

Folsom City Council Staff Report

MEETING DATE:	1/24/2023
AGENDA SECTION:	Old Business
SUBJECT:	Resolution No. 10982 – A Resolution of the City Council of the City Folsom Proclaiming Termination of Winter Storm Local Emergency
FROM:	City Attorney's Office

RECOMMENDATION / CITY COUNCIL ACTION

Staff respectfully recommends that the City Council pass and adopt Resolution No. 10982 – A Resolution of the City Council of the City of Folsom Proclaiming Termination of Winter Storm Local Emergency.

BACKGROUND / ISSUE

Starting late December 2022, a series of severe atmospheric river brought damaging winds and heavy rainfall throughout Northern California, including the City of Folsom, causing localized flooding and damage to private properties and public facilities. The severity of the storms and widespread damages caused the Governor of the State of California to proclaim a State of Emergency on January 4, 2023 (Attachment 3). The County of Sacramento's Chief of Emergency Services proclaimed a State of Local Emergency on December 31, 2022 due to the same conditions (Attachment 4). Drawing upon her authority as the City's Director of Emergency Services, the Folsom City Manager proclaimed a State of Local Emergency on January 13, 2023 (Attachment 5).

On January 18, 2023, the City Council adopted Resolution No. 10981 and ratified the Director's emergency proclamation.

POLICY / RULE

The California Emergency Services Act and the Folsom Municipal Code empower the City Council 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. The City Council shall proclaim

termination of the local emergency at the earliest possible date that conditions warrant per Folsom Municipal Code Section 2.28.040(A).

ANALYSIS

Beginning at the end of December, 2022, a series of severe winter storms began pounding California, bringing wind, rain, flooding, and extensive damage to much of the state. These storms also brought damaging high winds, substantial precipitation, and localized flooding in the City of Folsom, with particularly challenging conditions accelerating from January 4, 2023 onward.

The storms caused significant damage throughout the City and required extraordinary responses by City employees to protect the public's health and safety. Storm damage to critical City infrastructure and resources presented a condition of extreme peril to the public's health and safety.

In her role as the City of Folsom's Director of Emergency Services, the City Manager found and declared conditions warranting the proclamation of a Local State of Emergency on January 13, 2023. The City Council ratified that proclamation on January 18, 2023. Since then, the waves of atmospheric river and severe winter storms have passed, and the conditions of extreme peril previously posed by the storms no longer exist in the City. It is, therefore, appropriate for the City Council to proclaim termination of the local emergency.

FINANCIAL IMPACT

Costs and expenses associated with emergency response actions are budgeted in the City's General Fund, which may be reimbursable under County and State emergency proclamations. Terminating the proclamation of the COVID-19 local emergency has no impact on the City's general fund.

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. 10982 - A Resolution of the City Council of the City Folsom Proclaiming Termination of Winter Storm Local Emergency
2. Resolution No. 10981 – A Resolution of the City Council of the City of Folsom Ratifying Existence of a Local Emergency
3. California Governor's Proclamation of a State of Emergency, January 4, 2023
4. County of Sacramento's Chief of Emergency Services' Proclamation of Local Emergency, December 31, 2022
5. Folsom City Manager's/Director of Emergency Services' Proclamation of a Local State of Emergency, January 13, 2023

Respectfully submitted,



Steven Wang, City Attorney

ATTACHMENT 1

RESOLUTION NO. 10982

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FOLSOM
PROCLAIMING TERMINATION OF WINTER STORM LOCAL EMERGENCY**

WHEREAS, California Governor Gavin Newsom proclaimed a State of Emergency on January 4, 2023 due to widespread damages caused by severe winter storms from a series of atmospheric river systems striking California; and

WHEREAS, the County of Sacramento's Chief of Emergency Services proclaimed a State of Local Emergency on December 31, 2022 due to the same conditions (and this declaration was ratified by the Sacramento County Board of Supervisors on January 3, 2023);

WHEREAS, the aforementioned storms also brought damaging high winds, substantial precipitation, and localized flooding in the City of Folsom, with particularly challenging conditions accelerating from January 4, 2023 onward; and

WHEREAS, the aforementioned storms caused severe damages throughout the City and required extraordinary responses by City employees to protect the public's safety; and

WHEREAS, due to additional and continuing storms related to this series of atmospheric river systems bringing strong winds, heavy rainfall, and localized flooding to the City for several days, with the expectation of additional damages from falling debris, downed trees, and localized flooding, the Folsom Director of Emergency Services proclaimed the existence of a local emergency due to the severe winter storms on January 13, 2023; and

WHEREAS, the City Council adopted Resolution No. 10981 and ratified the Director's emergency proclamation on January 18, 2023; and

WHEREAS, the winter storms have now passed and the conditions of extreme peril previously posed by the storms no longer exist in the City.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Folsom proclaiming that the winter storm local emergency in the City of Folsom shall be terminated as of January 24, 2023.

