

**REPORT/RECOMMENDATION TO THE BOARD OF SUPERVISORS
SITTING AS THE GOVERNING BOARD OF THE FOLLOWING:
SAN BERNARDINO COUNTY
SAN BERNARDINO COUNTY FLOOD CONTROL DISTRICT
AND RECORD OF ACTION**

September 26, 2023

FROM

BRENDON BIGGS, Director and Chief Flood Control Engineer, Department of Public Works – Transportation and Flood Control District

SUBJECT

Emergency Declaration for Repairs on County Roads, Bridges, and Flood Control Facilities in Various Communities

RECOMMENDATION(S)

1. Acting as the governing body of San Bernardino County:
 - a. Find that the local emergency declared by the Director of Emergency Services on August 20, 2023, and ratified by the Board of Supervisors on August 22, 2023 (Item No. 98), in response to the damage caused by Tropical Storm Hilary, has created the immediate and emergency need of providing County resources, services and expenditures to provide for emergency repair work on various County roads and bridges necessary to prevent or mitigate the loss or impairment of life, health, property, and essential public services.
 - b. Find that there is substantial evidence that damage to various County roads and bridges caused by Tropical Storm Hilary in the communities of Adelanto, Angelus Oaks, Barstow, Forest Falls, Helendale, Joshua Tree, Oak Glen, Phelan, Pinion Hills, San Bernardino, and Wrightwood, on August 19, 2023 through August 21, 2023, has created an emergency pursuant to Public Contract Code Section 22050, requiring immediate action to prevent and mitigate the loss or impairment of life, property, and service to the public and will not permit a delay resulting from a formal competitive solicitation of bids to repair the damage (Four votes required).
 - c. Approve **Resolution No. 2023-171** authorizing the Chair of the Board of Supervisors, Chief Executive Officer, Purchasing Agent, and Director of the Department of Public Works to issue Purchase Orders and/or contracts, in a total amount not-to-exceed \$4,060,000, for any emergency repairs, construction, and modifications related to the effects of the storm, and find that the issuance of these Purchase Orders and/or contracts is necessary to respond to this emergency pursuant to Public Contract Code sections 22035 and 22050 (Four votes required).
 - d. Authorize the Director of the Department of Public Works to accept the work when 100% complete and execute and file the Notices of Completion.
 - e. Direct the Chair of the Board of Supervisors, Chief Executive Officer, Purchasing Agent, and Director of the Department of Public Works to bring all contracts executed under Recommendation No. 1.c. back to the Board of Supervisors for ratification within 60 days of contract execution.

**Emergency Declaration for Repairs on County Roads, Bridges, and
Flood Control Facilities in Various Communities
September 26, 2023**

- f. Find the emergency repair work to various County roads and bridges described in Recommendation No. 1.b. is exempt under the California Environmental Quality Act Guidelines, Section 15269, Subdivisions (a), (b), (c), and (d) Emergency Projects.
 - g. Direct the Clerk of the Board of Supervisors to file and post the Notice of Exemption.
 - 2. Acting as the governing body of San Bernardino County Flood Control District:
 - a. Find that the local emergency declared by the Director of Emergency Services on August 20, 2023, and ratified by the Board of Supervisors on August 22, 2023 (Item No. 98), in response to the damage caused by Tropical Storm Hilary, has created the immediate and emergency need of providing County resources, services and expenditures to provide for emergency repair work on San Bernardino County Flood Control District facilities necessary to prevent or mitigate the loss or impairment of life, health, property, and essential public services.
 - b. Find that there is substantial evidence that damage to flood control facilities in the communities of Grand Terrace, Helendale, Hesperia, Joshua Tree, Mountain Home Village, Oak Glen, Phelan, Redlands, Wrightwood, and Yucaipa, on August 19, 2023 through August 21, 2023, has created an emergency pursuant to Public Contract Code Section 22050, requiring immediate action to prevent and mitigate the loss or impairment of life, property, and service to the public and will not permit a delay resulting from a formal competitive solicitation of bids to repair the damage (Four votes required).
 - c. Approve **Resolution No. 2023-171** authorizing the Chair of the Board of Supervisors, Chief Executive Officer, Purchasing Agent, and Chief Flood Control Engineer to issue Purchase Orders and/or contracts, in a total amount not-to-exceed \$2,955,000, for any emergency repairs, construction, and modifications related to the effects of the storm, and find that the issuance of these Purchase Orders and/or contracts is necessary to respond to this emergency pursuant to Public Contract Code sections 22035 and 22050 (Four votes required).
 - d. Authorize the Chief Flood Control Engineer to accept the work when 100% complete and execute and file the Notices of Completion.
 - e. Direct the Chair of the Board of Supervisors, Chief Executive Officer, Purchasing Agent, and Chief Flood Control Engineer to bring all contracts executed under Recommendation No. 2.c. back to the Board of Supervisors for ratification within 60 days of contract execution.
 - f. Find the emergency repair work to various San Bernardino County Flood Control District facilities described in Recommendation No. 2.b. is exempt under the California Environmental Quality Act Guidelines, Section 15269, Subdivisions (a), (b), (c), and (d) Emergency Projects.
 - g. Direct the Clerk of the Board of Supervisors to file and post the Notice of Exemption.
- (Presenter: Brendon Biggs, Director/Chief Flood Control Engineer, 387-7906)

