Print Form

FOR CLERK USE ONLY
City Council
Item No. 3

CITY COUNCIL AGENDA FACT SHEET

City Attorney
Department

October 19, 2010
Requested Date

1. **Request:**

Council Approval	☒	Information Only/ Presentation	☐
Other (specify)	☐	Hearing	☐

2. **Requested Action:**

Earthquake resolutions

3. **Fiscal Impact:**

Revenue:	Increase	☐	Source:	
	Decrease	☐	Amount:	$
Cost:	Increase	☐	Source:	N/A
	Decrease	☐	Amount:	$
	Does Not Apply	☒		

4. **Reviewed By:**

Finance Dept. on _____ By: _____
Comments:

City Attorney on 10-8-10 By: J. Lyon
Comments:

Note: Back up must be submitted along with this form. Deadline is 5:00 p.m., 2 Fridays before the scheduled meeting date.

CLERK USE ONLY:
CITY COUNCIL DATE: _____

Action	☐	Filing	☐
Consent	☐	Presentation	☐
Hearing	☐	Other(specify)	☐

Reviewed by: City Clerk _____ City Manager _____
Date _____ Date _____

Form FIN038 (Revised 07/2009)

CITY COUNCIL
AGENDA REPORT

SUBJECT: RESOLUTIONS RELATED TO APRIL 4, 2010 EARTHQUAKE AND AFTERSHOCKS AND RATIFICATION OF VARIOUS EMERGENCY ACTIONS

AGENDA DATE: October 19, 2010

PREPARED BY: Jennifer M. Lyon, City Attorney

APPROVED FOR AGENDA BY: Victor Carrillo

RECOMMENDATION: Adopt the following resolutions:

(1) Resolution approving declarations issued by City Manager related to Earthquake emergency;
(2) Resolution declaring the continuing existence of the local emergency; suspending the public bidding requirements; and ratifying the expenditures and contracts related to the local emergency made by the City Manager since April 4, 2010.

FISCAL IMPACT: The City has various costs related to the earthquake and repairing public infrastructure.

ENVIRONMENTAL REVIEW: This action is not subject to CEQA review.

DISCUSSION (Current consideration):
A magnitude 7.2 earthquake occurred just outside of Calexico on April 4, 2010 at approximately 3:40 p.m. The earthquake was close enough to the City that various structures and infrastructure have been damaged including damage to wastewater and water infrastructure and buildings in the downtown area. The current cost estimate for damages to the City infrastructure is attached to this staff report. All available City personnel and mutual aid resources have been used to respond to the earthquake-related issues to protect citizens and property.

City Staff activated the Calexico Emergency Operations Center on or about April 4, 2010. Pursuant to the Calexico Municipal Code, the Calexico Disaster Council, the City Council, and the City Manager have the authority to declare a local emergency and take various actions related to the protection of life, property and public safety. The resolution attached to this staff report includes ratification of various declarations by the City Manager related to closing of city streets, sidewalks and businesses within the city in order to protect public health and safety.

Further, state law allows for the Council to approve a resolution by a 4/5 vote that allows the City to let public contracts without going through public bidding requirements while the local emergency continues to exist, if such actions are necessary. With the damage to vital public infrastructure, the need for immediate and quick repairs, and the continuing aftershocks, there is a need to suspend the notice and bidding requirements so that steps can be taken quickly to perform repairs and to complete prevention activities throughout the City. The Council approved resolutions on: April 6, 2010; April 20, 2010; May 4, 2010; May 18, 2010; June 1, 2010; June 15, 2010; July 6, 2010; July 20, 2010; August 3, 2010; August 17, 2010; September 7, 2010; September 21, 2010; and October 5, 2010 to suspend the public bidding requirements and in order to continue the suspension of public bidding, the resolution continuing the local emergency must be approved. Further, the resolution addresses the City Council's ratification of the expenditures and contracts entered into since April 4, 2010.

RECOMMENDATION: It is recommended that the City Council approve the attached resolutions.

Attachments: 2 Resolutions

RESOLUTION NO. ____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CALEXICO, CALIFORNIA, RATIFYING THE CITY MANAGER'S ACTIONS RELATING THE EXISTENCE OF A LOCAL EMERGENCY

WHEREAS, Government Code section 8630 authorizes the City Council to proclaim the existence or threatened existence of a local emergency and they declared the local emergency on April 4 and April 6, 2010;

WHEREAS, the City Manager, the Director of Emergency Services, declared an emergency on April 4, 2010 pursuant to the Calexico Municipal Code and is authorized to make certain orders and take various actions, and

WHEREAS, on April 6, 2010, April 20, 2010, May 4, 2010, May 18, 2010, June 1, 2010, June 15, 2010, July 6, 2010, July 20, 2010, August 3, 2010, August 17, 2010 September 7, 2010, September 21, 2010, and October 5, 2010, the City Council ratified various actions taken by the City Manager related to the disaster; and

WHEREAS, conditions of extreme peril to the safety of persons and property have arisen, and continue to exist, within the City of Calexico, as a result of a 7.2 magnitude earthquake commencing on or about 3:40 p.m. on the 4th day of April, 2010 and the continuing aftershocks; and

WHEREAS, the City Council does hereby find that the above described conditions of extreme peril did warrant and necessitate the actions of the City Manager pursuant to the police powers of the City; and

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Calexico that the actions of the City Manager from April 4, 2010 until the date of this Resolution as evidenced by the attached declarations related to closing of businesses, public places, and streets; and any other necessary actions for the protection of public peace, health and safety as the Director of Emergency Services are hereby ratified and confirmed.

