


MARIPOSA COUNTY BOARD OF SUPERVISORS

MINUTE ORDER

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TO: MIKE EDWARDS, Public Works Director  
FROM: MARGIE WILLIAMS, Clerk of the Board   
SUBJECT: FLOOD DISASTER PROJECTS FOR REPAIR; RES. 97-53, 97-54, 97-55

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THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, CALIFORNIA,

ADOPTED THIS Order on February 11, 1997

**ACTION AND VOTE:**

Discussion and Possible Action Regarding a Local Emergency Relative to the Flooding of the Merced River (No Folder) (County Administrative Officer); and Discussion and Possible Action and Direction to Staff Relative to an Agreement Between the County and Bureau of Land Management (BLM) Regarding Emergency Repair of the Access Road Below the Briceburg Bridge (No Folder) (County Counsel) (Continued from 2/4/97)

**BOARD ACTION:** Mike Edwards, Public Works Director, presented the Board with information from the Public Contract Code relative to provisions for waiving the formal bid process for projects as a result of the flood disaster, and advised that he has three projects for the Board to consider. Discussion was held concerning the Bureau of Land Management (BLM) project to repair the access road below Briceburg bridge - Mike advised that he feels they have solved the hold harmless clause issue for a contract and the payment and reimbursement issue so that the County is not fronting money from the General Fund, and emergency repair will allow for the rafting season to occur. (M)Reilly, (S)Parker, Res. 97-53 adopted authorizing Public Works Director to negotiate and execute an agreement with BLM and to issue a contract with the currently employed contractor by BLM for work in the River canyon for repairs on the access road below Briceburg bridge as a result of the flood disaster; said contract not to exceed \$158,000 and approval is contingent upon review and approval of the contract documents by County Counsel; plans and specifications for the project were approved, with direction given for a copy of the documents to be provided to the Board for review; and action was taken with the following findings pursuant to the Public Contract Code Section 1102: the emergency will not permit a delay resulting from a competitive solicitation for bids, and that the action is necessary to respond to the emergency; and the Board shall review the emergency action every 14 days, until the action is terminated, to determine that there is a need to continue the action/Ayes: Unanimous. The other projects were continued to later this date for consideration.

Continued Discussion and Possible Action Regarding a Local Emergency Relative to the Flooding of the Merced River (No Folder) (County Administrative Officer)

**BOARD ACTION:** Further discussion was held with Mike Edwards, Public Works Director, concerning waiver of normal contracting procedures for projects as a result of the flood disaster. Discussion was held concerning restoration of Incline Road before further damage occurs as a result of the spring run-off, and relative to removal of rock rip rap from the landfill for use in the flood recovery efforts. (M)Parker, (S)Balmain, Res. 97-54 adopted authorizing Public Works to proceed with both of these items as requested, and with the same findings as set forth earlier this date for the repair work on the access road below the Briceburg bridge/Ayes: Balmain, Stewart, Parker, Pickard; Abstained: Reilly. Discussion was held concerning road funding status - Mike Edwards advised that they are gathering information for the mid-year budget report and they will not issue a contract for the Incline Road repairs until further discussion is held during the mid-year report relative to their budget status; and he expressed concern with changes in the reimbursement process with FEMA and OES for these projects and the additional costs that the County will incur. He also noted there are unanticipated problems with other County roads due to the additional rains this winter and the costs for those repairs are not budgeted.

Mike Edwards advised that the Park is planning to remove about 1,000 tons of old asphalt as a part of the flood recovery efforts in the Valley, and the Park has asked the County if they could accept this material at the landfill and at a reduced rate. Discussion was held concerning the request, and Mike advised that the landfill can handle this material and perhaps it could be used to surface the haul roads, and he recommended accepting it on this one time basis at one-half the normal rate as it would require one-half of the work for normal refuse. Discussion was held relative to the possibility of using the material on the Incline Road repairs. (M)Reilly, (S)Pickard, Res. 97-55 adopted giving Public Works Director the discretion to accept the material at \$32.00 per ton, with the Park Service having the choice of stockpiling it in El Portal for use by the County, or taking it to the landfill/Ayes: Unanimous.

Janet Hogan, County Administrative Officer, advised that several bills have been introduced in Sacramento addressing the amount of reimbursement for disaster costs not covered by the Federal government, and she will be meeting with her colleagues this Thursday in Sacramento relative to these issues. Janet further advised of the receipt of HR 528 (Radanovich) relative to the flood disaster, and stated she has been in contact with Jesse Brown/Merced County Association of Governments, and staff is assisting with cost estimates relative to transportation issues, and she is still working on the tourism/promotional issue, and will have a specific proposal soon.

cc: Jeff Green, County Counsel  
Janet Hogan, County Administrative Officer  
Ken Hawkins, Auditor  
File

§ 102

PUBLIC CONTRACT CODE

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§ 102. Encouragement of competition and efficient administration; uniformity

Notes of Decisions

Competitive bidding 1

this section represents statement of goal, but does not impose any requirements on agencies. San Diego Service Authority for Freeway Emergencies v. Superior Court (Cubic Communications, Inc.) (App. 4 Dist. 1988) 244 Cal.Rptr. 440, 198 Cal.App.3d 1466, modified, review denied.

