



Agenda Item A.2
CONSENT CALENDAR
Meeting Date: November 18, 2008

TO: Mayor and Councilmembers

FROM: Dan Singer, City Manager

CONTACT: Steve Wagner, Community Services Director

SUBJECT: Continuation of a Local Emergency Regarding the Flood Threat Associated with the Gap Fire Burn Area and Delegation of Emergency Purchasing Authority

RECOMMENDATION:

Continue the Local Emergency pursuant to Resolution No. 08-45 entitled "A Resolution of the City Council of the City of Goleta, California Proclaiming a Local Emergency to Exist in the Extreme Peril Posed by the Results of the Gap Fire and Delegating Emergency Authority to the City Manager to Procure Necessary Supplies, Equipment and Services".

BACKGROUND:

On September 2, 2008, the City Council approved Resolution No. 08-45 proclaiming a Local Emergency due to the flood threat associated with the Gap Fire burn area and delegating to the City Manager emergency purchasing authority (Attachment 1). The resolution, Government Code section 8630 and Public Contract Code section 22050 each require that the City Council review the emergency action at its next regularly scheduled meeting, and at every regularly scheduled meeting thereafter, until further action is terminated, to determine that there is a need to continue the action. The delegation of emergency purchasing authority requires a four-fifths vote for approval.

DISCUSSION:

The flood threat associated with the Gap Fire burn area still exists. The work identified in the Gap Fire Pre-Winter Storm Emergency Response Plan has started and significant progress has been made. The aerial hydro mulching, Calle Real re-profiling and the Las Vegas Creek culvert modifications at Stow Canyon Road have been completed. The San Pedro Creek culvert modifications at Calle Real are in progress and scheduled to be completed by November 21, 2008. Completion of the Winchester Creek culvert improvements at Winchester Canyon Road have been delayed due to the presence of California Red Legged Frogs downstream of the project area. Environmental monitors have been hired and the project is now scheduled for completion by November 21,

2008. Updates on these efforts will be provided at subsequent scheduled City Council meetings.

Since all of the work identified in the emergency response plan has not been completed, staff recommends that Council continue the Local Emergency for the City of Goleta pursuant to Resolution No. 08-45 due to the flood threat associated with the Gap Fire burn area. Continuation of the Local Emergency will allow for completion of the work identified in emergency response plan prior to the onset of this winter's expected storms.

ALTERNATIVES

The Council may elect not to approve the continuation of the Local Emergency as recommended. However, in doing so it would impact the City's ability to implement needed emergency response measures in a timely manner.

FISCAL IMPACTS

There are no new fiscal impacts associated with the continuation of the Local Emergency.

Submitted By:

Reviewed By:

Approved By:

Steve Wagner
Community Services
Director

Michelle Greene
Administrative Services
Director

Daniel Singer
City Manager

ATTACHMENTS:

1. A Resolution of the City Council of the City of Goleta, California Proclaiming a Local Emergency to Exist in the Extreme Peril Posed by the Results of the Gap Fire and Delegating Emergency Authority to the City Manager to Procure Necessary Supplies, Equipment and Services.

Attachment 1

A Resolution of the City Council of the City of Goleta, California Proclaiming a Local Emergency to Exist in the Extreme Peril Posed by the Results of the Gap Fire and Delegating Emergency Authority to the City Manager to Procure Necessary Supplies, Equipment and Services.

RESOLUTION NO. 08-45

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GOLETA, CALIFORNIA PROCLAIMING A LOCAL EMERGENCY TO EXIST IN THE EXTREME PERIL POSED BY THE RESULTS OF THE GAP FIRE AND DELEGATING EMERGENCY AUTHORITY TO THE CITY MANAGER TO PROCURE NECESSARY SUPPLIES, EQUIPMENT AND SERVICES

WHEREAS, the California Government Code at Section 8558(c) defines a "Local Emergency" as: "the duly proclaimed existence of conditions of disaster or of extreme peril to the safety of persons and property within the territorial limits of a county, city and county, or city, caused by such condition as 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, or an earthquake or other conditions, other than 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 requires extraordinary measures beyond the authority vested in the California Public Utilities Commission"; and

WHEREAS, the Gap Fire began on July 1, 2008, and was contained on July 28, 2008, and during this time the fire burned and damaged over 9,500 acres in the hills around and above the residences and businesses of the City of Goleta; and

WHEREAS, on July 8, 2008, when the City Council was not in session, the Director of Emergency Services for the City of Goleta proclaimed the existence of a local emergency within the City of Goleta due to the Gap Fire. The proclamation was ratified by the City Council on July 15, 2008. The proclamation was allowed to terminate once the fire was contained; and

WHEREAS, on July 3, 2008, the Governor of California proclaimed the County of Santa Barbara to be in a State of Emergency as a result of the Gap Fire; and

WHEREAS, the United States Forest Service has identified that significant threats exist to persons and properties due to the potential for increased rain runoff from the burn areas of the Gap Fire during the upcoming 2008-2009 winter rain storm season. The increased rain runoff will considerably increase the likelihood of flooding and landslides; and

