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Item No. 6

MAR 18 2020

City of South Gate
CITY COUNCIL

CITY OF SOUTH GATE
OFFICE OF THE CITY MANAGER

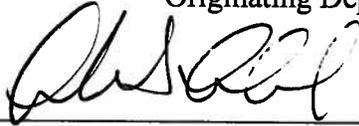
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AGENDA BILL

For the Regular Meeting of: March 24, 2020

Originating Department: Administration

City Manager:



Michael Flad

City Manager:



Michael Flad

SUBJECT: RESOLUTION RATIFYING THE DECLARATION OF THE EXISTENCE OF A LOCAL EMERGENCY WITHIN THE CITY AS A RESULT OF THE SPREAD OF THE CORONAVIRUS DISEASE 2019 AS DECLARED BY THE CITY'S DIRECTOR OF EMERGENCY SERVICES ON MARCH 18, 2020

PURPOSE: To ratify the City's Director of Emergency Services' declaration of the existence of a local emergency within the City as a result of the spread of the Coronavirus Disease 2019 (COVID-19).

RECOMMENDED ACTION: Adopt Resolution ratifying the declaration of the existence of a local emergency within the City as a result of the spread of the Coronavirus Disease 2019 as declared by the City's Director of Emergency Services on March 18, 2020.

FISCAL IMPACT: The estimated costs in responding to the COVID-19 are unknown but are being assessed by City staff.

ANALYSIS: Section 7.14.050 (Office of Director and Office of Deputy Director of Emergency Services, Office of Emergency Services Coordinator), of Chapter 7.14 (Emergency Organizations and Functions), of Title 7 (Public Safety and Morals), of the South Gate Municipal Code, designates the City Manager as the City's Director of Emergency Services. On March 18, 2020, the City's Director of Emergency Services proclaimed the existence of a local emergency within the City as a result of the spread of the COVID-19 to ensure authority to take measures necessary to protect and preserve public health and safety, including seeking aid from state and federal authorities as necessary.

BACKGROUND: On March 4, 2020, pursuant to the State Constitution and statutes, including the California Emergency Services Act, and in particular Government Code Section 8625, Governor Gavin Newsom declared a State of Emergency pertaining to the threat posed by the COVID-19.

The information below is provided from the Emergency Procedures Handbook to provide a better understanding and guidance to declaring a local emergency and its procedures.

Definition of Emergency: The California Emergency Services Act (California Government Code Section 8550 et seq.) provides guidelines for the declaration of an emergency by the Governor or a designated local official depending on the extent of the disaster. The Governor and other state agencies

(California Emergency Council and Office of Emergency Services) are empowered to coordinate efforts and declare state emergencies, and local governments are able to do the same on a local level. The declaration of a local emergency is one of the first procedures to be accomplished by local government after a disaster. The declaration of emergency is necessary to provide for the carrying out of plans for the protection of persons and property within a county or city boundaries during a condition of a disaster or extreme peril to life. In addition, the declaration of emergency gives a county or city the necessary powers needed to protect citizens and property, preserve municipal government and assure mutual disaster aid from appropriate local, state and federal agencies.

Pursuant to the Emergency Act, a state of emergency occurs when the existence of conditions of disaster or a possible disaster threatens the safety of person and property within its territorial limits caused by such conditions as set out in Government Code Section 8558(c):

Air pollution, fire, flood, storm, epidemic, riot, drought, sudden and severe energy shortage, plant or animal infestation or disease, the Governor's warning of an earthquake or volcanic prediction earthquake, an earthquake, other conditions (excluding conditions resulting from a labor controversy) which are or are likely to be beyond the control of the services, personnel, equipment, and facilities of that political subdivision and require the combined forces of other political subdivisions to combat), or with respect to regulated energy utilities, a sudden and severe energy shortage requiring extraordinary measures beyond the authority vested in the California Public Utilities Commission.

The Emergency Act also sets forth degrees of emergencies which are defined in Government Code Section 8558 as:

"state of war emergency" (or threat of attack by enemy),

"state of emergency" (threat of or conditions of disaster within state), and

"local emergency" (threat of or conditions of disaster within territorial boundaries of county or city).