PASSED AND ADOPTED this 24th day of January, 2023, by the following roll-call vote:

AYES: Councilmember(s):
NOES: Councilmember(s):
ABSENT: Councilmember(s):
ABSTAIN: Councilmember(s):

Rosario Rodriguez, MAYOR

ATTEST:

Christa Freemantle, CITY CLERK

ATTACHMENT 2

RESOLUTION NO. 10981

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FOLSOM RATIFYING
EXISTENCE OF A LOCAL EMERGENCY**

WHEREAS, California Governor Gavin Newsom proclaimed a State of Emergency on January 4, 2023 due to widespread damages caused by severe winter storms from a series of atmospheric river systems striking California; and

WHEREAS, the County of Sacramento's Chief of Emergency Services proclaimed a State of Local Emergency on December 31, 2022 due to the same conditions (and this declaration was ratified by the Sacramento County Board of Supervisors on January 3, 2023);

WHEREAS, the aforementioned storms also brought damaging high winds, substantial precipitation, and localized flooding in the City of Folsom, with particularly challenging conditions accelerating from January 4, 2023 onward; and

WHEREAS, the aforementioned storms caused severe damages throughout the City and required extraordinary responses by City employees to protect the public's safety; and

WHEREAS, it is forecasted that additional and continuing storms related to this series of atmospheric river systems will bring strong winds, heavy rainfall, and localized flooding to the City for several more days, and the City expects additional damages from falling debris, downed trees, and localized flooding; and

WHEREAS, storm damage to critical City infrastructure and resources can present a condition of extreme peril to the public's health and safety; and

WHEREAS, the California Emergency Services Act empowers the City Council 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

WHEREAS, drawing upon her authority as the City's Director of Emergency Services, the City Manager proclaimed a State of Local Emergency on January 13, 2023, and the City Council has been requested by the City's Director of Emergency Services to ratify the existence of a local emergency therein; and

WHEREAS, the City Council does hereby find that conditions of extreme peril to the safety of persons and property have arisen within the City of Folsom, caused by severe winter storms from a series of atmospheric river systems in Sacramento County and throughout the State of California commencing the 4th day of January, 2023, and that the aforesaid conditions of extreme peril warrant and necessitate the proclamation of the existence of a local emergency.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Folsom that the proclamation of a local emergency by the City's Director of Emergency Services due to

severe winter storms is hereby ratified.

BE IT FURTHER RESOLVED that during the existence of said local emergency the powers, functions and duties of the Director of Emergency Services and the emergency organization of this City shall be those prescribed by state law, by charter, ordinances, and resolutions of the City of Folsom.

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

PASSED AND ADOPTED this 18th day of January, 2023, by the following roll-call vote:

AYES: Councilmember(s): Aquino, Chalamcherla, Kozlowski, Rohrbough, Rodriguez

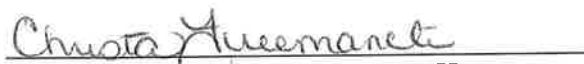
NOES: Councilmember(s): None

ABSENT: Councilmember(s): None

ABSTAIN: Councilmember(s): None


Rosario Rodriguez, MAYOR

ATTEST:


Christa Freemantle, CITY CLERK

ATTACHMENT 3

EXECUTIVE DEPARTMENT
STATE OF CALIFORNIA

PROCLAMATION OF A STATE OF EMERGENCY

WHEREAS beginning December 27, 2022, severe winter storms related to a series of atmospheric river systems struck California, bringing high winds, substantial precipitation, and river and urban flooding; and

WHEREAS it is forecasted that additional and continuing storms related to this series of atmospheric river systems threaten California, bringing heavy rainfall, expected flooding, strong winds and wind gusts, falling debris, downed trees, and widespread power outages; and

