



CITY OF MORRO BAY CITY COUNCIL AGENDA

The City of Morro Bay provides essential public services and infrastructure to maintain a safe, clean and healthy place for residents and visitors to live, work and play.

NOTICE OF SPECIAL MEETING **Wednesday, March 15, 2023 – 11:00 A.M.** **Held Via Teleconference**

ESTABLISH QUORUM AND CALL TO ORDER

PUBLIC COMMENT FOR ITEMS ON THE AGENDA

Pursuant to Assembly Bill 361 (2021-22) and Government Code section 54953, to provide the safest environment for the public, elected officials, and staff while allowing for continued operation of the government and public participation during a declared state of emergency, this Meeting consistent with requirements of Government Code section 54953(e)(1-2) will be conducted telephonically through Zoom, broadcast live on Cable Channel 20 and streamed on the City website (click [here](#) to view).

Public Participation:

Remote public participation is allowed in the following ways:

- **Community members are encouraged to submit agenda correspondence in advance of the meeting via email to the City Council at council@morrobayca.gov prior to the meeting.**
- Members of the public may watch the meeting either on cable Channel 20 or as streamed on the City [website](#).
- Alternatively, members of the public may watch the meeting and speak during general Public Comment or on a specific agenda item by logging in to the Zoom webinar using the information provided below. Please use the “**raise hand**” feature to indicate your desire to provide public comment. Each speaker will be allowed three minutes to provide input.

Please click the link below to join the webinar:

- <https://us02web.zoom.us/j/82722747698?pwd=aWZpTzcuTHlRTk9xaTlmWVNWRFUQT09>
Password: 135692
- Or Telephone Attendee: 1 (408) 638-0968 or 1 (669) 900 6833 or 1 (346) 248 7799; Webinar ID: 827 2274 7698; Password: 135692; Press *9 to “**Raise Hand**” for Public Comment

SPECIAL MEETING AGENDA ITEMS:

- I. RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORRO BAY, CALIFORNIA, AUTHORIZING FOR PUBLIC HEALTH AND SAFETY DUE TO WINTER STORM EVENTS THE CONDUCT OF PUBLIC MEETINGS OF THE LEGISLATIVE BODIES OF THE CITY VIA REMOTE TELECONFERENCING PURSUANT TO THE RALPH M. BROWN ACT AS AMENDED BY ASSEMBLY BILL NO. 361; (CITY ATTORNEY)

RECOMMENDATION: Adopt Resolution No. 14-23 authorizing for public health and safety the conduct of public meetings of the legislative bodies of the City via remote teleconferencing due to the winter storm events. The purpose of AB 361 is to provide the safest environment for the public, elected officials, and staff while allowing for continued operation of the government and public participation during a declared state of emergency. The adoption of Resolution No. 14-23 is necessary to continue the meeting via teleconference and consider adoption of Resolution No. 13-23 as provided in Item II on this agenda.

- II. ADOPT RESOLUTION NO. 13-23 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 MARCH 2023 WINTER STORM SURGE; (INTERIM CITY MANAGER/ASSISTANT CITY MANAGER)

RECOMMENDATION: Adopt Resolution No. 13-23 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 March 2023 Winter Storm Surge.

ADJOURNMENT

DATED: March 14, 2023

Carla Wixom

Carla Wixom (Mar 14, 2023 10:00 PDT)

Carla Wixom, Mayor

IN COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT, IF YOU NEED SPECIAL ASSISTANCE TO PARTICIPATE IN A CITY MEETING, PLEASE CONTACT THE CITY CLERK'S OFFICE AT LEAST 24 HOURS PRIOR TO THE MEETING TO INSURE REASONABLE ARRANGEMENTS CAN BE MADE TO PROVIDE ACCESSIBILITY TO THE MEETING.



AGENDA NO: I

MEETING DATE: March 15, 2023

Staff Report

TO: Honorable Mayor and City Council

DATE: March 13, 2023

FROM: Chris F. Neumeyer, City Attorney

SUBJECT: Resolution of the City Council of the City of Morro Bay, California, Authorizing for Public Health and Safety Due to Winter Storm Events the Conduct of Public Meetings of the Legislative Bodies of the City via Remote Teleconferencing Pursuant to the Ralph M. Brown Act as Amended by Assembly Bill No. 361

RECOMMENDATION

Adopt Resolution No. 14-23 authorizing for public health and safety the conduct of public meetings of the legislative bodies of the City via remote teleconferencing due to the winter storm events. The purpose of AB 361 is to provide the safest environment for the public, elected officials, and staff while allowing for continued operation of the government and public participation during a declared state of emergency. The adoption of Resolution No. 14-23 is necessary to continue the meeting via teleconference and consider adoption of Resolution No. 13-23 as provided in Item II on this agenda.

