



Lane Dilg
Interim City Manager

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**EIGHTEENTH SUPPLEMENT TO THE EXECUTIVE ORDER OF THE DIRECTOR
OF EMERGENCY SERVICES DECLARING THE EXISTENCE OF A LOCAL
EMERGENCY**

WHEREAS international, national, state, and local health and governmental authorities are responding to an outbreak of respiratory disease caused by a novel coronavirus named “SARS-CoV-2,” and the disease it causes has been named “coronavirus disease 2019,” abbreviated COVID-19, (“COVID-19”); and

WHEREAS, on March 4, 2020, the Los Angeles County Board of Supervisors and Department of Public Health declared a local emergency and local public health emergency to aid the regional healthcare and governmental community in responding to COVID-19; and

WHEREAS, on March 4, 2020, the Governor of the State of California 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 12, 2020, in response to social distancing guidance issued by the Centers for Disease Control and Prevention, the California Department of Public Health, and the Los Angeles County Department of Public Health, the City of Santa Monica (“the City”) cancelled all social gatherings (events, activities, programs, and gatherings) in City facilities that were scheduled to occur through permit or license between March 12, 2020, and March 31, 2020, absent a persuasive showing by the permittee or licensee that the gathering could take place in accordance with the guidance and directives of public health authorities; and

WHEREAS, on March 12, 2020, in response to social distancing guidance issued by the Centers for Disease Control and Prevention, the California Department of Public Health, and the Los Angeles County Department of Public Health, and to protect the health and safety of the City workforce, the City announced that Santa Monica City Hall would be closed to the public and open only to City employees from March 16, 2020, to March 31, 2020; and

WHEREAS, on March 13, 2020, the President of the United States of America declared a national emergency and announced that the federal government would make emergency funding available to assist state and local governments in preventing the spread of and addressing the effects of COVID-19; and

WHEREAS, on March 13, 2020, the City Manager, in his role as the Director of Emergency Services, (“Director of Emergency Services”) proclaimed the existence of a local emergency pursuant to Chapter 2.16 of the Santa Monica Municipal Code to ensure the availability of mutual aid and an effective the City’s response to the novel coronavirus (“COVID-19”) and this local emergency was restated on March 14, 2020, through a revised declaration of local emergency to ensure compliance with all digital signature requirements; and

WHEREAS, on March 14, 2020, the Director of Emergency Services issued a first supplemental emergency order placing a temporary moratorium on evictions for non-payment of rent and temporarily suspending (a) the discontinuation or shut off of water service for residents and businesses in the City for non-payment of water and sewer bills; (b) the imposition of late payment penalties or fees for delinquent water and/or sewer bills; and (c) the imposition of late payment penalties or fees for parking violations; and

WHEREAS, on March 15, 2020, the Director of Emergency Services issued a second supplemental emergency order temporarily closing the Santa Monica Pier to the general public; and

WHEREAS, on March 16, 2020, the Los Angeles County Department of Public Health issued a Health Officer Order for the Control of COVID-19 temporarily prohibiting group events of 50 or more people, requiring certain social distancing measures, and ordering the closure of certain businesses; and

WHEREAS, on March 16, 2020, the Director of Emergency Services issued a third supplemental emergency order that ordered the temporary closure of bars and nightclubs that do not serve food, movie theaters and entertainment venues, bowling alleys and arcades, gyms and fitness centers, and non-medical physical health and beauty businesses; and temporarily prohibited restaurants, bars, and retail food facilities from serving food on-premises; and

WHEREAS, on March 16, 2020, the Governor of the State of California issued Executive Order N-28-20, suspending any and all provisions of state law that would preempt or otherwise restrict a local government’s exercise of its police powers to impose substantive limitations on residential and commercial evictions with respect to COVID19-related rent payment issues; and

WHEREAS, on March 17, 2020, the Director of Emergency Services issued a Revised Fourth Supplement to the Executive Order to permit public safety facilities, hospitals, clinics, and emergency shelters in all zoning districts and allow the Director of the Department of Planning and Community Development or designee to waive development standards, design review, parking and access requirements, and sign standards related to such uses; to permit limited service and take-out restaurant uses in any zoning district that allows full-service restaurants; to allow drive-through facilities for clinics, convenience markets, farmers markets, general markets, hospitals, pharmacies, and restaurants; to suspend planning deadlines and automatic approvals; to extend interim zoning ordinances now in effect; to direct that street sweeping not be conducted unless essential for public health and safety and suspend parking citations related thereto; to suspend preferential parking rules; to suspend certain regulations relating to the operation of oversize vehicles; and to suspend Breeze bike share fees; and

WHEREAS, on March 17, 2020, the Governor of the State of California issued Executive Order N-29-20 which, among other things, amended Paragraph 11 of earlier Executive Order N-25-20 to suspend and waive certain provisions of state and local law, including but not limited to those provisions in the Bagley-Keene Act and the Brown Act related to the notice and accessibility requirements for the conduct of public meetings where the physical presence of public attendees or members of the public body seeking to meet are impliedly or expressly required; and

WHEREAS, on March 18, 2020, the Director of Emergency Services issued a Revised First Supplement to the Executive Order of the Director of Emergency Services implementing eviction protections for residential and commercial tenants and suspending removals of rental property from the market under the Ellis Act; and

WHEREAS, on March 18, 2020, the Director of Emergency Services issued a Revised Fifth Supplement to the Executive Order of the Director of Emergency Services Declaring the Existence of a Local Emergency implementing a rear-door boarding policy for all Big Blue Bus (BBB) customers, with the exception of Americans with Disabilities Act customers traveling in mobility devices; suspending all passenger fares on the BBB; suspending discontinuation or shut-off of water services for residents and businesses based on non-payment of water or sewer bills; suspending late payment penalties for (a) water and/or sewer bills; (b) parking citations; (c) refuse and recycling collection bills; (d) Certified Unified Program Agency (CUPA) charges; (e) Fire Prevention inspection charges; (f) Transient Occupancy Taxes; (g) Utility Users Taxes; and (h) Parking Facility Taxes; suspending parking restrictions and limitations in many City parking lots, parking zones, and parking spaces; and suspending penalty assessments related to business licenses and business improvement district assessments; and