COUNTY AND CHIEF EXECUTIVE OFFICER GOALS & OBJECTIVES

Operate in a Fiscally-Responsible and Business-Like Manner.

Provide for the Safety, Health and Social Service Needs of County Residents.

FINANCIAL IMPACT

Approval of this item will not result in the use of Discretionary General Funding (Net County Cost). The Department of Public Works (Department) is funded by Gas Tax revenue, fee revenue and other federal, state, and local funding. Preliminary estimates for the Department's emergency repairs total \$4,060,000, which includes debris removal, erosion repairs, sediment removal, road grading and other significant road repairs. Emergency work will be funded by Gas

**Emergency Declaration for Repairs on County Roads, Bridges, and
Flood Control Facilities in Various Communities
September 26, 2023**

Tax. Sufficient appropriation and revenue are included in the 2023-24 Road Operations budget (6650002000); however, this item will impact the Department's ability to perform routine maintenance work on other roads since the emergency repairs were not included in the budget.

The San Bernardino County Flood Control District (District) is funded by property tax revenue, fee revenue, and other local, state, and federal funding. Preliminary estimates for the District's emergency repairs total \$2,955,000, which includes debris removal and excavation, channel erosion repairs, levee repairs, basin excavation, and grading. Emergency work will be funded by Property Tax revenue. Sufficient appropriation and revenue are included in the District's 2023-24 budget; however, this item will impact the District's ability to perform routine maintenance work on other facilities since the emergency repairs were not included in the budget.

The County and the District will fully explore all cost recovery and reimbursement options available. A budget adjustment will be presented to the Board of Supervisors (Board) for approval in a future quarterly report to ensure timely maintenance of roads and facilities.

BACKGROUND INFORMATION

On Saturday, August 19, 2023 through Monday, August 21, 2023, various County roads and bridges and District flood control facilities sustained major damage due to thunderstorms and flooding caused by Tropical Storm Hilary. The storm produced conditions of peril to the safety of persons and property within the county. On August 20, 2023, the Director of Emergency Services proclaimed the existence of a local emergency as a result of Tropical Storm Hilary. On August 22, 2023 (Item No. 98), the Board ratified the action of the Director of Emergency Services in proclaiming the existence of a local emergency as a result of Tropical Storm Hilary and continued the local emergency for an additional period in accordance with Government Code section 8630(c).

The extreme weather caused by Tropical Storm Hilary has caused damage to various County roads and bridges located in the communities of Adelanto, Angelus Oaks, Barstow, Forest Falls, Helendale, Joshua Tree, Oak Glen, Phelan, Pinion Hills, San Bernardino, and Wrightwood. The damaged District facilities are located in the communities of Grand Terrace, Helendale, Hesperia, Joshua Tree, Mountain Home Village, Oak Glen, Phelan, Redlands, Wrightwood, and Yucaipa.

