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County of Monterey
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By: Melanie Oliverez, Deputy

1 JEANNINE M. PACIONI
2 Monterey County District Attorney
3 Emily D. Hickok (SBN 247175)
4 Christopher J. Judge (SBN 274418)
5 Deputy District Attorneys
6 1200 Aguajito Road, Room 301
7 Monterey, CA 93940
8 Telephone: (831) 647-7710
9 Email: HickokED@co.monterey.ca.us
10 Email: JudgeC@co.monterey.ca.us
11 *Attorneys for Plaintiff*
12 *The People of the State of California*

8
9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **FOR THE COUNTY OF MONTEREY**

11 PEOPLE OF THE STATE OF CALIFORNIA,

12 Plaintiff,

13 vs.

14 THE TUCK BOX, a business of unknown origin;
15 JEFFREY LE TOWT, an individual; and
16 DOES 1-10, inclusive,

17 Defendants.

Case No.: 20CV001448

**NOTICE OF EX PARTE
APPLICATION FOR TEMPORARY
RESTRAINING ORDER AND ORDER
TO SHOW CAUSE RE ISSUANCE OF
PRELIMINARY INJUNCTION;
MEMORANDUM OF POINTS OF
AUTHORITIES AND DECLARATIONS
AND EXHIBITS IN SUPPORT
THEREOF**

DATE: May 21, 2020

TIME: 10:00 a.m.

DEPARTMENT: TBD

21
22 **TO DEFENDANTS AND THEIR ATTORNEYS OF RECORD:**

23 Pursuant to Business and Professions Code section 17203, Code of Civil Procedure section 527,
24 Rule of Court 3.1150, Rules of Court 3.1200 to 3.1207, and Emergency Local Rule 2.0(A) and (E),
25 Plaintiff, the People of the State of California, by and through Jeannine M. Pacioni (hereinafter the
26 “People”), hereby applies for a Temporary Restraining Order (“TRO”) and Order to Show Cause
27 (“OSC”) regarding Issuance of a Preliminary Injunction temporarily restraining Defendants The Tuck
28 Box, located on Dolores Street between Ocean and 7th Avenue, and its owner Jeffrey Le Towt

1 (hereinafter, collectively, “Defendants”) and their agents, employees, ownership, and all those in active
2 concert or participation with Defendants from (1) providing dine-in or table-side service to patrons at
3 The Tuck Box restaurant until such activity is authorized by the Monterey County Health Officer; (2)
4 allowing patrons to consume food on The Tuck Box’s premises until such activity is authorized by the
5 Monterey County Health Officer; (3) engaging in violations of the April 28, 2020 Order Requiring Face
6 Coverings until such order is lifted; (4) engaging in violations of the May 1, 2020 Shelter-in-Place Order
7 until such order is lifted; (5) failing to comply with social distancing protocols as required by the
8 Monterey County Health Officer orders and/or the May 1, 2020 Shelter-in-Place Order.

9 The People also request authorization to enter onto the property at The Tuck Box restaurant to
10 post notice of this Order in visible locations on said Property, including, but not limited to, exterior
11 fences, gates, structures, doors or any other structure thereupon, and to distribute this Order to
12 Defendants and/or any other persons present on the Property.

13 Lastly, the People also request an Order requiring Defendants to preserve evidence related to this
14 matter pertaining to the period of March 17, 2020 (the date restaurants were prohibited from allowing
15 dine-in service) through and including the date Monterey County permits dine-in restaurant service,
16 including but not limited to: sales receipts, sales register reports, and/or deposit slips evidencing daily
17 sales totals of customer purchases for food and beverages.

18 This Application is made on the grounds that the April 28, 2020 Order Requiring Face Coverings
19 and May 1, 2020 Shelter in Place Order, issued by the Monterey County Health Officer, and the
20 measures contained therein, are both lawful and necessary for the health and safety of Monterey
21 County’s citizens, and a restaurant’s failure to comply with them constitutes unfair competition within
22 the meaning of Business and Professions Code section 17200 *et seq.* The relief requested by the People
23 is necessary to prevent the spread of a dangerous infectious disease and to prevent Defendants’ unfair
24 and anti-competitive conduct and irreparable harm will result if the injunction is not issued.

25 The Application will be based on the accompanying Memorandum of Points and Authorities, the
26 Declarations of Monterey County Health Officer Dr. Edward Moreno, Carmel Police Officer Greg
27 Johnson, Carmel Police Chief Paul Tomasi, Carmel Police Officer Michael Bruno, District Attorney
28 Investigator George Costa, Deputy District Attorney Emily Hickok, and District Attorney Investigator

1 John Ferreria, and any such other and further evidence as may be presented to the Court at the time of
2 hearing.

3 The People are not required to post a bond when applying for a restraining order or injunction
4 pursuant to Code of Civil Procedure section 995.220.

5 On May 19, 2020, at approximately 6:30 p.m., the People provided notice to Defendants of the
6 Ex Parte Hearing at his home in Carmel at 24517 Lower Trail Street, Carmel, CA 93921. Mr. LeTowt's
7 email address is info@tuckbox.com. Accordingly, and in light of Defendants' public and private
8 statements that they will not comply with the shelter in place orders, the People have no option but to
9 file this request for a Temporary Restraining Order on an ex parte basis.

10
11 Dated: May 20, 2020

JEANNINE M. PACIONI
Monterey County District Attorney



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15 By: Emily D. Hickok
16 Deputy District Attorney
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10 **FOR THE COUNTY OF MONTEREY**

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**PLAINTIFF'S MEMORANDUM OF
POINTS OF AUTHORITIES IN
SUPPORT OF EX PARTE
APPLICATION FOR TEMPORARY
RESTRAINING ORDER AND ORDER
TO SHOW CAUSE RE ISSUANCE OF
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1 **Table of Contents**

2 I. INTRODUCTION AND SUMMARY OF ARGUMENT 6

3 II. BACKGROUND 7

4 A. Response to COVID-19 crisis at the Federal, State, and Local Level.....7

5 B. Statutory and Administrative Frameworks Supporting the Emergency Health

6 Orders.....11

7 C. Defendants’ Past and Intended Future Violations of the Emergency Health Orders.....11

8 III. NOTICE OF APPLICATION..... 13

9 IV. NO BOND REQUIRED FOR THE PEOPLE’S REQUESTED RELIEF..... 13

10 V. ARGUMENT 13

11 A. The People are Likely to Prevail on the Merits Against Defendants15

12 1. Defendants Have Violated, and will Continue to Violate, the UCL.....15

13 2. The Emergency Health Orders Were Lawfully Issued and Constitute Predicate Acts

14 Within the Meaning of the UCL.....17

15 B. The Health Officer’s Preventative Measures are Well Supported, Including by Centuries of

16 Case Law.....18

17 C. The Balance of Hardship Tips Heavily in the People’s Favor and Irreparable Harm

18 21

19 VI. THE PEOPLE REQUEST PERMISSION TO FILE A BRIEF IN EXCESS OF 15 PAGES 23

20 VII. CONCLUSION..... 23

1 **Table of Authorities**

2
3 **Cases**

4 *Abeel v. Clark* (1890) 84 Cal. 226 20

5 *Aids Healthcare Foundation v. Los Angeles County Department of Health* (2011) 197 Cal. App. 4th 693

6 19

7 *Bank of the West v. Superior Court* (1992) 2 Cal. 4th 1254..... 15

8 *Barquis v. Merchant Collection Association of Oakland* (1972) 7 Cal. 3d 94..... 16

9 *Carroll v. President and Com’rs of Princess Anne* (1968) 393 U.S. 175..... 21

10 *City of New Orleans v. Charouleau*, 121 La. 890..... 20

11 *Common Cause v. Board of Supervisors* (1989) 49 Cal. 3d 432 14

12 *Consumers Union of U.S., Inc. v. Alta-Dena Certified Dairy* (1992), 4 Cal. App. 4th 963 16

13 *Dodge, Warren & Peters Ins. Servs., Inc. v. Riley* (2003) 105 Cal. App. 4th 1414 22

14 *Gray v. Reclamation Dist.* (1917) 174 Cal. 622 20

15 *Hewlett v. Squaw Valley Ski Corp.* (1997) 54 Cal. App. 4th 499 16

16 *Hobby Industry Assn. of America, Inc. v. Younger* (1980) 101 Cal. App. 3d 358..... 16

17 *Houston v. State*, 98 Wis. 481 20

18 *Hunt v. Superior Court* (1999) 21 Cal.4th 894 14

19 *In re Abbott* (5th Cir. Apr. 7, 2020) No. 20-50264, 2020 WL 1685929..... 18

20 *In re Brown* (1973) 9 Cal. 3d 612..... 21

21 *IT Corp v. County of Imperial* (1983) 35 Cal. 3d 63 14

22 *Jacobson v. Massachusetts* (1905) 197 U.S. 11..... 18

23 *Miller v. Reed* (1999) 176 F.3d 1202..... 20

24 *Moyer v. Peabody* (1909) 212 U.S. 78..... 19

25 *Patrick v. Riley* (1930) 209 Cal. 350..... 20

26 *People ex rel. Gow v. Mitchell Brothers' Santa Ana Theater* (1981) 118 Cal. App. 3d 863..... 22

27 *People v. Casa Blanca Convalescent Homes, Inc.* (1984) 159 Cal. App. 3d 509 16

28 *People v. First Federal Credit Corp.* (2002) 104 Cal. App. 4th 721..... 16

People v. McKale (1979) 23 Cal. 3d 626..... 16

1 *People v. Pacific Land Research Co.* (1977) 20 Cal.3d 10 13

2 *Prince v. Massachusetts* (1944) 321 U.S. 158 20

3 *Right Site Coalition v. Los Angeles Unified School Dist.* (2008) 160 Cal. App. 4th 336..... 14

4 *Sandry v. Brooklyn School District No. 78 of Williams County* (1921) 47 N.D. 444..... 21

5 *Saunders v. Superior Court* (1994) 27 Cal. App. 4th 832 16

6 *Stop Youth Addiction, Inc. v. Lucky Stores* (1998) 17 Cal. 4th 553..... 15

7 *Thomas v. Collins* (1945) 323 U.S. 51 21

8 *United States v. Chalk* (4th Cir. 1971) 441 F.2d 1277 18

9 *West Virginia State Board of Education v. Barnette* (1943) 319 U.S. 624..... 21

10 *White v. Davis* (2003) 30 Cal.4th 528..... 14

11 *Wilson v. California Health Facilities Com.* (1980) 110 Cal. App. 3d 317 20

12 *Wind v. Herbert* (1960) 186 Cal. App. 2d 276..... 22

13 **Statutes**

14 Business and Professions Code section 17200 15

15 Business and Professions Code section 17203 13, 14, 16

16 Code of Civil Procedure section 526 14

17 Code of Civil Procedure section 527 13, 14

18 Code of Civil Procedure section 995.220 13

19 Government Code section 8558..... 7, 17

20 Government Code section 8567..... 18

21 Government Code section 8571..... 18

22 Government Code section 8627..... 18

23 Government Code section 8634..... 17

24 Government Code section 8655..... 16, 18

25 Government Code section 8684..... 17

26 Health and Safety Code section 101080 17

27 Health and Safety Code section 120125 18

28 Health and Safety Code section 120130 18

Health and Safety Code section 120135 18

1 Health and Safety Code section 120140 18

2 Health and Safety Code section 120145 18

3 Health and Safety Code section 120150 18

4 Health and Safety Code section 120175 17, 18

5 Health and Safety Code section 120295 16

6 Health and Safety Code section 131080 18

7 **Other Authorities**

8 California March 19, 2020 Stay Home Order 8, 11, 18

9 Executive Order N-33-20 8, 11

10 Executive Order N-60-20 8, 11

11 Monterey County April 28, 2020 Face Coverings Order 9, 11, 12

12 Monterey County April 3, 2020 Shelter in Place Order 9, 11

13 Monterey County March 17 Shelter in Place Order 8

14 Monterey County May 1, 2020 Shelter in Place Order passim

15 Monterey County May 8, 2020 Supplemental Shelter in Place Order 10, 11

16 **Rules**

17 California Rule of Court 3.1204 13

18 **Regulations**

19 California Code of Regulations, title 17, section 2501 17

20

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1 **MEMORANDUM OF POINTS OF AUTHORITIES**

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3 **I. INTRODUCTION AND SUMMARY OF ARGUMENT**

4 The People submit the following Memorandum of Points and Authorities in Support of its Ex
5 Parte Application for a Temporary Restraining Order and Order to Show Cause regarding Issuance of a
6 Preliminary Injunction.

7 Defendants are operating an unlawful and potentially dangerous virtual monopoly on dine-in
8 restaurant service in violation of emergency public health orders and the Government Code and Health
9 and Safety Codes. Defendants, after multiple warnings, have continued to violate lawfully issued
10 emergency health orders by providing dine-in tableside service to patrons at The Tuck Box restaurant in
11 Carmel. Defendants' unlawful conduct gives them an unfair advantage over other similarly situated
12 businesses who are complying with the emergency health orders. What's worse, Defendants refuse to
13 implement social distancing protocols, observe social distancing requirements, and wear face coverings
14 when interacting with patrons, all of which are required by the emergency health orders. The People's
15 Application seeks to compel Defendants' compliance with both these emergency health orders.

16 California is in the midst of an unprecedented public health crisis that has necessarily brought
17 our normal way of life to a drastic halt. In response to this crisis, government officials at the state and
18 local level have exercised their emergency authority to prevent: (1) the collapse of our healthcare
19 system; and (2) unnecessary death. In an emergency such as this, state and local government officials
20 have broad powers, and the Courts must afford deference to temporary actions taken to mitigate the
21 harm caused by this new disease.

22 Over 87,180 individuals have succumbed to the COVID-19 disease in the United States in just
23 over three months, according to the World Health Organization. Neither our country, state, nor county
24 have yet been able to contain this deadly disease, which poses a unique threat, in part, because it can
25 unknowingly be passed to others by asymptomatic and pre-symptomatic individuals, meaning individuals
26 can unknowingly be carrying the virus and unknowingly spread it to others.

27 Scientific evidence indicates that the best available way to prevent our local health care system
28 from being overwhelmed and to prevent unnecessary death is to limit risky, non-essential interpersonal

1 interactions until we have contained the virus to the point where it is safe to gradually resume normal
2 activities. California has established metrics to determine when it is safe to resume various activities
3 based on risk analysis. With respect to restaurants, Monterey County does not currently permit
4 restaurants to provide dine-in service, although the County may meet the applicable metrics in the near
5 future. The Monterey County Health Officer continues to reevaluate the necessity of the emergency
6 health orders as further data becomes available, and will modify the Orders as changing circumstances
7 allow.

8 The Court should grant the People’s Ex Parte Application for a Temporary Restraining Order
9 because the People are likely to succeed on the merits of their section 17200 cause of action, irreparable
10 harm will result if the injunction does not issue, and the harm to the public outweighs the potential harm
11 to Defendants. The People’s Complaint alleges a single cause of action under Business and Professions
12 Code section 17200, *et seq.* for unfair competition. And there is no reasonable dispute that Defendants
13 are, have been, and intend to continue to be in violation of these laws. Defendants have reopened their
14 restaurant, The Tuck Box, for dine-in service, have no social distancing protocols, do not observe social
15 distancing requirements, and do not wear face coverings. The People needs the Court’s help to secure
16 compliance with the law because, to date, nothing else has worked.

17 **II. BACKGROUND**

18 **A. Response to COVID-19 crisis at the Federal, State, and Local Level**

19 On March 4, 2020, Governor Newsom declared a state of emergency related to the Novel
20 Coronavirus Disease 2019 (“COVID-19”). (Declaration of Dr. Edward Moreno (“Moreno Decl.,”) para.
21 5, and Exh. A to Moreno Decl.) On March 6, 2020, the Monterey County Administrative Officer,
22 Charles McKee, issued a proclamation of local emergency pursuant to Government Code section 8558
23 and designated the powers prescribed by state and local law to mitigate the effects of the local
24 emergency to the Monterey County Health Officer. (Moreno Decl., para. 6, and Exh. B to Moreno
25 Decl.) On March 10, 2020, the proclamation of local emergency was ratified by the Monterey County
26 Board of Supervisors. (Moreno Decl., para. 6.)

27 On March 11, 2020, the World Health Organization declared the outbreak of COVID-19 a global
28

1 pandemic. (Moreno Decl., para. 7.) On March 13, 2020, President Trump declared the COVID-19
2 outbreak a national emergency. (Moreno Decl., para. 8.) On March 17, 2020, the Monterey County
3 Health Officer, Dr. Edward Moreno, (“Health Officer”) issued an initial Shelter-in-Place Order (“March
4 17 Order”) applicable to individuals and businesses in Monterey County. (Moreno Decl., para. 7, and
5 Exh. C to Moreno Decl.) The March 17 Order sets forth the categories of businesses deemed
6 “Essential.” (Moreno Decl., para. 9, and Exh. C to Moreno Decl.) Under the March 17 Order, non-
7 essential businesses were required to close their facilities to the public and maintain only minimum basic
8 operations. Restaurants were considered “Essential” for the purpose of providing delivery or carry out
9 service, but were specifically prohibited from allowing dine-in service or table service or otherwise
10 allowing patrons to consume food on the premises. (*See* Exh. C to Moreno Decl, para. 10(e)(xiii).)