WHEREAS, Chapter 12, Section 6 of the Goleta Municipal Code empowers the Director of Emergency Services for the City of Goleta to request

the City Council to proclaim a local emergency if he believes that conditions present a threat or potentially pose a threat of disaster or of extreme peril; and

WHEREAS, the Director of Emergency Services believes that because of these extreme conditions, extensive local, state and federal resources are not required to mitigate the threats, and believes these conditions constitute a local emergency as defined in Government Code section 8558 (c) and is requesting the City Council to proclaim a local emergency due to the extreme peril to the safety of persons and property created by the impending increased rain runoff due to the Gap Fire burn areas; and

WHEREAS, California Public Contract Code section 22050 allows a public agency by four-fifths vote in an emergency to delegate authority to the City Manager to repair or re-place public facilities, take any directly related and immediate action required by that emergency and procure the necessary equipment, services and supplies for those purposes, without giving notice for bids to let contracts, upon a finding "that the emergency will not permit a delay resulting from a competitive solicitation for bids, and that the action is necessary to respond to the emergency"; and

WHEREAS, the extreme conditions created by the impending increased rain runoff due to the Gap Fire burn areas require immediate action directly related to said conditions to mitigate the extreme peril to persons and property; and

WHEREAS, City staff in consultation with experts, consultants and staff of additional agencies has diligently prepared the mitigation action plan since the Gap Fire occurred; and

WHEREAS, there is insufficient time to implement the mitigation action plan and to procure the necessary equipment, services and supplies if proceeding by formal notice of invitation for bids; and

WHEREAS, the implementation of the mitigation action plan and procurement of the necessary equipment, services and supplies can be accomplished most effectively and efficiently by the City acting through the City Manager as the Director of Emergency Services.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GOLETA DOES RESOLVE, DETERMINE, AND ORDER AS FOLLOWS:

SECTION 1:

That a Local Emergency now exists in the City of Goleta.

SECTION 2:

That all of the recitals set forth herein above are true, correct and valid; and that the conditions of extreme peril to the safety of persons and property within the City of Goleta have arisen as a result of the Gap Fire. The Gap Fire burned over 9,500 acres and damaged hillsides above the populated areas of the City of Goleta. The burn damage has created conditions of extreme peril that now threaten populated areas with flooding and landslides due to the significant increase in rain runoff that will likely result during the upcoming rainy season. These conditions of extreme peril constitute a Local Emergency as defined in Government Code section 8558 (c); and

1. These conditions of extreme peril are not the results of labor controversy; and,
2. That in furtherance of this proclamation of local emergency, there is hereby invoked in the City of Goleta all of the powers and mechanisms set forth in the California Emergency Services Act (Government Code sections 8550 et seq.), Goleta Municipal Code Chapter 12, Section 6 and all other applicable laws, as said powers and mechanisms may hereafter be used by authorized personnel of the City of Goleta; and,
3. That a copy of this proclamation of local emergency shall be posted at City Hall, 130 Cremona Drive, Suite B, Goleta. Copies of this proclamation shall be made available to news media and available on the City's web site at www.cityofgoleta.org; and
4. That this proclamation of local emergency shall be effective immediately and shall remain in effect until such time that the City Council determines that a threat no longer exist; and
5. The City Council shall review and, if deemed necessary, ratify the proclamation at each successive regular City Council meeting, providing that in no event shall a review take place more than 21 days after the previous review.

SECTION 3:

The City Council finds that based upon substantial evidence presented and set forth herein that the emergency will not permit a delay resulting from a competitive solicitation for bids and that action is necessary to respond to the emergency; and


1. By at least a four-fifths majority vote and pursuant to California Public Contract Code section 22050, the City Council delegates to the City Manager the authority to repair or replace any public facility, take any directly related and

- immediate action required by the emergency and procure the necessary equipment, services, and supplies for those purposes, without giving notice for bids to let contracts; and,
2. The City Manager shall report to the City Council at the next and each subsequent City Council meeting for so long as such authority shall exist pursuant to Public Contract Code section 22050 (b)(3); and,
 3. The City Council shall review this emergency action at its next regularly scheduled meeting and at every regularly scheduled meeting thereafter until the action is terminated, to determine, by a four-fifths vote, that there is a need to continue the action.

SECTION 4:

The City Clerk shall certify to the adoption of this Resolution.

PASSED, APPROVED AND ADOPTED this 2nd day of September, 2008.



MICHAEL T. BENNETT, MAYOR

ATTEST:



DEBORAH CONSTANTINO
CITY CLERK

APPROVED AS TO FORM:



TIM W. GILES
CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF GOLETA) ss.
CITY OF GOLETA)

I, Deborah Constantino, City Clerk of the City of Goleta, California, DO HEREBY CERTIFY that the foregoing Resolution No. 08-45 was duly adopted by the City Council of the City of Goleta at a regular meeting held on the 2nd day of September, 2008, by the following vote of the Council:

AYES: MAYOR BENNETT, MAYOR PRO TEMPORE ACEVES,
COUNCILMEMBERS BLOIS, ONNEN, AND WALLIS

NOES: NONE

ABSENT: NONE

(SEAL)


DEBORAH CONSTANTINO
CITY CLERK