RESOLUTION NO. 023-2020

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTEE DECLARING THE EXISTENCE OF A LOCAL EMERGENCY REGARDING NOVEL CORONAVIRUS (COVID-19) AND RATIFYING THE PROCLAMATION OF THE DIRECTOR OF EMERGENCY SERVICES

WHEREAS, COVID-19 has spread globally to over 182 countries, infecting more than 240,000 persons and killing more than 10,000 individuals worldwide. As of March 20, 2020, there were 105 cases in San Diego County. Due to the expanding list of countries experiencing sustained or uncontrolled community transmission issued by the Centers for Disease Control and Prevention ("CDC"), the escalation of United States domestic cases of and death from COVID-19, and the identification of COVID-19 cases in California, including San Diego County, COVID-19 has created conditions that are likely to be beyond the control of local resources and require the combined forces of other political subdivisions to combat; and

WHEREAS, on February 26, 2020, the CDC confirmed the first possible case of community transmission of COVID-19 in the United States. On February 14, 2020, the Health Officer of San Diego County determined that there is an imminent and proximate threat to the public health from the introduction of COVID-19 in San Diego County and declared a Local Health Emergency and the San Diego County Board of Supervisors ratified the existence of a local emergency for the County of San Diego; and

WHEREAS, on March 4, 2020, California Governor Gavin Newsom declared a State of Emergency to make additional resources available, formalize emergency actions already underway across multiple state agencies and departments, and help the state prepare for broader spread of COVID-19; and

WHEREAS, on March 11, 2020, the World Health Organization (WHO) publicly characterized COVID-19 as a pandemic; and

WHEREAS, on March 12, 2020, Governor Newsom issued Executive Order N-25-20 in a further effort to confront and contain COVID-19 that among other things suspended certain provisions of the Ralph M. Brown Act providing local agencies with greater flexibility to hold meetings via teleconferencing; and

WHEREAS, on March 13, 2020, the President of the United States declared a National Emergency due to the continued spread and the effects of COVID-19; and

WHEREAS, on March 19, 2020, Governor Newsom issued Executive Order N-33-2-0, ordering all individuals living in the State of California to stay home or at their place of residence except as needed to maintain continuity of operations of the federal government critical infrastructure sectors; and

WHEREAS, the City's ability to mobilize local resources, coordinate interagency response, accelerate procurement of vital supplies, use mutual aid, and seek future reimbursement by the State and Federal governments will be critical to successfully responding to COVID-19; and

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WHEREAS, California Government Code Section 8630, et seq., and City of Santee Municipal Code Section 2.23.060 empowers the Director of Emergency Services to proclaim the existence of a local emergency to protect and preserve the public welfare when the City is affected or likely to be affected by a public calamity; and

WHEREAS, on March 18, 2020, the Director of Emergency Services, did proclaim the existence of a local emergency; and

WHEREAS, the City Council does hereby find the following:

1. That the spread and potential further spread of COVID-19 constitutes a situation that severely impairs the public health and safety within the City of Santee and constitutes conditions of extreme peril to the safety of persons and property within the City of Santee;

2. That these conditions are likely to be beyond the control of the services, personnel, equipment, and facilities of the City of Santee;

3. That the conditions of extreme peril warrant and necessitate the declaration of the existence of a local emergency; and

WHEREAS, a declaration of a local emergency will assist in a coordinated public health response to reduce transmission and illness severity, provide assistance to health care providers, coordinate and mitigate public services that may be disrupted by this emergency, and mitigate any other effects of this emergency on the citizens of the City; and

WHEREAS, under Government Code Section 8630(b), a proclamation of local emergency must be ratified by the City Council within seven (7) days to remain in effect; and

WHEREAS, Government Code Section 8630 generally requires the City Council to review the need for continuing the local emergency at least every sixty (60) days, but as part of Governor Newsom's March 4, 2020, Declaration of a State of Emergency in California due to COVID-19, this provision has been waived for the duration of the statewide emergency, allowing the City to maintain its emergency in place until terminated by the City Council; and