ALTERNATIVES

Do not consider adoption of the attached resolution and/or provide further direction to staff.

FISCAL IMPACT

No immediate fiscal impact.

BACKGROUND

On March 1, 2023 the Governor of the State of California issued a “Proclamation of a State of Emergency” to exist in multiple California counties, including San Luis Obispo County, to support disaster response and relief related to severe winter storms that struck California in late February, bringing damaging winds, and historic precipitation, and it was forecasted that additional storms would continue to threaten counties across California, bringing strong winds, above normal precipitation, and unusually cold temperatures (“winter storm events”).

The City of Morro Bay has specifically been, and is under continued threat to be, adversely impacted by the above-referenced winter storm events in a manner that threatens local infrastructure and public health and safety. Commencing on March 10, 2023 conditions of disaster or extreme peril to the safety of persons and property within the City already included rising water levels throughout the San Luis Obispo Creek system and flooding, as well as damage or threatened damage to City

Prepared By: CFN _____ Dept Review: _____
City Manager Review: _____ City Attorney Review: _____

infrastructure presenting imminent peril to the health, safety and welfare of City residents and businesses and to City staff and operations. On March 10, 2023 the City's Director of Emergency Services declared a local emergency due to the winter storm events, and thereby activated the Emergency Operations Center.

As of the writing of this report on March 13, 2023, another storm is anticipated on or by March 14, 2023, with rainfall anticipated to be 2-4 inches on the Coast and 4-7 inches in the surrounding foothills in a region already saturated by the previous storms; predictions of flooding; the potential of high winds with winds from 25 to 35 mph and gusts as high as 40 mph projected that may cause the loss of power and downed trees; likely road closures, as soils are currently saturated, and there is potential again for roadway flooding; and, residents are being advised by the City to avoid unnecessary travel during the storm.

DISCUSSION

On September 16, 2021, Governor Newsom signed Assembly Bill 361 ("AB 361") into law. AB 361 allows City legislative bodies to utilize remote/virtual platforms for public meetings (consistent with certain statutory requirements) during a state of emergency proclaimed by the Governor that includes the City if certain conditions are met.

AB 361 provides the authority for the City's Legislative Bodies (as that term is defined in Government Code §54952, including the City Council, commissions, boards and committees subject to the Brown Act) to meet via teleconferencing during a state of emergency when a majority vote of the Council determines that meeting in person would present imminent risks to the health and safety of attendees.

The attached resolution provides findings based on the winter storm events that the City's Legislative Bodies meeting in person would present imminent risks to the health or safety of attendees, including from flooding, high winds and traveling to in person meetings during such conditions.

The attached resolution provides that it will expire upon the earliest of either: 1) the concurrence of the Mayor and City Manager that Legislative Bodies meeting in person would not pose imminent risks to the health or safety of attendees; or, 2) termination of both the local and Governor proclaimed state of emergency; or, 3) the statutory deadline of April 14, 2023, whichever occurs first. Council may direct that the resolution provide for alternative expirations consistent with law.

CONCLUSION

Staff recommends Council consider adoption of the proposed Resolution No. 14-22 making the findings required for use of the teleconferencing provisions of AB 361 due to the winter storm events.

ATTACHMENT

1. Resolution No. 14-23

RESOLUTION NO. 14-23

**RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA,
AUTHORIZING FOR PUBLIC HEALTH AND SAFETY DUE TO
WINTER STORM EVENTS THE CONDUCT OF PUBLIC MEETINGS
OF THE LEGISLATIVE BODIES OF THE CITY VIA REMOTE
TELECONFERENCING PURSUANT TO THE RALPH M. BROWN
ACT AS AMENDED BY ASSEMBLY BILL NO. 361**

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

WHEREAS, the City Council of the City of Morro Bay (“City”) is committed to preserving and nurturing public access and participation in meetings of the Legislative Bodies (as that term is defined in Government Code §54952, including the City Council, commissions, boards and committees subject to the Brown Act) of the City; and

WHEREAS, all meetings of the Legislative Bodies are open and public as required by the Ralph M. Brown Act, codified as Government Code §§ 54950 *et seq.*, so that any member of the public may attend, participate, and observe the Legislative Bodies conduct their business; and

WHEREAS, the Brown Act, at Government Code § 54953(e), as amended by Assembly Bill (AB) 361 effective October 1, 2021, makes provision for remote teleconferencing participation in public meetings by members of a Legislative Body without compliance with the provisions of Government Code § 54953(b)(3), subject to the existence of certain conditions; and

