Legislation Details (With Text)

File #:	2020-1009		
Type:	Consent Calendar Item	**Status:**	Agenda Ready
File created:	9/28/2020	**In control:**	Transportation and Public Works
On agenda:	10/13/2020	**Final action:**	
Title:	Resolution Authorizing Emergency Contracts for Repairs and Dangerous Conditions Removal Due to the LNU Lightning Complex Fires Pursuant Public Contract Code Section 22050.		
Sponsors:	County Administrator, Transportation and Public Works		
Indexes:			
Attachments:	1. Summary Report, 2. Resolution		

Date	Ver.	Action By	Action	Result

To: Board of Supervisors
Department or Agency Name(s): Transportation and Public Works, County Administrator
Staff Name and Phone Number: Johannes J. Hoevertsz 707-565-2231
Vote Requirement: 4/5th
Supervisorial District(s): County-wide

Title:
Resolution Authorizing Emergency Contracts for Repairs and Dangerous Conditions Removal Due to the LNU Lightning Complex Fires Pursuant Public Contract Code Section 22050.

Recommended Action:

A) Adopt a resolution declaring an emergency need to repair damage and remove dangerous conditions from public facilities resulting from the LNU Lightning Complex Fires and suspending the requirement of competitive bidding.
B) Delegate authority to the County Administrator or her designee to negotiate and execute such emergency contracts.
C) Ratify all emergency public facilities contracts executed by the County Administrator related to the LNU Lightning Complex Fires.
D) Make a determination that such emergency public facilities contracts are categorically exempt under the California Environmental Quality Act.

(4/5th Vote Required)

Executive Summary:

This item requests the Board of Supervisors adopt a resolution declaring an emergency need to repair, replace, and remove damage and dangerous conditions from critical properties and facilities owned and maintained by the County resulting from the LNU Lightning Complex Fires, suspending the requirement of competitive bidding, delegating authority to the County Administrator or her designee to execute contracts for emergency work, ratifying contracts executed by the County Administrator, and making a determination under the California Environmental Quality Act.

Discussion:

Conditions of extreme peril to the safety of persons and property have arisen within the County of Sonoma caused by the Austin Creek "13-4" Fire (now named the Walbridge Fire) and the Fort Ross "11-16" Fire (now named the Meyers Fire), which have both been incorporated into the complex of fires known as the LNU Lightning Complex Fires. The LNU Lightning Complex Fires are fast-moving fires that have caused wildland destruction, destroyed structures, and threaten public infrastructure, and in Sonoma County, the Walbridge Fire has burned over 55,000 acres and the Meyers Fire has burned over 2,000 acres, together resulting in the loss of hundreds of structures.

On August 18, 2020, the Governor of the State of California proclaimed a State of Emergency exists in California due to fires burning statewide. The same day, the Director of Emergency Services for the County of Sonoma issued a proclamation of a local emergency for the County related to the LNU Lightning Complex Fires, and on August 21, 2020, the Board of Supervisors adopted Resolution No. 20-0317 ratifying the Director of Emergency Services' proclamation of the existence of a local emergency.

As result of the LNU Lightning Complex Fires, damages and dangerous conditions have arisen along County rights-of-way and other properties and facilities owned or maintained by the County that were sudden and unexpected and pose a clear and imminent danger requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services. These dangerous conditions include, but are not limited to: (a) the accumulation of compromised trees and other dangerous vegetation and debris, which need to be removed to protect first responders, staff and the public; and (b) damage to County owned or maintained properties and facilities, including roads and waterways.

The County does not have the capacity and/or expertise to repair some of the damages or remove some of dangerous conditions caused by the LNU Lightning Complex Fires and would normally issue a notice inviting bids to hire a contractor, which could take between two to three months from a minimum advertising period through assessing bids and awarding and executing contracts. This delay would mean that it would not be possible remove and stabilize the dangerous conditions needed to protect public health and safety in a timely manner.

Public Contract Code Section 22050 authorizes the Board of Supervisors to enter into contracts for the repair or replacement of public facilities as may be necessary to mitigate emergency conditions without giving notice for bids, and to delegate such authority to the County Administrator. Additionally, pursuant to Public Contract Code Section 22035, this emergency work may proceed without adopting plans or specifications. Under Sonoma County Code Section 2-351(b), the Board has delegated to the County Administrator authority to enter into emergency contracts for repair and replacement of public facilities in accordance with Public Contract Code Section 22050.

Actions taken by the County Administrator pursuant to these emergency contracting procedures must be reviewed by the Board of Supervisors within specified initial time periods and every two weeks thereafter, or the next regularly scheduled meeting if more than two weeks between meetings, to determine (by four-fifths vote) if there is need to continue the actions without competitive bidding. The waiver of the bid process must be terminated at the earliest possible date that conditions warrant so that the remainder of the work may be completed under the bid process.

The dangerous conditions that have resulted from the LNU Lightning Complex Fires necessitate emergency

work, which will not permit a delay resulting from competitive solicitation of bids. These may include the need to stabilize dangerous conditions affecting County roadways, such as hydro seeding, debris and vegetation removal, soil and slope stabilization, and repairs to roads and associated infrastructure. Accordingly, the requirements of public bidding contained in the Public Contract Code, should such requirements have been applicable absent an emergency, must be suspended because of the existence of the dangerous conditions in and along County rights-of -way and properties owned or maintained by the County, but that this suspension is limited to work deemed reasonable and necessary by the County Administrator to protect life and property and the environment and to provide continuity of public services as a result of the emergency from the LNU Lightning Complex Fires. Furthermore, all acts by the County Administrator with respect to emergency contracting pursuant to Sonoma County Code 2-351(b) and the Proclamation of Local Emergency for the Lightning Complex Fires are hereby ratified.

The requirements of the California Environmental Quality Act ("CEQA") do not apply to the emergency work because, among other reasons, the emergency work is categorically exempt from the requirements of CEQA pursuant to California Public Resources Code Sections 21080(b)(2), (b)(3) and (b)(4), and California Code of Regulations Title 14, Section 15269. The requirements of CEQA also do not apply because the emergency work is categorically exempt as a minor alteration to land under California Code of Regulations Title 14, Section 15304.

The County Administrator will return to the Board to provide a status report for continued review of the emergency actions in accordance with Section 22050 of the Public Contract Code.

Prior Board Actions:
None

FISCAL SUMMARY

Expenditures	**FY 20-21 Adopted**	**FY21-22 Projected**	**FY 22-23 Projected**
Budgeted Expenses			
Additional Appropriation Requested			
Total Expenditures			
Funding Sources			
General Fund/WA GF			
State/Federal			
Fees/Other			
Use of Fund Balance			
Contingencies			
Total Sources			

Narrative Explanation of Fiscal Impacts:
Fiscal impacts are unknown at this time, and will depend on size and scope of emergency work performed. Costs for all emergency related purchases and services will be submitted to the state and/or the federal government for any available reimbursement.

Staffing Impacts:			
Position Title (Payroll Classification)	**Monthly Salary Range (A-I Step)**	**Additions (Number)**	**Deletions (Number)**

Narrative Explanation of Staffing Impacts (If Required):
None

Attachments:
Resolution authorizing emergency contracting and waiving competitive bidding requirements

Related Items "On File" with the Clerk of the Board:
None