WHEREAS, on March 19, 2020, the City Council ratified the proclamation of local emergency made by the Director of Emergency Services, as well as the Revised First, Second, Third, Revised Fourth, and Revised Fifth Supplements thereto, and resolved that the proclamation and the aforementioned Supplements shall be operative and in effect through April 30, 2020; and

WHEREAS, on March 19, 2020, the Governor of the State of California issued Executive Order N-33-20 directing all residents of the State of California to heed directives issued by the State Health Officer on the same date instructing all Californians to stay home except as needed to maintain continuity of operations of the federal critical infrastructure sectors; and

WHEREAS, on March 19, 2020, the Los Angeles County Department of Public Health issued an enhanced Health Officer Order, the Safer at Home Order for Control of COVID-19, amending and superseding its March 16, 2020, Order, closing all nonessential businesses, and limiting gatherings to 9 people or less; and

WHEREAS, on March 20, 2020, the Director of Emergency Services issued a Sixth Supplement to the Executive Order of the Director of Emergency Services Declaring the Existence of a Local Emergency suspending labor negotiations through April 30, 2020, so that the City may assess the financial impacts of COVID-19 prior to engaging in collective bargaining, and suspending various human resources processes in order to decrease in-person meetings and enable effective emergency response, including suspending requirements associated with the administration of competitive examinations and the appointment of individuals from eligibility lists; suspending certain requirements and minimum qualifications associated with the appointment of temporary, limited-term, and as-needed employees; and modifying the Municipal Code to state that certain additional appointments will be subject to a probationary period; and

WHEREAS, on March 21, 2020, the Director of Emergency Services issued a Seventh Supplement to the Executive Order of the Director of Emergency Services Declaring the Existence of a Local Emergency aligning the Santa Monica Municipal Code with a California Department of Alcoholic Beverage Control (“ABC”) “Notice of Regulatory Relief” permitting restaurants and retailers holding valid ABC licenses to sell alcoholic beverages for off-site consumption via delivery and take-out; and

WHEREAS, on March 21, 2020, the Los Angeles County Department of Public Health issued an enhanced Health Officer Order, the Safer at Home Order for Control of COVID-19, amending and superseding its March 16, 2020, and March 19, 2020 Orders, closing all nonessential businesses and prohibiting gatherings of non-household members; and

WHEREAS, on March 22, 2020, the Director of Emergency Services issued an Eighth Supplement to the Executive Order of the Director of Emergency Services Declaring the Existence of a Local Emergency adopting as rules and regulations of the City of Santa Monica the Executive Order N-33-20, issued by the Governor of the State of California on March 19, 2020 (the “Governor’s Stay at Home Order”) and the Safer at Home Order for Control of COVID-19, issued by the Los Angeles County Department of Public Health on March 21, 2020 (the “County Department of Public Health’s Safer at Home Order”), including any later amendments or successors thereto, the stricter of which shall apply if there is any conflict between the Governor’s Stay at Home Order and the County Department of Public Health’s Safer at Home Order; and authorizing the City to issue administrative citations to enforce this and the previously issued supplements to its emergency declaration; and

WHEREAS, on March 27, 2020, the Governor of the State of California issued Executive Order N-37-20, building on Executive Order N-28-20 by extending the time for a tenant to respond to a summons and prohibiting the enforcement of a writ for tenants unable to pay due to reasons related to COVID-19; and

WHEREAS, on March 27, 2020, the Los Angeles County Department of Public Health issued an Addendum to the County Department of Public Health's Safer at Home Order closing all public trails and trailheads, as well as all public beaches, piers, public beach parking lots, beach bike path that traverse that sanded portion of the beach, and beach access points; and

WHEREAS, on March 27, 2020, the Director of Emergency Services issued a Ninth Supplement to the Executive Order of the Director of Emergency Services Declaring the Existence of a Local Emergency closing certain City facilities, waiving late payment fees for City leases and licenses during the effective period of the order, suspending rent payments for City tenants on the Santa Monica Pier for the month of April, suspending outdoor dining licenses and outdoor dining license payments for City licensees for the month of April, granting the Director of the Department of Housing and Community Development discretion to suspend additional rent or license payments for the month of April for City tenants and licensees whose operations have been closed pursuant to emergency orders issued by the City, the County of Los Angeles Department of Public Health, or the Governor of California, authorizing the City to delay responses and productions of records in response to public record requests under specified circumstances, and extending by one month Santa Monica Fire Department annual permits of operation set to expire on May 1, 2020; and

WHEREAS, on March 31, 2020, the Los Angeles County Department of Public Health issued Addendum No. 2 to the County Department of Public Health's Safer at Home Order clarifying that all government employees are essential workers during the pandemic; and

WHEREAS, on April 1, 2020, the Director of Emergency Services issued a Tenth Supplement to the Executive Order of the Director of Emergency Services Declaring the Existence of a Local Emergency imposing requirements specific to construction sites and projects to ensure their compliance with the social distancing and hygiene directives imposed by the County Department of Public Health's Safer at Home Order; and

WHEREAS, on April 6, 2020, the Judicial Council of the State of California adopted an emergency court rule that effectively delays all evictions, other than those necessary to protect public health and safety, for the duration of the COVID-19 emergency; the rule is applicable to all courts and to all eviction cases, whether they are based on a tenant's missed rent payment or another reason; among other things, the rule temporarily prohibits a court from issuing a summons after a landlord files an eviction case, unless necessary to protect public health and safety; as a result, even if a landlord files an eviction case, he or she will not have a summons to serve on the tenant until 90 days after the emergency passes; and

WHEREAS, on April 6, 2020, the City Council ratified the proclamation of local emergency made by the Director of Emergency Services, as well as the Revised First, Second, Third, Revised Fourth, Revised Fifth, Sixth, Seventh, Eighth, Ninth, and Tenth Supplements thereto, and resolved that the proclamation and the aforementioned Supplements shall be operative and in effect through April 30, 2020; and

WHEREAS, on April 8, 2020, the Director of Emergency Services issued a Second Revised First Supplement to the Executive Order of the Director of Emergency Services Declaring the Existence of a Local Emergency enhancing eviction protections to require landlords to provide notice of local eviction protections to tenants, prohibiting no-fault residential evictions, prohibiting certain evictions based on a tenant's refusal of landlord entry into a residential unit, prohibiting certain evictions of residential tenants based on the presence of unauthorized pets or occupants, prohibiting use of the eviction process to seek rent delayed under the Supplement if the landlord has already obtained compensation for the delayed rent through governmental relief, and temporarily enhancing penalties under the City's Tenant Harassment Ordinance to \$15,000; and