The only difference between the "state of emergency" and "local emergency" is the magnitude of the emergency. A "state of emergency" is one which would "require the combined forces of mutual aid region or regions to combat" the disaster, whereas a "local emergency" is one which would "require the combined forces of other political subdivisions to combat." See 62 Opinion Attorney General 701 n.3 (1979). Thus, a local emergency may be declared when it is determined that the emergency situation calls for forces beyond those within the City.

Purpose of Declaration of Emergency: The Emergency Act recognizes the fundamental role of state and local government to provide services in the event of emergencies resulting from conditions of disaster or of extreme peril to life and property. The purpose is to protect and preserve health, safety, life, and property within the state. The provision ensures that adequate preparations are made to deal with emergencies and that all governmental efforts to deal with emergencies are coordinated to make the most effective use of all available resources. See Adkins v. State of California (1996) 50 Cal.App.4th

1802.

The Emergency Act confers special powers on state and local governments during an emergency. Specifically, a local governing body or a designated official may promulgate orders and regulations necessary for the protection of life and property, including orders or regulations imposing a curfew within designated boundaries where necessary to preserve the public order and safety. California Government Code Section 8634.

Imposing curfews and restrictions within specific boundaries are particularly effective during a disaster; however, as discussed further below, these types of orders and regulations must be written and given widespread publicity and notice. Penalties for violation of any emergency rules, orders, or regulations are enforced by the City of South Gate Disaster Council (Section 7.14.110 (Punishment of Violations), of Chapter 7.14 (Emergency Organizations and Functions), of Title 7 (Public Safety and Morals), of the South Gate Municipal Code, Government Code Section 8665 or Penal Code Section 409.5).

In addition, the Emergency Act recognizes that conditions constituting an emergency usually affect more than one local area or political subdivision. Therefore, mutual aid regions (or operational areas) have been designated. Cal. Government Code Section 8600. Each county is designated as an operational area and the governing bodies of each county or the political subdivision in the county may organize and structure their operational area. An operational area may be used by the county and the political subdivisions comprising the operational area for the coordination of emergency activities and to serve as a link in the communications system during a state of emergency or a local emergency. Cal. Government Code Section 8605. However, the power to declare an emergency is conferred on both a county and a city. While both political subdivisions can declare an emergency, the Emergency Act has been construed to give the county (larger territorial area) the ultimate power to govern the disaster area. See 62 Opinion Attorney General 701, 708 (1979).

In order to obtain funds from both state and federal agencies, the local government must declare a local emergency. Cal. Government Code Section 8685. In the case of a natural disaster, such a declaration should be made quickly. Government Code Sections 8680 *et seq.* provide that when a natural disaster occurs, an allocation may be made to a local agency for a project when, within 10 days after the actual occurrence of a natural disaster, the local agency has declared an emergency and that declaration is acceptable to the director or upon the order of the Governor when a state of proclamation has been issued, and if the Legislature has appropriated funds for allocation for purposes of this chapter.

Declaring the existence of a local emergency also ensures that local officials and employees are protected from liability when taking steps to deal with the disaster. County and city governments are not held liable for any claim based on the exercise or performance, or failure to exercise or perform, a discretionary function or duty on the part of a local agency or any local agency in carrying out the provisions of the Emergency Act. Cal. Government Code Section 8655.

Declaration of Local Emergency: The City of South Gate's Emergency Services Ordinance provides the City with guidelines and powers to combat the onslaught of post-disaster events. Ordinance No. 1626 designates the Chief Administrative Officer/City Manager as the Director of Emergency Services.

While the decision to declare an emergency is discretionary (Cal. Government Code Section 8558(c), it is usually based on the City needing mutual aid in controlling the disaster. The individual making the decision to declare an emergency may decide that, while mutual aid is necessary, the primary factors in the decision are based on the need to react to the disaster quickly and efficiently with the assistance of orders and regulations needed to preserve public order and safety. California Government Code Section 8634. Therefore, the requisite conditions for declaring the emergency can be based on the following: 1) conditions set out in local or state legislation; 2) conditions where the county or city makes the determination that mutual aid is needed; or, 3) conditions that the disaster can be better controlled if the local government has specific powers granted through the declaration of a local emergency.

