



Memorandum

Iris P. Yang
Attorney at Law

Sacramento Office
916.444.3900 tel
916.444.3826 fax
iyang@mhalaw.com

DATE December 30, 2003
TO City Council
FROM Iris P. Yang
RE Continuing the Local Emergency

On Monday, December 22, 2003, following the earthquake, the City Council confirmed the City Manager/Director of Emergency Services' proclamation of a local emergency. State law, the California Emergency Services Act, requires the Council to review the need for continuing the local emergency at its regularly scheduled meetings until the local emergency is terminated. Gov't Code § 8630(c)(1). This review must take place at least every twenty-one days. Under Government Code section 8630(d), the City Council is required to proclaim the termination of the local emergency "at the earliest possible date that conditions warrant."

A review of state law and actions taken by other local agencies throughout the state leads us to conclude that there is no specific criteria for determining whether to continue a local emergency. In other words, there are no specific conditions or a certain number of conditions that must be present in order to continue a local emergency. Rather, the Council must determine that the existing conditions caused by the earthquake merit continuing the local emergency.

While more specific and current information will be provided orally at the January 6, 2004 City Council meeting, it is our opinion that existing conditions warrant the Council's continuance of the local emergency. Access to buildings in the downtown area continues to be restricted. There are still a number of buildings that must be inspected and debris cleared. The problems associated with the leaking of the hot springs continue to be investigated and have not been fully resolved. Under these circumstances, the declaration of a local emergency should remain in effect. Attached with this memorandum is a resolution for Council consideration and approval.

Sacramento
555 Capitol Mall
9th Floor
Sacramento CA
95814-4692
tel 916.444.3900
fax 916.444.8334

Oakland
1999 Harrison Street
Suite 1300
Oakland CA
94612-3582
tel 510.273.8780
fax 510.839.9104

Yuba City
422 Century Park Drive
Suite A
Yuba City CA
95991-5729
tel 530.674.9761
fax 530.671.0990

www.mhalaw.com

RESOLUTION NO. 03-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PASO ROBLES
REGARDING WORKERS' COMPENSATION BENEFITS FOR REGISTERED VOLUNTEER
"DISASTER SERVICE WORKERS" IN THE CITY OF PASO ROBLES

WHEREAS, California Government Code section 8580 provides:

"The Emergency Council shall establish by rule and regulation various classes of disaster service workers and the scope of the duties of each class. The Emergency Council shall also adopt rules and regulations prescribing the manner in which disaster service workers of each class are to be registered. All of the rules and regulations shall be designed to facilitate the payment of workers' compensation"; and

WHEREAS, the California Emergency Council has adopted rules and regulations establishing classes of disaster service workers, the scope of duties of each class, and the manner of registration of such volunteer disaster service workers; and

WHEREAS, California Government Code section 8612 provides:

"Any disaster council which both agrees to follow the rules and regulations established by the Emergency Council pursuant to the provisions of Section 8580 and substantially complies with such rules and regulations shall be certified by the Emergency Council. Upon such certification, and not before, the disaster council becomes an accredited disaster council"; and

WHEREAS, the City of Paso Robles has registered and will hereafter register volunteer disaster service workers; and

WHEREAS, the City of Paso Robles desires to become an "accredited disaster council" organization in order that injured disaster service workers registered with it may benefit by the provisions of Chapter 10 of Division 4 of Part 1 of the California Labor Code.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Paso Robles as follows:

1. The City Council of the City of Paso Robles shall follow the rules and regulations established by the California Emergency Council pursuant to the provisions of California Government Code section 8580;
2. The City Clerk is hereby instructed to send a certified copy of this resolution to the California Emergency Council; and
3. The City Clerk shall certify to the adoption of this resolution and shall cause this resolution and the certification to be filed in the Office of the City Clerk.