WHEREAS, a required condition under Government Code § 54953(e) is that the meeting is held during a state of emergency that has been declared by the Governor pursuant to Government Code § 8625, proclaiming the existence of conditions of disaster or of extreme peril to the safety of persons and property within the state caused by conditions as described in Government Code § 8558; and

WHEREAS, a proclamation is made when there is an actual incident, threat of disaster, or extreme peril to the safety of persons and property within the jurisdictions that are within the City’s boundaries, caused by natural, technological, or human-caused disasters; and

WHEREAS, pursuant to the provisions of Government Code section 8558(b), on March 1, 2023 the Governor of the State of California issued a “Proclamation of a State of Emergency” to exist in multiple California counties, including San Luis Obispo County, to support disaster response and relief related to severe winter storms that struck California in late February, bringing damaging winds, and historic precipitation, and that it was forecasted that additional storms would continue to threaten counties across California,

bringing strong winds, above normal precipitation, and unusually cold temperatures (“winter storm events”); and

WHEREAS, the City of Morro Bay has specifically been, and is under continued threat to be, adversely impacted by the above-referenced winter storm events in a manner that threatens local infrastructure and public health and safety, and commencing on or about 9:00 a.m. on March 10, 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 and flooding; 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, after consideration of all facts reasonably available presently then for review and all items, on March 10, 2023 the City’s Director of Emergency Services declared a local emergency due to the winter storm events, and thereby activated the Emergency Operations Center; and

WHEREAS, another storm is anticipated on or by March 14, 2023, with rainfall anticipated to be 2-4 inches on the Coast and 4-7 inches in the surrounding foothills in a region already saturated by the previous storms; predictions of flooding; the potential of high winds with winds from 25 to 35 mph and gusts as high as 40 mph projected that may cause the loss of power and downed trees; likely road closures, as soils are currently saturated, and there is potential again for roadway flooding; and, residents being advised by the City to avoid unnecessary travel during the storm; and

WHEREAS, the Governor’s proclaimed state of emergency and the City’s proclaimed local emergency related to the winter storm event remain in effect and encompass the jurisdictional boundaries of the City; and

WHEREAS, the City Council does hereby find that because of the winter storm event Legislative Bodies meeting in person would present imminent risks to the health or safety of attendees; and

WHEREAS, the City Council does hereby intend that, as a consequence of the persisting state of emergency, the Legislative Bodies shall conduct their meetings without compliance with paragraph (3) of subdivision (b) of Government Code § 54953, as authorized by subdivision (e) of Government Code § 54953, and that the Legislative Bodies shall comply with the requirements to provide the public with access to the meetings as prescribed in paragraph (2) of subdivision (e) of Government Code § 54953; and

WHEREAS, consistent with AB 361, during the effectiveness of this Resolution, the Legislative Bodies and their staff will give notice of the manner by which members of the public may access the Legislative Bodies’ meetings and offer public comment; identify and include an opportunity for all persons to attend via a call-in option or an internet-based service option; and allow members of the public to access the meeting, and the agenda

shall include an opportunity for members of the public to address the Legislative Body directly.

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

SECTION 1. The foregoing recitals are true and correct and are incorporated herein by reference.

SECTION 2. The City Council hereby ratifies the Governor of the State of California's Proclamation of a State of Emergency, effective as of its issuance date of March 1, 2023, concerning the winter storm events, and incorporates its findings herein.

SECTION 3. The City Council has considered the existing conditions of the state of emergency in the City and, consistent with the provisions of Government Code § 54953(e), hereby finds and determines that a proclaimed Governor issued state of emergency and a proclaimed local emergency related to the winter storm event are both currently in effect and persist in the jurisdictional boundaries of the City, and as a result of the emergency, Legislative Bodies meeting in person would present imminent risks to the health or safety of attendees.

SECTION 4. The Legislative Bodies and staff are hereby authorized and directed to take all actions necessary to carry out the intent and purpose of this Resolution, including conducting all open and public meetings of the Legislative Bodies in accordance with Government Code § 54953(e) and other applicable provisions of the Brown Act.

SECTION 5. This Resolution shall take effect immediately upon its adoption by the City Council and shall be effective until the earlier of (i) the meeting of Legislative Bodies in person would not present an imminent risk to the health or safety of attendees as reasonably determined by concurrence of the Mayor and City Manager, or (ii) termination of both the local and Governor proclaimed state of emergency, or (iii) the statutory deadline of April 14, 2023.