1. Competitive bidding

This section did not require local service authority for freeway emergencies to engage in competitive bidding;

Section 1600. Contract transi

Division 2

GENERAL PROVISIONS

Part

4. Arbitration of Public Works Contract Claims .....	Section 22200
5. Withheld Contract Funds .....	22300

§ 1600. Contr Notwithstand contracts by w documents, and (Added by Stats

Part 1

ADMINISTRATIVE PROVISIONS

Chapter

1.6. Electronic Transmissions .....	Section 1600
2. Responsive Bidders .....	2000
2.5. Certification of Minority and Women Business Enterprises .....	2050
4. Subletting and Subcontracting .....	4100
6. Awarding of Contracts .....	6100

1993 Legislatio Section 1 of Stat "The Legislatu "(a) As fiscal r capacity to fulfill t ment, new strategi efficiency, and stre "(b) A 1992 stu ment at Harvard U ogy and Governm technology has m government operat body of knowledge. "(c) Several mo advanced model be Department of De tional Laboratory. demonstrated signi

Chapter 1

DEFINITIONS

Section

1102. Emergency.

§ 1101. Public works contract

Code of Regulations References

Office of small business procurement and contracts, see 2 Cal. Code of Regs. § 1896 et seq.

Section 2000. Lowest bi ments busines cation o

Notes of Decisions

Reclaimed water use 1

fashion which, absent agreement, sanitation district would otherwise perform itself, and thus, agreement fell within definition of "public work contract." Boydston v. Napa Sanitation Dist. (App. 1 Dist. 1990) 272 Cal.Rptr. 458, 222 Cal.App.3d 1362, rehearing denied 273 Cal.Rptr. 331, 222 Cal.App.3d 1362, review denied.

1. Reclaimed water use

Primary purpose of agreement for reclaimed water use was to dispose of sludge and reclaimed water in utilitarian

§ 2000. Lowest enter (a) Notwithsta lowest responsibl responsible bidde

§ 1102. Emergency

"Emergency," as used in this code, 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.

(Added by Stats.1994, c. 803 (A.B.3348), § 1.)

(1) Meets goal contract by minor the goals and req evaluate the good paragraph (2). (2) Makes a go prior to the time agency relating to Additio

Additions or changes indicated by underline; deletions by asterisks \* \* \*

Historical and Statutory Notes

1986 Legislation and amendment by Stats.1986, c. 1019. See Historical Note under Bus. & Prof.C. § 5678.5. Renumbering of this section as § 21914 and amendment by Stats.1986, c. 248, was subordinated to its renumbering

§ 22045. Implementation of procedures review; commission recommendation

(a) No later than January 1, 1985, the commission shall recommend, for adoption by the Controller, written procedures implementing the accounting procedures review provided for in this article.

(b) The Controller shall, upon receipt of the commission's recommendation, review and evaluate the recommended procedures, and either formally adopt or reject the recommended procedures within 90 days of submission of the commission.

(Formerly § 21215, added by Stats.1983, c. 1054, § 1. Renumbered § 22045 and amended by Stats.1986, c. 1019, § 67.)

Historical and Statutory Notes

1986 Legislation and amendment by Stats.1986, c. 1019. See Historical Note under Bus. & Prof.C. § 5678.5. Renumbering of this section as § 21915 and amendment by Stats.1986, c. 248, was subordinated to its renumbering

Chapter 2.5

EMERGENCY CONTRACTING PROCEDURES

Section 22050. Contracts without bids; procedures.

Chapter 2.5 was added by Stats.1994, c. 803 (A.B.3348), § 88.

§ 22050. Contracts without bids; procedures

(a)(1) In the case of an emergency, a public agency, pursuant to a four-fifths vote of the governing body, may repair or replace a public facility, take any directly related and immediate action required by that emergency, and procure the necessary equipment, services, and supplies for those purposes, without giving notice for bids to let contracts.

(2) Before a governing body takes any action pursuant to paragraph (1), it shall make a finding, based on substantial evidence set forth in the minutes of its meeting, that the emergency will not permit a delay resulting from a competitive solicitation for bids, and that the action is necessary to respond to the emergency.

(b)(1) The governing body, by a four-fifths vote, may delegate, by resolution or ordinance, to the appropriate county administrative officer, city manager, chief engineer, or other nonelected agency officer the authority to order any action pursuant to paragraph (1) of subdivision (a).

(2) If the public agency has no county administrative officer, city manager, chief engineer, or other nonelected agency officer, the governing body, by a four-fifths vote, may delegate to an elected officer the authority to order any action specified in paragraph (1) of subdivision (a).