WHEREAS in preparation for the forecasted storms, multiple California Conservation Corps flood fight crews, fire swift water rescue, and urban search and rescue teams have been strategically prepositioned for emergency response; sandbags have been made available throughout the State; and shelters are opening for displaced individuals; and

WHEREAS these storms forced the closure and caused damage to highways and roads, as well as caused levee and culvert failures, and mandatory evacuations in severely impacted counties, and such impacts will likely continue to be caused by the forecasted storms; and

WHEREAS these storms threatened and continue to threaten critical infrastructure, movement of resources, burn scars from recent wildfires potentially causing mud and debris flows; resulted in and threaten power outages to thousands of households and businesses; and caused and continue to threaten river and urban flooding due to excessive and prolonged rainfall; and

WHEREAS due to the series of atmospheric river systems continuously impacting counties throughout the State, the counties have not had time to mitigate the cascading impacts of these storms; and

WHEREAS under the provisions of Government Code section 8558(b), I find that conditions of extreme peril to the safety of persons and property exist due to these storms; and

WHEREAS under the provisions of Government Code section 8558(b), I find that the conditions caused by these storms, by reason of their magnitude, are or are likely to be beyond the control of the services, personnel, equipment, and facilities of any single local government and require the combined forces of a mutual aid region or regions to appropriately respond; and

WHEREAS under the provisions of Government Code section 8625(c), I find that local authority is inadequate to cope with the magnitude of the damage caused by these storms; and

WHEREAS under the provisions of Government Code section 8571, I find that strict compliance with various statutes and regulations specified in this Proclamation would prevent, hinder, or delay the mitigation of the effects of these storms.

NOW, THEREFORE, I, GAVIN NEWSOM, Governor of the State of California, in accordance with the authority vested in me by the State Constitution and statutes, including the California Emergency Services Act, and in particular, Government Code section 8625, **HEREBY PROCLAIM A STATE OF EMERGENCY** to exist throughout California.

IT IS HEREBY ORDERED THAT:

1. All agencies of the state government utilize and employ state personnel, equipment, and facilities for the performance of any and all activities consistent with the direction of the Office of Emergency Services and the State Emergency Plan. Also, all residents are to obey the direction of emergency officials with regard to this emergency in order to protect their safety.
2. The Office of Emergency Services shall provide assistance to local governments, if appropriate, under the authority of the California Disaster Assistance Act, Government Code section 8680 et seq., and California Code of Regulations, Title 19, section 2900 et seq.
3. As necessary to assist local governments and for the protection of public health and the environment, state agencies shall enter into contracts to arrange for the procurement of materials, goods, and services necessary to quickly assist with the response to and recovery from the impacts of these storms. Applicable provisions of the Government Code and the Public Contract Code, including but not limited to travel, advertising, and competitive bidding requirements, are suspended to the extent necessary to address the effects of these storms.
4. Any fairgrounds the Office of Emergency Services determines suitable to assist individuals impacted by these storms shall be made available to the Office of Emergency Services pursuant to the Emergency Services Act, Government Code section 8589. The Office of Emergency Services shall notify the fairgrounds of the intended use and may immediately utilize the fairgrounds without the fairground board of directors' approval.
5. The California Department of Transportation shall formally request immediate assistance through the Federal Highway Administration's Emergency Relief Program, United States Code, Title 23, section 125, in order to obtain federal assistance for highway repairs or reconstruction.
6. The California National Guard may be mobilized under Military and Veterans Code section 146 to support disaster response and relief efforts, as directed by the Office of Emergency Services, and to coordinate with all relevant state agencies and state and local emergency responders and law enforcement within the impacted areas. Sections 147 and 188 of the Military and Veterans Code are applicable during the period of participation in this mission, exempting the California Military Department from applicable procurement rules

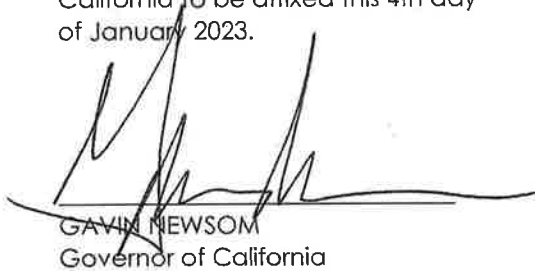
for specified emergency purchases, and those rules are hereby suspended.