SECTION 6. Should any provision, section, paragraph, sentence or word of this Resolution be rendered or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences or words of this Resolution as hereby adopted shall remain in full force and effect.

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SECTION 7. The City Clerk shall certify to the adoption of this Resolution and enter it into the book of original Resolutions.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a special meeting thereof held on the 15th day of March 2023 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

RECUSED:

CARLA WIXOM, Mayor

ATTEST:

DANA SWANSON, City Clerk



AGENDA NO: II

MEETING DATE: March 15, 2023

Staff Report

TO: Honorable Mayor and City Council **DATE:** March 10, 2023
FROM: Greg Carpenter, Interim City Manager
Sarah Johnson-Rios, Assistant City Manager/Admin. Services Director

SUBJECT: Adopt Resolution No. 13-23 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 March 2023 Winter Storm Surge

RECOMMENDATION

Adopt Resolution No. 13-23 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 March 2023 Winter Storm Surge.

BACKGROUND

On March 1, 2023, Governor Newsom issued a [“Proclamation of a State of Emergency”](#) to exist in multiple California counties, including San Luis Obispo County, to support disaster response and relief related to severe winter storms that struck California in late February, bringing damaging winds, and historic precipitation, and it was forecasted that additional storms would continue to threaten counties across California, bringing strong winds, above normal precipitation, and unusually cold temperatures. The Governor’s Proclamation declared that conditions of extreme peril to the safety of persons and property exist due to these storms. On March 8, 2023, with a series of storm systems predicted to continue through mid-March, including an atmospheric river event forecasted March 9-10, Governor Newsom proclaimed a storm [State of Emergency](#) in 21 additional counties. 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 storms. The storms threatened, and continue to imminently threaten, critical infrastructure including utilities and thoroughfares, movement of resources, power outages to thousands of households and businesses, river, and urban flooding due to excessive and prolonged rainfall.

Similar to the January 9-10 storm event, 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 9:00 a.m. on March 10, 2023, conditions of disaster or extreme peril to the safety of persons and property within the City have already included rising water levels throughout

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Prepared By: <u> DS </u>	Dept Review: <u> </u>
City Manager Review: <u> SJR </u>	City Attorney Review: <u> CFN </u>

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 March 10, 2023 at approximately 9:15 a.m., the Acting 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. 13-23 and provide other direction as deemed appropriate by a majority of the Council.

ATTACHMENTS:

1. Resolution No. 13-23 Proclaiming and Affirming the Existence of a Local Emergency
 - a. Proclamation of the Existence of a Local Emergency (March 10, 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. 13-23

**RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, 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 MARCH 2023 WINTER STORM SURGE**

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

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 March 1, 2023 the Governor of the State of California issued a "Proclamation of a State of Emergency" ("Governor's Proclamation") to exist in multiple California counties, including San Luis Obispo County, to support disaster response and relief related to severe winter storms that struck California in late February, bringing damaging winds, and historic precipitation, and that it was forecasted that additional storms would continue to threaten counties across California, bringing strong winds, above normal precipitation, and unusually cold temperatures. 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 part, as follows:

- A. **(i)** All agencies of the state government 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;
- 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, 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 9:00 a.m. on March 10, 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 and flooding; 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 March 10, 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 March 10, 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 March 2023 winter storm surge, ratify the proclamation of the Director of Emergency Services made on March 10, 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 March 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 March 10, 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 March 10, 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 special meeting thereof held on the 15th day of March 2023 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

RECUSED:

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, Morro Bay Municipal Code ("MBMC") § 8.08.050(A) appoints the City Manager as the Director of Emergency Services ("Director"); 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 March 1, 2023 the Governor of the State of California issued a Proclamation of a State of Emergency to exist in multiple California counties, including San Luis Obispo County, related to severe winter storms that struck California, bringing damaging winds, and historic precipitation, and that it was forecasted that additional storms will continue to threaten counties across California, bringing strong winds, above normal precipitation, and unusually cold temperatures, 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:

1. 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 in the Creek areas, 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 9:15 A.M. on the 10th day of March, 2023; and
2. 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

3. 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 10th day of March 2023 at 9:25 A.M..

Sarah Johnson-Rios

Sarah Johnson-Rios (Mar 10, 2023 09:56 PST)

Sarah Johnson-Rios,
Acting Emergency Services Director

ATTEST:

Dana Swanson

Dana Swanson, City Clerk

APPROVED AS TO FORM:

Chris F. Neumeyer

Chris F. Neumeyer (Mar 10, 2023 09:59 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 10th day of March 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.