11 On March 19, 2020, Governor Newsom issued a statewide Stay-at-Home Order in Executive
12 Order N-33-20 (“Stay Home Order”) applicable to all individuals and businesses in California. (Moreno
13 Decl., para. 10, and Exh. D to Moreno Decl.) The Stay Home Order requires that all individuals living
14 in the State stay home or at their place of residence except as needed to maintain continuity of
15 operations of the federal critical infrastructure sections and as needed to facilitate authorized necessary
16 activities, and at all times directing individuals to practice social distancing. (Moreno Decl., para. 10,
17 and Exh. D to Moreno Decl.) Governor Newsom and the State Public Health Officer have also issued a
18 strategy outlined in Executive Order N-60-20 and the May 7, 2020 Order by the State Public Health
19 Officer, which designates a four-stage framework for reopening businesses, based on risk assessment,
20 and designates the State Public Health Officer to establish criteria to determine how local jurisdictions
21 may proceed through gradual stages of reopening (“Reopening Framework”). (Moreno Decl., para. 17,
22 and Exh. K to Moreno Decl.) Currently, the State of California is in early Stage 2 of the four-stage
23 reopening framework, and local jurisdictions are specifically allowed to implement stricter requirements
24 as local conditions necessitate. Early Stage 2 does not permit restaurants to provide dine-in service, and
25 counties must file an attestation that they meet certain criteria to receive a local variance before
26 restaurants in that county are permitted to provide dine-in table service. (Moreno Decl., para. 19.)
27 Monterey County does not currently meet the initial criteria which were previously required to obtain a
28 variance, and restaurants in Monterey County are therefore not permitted to provide table service or

1 allow patrons to consume food on their premises pursuant to the state standards. (Moreno Decl., para.1
2 9.) The earliest Monterey County might be able to attest to those metrics is the week of May 25, 2020.

3 On April 3, 2020, the Health Officer issued a revised Shelter-in-Place Order (“April 3 Order”).
4 (Moreno Decl., para. 12, and Exh. G to Moreno Decl.) The April 3 Order did not change the prohibitions
5 on providing dine-in service or table service and did not otherwise allow patrons to consume food on the
6 premises. (See Exh. G to Moreno Decl., para. 13(f)(xviii).)

7 On April 28, 2020, the Health Officer issued an order requiring members of the public and
8 workers to wear face coverings when in public places around other individuals, subject to the
9 requirements and exceptions set forth therein (“April 28 Order”). (Moreno Decl., para. 13, and Exh. H to
10 Moreno Decl.) Section 6(a)(i)-(ii) of the April 28 Order states, in relevant part, that “Essential
11 Businesses . . . must require their employees, contractors, owners, and volunteers to wear a Face
12 Covering at the workplace . . . any time the employee, contractor, owner, or volunteer is interacting in
13 person with any member of the public; working in any space visited by members of the public . . .” (See
14 Exh. H to Moreno Decl.)

15 On May 1, 2020, the Health Officer issued a second revised Shelter-in-Place Order (“May 1
16 Order”), which clarifies, amends, and extends the March 17 and April 3 Orders. (Moreno Decl., para.
17 14, and Exh. I to Moreno Decl.) Like the previous shelter in place orders, Section 6 of the May 1 Order
18 reads, in relevant part, that, “All public and private gatherings of any number of people occurring
19 outside a single household or living unit are prohibited, except for the limited purposes expressly
20 permitted in this Order.” (See Exh. I to Moreno Decl.) Section 13(f) of the May 1 Order sets forth the
21 categories of businesses deemed “Essential.” (Id. at para. 13(f).) Under the May 1 Order, “Essential
22 Businesses” may, with some exceptions and subject to the Social Distancing Protocols set forth in
23 Section 13(h) and Appendix C to the Order, continue their business operations at their facilities. Section
24 13(f)(xviii) of the May 1 Order, like the previous two shelter in place orders, states, “Restaurants and
25 other facilities that prepare and serve food [may continue to operate as “Essential Businesses”], but only
26 for delivery or carry out.” (Id. at para. 13(f)(xviii).)

27 Section 13(h) of the May 1 Order requires, in relevant part, that all Essential Businesses “must
28 prepare and post a ‘Social Distancing Protocol’ for each of their facilities in the County frequented by

1 the public or employees. (Moreno Decl., para. 14, and Exh. I to Moreno Decl.) The Social Distancing
2 Protocol must be substantially in the form attached to this Order, listed in Appendix C of the Order. (See
3 Exh. I to Moreno Decl.) The Social Distancing Protocol must be posted at or near the entrance of the
4 relevant facility, and shall be easily viewable by the public and employees. (See Exh. I to Moreno Decl.)
5 A copy of the Social Distancing Protocol must also be provided to each employee performing work at
6 the facility.” (See Exh. I to Moreno Decl.) Moreover, Section 5 of the May 1 Order requires, in relevant
7 part, that, “All Essential Businesses shall prepare, post, and implement a Social Distancing Protocol at
8 each of their facilities or outdoor work areas at which they are maintaining operations, as specified in
9 Section 13(h).” (See Exh. I to Moreno Decl.)

10 Section 13(k) of the May 1 Order defines “Social Distancing Requirements,” in relevant part, as
11 “(i.) Maintaining at least six-foot social distancing from individuals who are not part of the same
12 household or living unit; (ii.) Frequently washing hands with soap and water for at least 20 seconds, or
13 using hand sanitizer that is recognized by the Centers for Disease Control and Prevention as effective in
14 combatting COVID-19; (iii.) Covering coughs and sneezes with a tissue or fabric or, if not possible, into
15 the sleeve or elbow (but not into hands); and (iv.) Wearing a face covering when out in public,
16 consistent with orders or guidance of the Health Officer; (v.) Avoiding all social interaction outside the
17 household when sick with a fever or cough.” (See Exh. I to Moreno Decl.)

18 On May 8, 2020, the Health Officer issued a supplemental order (“May 8 Order”) that
19 supplements but does not replace the May 1 Order. (Moreno Decl., para. 18, and Exh. L to Moreno
20 Decl.) The May 8 Order provides that Governor Newsom moved the State of California into the early
21 phase of Stage 2 of California’s four-stage reopening framework by allowing low risk retail businesses
22 to open subject to the restrictions therein. (Moreno Decl., para. 18, and Exh. L to Moreno Decl.) The
23 May 8 Order did not modify the restrictions on restaurants, and they remain prohibited from providing
24 dine-in service or table service or otherwise allowing patrons to consumer food on the premises by the
25 state and local orders. (Moreno Decl., para. 18, and Exh. L to Moreno Decl.)

26 The Governor recently announced that the metrics would be revised to make it easier for
27 counties to obtain a variance from the state standards, to allow restaurants to open to dine-in service.
28 Based on the information Dr. Moreno has at this time, he anticipates that Monterey County may be able

1 to attest to those metrics as early as the week of May 25, 2020. (Moreno Decl., para. 19.)

2 The Stay Home Order, Reopening Framework, May 17 Order, April 3 Order, April 28 Order,
3 May 1 Order, and May 8 Order are collectively referred to herein as “Emergency Health Orders.”
4 Notably, the Emergency Health Orders are orders of laws of *general applicability*; they apply to all
5 residents and visitors in the State and this County. The County’s May 1 and May 8 Orders were
6 specifically based upon the Governor’s and the Director of the California Department of Public Health’s
7 Stay Home Order, since the County does not have any legal authority to issue orders less restrictive than
8 the State’s orders. Defendants’ restaurant and restaurants generally are not singled out or otherwise
9 treated adversely compared with similarly situated businesses under the Emergency Health Orders.

10 **B. Statutory and Administrative Frameworks Supporting the Emergency Health Orders**

11 The Emergency Health Orders were issued pursuant to the Health and Safety Code and
12 Government Code, and were issued in accordance with, or were issued in light of the following:

- 13 • March 4, 2020 Proclamation of a State Emergency issued by Governor Gavin Newsom;
- 14 • March 6, 2020 Declaration of Local Health Emergency By the County Administrative Officer;
- 15 • March 10, 2020 Resolution of the Board of Supervisors of Monterey County Ratifying and
16 Extending the Declaration of a Local Emergency;
- 17 • March 13, 2020 Declaration of a National Emergency by the President of the United States;
- 18 • March 19, 2020 Stay Home Order of the State Public Health Officer;
- 19 • Governor Gavin Newsom’s Executive Order N-33-20 directing California residents to follow the
20 State Stay Home Order; and
- 21 • Governor Newsom’s Executive Order N-60-20, which designates a four-stage framework for
22 reopening businesses in California.

23 **C. Defendants’ Past and Intended Future Violations of the Emergency Health Orders**

24 On or about May 5, 2020, the District Attorney’s Office was advised by the Carmel Police
25 Department that The Tuck Box restaurant and its owner, Jeffrey Le Towt, were providing dine-in
26 tableside food service and allowing patrons to consume food on the restaurant premises, in violation of
27 the Emergency Health Orders. (Declaration of DDA Emily Hickok (“Hickok Decl.”), para. 4.) Le Towt
28 was visited by Carmel Police Department Officers on May 4 and 5, and was warned that he was

1 violating the Emergency Health Orders. (Declaration of Officer Michael Bruno (“Bruno Decl.”), para. 2;
2 Declaration of Chief Paul Tomasi (“Tomasi Decl.”), paras. 2-5.)

3 Moreover, Deputy District Attorney Emily Hickok corresponded with Le Towt via email on May
4 7 and 8, and he acknowledged the warnings and indicated to DDA Hickok that he would comply with
5 the Emergency Health Orders while he continued to evaluate his legal options. (Hickok Decl., paras. 5-
6 6; see Exh. B to Hickok Decl.)

7 Despite these repeated warnings, he did not cease his unlawful activity and Carmel Police
8 Department officers observed patrons dining at the Tuck Box on May 9 and 10. (Johnson Decl., paras.
9 2-5; Bruno Decl., paras. 3-6.)

10 On May 13, 2020, District Attorney Investigators and California Department of Alcoholic
11 Beverage Control agents visited Le Towt at the Tuck Box. (Declaration of Investigator George Costa
12 (“Costa Decl.”), para. 3.) They again advised him that his violations were subject to civil and criminal
13 liability, and he again stated that his intent was to continue violating the Emergency Health Orders. Le
14 Towt told the District Attorney Investigators that he “knew exactly what he was getting into” by
15 violating the Emergency Health Orders (Costa Decl., paras. 3-9.) On each occasion in which he was
16 visited by law enforcement, Le Towt was not wearing a face covering as required by the April 28 Order.
17 (Johnson Decl., para. 8; Bruno Decl., para. 8; Tomasi Decl., para. 6; Costa Decl., paras. 5, 6, and 18.)
18 Similarly, officers have observed patrons sitting within six feet of each other, as prohibited by the May 1
19 Order. (Bruno Decl., para. 6.) It is important to note that the risk of transmission of the virus while
20 patrons consume food at a restaurant is substantial, but that risk is even greater if servers do not wear
21 face masks and if tables are placed less than six feet apart. (Moreno Decl., para. 4.)

22 On May 13, 2020, the People filed three criminal misdemeanor charges against Le Towt for
23 violation of the Emergency Health Orders, and his arraignment is set for July 14, 2020. (Hickok Decl,
24 para. 8.) However, this has not deterred Le Towt and he continues to violate the prohibitions on
25 providing dine-in tableside service, social distancing protocols, and the requirement that he and his
26 employees wear face coverings. (Costa Decl., paras. 14-18.) Defendants have even stated publicly to the
27 news media that they will not comply with the Emergency Health Orders, and, instead, will continue to
28 allow dine-in service at Defendants’ restaurant business. (*Id.* at para. 19.)

1 Consequently, the People were forced to file this action and bring this ex parte application for a
2 temporary restraining order to prevent the irreparable harm that will ensue if the Defendants fail to
3 comply with the Emergency Health Orders.

4 This application is made pursuant to Business and Professions Code section 17203 and Code of
5 Civil Procedure section 527 on the grounds that: (i) the People are likely to succeed on the merits of
6 their claim; (ii) that unless the temporary restraining order is granted, persons within the County will
7 suffer irreparable harm; and (iii) that the balance of hardships tips heavily in the People’s favor.

8
9 **III. NOTICE OF APPLICATION**

10 Pursuant to California Rule of Court 3.1204 (b)(1), notice of this ex parte application was
11 provided to Jeffrey Le Towt on May 19, 2020 at approximately 6:30 p.m. by District Attorney
12 Investigator John Ferreria, at Le Towt’s home in Carmel at 24517 Lower Trail Street, Carmel, CA
13 93921 (*See* Ferreria Decl., para. 2.) Mr. LeTowt’s email address is info@tuckbox.com. (Hickok Decl.,
14 paras. 4-5.) Investigator Ferreria communicated to LeTowt that the People would move for a temporary
15 restraining order and order to show cause regarding a preliminary injunction on Thursday, May 21, 2020
16 at 10:00 a.m. in the Monterey Superior Court located at 1200 Aguajito Road, Monterey CA, in a
17 department to be determined. Mr. LeTowt did not indicate whether he would appear to contest the
18 issuance of the injunction. (*See* Ferreria Decl., para. 3.)

19 **IV. NO BOND REQUIRED FOR THE PEOPLE’S REQUESTED RELIEF**

20 The People are not required to post a bond when applying for a restraining order or injunction
21 pursuant to Code of Civil Procedure section 995.220.

22
23 **V. ARGUMENT**

24 The Court should grant the People’s Ex Parte Application for a Temporary Restraining Order
25 because The People are likely to succeed on the merits of its section 17200 cause of action and the harm
26 to the public outweighs the potential harm to Defendants. Business and Professions Code section 17203
27 provides that “any person who engages, has engaged, or proposes to engage in unfair competition may
28 be enjoined in any court of competent jurisdiction. (*See People v. Pacific Land Research Co. (1977) 20*

1 Cal.3d 10, 17 [“An action filed by the People seeking injunctive relief...is fundamentally a law
2 enforcement action designed to protect the public...”] Code of Civil Procedure sections 526 and 527
3 also authorize courts to issue preliminary injunctions, including temporary restraining orders. Code of
4 Civil Procedure section 527(a) states that, “[a] preliminary injunction may be granted at any time before
5 judgment upon a verified complaint, or upon affidavits if the complaint in the one case, or the affidavits
6 in the other, show satisfactorily that sufficient grounds exist therefor.”

7 When a private plaintiff seeks an injunction, the Court generally applies a two-pronged test: (1)
8 the likelihood that the moving party will prevail on the merits; and (2) the relative interim harm to the
9 parties from the issuance or non-issuance of the injunction. (See *White v. Davis* (2003) 30 Cal.4th 528,
10 554; *Hunt v. Superior Court* (1999) 21 Cal.4th 894, 999.) These two factors balance each other out,
11 such that “[t]he more likely it is that plaintiffs will ultimately prevail, the less severe must be the harm
12 that they allege will occur the injunction does not issue.” *Right Site Coalition v. Los Angeles Unified*
13 *School Dist.* (2008) 160 Cal. App. 4th 336, 338-39. As a result, “if the party seeking the injunction can
14 make a sufficiently strong showing of likelihood of success on the merits” or “that the balance of harms
15 tips in [the party’s] favor,” the trial court has discretion to issue the injunction. *Common Cause v. Board*
16 *of Supervisors* (1989) 49 Cal. 3d 432, 441-42.

17 However, in a public action brought pursuant to a law under which the People may obtain
18 injunctive relief, if the People show they are likely to prevail on the merits, harm to the public is
19 presumed. The California Supreme Court in *IT Corp v. County of Imperial* (1983) 35 Cal. 3d 63, 70
20 held that the propriety of an injunction is judged by the following standard in such cases:

21 Where a governmental entity seeking to enjoin the alleged violation of an ordinance
22 which specifically provides for injunctive relief establishes that it is **reasonably**
23 **probable** it will prevail on the merits, a rebuttable presumption arises that the potential
24 harm to the public outweighs the potential harm to the defendant.

25 [Emphasis added.] (*Id.* at 72.) The Legislature, by authorizing injunctive relief to remedy violations of
26 the Unfair Competition Law via Business and Professions Code section 17203, has already determined
27 that these violations harm the public interest and that an injunction is the proper way to protect against
28 that harm. (*Id.* at 71.) The burden therefore shifts to the defendant to show that the irreparable harm

1 they will suffer as a result of the injunction is greater than the harm to the public if the injunction is
2 denied. (*Id.*) Only if the defendant shows that it would suffer grave or irreparable harm from the
3 issuance of the preliminary injunction must the court then examine the relative actual harms to the
4 parties. (*Id.*)

5 Here, the People have brought an action pursuant to Business and Professions Code sections
6 17200 et seq. (the “Unfair Competition Law” or “UCL”), which provides for injunctive relief. And,
7 because the People will demonstrate their reasonable probability of prevailing on the merits at trial, they
8 need not prove that the harm to the public outweighs the harm to Defendants from complying with the
9 Emergency Health Orders. So long as it is “fairly clear” that the People will prevail on the merits, the
10 injunction may issue even if the People are unable to prevail in a balancing of the probable harms. (*Id.* at
11 72-3.) But it is more than “fairly clear” that the People will prevail on the merits in this action. The
12 People seek an order requiring compliance with California law and the lawfully issued Emergency
13 Health Orders. The evidence, moreover, is overwhelming that Defendants have intentionally violated
14 and intend to continue to intentionally violate the Unfair Competition Law and the Emergency Health
15 Orders and therefore the injunction should issue.