The declaration of emergency can be made prior to, during, or after the disaster, depending upon the circumstances. Such action may be taken by the City Council in an emergency meeting pursuant to Government Code Section 54956.5 or the director of emergency services may declare an emergency if the City Council cannot quickly be called into session. In the latter case, the proclamation must then be confirmed by the governing body within seven days. Once the local emergency is declared, it will remain in effect for a period of no more than seven days unless extended by the City Council. Cal. Government Code Section 8630. However, a local governing body is required to meet "as soon as possible" after the local emergency is proclaimed. Cal. Government Code Section 8642. The City Council may meet outside the jurisdiction and the meeting may be called by the chief executive of the political subdivision or by a majority of the members of the governing body. Should there be only one member of the governing body, he may call and hold said meeting and perform acts necessary to reconstitute the governing body. Cal. Government Code Section 8642. Also, strict compliance with the notice requirements of the Brown Act are not required, although proper compliance should be attempted if at all practical. Cal. Government Code Sections 8642, 54956.5. Provisions for succession of officers are established by Section 7.14.070 (Succession to the Office of the Director of Emergency Services), of Chapter 7.14 (Emergency Organizations and Functions), of Title 7 (Public Safety and Morals), of the South Gate Municipal Code and Government Code Section 8637.

If the City Council finds it necessary to continue the existence of local emergency, it must review the conditions of the local emergency at least every fourteen days and ratify the continuing existence of the local emergency. This may be desirable if rules and regulations promulgated thereunder are necessary for an ongoing disaster. Some cities have placed the item on the City Council agenda for each consecutive meeting until the emergency conditions subside.

Once the City Council determines that post disaster conditions have ceased, a declaration terminating the existence of the local emergency should be made at the earliest possible date that conditions warrant. Cal. Government Code Section 8630.

City staff continues to verify with the Centers for Disease Control and Prevention (CDC), California Department of Public Health, and the Los Angeles County Department of Public Health for updates on the spread of the COVID-19. It is difficult to determine the number of COVID-19 cases, but it is expected to continue to rise as testing becomes more widely available. As of March 18, 2020, there are 190 coronavirus cases in Los Angeles County with one (1) death, 598 cases in California, and over 7,038 cases in the United States with over 97 deaths.

The following cities have declared local emergencies: Alhambra, Arcadia, Baldwin Park, Bell, Bellflower, Bell Gardens, Burbank, Commerce, Glendale, La Mirada, Long Beach, Lynwood, La Habra Heights, Maywood, Montebello, Paramount, Pasadena, San Fernando, San Marino, Santa Clarita, Sierra Madre, South El Monte, Vernon.

The proposed Resolution authorizes the Director of Emergency Services to efficiently strategize and allocate resources to take measures necessary to address the ongoing and forthcoming threat to public safety.

ATTACHMENT: Proposed Resolution (with Proclamation declaring local emergency).

RESOLUTION NO.

**CITY OF SOUTH GATE
LOS ANGELES COUNTY, CALIFORNIA**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOUTH GATE,
CALIFORNIA, RATIFYING THE DECLARATION OF THE EXISTENCE
OF A LOCAL EMERGENCY WITHIN THE CITY AS A RESULT OF THE
SPREAD OF THE CORONAVIRUS DISEASE 2019 AS DECLARED BY THE
CITY'S DIRECTOR OF EMERGENCY SERVICES ON MARCH 18, 2020**

WHEREAS, since its discovery in December 2019, mainland Chinese authorities have identified thousands of human infections, resulting in thousands of deaths associated with the novel Coronavirus Disease 2019 ("COVID-19"), a respiratory illness which began in Wuhan City, Hubei Province and has spread outside of China, impacting more than 140 countries, including the United States; and

WHEREAS, COVID-19 symptoms typically cause mild to moderate illness, such as the common cold/flu, infected people with COVID-19 also have fever, cough and have a difficulty breathing which may result with pneumonia; and

WHEREAS, on January 23, 2020, the national Centers for Disease Control and Prevention ("CDC") activated its Emergency Response System to provide ongoing support for the responses to the COVID-19 across the country; and

WHEREAS, pursuant to the State Constitution and statutes, including the California Emergency Services Act, and in particular Government Code Section 8625, Governor Gavin Newsom declared a State of Emergency on March 4, 2020, pertaining to the threat posed by the COVID-19; and

