



Office of the City Manager

REVISED AGENDA MATERIAL

Meeting Date: **March 21, 2023**

Item Number: **1 (Consent Calendar)**

Item Description: Resolution Reviewing and Ratifying the Proclamation of Local Emergency Due to the Spread of a Severe Acute Respiratory Illness Caused by a Novel (New) Coronavirus (COVID-19)

Submitted by: **Anne Cardwell, City Manager's Office**

Addition of rationale for extension of emergency, see attached.

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Office of the City AttorneyManager

CONSENT CALENDAR
March 21, 2023

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To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

~~Submitted by: Farimah Faiz Brown, City Attorney~~

Subject: Resolution Reviewing and Ratifying the Proclamation of Local
Emergency Due to the Spread of a Severe Acute Respiratory Illness
Caused by a Novel (New) Coronavirus (COVID-19)

RECOMMENDATION

Adopt a Resolution reviewing the need for continuing the local emergency due to the spread of a severe acute respiratory illness caused by a novel (new) coronavirus (COVID-19) and ratifying the Proclamation of Local Emergency issued by the Director of Emergency Services on March 3, 2020, initially ratified by the City Council on March 10, 2020, and subsequently reviewed and ratified by the Council on April 21, 2020, June 16, 2020, July 28, 2020, September 22, 2020, November 17, 2020, December 15, 2020, February 9, 2021, March 30, 2021, May 25, 2021, July 20, 2021, September 14, 2021, December 14, 2021, February 8, 2022, March 22, 2022, May 10, 2022, June 28, 2022, July 26, 2022, September 20, 2022, November 3, 2022, December 13, 2022, and January 31, 2023.

FISCAL IMPACT OF RECOMMENDATION

To be determined.

CURRENT SITUATION AND ITS EFFECTS

Pursuant to California Government Code section 8630 and Berkeley Municipal Code Chapter 2.88, on March 3, 2020, the City Manager, in her capacity as Director of Emergency Services, proclaimed a local emergency due to conditions of extreme peril to the safety of persons and property within the City as a consequence of the global spread of a severe acute respiratory illness caused by a novel (new) coronavirus (COVID-19), including a confirmed case in the City of Berkeley. As a result of multiple confirmed and presumed cases in Alameda County, the County has declared a local health emergency. The Proclamation of Local Emergency empowers the Director of Emergency Services to make and issue rules and regulations on matters reasonably related to the protection of life and property as affected by such local emergency.

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Pursuant to Government Code section 8630(b) and Berkeley Municipal Code section 2.88.040.A.1, on March 10, 2020, the City Council ratified the Proclamation of Local Emergency with the passage of Resolution No. 69-312.

Pursuant to Government Code section 8630(c), the City Council must review the need for continuing the local emergency at least once every sixty (60) days. The Council last reviewed and ratified the Proclamation of Local Emergency on January 31, 2023. The Council therefore must review the continuing need for the local emergency by April 1, 2023.

This item responds to Council's direction on February 28, 2023 to prepare an item allowing the Council to review the continued need for the local emergency and again ratify the Proclamation of Local Emergency. If reviewed and ratified on March 21, 2023, the Council will need to again review and ratify the proclamation by May 20, 2023 in order to continue the local emergency.

If at any time the Council determines that the need for continuing the local emergency has ended, state law directs the Council to terminate the local emergency at the earliest possible date that conditions warrant. (Cal. Gov. Code section 8630(d).)

BACKGROUND

On March 1, 2020, Alameda County Public Health Department and Solano County Public Health Department reported two presumptive cases of COVID-19, pending confirmatory testing by the Centers for Disease Control (CDC), prompting Alameda County to declare a local health emergency.

On March 3, 2020, the City's Director of Emergency Services proclaimed a local emergency due to the spread of COVID-19, including a confirmed case in the City of Berkeley and multiple confirmed and presumed cases in Alameda County.

On March 10, 2020, the City Council ratified the Proclamation of Local Emergency. Since that date, there have been over 4,955 confirmed cases of COVID-19 and at least 55 deaths in the City of Berkeley.

The City Council has subsequently reviewed and ratified the Proclamation of Local Emergency on April 21, 2020, June 16, 2020, July 28, 2020, September 22, 2020, November 17, 2020, December 15, 2020, February 9, 2021, March 30, 2021, May 25, 2021, July 20, 2021, September 14, 2021, December 14, 2021, February 8, 2022, and March 22, 2022, May 10, 2022, June 28, 2022, July 26, 2022, September 20, 2022, November 3, 2022, December 13, 2022, and January 31, 2023.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

Not applicable.

RATIONALE FOR RECOMMENDATION

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The Resolution would enable the Director of Emergency Services to continue to efficiently allocate resources related to recovery from the COVID-19 pandemic, and would facilitate an orderly restoration of pre-pandemic conditions as the City spends down ESG funds and integrates its emergency operations into regular departmental functions.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

Dee Williams-Ridley, City Manager, City Manager's Office (510) 981-7000

~~Farimah Brown, City Attorney, City Attorney's Office (510) 981-6998~~

Attachments:

1: Resolution

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RESOLUTION NO. –N.S.