The Department estimates that it will be required to expend approximately \$4,060,000 to address damages consisting of debris and sediment cleanup, bridge replacement and repairs, erosion repairs, and roadway asphalt damage, as listed in the Financial Impact section. The District estimates that it will be required to expend approximately \$2,955,000 to address damages consisting of debris cleanup, and channel and levee repairs.

A delay to solicit competitive bids for the emergency repair work is not feasible, as the subject roads, bridges, and flood control facilities need to be immediately repaired in order to provide the public and emergency responders a safe route of travel. Department and District crews have been performing work to clear debris and repair erosion since the storm event occurred. The Department and District are currently utilizing on-call contractors to perform the emergency repair work pursuant to task orders issued under existing contracts. If the Department and District enter into new contracts for the emergency repair work under the delegated authority herein, such contracts will be brought back before the Board for ratification within 60 days of contract execution.

**Emergency Declaration for Repairs on County Roads, Bridges, and
Flood Control Facilities in Various Communities
September 26, 2023**

Approval of this item will find that substantial evidence exists that the damage to County roads, bridges, and flood control facilities caused by Tropical Storm Hilary has created an emergency pursuant to Public Contract Code Section 22050, requiring immediate action to prevent and mitigate the loss or impairment of life, property, and service to the public and will not permit a delay resulting from a formal competitive solicitation of bids to repair the damage. Accordingly, this item waives the Public Contract Code bidding requirements to address any emergency construction and modifications related to the effects of the storm, as immediate action is necessary to ensure the public safety and to mitigate loss to property. A delay to solicit competitive bids for the work is not feasible as immediate action is necessary.

The item recommends the Board find there is an emergency pursuant to Public Contract Code section 22050 that requires immediate action, and pursuant to Public Contract Code section 22035 and 22050 to authorize the Chair of the Board, Chief Executive Officer, Purchasing Agent, Director of the Department, and Chief Flood Control Engineer of the District to issue Purchase Orders and/or contracts for needed emergency, repair, construction, maintenance, or emergency services. Emergencies related to Public Contract Code section 22050, once ordered, must be affirmed at each subsequent meeting until terminated.

Due to the nature of the necessary emergency work, the Department and the District have determined that the repair of various County roads, bridges, and flood control facilities damaged by Tropical Storm Hilary is exempt under the California Environmental Quality Act (CEQA) section 15269, subdivisions (a), (b), (c), and (d). This CEQA section outlines emergency projects including, but not limited to, the repairs of public-owned service facilities necessary to maintain essential services to the public health, safety, and welfare. The District and Department have each prepared a CEQA Notice of Exemption for the emergency work and recommend the Board adopt the CEQA findings of an emergency project and direct the Clerk of the Board to file and post the Notices of Exemption.

PROCUREMENT

Not applicable.

REVIEW BY OTHERS

This item has been reviewed by County Counsel (Aaron Gest and Sophie A. Curtis, Deputies County Counsel, 387-5455) on September 18, 2023; Finance (Carl Lofton, Administrative Analyst, 387-5404) on September 18, 2023; and County Finance and Administration (Paloma Hernandez-Barker, Deputy Executive Officer, 387-5423) on September 18, 2023.

**Emergency Declaration for Repairs on County Roads, Bridges, and
Flood Control Facilities in Various Communities
September 26, 2023**

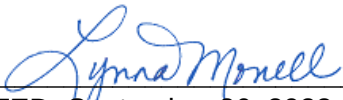
Record of Action of the Board of Supervisors
San Bernardino County Flood Control District
San Bernardino County

APPROVED (CONSENT CALENDAR)

Moved: Joe Baca, Jr. Seconded: Jesse Armendarez

Ayes: Col. Paul Cook (Ret.), Jesse Armendarez, Dawn Rowe, Curt Hagman, Joe Baca, Jr.

Lynna Monell, CLERK OF THE BOARD

BY 
DATED: September 26, 2023



cc: PW - Biggs w/ NOEs & Receipts
File - Emergency/Repairs on County Roads & Bridges (2023
August Tropical Storm Hilary)
JLL 09/26/2023