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

PASSED, ADOPTED AND APPROVED by the City Council of the City of Calexico at a regular meeting this 19th day of October, 2010.

JOHN MORENO,
MAYOR

ATTEST:

LOURDES CORDOVA, CITY CLERK

APPROVED AS TO FORM:

JENNIFER M. LYON, CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF IMPERIAL) SS.
CITY OF CALEXICO)

I, LOURDES CORDOVA, CITY CLERK OF THE CITY OF CALEXICO, DO HEREBY CERTIFY THAT THE ABOVE FOREGOING RESOLUTION NO. 2010- ___ WAS DULY PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF CALEXICO ON THIS 19th DAY OF OCTOBER, 2010 BY THE FOLLOWING VOTE, TO WIT:

AYES:
NOES:
ABSENT:

LOURDES CORDOVA, CITY CLERK

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CALEXICO, CALIFORNIA, FINDING AND DECLARING THE CONTINUING EXISTENCE OF AN EMERGENCY WITHIN THE CITY DUE TO AN EARTHQUAKE; SUSPENDING NOTICE AND BIDDING REQUIREMENTS IN CONNECTION WITH REPAIRS REQUIRED THEREBY; AND RATIFYING VARIOUS EXPENDITURES AND CONTRACTS BY THE CITYMANAGER

WHEREAS, the earthquake which occurred on April 4, 2010 was a magnitude of 7.2 has caused significant structural damage to buildings and public infrastructure, including the water and wastewater treatment plants in the City of Calexico, creating a threat to public health and safety; and

WHEREAS, Government Code section 8630 and Calexico Municipal Code (CMC) section 2.36.060 empower the City Manager, acting as the Director of Emergency Services, to proclaim the existence of a local emergency when the City is affected by a public calamity, and the City Council is not in session; and

WHEREAS, on April 4, 2010, the City Manager, the City Council, and the City's Disaster Council, acting pursuant to Government Code section 8630 and CMC section 2.36.060, proclaimed the existence of a local emergency based on conditions of extreme peril to the safety of persons and property caused by the earthquake; and

WHEREAS, the City Council is required by Government Code section 8630 and CMC section 2.36.060 to ratify the existence of a local emergency within seven (7) days of a Proclamation of Local Emergency by the City Manager, and the City Council ratified the local emergency on April 6, 2010; and

WHEREAS, Public Contract Code Section 20168 provides that the City Council may pass by four-fifths (4/5) vote, a resolution declaring that the public interest and necessity demand the immediate expenditure of public money to safeguard life, health, or property and the City Council approved such resolution on April 6, 2010 by a 5-0 vote; and

WHEREAS, upon adoption of such resolution, the City Manager may expend any sum required in the emergency and report the same to the City Council in accordance with Public Contract Code Section 22050; and

WHEREAS, if such expenditure is ordered, the City Council shall review the emergency action at each regular meeting, to determine if there is a need to continue the action or if the Proclamation of Local Emergency may be terminated; and

WHEREAS, the major earthquake, aftershocks, and structural and infrastructure damage constitute an emergency within the terms of Public Contract Code Sections 20168 and 22050 which require that the City Manager be able to act quickly and without complying with the notice and bidding procedures of the Public Contract Code to repair and protect public facilities; and

WHEREAS, the City has suffered major public infrastructure damage which will require immediate and necessary repairs to protect the public health, safety, and welfare and the City continues to experience significant aftershock earthquakes that can continue to damage the infrastructure.

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Calexico hereby finds and declares:

1. A continuing emergency exists within the City as of April 4, 2010 as the result of earthquake damage to various public facilities from the April 4th earthquake and subsequent aftershocks; and

   (a) The continuing threat of the earthquake, aftershocks, and resulting damage requires that the City be able to expend public money if necessary to repair and protect damaged public facilities in order to safeguard life, health, or property; and

   (b) The City Manager is authorized to order work for the temporary and permanent repair or protection of public facilities damaged by the earthquake or threatened by the earthquake, if and to the extent necessary, to safeguard life, health, or property without complying with notice or bidding procedures; and

   (c) Once such expenditure is made, the City Manager shall report the conditions to the City Council at each regular meeting, at which time the City Council shall either continue the emergency action or shall declare the emergency ended.

2. This Proclamation of Local Emergency and all subsequent resolutions in connection herewith shall require a four-fifths (4/5) vote of the City Council.

3. Any expenditures and contracts as listed on Exhibit A attached hereto are hereby ratified and approved.

PASSED, ADOPTED, AND APPROVED by the City Council of the City of Calexico, California, at a regular meeting thereof, this 19th day of October 2010.

_____
John Moreno, Mayor

ATTEST:

_____
Lourdes Cordova, City Clerk

Approved as to Form:

_____
Jennifer M. Lyon, City Attorney

STATE OF CALIFORNIA)
COUNTY OF IMPERIAL)
CITY OF CALEXICO)

I, Lourdes Cordova, City Clerk of the City of Calexico, do hereby certify under penalty of perjury that the foregoing Resolution No. 10- was duly adopted by the City Council at a meeting of said City Council held on the 19th day of October 2010, and that it was so adopted by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

_____
Lourdes Cordova, City Clerk
City of Calexico