16 **A. The People are Likely to Prevail on the Merits Against Defendants**

17 The People are likely to prevail on the merits of a UCL claim against Defendants because they
18 have failed to comply with, and have unequivocally stated that in the future they will not comply with,
19 the lawfully issued Emergency Health Orders. (See Tomasi Decl., paras. 4-5; Costa Decl., paras. 9, 11,
20 and 19.)

21 **1. Defendants Have Violated, and will Continue to Violate, the UCL**

22 Defendants dangerous and anti-competitive conduct in violation of the Emergency Health Orders
23 constitute UCL predicate violations. The UCL, found at Business and Professions Code section 17200 *et*
24 *seq.*, defines “unfair competition” to include any “unlawful, unfair or fraudulent business act or
25 practice”. (Bus. & Prof. Code §17200(a); *Stop Youth Addiction, Inc. v. Lucky Stores* (1998) 17 Cal. 4th
26 553, 560).

27 The UCL “extend[s] the meaning of unfair competition to anything that can properly be called a
28 business practice and that at the same time is forbidden by law.” (*Bank of the West v. Superior Court*

1 (1992) 2 Cal. 4th 1254, 1266; quoting *Barquis v. Merchant Collection Association of Oakland* (1972) 7
2 Cal. 3d 94, 113.) This includes “civil or criminal, federal, state, municipal, statutory, regulatory, or
3 court-made” law. (*Saunders v. Superior Court* (1994) 27 Cal. App. 4th 832, 838-39; citing *People v.*
4 *McKale* (1979) 23 Cal. 3d 626, 632). The UCL “borrows” violations of other laws and makes them
5 actionable as unlawful business practices. (*State Farm Fire & Casualty Co. v. Superior Court* (1996) 45
6 Cal.App.4th 1093, 1103.)

7 The only defense to an action based on an unlawful business practice is that the particular
8 conduct is not unlawful. (*Hobby Industry Assn. of America, Inc. v. Younger* (1980) 101 Cal. App. 3d
9 358, 372). Thus, defenses such as business considerations or lack of deception or fraud, and defenses
10 not aimed at proving the lawfulness of the allegedly unlawful behavior, are completely unavailing. (*Id.*
11 at 371-72). Similarly, industrywide noncompliance with the law is also no defense. (*People v. Casa*
12 *Blanca Convalescent Homes, Inc.* (1984) 159 Cal. App. 3d 509, 528-29.)

13 Business and Professions Code section 17203 provides the Superior Court with broad powers to
14 grant injunctive relief for violations of the Unfair Competition Law. The Superior Court can exercise
15 the full range of its inherent powers as a court of equity to accomplish justice regarding the UCL
16 violation at issue. (*Hewlett v. Squaw Valley Ski Corp.* (1997) 54 Cal. App. 4th 499, 540) (court’s power
17 to grant injunctive relief to prevent future unfair business practices is “extraordinarily broad”) (quoting
18 *Consumers Union of U.S., Inc. v. Alta-Dena Certified Dairy* (1992), 4 Cal. App. 4th 963, 972); (*People*
19 *v. First Federal Credit Corp.* (2002) 104 Cal. App. 4th 721, 735-36).

20 Here, Defendants’ conduct violates the Emergency Health Orders and the statutes that make this
21 conduct unlawful. Government Code section 8655 and Health and Safety Code section 120295 both
22 make it unlawful to violate the Emergency Health Orders. And Defendants, as a result of their refusal to
23 follow the Emergency Health Orders, have a virtual monopoly on dine-in restaurant service in the
24 County. While other restaurants in the County are offering only delivery or carry out service,
25 Defendants, in violation of the Emergency Health Orders, are offering dine-in service to their patrons.
26 Defendants and Defendants’ workers are also not practicing social distancing or wearing face coverings
27 (Johnson Decl., para. 8; Bruno Decl., paras. 4, 6, and 8; Tomasi Decl., para. 6; Costa Decl., para. 18.) in
28 an effort to offer a “better” dining experience to their patrons. Defendants’ actions are unlawful and

1 unfair within the meaning of the UCL, and Defendants have a decided unfair advantage over other
2 restaurants that have elected to follow the Emergency Health Orders.

3 **2. The Emergency Health Orders Were Lawfully Issued and Constitute Predicate**
4 **Acts Within the Meaning of the UCL**

5 The Health Officer was within his power to take necessary preventive measures to protect and
6 preserve the public health from the COVID-19 public health emergency, including issuing the April 28
7 and May 1 Orders. COVID-19 has created both a health emergency as defined by Health and Safety
8 Code section 101080, and a state of emergency and a local emergency as defined by Government Code
9 section 8558. The Health Officer must therefore promulgate orders as necessary to protect life and
10 property pursuant to Government Code section 8684. Health and Safety Code section 101040 (a) states:

11 The local health officer may take any preventive measure that may be necessary to
12 protect and preserve the public health from any public health hazard during any ‘state of
13 war emergency,’ ‘state of emergency,’ or ‘local emergency,’ as defined by Section 8558
14 of the Government Code, within his or her jurisdiction.

15 Next, Health and Safety Code section 120175 states:

16 Each health officer knowing or having reason to believe that any case of the diseases
17 made reportable by regulation of the department, or any other contagious, infectious or
18 communicable disease exists, or has recently existed, within the territory under his or her
19 jurisdiction, shall take measures as may be necessary to prevent the spread of the disease
20 or occurrence of additional cases.

21 Likewise, Title 17 of the Code of Regulations section 2501 (a) states, in relevant part: “. . . the
22 local health officer shall take whatever steps deemed necessary for the investigation and control of the
23 disease, condition or outbreak reported . . .”

24 And, finally, Government Code section 8634 states, in relevant part:

25 During a local emergency the governing body of a political subdivision, or officials
26 designated thereby, may promulgate orders and regulations necessary to provide for the
27 protection of life and property, including orders or regulations imposing a curfew within
28 designated boundaries where necessary to preserve the public order and safety . . .

1 Both a Resolution of the County Administrator Officer proclaiming the existence of a Local
2 Emergency in the County of Monterey regarding COVID-19, and a Resolution of the Board of
3 Supervisors of the County of Monterey ratifying and extending the Declaration of Local Health
4 Emergency due to COVID-19, were made on March 6 and 10, 2020, respectively. The proclamation of
5 local emergency designated to the Health Officer the authority to make emergency orders and
6 regulations for the protection of life and property. The April 28 and May 1 Orders were issued pursuant
7 to this authority to prevent the spread of COVID-19. And, finally, Governor Newsom and the State
8 Public Health Officer issued the Stay Home Order and Reopening Framework pursuant to their authority
9 under the California Constitution and state law, specifically, Government Code sections 8567, 8571,
10 8627, and 8665, and Health and Safety Code sections 120125, 120130, 120135, 120140, 120145,
11 120150, 120175, and 131080.

12 **B. The Health Officer’s Preventative Measures are Well Supported, Including by**
13 **Centuries of Case Law**

14 The Health Officer’s preventative measures to prevent the spread of COVID-19 are supported by
15 centuries of case law. The Supreme Court has long recognized that “a community has the right to
16 protect itself against an epidemic of disease which threatens the safety of its members.” *Jacobson v.*
17 *Massachusetts* (1905) 197 U.S. 11, 27 (internal quotation marks omitted). In that regard, the Court has
18 permitted states to enact “quarantine laws and health laws of every description,” *id.* at 25, similar to the
19 Emergency Health Orders issued to combat the COVID-19 pandemic.

20 The State’s proclamation of a state of emergency and invocation of emergency powers
21 “necessarily restrict[] activities that would normally be constitutionally protected,” and “[a]ctions which
22 citizens are normally free to engage in [have] become subject to criminal penalty.” *United States v.*
23 *Chalk* (4th Cir. 1971) 441 F.2d 1277, 1281. But “measures [that] would be constitutionally intolerable in
24 ordinary times [] are recognized as appropriate and even necessary responses to the present [COVID-19
25 pandemic] crisis.” *In re Abbott* (5th Cir. Apr. 7, 2020) No. 20-50264, 2020 WL 1685929, at *9.
26 Although the Constitution is not suspended during a state of emergency, the Supreme Court has
27 recognized that “under the pressure of great dangers,” constitutional rights may be reasonably restricted
28 “as the safety of the general public may demand.” *Jacobson*, 197 U.S. at 29. This “settled rule” allows

1 states facing emergencies to “restrict, for example, one’s right to peaceably assemble, to publicly
2 worship, to travel, and even to leave one’s home.” *Abbott*, 2020 WL 1685929, at *1. To combat a
3 virulently infectious disease in an emergency pandemic, the State must be able to take swift and decisive
4 action. *Cf. Chalk*, 441 F.2d at 1281. The court’s review of temporary measures taken during such an
5 emergency, accordingly, is “limited to a determination of whether the [executive’s] actions were taken
6 in good faith and whether there is some factual basis for [the Governor’s] decision that the restrictions
7 he imposed were necessary to maintain order.” *Id.* (citing *Moyer v. Peabody* (1909) 212 U.S. 78.

8 Here, “The health officer must take ‘measures as may be necessary,’ or ‘reasonably necessary,’
9 to achieve the Department’s goals and policies, leaving the course of action to the health officer’s
10 discretion. The statutory scheme sets forth certain actions, ranging from quarantine and isolation for
11 contagious and communicable diseases . . . These statutory measures, however, are not exhaustive or
12 mandatory, giving the health officer discretion to act in a particular manner depending upon the
13 circumstances.” *Aids Healthcare Foundation v. Los Angeles County Department of Health* (“Aids
14 Healthcare Foundation”) (2011) 197 Cal. App. 4th 693, 701-02 (internal citations omitted).

15 Based upon the trajectory of the COVID-19 pandemic, the Health Officer determined that the
16 prohibition on dine-in restaurant service was necessary, and he set forth support for this determination in
17 Sections 8 through 12 of the May 1 Order. For example, Section 8 of the May 1 Order states as follows:

18 This Order is issued based on evidence of ongoing occurrence of COVID-19 within the
19 County and throughout neighboring counties, scientific evidence and best practices
20 regarding the most effective approaches to slow the transmission of communicable
21 diseases generally and COVID-19 specifically, and evidence that the age, condition, and
22 health of a significant portion of the population of the County places that population at
23 risk for serious health complications, including death, from COVID-19.

24 The Health Officer’s decision to determine what is necessary to control infectious diseases is not
25 subject to Defendants’ review. For example, in *Aids Healthcare Foundation*, supra, the Court of Appeal
26 determined that a writ of mandate would not lie to impose the Foundation’s discretion upon the
27 Department’s health officer. (197 Cal. App. 4th at 705.) The Aids Healthcare Foundation Court stated
28 that, “[w]e cannot compel another branch of the government to exercise its discretion in a particular

1 manner.” Similarly, in the instant case, the Health Officer’s May 1 Order set forth the necessity for the
2 measures contained therein, and they are not subject to Defendant’s review.

3 Few constitutional questions arise from actions taken by local health officers to control
4 infectious disease. “[H]ealth regulations enacted by a statute under its police power and providing even
5 drastic measures for the elimination of disease . . . in a general way are not affected by constitutional
6 provision, either of the state or national government.” (*Patrick v. Riley* (1930) 209 Cal. 350, 354).
7 And though certain rights considered fundamental are afforded constitutional protection, as the Supreme
8 Court has recognized, “[t]he right to practice religion freely [for example] does not include liberty to
9 expose the community . . . to communicable disease.” *Prince v. Massachusetts* (1944) 321 U.S. 158,
10 166-67 (alterations added); see also *Abeel v. Clark* (1890) 84 Cal. 226 (upholding vaccination mandate
11 in California).

12 No fundamental right to privacy is at stake when a statute primarily concerns health and safety,
13 (*Wilson v. California Health Facilities Com.* (1980) 110 Cal. App. 3d 317) or, in the case of the
14 government’s destruction of cattle to contain a tuberculosis outbreak, no right existed for the owners to
15 claim just compensation. (*Patrick, supra*, 209 Cal. at 354.) The Court in *Patrick* determined that “[i]n
16 the exercise of the right of eminent domain, private property may not be taken without compensation
17 therefor, whereas, in the exercise of the police power, the use of property may be restricted or it may
18 even be destroyed, and no legal liability arise to compensate the owner therefor.” (*Id.*) (citing *Gray v.*
19 *Reclamation Dist.* (1917) 174 Cal. 622, 638; *Houston v. State*, 98 Wis. 481, 486, 74 N. W. 111, 113, 42
20 L. R. A. 39; *City of New Orleans v. Charouleau*, 121 La. 890, 46 So. 911, 912, 18 L. R. A. (N. S.) 368,
21 126 Am. St. Rep. 332, 15 Ann. Cas. 46. 457.) Finally, laws of general application like those at play
22 here, need only survive rational basis review. *Miller v. Reed* (1999) 176 F.3d 1202, 1206.

23 The Health Officer issued the April 28 and May 1 Orders to slow the transmission of COVID-19
24 and to prevent unnecessary deaths. (Moreno Decl., para. 21, 23, and 26.) There were millions of cases of
25 the virus worldwide and at the time the May 1 Order was issued, approximately 206 cases locally, and
26 this step was determined to be *necessary* to prevent the rapid spread of the disease. (*See Exhibit I to*
27 *Moreno Decl.*) That decision is not subject to Defendant’s review, and the Temporary Restraining Order
28 requiring Defendant’s immediate compliance with the April 28 and May 1 Orders should be granted to

1 protect public health and to prohibit the Defendant from obtaining an unfair business advantage over
2 those businesses who are complying with the law.

3 **C. The Balance of Hardship Tips Heavily in the People’s Favor and Irreparable Harm**

4 Even without the presumption afforded to the People that the harm to the public outweighs the
5 harm to Defendants, an injunction should issue because the balance of hardships tips heavily in the
6 People’s favor. Defendants’ ongoing violations of the law and unfair business practices pose a
7 continuing threat of harm in the absence of a temporary restraining order and preliminary injunction.
8 The Emergency Health Orders were issued to prevent a clear and present danger of harm, namely, the
9 spread of the COVID-19 virus through individuals closely gathering to larger members of the public,
10 which could result in: (1) the collapse of our healthcare system’s ability to treat the ill; and (2)
11 unnecessary death. (Moreno Decl., para. 26.) And, while there is no dispute that the United States and
12 California Constitutions protect the rights of individuals to peacefully assemble, this right has its
13 limitations. See *Carroll v. President and Com’rs of Princess Anne* (1968) 393 U.S. 175; *Thomas v.*
14 *Collins* (1945) 323 U.S. 516; *West Virginia State Board of Education v. Barnette* (1943) 319 U.S. 624.
15 Indeed, any attempt to restrict free assembly must be justified by clear and present danger. *Collins*, 323
16 U.S. at 530-31. California’s Supreme Court has ruled that any prohibitions against a lawful assembly
17 must be limited to situations which are violent or which pose clear and present danger of imminent
18 violence or harm to others. *In re Brown* (1973) 9 Cal. 3d 612, 623. In fact, the Supreme Court of South
19 Dakota has ruled that public authorities have the right to prohibit gatherings or congregations of persons
20 during the prevalence of an epidemic. *Sandry v. Brooklyn School District No. 78 of Williams County*
21 (1921) 47 N.D. 444.

22 Without a temporary restraining order and preliminary injunction in place barring Defendants
23 from violating the Emergency Health Orders, it is absolutely certain that Defendants will continue to
24 engage in conduct that puts the health and life of the public at risk and puts Defendant at an unfair
25 advantage over businesses that are complying with the law. Defendants have stated publicly that, despite
26 all warnings, they will continue to offer dine-in service to patrons in direct violation of the Emergency
27 Health Orders. (See Costa Decl., para. 9, 11, 18, and 19.) Defendants also have no Social Distancing
28 Protocol, do not follow Social Distancing Requirements, and do not wear face coverings, all of which

1 increases the likelihood of spread of COVID-19 should a patron or employee become infected. (Johnson
2 Decl., para. 8; Bruno Decl., paras. 4, 6, and 8; Tomasi Decl., para. 6; Costa Decl., paras. 6 and 18.)
3 Irreparable harm will result to the people of Monterey County if the April 28 Order requiring face
4 coverings in public, the May 1 Order, and the Stay Home Orders are violated, and in this instance, if
5 Defendant is not restrained and enjoined from violating the Orders. (See Moreno Decl., para. 32.)

6 Of particular note, the risk of harm in this matter is not limited to the patrons, employees, and
7 owners who are choosing to violate the Emergency Health Orders. After engaging in gatherings at the
8 Tuck Box restaurant, patrons, employees, and owners will no doubt interact with other members of the
9 public while they perform essential activities, such as grocery shopping, seeking medical care, or
10 working at essential businesses. These individuals may expose other members of the public who did not
11 choose to violate the Emergency Health Orders to the risk of contracting COVID-19. (See Moreno
12 Decl., para. 4.)

