



AGENDA NO: Emergency Item I

MEETING DATE: January 10, 2023

Staff Report

TO: Honorable Mayor and City Council

DATE: January 10, 2023

FROM: Scott Collins, City Manager

SUBJECT: Findings to Add Emergency Item to Agenda; Adopt Resolution No. 05-23 Proclaiming and Affirming the Existence of a Local Emergency, and Confirming and Ratifying Proclamation by City’s Director of Emergency Services of Existence of a Local Emergency, In Response to 2023 Winter Storm Surge

RECOMMENDATION

Staff recommends the City Council:

1. Make the necessary findings to add this agenda item as an emergency item to the agenda less than 72 hours prior to the meeting; and
2. Adopt Resolution No. 05-23 Proclaiming and Affirming the Existence of a Local Emergency, and Confirming and Ratifying the Proclamation by the City’s Director of Emergency Services of Existence of a Local Emergency In response to 2023 Winter Storm Surge.

FIRST ACTION - PROCEDURE FOR ADDING EMERGENCY AGENDA ITEM

Council is asked to add this emergency item to the agenda by adopting below three findings in **bold**.

Gov. Code section 54954.2(b)(2) provides Council may add a non-agendized item for action at a meeting by making requisite findings supported by a two-thirds vote of the Council members present at the meeting; or, if less than two-thirds of the members are present, a unanimous vote of members present. Findings to add a non-agendized item for action under Gov. Code section 54954.2(b)(2) are:

- (1) there is a need to take immediate action, and**
- (2) the need for action came to the attention of the local agency subsequent to the agenda being posted.**

Gov. Code section 54954.2(b)(1) also provides Council may add a non-agendized item for action at a meeting if by a majority vote of the Council a finding is made that:

- (3) an emergency situation exists being an event “that severely impairs public health, safety or both” (Gov. Code section 54956.5).**

A ferocious winter storm surge has generated the existence of a local state of emergency. The City Manager yesterday issued a Proclamation of the Existence of a Local Emergency. This Emergency Proclamation was issued after the publication of the agenda for the regularly scheduled City Council meeting of January 10, 2023.

01181.0001/849733.1

Prepared By: ___DS/CFN___

Dept Review: _____

City Manager Review: _____

City Attorney Review: ___CFN___

Gov. Code section 8630(b) provides that “[w]henver a local emergency is proclaimed by an official designated by ordinance, the local emergency shall not remain in effect for a period in excess of seven days unless it has been ratified by the governing body.”

BACKGROUND

On January 4, 2023, Governor Newsom issued a [“Proclamation of a State of Emergency”](#) relating to severe winter storms and a series of atmospheric river systems that struck California, bringing high winds, substantial precipitation, and river, stream, and urban flooding. The Governor’s Proclamation declared that conditions of extreme peril to the safety of persons and property exist due to these storms. These storms have already forced closures and caused damage to highways and roads, as well as caused levee and culvert failures, and mandatory evacuations in severely impacted counties, and such impacts will likely continue to be caused by the ongoing and forecasted storm surge. The storms threatened, and continue to imminently threaten, critical infrastructure including utilities and thoroughfares, movement of resources, runoff in burn scars from recent wildfires potentially causing mud and debris flows, power outages to thousands of households and businesses, river, and urban flooding due to excessive and prolonged rainfall.

The City of Morro Bay has specifically been, and is under continued threat to be, adversely impacted by the above-referenced winter storms in a manner that threatens local infrastructure and public health and safety, and which exceeds the capacity of the City to address with its own personnel, resources, or in a timely manner to protect life and property, particularly if bound by strict compliance with various statutes and regulations.

Commencing on or about 8:00 a.m. on January 9, 2023 conditions of disaster or extreme peril to the safety of persons and property within the City have already included rising water levels throughout the San Luis Obispo Creek system, flooding, major street and highway closures; and damage or threatened damage to City infrastructure presenting imminent peril to the health, safety and welfare of City residents and businesses and to City staff and operations.