WHEREAS, the Governor of the State of California has stated that individuals exposed to COVID-19 may be temporarily unable to report to work due to illness caused by COVID-19 or quarantines related to COVID-19 and individuals directly affected by COVID-19 may experience potential loss of income, health care and medical coverage, and the ability to pay for housing and basic needs, thereby placing increased demands on already strained regional and local health and safety resources, including shelters and food banks; and

WHEREAS, further economic impacts are anticipated, leaving tenants vulnerable to eviction; and

WHEREAS, during this local emergency, and in the interest of protecting the public health and preventing transmission of COVID-19, it is essential to avoid unnecessary housing displacement, to protect the City's affordable housing stock, and to prevent housed individuals from falling into homelessness; and

WHEREAS, loss of income as a result of COVID-19 may inhibit City residents and businesses from fulfilling their financial obligations, including public utility payments such as water and sewage charges and parking penalties; and

WHEREAS, ensuring that all people in the City continue to have access to running water during this public health crisis will enable compliance with public health directives that people regularly wash their hands will help to prevent the further spread of COVID-19; and

WHEREAS, in the interest of public health and safety, as affected by the emergency caused by the spread of COVID-19, it is necessary to exercise authority to issue this regulation related to the protection of life and property; and

WHEREAS, the City Council desires to declare a local emergency and ratify the proclamation of a local emergency by the Director of Emergency Services.

NOW, THEREFORE, IT IS HEREBY DECLARED by the City Council that a local emergency exists throughout the City of Santee, and the City Council ratifies the proclamation by the Director of Emergency Services, proclaiming the existence of local emergency caused by the spread of COVID-19 issued on March 18, 2020.

IT IS FURTHER DECLARED AND RESOLVED that, as authorized in Government Code Sections 8630 and City of Santee Municipal Code Section 2.32.060, and based on the foregoing, an "emergency" as defined in Government Code Section 54956.5(a) and City of Santee Municipal Code Section 2.32.020 and a "local emergency" as defined in Government Code Section 8558(c) hereby exists within the territorial jurisdiction of the City of Santee and are deemed to continue to exist until its termination is declared by the City Council.

IT IS HEREBY FURTHER DECLARED AND RESOLVED that the City Manager, acting as the Director of Emergency Services, is hereby authorized to furnish information, to promulgate orders and regulations necessary to provide for the protection of life and property pursuant to California Government Code Section 8634, to enter into agreements and to take all actions necessary to obtain State emergency assistance to implement preventive measures to protect and preserve the residents of the City within the scope of the local emergency hereby declared.

IT IS FURTHER DECLARED AND RESOLVED that pursuant to California Penal Code Section 396, it is unlawful for any person or business of the City of Santee to charge more than 10% higher than the price charged by that person or business 30 days after the declaration of this local emergency; and that pursuant to that statute, the City Council shall have the authority to extend the price controls for additional 30-day periods as needed to protect the lives, property, or welfare of the citizens.

IT IS FURTHER DECLARED AND RESOLVED that a temporary moratorium on eviction for non-payment of rent by residential tenants impacted by the COVID-19 crisis is imposed as follows:

1. During the period of local emergency declared in response to COVID-19, no landlord shall endeavor to evict a tenant in either of the following situations: (1) for nonpayment of rent if the tenant demonstrates that the tenant is unable to pay rent due to financial impacts related to COVID-19 or (2) for a no-fault eviction unless necessary for the health and safety of tenants, neighbors, or the landlord. A landlord who knows that a tenant cannot pay some or all of the rent temporarily for the reasons set forth above shall not serve a notice pursuant to Code of Civil Procedure section, file or prosecute an unlawful detainer action based on a 3-day pay or quit notice, or otherwise seek to evict for nonpayment of rent. A landlord knows of a tenant's inability to pay rent within the meaning of this Resolution if the tenant, within 30 days after the date that rent is due, notifies the landlord in writing of lost income and inability to pay full rent due to financial impacts related to COVID-19, and provides documentation to support the claim. For purposes of this Resolution, "in writing" includes email or text communications to a landlord or the landlord's representative with whom the tenant has previously corresponded by email or text. Any medical or financial information provided to the landlord shall be held in confidence, and only used for evaluating the tenant's claim. Nothing in this Resolution shall relieve the tenant of liability for the unpaid rent, which the landlord may seek after expiration of the local emergency and the tenant must pay within six months of the expiration of the local emergency. A landlord may not charge or collect a late fee for rent that is delayed for the reasons stated in this Resolution; nor may a landlord seek rent that is delayed or the reasons stated in this Resolution through the eviction process.

2. For purposes of this Resolution, "financial impacts related to COVID-19" include, but are not limited to, tenant lost household income as a result of any of the following: (1) being sick with COVID-19, or caring for a household or family member who is sick with COVID-19; (2) lay-off, loss of hours, or other income reduction resulting from business closure or other economic or employer impacts of COVID-19; (3) compliance with a recommendation from a government health authority to stay home, self-quarantine, or avoid congregating with others during the state of emergency; (4) extraordinary out-of-pocket medical expenses; or (5) child care needs arising from school closures related to COVID-19.

3. For purposes of this Resolution, "no-fault eviction" refers to any eviction for which the notice to terminate tenancy is not based on alleged fault by the tenant, including but not limited to eviction notices served pursuant to Code of Civil Procedure sections 1161(1), 1161(5), or 1161c.

4. This Resolution applies to nonpayment eviction notices, no-fault eviction notices, and unlawful detainer actions based on such notices, served or filed on or after the date on which a local emergency was declared.

5. This Resolution grants a defense in the event that an unlawful detainer action is commenced in violation of this Resolution.

6. This Resolution shall be superseded by any duly enacted ordinance or resolution of the City Council or an order by the Director of Emergency Services adopted during the local emergency that expressly supersedes this Resolution.

IT IS FURTHER DECLARED AND RESOLVED that as a result of the local emergency, for a period of 60 days from the date of this Resolution, the City hereby suspends the imposition of late payment penalties or fees for parking violations.

IT IS FURTHER DECLARED AND RESOLVED that the City Council will utilize, to the extent reasonably feasible and appropriate, the ability to conduct its Council Meetings via teleconferencing and other electronic means to permit Council Members and members of the public to adopt social distancing to the greatest extent possible while still proceeding with the efficient handling of the City's business, in compliance with California Executive Order N-33-20.

IT IS FURTHER DECLARED AND RESOLVED that a copy of this declaration be forwarded to the Director of California Governor's Office of Emergency Services requesting that the Director find it acceptable in accordance with State law; that the Governor of California, pursuant to the Emergency Services Act, declare an emergency is San Diego County and waive regulations that may hinder response and recovery efforts; that recovery assistance be made available under the California Disaster Assistance Act; and that the State expedite access to State and Federal resources and any other appropriate federal disaster relief programs.

IT IS HEREBY FURTHER DECLARED AND RESOLVED that during the existence of said local emergency, the powers, functions, and duties of the emergency organization of this City shall be those prescribed by state law, and the ordinances, and resolutions heretofore and hereafter adopted by the City Council.

