REASON FOR ADDENDUM

On February 21, 2017, the Director of Emergency Services proclaimed a local emergency related to flooding that commenced on February 21. On February 24, 2017, the Director of Emergency Services issued a new proclamation of local emergency related to this flooding event. Pursuant to the San José Municipal Code and the California Government Code, these actions must be ratified by the City Council within seven (7) days.

RECOMMENDATION

Adopt a resolution ratifying the Director of Emergency Services’ proclamations of the existence of a local emergency.

OUTCOME

Ratification of the Director of Emergency Services’ proclamations of a local emergency allows for the City to utilize City workers as Disaster Service Workers; promulgate orders and regulations necessary to provide for protection of life and property; waive City policies; request Operational Area and State proclamations and Presidential Declarations; request State and Federal public and/or individual assistance, as appropriate; and, potentially recover costs for certain extraordinary expenditures associated with the emergency, as permitted.

The proclamation also allows the City to carry out actions necessary to prevent or mitigate an emergency; including emergency repairs to publicly- or privately-owned facilities necessary to maintain services essential to the public health, safety, or welfare.
BACKGROUND

The City first activated the Emergency Operations Center (“EOC”) on Thursday and Friday, February 16 and 17, at Level 1 (watch) during business hours. Activities continued throughout the weekend with City staff participation in conference calls led by the Santa Clara County Office of Emergency Services to monitor weather forecasts and obtain continuing situational awareness from the Santa Clara Valley Water District and other partner agencies. On Monday, February 20, the EOC continued the Level 1 activation from 0300-0659, and then increased to Level 3 (Partial Activation) at 0700 for 24/7 operations that continued at that level until Wednesday, February 22, when the activation increased to Level 4 (Full) which further expanded EOC staffing. The 24/7 Level 4 activation continued through Thursday, February 23, concluding at 1900 and is returning to Level 4 activation from 0700-1900 on Friday, February 24. These activations were done in anticipation of potential flooding, that actually occurred, along low-lying areas adjacent to Coyote Creek due to a simultaneous significant storm in San José and the surrounding area, and expected peak flows from the Anderson Reservoir into Coyote Creek from the emergency spillway release of water in excess of the reservoir’s capacity.

Separately, Item 2.9 on the February 28, 2017 Agenda includes a recommendation for designating the City officials authorized to apply for Federal and State Disaster Assistance. Resolution must approve this designation every three years. The last Council approval was in February 2014. This action is part of the regular review and approval process.

ANALYSIS

The authority to proclaim a Local Emergency in San José is vested in the City Council, or in an emergent situation, the Director of Emergency Services (City Manager), or designated alternate. Pursuant to Title 8, Chapter 8.08 Part 2 Section 808.210 of the San José Municipal Code and the California Government Code, a proclamation of Local Emergency is invalid after seven days, unless ratified by the City Council. In the event the City Council ratifies the proclamations, and the proclamations extend beyond seven (7) days, the City Council must review the need to continue the proclamations at least every thirty (30) days until the Local Emergency is terminated. In any case, the City Council must proclaim the termination of the Local Emergency as soon as conditions warrant.

A proclamation of Local Emergency provides the City the authority to:

- Promulgate orders and regulations necessary to provide for protection of life and property.
- Waive City policies.
- Redirect City staff as Disaster Service Workers to other functions in support of emergency response and recovery efforts.
- Request the Governor to proclaim a state of emergency when, in the opinion of the director, the locally available resources are inadequate to cope with the emergency.
The following emergency projects per Section 15269 are exempt from the requirements of CEQA.

- Projects to maintain, repair, restore, demolish, or replace property or facilities damaged or destroyed as a result of a disaster in a disaster stricken area in which a state of emergency has been proclaimed by the Governor pursuant to the California Emergency Services Act, commencing with Section 8550 of the Government Code. This includes projects that will remove, destroy, or significantly alter an historical resource when that resource represents an imminent threat to the public of bodily harm or of damage to adjacent property or when the project has received a determination by the State Office of Historic Preservation pursuant to Section 5028(b) of Public Resources Code.

- Emergency repairs to publicly or privately owned service facilities necessary to maintain service essential to the public health, safety, or welfare.

- Specific actions necessary to prevent or mitigate an emergency. This does not include long-term projects undertaken for the purpose of preventing or mitigating a situation that has a low probability of occurrence in the short-term.

- Projects undertaken, carried out, or approved by a public agency to maintain, repair, or restore an existing highway damaged by fire, flood, storm, earthquake, land subsidence, gradual earth movement, or landslide, provided that the project is within the existing right of way of that highway and is initiated within one year of the damage occurring. This exemption does not apply to highways designated as official state scenic highways, nor any project undertaken, carried out, or approved by a public agency to expand or widen a highway damaged by fire, flood, storm, earthquake, land subsidence, gradual earth movement, or landslide.