WHEREAS, on April 8, 2020, the Director of Emergency Services issued an Eleventh Supplement to the Executive Order of the Director of Emergency Services Declaring the Existence of a Local Emergency requiring workers and customers at covered businesses (including but not limited to grocery stores, farmers markets, restaurants, hardware stores, transportation providers, and plumbing and similar businesses) to wear face coverings; and

WHEREAS, on April 10, 2020, the Los Angeles County Department of Public Health issued a revised Safer At Home Order for Control of COVID-19 that amended and superseded the earlier March 16, 19, 21, 27, and 31 County Health Officer Orders and Addendums and continued to prohibit all indoor and outdoor public and private gatherings and events; require all businesses to cease in-person operations and remain closed to the public, unless defined as an Essential Business by the order; require the closure of all indoor malls and shopping centers, all swap meets and flea markets, indoor and outdoor playgrounds, public beaches, piers, public beach parking lots, beach access points, and public trails and trailheads; and prohibit in-person operations of all non-essential businesses; and

WHEREAS, on April 14, 2020, the City Council ratified the proclamation of local emergency made by the Director of Emergency Services, as well as the Second Revised First, Second, Third, Revised Fourth, Revised Fifth, Sixth, Seventh, Eighth, Ninth, Tenth, and Eleventh Supplements thereto, and resolved that the Second Revised First Supplement shall be operative and remain in effect through May 31, 2020, and that the other aforementioned Supplements shall be operative and in effect through May 15, 2020; and

WHEREAS, on April 24, 2020, the Director of Emergency Services issued a Twelfth Supplement to the Executive Order of the Director of Emergency Services Declaring the Existence of a Local Emergency tolling deadlines for reviewing and acting on planning applications, exercising rights under planning entitlements, and expiration of building permits; permitting lodging establishments operating as hotels and motels under Santa Monica's zoning rules to allow stays of greater than 30 days, and waiving the City's rule precluding employees from accepting gifts of any sort to allow City first responders and disaster workers to take advantage of City-approved public or private discount, specials, and subsidies programs; and

WHEREAS, on April 30, 2020, the Director of Emergency Services issued a Third Revised First Supplement to the Executive Order of the Director of Emergency Services Declaring the Existence of a Local Emergency extending the eviction moratorium to June 30 and modifying it by limiting the commercial tenants subject to the protections of the order to exclude multinational companies, public companies, and companies with more than 500 employees; making clear that notice and documentation that indicates any loss of income or increase in expenses due to COVID-19 is sufficient to trigger the moratorium on eviction for non-payment of rent due to financial impacts related to COVID-19, and that a statement written by the tenant in a single communication may constitute both notice and documentation; and extending the protection against eviction based on rent unpaid due to financial impacts related to COVID-19 from 6 to 12 months; in addition, the Third Revised First Supplement, in accordance with the Governor's Executive Order suspending state law provisions, suspends SMMC 5.45.020 and 5.45.030 to the extent they prohibit retail establishments from providing without charge reusable grocery bags or recycled paper bags or single-use plastic carryout bags to customers at point of sale and adds language to the City's Housing Trust Fund and Affirmative Housing Production Program Guidelines to extend eligibility to individuals who were working in Santa Monica prior to March 1, 2020, but lost employment due to COVID-19 related reasons; and

WHEREAS, on May 7, 2020, the California State Public Health Officer issued an order that stated that COVID-19 continues to present a significant risk to the health of individuals throughout California, but, consistent with Californians' mitigation efforts and other factors determined that the statewide data supported the gradual movement of the entire state from Stage 1 to Stage 2 of California's Pandemic Resilience Roadmap, while authorizing local health jurisdictions to implement or continue more restrictive public health measures if warranted; and

WHEREAS, on May 8, 2020, the Los Angeles County Department of Public Health issued Addendum No. 2 to the April 10 revised County Department of Health Safer at Home Order amending that order to permit, subject to specific conditions, the reopening of certain specified types of lower-risk retail business for sales and service transactions made via curbside pick-up or delivery only, and the reopening of all previously closed public trails and trailheads, public and private golf courses, and new and used auto sales dealerships and operations; and

WHEREAS, on May 8, 2020, the Director of Emergency Services issued a Fourth Revised First Supplement to the Executive Order of the Director of Emergency Services Declaring the Existence of a Local Emergency restating the eviction moratorium and modifying it to define a set of "non-retail commercial tenants" consisting of commercial tenants, other than non-profits, that are tenants in an office building, do not collect sales tax on greater than 50% of their revenue, and do not provide medical, dental, veterinary, fitness, educational, or child, marriage, family, mental health, or substance abuse counseling services; specify that, for non-retail commercial tenants, the protection against eviction will extend only for 30 days after the expiration of the Order; and specify that, with respect to rent unpaid due to financial impacts related to COVID-19, landlords may not charge residential tenants interest on that unpaid rent for a period of 12 months following the expiration of the Order, may not charge commercial tenants (other than non-retail commercial tenants) interest on that unpaid rent for a period of 90 days following the expiration of the Order, and may not charge non-retail commercial tenants interest on that unpaid rent during the duration of the Order; and

WHEREAS, on May 8, 2020, the Director of Emergency Services issued a Thirteenth Supplement to the Executive Order of the Director of Emergency Services Declaring the Existence of a Local Emergency incorporating the provisions of the Third Revised First Supplement that add language to the City's Housing Trust Fund and Affirmative Housing Production Program Guidelines to extend eligibility to individuals who were working in Santa Monica prior to March 1, 2020, but lost employment due to COVID-19 related reasons; incorporating the provisions of the Third Revised First Supplement that, in accordance with the Governor's Executive Order suspending state law provisions, suspend SMMC 5.45.020 and 5.45.030 to the extent they prohibit retail establishments from providing without charge reusable grocery bags or recycled paper bags or single-use plastic carryout bags to customers at point of sale; further extending to July 1, 2020 the expiration of Fire Department annual permits of operation; and limiting to between the hours of 10:00 am and 3:00 pm on weekdays the conduct of certain loud construction activities, including cement cutting or grinding, sandblasting, and the use of pile drivers, jackhammers, or pavement breakers, at construction projects other than public works construction; and

