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ADD ON

AGENDA	
Section	NEW BUSINESS
Item No.	VI A 2

Meeting Date
November 1, 2016



AGENDA REPORT
BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

SUBJECT:	RESOLUTION: A resolution declaring that it is in the public interest to have hurricane debris removed from private roads in Brevard County, authorizing the Solid Waste Management Director to request that FEMA approve the removal of debris from these areas.
DEPT/OFFICE:	Solid Waste Management Department

Requested Action:

It is requested that the Board of County Commissioners execute the resolution declaring it in the public interest to remove debris from certain private right of ways in Brevard County and request the Federal Emergency Management Agency approve said removal, therefore, making it eligible for federal reimbursement for cleanup costs. In addition, in order to be eligible for reimbursement for costs the County is required to indemnify and holding harmless the Federal Government from claims arising from debris removal, and certify that the County shall satisfy all legal process and receive all legal permissions to carry out these actions.

Summary Explanation & Background:

The Federal Emergency Management Agency ("FEMA") provides reimbursement to local governments who conduct eligible debris removal operations following a major disaster or emergency declared by the President. For most declared incidents, a local applicant would be responsible for 12.5% of debris removal costs.

As a general rule, FEMA will not provide reimbursement for the removal of debris from private property, including commercial property as well as private roads located within gated communities. However, if debris on private property is so widespread that it threatens public health and safety or the economic recovery of the community, then FEMA may provide reimbursement for this type of debris removal if certain conditions are met.

Specifically, in order to receive reimbursement for debris removal on private property, a local government must submit a written request to FEMA and must receive approval from FEMA. Any removal conducted prior to receiving approval from FEMA would be ineligible for reimbursement. The County must submit the request through the State Coordinating Officer to the Federal Coordinating Officer (FEMA) and in order for the State to recommend approval of the request the request must meet a number of specific requirements and include the required documentation including (1) a local public interest determination as presented in the subject resolution; (2) documentation supporting the County's legal authority to remove debris from private roads, (3) indemnification of federal government and its employees against any claims arising from the removal of debris, (4) assurance that there will be not duplication of benefits, and (5) identification of the specific properties or areas of properties for which the County is requesting approval. The attached Resolution addresses and the letter requesting FEMA reimbursement will address all these conditions.

Clerk to the Board Instructions: Please sign and attest three (3) copies of the Agreement and return two (2) originals to the Department.

Exhibits Attached: RESOLUTION (reviewed by County Attorney)

Contract /Agreement (If attached): Reviewed by County Attorney Yes No PR

County Manager		Assistant County Manager	Department Director / Extension Euripides Rodriguez x52042
Stockton Whitten		Assistant County Manager	

RESOLUTION 16-

WHEREAS, on October 6th and 7th, 2016, BREVARD COUNTY encountered hurricane conditions from Hurricane Matthew and a threat continues to exist to the lives and property of the people of Brevard County due to damage caused by Hurricane Matthew including excessive debris on public right of ways and private roads; and

WHEREAS, Hurricane Matthew caused extensive damage to the unincorporated area and within all cities and municipalities contained within the geographic area of Brevard County; and

WHEREAS, the Florida Department of Health Director of Brevard County declared on October 19, 2016, that the large amounts of hurricane debris scattered throughout the County presents an immediate threat to life, public health or safety; and

WHEREAS the Health Director further declared that the removal of this debris from public and private property within the County is necessary to ensure the operation of public safety services, such as fire and rescue; to prevent the obstruction of stormwater runoff; and to mitigate the potential for standing water which could act as a wet receptor for mosquitoes carrying viruses, including but not limited to, the Zika virus;

WHEREAS, on October 25, 2016, the Chairman of the Board of County Commissioners executed the third extension of the State of Local Emergency in order for the County to continue to provide such emergency measures including, but not limited to, providing for the health and safety of persons and property; and

WHEREAS, the Board of County Commissioners declares the large amounts of disaster-related debris should be removed from public right-of-ways and certain private roads, including those within gated communities in unincorporated Brevard County without delay; and

NOW, THEREFORE, IT IS RESOLVED THIS 1st day of November, 2016, that the Board of County Commissioners of Brevard County determines that it is in the public interest to have debris removed from certain private right of ways in order to eliminate immediate threats to life, public health and safety, eliminate threats of significant damage to improved property, and ensure the economic recovery of the affected community to benefit the community-at-large.

BE IT FURTHER RESOLVED that the Board of County Commissioners of Brevard County does hereby:

1. Request the Federal Emergency Management Agency (FEMA) to approve the removal of debris from certain private right of ways within unincorporated Brevard County, pursuant to the terms and conditions of the Stafford Act, 42 U.S.C. 5121 et seq., FEMA Regulations as published at 44 CFR 206.222 - 206.224, and the Public Assistance Program and Policy Guide FP 104-009-2.

2. Certify that before the County initiates hurricane-generated debris removal from private roads it shall satisfy all the legal processes and receive all legal permissions to carry out these actions of debris removal through the use of Rights of Entry with indemnity clauses signed by the homeowners association, or if no homeowners association exists, by each property owner/lessor that uses said specified private road.
3. Recognize and respect all laws and regulations regarding historic preservation and environmental protection.
4. Acknowledge that no reconstruction debris, vehicles, vessels, or other non-related storm debris will be removed under this request.
5. Agree that it shall indemnify and hold harmless the Federal Government and its respective employees, agents, contractors, and subcontractors from any claims arising from debris removal.
6. Acknowledge that, in accordance with section 305 of the Stafford Act (42 U.S.C. § 5148), the Federal Government shall not be liable for any claim based upon the exercise or performance of or the failure to exercise or perform a discretionary function or duty on the part of a Federal agency or an employee of the Federal Government in carrying out the provisions of the Act.

RESOLVED AND ADOPTED this 1st day of November, 2016.

ATTEST:

BOARD OF COUNTY COMMISSIONERS OF
BREVARD COUNTY, FLORIDA

Scott Ellis, Clerk

By:

Jim Barfield
Chair, Brevard County Commission