- Seismic work on highways and bridges pursuant to Section 180.2 of the Streets and Highways Code, Section 180 et seq.

**EVALUATION AND FOLLOW-UP**

City Council will need to take action within thirty (30) days to continue the proclamations and will need to take action to terminate the Local Emergency once conditions warrant.

**PUBLIC OUTREACH**

The memorandum will be posted for the February 28, 2017 agenda and a request for Sunshine Exemption is requested given the urgency of this recommendation.
COORDINATION

The report was prepared in coordination with the City Attorney’s Office, Finance Department, Budget Office, Planning, Building & Code Enforcement Department, and Office of Emergency Services.

COMMISSION RECOMMENDATION/INPUT

No commission recommendation or input is associated with this section.

CEQA

Statutory Exempt, Section 15269, Emergency Projects.

NORBERTO L. DUEÑAS
City Manager

For questions, please contact David Sykes, Assistant City Manager, at (408) 535-8185.

Attachments
RESOLUTION NO. ________

A RESOLUTION PROCLAIMING EXISTENCE OF A LOCAL EMERGENCY

WHEREAS, Title 8, Chapter 8.08, Part 2, Section 808.210 of the Municipal Code of the City of San Jose empowers the Director of Emergency Services to proclaim the existence or threatened existence of a local emergency when said city is affected or likely to be affected by a public calamity and the City Council is not in session: and

WHEREAS, the Director of Emergency Services of the City of San Jose does hereby find:

That conditions of extreme peril to the safety of persons and property have arisen within said city caused by _______ FLOOD _______ commencing on or about 10:00 a.m. on the 21st day of February, 2007: and

That the City Council of the City of San Jose is not in session, and cannot immediately be called into session;

NOW, THEREFORE, IT IS HEREBY PROCLAIMED that a local emergency now exists throughout said 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, by ordinances and resolutions of this city, and by the City of San Jose Emergency Plan, as approved by the City Council on August 17, 2004.

Dated: 2/21/07

By: _______________________

DAVID SYMONS
Director of Emergency Services
City of San Jose

Revised: 4/4/06 Council Meeting
PROCLAMATION OF A LOCAL EMERGENCY

WHEREAS, Title 8, Chapter 8.08, Part 2, Section 808.210 of the Municipal Code of the City of San José empowers the Director of Emergency Services to proclaim the existence or threatened existence of a local emergency when said city is affected or likely to be affected by a public calamity and the City Council is not in session; and

WHEREAS, the Director of Emergency Services hereby finds that such conditions have arisen within the City of San José, based on the following:

1. Beginning on February 13, 2017, storms ("February Storms") hit San José and the surrounding region, bringing multiple days of heavy rains and high winds, and causing inflows into the Anderson Dam which caused the Anderson Dam to flow over its emergency spillway into the Coyote Creek;

2. The City activated its Emergency Operations Center ("EOC") on Thursday, February 16, 2017 in anticipation of potential flooding due to a significant storm in San José and the surrounding area and expected flows from the Anderson Dam emergency spillway that could result in high stream flows in the Coyote Creek.

3. On Tuesday, February 21, many parts of San José were impacted by severe flooding along the Coyote Creek, with additional damage associated with downed trees and power lines.

4. The efforts required to prepare for, respond to, mitigate, and recover from the February Storms have and will continue to impose extraordinary requirements and expenses on the City, requiring diversion of resources from day-to-day operations.

WHEREAS, on February 21, 2017, the Director of Emergency Services proclaimed that a local emergency existed as a result of the flooding but did not request that the Governor of the State of California proclaim a State of Emergency for the City of San José and request a federal declaration for assistance;

WHEREAS, the Director of Emergency Services desires to amend the February 21, 2017 proclamation to also request that the Governor of the State of California proclaim a State of Emergency for the City of San José and request a federal declaration for assistance;

WHEREAS, the City Council of the City of San José is not in session, and cannot immediately be called into session;

NOW, THEREFORE, IT IS HEREBY PROCLAIMED that a local emergency continues to exist throughout said city as initially proclaimed on February 21, 2017; 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, by ordinances and resolutions of this city, and by the City of San José Emergency Operations Plan, as approved by the City Council on August 17, 2004.

THE CITY FURTHER REQUESTS that the Governor of the State of California proclaim a State of Emergency for the City of San José and request a federal declaration for assistance including, but not limited to, California Disaster Assistance Act (CDAA), Federal Individual Assistance Act, and U.S. Small Business Administration Disaster Declaration, to assist with losses and emergency repairs required by and within the City because locally available resources are inadequate to cope with the local emergency.

The local emergency shall not remain in effect for a period in excess of seven days unless it has been ratified by the City Council.

Dated: 2/24/17

By: [Signature]

Director of Emergency Services
City of San José