RESOLUTION REVIEWING AND RATIFYING THE
PROCLAMATION OF LOCAL EMERGENCY

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

WHEREAS, pursuant to Government Code section 8630, such an emergency may be proclaimed by the governing body or by an official designated by ordinance adopted by the governing body; and

WHEREAS, Berkeley Municipal Code section 2.88.040 provides that the City Manager, serving as the Director of Emergency Services, may request that the City Council proclaim the existence of a local emergency; and

WHEREAS, under provision of local law, if the City Council cannot be convened and, in the judgment of the Director of Emergency Services, the circumstances warrant it, a proclamation of local emergency may be issued which must be ratified or nullified by the City Council within seven days of issuance; and

WHEREAS, in accordance with authority granted under the above provisions of state and local law, the Director of Emergency Services beginning on March 3, 2020 did proclaim the existence of a local emergency caused by epidemic in the form of the global spread of a severe acute respiratory illness caused by a novel (new) coronavirus ("COVID-19"), including confirmed cases in California and the San Francisco Bay Area, and presumed cases in Alameda County prompting the County to declare a local health emergency; and

WHEREAS, on March 10, 2020, the City Council ratified the Proclamation of Local Emergency with the passage of Resolution No. 69-312; and

WHEREAS, Government Code section 8630(c) requires that the City Council review the need for continuing the local emergency at least once every sixty (60) days; and

WHEREAS, the City Council subsequently reviewed the need for continuing the local emergency and again ratified the Proclamation of Local Emergency on April 21, 2020, June 16, 2020, July 28, 2020, September 22, 2020, November 17, 2020, December 15, 2020, February 9, 2021, March 30, 2021, May 25, 2021, July 20, 2021, September 14, 2021, December 14, 2021, February 8, 2022, March 22, 2022, May 10, 2022, June 28, 2022, July 26, 2022, September 20, 2022, November 3, 2022, December 13, 2022, and January 31, 2023; and

WHEREAS, although on February 28, 2023, the Governor proclaimed an end to the statewide COVID-19 State of Emergency, substantial state and local resources remain

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devoted to preparedness and prevention efforts related to the current phase of the pandemic, and the Federal Public Health Emergency declaration remains in effect and is not slated to end until May 11, 2023; and

WHEREAS, the City Council ~~does find that the aforesaid conditions of extreme peril continue to exist, and now include over 13,000 confirmed cases of COVID-19 and at least 61 deaths in the City of Berkeley, thereby warranting and necessitating the continuation of the local emergency; and~~ does find that the aforesaid conditions of negative impact on certain high risk populations continue to exist, where high rates of certain racial/ethnic groups of seniors aged 75 and older and 70% of children under the age of 5 have not received their primary vaccination in the City of Berkeley, thereby warranting and necessitating the continuation of the local emergency; and

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~~WHEREAS, the City Council will need to again review the need for continuing the local emergency and ratify the Proclamation of Local Emergency by May 20, 2023;~~

WHEREAS, despite significant progress in addressing COVID-19, ~~COVID-19 and~~ the impacts of the pandemic continue to threaten public health and safety in the Berkeley community; and

WHEREAS, although the City of Berkeley has continued to exhibit sustained economic recovery from the effects of the COVID-19 pandemic, and ground floor retail vacancy rates dropping in many commercial districts; the citywide vacancy average remains above 8 percent which is the threshold for 'normal' conditions; and

WHEREAS, nearly forty Berkeley businesses continue to take advantage of outdoor commerce programs on both public and private properties; and

~~WHEREAS, [Economic impacts?]; and~~

~~WHEREAS, [Shelter crisis language]; and~~

WHEREAS, the health and welfare of the residents of the City is of paramount importance to the Mayor and City Council; and

WHEREAS, the City Council will need to again review the need for continuing the local emergency and ratify the Proclamation of Local Emergency by May 20, 2023;

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Berkeley that it is hereby proclaimed and ordered that the Proclamation of Local Emergency, issued by the Director of Emergency Services on March 3, 2020, initially ratified by the City Council on March 10, 2020, and subsequently reviewed and ratified by the City Council on April 21, 2020, June 16, 2020, July 28, 2020, September 22, 2020, November 17, 2020, December 15, 2020, February 9, 2021, March 30, 2021, May 25, 2021, July 20,

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2021, September 14, 2021, December 14, 2021, February 8, 2022, March 22, 2022, May 10, 2022, June 28, 2022, July 26, 2022, September 20, 2022, November 3, 2022, December 13, 2022, and January 31, 2023 has been reviewed and is hereby again ratified and confirmed; and

BE IT FURTHER RESOLVED that during the existence of this local emergency the powers, functions, and duties of the emergency organization of this City shall be those prescribed by state law, and the Charter, ordinances, resolutions and approved plans of the City of Berkeley.