13 The Health Officer issued the April 28 and May 1 Orders pursuant to his statutory authority, and
14 they apply to all persons and businesses in Monterey County. See, e.g., Health and Safety Code section
15 120220. The primary purpose of a temporary restraining order is to preserve the status quo and avoid
16 irreparable harm. *Dodge, Warren & Peters Ins. Servs., Inc. v. Riley* (2003) 105 Cal. App. 4th 1414,
17 1418. Irreparable harm includes harms arising from wrongs of “continuing character” and wrongs that
18 cannot be righted through monetary compensation. *People ex rel. Gow v. Mitchell Brothers' Santa Ana*
19 *Theater* (1981) 118 Cal. App. 3d 863,870-71; *Wind v. Herbert* (1960) 186 Cal. App. 2d 276, 285. The
20 April 28 and May 1 Orders were put into place: (1) as a result of the global pandemic and over 206 cases
21 in Monterey County, which have now reached 344 cases; (2) to reduce the likelihood of exposure to
22 COVID-19, thereby slowing the spread of COVID-19 in communities worldwide and locally; (3) to
23 prevent circumstances often present in gatherings that may exacerbate the spread of COVID-19; (4) to
24 address the strain upon the health care system from the effects of the COVID-19 virus; and (5) to
25 prevent unnecessary death. (Moreno Decl., paras. 23-26.) Defendant’s failure to comply with the
26 Emergency Health Orders not only is a direct violation of the Health Officer’s legal authority during a
27 state of emergency, but more importantly presents a risk of irreparable harm to the health and safety of
28 persons within the County. Accordingly, without a temporary restraining order and injunction to stop

1 Defendants' unlawful and dangerous behaviors, Defendants will not comply with the law and
2 Emergency Health Orders.

3
4 **VI. THE PEOPLE REQUEST PERMISSION TO FILE A BRIEF IN EXCESS OF 15 PAGES**

5 This memorandum of points and authorities exceeds the 15-page limit. (See Cal. Rules Ct., rule
6 3.113.) A brief in excess of the page limit is necessary in this case because the background, nature, and
7 statutory framework of the Emergency Health Orders is complex.

8 **VII. CONCLUSION**

9 For the foregoing reasons, the People respectfully request that the Court grant the People's ex
10 parte application and enter the requested temporary restraining order ordering compliance with the
11 Emergency Health Orders, and specifically prohibiting Defendants from: (1) providing dine-in or table-
12 side service to patrons at The Tuck Box restaurant, located on Dolores Street between Ocean and 7th
13 Avenue until such activity is authorized by the Monterey County Health Officer; (2) allowing patrons to
14 consume food on The Tuck Box's premises until such activity is authorized by the Monterey County
15 Health Officer; (3) engaging in violations of the April 28, 2020 Order Requiring Face Coverings until
16 such order is lifted; (4) engaging in violations of the May 1, 2020 Shelter-in-Place Order until such order
17 is lifted; (5) failing to comply with social distancing protocols as required by the Monterey County
18 Health Officer orders and/or the May 1, 2020 Shelter-in-Place Order.

19 The People also request an order authorizing District Attorney Investigators to: enter onto the
20 property at The Tuck Box restaurant, located on Dolores Street between Ocean and 7th Avenue, to post
21 notice of this Order in visible locations on said Property, including, but not limited to, exterior fences,
22 gates, structures, doors or any other structure thereupon, and to distribute this Order to Defendants
23 and/or any other persons present on the Property.

24 The People also request an order requiring Defendants to preserve evidence related to this matter
25 pertaining to the period of March 17, 2020 (the date restaurants were prohibited from allowing dine-in
26 service through and including the date that Monterey County permits dine-in restaurant service,
27 including but not limited to: sales receipts, sales register reports, and/or deposit slips evidencing daily
28 sales totals of customer purchases for food and beverages, which evidence is relevant to the People's

1 unfair competition claims. The People also request that the Court set an order to show cause why a
2 preliminary injunction should not issue pending trial in this action.

3
4 Respectfully Submitted,

5
6 Dated: May 20, 2020

JEANNINE M. PACIONI
Monterey County District Attorney

7
8 

9
10 _____
11 By: Emily D. Hickok
12 Deputy District Attorney

1 JEANNINE M. PACIONI
2 Monterey County District Attorney
3 Emily D. Hickok (SBN 247175)
4 Christopher J. Judge (SBN 274418)
5 Deputy District Attorneys
6 1200 Aguajito Road, Room 301
7 Monterey, CA 93940
8 Telephone: (831) 647-7710
9 Email: HickokED@co.monterey.ca.us
10 Email: JudgeC@co.monterey.ca.us
11 *Attorneys for Plaintiff*
12 *The People of the State of California*

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **FOR THE COUNTY OF MONTEREY**

11 PEOPLE OF THE STATE OF CALIFORNIA,
12
13 Plaintiff,
14 vs.
15 THE TUCK BOX, a business of unknown origin;
16 JEFFREY LETOWT, an individual; and
17 DOES 1-10, inclusive,
18 Defendants.

Case No.: 20CV001448

**DECLARATION OF DR. EDWARD
MORENO IN SUPPORT OF
TEMPORARY RESTRAINING
ORDER AND ORDER TO SHOW
CAUSE REGARDING
PRELIMINARY INJUNCTION**

19
20 I, Dr. Edward Moreno, declare that if called and sworn as a witness, I could and would testify to
21 the following:

22 1. I am the Health Officer of the County of Monterey and have held that position for over
23 six years. I was confirmed to this appointment by the Monterey County Board of Supervisors on June
24 25, 2013. Prior to serving in this capacity, I served as the Health Officer for the County of Fresno for 10
25 years.

26 2. I am a medical doctor and currently practice/have practiced for 28 years in the State of
27 California, in Salinas, Fresno and Southern California. I completed an internship and residency at
28 Children's Hospital Los Angeles. I received my medical degree from the University of California, San

1 Francisco, School of Medicine, my masters of public health degree from California State University
2 Fresno, and my undergraduate degree from the University of Notre Dame.

3 3. Due to COVID-19 disease in the general public and the occurrence of the COVID-19
4 virus in Monterey County, the potential for it to spread rapidly through the community, and the World
5 Health Organization declaring COVID-19 to be a pandemic world-wide, there is a public health
6 emergency throughout the County.

7 4. Making the problem worse, some individuals who contract the virus causing the COVID-
8 19 disease have no symptoms or have mild symptoms, which means they may not be aware they carry
9 the virus and are transmitting it to others. Because even people who are without symptoms can transmit
10 the infection, and because evidence shows the infection is easily spread, gatherings and other
11 interpersonal interactions, such as table service and dine-in service at restaurants, or otherwise allowing
12 patrons to consume food on the premises of a restaurant, can result in transmission of the virus. The risk
13 of transmission under such circumstances is substantial, but that risk is even greater if servers do not
14 wear face masks and if tables are placed less than six feet apart.

15 5. On March 4, 2020, Governor Newsom issued a proclamation of a state of emergency
16 related to the Novel Coronavirus Disease 2019 (“COVID-19”). A true and correct copy of the March 4
17 Proclamation is attached hereto as Exhibit A.

18 6. On March 6, 2020, the Monterey County Administrative Officer, Charles McKee, issued
19 a proclamation of local emergency pursuant to Government Code section 8558c and designated myself,
20 by virtue of my role as Health Officer, the powers prescribed by state and local law to mitigate the
21 effects of the local emergency. The proclamation of local emergency was ratified by the Monterey
22 County Board of Supervisors on March 10, 2020. A true and correct copy of the Proclamation of Local
23 Emergency is attached hereto as Exhibit B.

24 7. On March 11, 2020, the World Health Organization declared the outbreak of COVID-19
25 a global pandemic.

26 8. On March 13, 2020, President Trump declared the COVID-19 outbreak a national
27 emergency.
28

1 9. On March 17, 2020, I issued an initial shelter in place order (“March 17 Order”),
2 pursuant to the authority vested in me by state law, including without limitation, Health and Safety Code
3 sections 101040, 101085, and 120175 and Government Code sections 8630 and 8634. The March 17
4 Order directed all individuals living in the County to shelter at their place of residence except to provide
5 or receive certain essential services or engage in certain essential activities, and work for essential
6 businesses and governmental services, and directed all businesses and governmental agencies to cease
7 non-essential operations at physical locations in the County, and prohibited all non-essential gatherings
8 of any number of individuals, and ordered the cessation of all non-essential travel, as set forth more fully
9 in the March 17 Order. A true and correct copy of the March 17 Order is attached hereto as Exhibit C.

10 10. On March 19, 2020, the State Public Health Officer issued a “Stay Home Order,” which
11 set baseline restrictions on non-residential business activities effective until further notice based on the
12 designation of “Essential Critical Infrastructure Workers” published on March 22, 2020. A true and
13 correct copy of the March 19, 2020 State Public Health Order is attached hereto as Exhibit D.

14 11. On March 19, 2020, Governor Gavin Newsom issued Executive Order N-33-20, directing
15 California residents to follow the Stay Home Order. A true and correct copy of this order is attached as
16 Exhibit E. The Stay Home Order permits businesses that are designated in the “Advisory Memorandum
17 on Identification of Essential Critical Infrastructure Workers During COVID-19 Response,” issued by
18 the federal Cybersecurity and Infrastructure Security Agency and updated on March 19, 2020, to
19 continue working, and a true and correct copy of this advisory memorandum is attached hereto as
20 Exhibit F. I am familiar with the contents of these orders.

21 12. On April 3, 2020, I issued a revised and expanded shelter in place order (“April 3 Order”)
22 that superseded the March 17 Order. A true and correct copy of the April 3 Order is attached hereto as
23 Exhibit G.

24 13. On April 28, 2020, I issued an order requiring members of the public and workers to wear
25 face coverings (“Face Coverings Order”). One key method of transmission of the COVID-19 virus is by
26 respiratory droplets that people expel when they breathe, cough or sneeze. People infected with the virus
27 may not have any symptoms, meaning they are asymptomatic, but they can still be contagious. People
28 infected with the virus are contagious 48 hours before developing symptoms, the time when they are

1 pre-symptomatic. Many people with the COVID-19 virus have mild symptoms and do not recognize
2 they are infected and contagious, and they can unintentionally infect others. Therefore, the Centers for
3 Disease Control and Prevention, California Department of Public Health, and Monterey County Health
4 Department now believe that wearing a face covering, when combined with physical distancing of at
5 least six feet and frequent hand washing, may reduce the risk of transmitting coronavirus when in public
6 and engaged in essential activities by reducing the spread of respiratory droplets. For clarity, although
7 wearing a face covering is one tool for reducing the spread of the virus, doing so is not a substitute for
8 sheltering in place, physical distancing of at least six feet, and frequent hand washing. A true and correct
9 copy of the Face Coverings Order is attached hereto as Exhibit H.

10 14. On May 1, 2020, I issued a second revised shelter in place order (“May 1 Order”) that
11 superseded the April 3 Order. A true and correct copy of the May 1 Order is attached hereto as Exhibit I.

12 15. The Shelter in Place Orders that I issued on April 3 and May 1 were issued in light of the
13 Stay Home Orders.

14 16. Under each of the March 17, April 3, and May 1 Orders, restaurants were permitted to
15 provide delivery or carry out service, but were not permitted to allow dine-in service or table service or
16 otherwise allow patrons to consume food on the premises.

17 17. On May 4, 2020, Governor Newsom issued Executive Order N-60-20, which directs the
18 State Public Health Officer to establish criteria to determine how local jurisdictions may proceed
19 through gradual stages of reopening. A true and correct copy of Executive Order N-60-20 is attached
20 hereto as Exhibit J. The State Health Officer has designated a four-stage framework for reopening
21 businesses, based on risk assessment, in its May 7, 2020 Order. A true and correct copy of the May 7,
22 2020 State Public Health Officer’s Order is attached hereto as Exhibit K. I am familiar with the contents
23 of these orders. Governor Newsom has moved the state into “early Stage 2” of a phased reopening.

24 18. On May 8, 2020, I issued a supplemental order (“May 8 Order”) that supplements but
25 does not replace the May 1 Order. The May 8 Order provides that Governor Newsom moved the State of
26 California into the early phase of Stage 2 of the California Stay Home Order (described more fully
27 below). This allows lower risk retail businesses to open subject to the restrictions therein. The May 8
28 Order did not modify the restrictions on restaurants, and they remain prohibited from providing dine-in

1 service or table service or otherwise allowing patrons to consume food on the premises. A true and
2 correct copy of the May 8 Order is attached hereto as Exhibit L.

3 19. The May 8 Order that I issued was written in light of the Governor’s move into early
4 Stage 2. The Stay Home Orders, like our local Shelter-in-Place Orders, do not currently permit
5 restaurants in Monterey County to provide dine-in or table service and prohibit patrons from consuming
6 food on the premises. These activities will not be allowed until one of the following two occurrences: (1)
7 Monterey County submits a local attestation to the state and receives a local variance to move into late
8 stage 2 of the reopening plan, which would allow dine-in and table service, subject to social distancing
9 protocols, or (2) the Governor allows restaurants to provide dine-in or table service statewide and
10 Monterey County’s local orders also permit this activity (because local orders may be more restrictive
11 than the state order(s) as conditions necessitate). Monterey County does not currently meet the initial
12 health metrics developed by the State Public Health Officer -- which were previously required to obtain
13 a variance to move to late Stage 2 -- which could allow dine-in service at restaurants. The Governor
14 recently announced that the metrics would be revised to make it easier for counties to obtain a variance;
15 the details on the specific metrics were released May 19, 2020. Based on the information I have at this
16 time, I anticipate that Monterey County may be able to attest to those metrics as early as the week of
17 May 25, 2020.

18 20. The March 17 Order, April 3 Order, May 1 Order, and May 8 Order are collectively
19 referred to herein as “Shelter in Place Orders.”

20 21. As set forth more fully therein, the Shelter in Place Orders that I issued were based on
21 evidence of the ongoing occurrence of the COVID-19 disease within Monterey County and throughout
22 neighboring counties, scientific evidence and best practices regarding the most effective approaches to
23 slow the transmission of communicable diseases generally and COVID-19 specifically, and evidence
24 that the age, condition, and health of a significant portion of the population of Monterey County places
25 that population at risk for serious health complications, including death, from COVID-19. Individuals in
26 one or more of these “high-risk” categories reside throughout the County, including on the Monterey
27 Peninsula.
28

1 22. The Shelter-in-Place Orders are based on the release of substantial guidance from the
2 Monterey County Department of Health, the California Department of Public Health, the Centers for
3 Disease Control and Prevention, and other public health officials throughout the United States and
4 around the world, including a variety of prior orders to combat the spread and harms of COVID-19.

5 23. The COVID-19 public health emergency is ongoing as of the date of this declaration, with
6 increasing numbers of confirmed cases and deaths locally and world-wide.

7 24. Evidence suggests that the restrictions on mobility and social distancing requirements
8 imposed the Shelter-in-Place Orders are slowing the rate of increase in community transmission and
9 number of confirmed cases by limiting interactions among people, consistent with scientific evidence of
10 the efficacy of similar measures in other parts of the country and world.

11 25. Specifically, the Shelter-in-Place Orders have resulted in prolonged doubling times for
12 new confirmed cases and stable hospitalization admission rates for greater than 14 days. The Shelter-in-
13 Place Orders have also afforded hospitals and clinics time to implement measures to admit and care for a
14 greater number of patients when the surge of patients reaches its peak. The May 1 Order, as
15 supplemented by the May 8 Order, balances the social, emotional, and economic benefits of fewer
16 restrictions and the risk of increased transmission among the community.

17 26. The scientific evidence shows that at this stage of the COVID-19 emergency, it remains
18 essential to slow the virus transmission as much as possible to protect the most vulnerable, to prevent the
19 healthcare system from being overwhelmed, and to prevent deaths in Monterey County. One proven way
20 to slow the transmission is to limit interactions among people to the greatest extent practicable, which is
21 the purpose of the Shelter in Place Orders.

22 27. The restrictions in the May 1 Order, as supplemented by the May 8 Order, including
23 without limitation the restrictions on dine-in and table service in restaurants, are necessary to continue to
24 reduce the spread of the COVID-19 disease in Monterey County, thus preserving critical and limited
25 healthcare capacity in the County and advancing toward a point in the public health emergency where
26 transmission can be controlled.

27 28. As of the date of this declaration, 344 people have contracted COVID-19 in Monterey
28 County and eight of those individuals have died as a result of this disease.

1 29. Additionally, travel between areas of high occurrence and low occurrence will continue
2 creating risk of transmission and occurrence in all parts of the County, as Monterey County residents
3 travel within the County to perform essential activities, obtain essential government services, and to
4 work at essential businesses, as authorized by the Shelter in Place Orders.

5 30. Without the tailored set of restrictions in the May 1 Order, as supplemented by the May 8
6 Order, which reduces the number of high-risk interactions between persons, scientific evidence indicates
7 that the public health crisis in Monterey County will worsen to the point at which it may overtake
8 available healthcare resources within the County and increase the death rate.

9 31. Violations of the Face Coverings Order, the May 1 Order as supplemented by the May 8
10 Order, and the Stay Home Order constitute an imminent threat to public health in Monterey County.

11 32. I believe irreparable harm will result to the people of Monterey County if the Face
12 Coverings Order, the May 1 Order as supplemented by the May 8 Order, and Stay Home Orders are
13 violated and, in this instance, if Defendant is not restrained and enjoined from violating the Orders.

14 33. I continue to reevaluate the necessity of the Shelter in Place Orders as further data
15 becomes available, and will modify the Orders as changing circumstances allow.