DISCUSSION

After consideration of the facts reasonably available at the time, on January 9, 2023 at approximately 1:30 p.m., the City Manager acting as the Director of Emergency Services proclaimed the existence of a state of local emergency to make additional resources available to address the conditions of disaster or extreme period caused by severe winter storms, rising water levels along Morro Creek and throughout other areas of the city and damage or threatened damage to City infrastructure.

Pursuant to [Government Code § 8630](#) a local emergency throughout the City declared by the Director of Emergency Services shall not remain in effect for a period in excess of seven (7) days unless it has been ratified by the City Council; therefore, the Director of Emergency Services requests the City Council ratify and affirm the existence of a local emergency throughout the City of Morro Bay.

CONCLUSION

Staff recommends that Council adopt Resolution No. 05-23 and provide other direction as deemed appropriate by a majority of the Council.

ATTACHMENTS:

1. Resolution No. 05-23 Proclaiming and Affirming the Existence of a Local Emergency
 - a. Proclamation of the Existence of a Local Emergency (January 9, 2023)
2. [Link](#) to Morro Bay Municipal Code Chapter 8.08
3. Resolution No. 24-20 Establishing the City’s Emergency and Disaster Purchasing Policy

RESOLUTION NO. 05-23

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORRO BAY, STATE OF CALIFORNIA, PROCLAIMING AND AFFIRMING THE EXISTENCE OF A LOCAL EMERGENCY, AND CONFIRMING AND RATIFYING PROCLAMATION BY CITY'S DIRECTOR OF EMERGENCY SERVICES OF EXISTENCE OF A LOCAL EMERGENCY, IN RESPONSE TO 2023 WINTER STORM SURGE

WHEREAS, the California Emergency Services Act, Government Code sections 8550 *et seq.*, including sections 8558(c) and 8630, authorize the proclamation of a local emergency, when conditions of a disaster or extreme peril to the safety of persons and property exist within the territorial limits of a city; and

WHEREAS, pursuant to the provisions of Government Code section 8558(b), on January 4, 2023 the Governor of the State of California issued a "Proclamation of a State of Emergency" ("Governor's Proclamation") relating to severe winter storms and a series of atmospheric river systems that struck California, bringing high winds, substantial precipitation, and river, stream and urban flooding. The Governor's Proclamation declared that conditions of extreme peril to the safety of persons and property exist due to these storms, ordering and finding in relevant part as follows:

- A. **(i)** All agencies of the state government to utilize and employ state personnel, equipment, and facilities for the performance of any and all activities consistent with the direction of the Office of Emergency Services and the State Emergency Plan. Also, all residents are to obey the direction of emergency officials with regard to this emergency in order to protect their safety; **(ii)** The Office of Emergency Services shall provide assistance to local governments, if appropriate, under the authority of the California Disaster Assistance Act, Government Code section 8680 *et seq.*, and California Code of Regulations, Title 19, section 2900 *et seq.*; **(iii)** As necessary to assist local governments and for the protection of public health and the environment, State agencies shall enter into contracts to arrange for the procurement of materials, goods, and services necessary to quickly assist with the response to and recovery from the impacts of these storms. Applicable provisions of the Government Code and the Public Contract Code, including but not limited to travel, advertising, and competitive bidding requirements, are suspended to the extent necessary to address the effects of these storms; **(iv)** The California Department of Transportation shall formally request immediate assistance through the Federal Highway Administration's Emergency Relief Program, United States Code, Title 23, section 125, in order to obtain federal assistance for highway repairs or reconstruction; **(v)** The California National Guard may be mobilized under Military and Veterans Code section 146 to support disaster response and relief efforts, as directed by the Office of Emergency Services, and to coordinate with all relevant state agencies and state and local emergency responders and law enforcement within the impacted areas. Sections 147 and 188 of the Military and Veterans Code are applicable during the period of participation in this mission, exempting the California Military Department from applicable procurement rules for specified emergency purchases, and those rules are hereby suspended; **(vi)** Any state-owned properties the Office of Emergency Services determines suitable for staging of debris as a result of these storms shall be made available to the Office of Emergency Services for this purpose in accordance with Government Code section 8570;

(vii) Drivers may exceed the hours-of-service limits specified in California Vehicle Code section 34501.2 and California Code of Regulations, Title 13, section 1212.5 while operating a vehicle engaged in fuel transportation in support of emergency relief efforts, subject to the following conditions: a. Motor carriers or drivers currently subject to an out-of-service order are eligible for the exemption once the out-of-service order expires or when they have met the conditions for its rescission. b. In accordance with Section 1214, Title 13, California Code of Regulations, no motor carrier operating under the terms of this Proclamation will require or allow an ill or fatigued driver to operate a motor vehicle. A driver who notifies a motor vehicle carrier that they need immediate rest shall be given at least ten consecutive hours off-duty before being required to return to service. c. Drivers shall maintain a driver's record of duty status, regardless of number of hours worked each day. These records shall be prepared, submitted, and maintained as required by Section 1213, Title 13, California Code of Regulations; (viii) Consistent with Parts 390 and 395, Title 49, Code of Federal Regulations, drivers may exceed the hours-of-service limits specified while operating a vehicle engaged in fuel transportation in support of emergency relief efforts. These waivers shall be in effect for the duration of the driver's direct assistance in providing emergency relief, or thirty (30) days from the date of this Proclamation, whichever is less; and (ix) In order to allow out-of-state contractors and other utilities driving their own vehicles to provide mutual aid assistance for the restoration of electrical power within the counties impacted by these storms, applicable provisions of the Vehicle Code including, but not limited to, Vehicle Code section 34620 requiring a motor carrier permit [licensing] and imposition of certain fees, are suspended for motor carriers providing such assistance. Also, the requirements for motor carriers and drivers in Vehicle Code sections 1808.1 [pull-notice program that checks for driver's license violations], 27900 [display name on vehicle], 27901 [size and color of display name on vehicle], 34505.5 [requirement to have been inspected within 90 days], and 34501.12 [requirement to set up home base in California] are suspended while providing mutual aid assistance for the emergency restoration of services.

- B. The Governor's Proclamation conclusively found that (i) the conditions caused by these storms, by reason of their magnitude, are or are likely to be beyond the control of the services, personnel, equipment, and facilities of any single local government and require the combined forces of a mutual aid region or regions to appropriately respond; (ii) local authority is inadequate to cope with the magnitude of the damage caused by these storms pursuant to the provisions of Government Code section 8625(c); and (iii) under the provisions of Government Code section 8571, strict compliance with various statutes and regulations specified in his Proclamation would prevent, hinder, or delay the mitigation of the effects of these storms.
- C. The recitals and findings of the Governor's Proclamation are referenced and incorporated herein as though set forth in full and are hereby adopted as the recitals and findings of this Resolution; and

WHEREAS, in preparation for the forecasted storms, multiple California Conservation Corps flood fight crews, fire swift water rescue, and urban search and rescue teams have been strategically pre-positioned for emergency response; sandbags have been made available throughout the State; and shelters are opening for displaced individuals; and

WHEREAS, these storms have already forced closures and caused damage to highways and roads, as well as caused levee and culvert failures, and mandatory evacuations in severely impacted counties, and such impacts will likely continue to be caused by the ongoing and

forecasted storm surge. The storms threatened, and continue to imminently threaten, critical infrastructure including utilities and thoroughfares, movement of resources, runoff in burn scars from recent wildfires potentially causing mud and debris flows, power outages to thousands of households and businesses, river, and urban flooding due to excessive and prolonged rainfall; and

WHEREAS, Government Code section 8558(c) defines “local emergency” conditions to include flood, storm, hazardous materials incident, sudden and severe energy shortage, or other conditions that are or are likely to be, beyond the control of the services, personnel, equipment and facilities of this City, requiring the combined forces of other political subdivisions to combat; and

WHEREAS, due to the series of atmospheric river systems continuously impacting counties throughout the State, counties and local governments have not had time to mitigate the cascading impacts of these storms resulting in the above-described damages already being incurred throughout the State; and