WHEREAS, on May 12, 2020, the City Council ratified the proclamation of local emergency made by the Director of Emergency Services, as well as the Third and Fourth Revised First, Second, Third, Revised Fourth, Revised Fifth, Sixth, Seventh, Eighth, Ninth, Tenth, Eleventh, Twelfth, and Thirteenth Supplements thereto; resolved that the local emergency shall be deemed to continue and exist until its termination is proclaimed by the City Council; and resolved that the Fourth Revised First and Second through Thirteenth Supplements shall be operative and remain in effect through May 15, 2020, or any later date expressly stated within the text of an individual supplement; and

WHEREAS, on May 13, 2020, the Los Angeles County Department of Public Health issued a revised Safer At Home Order for Control of COVID-19 that amended and superseded the earlier March 16, 19, 21, 27, 31, April 10, and May 3 and 8, 2020 County Health Officer Orders and Addendums; recognized that existing community transmission of COVID-19 in Los Angeles County continues to present a substantial and significant risk of harm to residents' health; but took a limited and measured step to partially move the County into Stage 2 of its phased approach to reopening while keeping a low incidence of person-to-person contact and ensuring continued social distancing and adherence to other infection control procedures – accordingly, the order continued to prohibit indoor and outdoor public and private gatherings and events; continued to require the continued closure of higher-risk businesses, recreational sites, commercial properties, and activities, where more frequent and prolonged person-to-person contacts are likely to occur; continued to allow Essential Businesses to operate subject to social distancing requirements; allowed two categories of lower-risk businesses to reopen subject to specified social distancing protocols, retailers not located within an indoor mall or shopping center and manufacturing and logistics sector businesses that supply lower-risk retail businesses; permitted the reopening of beaches, while retaining closures of beach parking lots, beach bike paths, and piers; and authorized local public entities to temporarily close certain streets or areas to automobile traffic to allow for increased space for persons to engage in recreational activity in compliance with social (physical) distancing requirements; and

WHEREAS, on May 13, 2020, the City of Los Angeles issued a revised version of its safer at home order including requirements that all individuals engaging in outdoor activities, except for water activities, and all individuals engaging in essential activities whenever there is or can be contact with other who are non-household members in both public and private places, must wear a cloth face covering; and

WHEREAS, on May 14, 2020, the Director of Emergency Services issued a Fourteenth Supplement to the Executive Order of the Director of Emergency Services Declaring the Existence of a Local Emergency extending the effective dates of the Fourth Revised First, Second, Third, Revised Fourth, Revised Fifth, Sixth, Seventh, Eighth, Ninth, Tenth, Eleventh, Twelfth, and Thirteenth supplements to June 30, 2020, or any later date expressly stated within the text of an individual supplement; and requiring all persons leaving their residences for the limited purposes allowed by the County Department of Public Health's Safer at Home Order to strictly comply with the social (physical) distancing requirements stated in that Order or County Department of Public Health guidance or protocols, including in particular the requirement that cloth face masks must be worn whenever there is or may be contact with others who are non-household members, including while engaging in permitted outdoor activities other than water activities; and

WHEREAS, on May 15, 2020, the Director of Emergency Services issued a Fifteenth Supplement to the Executive Order of the Director of Emergency Services Declaring the Existence of a Local Emergency authorizing enforcement of preferential parking rules to resume in Zone 3 only beginning May 22, 2020 and authorizing street sweeping to resume with individuals encouraged to comply with posted signs regarding parking prohibitions for street sweeping during the days and times indicated, but only during the first full week of each month, which is when the street sweeping will occur; and

WHEREAS, on May 19, 2020, the Director of Emergency Services issued a Sixteenth Supplement to the Executive Order of the Director of Emergency Services Declaring the Existence of a Local Emergency authorizing specified Boards, Commissions, and other appointed bodies to resume limited meetings, to be conducted remotely pending further order, for the purpose of exercising specified adjudicative and quasi-adjudicative duties assigned to them by the Charter and/or Municipal code and imposing, effective May 26, 2020, a 15% cap on delivery fees and a 5% cap on other fees charged to restaurants by third-party food delivery companies; and

WHEREAS, on May 22, 2020, the Los Angeles County Department of Public Health issued a revised Safer At Home Order for Control of COVID-19 that amended and superseded the earlier March 16, 19, 21, 27, 31, April 10, May 3, 8, and 13, 2020 County Health Officer Orders and Addendums; recognized that existing community transmission of COVID-19 in Los Angeles County continues to present a substantial and significant risk of harm to residents' health; but took a limited and measured step to partially move the County into Stage 2 of its phased approach to reopening while keeping a low incidence of person-to-person contact and ensuring continued social distancing and adherence to other infection control procedures – accordingly, the order continued to prohibit indoor and outdoor public and private gatherings and events; continued to require the continued closure of higher-risk businesses, recreational sites,

commercial properties, and activities, where more frequent and prolonged person-to-person contacts are likely to occur; continued to allow Essential Businesses to operate subject to social distancing requirements; allowed the conditional reopening of specific retail and other Lower-Risk businesses, including curbside, doorside, or other outdoor or outside pickup from retailers located within an indoor mall or shopping center and manufacturing and logistics sector businesses that supply lower-risk retail businesses; permitted the reopening of beaches, beach parking lots, and beach bike paths, while maintaining the closure of public piers; continued to authorize local public entities to temporarily close certain streets or areas to automobile traffic to allow for increased space for persons to engage in recreational activity in compliance with social (physical) distancing requirements; and authorized participation in Vehicle-Based Parades in compliance with all laws and a specified protocol; and

WHEREAS, on May 25, 2020, the California Department of Health, while recognizing that COVID-19 is still present in State communities and that physical distance, wearing face coverings in public, and washing hands frequently are more important than ever, announced the statewide opening of in-store retail shopping, under previously issued guidance and subject to approval by county public health departments, and issued guidelines for in-person protests and events designed for political expression; and