PASSED AND ADOPTED by the City Council of the City of Paso Robles this 26th day of December 2003 by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

ATTEST:

Frank R. Mecham, Mayor

Sharilyn M. Ryan, Deputy City Clerk

RESOLUTION NO. 03-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PASO ROBLES
CONFIRMING THE CITY MANAGER/DIRECTOR OF EMERGENCY SERVICES'
PROCLAMATION OF EXISTENCE OF A LOCAL EMERGENCY

WHEREAS, section 2.24.010 et seq. of the Paso Robles Municipal Code empowers the Director of Emergency Services/City Manager to proclaim a local emergency if the City Council is not in session and requires that the City Council shall take action to ratify the proclamation within seven days thereafter; and

WHEREAS, conditions of extreme peril to the safety of persons and property have arisen within the City of Paso Robles, as a result of an earthquake commencing on or about 11:00 a.m. on the 22nd day of December 2003, at which time the City Council of the City of Paso Robles was not in session; and

WHEREAS, the City Council does hereby find that the above-described conditions of extreme peril did warrant and necessitate the proclamation of the existence of a local emergency in the vicinity of Paso Robles; and

WHEREAS, the City Manager acting as the Director of Emergency Services did proclaim the existence of a local emergency within the City on the 22nd day of December 2003.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Paso Robles that the Proclamation of Existence of a Local Emergency, as issued by the Director of Emergency Services/City Manager, is hereby ratified and confirmed.

BE IT FURTHER RESOLVED that the local emergency shall be deemed to continue to exist until its termination is proclaimed by the City Council of the City of Paso Robles.

PASSED AND ADOPTED by the City Council of the City of Paso Robles this 26th day of December 2003 by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

Frank R. Mecham, Mayor

ATTEST:

Sharilyn M. Ryan, Deputy City Clerk

RESOLUTION NO. 04-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL PASO DE ROBLES
DETERMINING THAT A LOCAL EMERGENCY CONTINUES TO EXIST

WHEREAS, conditions of extreme peril to the safety of persons and property have arisen within the City of Paso Robles, as a result of an earthquake commencing on or about 11:00 a.m. on the 22nd day of December, 2003; and

WHEREAS, the City Manager acting as the Director of Emergency Services did proclaim the existence of a local emergency within the City on the 22nd day of December, 2003; and

WHEREAS, the City Council confirmed the City Manager/Director of Emergency Services' proclamation of the existence of a local emergency and found that conditions of extreme peril warranted and necessitated the proclamation of the existence of a local emergency in the vicinity of Paso Robles; and

WHEREAS, pursuant to Government Code section 8630, conditions of extreme peril persist that warrant continuing the local emergency.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of El Paso de Robles that the local emergency shall continue and shall be deemed to continue until the City Council of the City of El Paso de Robles determines that conditions warrant the termination of the local emergency.

PASSED AND ADOPTED by the City Council of the City of El Paso de Robles at a regular meeting of said Council held on the 6th day of January 2004, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

Frank R. Mecham, Mayor

ATTEST:

Sharilyn M. Ryan, Deputy City Clerk

RESOLUTION NO. 03-

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PASO ROBLES
DECLARING THE NECESSITY FOR THE IMMEDIATE EXPENDITURE
OF PUBLIC MONEY TO SAFEGUARD LIFE, HEALTH AND PROPERTY

WHEREAS, the City Manager, as the designated Director of Emergency services, has proclaimed the existence of a local emergency caused by an earthquake commencing on or about 11 :00 a.m. on the 22nd day of December, 2003; and

WHEREAS, the City Council has confirmed by Resolution No. 03-_____ the proclamation by the City Manager/Director of Emergency Services of the existence of a local emergency; and

WHEREAS, the conditions of extreme peril caused by the earthquake will require the immediate expenditure of public money to safeguard life, health and property.

NOW, THEREFORE, BE IT RESOLVED that the public interest and necessity demand the immediate expenditure of public money to safeguard life, health and property. Pursuant to the provisions of Public Contract Code Section 20168, the city may expend any sum required by such emergency without the necessity of complying with the provisions of Chapter 1 of part 3 of the Public Contract Code.

ADOPTED by the City Council of the City of El Paso de Robles at a special meeting of said Council held on the 26th day of December 2003 by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

Frank Mecham, Mayor

ATTEST:

Sharilyn M. Ryan, Deputy City Clerk