WHEREAS, the City of Morro Bay has specifically been, and is under continued threat to be, adversely impacted by the above-referenced winter storms in a manner that threatens local infrastructure and public health and safety, and which exceeds the capacity of the City to address with its own personnel, resources, or in a timely manner to protect life and property, particularly if bound by strict compliance with various statutes and regulations. Commencing on or about 8:00 a.m. on January 9, 2023 conditions of disaster or extreme peril to the safety of persons and property within the City have already included rising water levels throughout the San Luis Obispo Creek system, flooding, major street and highway closures; and damage or threatened damage to City infrastructure presenting imminent peril to the health, safety and welfare of City residents and businesses and to City staff and operations; and

WHEREAS, the Morro Bay Municipal (“MBMC”) Code appoints the City Manager as the Director of Emergency Services and MBMC Code section 8.08.060(A)(1) empowers the Director to issue an emergency proclamation if the City Council is not in session; and

WHEREAS, after consideration of all facts reasonably available presently then for review and all items, on January 9, 2023 the City’s Director of Emergency Services declared a local emergency, and thereby activated the Emergency Operations Center; and

WHEREAS, pursuant to Government Code section 8630 and MBMC section 8.08.060, a local emergency declared by the Director of Emergency Services shall not remain in effect for a period in excess of seven (7) days unless it has been ratified by the City Council; and

WHEREAS, the health, safety and welfare of City residents, businesses, visitors and staff are of utmost importance to the City and additional future measures may be needed to protect the community. The mobilization of local resources, ability to coordinate interagency response, accelerate procurement of vital supplies, use mutual aid, and allow for future reimbursement by the state and federal governments will be critical to successfully responding to the present storm-related state of emergency. The City may require additional assistance in the future, and proclamation of local emergency allows additional resources to flow to the City in a timely manner; and

WHEREAS, the Director of Emergency Services requests that the City Council of the City of Morro Bay proclaim and affirm the existence of a local emergency throughout the City and ratify

the proclamation on January 9, 2023 by the Director of Emergency Services of the existence of a state of local emergency; and

WHEREAS, after consideration of all facts reasonably available for review and all items, the City Council of the City of Morro Bay now desires to proclaim and affirm the existence of a state of emergency throughout the City to make additional resources available to address the disaster impacts of the above-described 2023 winter storm surge, ratify the proclamation of the Director of Emergency Services made on January 9, 2023, and affirm the existence of a state of local emergency for the City of Morro Bay.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MORRO BAY, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

1. **Recitals.** The City Council hereby finds and believes that the above recitals are true and correct and incorporate them herein by this reference.
2. **Proclamation of Local Emergency.** The actual existence of conditions of extreme peril to the safety of persons and property have arisen within the City of Morro Bay, caused by the effects of the above-described 2023 winter storm surge. The City Council, based upon the foregoing, now does proclaim, declare, and affirm the existence of a local emergency throughout the City.
3. **Ratification.** The aforementioned conditions of extreme peril warranted and necessitated the proclamation of the existence of a local emergency throughout the City of Morro Bay by the City's Director of Emergency Services on January 9, 2023. The City Council of the City of Morro Bay does hereby ratify and affirm the proclamation of a local emergency throughout the City of Morro Bay by the City's Director of Emergency Services on January 9, 2023 (attached hereto and incorporated herein by reference).
4. **Authority.** During the existence of said local emergency, the powers, authority, functions and duties of the Director of Emergency Services and the City's emergency services organizations shall be those prescribed by state law, all applicable law, City ordinances, resolutions, and approved plans of the City in order to mitigate the effects of said local emergency. In this regard, the Council desires to make clear the powers, functions, and duties of the Emergency Services Director include, but are not limited to, the authority provided for in Chapter 8.08 (Emergency Services Organization) of the MBMC, which provides, in part, the authority of the Emergency Services Director to both make and issue rules and regulations on matters reasonably related to the protection of life and property as affected by such emergency (MBMC § 8.08.060(A)(6)(a)), as well as to obtain vital supplies, equipment, and such other properties found lacking and needed for the protection of life and property and to bind the City for the fair value thereof and, if required immediately, to commandeer the same for public use (MBMC § 8.08.060(A)(6)(b)).
5. **Duration.** The City Council shall review the need for continuing the local emergency at least once every 60 days until the governing body terminates the local emergency. The City Council shall proclaim the termination of the local emergency at the earliest possible date that conditions warrant. (Government Code § 8630.)
6. **Severability.** If any subsection, sentence, clause, phrase, or word of this Resolution or any application of it to any person, structure, gathering, or circumstance is held to be invalid or unconstitutional by a decision of a court of competent jurisdiction, then such

