

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE TO EXTEND THE PROCLAMATION OF EXISTENCE OF A LOCAL EMERGENCY ISSUED BY THE DIRECTOR OF EMERGENCY SERVICES ON JANUARY 3, 2023, BASED UPON A CONTINUING PUBLIC SAFETY RISK FOR HIGH WATER FLOWS AND FLOODING IN WATERWAYS THROUGHOUT THE CITY

WHEREAS, Section 8.08.210 of Chapter 8.08 of Title 8 of the San José Municipal Code empowers the Director of the Emergency Services (City Manager or Designee) to proclaim the existence or threatened existence of a local emergency if the Council of the City of San José (“City”) is not in session, and requires that the City Council shall take action to ratify the proclamation within seven (7) days thereafter, or the proclamation shall have no further force or effect; and

WHEREAS, pursuant to California Government Code Section 8680.9, a local emergency is a condition of extreme peril to persons or property proclaimed as such by the governing body of the local agency affected by a natural or manmade disaster; and

WHEREAS, the purpose of a local emergency proclamation is to provide extraordinary police powers, immunity for emergency actions, authorize issuance of orders and regulations, and activate pre-established emergency provisions; and

WHEREAS, conditions of extreme peril to the safety of persons and property have arisen and continue to be present within the City, based on the following:

1. The City activated its Emergency Operations Center (“EOC”) on December 30, 2022 in anticipation of potential flooding from multiple significant atmospheric rivers, producing heavy rains and causing inflows into waterways throughout the City, including but not limited to Ross, Los Gatos, Fisher, Coyote, and Penitencia Creeks

and the Guadalupe River, that could result in high stream flows and potential flooding in surrounding areas.

2. The threat of flooding continues along the waterways, as the reservoirs remain full and the ground remains saturated, which creates significant runoff from the mountains.
3. The prediction of above average rain through the rainy season indicates public safety along the waterways remains at risk due to high flows in the waterways, with the potential for flooding.
4. High wind conditions add additional threats as tree roots in saturated soils cannot grip the soil and may topple onto structures and residents.
5. The current conditions of saturated soils and significant run off will contribute to increased water in waterways throughout the City, including but not limited to Ross, Los Gatos, Fisher, Coyote, and Penitencia Creeks and the Guadalupe River.
6. The most significant concern is for our unhoused residents who live anywhere within the banks of waterways throughout the City, including but not limited to the areas listed above.

WHEREAS, the City Council does hereby find that the above described conditions of extreme peril are on-going and the emergency should not be terminated at this time;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSE THAT:

1. The Proclamation of Existence of a Local Emergency, as issued by the Director of Emergency Services on January 3, 2023, and affirmed by the City Council on January 10, 2023 is hereby extended.
2. The City Council has reviewed the need for continuing the declaration of local emergency and finds based on substantial evidence that the public interest and necessity require the continuance of the proclamation of local emergency related to significant rainfall resulting from the anticipated atmospheric rivers.

3. Said local emergency shall be deemed to continue to exist until terminated by the City Council of the City of San José.
4. The Director of the Office of Emergency Services is hereby directed to report to the City Council within sixty (60) days on the need for further continuing the local emergency.

ADOPTED this _____ day of _____, 2023, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

MATT MAHAN
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk