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RESOLUTION NO. 2020-

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A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SUISUN CITY RATIFYING THE DIRECTOR OF EMERGENCY SERVICES' PROCLAMATION OF THE EXISTENCE OF A LOCAL EMERGENCY WITHIN THE CITY OF SUISUN CITY (COVID-19)

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WHEREAS, in December, 2019, an outbreak of respiratory illness due to a novel coronavirus (a disease now known as COVID-19) was first identified in Wuhan City, Hubei Province, China; and

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WHEREAS, COVID-19 has since spread outside of China, impacting more than 100 countries, now including the United States; and

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WHEREAS, the CDC activated its Emergency Response System to provide ongoing support for the response to COVID-19 across the country, and;

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WHEREAS, the California Department of Public Health has activated its Medical and Health Coordination Center, and the Office of Emergency Services recently activated the State Operations Center to provide support and guide actions to preserve public health; and

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WHEREAS, on March 3, 2020, Governor Newsom declared the existence of a state of emergency for the State of California; and,

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WHEREAS, on March 11, 2020, the Director-General for the World Health Organization declared that COVID-19 can be characterized as a "pandemic"; and

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WHEREAS, on March 13, 2020, the President of the United States declared that the outbreak of COVID-19 in the United States constitutes a national emergency; and

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WHEREAS, as of March 13, 2020, COVID-19 has spread globally to over 122 countries and territories, has infected more than 130,000 individuals and killed more than 4,000 individuals per the World Health Organization; and

WHEREAS, on March 17, 2020, Governor Newsom issued an Executive Order No. N-28-20, authorizing local governments to halt evictions for renters and homeowners, slowing foreclosures, and protecting against utility shutoffs for Californians affected by COVID-19; and

WHEREAS, one of the many effects of the COVID-19 pandemic is panicked demand for consumer good and products that can help people prepare for or protect themselves from the pandemic, including sanitary face masks, medical supplies, hand sanitizer, soap, disinfectants, household products, and groceries; and

WHEREAS, price gouging is not limited to household goods, and can also occur in the context of rental housing with respect to increased rents. This can have the effect of precluding tenants from finding available housing and can also lead to evictions in the event an existing tenant cannot afford to pay rent. This concern is especially pertinent in the context of the instant COVID-19 pandemic, in light of the direction from all levels of government and health authorities regarding maintaining social distancing, avoiding large gatherings, and self-quarantining, much of which is not possible without a home; and

1 **WHEREAS**, specifically, California Penal Code Section 396 controls price increases
2 for rental housing, consumer goods, and services related to emergency response and recovery
3 for an initial period of thirty days after a declaration of an emergency by the President,
4 Governor, or local agency, and generally prohibits charging a price that exceeds by more than
5 10 percent of the price of the rental units, goods or services as such existed before the
6 declaration of an emergency event. Penal Code Section 396 permits a local legislative body to
7 extend the price controls for an additional thirty-day period as needed to protect the lives,
8 property or welfare of its citizens. Nothing in Penal Code Section 396 preempts a city's ability
9 to adopt an ordinance that prohibits the same or similar conduct and allows a city to impose a
10 more severe penalty for the conduct prohibited by Penal Code Section 396. Penal Code
11 Section 396 applies to hotels, motels and any other rental housing with an initial lease term of
12 no longer than one year; and

13 **WHEREAS**, it is imperative to prepare for and respond to suspected or confirmed
14 COVID-19 cases within the City, and to prepare to respond to an increasing number of
15 individuals who may require medical care; and

16 **WHEREAS**, strict compliance with certain Municipal Code and other City
17 regulations would prevent, hinder, or delay appropriate actions to prevent and mitigate the
18 effects of the COVID-19, which issue cannot be timely addressed absent a declaration of
19 emergency; and

20 **WHEREAS**, because the mobilization of local resources, ability to coordinate
21 interagency response, accelerate procurement of vital supplies, use mutual aid, and allow for
22 future reimbursement by the state and federal governments will be critical to successfully
23 respond to COVID-19, the City may require additional assistance in the future, and
24 proclamation of local emergency allows additional resources to flow to the City in a timely
25 manner; and

26 **WHEREAS**, Chapter 2.32 of Title 2 of the Suisun Municipal Code establishes that
27 the Director of Emergency Services may issue an emergency proclamation if the City Council
28 is not in session; and

WHEREAS, the City Manager has been designated as the Director of Emergency
Services; and

WHEREAS, on March 16, 2020, the City's Director of Emergency Services declared
a local emergency, finding that that conditions of extreme peril to the safety of persons and
property have arisen within the City of Suisun City and that these conditions are or are likely
to be beyond the control of the services, personnel, equipment, and facilities of the City of
Suisun City; and,

WHEREAS, per Government Code Section 8630 a local emergency declared by the
Director of Emergency Services shall not remain in effect for a period in excess of seven days
unless it has been ratified by the City Council of the City of Suisun City; and

WHEREAS, the Director of Civil of Emergency Services requests that the City
Council proclaim the existence of a local emergency; and,

WHEREAS, after consideration of all facts reasonably available presently for review
and all items, the City Council now desires to ratify the existence of a state of local
emergency to make additional resources available to address the effects of COVID-19.