decision will not affect the validity of the remaining portions or applications of this Resolution.

7. **Effective Date of Resolution.** This Resolution shall be effective immediately upon passage and adoption. The City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.
8. **Publication.** This Resolution and its contents will be published and promulgated in as widespread a manner as is reasonably feasible under the conditions prevailing during this local emergency.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Morro Bay, California, at a regular meeting thereof held on the 10th day of January 2023 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

CARLA WIXOM, Mayor

ATTEST:

DANA SWANSON, City Clerk

PROCLAMATION OF THE EXISTENCE OF A LOCAL EMERGENCY

WHEREAS, California Government Code Section 8630 empowers the Morro Bay City Council to proclaim the existence or threatened existence of a local emergency when the City of Morro Bay is affected or likely to be affected by a public calamity; and,

WHEREAS, In Morro Bay Municipal Code ("MBMC") § 8.08.050(A) appoints the City Manager as the Director of Emergency Services ("Director") when the City is affected or likely to be affected by a public calamity; and

WHEREAS, MBMC § 8.08.060(A)(1) empowers the Director to proclaim the existence or threatened existence of a local emergency if the City Council is not in session; and

WHEREAS, Government Code Section 8558 (c) defines such conditions to include flood, storm, hazardous materials incident, sudden and severe energy shortage, or other conditions that are or are likely to be, beyond the control of the services, personnel, equipment and facilities of this city, requiring the combined forces of other political subdivisions to combat; and

WHEREAS, on January 4, 2023 the Governor of the State of California issued a Proclamation of a State of Emergency related to severe winter storms and a series of atmospheric river systems that struck California, bringing high winds, substantial precipitation, and river, stream and urban flooding, the recitals and findings of which are referenced and incorporated herein as though set forth in full and are hereby adopted as the recitals and findings of the Emergency Services Director; and

WHEREAS, the City of Morro Bay has been adversely impacted by the above-referenced winter storms in a manner that threatens local infrastructure and public health and safety, and which exceeds the capacity of the City to address with its own personnel and resources; and

WHEREAS, the City Manager, as Emergency Services Director of the City of Morro Bay, does hereby find that:

- Conditions of disaster or extreme peril to the safety of persons and property have arisen within the City of Morro Bay, caused by severe winter storms, rising water levels along Morro Creek and throughout other areas of the city and damage or threatened damage to City infrastructure presenting immediate peril to the health, safety and welfare of the residents and businesses of the City of Morro Bay and to City staff and operations commencing on or about 8:00 a.m. on the 9th day of January, 2023; and
1. Such conditions are, or are likely to be, beyond the control of the services, personnel, equipment, and facilities of the City of Morro Bay; and

2. The City Council of the City of Morro Bay is not in session and cannot be immediately called into session.

NOW, THEREFORE, IT IS HEREBY PROCLAIMED, that a local emergency now exists throughout the City; and

IT IS FURTHER PROCLAIMED AND ORDERED that during the existence of said local emergency the powers, functions, and duties of the emergency organization of this City shall be those prescribed by state law, ordinances, and resolutions of this City, and by the City of Morro Bay Emergency Plan.

IT IS FURTHER PROCLAIMED AND ORDERED that as soon as hereafter possible, this Proclamation be filed in the Office of the City Clerk of the City of Morro Bay and that widespread publicity and notice be given of this Proclamation.

IT IS FURTHER PROCLAIMED AND ORDERED that said local emergency shall be deemed to continue to exist for the next seven (7) days, and hereafter by ratification of the City Council, or until its termination is proclaimed by the Morro Bay City Council.

