. The Notice of Exemption can be found at:

<https://santabarbara.legistar.com/LegislationDetail.aspx?ID=6550615&GUID=D11ABFCC-C05D-4677-AA1B-94625858ABD3>

- e) Determine that these emergency actions related to and continuations of 2023 storm response were found by the Board to be exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15269(c) and a Notice of Exemption was filed on this basis on January 24, 2023, and the proposed action is within the scope of that Notice of Exemption. The Notice of Exemption can be found: <https://santabarbara.legistar.com/LegislationDetail.aspx?ID=6003416&GUID=29008858-08FE-4EDC-9D4F-61F811BF8AA1> ; and
- f) Determine that emergency actions for the Santa Maria River Restoration of Alignment Project were found by the Board to be exempt from the provisions of the State CEQA pursuant to Executive Order N-10-23, as well as State CEQA Guidelines Section 15269(c) on September 12, 2023, and the proposed action is within the scope of the Notice of Exemption filed on September 19, 2023. The Notice of Exemption can be found: <https://content.civicplus.com/api/assets/b121d4bc-a83e-4610-990b-c678c319b94f>.

Summary Text:

This action is necessary to report on and consider continuing the emergency actions and work being done pursuant to the Public Works Director's authority under Resolution No. 19-327 (Attachment A) and in compliance with Public Contract Code (PCC) section 22050 and receive and file the report (Attachment B).

On December 17, 2019, the Board approved Resolution No. 19-327 pursuant to Public Contract Code section 22050(b)(1) which authorizes the Board by a 4/5 vote to delegate authority to the Public Works Director to take certain actions in the event of an emergency.

Public Contract Code section 22050(b)(3) and (c)(2), requires the Public Works Department to regularly report on current emergency response work actions ordered by the Public Works Director pursuant to the delegated authority. This allows the Board to comply with the statutory requirement to review the emergency action and determine by a four-fifths vote whether there is a need to continue the action.

Following the Board's initial review of the emergency actions, Public Contract Code Section 22050(c)(2) requires the Public Works Department to regularly require that the Board review the emergency actions every 14 days and determine by a 4/5 vote that there is a need to continue the action until the action is terminated. Public Contract Code Section 22050 (c)(3) requires terminating the action at the earliest possible date that conditions warrant so that the remainder of the emergency response can be completed through normal competitive bid procedures.

Background:

While the Public Works Department was working to complete the emergency actions in response to the 2023 winter storms (23STM1 and 23STM2), the recent 2024 winter storms (24STM1 and 24STM2) has

required additional emergency actions under Public Contract Code section 22050(a)(1). Public Works will utilize existing contracts procured on an emergency basis to respond to the new emergency (24STM1) to the extent feasible, and Public Works will continue to report to the Board on the need to continue responding on an emergency basis until all emergency response actions have concluded.

On December 17, 2019, the Board explicitly authorized the Public Works Director, or designee, to take action whenever an emergency occurs whether or not the emergency results in a declared emergency. This Resolution defines 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” (Pub. Contract Code § 1102.)

Public Contract Code section 22050(a)(1) provides that in the case of an emergency, a public agency, pursuant to a 4/5 vote of its governing body, may 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 following otherwise-applicable competitive bid procedures. Section 22050(b)(1), authorizes that the Board of Supervisors/Directors, by a 4/5 vote, may delegate, by resolution, to the appropriate County administrative officer, chief engineer, or other nonelected agency officer, the authority to order any action.

Following the Board's initial review of the emergency actions, Public Contract Code Section 22050(c)(2) requires the Public Works Department to request that the Board review the emergency action every 14 days, or at the next regularly scheduled meeting, and determine by a 4/5 vote that there is a need to continue the action until the action is terminated. Public Contract Code Section 22050 (c)(3) requires terminating the action at the earliest possible date that conditions warrant so that the remainder of the emergency response can be completed through normal competitive bid procedures.

Fiscal and Facilities Impacts:

Budgeted: Yes

Fiscal Analysis:

Narrative:

The costs associated with the 23STM1 and 23STM2 declared disasters (shown on Attachment B) are currently funded by the District through various Flood Zones, ARPA, and County General Fund. The department is actively working with the Office of Emergency Management and the County Executive Office to pursue state and federal reimbursement for eligible costs associated with the declared disasters. Continuing expedited procurement helps avoid delays to restored services and potential reimbursement.

Flood Control costs associated with the 24STM1 and 24STM2 emergency response efforts are included in the FY 2023-24 budget in the Water Resources Division of the Public Works Department as shown on page D-331 in the budget book. If costs exceed the current amount budgeted, a Budget Revision Request will come before your Board for approval to address costs and expenditures that will be incurred by the District. These costs may also be eligible for state and federal reimbursements.

Public Works Director's Emergency Response Operations from Impacts of Flooding and Storms and Continuation of
Emergency Actions, Various Supervisorial Districts

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Special Instructions:

Direct the Clerk of the Board to email the minute order of these actions to Christina Lopez at
clopez@countyofsb.org.

Attachments:

Attachment A - Copy of Resolution No. 19-327

Attachment B - Emergency Actions Work

Authored by:

Matt Griffin, Engineering Manager, (805) 568-3444