16 ///

17 34. All exhibits are incorporated herein by reference.

18
19 I declare under penalty of perjury under the laws of the State of California that the above
20 statements are of my own knowledge and are true and correct. Executed at Salinas, California, on May
21 19, 2020.

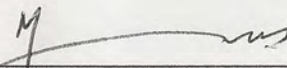
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25 Edward Moreno, M.D., MPH
26 Health Officer of the County of Monterey
27
28

EXHIBIT A

EXECUTIVE DEPARTMENT
STATE OF CALIFORNIA

PROCLAMATION OF A STATE OF EMERGENCY

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 has spread outside of China, impacting more than 75 countries, including the United States; and

WHEREAS the State of California has been working in close collaboration with the national Centers for Disease Control and Prevention (CDC), with the United States Health and Human Services Agency, and with local health departments since December 2019 to monitor and plan for the potential spread of COVID-19 to the United States; and

WHEREAS on January 23, 2020, the CDC activated its Emergency Response System to provide ongoing support for the response to COVID-19 across the country; and

WHEREAS on January 24, 2020, the California Department of Public Health activated its Medical and Health Coordination Center and on March 2, 2020, the Office of Emergency Services activated the State Operations Center to support and guide state and local actions to preserve public health; and

WHEREAS the California Department of Public Health has been in regular communication with hospitals, clinics and other health providers and has provided guidance to health facilities and providers regarding COVID-19; and

WHEREAS as of March 4, 2020, across the globe, there are more than 94,000 confirmed cases of COVID-19, tragically resulting in more than 3,000 deaths worldwide; and

WHEREAS as of March 4, 2020, there are 129 confirmed cases of COVID-19 in the United States, including 53 in California, and more than 9,400 Californians across 49 counties are in home monitoring based on possible travel-based exposure to the virus, and officials expect the number of cases in California, the United States, and worldwide to increase; and

WHEREAS for more than a decade California has had a robust pandemic influenza plan, supported local governments in the development of local plans, and required that state and local plans be regularly updated and exercised; and

WHEREAS California has a strong federal, state and local public health and health care delivery system that has effectively responded to prior events including the H1N1 influenza virus in 2009, and most recently Ebola; and

WHEREAS experts anticipate that while a high percentage of individuals affected by COVID-19 will experience mild flu-like symptoms, some will have more serious symptoms and require hospitalization, particularly individuals who are elderly or already have underlying chronic health conditions; and

WHEREAS it is imperative to prepare for and respond to suspected or confirmed COVID-19 cases in California, to implement measures to mitigate the spread of COVID-19, and to prepare to respond to an increasing number of individuals requiring medical care and hospitalization; and

WHEREAS if COVID-19 spreads in California at a rate comparable to the rate of spread in other countries, the number of persons requiring medical care may exceed locally available resources, and controlling outbreaks minimizes the risk to the public, maintains the health and safety of the people of California, and limits the spread of infection in our communities and within the healthcare delivery system; and

WHEREAS personal protective equipment (PPE) is not necessary for use by the general population but appropriate PPE is one of the most effective ways to preserve and protect California's healthcare workforce at this critical time and to prevent the spread of COVID-19 broadly; and

WHEREAS state and local health departments must use all available preventative measures to combat the spread of COVID-19, which will require access to services, personnel, equipment, facilities, and other resources, potentially including resources beyond those currently available, to prepare for and respond to any potential cases and the spread of the virus; and

WHEREAS I find that conditions of Government Code section 8558(b), relating to the declaration of a State of Emergency, have been met; and

WHEREAS I find that the conditions caused by COVID-19 are likely to require the combined forces of a mutual aid region or regions to appropriately respond; and

WHEREAS under the provisions of Government Code section 8625(c), I find that local authority is inadequate to cope with the threat posed by COVID-19; and

WHEREAS under the provisions of Government Code section 8571, I find that strict compliance with various statutes and regulations specified in this order would prevent, hinder, or delay appropriate actions to prevent and mitigate the effects of the COVID-19.

NOW, THEREFORE, I, GAVIN NEWSOM, Governor of the State of California, in accordance with the authority vested in me by the State Constitution and statutes, including the California Emergency Services Act, and in particular, Government Code section 8625, **HEREBY PROCLAIM A STATE OF EMERGENCY** to exist in California.

IT IS HEREBY ORDERED THAT:

1. In preparing for and responding to COVID-19, all agencies of the state government use and employ state personnel, equipment, and facilities or perform any and all activities consistent with the direction of the Office of Emergency Services and the State Emergency Plan, as well as the California Department of Public Health and the Emergency Medical Services Authority. Also, all residents are to heed the advice of emergency officials with regard to this emergency in order to protect their safety.
2. As necessary to assist local governments and for the protection of public health, state agencies shall enter into contracts to arrange for the procurement of materials, goods, and services needed to assist in preparing for, containing, responding to, mitigating the effects of, and recovering from the spread of COVID-19. Applicable provisions of the Government Code and the Public Contract Code, including but not limited to travel, advertising, and competitive bidding requirements, are suspended to the extent necessary to address the effects of COVID-19.
3. Any out-of-state personnel, including, but not limited to, medical personnel, entering California to assist in preparing for, responding to, mitigating the effects of, and recovering from COVID-19 shall be permitted to provide services in the same manner as prescribed in Government Code section 179.5, with respect to licensing and certification. Permission for any such individual rendering service is subject to the approval of the Director of the Emergency Medical Services Authority for medical personnel and the Director of the Office of Emergency Services for non-medical personnel and shall be in effect for a period of time not to exceed the duration of this emergency.
4. The time limitation set forth in Penal Code section 396, subdivision (b), prohibiting price gouging in time of emergency is hereby waived as it relates to emergency supplies and medical supplies. These price gouging protections shall be in effect through September 4, 2020.
5. Any state-owned properties that the Office of Emergency Services determines are suitable for use to assist in preparing for, responding to, mitigating the effects of, or recovering from COVID-19 shall be made available to the Office of Emergency Services for this purpose, notwithstanding any state or local law that would restrict, delay, or otherwise inhibit such use.
6. Any fairgrounds that the Office of Emergency Services determines are suitable to assist in preparing for, responding to, mitigating the effects of, or recovering from COVID-19 shall be made available to the Office of Emergency Services pursuant to the Emergency Services Act, Government Code section 8589. The Office of Emergency Services shall notify the fairgrounds of the intended use and can immediately use the fairgrounds without the fairground board of directors' approval, and

notwithstanding any state or local law that would restrict, delay, or otherwise inhibit such use.

7. The 30-day time period in Health and Safety Code section 101080, within which a local governing authority must renew a local health emergency, is hereby waived for the duration of this statewide emergency. Any such local health emergency will remain in effect until each local governing authority terminates its respective local health emergency.
8. The 60-day time period in Government Code section 8630, within which local government authorities must renew a local emergency, is hereby waived for the duration of this statewide emergency. Any local emergency proclaimed will remain in effect until each local governing authority terminates its respective local emergency.
9. The Office of Emergency Services shall provide assistance to local governments that have demonstrated extraordinary or disproportionate impacts from COVID-19, if appropriate and necessary, under the authority of the California Disaster Assistance Act, Government Code section 8680 et seq., and California Code of Regulations, Title 19, section 2900 et seq.
10. To ensure hospitals and other health facilities are able to adequately treat patients legally isolated as a result of COVID-19, the Director of the California Department of Public Health may waive any of the licensing requirements of Chapter 2 of Division 2 of the Health and Safety Code and accompanying regulations with respect to any hospital or health facility identified in Health and Safety Code section 1250. Any waiver shall include alternative measures that, under the circumstances, will allow the facilities to treat legally isolated patients while protecting public health and safety. Any facilities being granted a waiver shall be established and operated in accordance with the facility's required disaster and mass casualty plan. Any waivers granted pursuant to this paragraph shall be posted on the Department's website.
11. To support consistent practices across California, state departments, in coordination with the Office of Emergency Services, shall provide updated and specific guidance relating to preventing and mitigating COVID-19 to schools, employers, employees, first responders and community care facilities by no later than March 10, 2020.
12. To promptly respond for the protection of public health, state entities are, notwithstanding any other state or local law, authorized to share relevant medical information, limited to the patient's underlying health conditions, age, current condition, date of exposure, and possible contact tracing, as necessary to address the effect of the COVID-19 outbreak with state, local, federal, and nongovernmental partners, with such information to be used for the limited purposes of monitoring, investigation and control, and treatment and coordination of care. The

notification requirement of Civil Code section 1798.24, subdivision (i), is suspended.

13. Notwithstanding Health and Safety Code sections 1797.52 and 1797.218, during the course of this emergency, any EMT-P licensees shall have the authority to transport patients to medical facilities other than acute care hospitals when approved by the California EMS Authority. In order to carry out this order, to the extent that the provisions of Health and Safety Code sections 1797.52 and 1797.218 may prohibit EMT-P licensees from transporting patients to facilities other than acute care hospitals, those statutes are hereby suspended until the termination of this State of Emergency.

14. The Department of Social Services may, to the extent the Department deems necessary to respond to the threat of COVID-19, waive any provisions of the Health and Safety Code or Welfare and Institutions Code, and accompanying regulations, interim licensing standards, or other written policies or procedures with respect to the use, licensing, or approval of facilities or homes within the Department's jurisdiction set forth in the California Community Care Facilities Act (Health and Safety Code section 1500 et seq.), the California Child Day Care Facilities Act (Health and Safety Code section 1596.70 et seq.), and the California Residential Care Facilities for the Elderly Act (Health and Safety Code section 1569 et seq.). Any waivers granted pursuant to this paragraph shall be posted on the Department's website.

I FURTHER DIRECT that as soon as hereafter possible, this proclamation be filed in the Office of the Secretary of State and that widespread publicity and notice be given of this proclamation.

IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 4th day of March 2020.



GAVIN NEWSOM
Governor of California

ATTEST:

ALEX PADILLA
Secretary of State

EXHIBIT B

**PROCLAMATION OF A LOCAL EMERGENCY
BY COUNTY ADMINISTRATIVE OFFICER**

In the Matter of Proclaiming the Existence)
of a Local Emergency within Monterey County)

WHEREAS, the California Emergency Services Act (Government Code section 8630, et. seq.) establishes procedures for proclaiming emergencies and for responding promptly to the needs that arise during emergencies; and,

WHEREAS, Section 2.68.060 of the Monterey County Code and Section 8630 of the Government Code empower the County Administrative Officer or his designee, or the Board of Supervisors if in session, to proclaim the existence of a local emergency when the County is affected by or likely to be affected by a public calamity; and,

WHEREAS, the United States has confirmed cases of individuals who have a severe acute respiratory illness caused by a novel (new) coronavirus ("COVID-19" or "the virus") first detected in Wuhan, Hubei Province, People's Republic of China in December of 2019; and,

WHEREAS, the World Health Organization (WHO) officials now report that sustained human-to-human transmission of the virus is occurring and transmission from an asymptomatic individual has been documented. Although most individuals infected with COVID-19 recover from the disease without special treatment, some may become seriously ill, particularly those with compromised immune systems or underlying health issues; and,

WHEREAS, on January 30, 2020, WHO declared the COVID-19 outbreak a public health emergency of international concern, and on January 31, 2020, the U.S. Department of Health and Human Services declared a Public Health Emergency for the United States; and,

WHEREAS, the Centers for Disease Control and Prevention ("CDC") has determined that the virus presents a serious public health threat, requiring coordination among state and local health departments to ensure readiness for potential health threats associated with the virus; and,

WHEREAS, the CDC has issued guidance to local and State health departments, including Monterey County's Department of Public Health (MCDPH), concerning risk assessment and public health management of persons with potential exposure to COVID-19. These guidelines require MCDPH to make extraordinary efforts to monitor ongoing communicable disease threats and prepare for management of individuals who may have been exposed to COVID-19; and,

WHEREAS, MCDPH, the Office of Emergency Services (OES), and other County and City partners have been working successfully and diligently to implement CDC guidelines, but now require additional tools and resources to protect the public health given the current state of the epidemic and the need for a sustained response; and,

WHEREAS, the Monterey County Director of Public Health has determined that MCDPH cannot comply with the CDC's guidance without immediate action beyond the County's ordinary response capabilities, including directing personnel and resources from other County departments to assist with the ongoing and developing threat of COVID-19; and,

WHEREAS, the aforesaid conditions warrant and necessitate the proclamation of the existence of a local emergency and immediate action is necessary to mitigate potential public calamity, and,

WHEREAS, the County Administrative Officer has made every reasonable effort to confer with one or more members of the Board of Supervisors.

NOW, THEREFORE, IT IS PROCLAIMED AS FOLLOWS:

1. A local emergency, as defined in Government Section 8558c, now exists throughout the County of Monterey.
2. During the existence of said local emergency the powers, functions, and duties of the County Administrative Officer or his designee, the Monterey County Health Officer, the Monterey County Health Department, and the Emergency Organization of Monterey County shall be those prescribed by State law and the ordinances, resolutions, and approved plans of the County of Monterey in order to mitigate the effects of the local emergency.
3. Pursuant to Public Contract Code Sections 20134, 22050, and 20395, the Resource Management Director, or designee, is hereby authorized to engage independent contractors to complete all necessary work to mitigate the effects of said local emergency. Contracts for this work may be executed without prior Board approval of the plans, specifications, and working details, without giving notice for bids to let contracts.
4. Charles J McKee, or his designee, is hereby designated as the authorized representative for public and individual assistance of the County of Monterey for the purpose of receipt, processing, and coordination of all inquiries and requirements necessary to obtain available state and federal assistance.

It is further ordered that:

- (1) All County officers and employees take all steps requested by the Director of Public Health and by CAO, Charles J. McKee, to prevent the spread of COVID-19 and to prevent or alleviate illness or death due to the virus; and,
- (2) All County officers and employees take all steps requested by the Director of Public Health to qualify the County for reimbursement from the State (CalOES) or Federal Emergency Management Agency (FEMA) and for other state and federal relief as may be available to reimburse the County for the expenses it incurs in addressing this emergency.

SIGNED AND SUBSCRIBED this 6th day of March, 2020, at Salinas, California.



Charles J. McKee
County Administrative Officer

EXHIBIT C



COUNTY OF MONTEREY HEALTH DEPARTMENT

Elsa Jimenez, Director of Health

Administration Clinic Services
Behavioral Health Emergency Medical Services Public Health
Environmental Health/Animal Services Public Administrator/Public Guardian

Nationally Accredited for Providing Quality Health Services

ORDER OF THE HEALTH OFFICER OF THE COUNTY OF MONTEREY DIRECTING

ALL INDIVIDUALS LIVING IN THE COUNTY TO SHELTER AT THEIR PLACE OF RESIDENCE EXCEPT THAT THEY MAY LEAVE TO PROVIDE OR RECEIVE CERTAIN ESSENTIAL SERVICES OR ENGAGE IN CERTAIN ESSENTIAL ACTIVITIES, AND WORK FOR ESSENTIAL BUSINESSES AND GOVERNMENTAL SERVICES; EXEMPTING INDIVIDUALS EXPERIENCING HOMELESSNESS FROM THE SHELTER IN PLACE ORDER BUT URGING THEM TO FIND SHELTER AND GOVERNMENT AGENCIES TO PROVIDE IT; DIRECTING ALL BUSINESSES AND GOVERNMENTAL AGENCIES TO CEASE NON-ESSENTIAL OPERATIONS AT PHYSICAL LOCATIONS IN THE COUNTY; PROHIBITING ALL NON-ESSENTIAL GATHERINGS OF ANY NUMBER OF INDIVIDUALS; AND ORDERING CESSATION OF ALL NON-ESSENTIAL TRAVEL

DATE OF ORDER: MARCH 17, 2020

Please read this Order carefully. Violation of or failure to comply with this Order is a misdemeanor punishable by fine, imprisonment, or both. (California Health and Safety Code § 120295, *et seq.*)

UNDER THE AUTHORITY OF CALIFORNIA HEALTH AND SAFETY CODE SECTIONS 101040, 101085, AND 120175, THE HEALTH OFFICER OF THE COUNTY OF MONTEREY (“HEALTH OFFICER”) ORDERS:

1. The intent of this Order is to ensure that the maximum number of people self-isolate in their places of residence to the maximum extent feasible, while enabling essential services to continue, to slow the spread of COVID-19 to the maximum extent possible. When people need to leave their places of residence, whether to obtain or perform vital services, or to otherwise facilitate authorized activities necessary for continuity of social and commercial life, they should at all times reasonably possible comply with Social Distancing Requirements as defined in Section 10 below. All provisions of this Order should be interpreted to effectuate this intent. Failure to comply with any of the provisions of this Order constitutes an imminent threat to public health.
2. All individuals currently living within the County of Monterey (the “County”) are ordered to shelter at their place of residence. To the extent individuals are using shared or outdoor spaces, they must at all times as reasonably possible maintain social distancing of at least six feet from any other person when they are outside their residence. All persons may leave their residences only for Essential Activities,

Essential Governmental Functions, or to operate Essential Businesses, all as defined in Section 10. Individuals experiencing homelessness are exempt from this Section, but are strongly urged to obtain shelter, and governmental and other entities are strongly urged to make such shelter available as soon as possible and to the maximum extent practicable (and to utilize Social Distancing Requirements in their operation).