(3) If a person with authority delegated pursuant to paragraph (1) or (2) of this section orders any action specified in paragraph (1) of subdivision (a), that person shall report to the governing body, at its next meeting required pursuant to this section, the reasons justifying why the emergency will not permit a delay resulting from a competitive solicitation for bids and why the action is necessary to respond to the emergency.

(c)(1) If the governing body orders any action specified in subdivision (a), the governing body shall review the emergency action at its next regularly scheduled meeting and, except as specified below, at every regularly scheduled meeting thereafter until the action is terminated, to determine, by a four-fifths vote, that there is a need to continue the action. If the governing body meets weekly, it may review the emergency action in accordance with this paragraph every 14 days.

(2) If a person with authority delegated pursuant to subdivision (b) orders any action specified in paragraph (1) of subdivision (a), the governing body shall initially review the emergency action not later than seven days after the action, or at its next regularly scheduled meeting if that meeting will occur not later than 14 days after the action, and at least at every regularly scheduled meeting thereafter until the

Additions or changes indicated by underline; deletions by asterisks \* \* \*

§ 22050

PUBLIC CONTRACT CODE

action is terminated, to determine, by a four-fifths vote, that there is a need to continue the action, unless a person with authority delegated pursuant to subdivision (b) has terminated that action prior to the governing body reviewing the emergency action and making a determination pursuant to this subdivision. If the governing body meets weekly, it may, after the initial review, review the emergency action in accordance with this paragraph every 14 days.

(3) When the governing body reviews the emergency action pursuant to paragraph (1) or (2), it shall terminate the action at the earliest possible date that conditions warrant so that the remainder of the emergency action may be completed by giving notice for bids to let contracts.

(d) As used in this section, "public agency" has the same meaning as defined in Section 22002.

(e) A three-member governing body may take actions pursuant to subdivision (a), (b), or (c) by a two-thirds vote.

(f) This section applies only to emergency action taken pursuant to Sections 20133, 20163, 20193, 20205.1, 20134, 20168, 20205.1, 20213, 20223, 20233, 20253, 20273, 20283, 20293, 20313, 20331, 20567, 20586, 20604, 20635, 20645, 20685, 20736, 20751.1, 20806, 20812, 20914, 20918, 20926, 20931, 20941, 20961, 20991, 21020.2, 21024, 21031, 21043, 21061, 21072, 21081, 21091, 21101, 21111, 21121, 21131, 21141, 21151, 21161, 21171, 21181, 21191, 21196, 21203, 21212, 21221, 21231, 21241, 21251, 21261, 21271, 21290, 21311, 21321, 21331, 21341, 21351, 21361, 21371, 21381, 21391, 21401, 21411, 21421, 21431, 21441, 21451, 21461, 21472, 21482, 21491, 21501, 21511, 21521, 21531, 21541, 21552, 21567, 21572, 21581, 21591, 21601, 21618, 21624, 21631, 21641, and 22035.

(Added by Stats.1994, c. 803 (A.B.3348), § 88.)

Cross References

Emergency defined, see Public Contract Code § 1102.

Chapter 3

ACQUISITION OF ELECTRONIC DATA PROCESSING

§ 22102. District

Cross References

Southern California rapid transit district, successor, see Public Utilities Code § 130050.2 et seq.

Part 4

ARBITRATION OF PUBLIC WORKS CONTRACT CLAIMS

Section

22200. Definitions.

22201. Arbitration provisions permitted.

Part 4 was added by Stats.1988, c. 1408, § 10.

§ 22200. Definitions

As used in this part:

(a) "Public works contract" means, except for a contract awarded pursuant to the State Contract Act (Part 2 (commencing with Section 10100)), a contract awarded through competitive bids or otherwise by the state, any of its political subdivisions or public agencies for the erection, construction, alteration, repair, or improvement of any kind upon real property.

(b) "Claim" means a demand for monetary compensation or damages, arising under or relating to the performance of any public works contract.

(Added by Stats.1988, c. 1408, § 10.)

Historical and Statutory Notes

1988 Legislation

Section 12 of Stats.1988, c. 1408, provides:

"The transfer of provisions of law from the Government Code to the Public Contract Code made by Sections 1, 2,

Additions or changes indicated by underline; deletions by asterisks \* \* \*

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§ 22201. Arbi

Unless other bidding and of Section 10240) c (Added by Stats

Derivation: Fo 1981, c. 769, § 1.

Section 22300. Perform. substit

§ 22300. Perform.

(a) Provisions substitution of contract, provided there will be finan of Agriculture pur seq.), and where fe request and exper with the public age shall then pay th securities shall be

(b) Alternatively directly to the esc contractor may dir interest earned on deposited by the co from the escrow a owner, pursuant to than 20 days of rec to retention with the performance of the

(c) Securities elig Government Code, accounts, standby le public agency.

The contractor sh receive any interest

Failure to include performance retentio

For purposes of chartered cities.

(d) The Legislatu necessary to encoura

Additions