WHEREAS, on May 26, 2020, the Los Angeles County Department of Public Health issued a revised Safer At Home Order for Control of COVID-19 that superseded all prior Safer At Home Orders; while recognizing that existing community transmission of COVID-19 in the County continues to present a substantial and significant risk of harm to residents' health, in light of the progress achieved in slowing the spread of COVID-19 in the County, aligned the County with State Executive Orders and State Health Officer Orders that support phased reopening in accordance with the California Pandemic Resilience Roadmap's four stage framework, while maintaining the goals of limiting close contacts with others outside of residents' households in both indoor and outdoor spaces and ensuring continued social distancing and adherence to other infection control procedures – accordingly, the order continued to prohibit indoor and outdoor public and private gatherings and events except for the limited purposes expressly permitted by the Order; continued to require compliance with social (physical) distancing requirements including wearing a cloth face covering whenever there is or can be contact with others who are non-household members in both public and private spaces; continued to require the closure of higher-risk businesses, recreational sites, commercial properties, and activities, where more frequent and prolonged person-to-person contacts are likely to occur; continued to allow Essential Businesses to operate subject to social distancing requirements; allowed the conditional reopening of four categories of Lower-Risk businesses – lower-risk retail businesses that may now reopen for in-store shopping so long as capacity is kept under 50%, manufacturing and logistics sector businesses that supply lower-risk retail businesses, non-essential office-based businesses (while continuing to strongly encourage telework), and indoor malls and shopping centers; continued to permit the reopening of beaches, beach parking lots, and beach bike paths, while maintaining the closure of public piers; continued to authorize local public entities to temporarily close certain streets or areas to automobile traffic to allow for increased space for persons to engage in recreational activity in compliance with social (physical) distancing requirements; continued to authorize participation in Vehicle-Based Parades in compliance with all laws and a specified protocol; permitted in-person attendance at faith-based services,

provided that the gathering of congregants is limited to the lower of 25% of the total maximum building occupancy or a maximum of 100; and permitted participating in in-person protests subject to the same attendance limits and maintenance of physical distancing; and

WHEREAS, as of May 28, 2020, the Los Angeles County Department of Public Health has confirmed 49,744 cases of COVID-19 in Los Angeles County and has continued to advise that bold and aggressive measures are required to be put in place to prevent the further spread of COVID-19; and

WHEREAS, measures previously taken to implement social distancing requirements, including the closure of City Hall and other City facilities, have resulted in unavoidable delays in the City's processing of planning and permit related applications and in actions required to be taken under planning entitlements and permits; and

WHEREAS, continuing social distancing requirements, including limitations on occupancy at offices and businesses and limitations on construction activities, are expected to continue to result in unavoidable delays in the City's processing of planning and permit related applications and in actions required to be taken under planning entitlements and permits; and

WHEREAS, in light of the detailed, phased approach to reopening adopted by both the State and County, the City has determined that, as a general matter, reopening of activities and businesses within the City should be permitted in accordance with State and County orders; and

WHEREAS, on May 29, 2020, the State Public Health Officer approved the request of Los Angeles County to reopen restaurants for sit-down, dine-in meals; and

WHEREAS, on May 29, 2020, the County Department of Public Health issued a revised Safer at Home order that permits restaurants to open for sit-down, dine-in meals, but limits occupancy to 60% occupancy so that restaurant staff and visitors may comply with social distancing requirements; and

WHEREAS, the City has an important government interest in maintaining a thriving business community and protecting the health, safety, and economic welfare of its citizens and businesses; and

WHEREAS, permitting restaurants to temporarily extend their operations to the areas immediately in front of the restaurant and any parking area owned by the restaurant for outdoor dining in accordance with this Order will enable the restaurants to operate safely during the pendency of this COVID-19 emergency; and

WHEREAS, California Government Code 8634 empowers the City to promulgate orders and regulations necessary to provide for the protection of life and property during a local emergency, 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 my authority pursuant to Section 2.16.060 of the Santa Monica Municipal Code to issue this regulation related to the protection of life and property.

NOW, THEREFORE, I, Lane Dilg, the Director of Emergency Services for the City of Santa Monica, do hereby issue the following order to become effective immediately, subject to ratification as soon as practicable by the City Council:

IT IS HEREBY ORDERED THAT:

Extension of Deadlines for Planning, Review, and Permit-Related Actions

1. Sections 2 through 5 of this Order supersede and replace Section 5 of the Fourth Supplement to the Executive Order of the Director of Emergency Services Declaring the Existence of a Local Emergency issued March 17, 2020, and Sections 1 through 3 of the Twelfth Supplement to the Executive Order of the Director of Emergency Services Declaring the Existence of a Local Emergency issued April 24, 2020.

2. All deadlines for planning, review, and permit-related actions established by any provisions of laws, ordinances, regulations, resolutions, rules and statutes, including but not limited to provisions contained in the Housing Accountability Act, Permit Streamlining Act, California Environmental Quality Act, the Subdivision Map Act, and Articles VIII and IX of the Santa Monica Municipal Code, are hereby extended for a period of two years, as set forth in Section 4 below subject to the limitation in Section 3 below. For purposes of this Order, “deadlines for planning, review, and permit-related actions” shall include, but not be limited to the following:

- a. Deadlines to review, determine the completeness of, or take action on applications pending as of March 13, 2020, or submitted between March 13, 2020 and the expiration of this Order, for planning entitlements, permits, and approvals issued under Article IX of the Santa Monica Municipal Code.
- b. Deadlines to open or conclude a public hearing on, or to authorize an automatic approval, denial or disapproval of, applications pending as of March 13, 2020, or submitted between March 13, 2020 and the expiration of this Order, for planning entitlements, permits, or approvals issued under Article IX of the Santa Monica Municipal Code.
- c. Deadlines for review and approval of applications pending as of March 13, 2020, or submitted between March 13, 2020 and the expiration of this Order, for a building permit, plan review and related approvals issued under Article VIII of the Santa Monica Municipal Code.

- d. Deadlines to exercise and continuously pursue the rights granted under planning entitlements, permits and approvals issued and still active as of March 13, 2020, or issued between March 13, 2020 and the expiration of this Order under Article IX of the Santa Monica Municipal Code.
- e. Deadlines for expiration of issued building permits, plan reviews and related approvals issued and still active as of March 13, 2020, or issued between March 13, 2020 and the expiration of this Order under Article VIII of the Santa Monica Municipal Code.