3. All businesses with a facility in the County, except Essential Businesses as defined below in Section 10, are required to cease all activities at facilities located within the County except Minimum Basic Operations, as defined in Section 10. For clarity, businesses may also continue operations consisting exclusively of employees or contractors performing activities at their own residences (i.e., working from home). All Essential Businesses are strongly encouraged to remain open. To the greatest extent feasible, Essential Businesses shall comply with Social Distancing Requirements as defined in Section 10 below, including, but not limited to, when any customers are standing in line. For the purposes of this Order, businesses as used in this paragraph include any for-profit, non-profit, or educational entities, regardless of the nature of the service, the function they perform, or its corporate or entity structure.
4. All public and private gatherings of any number of people occurring outside a household or living unit are prohibited, except for the limited purposes as expressly permitted in Section 10. Nothing in this Order prohibits the gathering of members of a household or living unit.
5. All travel, including, but not limited to, travel on foot, bicycle, scooter, motorcycle, automobile, or public transit, except Essential Travel and Essential Activities as defined below in Section 10, is prohibited. People must use public transit only for purposes of performing Essential Activities or to travel to and from work to operate Essential Businesses or maintain Essential Governmental Functions. People riding on public transit must comply with Social Distancing Requirements as defined in Section 10 below, to the greatest extent feasible. This Order allows travel into or out of the County to perform Essential Activities, operate Essential Businesses, or maintain Essential Governmental Functions.
6. This Order is issued based on evidence of the occurrence of COVID-19 within the County and throughout counties to the north and south of the County, scientific evidence and best practices regarding the most effective approaches to slow the transmission of communicable diseases generally and COVID-19 specifically, and evidence that the age, condition, and health of a significant portion of the population of the County places it at risk for serious health complications, including death, from COVID-19. Due to the occurrence of the COVID-19 virus in the County, the potential for it to spread rapidly through the community, and the World Health Organization declaring COVID-19 to be a pandemic world-wide, there is a public health emergency throughout the County. Making the problem worse, some individuals who contract the COVID-19 virus have no symptoms or have mild symptoms, which means they may not be aware they carry the virus. Because even people without symptoms can transmit the disease, and because evidence shows the disease is easily spread, gatherings can result in preventable transmission of the virus. The scientific evidence shows that at this stage of the emergency, it is essential to slow virus transmission as much as possible to protect the most vulnerable and to prevent the health care system from being overwhelmed. One proven way to slow the transmission is to limit interactions among people to the greatest extent practicable. By reducing the spread of the

COVID-19 virus, this Order helps preserve critical and limited healthcare capacity in the County.

7. This Order also is issued in light of the existence of 13 cases of COVID-19 in the County of Santa Cruz, which has issued a similar order on March 16, 2020, 3 in San Benito County, and 2 in San Luis Obispo County, as well as at least 258 confirmed cases and at least three deaths in the seven Bay Area jurisdictions having issued a similar order also on March 16, 2020, including a significant and increasing number of suspected cases of community transmission and likely further significant increases in transmission. Widespread testing for COVID-19 is not yet available but is expected to increase in the coming days. This Order is necessary to slow the rate of spread and the Health Officer will re-evaluate it as further data becomes available.
8. This Order is issued in accordance with, and incorporates by reference, the March 4, 2020 Proclamation of a State of Emergency issued by Governor Gavin Newsom, the March 6, 2020 Proclamation by the County Administrative Officer Declaring the Existence of a Local Emergency in the County, the March 10, 2020 Resolution of the Board of Supervisors of the County Ratifying and Extending the Declaration of a Local Emergency, and the March 13, 2020 declaration of national emergency by the President of the United States.
9. This Order comes after the release of substantial guidance from the County Health Officer, the Centers for Disease Control and Prevention, the California Department of Public Health, and other public health officials throughout the United States and around the world, including a variety of prior orders to combat the spread and harms of COVID-19. The Health Officer will continue to assess the quickly evolving situation and may modify or extend this Order, or issue additional Orders, related to COVID-19.
10. Definitions and Exemptions.
 - a. For purposes of this Order, individuals may leave their residence only to perform any of the following “Essential Activities.” But people at high risk of severe illness from COVID-19 and people who are sick are urged to stay in their residence to the extent possible except as necessary to seek medical care.
 - i. To engage in activities or perform tasks essential to their health and safety, or to the health and safety of their family or household members (including, but not limited to, pets), such as, by way of example only and without limitation, obtaining medical supplies or medication, visiting a health care professional, or obtaining supplies they need to work from home.
 - ii. To obtain necessary services or supplies for themselves and their family or household members, or to deliver those services or supplies to others, such as, by way of example only and without limitation, canned food, dry goods, fresh fruits and vegetables, pet supply, fresh meats, fish, and poultry, and any other household consumer products, and products necessary to maintain the safety, sanitation, and essential operation of residences.

- iii. To engage in outdoor activity, provided the individuals comply with Social Distancing Requirements as defined in this Section, such as, by way of example and without limitation, walking, hiking, or running.
 - iv. To perform work providing essential products and services at an Essential Business or to otherwise carry out activities specifically permitted in this Order, including Minimum Basic Operations.
 - v. To care for a family member or pet in another household.
- b. For purposes of this Order, individuals may leave their residence to work for or obtain services at any "Healthcare Operations" including hospitals, clinics, dentists, pharmacies, pharmaceutical and biotechnology companies, other healthcare facilities, healthcare suppliers, home healthcare services providers, mental health providers, or any related and/or ancillary healthcare services. "Healthcare Operations" also includes veterinary care and all healthcare services provided to animals. This exemption shall be construed broadly to avoid any impacts to the delivery of healthcare, broadly defined. "Healthcare Operations" does not include fitness and exercise gyms and similar facilities.
- c. For purposes of this Order, individuals may leave their residence to provide any services or perform any work necessary to the operations and maintenance of "Essential Infrastructure," including, but not limited to, public works construction, construction of housing (in particular affordable housing or housing for individuals experiencing homelessness), airport operations, water, sewer, gas, electrical, oil and gas production and refining including associated businesses and activities, roads and highways, public transportation, solid waste collection and removal, internet, and telecommunications systems (including the provision of essential global, national, and local infrastructure for computing services, business infrastructure, communications, and web-based services), provided that they carry out those services or that work in compliance with Social Distancing Requirements as defined this Section, to the extent possible.
- d. For purposes of this Order, all first responders, emergency management personnel, emergency dispatchers, court personnel, and law enforcement personnel, and others who need to perform "Essential Governmental Functions or Services," as such may be determined by the governmental entity performing those functions or providing such services, are categorically exempt from this Order. Further, nothing in this Order shall prohibit any individual from performing or accessing Essential Governmental Functions or Services. Each governmental entity shall identify and designate appropriate employees or contractors to continue providing and carrying out any Essential Governmental Functions or Services. All Essential Governmental Functions or Services shall be performed in compliance with Social Distancing Requirements as defined in this Section, to the extent possible.
- e. For the purposes of this Order, "Essential Businesses" means:
 - i. Healthcare Operations and Essential Infrastructure;
 - ii. Grocery stores, certified farmers' markets, farm and produce stands, supermarkets, food banks, convenience stores, and other establishments engaged in the retail sale of canned or frozen food, dry goods, beverages, fresh fruits and vegetables, pet supply, fresh meats,

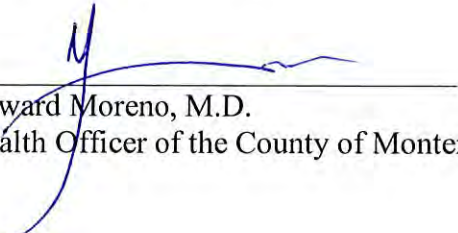
fish, and poultry, and any other household consumer products (such as cleaning and personal care products). This includes stores that sell groceries and also sell other non-grocery products, and products necessary to maintaining the safety, sanitation, and essential operation of residences;

- iii. Any form of cultivation of products for personal consumption or use, including farming, ranching, livestock, and fishing, and associated activities, including, but not limited to, activities or businesses associated with planting, growing, harvesting, processing, cooling, storing, packaging, and transporting such products, or the wholesale or retail sale of such products, provided that, to the extent possible, such businesses comply with Social Distancing Requirements and otherwise provide for the health and safety of their employees;
- iv. Businesses that provide food, shelter, and social services, and other necessities of life for economically disadvantaged, compromised or otherwise needy individuals;
 - v. Newspapers, television, radio, and other media services;
 - vi. Gas stations and auto-supply, auto-repair, and related facilities;
 - vii. Banks and related financial institutions;
- viii. Hardware stores;
- ix. Plumbers, electricians, exterminators, and other service providers who provide services that are necessary to maintaining the safety, sanitation, and essential operation of residences, Essential Activities, and Essential Businesses;
 - x. Businesses providing mailing and shipping services, including post office boxes;
- xi. Educational institutions—including public and private K-12 schools, colleges, and universities—for purposes of facilitating distance learning or performing essential functions, provided that social distancing of six-feet per person is maintained to the greatest extent possible;
- xii. Laundromats, drycleaners, and laundry service providers;
- xiii. Restaurants and other facilities that prepare and serve food, but only for delivery or carry out. Schools and other entities that typically provide free food services to students or members of the public may continue to do so under this Order on the condition that the food is provided to students or members of the public on a pick-up and take-away basis only. Schools and other entities that provide food services under this exemption shall not permit the food to be eaten at the site where it is provided, or at any other gathering site;
- xiv. Businesses that supply products needed for people to work from home;
- xv. Businesses that supply other essential businesses with the support or supplies necessary to operate;
- xvi. Businesses that ship or deliver groceries, food, goods or services directly to residences;
- xvii. Airlines, taxis, and other private transportation providers providing transportation services necessary for Essential Activities and other purposes expressly authorized in this Order;
- xviii. Home-based care for seniors, adults, or children;
- xix. Residential facilities and shelters for seniors, adults, and children;
- xx. Professional services, such as legal or accounting services, when necessary to assist in compliance with legally mandated activities;

- xxi. Childcare facilities providing services that enable employees exempted in this Order to work as permitted. To the extent possible, childcare facilities must operate under the following mandatory conditions:
 - 1. Childcare must be carried out in stable groups of 12 or fewer (“stable” means that the same 12 or fewer children are in the same group each day).
 - 2. Children shall not change from one group to another.
 - 3. If more than one group of children is cared for at one facility, each group shall be in a separate room. Groups shall not mix with each other.
 - 4. Childcare providers shall remain solely with one group of children.
 - xxii. Hotels, motels, bed and breakfast establishments, and other businesses that provide transient occupancy for visitors to the County, provided that such business require their patrons to shelter in place as otherwise required by this Order.
 - xxiii. On-going commercial construction (meaning commercial construction that actually commenced, and was not just permitted, prior to the effective date of this Order), provided that such activity implements Social Distancing Requirements to the extent feasible and otherwise provides for the health and safety of their employees.
- f. For the purposes of this Order, “Minimum Basic Operations” include the following, provided that employees comply with Social Distancing Requirements as defined this Section, to the extent possible, while carrying out such operations:
- i. The minimum necessary activities to maintain the value of the business’s inventory, ensure security, process payroll and employee benefits, or for related functions.
 - ii. The minimum necessary activities to facilitate employees of the business being able to continue to work remotely from their residences.
- g. For the purposes of this Order, “Essential Travel” includes travel within or without the County, or between the various counties, for any of the following purposes. Individuals engaged in any Essential Travel must comply with all Social Distancing Requirements as defined in this Section below.
- i. Any travel related to the provision of or access to Essential Activities, Essential Governmental Functions or Services, Essential Businesses, or Minimum Basic Operations.
 - ii. Travel to care for elderly, minors, dependents, persons with disabilities, or other vulnerable persons.
 - iii. Travel to or from educational institutions for purposes of receiving materials for distance learning, for receiving meals, and any other related services.
 - iv. Travel to return to a place of residence from outside the jurisdiction.
 - v. Travel required by law enforcement or court order.
 - vi. Travel required for non-residents to return to their place of residence outside the County. Individuals are strongly encouraged to verify that their transportation out of the County remains available and functional prior to commencing such travel.
 - vii. Travel engaged in interstate commerce and otherwise subject to the provisions of the Commerce Clause of the United States Constitution.

- h. For purposes of this Order, residences include hotels, motels, shared rental units and similar facilities.
 - i. For purposes of this Order, "Social Distancing Requirements" includes maintaining at least six-foot social distancing from other individuals, washing hands with soap and water for at least twenty seconds as frequently as possible or using hand sanitizer, covering coughs or sneezes (into the sleeve or elbow, not hands), regularly cleaning high-touch surfaces, and not shaking hands.
11. Pursuant to Government Code sections 26602 and 41601 and Health and Safety Code section 101029, the Health Officer requests that the Sheriff and all chiefs of police in the County ensure compliance with and enforce this Order. The violation of any provision of this Order constitutes an imminent threat to public health.
12. This Order shall become effective at 12:01 a.m. on March 18, 2020 and will continue to be in effect until 11:59 p.m. on April 7, 2020, or until it is extended, rescinded, superseded, or amended in writing by the Health Officer.
13. Copies of this Order shall promptly be: (1) made available at the County Government Center at 168 W. Alisal Street, Salinas, CA 93901, (2) posted on the County website (www.co.monterey.ca.us), the County Health Department website (www.co.monterey.ca.us/government/departments-a-h/health), and such other websites as the County may determine; (3) distributed to the electronic and print press, and (4) provided to any member of the public requesting a copy of this Order.
14. If any provision of this Order to the application thereof to any person or circumstance is held to be invalid, the remainder of the Order, including the application of such part or provision to other persons or circumstances, shall not be affected and shall continue in full force and effect. To this end, the provisions of this Order are severable.

IT IS SO ORDERED:



Edward Moreno, M.D.
Health Officer of the County of Monterey

Dated: March 17, 2020

EXHIBIT D



ORDER OF THE STATE PUBLIC HEALTH OFFICER
March 19, 2020

To protect public health, I as State Public Health Officer and Director of the California Department of Public Health order 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 critical infrastructure sectors, as outlined at <https://www.cisa.gov/identifying-critical-infrastructure-during-covid-19>. In addition, and in consultation *with* the Director of the Governor's Office of Emergency Services, I may designate additional sectors as critical in order to protect the health and well-being of all Californians.

Pursuant to the authority under the Health and Safety Code 120125, 120140, 131080, 120130(c), 120135, 120145, 120175 and 120150, this order is to go into effect immediately and shall stay in effect until further notice.

The federal government has identified 16 critical infrastructure sectors whose assets, systems, and networks, whether physical or virtual, are considered so vital to the United States that their incapacitation or destruction would have a debilitating effect on security, economic security, public health or safety, or any combination thereof. I order that Californians working in these 16 critical infrastructure sectors may continue their work because of the importance of these sectors to Californians' health and well-being.

This Order is being issued to protect the public health of Californians. The California Department of Public Health looks to establish consistency across the state in order to ensure that we mitigate the impact of COVID-19. Our goal is simple, we want to bend the curve, and disrupt the spread of the virus.

The supply chain must continue, and Californians must have access to such necessities as food, prescriptions, and health care. When people need to leave their homes or places of residence, whether to obtain or perform the functions above, or to otherwise facilitate authorized necessary activities, they should at all times practice social distancing.


SONIA Y. ANGELL, MD, MPH

3/19/2020
DATE

EXHIBIT E

EXECUTIVE DEPARTMENT
STATE OF CALIFORNIA

EXECUTIVE ORDER N-33-20

WHEREAS on March 4, 2020, I proclaimed a State of Emergency to exist in California as a result of the threat of COVID-19; and

WHEREAS in a short period of time, COVID-19 has rapidly spread throughout California, necessitating updated and more stringent guidance from federal, state, and local public health officials; and

WHEREAS for the preservation of public health and safety throughout the entire State of California, I find it necessary for all Californians to heed the State public health directives from the Department of Public Health.

NOW, THEREFORE, I, GAVIN NEWSOM, Governor of the State of California, in accordance with the authority vested in me by the State Constitution and statutes of the State of California, and in particular, Government Code sections 8567, 8627, and 8665 do hereby issue the following Order to become effective immediately:

IT IS HEREBY ORDERED THAT:

- 1) To preserve the public health and safety, and to ensure the healthcare delivery system is capable of serving all, and prioritizing those at the highest risk and vulnerability, all residents are directed to immediately heed the current State public health directives, which I ordered the Department of Public Health to develop for the current statewide status of COVID-19. Those directives are consistent with the March 19, 2020, Memorandum on Identification of Essential Critical Infrastructure Workers During COVID-19 Response, found at: <https://covid19.ca.gov/>. Those directives follow:

ORDER OF THE STATE PUBLIC HEALTH OFFICER
March 19, 2020

To protect public health, I as State Public Health Officer and Director of the California Department of Public Health order 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 critical infrastructure sectors, as outlined at <https://www.cisa.gov/identifying-critical-infrastructure-during-covid-19>. In addition, and in consultation with the Director of the Governor's Office of Emergency Services, I may designate additional sectors as critical in order to protect the health and well-being of all Californians.

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The supply chain must continue, and Californians must have access to such necessities as food, prescriptions, and health care. When people need to leave their homes or places of residence, whether to obtain or perform the functions above, or to otherwise facilitate authorized necessary activities, they should at all times practice social distancing.

