



## Legislation Text

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**File #:** 2020-1102, **Version:** 1

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**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

**Supervisory District(s):** Countywide

**Title:**

Receive Report on Required Emergency Work and Make Findings to Extend Emergency Contracting Actions and Waive Competitive Bidding Requirements Pursuant to Public Contract Code Section 22050 Due to the LNU Lightning Complex Fires

**Recommended Action:**

That the Board of Supervisors:

Receive report on required emergency work resulting from the LNU Lightning Complex Fires.

- A) Make findings that there is an ongoing need to continue emergency actions and for further emergency work resulting from the LNU Lightning Complex Fires.
- B) Continue to suspend competitive bidding requirements for emergency work.
- C) Delegate authority to the County Administrator and designee(s) to execute such emergency contracts.

(4/5th Vote Required)

**Executive Summary:**

This item requests the Board of Supervisors review current conditions and emergency actions taken in response to the LNU Lightning Complex Fires, and make findings to continue emergency contracting procedures and determine need to continue the emergency actions taken to date. Under the Public Contract Code, emergency actions and waivers of competitive bidding requirements undertaken pursuant to Section 22050 must be reviewed at certain initial and subsequent meetings of the public entity. As discussed below, emergency contracts continue to be necessary for directly and immediately addressing the continuing emergency conditions resulting from the LNU Lightning Complex Fires.

**Discussion:**

Conditions of extreme peril to the safety of persons and property have arisen within Sonoma County caused by the LNU Lightning Complex Fires. The LNU Lightning Complex Fires are fast-moving fires that have caused destruction of wildland habitat, and structures, and public infrastructure. 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 lacks the capacity and/or expertise to repair the damages or remove the dangerous conditions caused by the LNU Lightning Complex Fires in a timely manner. Even when expedited, normal procurement process to hire needed contractors takes 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 make repairs and remove and stabilize the damage and 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 and other agency officers. Additionally, pursuant to Public Contract Code Section 22035, this emergency work may proceed without adopting plans or specifications.

On October 13, 2020, the Board of Supervisors adopted a Resolution in accordance with Public Contract Code Section 22050, declaring an emergency need to repair and remove dangerous conditions resulting from the LNU Lightning Complex Fires, suspending the requirement of competitive bidding, delegating authority to execute contracts for emergency work, and taking other certain actions.

Actions taken by any delegated officer pursuant to these emergency contracting procedures must be reviewed by the Board of Supervisors within specified initial time periods and at subsequent regularly scheduled meetings in accordance with statute 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.

As a result of the LNU Lightning Complex Fires, damages to critical facilities and dangerous conditions arose and continue to exist. These 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. Such work is urgently needed in advance of winter rains for slope stabilization and hydro-seeding, which is a process of planting seeds that germinate quickly in fire damaged areas that are unstable due to a loss of brush and tree cover that would normally prevent erosion and slides.

Accordingly, the requirements of public bidding contained in the Public Contract Code, should such requirements have been applicable absent an emergency, must continue to be suspended because of the existence of the damages and dangerous conditions in and along County rights-of-way and properties owned or maintained by the County.

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:**

10/20/2020; 11/10/20: Receive Report on Required Emergency Work and Make Findings to Extend Emergency Contracting Actions and Waive Competitive Bidding Requirements Pursuant to Public Contract Code Section 22050 Due to the LNU Lightning Complex Fires.

10/13/2020 Resolution adopted authorizing emergency contracts for repairs and dangerous removal due to the LNU Lightning Complex Fires pursuant to Public Contract Code 22050.

**FISCAL SUMMARY**

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

**Narrative Explanation of Fiscal Impacts:**

No known fiscal impact. Costs for all emergency related purchases and services will be submitted to the state and/or the federal government for any available reimbursement.

<b>Staffing Impacts:</b>			
<b>Position Title (Payroll Classification)</b>	<b>Monthly Salary Range (A-I Step)</b>	<b>Additions (Number)</b>	<b>Deletions (Number)</b>

**Narrative Explanation of Staffing Impacts (If Required):**

None

**Attachments:**

None

**Related Items “On File” with the Clerk of the Board:**

None