3. All deadlines for planning, review, and permit-related actions shall be extended for two years only to the extent consistent with State law and any directives issued by the Governor, and to the extent State law or any directives issued by the Governor require that the extension be limited to a lesser period, this Order shall implement an extension limited to that lesser period.

4. The extension implemented by Sections 2 and 3 above shall mean that the date on which action would otherwise have been required to be taken in the absence of this Order shall be extended by two years, or such lesser time as may be required in accordance with Section 3 of this Order, from the later of the expiration of this Order or the date on which action would otherwise have been required to be taken in the absence of this Order..

5. Nothing in Sections 2 through 4 of this Order prohibits the applicable City Departments from continuing to process applications in a reasonable and timely manner. Nothing in Sections 2 through 4 shall be deemed to create any legal entitlement to the extension granted by this Order.

City Leases and Licenses

6. Sections 7 through 12 of this Order supersede and replace Sections 3 through 6 of the Ninth Supplement to the Executive Order of the Director of Emergency Services Declaring the Existence of a Local Emergency issued March 27, 2020.

7. Late payment fees for City leases and licenses are waived during the effective period of this Order.

8. Rent payments for City tenants on the Santa Monica Pier are suspended for the months of April, May, and June 2020.

9. Outdoor dining license payments for City licensees are suspended for the months of April, May, and June 2020.

10. The Director of the Department of Housing and Economic Development or designee, or the Director of the Community Development Department or designee, is granted discretion to suspend additional rent or license payments for the months of April, May, and June 2020 for City tenants and licensees whose operations have been closed or significantly restricted pursuant to emergency orders issued by the City, the County of Los Angeles Department of Public Health, or the Governor of California.

11. The Director of the Department of Housing and Economic Development or designee, or the Director of the Community Development Department or designee, is further granted discretion to establish and implement, through administrative direction, guidelines, and/or regulations, a rent deferral program for City commercial tenants that defers rent and license payments until the emergency orders issued by the City, the County of Los Angeles Department of Public Health, or the Governor of California that closed or significantly restricted the operations of tenants and licensees are lifted or modified such that business are authorized to open to the public and any remaining restrictions do not require a significant reduction in operating levels.

12. The Director of the Department of Housing and Economic Development or designee, or the Director of the Community Development Department or designee, is further directed to enter into negotiations with El Camino SBDC and SMC Workforce Development Office regarding technical assistance that could be provided to local businesses regarding accessing federal and state assistance.

Temporary Outdoor Dining Extension

13. Sections 13 through 18 of this Order apply to legally established restaurants, full-service, as that term is defined by Santa Monica Municipal Code Section 9.51.030(B)(8)(b), and restaurants, limited-service and take-out, as that term is defined by Santa Monica Municipal Code Section 9.51.030(B)(8)(c) with valid Santa Monica business licenses (collectively, for purposes of sections 13 through 18 of this Order, “restaurants”) that either (a) have an existing outdoor dining permit, (b) have entered into a Temporary COVID-19 Outdoor Encroachment Agreement (attached hereto as Exhibit A and incorporated herein by this reference) for any outdoor dining permitted under this Eighteenth Supplement that encroaches on the sidewalk, or (c) are conducting outdoor dining as permitted by this Order on parking, courtyard, or other private open space area owned by the restaurant and immediately adjacent thereto. The Director of Economic Development or designee shall be authorized to enter into a Temporary COVID-19 Outdoor Encroachment Agreement with an applicant restaurant and may choose to enter into such agreement on such terms as the Director or designee deems necessary to ensure ongoing protection of public health and safety of the City.

14. Restaurants that are permitted to open for on-site food service by applicable State Executive Orders, State Health Officer Orders, and the County Department of Public Health’s Safer at Home order, including any amendments and successors thereto, and that do open for on-site food service in accordance with such orders and any and all social distancing and infection control protocols imposed by such orders, shall be permitted to use the sidewalk area immediately in front of the restaurant and any parking, courtyard, or other private open space area owned by the restaurant and immediately adjacent thereto for outdoor dining in accordance with the conditions set forth in Section 15 and 16 of this Order.

15. Restaurants with existing outdoor dining permits shall use the space covered by the existing outdoor dining permit in accordance with: (a) all social distancing and infection control protocols imposed by applicable State Executive Orders, State Health Officer Orders, and the County Department of Public Health's Safer at Home Order, including any amendments and successors thereto; and (b) all conditions of the existing outdoor dining permit. Alcohol may be served only by restaurants that: (a) have obtained and are operating under a license to sell alcoholic beverages from the California Department of Alcoholic Beverage Control ("ABC"); and (b) have obtained and are operating under a Conditional Use Permit or Alcohol Exemption issued by the City, or are operating as an existing alcohol outlet without a Conditional Use Permit pursuant to Section 9.31.040 of the Santa Monica Municipal Code. Sales of alcohol shall be conducted in accordance with all requirements and conditions set forth in such licenses and permits, as may be modified by any Notices of Regulatory Relief issued by ABC, the Seventh Supplement to the Executive Order of the Director of Emergency Services Declaring a Local Emergency issued on March 21, 2020, Interim Zoning Ordinance Numbers 2636 (CCS) and 2637, adopted by the City Council on May 12, 2020, and any successors thereto.

16. Restaurants without existing outdoor dining permits and restaurants that seek to use additional sidewalk or parking, courtyard, or other private open area space owned by the restaurant for outdoor dining that exceeds any area covered by an existing outdoor dining permit, may conduct any such outdoor dining subject to all of the following conditions:

- a. For any encroachment on the sidewalk, restaurants must enter into a Temporary COVID-19 Outdoor Encroachment Agreement with the City.
- b. Outdoor dining must be conducted in accordance with all social distancing and infection control protocols imposed by applicable State Executive Orders, State Health Officer Orders, and the County Department of Public Health's Safer at Home Order, including any amendments and successors thereto.
- c. Outdoor dining authorized by this Order shall be conducted as a temporary accessory use to a legally established restaurant that is located on the parcel, a contiguous adjacent parcel or on public right of way immediately adjacent to the restaurant tenant space. Nothing in this Order shall be considered an entitlement or permit for use of an outdoor dining and seating area, as that term is defined by Santa Monica Municipal Code Section 9.51030(B)(9), or to confer any vested rights to any ongoing or continuing activities beyond the expiration of this Order .
- d. Adequate pedestrian access on the sidewalk must be provided and maintained, which is considered to be no less than five (5) feet of unobstructed access between chair/table and curb edge or street furniture, e.g., bus benches, meters, etc.
- e. Alcohol may be served only by restaurants that: (i) have obtained and are operating under a license to sell alcoholic beverages from ABC; and (ii) have obtained and are operating under a Conditional Use Permit or Alcohol Exemption issued by the City, or are operating as an existing alcohol outlet without a Conditional Use Permit pursuant to Section 9.31.040 of the Santa Monica Municipal Code. Sales shall be

conducted in accordance with all requirements and conditions set forth in such licenses and permits, as may be modified by any Notices of Regulatory Relief issued by ABC, the Seventh Supplement to the Executive Order of the Director of Emergency Services Declaring a Local Emergency issued on March 21, 2020, Interim Zoning Ordinance Numbers 2636 (CCS) and 2637, adopted by the City Council on May 12, 2020, and any successors thereto.

- f. Furnishings for outdoor dining are limited to movable tables, chairs, umbrellas that are secured and maintain the height clearance for sidewalk or pedestrian passage, and electric cordless lighting. In addition, lighting fixtures may be temporarily affixed to the exterior portion of the building occupied by the restaurant facing the outdoor dining area, provided that any such lighting meets applicable California Electrical Code standards. All movable chairs, tables, umbrellas, and cordless lighting shall be removed every day upon closing of the outdoor dining service. Heaters, table lamps using liquid fuel, candles, or any other fixture using an open flame are not permitted. Barriers are not permitted, except for temporary barriers required by ABC pursuant to the Fourth Notice of Regulatory Relief issued on May 15, 2020. Any such temporary barriers, if used, must be removed along with all other furnishings every day upon closing of the outdoor dining service, and must comply with the requirements imposed on use of other furnishings by subsection h below.
- g. A single, non-permanent sign with the restaurant's name and an attached menu may be placed within the outdoor dining area in an area visible to pedestrians on the sidewalk or adjacent pedestrian area. This sign shall be removed along with all other outdoor dining furnishings upon closing of the outdoor dining service and must comply with the requirements imposed on use of other furnishings by subsection h below.
- h. Furnishings, signs, and temporary barriers used for outdoor dining shall not block any portion of the full width of any legal exit from the building or any exit path from such legal exit to the public right of way. A minimum of a 44-inch wide exit path is required to be maintained from each legal exit from the building to the public right of way.
- i. Outdoor dining areas are for sit-down food and beverage service only; no stand-up service is permitted.
- j. No structure or enclosure to accommodate the storage of trash or garbage shall be erected or placed on, adjacent to, or separate from the outdoor dining area on the public sidewalk or right-of-way. Outdoor dining areas shall be kept clear of litter at all times and must be cleaned (swept and mopped) with all litter removed each day upon closing of the outdoor dining service.

- k. Hours of operation of the outdoor dining area shall be limited to the hours of operation of the associated restaurant, subject to limitations on alcohol sales set forth in all applicable permits, license, and regulations.
- l. Any outdoor dining area use shall be in compliance with the noise restrictions in Chapter 4.12 of the Santa Monica Municipal Code.
- m. All forms of speaker amplification are prohibited in association with the outdoor dining permitted under this Section.
- n. Any outdoor dining area established by conversion of parking areas shall provide for safe separation of the outdoor dining area from the remaining parking area, such as by the installation of large planters or other appropriate barrier, so that the outdoor dining space is sufficiently protected from vehicle intrusion. In no event shall any converted parking space area used for outdoor dining block or cause any obstruction that would prevent parked vehicles from exiting the parking area. In no event shall any barrier used to create safe separation block any portion of the full width of any legal exit from the building or any exit path from such legal exit to the public right of way. A minimum of a 44-inch wide exit path is required to be maintained from each legal exit from the building to the public right of way.
- o. The area used for outdoor dining may not exceed the area necessary, in accordance with all social distancing and infection control protocols imposed by applicable State Executive Orders, State Health Officer Orders, and the County Department of Public Health's Safer at Home order, including any amendments and successors thereto, to permit the combined occupancy of inside dining and outdoor dining to match the maximum occupancy of the restaurant, including any previously permitted outdoor dining area, prior to imposition of the social distancing and infection control protocols.

17. Provisions of Article IX of the Santa Monica Municipal Code, or any conditions to permits previously issued by the City, including, but not limited to, parking requirements and maximum floor area ratio, are hereby temporarily suspended to the extent necessary to accommodate temporary outdoor dining activities authorized by this Order.

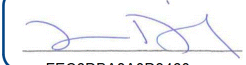
18. The Director of Housing and Economic Development Department or designee, or the Director of Community Development Department or designee, may promulgate regulations to implement Sections 13 through 17 of this Order. Such regulations may include the imposition of a fee for conducting the temporary outdoor dining use permitted by this Order. Failure by a restaurant to comply with any such regulations may constitute grounds for potential revocation of the temporary outdoor dining use permitted by this Order.

GENERAL PROVISIONS

19. This Order shall take effect immediately and shall remain in effect until June 30, 2020, unless extended or expressly superseded by a duly enacted Ordinance of the City Council or by a further Order by the Director of Emergency Services.

20. If any section, subsection, sentence, clause, or phrase of this Order is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Order. The Interim City Manager hereby declares that she would have issued this Executive Order, and any Supplement or Revised Supplement to this Executive Order, and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

ADOPTED this 29th day of May 2020.

DocuSigned by:

By: _____
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LANE DILG
Interim City Manager
Director of Emergency Services

ATTEST:

DocuSigned by:

E2F85B056A714C3...
DENISE ANDERSON-WARREN
City Clerk

APPROVED AS TO FORM:

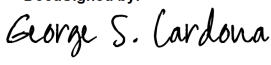
DocuSigned by:

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GEORGE S. CARDONA
Interim City Attorney

EXHIBIT A

TEMPORARY COVID-19 OUTDOOR ENCROACHMENT AGREEMENT

1. Business Information

Business Name (“Permittee”): _____
Mailing Address: _____
Business Address: _____
Business Phone: _____
Business Email: _____
Business License No. _____

2. Proposed Activities. Outdoor dining in accordance with the conditions set out in Sections 13 through 18 of the Eighteenth Supplement to the Executive Order of the Director of Emergency Services Declaring the Existence of a Local Emergency (the “Order”) limited to the areas immediately adjacent to the Business as specified in those Sections.