- 2) The healthcare delivery system shall prioritize services to serving those who are the sickest and shall prioritize resources, including personal protective equipment, for the providers providing direct care to them.
- 3) The Office of Emergency Services is directed to take necessary steps to ensure compliance with this Order.
- 4) This Order shall be enforceable pursuant to California law, including, but not limited to, Government Code section 8665.

IT IS FURTHER ORDERED that as soon as hereafter possible, this Order be filed in the Office of the Secretary of State and that widespread publicity and notice be given of this Order.

This Order is not intended to, and does not, create any rights or benefits, substantive or procedural, enforceable at law or in equity, against the State of California, its agencies, departments, entities, officers, employees, or any other person.

IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 19th day of March 2020.


GAVIN NEWSOM
Governor of California

ATTEST:


ALEX PADILLA
Secretary of State



EXHIBIT F



CISA
CYBER+INFRASTRUCTURE

March 19, 2020

MEMORANDUM ON IDENTIFICATION OF ESSENTIAL CRITICAL INFRASTRUCTURE WORKERS DURING COVID-19 RESPONSE

FROM: Christopher C. Krebs
Director
Cybersecurity and Infrastructure Security Agency (CISA)

As the Nation comes together to slow the spread of COVID-19, on March 16th, the President issued updated Coronavirus Guidance for America. This guidance states that:

“If you work in a critical infrastructure industry, as defined by the Department of Homeland Security, such as healthcare services and pharmaceutical and food supply, you have a special responsibility to maintain your normal work schedule.”

The Cybersecurity and Infrastructure Security Agency (CISA) executes the Secretary of Homeland Security’s responsibilities as assigned under the Homeland Security Act of 2002 to provide strategic guidance, promote a national unity of effort, and coordinate the overall federal effort to ensure the security and resilience of the Nation’s critical infrastructure. CISA uses trusted partnerships with both the public and private sectors to deliver infrastructure resilience assistance and guidance to a broad range of partners.

In accordance with this mandate, and in collaboration with other federal agencies and the private sector, CISA developed an initial list of “Essential Critical Infrastructure Workers” to help State and local officials as they work to protect their communities, while ensuring continuity of functions critical to public health and safety, as well as economic and national security. The list can also inform critical infrastructure community decision-making to determine the sectors, sub-sectors, segments, or critical functions that should continue normal operations, appropriately modified to account for Centers for Disease Control (CDC) workforce and customer protection guidance.

The attached list identifies workers who conduct a range of operations and services that are essential to continued critical infrastructure viability, including staffing operations centers, maintaining and repairing critical infrastructure, operating call centers, working construction, and performing management functions, among others. The industries they support represent, but are not necessarily limited to, medical and healthcare, telecommunications, information technology systems, defense, food and agriculture, transportation and logistics, energy, **water and wastewater**, law enforcement, and public works.

We recognize that State, local, tribal, and territorial governments are ultimately in charge of implementing and executing response activities in communities under their jurisdiction, while the Federal Government is in a supporting role. As State and local communities consider COVID-19-related restrictions, CISA is offering this list to assist prioritizing activities related to continuity of operations and incident response, including the appropriate movement of critical infrastructure workers within and between jurisdictions.

Accordingly, this list is advisory in nature. It is not, nor should it be considered to be, a federal directive or standard in and of itself.

In addition, these identified sectors and workers are not intended to be the authoritative or exhaustive list of critical infrastructure sectors and functions that should continue during the COVID-19 response. Instead, State and local officials should use their own judgment in using their authorities and issuing implementation directives and guidance. Similarly, critical infrastructure industry partners will use their own judgment, informed by this list, to ensure continued operations of critical infrastructure services and functions. All decisions should appropriately balance public safety while ensuring the continued delivery of critical infrastructure services and functions.

CISA will continue to work with you and our partners in the critical infrastructure community to update this list as the Nation's response to COVID-19 evolves. We also encourage you to submit how you might use this list so that we can develop a repository of use cases for broad sharing across the country.

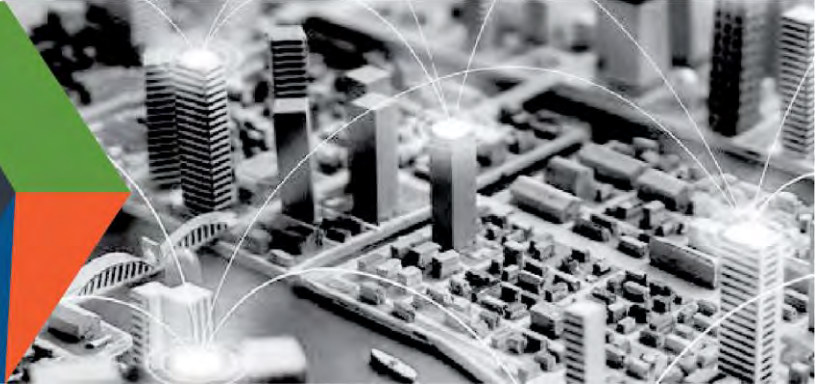
Should you have questions about this list, please contact CISA at CISA.CAT@cisa.dhs.gov.

Attachment: "Guidance on the Essential Critical Infrastructure Workforce: Ensuring Community and National Resilience in COVID-19 Response"



CISA
CYBER+INFRASTRUCTURE

DEFEND TODAY, SECURE TOMORROW



Guidance on the Essential Critical Infrastructure Workforce: Ensuring Community and National Resilience in COVID-19 Response

Version 1.0 (March 19, 2020)

THE IMPORTANCE OF ESSENTIAL CRITICAL INFRASTRUCTURE WORKERS

Functioning critical infrastructure is imperative during the response to the COVID-19 emergency for both public health and safety as well as community well-being. Certain critical infrastructure industries have a special responsibility in these times to continue operations.

This guidance and accompanying list are intended to support State, Local, and industry partners in identifying the critical infrastructure sectors and the essential workers needed to maintain the services and functions Americans depend on daily and that need to be able to operate resiliently during the COVID-19 pandemic response.

This document gives guidance to State, local, tribal, and territorial jurisdictions and the private sector on defining essential critical infrastructure workers. Promoting the ability of such workers to continue to work during periods of community restriction, access management, social distancing, or closure orders/directives is crucial to community resilience and continuity of essential functions.

CONSIDERATIONS FOR GOVERNMENT AND BUSINESS

This list was developed in consultation with federal agency partners, industry experts, and State and local officials, and is based on several key principles:

1. Response efforts to the COVID-19 pandemic are locally executed, State managed, and federally supported
2. Everyone should follow guidance from the CDC, as well as State and local government officials, regarding strategies to limit disease spread.
3. Workers should be encouraged to work remotely when possible and focus on core business activities. In-person, non-mandatory activities should be delayed until the resumption of normal operations.
4. When continuous remote work is not possible, businesses should enlist strategies to reduce the likelihood of spreading the disease. This includes, but is not necessarily limited to, separating staff by off-setting shift hours or days and/or social distancing. These steps can preserve the workforce and allow operations to continue.

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5. All organizations should implement their business continuity and pandemic plans, or put plans in place if they do not exist. Delaying implementation is not advised and puts at risk the viability of the business and the health and safety of the employees.
6. In the modern economy, reliance on technology and just-in-time supply chains means that certain workers must be able to access certain sites, facilities, and assets to ensure continuity of functions.
7. Government employees, such as emergency managers, and the business community need to establish and maintain lines of communication.
8. When government and businesses engage in discussions about critical infrastructure workers, they need to consider the implications of business operations beyond the jurisdiction where the asset or facility is located. Businesses can have sizeable economic and societal impacts as well as supply chain dependencies that are geographically distributed.
9. Whenever possible, jurisdictions should align access and movement control policies related to critical infrastructure workers to lower the burden of workers crossing jurisdictional boundaries.

IDENTIFYING ESSENTIAL CRITICAL INFRASTRUCTURE WORKERS

The following list of sectors and identified essential critical infrastructure workers are an initial recommended set and are intended to be overly inclusive reflecting the diversity of industries across the United States. CISA will continually solicit and accept feedback on the list (both sectors/sub sectors and identified essential workers) and will evolve the list in response to stakeholder feedback. We will also use our various stakeholder engagement mechanisms to work with partners on how they are using this list and share those lessons learned and best practices broadly. We ask that you share your feedback, both positive and negative on this list so we can provide the most useful guidance to our critical infrastructure partners. **Feedback can be sent to CISA.CAT@CISA.DHS.GOV.**



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HEALTHCARE / PUBLIC HEALTH

- Workers providing COVID-19 testing; Workers that perform critical clinical research needed for COVID-19 response
- Caregivers (e.g., physicians, dentists, psychologists, mid-level practitioners, nurses and assistants, infection control and quality assurance personnel, pharmacists, physical and occupational therapists and assistants, social workers, speech pathologists and diagnostic and therapeutic technicians and technologists)
- Hospital and laboratory personnel (including accounting, administrative, admitting and discharge, engineering, epidemiological, source plasma and blood donation, food service, housekeeping, medical records, information technology and operational technology, nutritionists, sanitarians, respiratory therapists, etc.)
- Workers in other medical facilities (including Ambulatory Health and Surgical, Blood Banks, Clinics, Community Mental Health, Comprehensive Outpatient rehabilitation, End Stage Renal Disease, Health Departments, Home Health care, Hospices, Hospitals, Long Term Care, Organ Pharmacies, Procurement Organizations, Psychiatric Residential, Rural Health Clinics and Federally Qualified Health Centers)
- Manufacturers, technicians, logistics and warehouse operators, and distributors of medical equipment, personal protective equipment (PPE), medical gases, pharmaceuticals, blood and blood products, vaccines, testing materials, laboratory supplies, cleaning, sanitizing, disinfecting or sterilization supplies, and tissue and paper towel products
- Public health / community health workers, including those who compile, model, analyze and communicate public health information
- Blood and plasma donors and the employees of the organizations that operate and manage related activities
- Workers that manage health plans, billing, and health information, who cannot practically work remotely
- Workers who conduct community-based public health functions, conducting epidemiologic surveillance, compiling, analyzing and communicating public health information, who cannot practically work remotely
- Workers performing cybersecurity functions at healthcare and public health facilities, who cannot practically work remotely
- Workers conducting research critical to COVID-19 response
- Workers performing security, incident management, and emergency operations functions at or on behalf of healthcare entities including healthcare coalitions, who cannot practically work remotely
- Workers who support food, shelter, and social services, and other necessities of life for economically disadvantaged or otherwise needy individuals, such as those residing in shelters
- Pharmacy employees necessary for filling prescriptions
- Workers performing mortuary services, including funeral homes, crematoriums, and cemetery workers
- Workers who coordinate with other organizations to ensure the proper recovery, handling, identification, transportation, tracking, storage, and disposal of human remains and personal effects; certify cause of death; and facilitate access to mental/behavioral health services to the family members, responders, and survivors of an incident

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LAW ENFORCEMENT, PUBLIC SAFETY, FIRST RESPONDERS

- Personnel in emergency management, law enforcement, Emergency Management Systems, fire, and corrections, including front line and management
- Emergency Medical Technicians
- 911 call center employees
- Fusion Center employees
- Hazardous material responders from government and the private sector.
- Workers – including contracted vendors – who maintain digital systems infrastructure supporting law enforcement and emergency service operations.

FOOD AND AGRICULTURE

- Workers supporting groceries, pharmacies and other retail that sells food and beverage products
- Restaurant carry-out and quick serve food operations - Carry-out and delivery food employees
- Food manufacturer employees and their supplier employees—to include those employed in food processing (packers, meat processing, cheese plants, milk plants, produce, etc.) facilities; livestock, poultry, seafood slaughter facilities; pet and animal feed processing facilities; human food facilities producing by-products for animal food; beverage production facilities; and the production of food packaging
- Farm workers to include those employed in animal food, feed, and ingredient production, packaging, and distribution; manufacturing, packaging, and distribution of veterinary drugs; truck delivery and transport; farm and fishery labor needed to produce our food supply domestically
- Farm workers and support service workers to include those who field crops; commodity inspection; fuel ethanol facilities; storage facilities; and other agricultural inputs
- Employees and firms supporting food, feed, and beverage distribution, including warehouse workers, vendor-managed inventory controllers and blockchain managers
- Workers supporting the sanitation of all food manufacturing processes and operations from wholesale to retail
- Company cafeterias - in-plant cafeterias used to feed employees
- Workers in food testing labs in private industries and in institutions of higher education
- Workers essential for assistance programs and government payments
- Employees of companies engaged in the production of chemicals, medicines, vaccines, and other substances used by the food and agriculture industry, including pesticides, herbicides, fertilizers, minerals, enrichments, and other agricultural production aids
- Animal agriculture workers to include those employed in veterinary health; manufacturing and distribution of animal medical materials, animal vaccines, animal drugs, feed ingredients, feed, and bedding, etc.; transportation of live animals, animal medical materials; transportation of deceased animals for disposal; raising of animals for food; animal production operations; slaughter and packing plants and associated regulatory and government workforce
- Workers who support the manufacture and distribution of forest products, including, but not limited to timber, paper, and other wood products
- Employees engaged in the manufacture and maintenance of equipment and other infrastructure necessary to agricultural production and distribution

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ENERGY

Electricity industry:

- Workers who maintain, ensure, or restore the generation, transmission, and distribution of electric power, including call centers, utility workers, reliability engineers and fleet maintenance technicians
- Workers needed for safe and secure operations at nuclear generation
- Workers at generation, transmission, and electric blackstart facilities
- Workers at Reliability Coordinator (RC), Balancing Authorities (BA), and primary and backup Control Centers (CC), including but not limited to independent system operators, regional transmission organizations, and balancing authorities
- Mutual assistance personnel
- IT and OT technology staff – for EMS (Energy Management Systems) and Supervisory Control and Data Acquisition (SCADA) systems, and utility data centers; Cybersecurity engineers; cybersecurity risk management
- Vegetation management crews and traffic workers who support
- Environmental remediation/monitoring technicians
- Instrumentation, protection, and control technicians

Petroleum workers:

- Petroleum product storage, pipeline, marine transport, terminals, rail transport, road transport
- Crude oil storage facilities, pipeline, and marine transport
- Petroleum refinery facilities
- Petroleum security operations center employees and workers who support emergency response services
- Petroleum operations control rooms/centers
- Petroleum drilling, extraction, production, processing, refining, terminal operations, transporting, and retail for use as end-use fuels or feedstocks for chemical manufacturing
- Onshore and offshore operations for maintenance and emergency response
- Retail fuel centers such as gas stations and truck stops, and the distribution systems that support them

Natural and propane gas workers:

- Natural gas transmission and distribution pipelines, including compressor stations
- Underground storage of natural gas
- Natural gas processing plants, and those that deal with natural gas liquids
- Liquefied Natural Gas (LNG) facilities
- Natural gas security operations center, natural gas operations dispatch and control rooms/centers natural gas emergency response and customer emergencies, including natural gas leak calls
- Drilling, production, processing, refining, and transporting natural gas for use as end-use fuels, feedstocks for chemical manufacturing, or use in electricity generation
- Propane gas dispatch and control rooms and emergency response and customer emergencies, including propane leak calls
- Propane gas service maintenance and restoration, including call centers

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- Processing, refining, and transporting natural liquids, including propane gas, for use as end-use fuels or feedstocks for chemical manufacturing
- Propane gas storage, transmission, and distribution centers

WATER AND WASTEWATER

Employees needed to operate and maintain drinking water and wastewater/drainage infrastructure, including:

- Operational staff at water authorities
- Operational staff at community water systems
- Operational staff at wastewater treatment facilities
- Workers repairing water and wastewater conveyances and performing required sampling or monitoring
- Operational staff for water distribution and testing
- Operational staff at wastewater collection facilities
- Operational staff and technical support for SCADA Control systems
- Chemical disinfectant suppliers for wastewater and personnel protection
- Workers that maintain digital systems infrastructure supporting water and wastewater operations

TRANSPORTATION AND LOGISTICS

- Employees supporting or enabling transportation functions, including dispatchers, maintenance and repair technicians, warehouse workers, truck stop and rest area workers, and workers that maintain and inspect infrastructure (including those that require cross-border travel)
- Employees of firms providing services that enable logistics operations, including cooling, storing, packaging, and distributing products for wholesale or retail sale or use.
- Mass transit workers
- Workers responsible for operating dispatching passenger, commuter and freight trains and maintaining rail infrastructure and equipment
- Maritime transportation workers - port workers, mariners, equipment operators
- Truck drivers who haul hazardous and waste materials to support critical infrastructure, capabilities, functions, and services
- Automotive repair and maintenance facilities
- Manufacturers and distributors (to include service centers and related operations) of packaging materials, pallets, crates, containers, and other supplies needed to support manufacturing, packaging staging and distribution operations
- Postal and shipping workers, to include private companies
- Employees who repair and maintain vehicles, aircraft, rail equipment, marine vessels, and the equipment and infrastructure that enables operations that encompass movement of cargo and passengers
- Air transportation employees, including air traffic controllers, ramp personnel, aviation security, and aviation management
- Workers who support the maintenance and operation of cargo by air transportation, including flight crews, maintenance, airport operations, and other on- and off- airport facilities workers

