

## Folsom City Council Staff Report

<b>MEETING DATE:</b>	4/14/2020
<b>AGENDA SECTION:</b>	Old Business
<b>SUBJECT:</b>	Resolution No. 10411 – A Resolution of the City Council Confirming Emergency Order DES-02-20 Issued by the Director of Emergency Services
<b>FROM:</b>	City Attorney's Office

### **RECOMMENDATION / CITY COUNCIL ACTION**

Staff respectfully recommends that the City Council pass and adopt the following Resolution:

Resolution No. 10411 – A Resolution of the City Council Confirming Emergency Order DES-02-20 Issued by the Director of Emergency Services

### **BACKGROUND / ISSUE**

The rapid spread of the novel coronavirus 2019 (COVID-19) throughout the country has caused many states, including the State of California, to declare a state of emergency. Part of the reasons for the emergency declarations is due to the lack of a vaccine and effective medical treatment to help patients recover from COVID-19, which has resulted in severe illnesses, health complications and deaths worldwide.

The Governor of the State of California declared a state of emergency on March 4, 2020. The Sacramento County Board of Supervisors ratified the declaration of a state of emergency by the County Health Officer on March 10, 2020. The Folsom City Council declared the existence of a local emergency on March 16, 2020.

### **POLICY / RULE**

Rules and regulations issued by the City's Director of Emergency Services must be confirmed by the City Council at the earliest practicable time. Folsom Municipal Code Section 2.28.040(E)(1).

## **ANALYSIS**

On the basis of the City Council declaration of a local emergency, the City's Director of Emergency Services (City Manager) is empowered to make and issue rules and regulations on matters reasonably related to the protection of life, environment and property as affected by such emergency, and that such emergency rules and regulations must be confirmed by the City Council at the earliest practicable opportunity.

Following the City Council's proclamation of a local emergency, the City's Director of Emergency Services issued Emergency Order DES-01-20 on March 20, 2020, which was confirmed by the City Council on March 27, 2020.

In the interest of protecting life and property of those affected by the COVID-19 emergency, the City's Director of Emergency Services issued a further Emergency Order, DES-02-20, on April 1, 2020 (Attachment No. 2). Said Emergency Order is being presented to the City Council for confirmation consistent with Section 2.28.040(E)(1) of the Folsom Municipal Code.

## **FINANCIAL IMPACT**

Costs and expenses associated with emergency response actions are budgeted in the City's General Fund, which may be reimbursable under the State and Federal emergency proclamations.

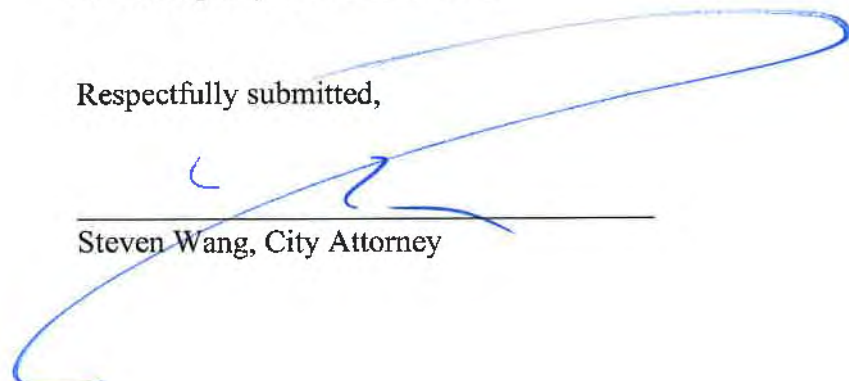
## **ENVIRONMENTAL REVIEW**

This action is not considered a project under Section 15061(b)(3) of the California Environmental Quality Act Guidelines, and as such is exempt from environmental review.

