



Agenda Date: 8/22/2006
Agenda Placement: 6K

NAPA COUNTY BOARD OF SUPERVISORS Board Agenda Letter

TO: Board of Supervisors
FROM: Robert Peterson - Director
Roads Department
REPORT BY: Juan Arias, PRINCIPAL PUB WORKS ENGINEER , 259-8374
SUBJECT: County Roads Storm Damage - Authorization for Emergency Contracting

RECOMMENDATION

Director of Public Works requests the following concerning Priority One 2005/2006 winter storm and flood road repairs:

1. Determine that the current condition of the roads identified as Priority One roads by the Director of Public Works to the Board of Supervisors on August 1, 2006 constitutes an emergency as defined by Section 1102 of the Public Contract Code;
2. Make a finding that the emergency nature of the Priority One road conditions will not permit a delay resulting from formal competitive solicitation for bids and that repair of the Priority One road damage is necessary to respond to the emergency; and
3. Authorize the Director of Public Works to award emergency construction contracts for Priority One winter storm and flood road projects pursuant to Public Contract Code Sections 20134(a) and 22050. (4/5 vote required)

EXECUTIVE SUMMARY

On August 1, 2006 the Board of Supervisors authorized the Director of Public Works to proceed with repairs identified as Priority One projects estimated at \$1,644,500 in advance of receipt of Federal/State reimbursement approval. In order to proceed with the repairs prior to the 2006/2007 rain season, emergency findings by the Board of Supervisors, per the definition of emergency under Public Contract Code Section 1102, and authorization for the Director of Public Works to award emergency contracts pursuant to Public Contract Code Sections 20134(a) and 22050 are required.

FISCAL IMPACT

Is there a Fiscal Impact? Yes

Is it currently budgeted?	Yes
Where is it budgeted?	Roads 2006/2007 budget. The highest priority projects are being requested to be completed prior to FEMA funding approval.
Is it Mandatory or Discretionary?	Mandatory
Is the general fund affected?	Yes
Future fiscal impact:	To the extent that FEMA or FHWA will not cover the full cost of repairs, the General Fund may be asked to loan funds to the Road Fund to cover the cost of Priority 1 repairs, with the understanding that the General Fund will be repaid as Road Fund revenues from whatever sources become available. At this point in time, it should not be assumed that FEMA nor FHWA will provide for full cost of repairs.
Consequences if not approved:	If Priority One projects are not completed before the upcoming winter, staff believes there is a significant chance that existing conditions could worsen causing potential impacts to the public and/or nearby structures.
Additional Information:	None

ENVIRONMENTAL IMPACT

This action is exempt from the California Environmental Quality Act pursuant to 14 California Code of Regulations section 15269 (b), "emergency repairs to publicly or privately owned service facilities necessary to maintain service essential to the public health, safety and welfare".

BACKGROUND AND DISCUSSION

On August 1, 2006 the Director of Public Works presented a report on the conditions of the County roads following the 2005/2006. After receiving the Director's report, the Board authorized the Director to proceed with repairs identified as Priority One projects estimated at \$1,644,500 in advance of receipt of Federal/State reimbursement approval. As indicated to the Board on August 1, if Priority One projects are not completed before the upcoming winter, staff believes there is a significant chance that existing conditions could worsen, causing potential major impacts to the public and/or nearby structures.

Drier soil conditions have now allowed the Department of Public Works to conduct geotechnical studies of flood affected areas and high priority flood repairs have been identified and need to be constructed prior to the 2006/2007 rain season. The geotechnical studies and engineering design for the Priority One projects are currently in substantial progress and will facilitate the engineered repairs if emergency contracting procedures are also utilized.

On August 1 the Board was also advised that staff would be returning with a request for Board approval to allow a fast track procurement process allowing contracts to be accelerated so work could be completed prior to the 2006/2007 rain season. In order to comply with the emergency contracting procedures under the Public Contract Code the Board is to make a finding the emergency nature of the Priority One road repairs will not permit a delay resulting from formal competitive solicitation for bids and that repair of the Priority One road damage is necessary to respond to the emergency. "Emergency" as defined under Public Contract Code Section 1102 means 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.

The 2005/2006 floods were clearly sudden, unexpected occurrences and the Priority One repairs could not be made immediately after the floods since geotechnical studies to engineer the repairs could not be performed due to the wet soil conditions. In addition, during this same timeline the Department of Public Works was working with the State of California Office of Emergency Services and with Caltrans so as to meet requirements prior to proceeding with the work in an attempt to make the Priority One projects eligible for Federal reimbursement from FEMA and FHWA. There is a clear and imminent danger, requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services if the Priority One projects are not completed prior to the 2006/2007 rain season. There are private homes and roads that could be severely impacted if the repairs are not performed. The Director of Public Works therefore recommends that the Board approve the findings for an "emergency" per the Public Contract Code definition of an emergency.

Public Contract Code Sections 20134(a) and 22050 establish that in cases of emergency, when repair or replacement are necessary to permit the continued conduct of county operations or services, the Board of Supervisors, by majority consent, may proceed at once to replace or repair any and all structures without adopting the plans, specifications, strain sheets, or working details and by a fourth-fifths vote, per Section 22050 (b)(1), delegate to the Director of Public Works the authority to let contracts without giving notice for bids. The Director of Public Works hereby requests that authority so as to initiate construction of the projects as immediately as possible so as to attempt to get them completed prior to the rain season.

SUPPORTING DOCUMENTS

None

CEO Recommendation: Approve

Reviewed By: Andrew Carey