The foregoing Proclamation was approved this 9th day of January 2023 at 1:30 PM.


Scott Collins (Jan 9, 2023 14:02 PST)
Scott Collins,
Emergency Services Director

ATTEST:


Dana Swanson
Dana Swanson, City Clerk

APPROVED AS TO FORM:


Chris F. Neumeyer (Jan 9, 2023 14:04 PST)
Chris F. Neumeyer,
City Attorney

IN WITNESS WHEREOF, I have hereunto set my hand affixed the Official seal of the City of Morro Bay, California, this 9th day of January 2023


Dana Swanson
Dana Swanson,
City Clerk

RESOLUTION NO. 24-20

**RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA,
ESTABLISHING THE CITY OF MORRO BAY'S EMERGENCY
AND DISASTER PURCHASING POLICY**

**THE CITY COUNCIL
City of Morro Bay, California**

WHEREAS, the City of Morro Bay wishes to establish an emergency and disaster purchasing policy; and

WHEREAS, the emergency and disaster purchasing policy is activated when a local state of emergency has been declared by the City Manager; and

WHEREAS, the emergency and disaster purchasing policy provides more latitude to allow for expedited purchases when there is an immediate threat to health, safety or improved property; and

WHEREAS, the City Manager on March 14, 2020 declared a local state of emergency in response to the COVID-19 crisis.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Morro Bay, California, the "Emergency and Disaster Purchasing Policy," as set forth in Exhibit A, attached hereto and incorporated herein, is hereby approved.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a special meeting thereof held on the 19th day of March, 2020, by the following vote:

AYES: Headding, Addis, Davis, Heller, McPherson
NOES: None
ABSENT: None



JOHN HEADDING, Mayor

ATTEST:



DANA SWANSON, City Clerk



COUNCIL POLICY

EMERGENCY AND DISASTER PURCHASING POLICY

Policy Statement

The City of Morro Bay (City) is a full-service City, providing police, fire protection, public works, harbor, recreation and development services. In addition, the City manages the City's Tourism function for promotion of Morro Bay as a tourist destination. As such, it is the City's responsibility to establish policies for prudent financial oversight and accountability.

The City Council sets legislative financial management policies, as recommended by staff and advisory committees. During declared states of emergency, the City may be required to invoke emergency purchasing practices to maintain core public services. These emergency practices are only authorized when the City of Morro Bay declares a local state of emergency.

Purpose

When the City of Morro Bay has declared a local state of emergency, any official or employee who is required to purchase materials, supplies or services on behalf of the City for their department shall use purchasing practices set forth in this document until such time as the state of emergency has been lifted.

This Policy modifies the City's normal purchasing practices to assure that, in exigent circumstances caused by a proclaimed disaster or emergency, the City is able to acquire the goods and services required to address an immediate threat to health, safety or improved property while still maintaining an effective purchasing process and complying with applicable local and state purchasing laws. Where the City is included in a major disaster or emergency declared by the President of the United States, this Policy also assures that City procurements comply with federal regulations applicable to FEMA disaster grant reimbursement.

Definitions

For purposes of this Policy, (a) a proclaimed disaster or emergency exists if (i) the Governor has declared a state of emergency for an area which includes the geographic territory of the City; or (ii) the Chief Executive Officer of the City has declared an emergency in the City; (b) "Exigent Circumstances" are situations in which (i) a disaster or emergency has been proclaimed, and (ii) the public exigency for goods and services required to address an immediate threat to health, safety, or improved property will not permit competitive solicitation.

Emergency and Disaster Purchasing Policy

Disaster purchasing has a number of facets, first emergency spending limits are expanded and authorized by council without the need to obtain their prior approval. There can be individual limits and aggregate limits which give emergency managers the necessary authority to act quickly under exigent circumstances.