3. Requested Start Date of Outdoor Activities: _____

4. Proposed Duration of Outdoor Activities: _____

5. Amendments to Proposal by City of Santa Monica (“City”) and/or Additional Terms of Agreement [*To be Completed by City with Additional Sheets Attached as Necessary*]:

6. Terms of Agreement:

A. Incorporation of Conditions of Operation. The conditions for operation of on-site dining in the sidewalk area in front of the restaurant or any parking, courtyard, or other private open space area owned by the restaurant and immediately adjacent thereto for outdoor dining as set forth in Sections 13 through 18 of the Order are incorporated herein by this reference. Permittee expressly agrees to abide each and every one of these conditions.

B. Indemnification. Permittee agrees to accept all responsibility for loss or damage to any person or entity and to indemnify, hold harmless, and defend and release City, together with City’s agents and employees (collectively the “City Indemnitees”) from and against any and all liability actions, claims, damages, costs, or expenses which may be asserted by any person or entity, including Permittee, arising out of or in connection with the willful act or negligence of Permittee engaging in the activities associated with this Agreement, whether or not there is concurrent negligence on the part of City Indemnitees, but excluding liability due to the sole active negligence or sole willful misconduct of the City Indemnitees.

C. Removal or Relocation of Improvements. Pursuant to the conditions of operation, no fixed improvements are permitted. City reserves the right to order the removal or relocation of any fixed improvements at Permittee’s cost. Permittee hereby grants to City the

right to remove or relocate any such fixed improvements and to come upon Permittee's premises to effect said removal or relocation if deemed necessary by City. Permittee waives any claim or right it may have for inverse condemnation, damages, or loss of income or business resulting from said removal. Upon removal or relocation of said improvements, all rights of Permittee under this agreement and the permit itself shall terminate.

D. **Duty to Comply with the Law.** Permittee shall comply with all applicable local, State, and Federal laws and regulations at all times during the effective period of this agreement, including, but not limited to, laws regarding the obstruction of vehicular traffic, the Americans with Disabilities Act, ABC regulations and orders relating to the service of alcohol, and County health laws regarding provision of food services.

E. **Insurance.** Permittee shall procure and maintain for the duration of this Agreement, and furnish proof of along with this Agreement, insurance against claims for injuries to persons or damages to property which may arise from or in connection with this Agreement, as set forth in this section. The cost of such insurance shall be borne by Permittee. No later than 14 days after the requested start date of outdoor activities, Permittee shall add the City as an additional insured on Permittee's CGL policy in compliance with subsection E.i below and obtain a waiver of subrogation in compliance with subsection E.iv below. The insurance policies must also contain, or be endorsed to contain, the following provisions:

i. **Additional Insured Status.** The City of Santa Monica, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of the use, occupancy, operations, or maintenance of the leased premises, including work or operations performed by or on behalf of Permittee. CGL coverage can be provided in the form of an endorsement to the Permittee's insurance (at least as broad as Insurance Services Office Form CG 20 10 11 85, or if not available, through the addition of both CG 20 10, CG 20 26, CG 20 33, or CG 20 38 and CG 20 37).

ii. **Primary Coverage.** For any claims related to this Agreement, the Permittee's insurance shall be primary coverage as least as broad as Insurance Services Office Form CG 20 01 04 13 as respects the City of Santa Monica, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the City of Santa Monica, its officers, officials, employees, or volunteers shall be in excess of the Permittee's insurance and shall not contribute with it.

iii. **Notice of Cancellation.** Each insurance policy required herein shall state that coverage shall not be cancelled except after notice has been given to the City of Santa Monica.

iv. **Waiver of Subrogation.** Permittee hereby grants to the City of Santa Monica a waiver of any right of subrogation which any insurer of said Permittee may acquire against the City of Santa Monica by virtue of payment of any loss. Permittee agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the City of Santa Monica has received a waiver of subrogation endorsement from the insurer.

F. **Alcohol Sales or Service.** If Permittee proposes to sell or serve alcohol as a part of its outdoor activities, Permittee shall furnish, along with this Agreement, proof of a liquor liability coverage endorsement or policy.

G. **Violation of Agreement.** Any violation of this Agreement or any other local, State, or Federal law shall constitute an imminent threat to the public health and is hereby declared to be a public nuisance and shall be subject to enforcement as such; violations of this Agreement or the provisions of the Order may result in the immediate termination of this Agreement and the cessation of any activities authorized by this Agreement or the Order.

H. **No Vested or Ongoing Rights Conferred.** Permittee understands and agrees that this Agreement and the Order confer no vested rights to any ongoing or continued activities, and any and all activities authorized by this Agreement and the Order are temporary in nature and granted solely to enable businesses to operate in compliance with State, County, and local orders regarding social distancing and COVID-19.

I. **Non-Transferable.** This Agreement is non-transferable. Only the permittee with whom this Agreement was entered shall be permitted to engage in the activities authorized herein.

J. **Independent Contractor.** It is understood and agreed that Permittee, in the performance of this Agreement, will be acting in a wholly independent capacity and not as agent, employee, partner, or joint venturer of City.

K. **Entire Agreement.** This instrument contains the entire agreement between the parties relating to the rights herein granted and the obligations herein assumed. Any oral representations of modifications concerning this instrument shall be of no force and effect excepting a subsequent modification in writing, signed by the party to be charged and duly recorded.

THE UNDERSIGNED AGREES THAT THE PROPOSED ACTIVITIES DESCRIBED ABOVE SHALL BE IN ACCORDANCE WITH AND SUBJECT TO THIS AGREEMENT'S TERMS AND CONDITIONS, THE ORDER, AND ALL OTHER APPLICABLE LOCAL, STATE AND FEDERAL LAWS, INCLUDING BUT NOT LIMITED TO THE GOVERNOR'S STAY AT HOME ORDER AND THE COUNTY DEPARTMENT OF PUBLIC HEALTH'S SAFER AT HOME ORDER.

Permittee

Date

Director of Economic Development
or Designee

Date