WHEREAS, on March 11, 2020, Governor Gavin Newsom announced that California public health officials had issued an updated policy on gatherings to protect public health and slow the spread of COVID-19 determining that gatherings should be postponed or canceled across the state until at least the end of March, and non-essential gatherings must be limited to no more than 250 people, while smaller events can proceed only if the organizers can implement social distancing of 6 feet per person; and

WHEREAS, Governor Gavin Newsom on March 12, 2020 issued a new executive order further enhancing California's ability to respond to the COVID-19 pandemic by waiving the one-week waiting period for people who are unemployed and/or disabled as a result of COVID-19; delaying the deadline for state tax filing by 60 days for individuals and businesses unable to file on time based on compliance with public health requirements related to COVID-19 filings; directing residents to follow public health directives and guidance, including to cancel large non-essential gatherings that do not meet state criteria; allowing local or state legislative bodies to hold meetings via teleconference and to make meetings accessible electronically; and allowing local and state emergency administrators to act quickly to protect public health; and

WHEREAS, the Los Angeles Unified School District (“LAUSD”) had declared a state of emergency over the spread of the COVID-19, on March 13, 2020, LAUSD announced the closure of schools for at least two weeks beginning Monday, March 16, 2020, to prevent the spread of the COVID-19; and

WHEREAS, on March 15, 2020, Governor Gavin Newsom issued sweeping new restrictions calling for home isolation of everyone 65 years and older and people with chronic disease, both high-risk populations; requested the closure of bars, wineries, night clubs and brew pubs; no visitations for hospitals and congregate living facilities (assisted living, nursing homes, etc.) except for end of life visitations; and called for restaurants to reduce their occupancy by half, calling this “deep social distancing” and a “pragmatic response to the moment;” and

WHEREAS, on March 16, 2020, the Los Angeles County Department of Public Health issued an order to prohibit all indoor and outdoor, public and private events and gatherings within a confined space, where 50 or more members of the public are expected to attend at the same time, to require social distancing measures and temporary closure of certain businesses. The decision for the Order is based on evidence of increasing community transmission requiring the immediate implementation of additional community mitigation efforts for organizations to help reduce the spread of COVID-19 within the county. This Order will remain in effect at least through March 31, 2020; and

WHEREAS, President Donald Trump issued Coronavirus Guidelines which include following directions of state and local authorities; contacting your medical provider if you or your children feel sick and stay home; if someone in your household has tested positive, keep the entire household at home; if you are an older person, stay home and away from other people; and if you are a person with a serious underlying health condition that can put you at an increased risk, stay home and away from other people; and

WHEREAS, on March 16, 2020, President Trump called for Americans to avoid social gatherings of more than 10 people and to limit discretionary travel; and

WHEREAS, on March 17, 2020, Governor Gavin Newsom expanded his call for extraordinary restaurant measures to help prevent the further spread of the COVID-19 by the statewide closures of dine-in restaurants for the foreseeable future; and

WHEREAS, the number of COVID-19 cases is expected to continue to rise as testing becomes more widely available; and

WHEREAS, although it is difficult to determine as the number of cases keeps increasing, as of March 18, 2020, there are currently 190 cases of the COVID-19 in Los Angeles County with one (1) death, 598 cases in California with 13 deaths, and over 7,038 cases in the United States with over 97 deaths; and

WHEREAS, Section 7.14.050 (Office of Director and Office of Deputy Director of Emergency Services, Office of Emergency Services Coordinator), of Chapter 7.14 (Emergency Organizations and Functions), of Title 7 (Public Safety and Morals), of the South Gate Municipal Code, empowers the Director of Emergency Services to proclaim the existence or threatened

existence of a local emergency when the city is affected or likely to be affected by a public calamity and the City Council is not in session; and

WHEREAS, Section 7.14.050 (Office of Director and Office of Deputy Director of Emergency Services, Office of Emergency Services Coordinator), of Chapter 7.14 (Emergency Organizations and Functions), of Title 7 (Public Safety and Morals), of the South Gate Municipal Code, designates the City Manager of the City of South Gate as the City's Director of Emergency Services; and

WHEREAS, on March 18, 2020, the City's Director of Emergency Services proclaimed the existence of a local emergency ("Local Emergency") within the City as a result of the spread of the COVID-19;

NOW, THEREFORE, THE CITY COUNCIL FOR THE CITY OF SOUTH GATE DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The City Council hereby ratifies the declaration of the existence of a Local Emergency within the City as a result of the spread of the COVID-19, as declared by the Director of Emergency Services on March 18, 2020, as indicated in the Proclamation attached hereto as Exhibit "A."