The concept of emergency purchases regards purchases made under "crisis" conditions, where there is an immediate threat to health, safety or improved property. When this condition (an immediate threat to health, safety or improved property) exists, the city has wider latitude to do what is necessary to save lives and prevent further damage to improved property. Given this, and operating under the understanding that when an emergency is in place, the City will be in need of supplies, goods and services as quickly as possible, local vendors within the City and County will be contacted first to obtain the quickest possible acquisition to preserve immediate health and safety for the Morro Bay Community. This is consistent with the policy directives outlined below.

Section 1 - Delegations of Purchasing Authority in Exigent Circumstances.

- (a) if the City Manager determines that goods and services must be procured before the City Council is able to assemble and approve purchases, the City Manager has authority, subject to the limitations set forth in sub-paragraphs (a)(i) and (a)(ii), to approve the immediate rental or purchase of any equipment, supplies, services or other items necessary to respond to an immediate threat to health, safety or improved property.
 - (i) Limits of Single Purchase Authority. The City Manager shall have the authority to make individual purchases up to \$250,000 on his or her signature alone. The City Manager shall have the authority to make purchases in excess of \$250,000 up to a maximum of \$500,000 when countersigned by the Mayor or in the Mayor's absence countersigned by another council member.
 - (ii) Limits of Aggregate Purchase Authority. The City Manager shall have the authority to make aggregate purchases up to \$500,000 on his or her signature alone. The City Manager shall have the authority to make purchases in excess of \$500,000 up to a maximum of \$1,500,000 when countersigned by the Mayor or in the Mayor's absence countersigned by another council member.
- (b) Sub-delegation to EOC Director. The EOC Director shall be a designee of the City Manager at any time that the City Manager is not available to approve purchases as allowed in this section.
- (c) Sub-delegation of Purchasing Authority to Department Heads. If neither the City Manager nor the EOC Director is available, the police department watch commander, duty fire battalion chief, and/or duty public works department manager have authority to rent or purchase from the nearest available source any equipment, supplies, services, or other items necessary for his or her department to respond to an immediate threat to health, safety, or improved property, up to a maximum of \$500,000.
- (d) Administrative Procedures: Reporting Requirements.
 - (i) As soon as possible after purchases are made under this section 1, the City Manager, EOC Director, or department head shall submit to the Purchasing Officer a requisition and a notation that the commodity has been ordered on an emergency basis from the vendor designated.
 - (ii) The Purchasing Officer will inform the City Manager and the City Council of any individual purchase under this section with a contract amount greater than \$125,000, and also whenever the aggregate of purchases under this section is greater than \$200,000 dollars.

- (iii) The Purchasing Officer will obtain the City Manager's (or EOC Director as the City Manager's designee) approval prior to any purchase by a department head if the amount is \$150,000 dollars or more.
- (iv) If the City Manager/EOC Director is unavailable, and the delay in getting his/her signature would imperil life, safety or improved property, the police department watch commander, duty fire battalion chief, and/or duty public works department manager or his/her designee may approve the emergency purchase of \$150,000 dollars or more.
- (v) The Purchasing Officer shall have the authority to approve all disaster related purchases under \$150,000 thousand dollars.
- (vi) The Purchasing Officer will expedite the verification of funds available and complete the preparation of the purchase order.

Section 2 - Procurement Procedures in Exigent Circumstances.

Upon receipt of requisitions under Section 1 above, the Purchasing Officer shall prepare purchase orders for the emergency equipment, supplies, services or other items in accordance with the requirements of this section.

- (a) *Exempt Purchases.* Purchases below \$200,000 shall not be required to be formally bid. Purchases greater than \$200,000 may be made following the procedures specified in this section. The signature(s) of the City Manager, Purchasing Officer and/or Department Head are still required as provided in Section 1.
- (b) Justification of "Sole Source" or "No-bid" Contracts. Where exigent circumstances require immediate procurement from the nearest available source:
 - (i) the Procurement Officer shall use the "Justification Form For Emergency Sole Source or No-Bid Purchase."
 - (ii) procurement should be limited to that portion of the work that must be performed immediately, allowing subsequent procurement by competitive proposals of the remainder of the work.
 - (iii) "Sole source" or "no-bid" acquisitions shall be necessary for one of the following reasons: placement of emergency protective measures; procurement of a scarce commodities, goods, or services; or acquisition or rental of emergency equipment , emergency consulting services, emergency road clearance or other emergency requirements. This is consistent with Morro Bay Municipal Code Section 3.06.070(B)(1) which states as follows:

3.08.070 - Bidding.