1 **NOW, THEREFORE**, the City Council of the City of Suisun City does resolve as
2 follows:

3 1. The conditions of extreme peril to the safety of persons and property have arisen
4 within the City of Suisun City, caused by the effects of COVID-19.

5 2. The aforementioned conditions of extreme peril warrant and necessitate the
6 proclamation of the existence of a local emergency by the City's Director of Emergency
7 Services.

8 3. The City Council does hereby ratify and confirm the declaration of a local
9 emergency by the Director of Emergency Services.

10 4. During the existence of said local emergency, all public access to city facilities is
11 suspended until further notice and is subject to allowing the public to make appointments at
12 city hall for essential matters that cannot be handled by phone or on the City's web site.

13 5. During the existence of said local emergency, subject to a case by case review, all
14 municipal utilities are ordered to remain operational and not be shut off for all residents and
15 businesses regardless of payment status.

16 6. During the existence of said local emergency, all existing City moratoriums and
17 other actions to protect public health and safety shall remain effective until further notice.

18 7. During the existence of said local emergency, the powers, functions and duties of
19 the Director of Emergency Services shall be those prescribed by State Law, City ordinances,
20 resolutions, and approved plans of the City in order to mitigate the effects of said local
21 emergency. In this regard, the Council desires to make clear the powers, functions, and duties
22 include:

23 (a) As necessary for the public health, life, and property, entering into contracts to
24 arrange for the procurement of materials, goods, and services needed to assist in
25 preparing for, containing, responding to, mitigating the effects of, and recovering
26 from the spread of COVID-19. Applicable provisions of the Government Code and
27 the Public Contract Code, including but not limited to travel, advertising, and
28 competitive bidding requirements, as well as any City procurement or related
policy, are suspended to the extent reasonably necessary to address the effects of
COVID-19.

(b) The Director of Emergency Services is expressly authorized to assist with any
lawful order, including the enforcement of an order of quarantine or curfew, as
well as ordering potentially ill City employees to leave the workplace, authorizing
certain City employees to work remotely, taking steps to limit non-essential
contact by City employees, etc., to address the effects of COVID-19.

(c) The Director of Emergency Services is expressly authorized at his discretion to
invoke force majeure on any City agreements or obligations, to the extent
reasonably necessary to address the effects of COVID-19.

8. During the existence of said local emergency, and in accordance with Governor
Newsom Executive Order No. N-28-20, it shall be unlawful to initiate residential or
commercial evictions under the following circumstances, and in violation of Penal Code
Section 396:

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- (a) The basis for the eviction is nonpayment of rent, or a foreclosure, arising out of a substantial decrease in household or business income (including, but not limited to, a substantial decrease in household income caused by layoffs or a reduction in the number of compensable hours of work, or a substantial decrease in business income caused by a reduction in opening hours or consumer demand), or substantial out-of-pocket medical expenses; and
- (b) The decrease in household or business income or the out-of-pocket medical expenses described in subparagraph (i) was caused by the COVID-19 pandemic, or by any local, state, or federal government response to COVID-19, and is documented.
- (c) These limitations shall prevent a person, business, or other entity to evict a tenant pursuant to Section 1161 of the California Code of Civil Procedure, or to continue an eviction process that was lawfully begun prior to the proclamation or declaration of emergency.

9. During the existence of said local emergency, it shall be unlawful for any person or entity to increase its prices for goods or services in violation of Section 396 of the California Penal Code. The City Council hereby directs the City Attorney to prosecute any such violations to the fullest extent permissible by law.

10. During the existence of said local emergency, and along with all State and County resources, all City response resources, vehicles, and services shall be given first priority from shopkeepers and businesses located within the City, including, but not limited to, water, fuel and gasoline.

11. During the existence of said local emergency and in accordance with Suisun City Municipal Code Section 2.32.130, violations of Chapter 2.32 shall be a misdemeanor, punishable by a fine not to exceed one thousand dollars, or by imprisonment for not to exceed six months, or both.

12. The local emergency shall be deemed to continue to exist until its termination is proclaimed by the City Council, and the Director of Emergency Services shall have continuing authority to issue directives to the extent reasonably necessary to address the effects of COVID-19.

13. The Government Code Section 8630 requirement that the Council review of the need for continuing the local emergency at least once every 60 days until the City Council terminates the local emergency has been waived for the duration of the statewide emergency declared by Governor Newsom. If this declaration of local emergency extends for more than the duration of the statewide emergency declared for COVID-19, City Staff are directed to thereafter return this item for Council review of the need for continuing the local emergency at least once every 60 days until the City Council terminates the local emergency.

14. This Resolution shall take effect immediately. This Resolution and its contents will be published and promulgated in as widespread a manner as is reasonable feasible under the conditions prevailing during this local emergency.

The foregoing resolution was adopted by the City Council of the City of Suisun City at a special meeting thereof held on the 17th day of March, 2020.

1 **AYES:** Councilmembers: _____
2 **NOES:** Councilmembers: _____
3 **ABSENT:** Councilmembers: _____
4 **ABSTAIN:** Councilmembers: _____

Lori Wilson, Mayor

5 ATTEST:

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7 Donna Pock, CMC, Deputy City Clerk
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9 APPROVED AS TO FORM:

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11 By: _____
12 Anthony R. Taylor, City Attorney
13 Aleshire & Wynder, LLP
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