SECTION 2. The City Council hereby declares:

1. A Local Emergency now exists throughout the City;
2. During the existence of said Local Emergency the powers, functions and duties of the emergency organization of the City shall be those prescribed by state law, by ordinances and resolutions of the City, as approved by the City Council;
3. During the existence of said Local Emergency, the City shall follow and impose all directives, mandates, Executive Orders and any other emergency related restrictions issued by the State of California and/or the County of Los Angeles, including any and all social distancing recommendation;
4. Should he deem it necessary, the Director of Emergency Services/City Manager is authorized to direct the immediate closure of City facilities (including City Hall) during normal business hours;
5. The Director of Emergency Services'/City Manager's purchasing authority is hereby increased to meet the needs of addressing this emergency;
6. The normal City goods and service procurement requests and purchase practices, including bidding requirements, are stayed during this period of emergency;

7. Purchases of items that are not budgeted are authorized to be purchased in order to respond during this period of emergency;
8. Authorizes all City officers and employees to take steps requested by the Director of Emergency Services/City Manager to qualify the City for reimbursement from the Federal Emergency Management Agency and for other state and federal relief as may be available to reimburse the City for the expenses it incurs in addressing this emergency;
9. Other actions deemed necessary by the Director of Emergency Services/City Manager to reasonably respond to the emergency and to effectively serve the community within the City;
10. The local emergency shall be deemed to continue to exist until its termination is proclaimed by the City Council of the City of South Gate; and
11. As required by law, the City Council shall review the need to continue the state of emergency every thirty (30) days until this Resolution is terminated.

SECTION 3. The City Clerk shall certify to the adoption of this Resolution which shall be effective upon its adoption.

PASSED, APPROVED and ADOPTED this 24th day of March 2020.

CITY OF SOUTH GATE:

By: _____
M. Belén Bernal, Mayor

ATTEST

By: _____
Carmen Avalos, City Clerk
(SEAL)

APPROVED AS TO FORM:

By:  _____
Raul F. Salinas, City Attorney

Exhibit "A"

PROCLAMATION DECLARING THE EXISTENCE OF A LOCAL EMERGENCY AS A RESULT OF THE SPREAD OF THE CORONAVIRUS DISEASE 2019 AS DECLARED BY THE DIRECTOR OF EMERGENCY SERVICES

WHEREAS, Section 7.14.050 (Office of Director and Office of Deputy Director of Emergency Services, Office of Emergency Services Coordinator), of Chapter 7.14 (Emergency Organizations and Functions), of Title 7 (Public Safety and Morals), of the South Gate Municipal Code, empowers the Director of Emergency Services to proclaim the existence or threatened existence of a local emergency when the city is affected or likely to be affected by a public calamity and the City Council is not in session; and

WHEREAS, the City Manager, as Director of Emergency Services of the City of South Gate ("City"), does hereby find that:

1. Conditions of extreme peril to the safety of persons have risen within the City, caused by the Coronavirus 2019 (COVID-19) pandemic which commenced in December of 2019, in Wuhan City, Hubei Province and continues to spread outside of China; and
2. The City Council of the City of South Gate is not in session and cannot immediately be called into session.

NOW, THEREFORE, IT IS HEREBY PROCLAIMED 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 South Gate Emergency Plan.

EXISTENCE OF A LOCAL EMERGENCY IS HEREBY DECLARED on this 18th day of March 2020.

Office of the
South Gate City Clerk

MAR 18 2020

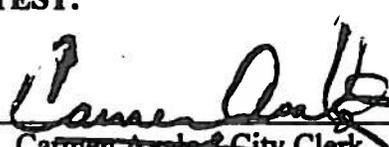
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CITY OF SOUTH GATE:

By: 

Michael Flad, City Manager/
Director of Emergency Services

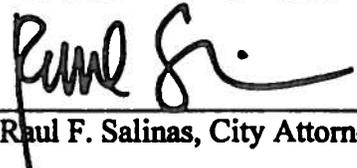
ATTEST:

By: 

Carmen Avalos, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 

Raul F. Salinas, City Attorney