## **ATTACHMENTS**

1. Resolution No. 10411 – A Resolution of the City Council Confirming Emergency Order DES-02-20 Issued by the Director of Emergency Services
2. Emergency Order DES-02-20

Respectfully submitted,



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Steven Wang, City Attorney

# ATTACHMENT 1

**RESOLUTION NO. 10411**

**A RESOLUTION OF THE CITY COUNCIL CONFIRMING  
EMERGENCY ORDER DES-02-20 ISSUED BY THE  
DIRECTOR OF EMERGENCY SERVICES**

WHEREAS, the Governor of the State of California proclaimed on March 4, 2020 a State of Emergency to exist in California as a result of the threat from the rapid spread of a respiratory illness caused by novel coronavirus 2019 (COVID-19); and

WHEREAS, Sacramento County has confirmed community transmission of COVID-19, with multiple cases of diagnosed patients, and cautioned that the rapid transmission of COVID-19 poses an ongoing risk and likelihood of additional patients in Sacramento County; and

WHEREAS, on March 10, 2020 the Sacramento County Board of Supervisors ratified the County Public Health Officer's Proclamation of Local Public Health Emergency in Sacramento County due to the threat to public health and safety from COVID-19; and

WHEREAS, there is currently no vaccine or medical treatment specifically for COVID-19, which constitutes a potential epidemic under Section 8558 of the Government Code that, by reason of its magnitude, is potentially beyond the control of the services, personnel, equipment and facilities of the City of Folsom and requires the combined forces of a mutual aid region or regions to contain, control, combat, treat and mitigate; and

WHEREAS, on March 16, 2020, the City Council adopted Resolution No. 10408 and proclaimed the existence of a local emergency in the City of Folsom; and

WHEREAS, following the City Council proclamation of a local emergency, and based on the authority in Section 2.28.040 of the Folsom Municipal Code, the City's Director of Emergency Services issued Emergency Order DES-01-20 on March 20, 2020, which was confirmed by the City Council on March 27, 2020; and

WHEREAS, in the interest of protecting life and property affected by the COVID-19 emergency, the City's Director of Emergency Services issued further rules and regulations in Emergency Order DES-02-20 on April 1, 2020; and

WHEREAS, rules and regulations issued by the City's Director of Emergency Services shall be confirmed by the City Council as early as practicable under the circumstances of the emergency.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Folsom that Emergency Order DES-02-20 is hereby confirmed, and all actions taken in furtherance thereto are hereby ratified and approved.

PASSED AND ADOPTED this 14<sup>th</sup> day of April, 2020, by the following roll-call vote:

**AYES:** Council Member(s):  
**NOES:** Council Member(s):  
**ABSENT:** Council Member(s):  
**ABSTAIN:** Council Member(s):

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Sarah Aquino, MAYOR

ATTEST:

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Christa Freemantle, CITY CLERK

# ATTACHMENT 2



## **EMERGENCY ORDER DES-02-20**

Pursuant to the Proclamation of a State of Emergency by California Governor Gavin Newsom on March 4, 2020 in response to the rapid spread of the novel coronavirus (COVID-19), the Governor's Executive Orders (including but not limited to N-33-20), the Order of the Sacramento County Health Officer dated March 19, 2020, the City's Proclamation of a Local Emergency dated March 16, 2020, the Families First Coronavirus Response Act (H.R. 6201) and Government Code Section 8634, I hereby issue the following Order:

1. In the interest of limiting the spread of COVID-19 and protecting the life, health and safety of Folsom residents, City facilities listed on Exhibit "A" attached to this Order are closed and shall remain closed until further notice.
2. As of April 1, 2020 and until notice is given to return to their normal and customary duty location, all non-essential permanent City employees designated by the Human Resources Department shall stay home and be subject to work assignments as determined by their department director from time to time. Decisions to remain at home or return to duty will be made as needed. If not working, non-essential permanent City employees will be able to access the Emergency Leave Benefit ("ELB" - see Section 4 below).
3. All permanent City employees performing essential services as determined by the Human Resources Department shall continue to report to their work locations and perform their duties.
4. Effective April 1, 2020, Emergency Leave Benefit described in Exhibit "B" attached hereto shall be implemented on a temporary basis for permanent full-time and permanent part-time non-public safety City employees, if eligible. Temporary ELB provided herein is not in addition to any emergency leave benefit which the City Council may approve from time to time during the COVID-19 public health emergency, shall terminate without recourse or accrual upon any action by the City Council approving emergency leave benefit for City employees, and any usage of the ELB leave benefit from April 1, 2020 shall be counted toward any emergency leave benefit ultimately approved by the City Council.

Failure of any person to comply with this Order and any order issued by a law enforcement officer pursuant to this Order constitutes an imminent threat to public health.

This Order is not intended to, and does not, create any rights or benefits, substantive or procedural, enforceable at law or in equity, against the City of Folsom, its departments, officers, employees, or any other person.