7. Any state-owned properties the Office of Emergency Services determines suitable for staging of debris as a result of these storms shall be made available to the Office of Emergency Services for this purpose in accordance with Government Code section 8570.
8. Drivers may exceed the hours-of-service limits specified in California Vehicle Code section 34501.2 and California Code of Regulations, Title 13, section 1212.5 while operating a vehicle engaged in fuel transportation in support of emergency relief efforts, subject to the following conditions:
 - a. Motor carriers or drivers currently subject to an out-of-service order are eligible for the exemption once the out-of-service order expires or when they have met the conditions for its rescission.
 - b. In accordance with Section 1214, Title 13, California Code of Regulations, no motor carrier operating under the terms of this Proclamation will require or allow an ill or fatigued driver to operate a motor vehicle. A driver who notifies a motor vehicle carrier that they need immediate rest shall be given at least ten consecutive hours off-duty before being required to return to service.
 - c. Drivers shall maintain a driver's record of duty status, regardless of number of hours worked each day. These records shall be prepared, submitted, and maintained as required by Section 1213, Title 13, California Code of Regulations.
9. Consistent with Parts 390 and 395, Title 49, Code of Federal Regulations, drivers may exceed the hours-of-service limits specified while operating a vehicle engaged in fuel transportation in support of emergency relief efforts. These waivers shall be in effect for the duration of the driver's direct assistance in providing emergency relief, or thirty (30) days from the date of this Proclamation, whichever is less.
10. In order to allow out-of-state contractors and other utilities driving their own vehicles to provide mutual aid assistance for the restoration of electrical power within the counties impacted by these storms, applicable provisions of the Vehicle Code including, but not limited to, Vehicle Code section 34620 requiring a motor carrier permit [licensing] and imposition of certain fees, are suspended for motor carriers providing such assistance. Also, the requirements for motor carriers and drivers in Vehicle Code sections 1808.1 [pull-notice program that checks for driver's license violations], 27900 [display name on vehicle], 27901 [size and color of display name on vehicle], 34505.5 [requirement to have been inspected within 90 days], and 34501.12 [requirement to set up home base in California] are suspended while providing mutual aid assistance for the emergency restoration of services.

I FURTHER DIRECT that as soon as hereafter possible, this Proclamation be filed in the Office of the Secretary of State and that widespread publicity and notice be given of this Proclamation.

This Proclamation is not intended to, and does not, create any rights or benefits, substantive or procedural, enforceable at law or in equity, against the State of California, its agencies, departments, entities, officers, employees, or any other person.

IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 4th day of January 2023.



GAVIN NEWSOM
Governor of California

ATTEST:

SHIRLEY N. WEBER, Ph.D.
Secretary of State

ATTACHMENT 4

**PROLAMATION OF LOCAL EMERGENCY
RESULTING FROM SEVERE WINTER STORMS OF
DECEMBER 2022**

WHEREAS, Sacramento County Code, Title 2, Chapter 2.46 empowers the County Director of Emergency Services to proclaim the existence or threatened existence of a local emergency when Sacramento County is affected or likely to be affected by a public calamity, flood or natural disasters when the Sacramento County Board of Supervisors is not in session; and,

WHEREAS, pursuant to Sacramento County Code section 2.46.110, in the absence of the Director of Emergency Services, the Deputy Director is empowered with all the same authority empowered to the Director of Emergency Services; and

WHEREAS, the Deputy Director of Emergency Services of the County of Sacramento does hereby find that conditions of extreme peril to the safety of persons and property have arisen within the County of Sacramento, caused by extreme winter storms resulting in widespread flooding, extraordinary stress upon levees, persistent levee overtopping, local flooding of communities and local infrastructure, and exhaustion of local resources and budget, and other critical conditions; and

WHEREAS, the volume and rate of active water flows through Sacramento County rivers, specifically the Cosumnes River, has resulted in the flooding of critical roads and communities, thereby prompting local authorities to alert the public to imminent flooding and to issue, via the County emergency alerting system, emergency evacuation orders advising residents to leave their homes and seek safety; and

WHEREAS, ongoing operational response activities and continuing area damage assessments, particularly in remote areas of the County where additional impacts are certain, have diverted local resources from day to day operations, and the impacts of these storms are beyond the control of personnel, services, equipment and budget of the County; and

