



**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/Water
Agency/Laguna County
Sanitation
Department No.: 054
For Agenda Of: December 15, 2015
Placement: Administrative
Estimated Time: N/A
Continued Item: No
If Yes, date from:
Vote Required: 4/5 vote

TO: Board of Supervisors
Board of Directors, Flood Control and Water Conservation District
Board of Directors, Water Agency
Board of Directors, Laguna County Sanitation District

FROM: Department Scott D. McGolpin, Public Works Director, 568-3010
Director(s)
Contact Info: Thomas D. Fayram, Deputy Public Works Director, 568-3436

SUBJECT: **Adopt a Resolution to Authorize the Public Works Director to Undertake
Emergency Response Operations from Impacts of Flooding and Storms, All
Supervisory Districts**

County Counsel Concurrence

As to form: Yes

Other Concurrence: N/A

Recommended Actions:

Auditor-Controller Concurrence

As to form: Yes

That the Board of Supervisors, and the Board of Directors of the Water Agency, Flood Control and Water Conservation District, and Laguna County Sanitation District:

- a) Adopt the Resolution entitled "Authorize the Public Works Director or designee to take emergency actions to protect human health and safety and the protection of public and private property from impacts of flooding and storms" (4/5 vote required); and
- b) Determine that the proposed action is not a project under the California Environmental Quality Act, pursuant to Guidelines Section 15378(b)(5), organization or administrative activities that will not result in a direct or indirect physical change in the environment.

Summary Text:

In preparation of this upcoming winter, including the anticipated impacts of El Niño, the Public Works Department has been evaluating changes in policies at the state and federal level. To maximize the County's, Districts', and Agency's eligibility for state and federal reimbursement, clarifying the authority of the Public Works Director during emergencies is recommended. In particular, the Federal Emergency Management Agency (FEMA) evaluates the policies and authority of a governmental entity to take action, in particular the entity's procurement authority/policy.

While state law codifies the authority of the Road Commissioner to take emergency action in the case of emergency health and safety, there is no equivalent authority given to the Public Works Director for the Flood Control District, Laguna County Sanitation District, Resource Recovery and Waste Management Division, or the Water Agency. Recent actions by FEMA suggest that reimbursements for emergency work may not be allowed without such authority. Therefore, by adopting this resolution your Boards are explicitly authorizing the Public Works Director, or his/her designee, to mobilize staff, equipment, supplies for necessary emergency response work to safeguard the health and safety of the public and the protection of public and private property from impacts related to floods or storms, which is consistent with the past actions of the Public Works Director during flooding and storm events.

In addition, Public Contract Code section 22050(b)(1) authorizes the Board by a 4/5th vote to delegate authority to the Public Works Director to take certain actions in the event of an emergency, defined 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. This resolution authorizes the Public Works Director or designee to repair or replace a public facility, take any directly related and immediate action required by that emergency, and to procure the necessary equipment, services and supplies for those purposes, without giving notice for bids to let contracts.

Upon initiation of such emergency response work, the Public Works Department will return to the Board as soon as practical, or required by state law, to report on the emergency response work and to seek any authorizations necessary to continue to respond to the emergency. If the Director takes any actions pursuant to Public Contract Code section 22050, the Director will report the actions as required by Section 22050(c)(2), and continuation of the action will need to be affirmed by the Board at every subsequent Board meeting (or 14 days).

Background:

The County of Santa Barbara has suffered from many federally declared flood disasters over the years including; 1969, 1983, 1993, two in 1995, 1998, 2005, and 2011. Emergency recovery actions from the extraordinary impacts of flooding in such events can be costly and the County, Agency, and Districts need to recover all eligible costs from these events.

Often, the point at which a federal disaster declaration occurs can be several days or weeks after the first impacts are felt and the need to take action is often immediate to avoid further damages.

Fiscal and Facilities Impacts:

Budgeted: No

Fiscal Analysis:

Narrative:

This resolution grants the Public Works Director or designee the authority to respond to immediate and urgent events that includes mobilizing staff, equipment, and contractors to safeguard health and safety of the public, and taking action pursuant to Public Contract Code section 22050. This resolution is necessary to retain eligibility for state and federal emergency reimbursement funding which could save the County, Agency and Districts millions of dollars.

Special Instructions:

Direct the Clerk of the Board to send a certified copy of the resolution and minute order of these actions to the Flood Control District, Attn: Christina Lopez

Attachments:

Attachment A - Adopt the Resolution entitled “Authorize the Public Works Director or designee to take emergency actions to protect human health and safety and the protection of public and private property from impacts of flooding and storms”

Authored by:

Thomas D. Fayram, Deputy Public Works Director