If any provision of this Order to the application thereof to any person or circumstances is held to be invalid, the remainder of the Order, including the application of such part or provision to other persons or circumstances, shall not be affected and shall continue in full force and effect. To this end, the provisions of this Order are severable.

This Order shall be filed in the City Clerk's Office and given widespread publicity and notice.

**IT IS SO ORDERED:**

**DES-02-20**

Date: April 1, 2020

By: \_\_\_\_\_



Elaine Andersen  
City Manager  
Director of Emergency Services



## EXHIBIT A

### [CLOSURE OF CITY FACILITIES UNTIL FURTHER NOTICE]

- Folsom Public Library
- Steve Miklos Aquatic Center
- Folsom Art Center and the Gallery at 48 Natoma
- Folsom Senior Center
- Andy Morin Sports Complex
- Folsom City Zoo Sanctuary
- Folsom Community Center
- Rotary Clubhouse
- Athletic fields, including but not limited to Lembi, Livermore, Econome, Kemp, Catlin, Davies, Ed Mitchell, Briggs, Rodeo, Handy Family, McFarland, Mann, Nisenan, Cohn, and Sheldon parks
- Basketball courts
- Ball walls
- Bocce ball courts
- FIDO Field Dog Park
- Library book return (no overdue fees will accrue during temporary library closure)
- Pickleball courts
- Playgrounds and play equipment
- Tennis courts
- Volleyball courts
- B.T. Collins Disc Golf Course

## EXHIBIT B

### [Emergency Leave Benefit]

The Emergency Leave Benefit (ELB) is intended to satisfy the benefit requirements of the federal Public Health Emergency Leave Act (the Act) and the federal Emergency Paid Sick Leave Act (EPSLA).

Effective April 1, 2020, the City shall provide non-public safety permanent full-time and permanent part-time City employees with up to 512 hours of paid time off in the form of ELB for absences due to the inability to work or telework because of COVID-19 related conditions or other reasons as specified in the EPSLA and the Act.

This temporary emergency leave benefit is being provided to (1) help ease the economic stress caused by the COVID-19 pandemic, (2) meet the requirements of EPSLA and (3) meet the requirements of the Act.

The following terms shall apply:

- A. Eligible employees shall mean all non-public safety permanent full-time and permanent part-time City employees as of March 31, 2020, or hired in the period of April 1, 2020 through December 31, 2020.
- B. Five Hundred and Twelve (512) hours of temporary ELB (hours to be prorated for permanent part-time positions) shall be granted to each eligible employee, not 80 as provided by the EPSLA and 400 as provided by the Act.
- C. ELB shall be paid based on 100% of the employee's regular pay (just as compensation is paid to employees when using annual leave), not on the lower amounts and caps as specified by the EPSLA and the Act.
- D. Employees shall be entitled to utilize ELB for absences due to the inability to work or telework because of COVID-19 related conditions or other reasons as specified in the EPSLA and the Act, before they can be required to utilize any other paid leave benefit provided by the City.
- E. Employees shall be available during their normal and customary work schedule to perform work assignments as determined by their department director.
- F. Employees who wish to be on vacation or are sick or injured for non-COVID-19 reasons shall use their annual or sick leave rather than ELB.
- G. ELB shall run concurrently with FMLA Public Health Emergency Leave. An employee may choose to use ELB during the first 10 days of FMLA Public Health Emergency Leave which is, by law, unpaid.
- H. Employees may use ELB from April 1, 2020 through December 31, 2020 for absences due to the inability to work or telework because of COVID-19 related conditions or other reasons specified in the EPSLA and the Act.
- I. Unused ELB shall not carry over beyond December 31, 2020.

- J. There is no cash-out value to any ELB time.
- K. There is no use of any unused ELB at the time of separation of employment or beyond December 31, 2020.
- L. ELB cannot be donated as catastrophic leave or transferred to another employee for any reason.
- M. Use of ELB will count towards use of FMLA leave but any FMLA leave prior to April 1, 2020 will not reduce the amount of ELB.

The City retains the right to determine “essential services and duties”, to make work assignments, to determine if an employee can work at home or must come in to the job location, to telework, to schedule working hours, and whether or not employees are working full-time or part-time.

/// NOTHING FOLLOWS ///

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