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PASSED, APPROVED and ADOPTED by the City Council of the City of Santee at a Regular Meeting of said Council held on the 25th of March, 2020, by the following vote:

AYES: **HALL, HOULAHAN, KOVAL, MINTO**

NOES: **MCNELIS**

ABSENT: **NONE**

APPROVED:

JOHN W. MINTO, MAYOR

ATTEST:

ANNETTE ORTIZ, CMC, CITY CLERK

APPROVED AS TO FORM:
BEST, BEST & KRIEGER LLP

SHAWN HAGERTY, CITY ATTORNEY

Attachment 1: Proclamation by the Director of Emergency Services (March 18, 2020)

PROCLAMATION BY THE DIRECTOR OF EMERGENCY SERVICES, PROCLAIMING THE EXISTENCE OF A LOCAL EMERGENCY REGARDING NOVEL CORONAVIRUS (COVID-19)

WHEREAS, the federal Centers for Disease Control and Prevention ("CDC") has confirmed multiple cases of individuals who have severe respiratory illness caused by a novel coronavirus, called COVID-19, as well as deaths caused by this illness; and

WHEREAS, the World Health Organization declared COVID-19 a pandemic, and the CDC announced that community spread of COVID-19 is likely to occur in the United States; and

WHEREAS, on March 4, 2020 California Governor Newsom declared a State of Emergency to make additional resources available, formalize emergency actions already underway across multiple state agencies and departments, and help the state prepare for broader spread of COVID-19; and

WHEREAS, the increase of reported cases and deaths associated with COVID-19 has also prompted the County of San Diego and the Health and Human Services Agency to declare a local and public health emergency; and

WHEREAS, the imminent and proximate threat of introduction of COVID-19 in the City of Santee threatens the safety and health of City residents; and

WHEREAS, California Government Code Section 8630 and Santee Municipal Code section 2.23.060 empowers the Director of Emergency Services to proclaim the existence of a local emergency to protect and preserve public welfare when the City is affected or likely to be affected by a public calamity; and

WHEREAS, a proclamation of a local emergency will assist in a coordinated public health response to reduce transmission and illness severity, provide assistance to health care providers, coordinate and mitigate public services that may be disrupted from this emergency, and mitigate any other effects of this emergency on the citizens of the City; and

WHEREAS, under Government Code section 8630(b), a proclamation of local emergency must be ratified by the City Council within seven (7) days to remain in effect; and

WHEREAS, Government Code section 8630 generally requires the City Council to review the need for continuing the local emergency at least every sixty (60) days, but as part of Governor Gavin Newsom's March 4, 2020 Declaration of a State of Emergency in California due to COVID-19, this provision has been waived for the

duration of the statewide emergency, allowing the City to maintain its emergency in place until terminated by the City Council; and

WHEREAS, Ordinance No. 344 of the City of Santee ("City") empowers the Director of Emergency Services 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 the City Council is not in session; and

WHEREAS, Pursuant to California Government Code section 8630 and Santee Municipal Code section 2.23.060, the City of Santee, Director of Emergency Services does hereby find;

Section 1. A local emergency caused by conditions or threatened conditions of COVID-19 in Santee, which constitutes an extreme peril of health and safety of persons within the territorial limits of the City.

Section 2. The local emergency shall be deemed to continue to exist until its termination is proclaimed by the City Council.

Section 3. Pursuant to California Penal Code section 396, it is unlawful for any person or business of the City of Santee to charge more than 10% higher than the price charged by that person or business 30 days after the proclamation this local emergency. The statue also authorizes the City Council to extend the price controls for additional 30-day period as needed to protect the lives, property or welfare of the citizens.

Section 4. During the existence of said local emergency, the powers, functions, and duties of the emergency organization of this City shall be those prescribed by state law, ordinances, and resolutions of this City of Santee.

Section 5. That the City Council of the City of Santee is not in session (and cannot immediately be called into session).

NOW, THEREFORE, IT IS HEREBY PROCLAIMED that a local emergency now exists throughout the City; and

IT IS HEREBY FURTHER PROCLAIMED AND ORDERED that during the existence of said local emergency the powers, functions, and duties of the emergency organization of this City shall be those prescribed by state law, by ordinances, and resolutions of this City and by the City of Santee SEMS Multi-hazard Functional Plan.

Dated: 3/18/20

By: Marlene D. Best
Director of Emergency Services
City of Santee