WHEREAS, further damages are anticipated as ongoing precipitation from multiple continuing and projected storm events are anticipated to result in sustained runoff from rivers, streams and channels which continue to impact low lying areas; and

WHEREAS, there may be extensive damages to homes, businesses, agricultural crops, products, large animals and livestock; and

NOW, THEREFORE, IT IS HEREBY PROCLAIMED, pursuant to California Government Code section 8630 of the California Emergency Services Act, and Sacramento County Code, Title 2, Chapter 2.46, a local emergency exists within and throughout Sacramento County as of December 31, 2022, and

BE IT FURTHER PROCLAIMED AND ORDERED, during the existence of this local emergency, the powers, functions and duties of the Director and/or Deputy Director of Emergency Services shall be those prescribed by state law and Sacramento County ordinances, resolutions and the approved Emergency Plan, and

BE IT FURTHER PROCLAIMED AND ORDERED, the Director and/or Deputy Director of Emergency Services is authorized to use and employ any of the property, services, personnel and resources of the County to help mitigate this emergency, and may request Federal, State, and other public agencies provide mutual aid, including personnel, equipment and other available resources, to assist Sacramento County during this emergency; and

BE IT FURTHER PROCLAIMED AND ORDERED, the local emergency shall remain in effect for the next seven (7) days unless it has been ratified and extended by the Sacramento County Board of Supervisors, who shall review the need for continuing the local emergency at least once every 60 days, and shall terminate the local emergency at the earliest possible date that conditions warrant.



Mary Jo Flynn-Neer, Chief of Emergency Services
Sacramento Deputy Director of Emergency Services
Sacramento County Office of Emergency Services

12/31/22

Date of Proclamation

ATTACHMENT 5



PROCLAMATION OF A LOCAL STATE OF EMERGENCY

WHEREAS, California Governor Gavin Newsom proclaimed a State of Emergency on January 4, 2023 due to widespread damages caused by severe winter storms from a series of atmospheric river systems striking California; and

WHEREAS, Sacramento County declared a state of emergency on December 31, 2022, which was ratified by the County Board of Supervisor on January 4, 2023; and

WHEREAS, the aforementioned storms also brought damaging high winds, substantial precipitation, and localized flooding in the City of Folsom, starting January 4, 2023 and continuing nonstop for several days thereafter; and

WHEREAS, the aforementioned storms caused severe damages throughout the City and required extraordinary responses by City employees to protect the public's safety; and

WHEREAS, it is forecasted that additional and continuing storms related to this series of atmospheric river systems will bring strong winds, heavy rainfall, and localized flooding to the City for several more days, and the City expects additional damages from falling debris, downed trees, and localized flooding; and

WHEREAS, storm damage to critical City infrastructure and resources can present a condition of extreme peril to the public's health and safety.

NOW, THEREFORE, I, ELAINE ANDERSEN, City Manager and Director of Emergency Services of the City of Folsom, pursuant to Folsom Municipal Code Section 2.28.040(A) and Government Code Section 8630(a), hereby proclaim a State of Local Emergency in the City of Folsom, California.

IT IS HEREBY ORDERED:

1. All City employees under the direction of their respective Department Directors shall take all steps reasonable and necessary to assist with storm-related emergency responses for the protection of the health, welfare, and safety of Folsom residents and businesses.

2. All City equipment, resources, and facilities shall be made available to first responders, whether local, state, or federal, for the protection of the health, welfare, and safety of Folsom residents and businesses.
3. Emergency procurement of supplies, equipment, services, or construction materials, if necessary to confront the threat to public's health, welfare, and safety, shall be made promptly under the provisions in Folsom Municipal Code Section 2.36.150.
4. City Departments, including but not limited to Police, Fire, Public Works, Environmental and Water Resources, and Parks and Recreation, shall take all steps necessary and appropriate, with safety being the top priority, to ensure continued and uninterrupted delivery of municipal services to Folsom residents and businesses during the storms.
5. All citizens are requested to comply with directions from public safety officers and City employees performing their duties responding to an emergency to protect the public's health and safety under extreme conditions.

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, welfare, and safety.


This Emergency Proclamation 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 Emergency Proclamation or the application thereof to any person or circumstances is held to be invalid, the remainder of the Emergency Proclamation, 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 Emergency Proclamation are severable.

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

IT IS SO PROCLAIMED:

Date: January 13, 2023

By: 
Elaine Andersen
City Manager
Director of Emergency Services