A. Except as otherwise provided in subsection B of this section, by this Chapter, or pursuant to applicable law, the purchase of supplies, equipment, materials and public works projects, shall be by bid procedures pursuant to Sections 3.08.100 and 3.08.110.

B. Bidding or open market procedure may be dispensed with only when:

- 1. An emergency requires that an order be placed with the nearest available source of supply;
- 2. The amount involved is less than five hundred dollars.

3. The commodity can be obtained from only one vendor; or
4. Competitive bidding or proposal procedures, substantially similar to the competitive bidding or proposal procedures in this code, have already been utilized either by a federal, state, county, city or special district government agency, or by a legitimate cooperative purchasing agency; and, that the supplies, equipment, materials or public works project provided to the city are at the same or better price, terms and conditions, as was obtained through such prior competitive bidding or proposal procedures.

(Ord. No. 608, § 1, 9-27-16)

- (c) *Provision for Alternate Bid Solicitation Procedures.* The City's normal requirements for sealed bids shall not apply to acquisitions under Section 1. However, the Procurement Officer shall conduct telephonic or other electronic bid solicitation from potential vendors or suppliers, in lieu of written and/or sealed bids, in an effort to obtain multiple competitive proposals when and if time allows in light of the exigent circumstances.
- (d) *Locations of Postings for Requests for Proposals or Solicitation of Bids.* The Procurement Officer may waive normal requirements for public posting of requests for proposals or solicitation of bids. Notices soliciting bids or requests for proposals shall be posted at the Emergency Operations Center or Alternate Emergency Operations Center, if the Primary Emergency Operations Center is not being used.
- (e) *Length of Time for Posting Requests for Proposals or Solicitation of Bids.* The Procurement Officer may shorten the normal bid period to expedite the award of contracts for emergency equipment, goods, or services. The Procurement Officer should seek to assure that the shortened bid period allows multiple suppliers to submit bids.
- (f) *Number of Bids Required.* Solicited bids that are non-responsive shall count towards the minimum numbers of bids required when there is a declared emergency or disaster in the City.

Section 3 - Notification and Ratification

- (a) *Posting of Contract Awards.* Under this section, all contracts awarded that exceed \$750,000 shall be presented to the City Council for ratification and shall be publicly posted within sixty (60) days of the award.
- (b) *Authority to Cancel Emergency Procurements.* As a provision of this policy, the City has the absolute authority to rescind a contract for non-performance within 24 hours when a contractor or vendor, once awarded a contract, is unable to perform under the terms of the contract and the resulting delay or non-performance presents an immediate threat to life, safety or improved property.
- (c) *Notification Requirement for Emergency Purchases.* For any purchase in excess of \$150,000, the City Manager shall report all such purchases to the City Council within thirty (30) days.
- (d) *Requirement for Separate Invoicing.* All purchases or rentals made during proclaimed emergency or disaster conditions shall require separate invoicing from routine (non-disaster related) purchases. All invoices shall state the goods, services or equipment provided and shall specify where the goods or services were delivered and be coded to the designated disaster project code.

- (e) *Auditing of Invoices for Debris Clearance Prior to Payment.* All invoices for debris clearance and removal shall be audited by the City prior to payment to the vendor. Vendors shall be notified of this requirement prior to the awarding of any contract for debris clearance and/or removal. Audits shall be in accordance with procedures for debris removal monitoring specified in FEMA's Publication 325, Debris Management Guide.
- (f) *Limitations of Disaster Purchasing Policy.* For the purposes of this section, an emergency or disaster shall be deemed to exist when a condition exists that presents an immediate threat to health, safety or improved property and a local emergency or disaster has been proclaimed. Any purchases that do not meet the standard of being necessary for responding to an immediate threat to health, safety or improved property shall follow the City's regular purchasing provisions.