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PUBLIC WORKS

- Workers who support the operation, inspection, and maintenance of essential dams, locks and levees
- Workers who support the operation, inspection, and maintenance of essential public works facilities and operations, including bridges, water and sewer main breaks, fleet maintenance personnel, construction of critical or strategic infrastructure, traffic signal maintenance, emergency location services for buried utilities, maintenance of digital systems infrastructure supporting public works operations, and other emergent issues
- Workers such as plumbers, electricians, exterminators, and other service providers who provide services that are necessary to maintaining the safety, sanitation, and essential operation of residences
- Support, such as road and line clearing, to ensure the availability of needed facilities, transportation, energy and communications
- Support to ensure the effective removal, storage, and disposal of residential and commercial solid waste and hazardous waste

COMMUNICATIONS AND INFORMATION TECHNOLOGY

Communications:

- Maintenance of communications infrastructure- including privately owned and maintained communication systems- supported by technicians, operators, call-centers, wireline and wireless providers, cable service providers, satellite operations, undersea cable landing stations, Internet Exchange Points, and manufacturers and distributors of communications equipment
- Workers who support radio, television, and media service, including, but not limited to front line news reporters, studio, and technicians for newsgathering and reporting
- Workers at Independent System Operators and Regional Transmission Organizations, and Network Operations staff, engineers and/or technicians to manage the network or operate facilities
- Engineers, technicians and associated personnel responsible for infrastructure construction and restoration, including contractors for construction and engineering of fiber optic cables
- Installation, maintenance and repair technicians that establish, support or repair service as needed
- Central office personnel to maintain and operate central office, data centers, and other network office facilities
- Customer service and support staff, including managed and professional services as well as remote providers of support to transitioning employees to set up and maintain home offices, who interface with customers to manage or support service environments and security issues, including payroll, billing, fraud, and troubleshooting
- Dispatchers involved with service repair and restoration

Information Technology:

- Workers who support command centers, including, but not limited to Network Operations Command Center, Broadcast Operations Control Center and Security Operations Command Center
- Data center operators, including system administrators, HVAC & electrical engineers, security personnel, IT managers, data transfer solutions engineers, software and hardware engineers, and database administrators
- Client service centers, field engineers, and other technicians supporting critical infrastructure, as well as

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manufacturers and supply chain vendors that provide hardware and software, and information technology equipment (to include microelectronics and semiconductors) for critical infrastructure

- Workers responding to cyber incidents involving critical infrastructure, including medical facilities, SLTT governments and federal facilities, energy and utilities, and banks and financial institutions, and other critical infrastructure categories and personnel
- Workers supporting the provision of essential global, national and local infrastructure for computing services (incl. cloud computing services), business infrastructure, web-based services, and critical manufacturing
- Workers supporting communications systems and information technology used by law enforcement, public safety, medical, energy and other critical industries
- Support required for continuity of services, including janitorial/cleaning personnel

OTHER COMMUNITY-BASED GOVERNMENT OPERATIONS AND ESSENTIAL FUNCTIONS

- Workers to ensure continuity of building functions
- Security staff to maintain building access control and physical security measures
- Elections personnel
- Federal, State, and Local, Tribal, and Territorial employees who support Mission Essential Functions and communications networks
- Trade Officials (FTA negotiators; international data flow administrators)
- Weather forecasters
- Workers that maintain digital systems infrastructure supporting other critical government operations
- Workers at operations centers necessary to maintain other essential functions
- Workers who support necessary credentialing, vetting and licensing operations for transportation workers
- Customs workers who are critical to facilitating trade in support of the national emergency response supply chain
- Educators supporting public and private K-12 schools, colleges, and universities for purposes of facilitating distance learning or performing other essential functions, if operating under rules for social distancing
- Hotel Workers where hotels are used for COVID-19 mitigation and containment measures

CRITICAL MANUFACTURING

- Workers necessary for the manufacturing of materials and products needed for medical supply chains, transportation, energy, communications, food and agriculture, chemical manufacturing, nuclear facilities, the operation of dams, water and wastewater treatment, emergency services, and the defense industrial base.

HAZARDOUS MATERIALS

- Workers at nuclear facilities, workers managing medical waste, workers managing waste from pharmaceuticals and medical material production, and workers at laboratories processing test kits
- Workers who support hazardous materials response and cleanup
- Workers who maintain digital systems infrastructure supporting hazardous materials management operations

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FINANCIAL SERVICES

- Workers who are needed to process and maintain systems for processing financial transactions and services (e.g., payment, clearing, and settlement; wholesale funding; insurance services; and capital markets activities)
- Workers who are needed to provide consumer access to banking and lending services, including ATMs, and to move currency and payments (e.g., armored cash carriers)
- Workers who support financial operations, such as those staffing data and security operations centers

CHEMICAL

- Workers supporting the chemical and industrial gas supply chains, including workers at chemical manufacturing plants, workers in laboratories, workers at distribution facilities, workers who transport basic raw chemical materials to the producers of industrial and consumer goods, including hand sanitizers, food and food additives, pharmaceuticals, textiles, and paper products.
- Workers supporting the safe transportation of chemicals, including those supporting tank truck cleaning facilities and workers who manufacture packaging items
- Workers supporting the production of protective cleaning and medical solutions, personal protective equipment, and packaging that prevents the contamination of food, water, medicine, among others essential products
- Workers supporting the operation and maintenance of facilities (particularly those with high risk chemicals and/or sites that cannot be shut down) whose work cannot be done remotely and requires the presence of highly trained personnel to ensure safe operations, including plant contract workers who provide inspections
- Workers who support the production and transportation of chlorine and alkali manufacturing, single-use plastics, and packaging that prevents the contamination or supports the continued manufacture of food, water, medicine, and other essential products, including glass container manufacturing

DEFENSE INDUSTRIAL BASE

- Workers who support the essential services required to meet national security commitments to the federal government and U.S. Military. These individuals, include but are not limited to, aerospace; mechanical and software engineers, manufacturing/production workers; IT support; security staff; security personnel; intelligence support, aircraft and weapon system mechanics and maintainers
- Personnel working for companies, and their subcontractors, who perform under contract to the Department of Defense providing materials and services to the Department of Defense, and government-owned/contractor-operated and government-owned/government-operated facilities

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EXHIBIT G

**ORDER OF THE HEALTH OFFICER
OF THE COUNTY OF MONTEREY (1) DIRECTING
ALL INDIVIDUALS LIVING IN THE COUNTY TO CONTINUE
SHELTERING AT THEIR PLACE OF RESIDENCE EXCEPT FOR
ESSENTIAL NEEDS; (2) CONTINUING TO EXEMPT HOMELESS
INDIVIDUALS FROM THE ORDER BUT URGING GOVERNMENT
AGENCIES TO PROVIDE THEM SHELTER AND HAND SANITATION
FACILITIES; (3) LIMITING TRAVEL FOR OUTDOOR RECREATION
ACTIVITIES AND RESTRICTING ACCESS TO RECREATION AREAS;
(4) REQUIRING ESSENTIAL BUSINESSES TO IMPLEMENT SOCIAL
DISTANCING PROTOCOLS; (5) CLARIFYING AND FURTHER
LIMITING ESSENTIAL BUSINESS ACTIVITIES, INCLUDING
CONSTRUCTION; AND (6) DIRECTING ALL BUSINESSES AND
GOVERNMENT AGENCIES TO FURTHER CEASE NON-ESSENTIAL
OPERATIONS**

DATE OF ORDER: APRIL 3, 2020

Please read this Order carefully. Violation of or failure to comply with this Order is a misdemeanor punishable by fine, imprisonment, or both. (California Health and Safety Code § 120295, *et seq.*; and Cal. Penal Code §§ 69, 148(a)(1).

UNDER THE AUTHORITY OF CALIFORNIA HEALTH AND SAFETY CODE SECTIONS 101040, 101085, AND 120175, THE HEALTH OFFICER OF THE COUNTY OF MONTEREY (“HEALTH OFFICER”) ORDERS:

1. This Order supersedes the March 17, 2020 Order of the Health Officer (as amended March 20, 2020) directing all individuals to shelter in place (“Prior Shelter Order”). This Order clarifies, strengthens, and extends certain terms of the Prior Shelter Order to increase social distancing and further reduce person-to-person contact in order to further slow transmission of Novel Coronavirus Disease 2019 (“COVID-19”). As of the effective date and time of this Order set forth in Section 16 below, all individuals, businesses and government agencies in the County of Monterey (“County”) are required to follow the provisions of this Order.
2. The intent of this Order is to ensure that the maximum number of people shelter in their places of residence to the maximum extent feasible to slow the spread of COVID-19, and mitigate the impact of the COVID-19 pandemic on delivery of critical healthcare services to those in need. All provisions of this Order must be interpreted to effectuate this intent. Failure to comply with any of the provisions of this Order constitutes an imminent threat

Order of the Monterey County Health Officer
to Shelter in Place

and menace to public health, constitutes a public nuisance, and is punishable by fine, imprisonment, or both.

3. All individuals currently living within the County are ordered to shelter at their place of residence. They may leave their residence only for Essential Activities, Essential Governmental Functions, to work for Essential Businesses, or to perform Minimum Basic Operations for non-essential businesses, all as defined in Section 13. Individuals experiencing homelessness are exempt from this Section, but are strongly urged to obtain shelter, and governmental and other entities are strongly urged to, as soon as possible, make such shelter available and provide handwashing or hand sanitation facilities to persons who continue experiencing homelessness.
4. When people need to leave their place of residence for the limited purposes allowed in this Order, they must strictly comply with Social Distancing Requirements as defined in Section 13.k, except as expressly provided in this Order.
5. All businesses with a facility or outdoor work areas in the County, except Essential Businesses, as defined in Section 13.f, are required to cease all activities at such facilities or work areas located within the County except Minimum Basic Operations, as defined in Section 13.g. For clarity, all businesses may continue operations consisting exclusively of owners, employees, volunteers, or contractors performing activities at their own residences (i.e., working from home). All Essential Businesses are strongly encouraged to remain open. However, Essential Businesses are directed to maximize the number of employees who work from home. Essential Businesses may only assign those employees who cannot perform their job duties from home to work outside the home. All Essential Businesses shall prepare, post, and implement a Social Distancing Protocol at each of their facilities or outdoor work areas at which they are maintaining operations, as specified in Section 13.h. Businesses that include an Essential Business component at their facilities alongside non-essential components must, to the extent feasible, scale down their operations to the Essential Business component only; provided, however, that mixed retail businesses that are otherwise allowed to operate under this Order may continue to stock and sell non-essential products. Essential businesses must follow industry-specific guidance issued by the Health Officer related to COVID-19.
6. All public and private gatherings of any number of people occurring outside a single household or living unit are prohibited, except for the limited purposes expressly permitted in this Order. Nothing in this Order prohibits members of a single household or living unit from engaging in Essential Travel or Essential Activities together.
7. All travel, including, but not limited to, travel on foot, bicycle, scooter, motorcycle, automobile, or public transit, except Essential Travel, as defined below in Section 13.i, is prohibited. People may use public transit only for purposes of performing Essential Activities or to travel to and from work to operate Essential Businesses, maintain Essential Governmental Functions, or to perform Minimum Basic Operations at non-essential businesses. Transit agencies and people riding on public transit must comply

with Social Distancing Requirements, as defined in Section 13.k, to the greatest extent feasible. This Order allows travel into or out of the County only to perform Essential Activities, operate Essential Businesses, maintain Essential Governmental Functions, or perform Minimum Basic Operations at non-essential businesses.

8. This Order is issued based on evidence of increasing occurrence of COVID-19 within the County and throughout neighboring counties (especially in the San Francisco Bay Area), scientific evidence and best practices regarding the most effective approaches to slow the transmission of communicable diseases generally and COVID-19 specifically, and evidence that the age, condition, and health of a significant portion of the population of the County places that population at risk for serious health complications, including death, from COVID-19. Due to the outbreak of the COVID-19 disease in the general public, which is now a pandemic according to the World Health Organization, there is a public health emergency throughout the County. Making the problem worse, some individuals who contract the virus causing the COVID-19 disease have no symptoms or have mild symptoms, which means they may not be aware they carry the virus and are transmitting it to others. Because even people without symptoms can transmit the infection, and because evidence shows the infection is easily spread, gatherings and other interpersonal interactions can result in transmission of the virus. This public health emergency has worsened since the County issued the Prior Shelter Order on March 17, 2020, with increasing numbers of confirmed cases, hospitalizations, and deaths, and increasing strain on health care resources. At the same time, evidence suggests that the restrictions on mobility and social distancing requirements imposed by the Prior Shelter Order are slowing the rate of increase in community transmission and confirmed cases by limiting interactions among people, consistent with scientific evidence of the efficacy of similar measures in other parts of the country and world. The scientific evidence shows that at this stage of the emergency, it remains essential to continue to slow virus transmission as much as possible to protect the most vulnerable, to prevent the health care system from being overwhelmed, and to prevent deaths. Extension of the Prior Shelter Order and strengthening of its restrictions are necessary to further reduce the spread of the COVID-19 disease, preserving critical and limited healthcare capacity in the County and advancing toward a point in the public health emergency where transmission can be controlled.
9. This Order is also issued in light of the existence, as of the morning of April 3, 2020, of 53 cases of COVID-19 and 2 deaths in the County, as well as exponential increase in the number of confirmed cases in the neighboring seven Bay Area jurisdictions that issued similar Orders, including a significant and increasing number of suspected cases of community transmission and likely further significant increases in transmission. This Order is necessary to slow the rate of spread, and the Health Officer will re-evaluate it as further data become available.
10. This Order is issued in accordance with, and incorporates by reference, the March 4, 2020 Proclamation of a State of Emergency issued by Governor Gavin Newsom, the March 6, 2020, Declaration of Local Emergency by the County Administrative Officer,

Order of the Monterey County Health Officer
to Shelter in Place

the March 10, 2020 Resolution of the Board of Supervisors Ratifying and Extending the Declaration of a Local Emergency, and the March 13, 2020 declaration of national emergency by the President of the United States.

11. This Order is issued in light of evidence that the Prior Health Order has been generally effective in increasing social distancing, but that at this time additional restrictions are necessary to further mitigate the rate of transmission of COVID-19, to prevent the health care system from being overwhelmed, and prevent death. This Order comes after the release of substantial guidance from the Centers for Disease Control and Prevention, the California Department of Public Health, and other public health officials throughout the United States and around the world, including an increasing number of orders imposing similar social distancing requirements and mobility restrictions to combat the spread and harms of COVID-19. The Health Officer will continue to assess the quickly evolving situation and may modify or extend this Order, or issue additional Orders, related to COVID-19, as changing circumstances dictate.

12. This Order is also issued in light of the March 19, 2020 Order of the State Public Health Officer (the “State Shelter Order”) , which set baseline statewide restrictions on non-residential business activities effective until further notice, as well as the Governor’s March 19, 2020 Executive Order N-33-20 directing California residents to follow the State Shelter Order. The State Shelter Order was complementary to the Prior Shelter Order. This Order adopts in certain respects more stringent restrictions addressing the particular facts and circumstances in this County, which are necessary to control the public health emergency as it is evolving within the County, Central Coast and the greater Bay Area. Without this tailored set of restrictions that further reduces the number of interactions between persons, scientific evidence indicates that the public health crisis in the County will worsen to the point at which it may overtake available health care resources within the County and increase the death rate. Also, this Order enumerates additional restrictions on non-work-related travel not covered by the State Shelter Order, including limiting such travel to performance of Essential Travel or Essential Activities; sets forth mandatory Social Distancing Requirements for all individuals in the County when engaged in activities outside their residences; and adds a mechanism to ensure that Essential Businesses comply with the Social Distancing Requirements. Where a conflict exists between this Order and any state public health order related to the COVID-19 pandemic, the most restrictive provision controls. Consistent with California Health and Safety Code section 131080 and the Health Officer Practice Guide for Communicable Disease Control in California, except where the State Health Officer may issue an order expressly directed at this Order and based on a finding that a provision of this Order constitutes a menace to public health, any more restrictive measures in this Order continue to apply and control in this County.

13. Definitions and Exemptions.

- a. For the purposes of this Order, individuals may leave their residence only to perform the following “Essential Activities.” However, people at high risk of

severe illness from COVID-19 and people who are sick are strongly urged to stay in their residence to the extent possible, except as necessary to seek or provide medical care or Essential Governmental Functions. Essential Activities are:

- i. To engage in activities or perform tasks important to their health and safety, or to the health and safety of their family or household members (including pets), such as, by way of example only and without limitation, obtaining medical supplies or medication, or visiting a health care professional, including a veterinarian.
- ii. To obtain necessary services or supplies for themselves and their family or household members, or to deliver those services or supplies to others, such as, by way of example only and without limitation, canned food, dry goods, frozen foods, fresh fruits and vegetables, pet supply, fresh meats, fish, and poultry, and any other household consumer products, products needed to work from home, or products necessary to maintain the habitability, sanitation, and operation of residences.
- iii. To engage in outdoor recreation activity, including, by way of example and without limitation, walking, hiking, bicycling, and running, in compliance with Social Distancing Requirements and with the following limitations:
 1. Outdoor recreation activity at parks, beaches, and other open spaces must be in conformance with any restrictions on access and use established by the Health Officer, a government agency, or other entity that manages such area, to reduce crowding and risk of transmission of COVID-19. Such restrictions may include, but are not limited to, restricting the number of entrants, closing the area to vehicular access and parking, or closure to all public access;
 2. Use of recreational areas with high-touch equipment or that encourage gathering, including, but not limited to, playgrounds, outdoor gym equipment, picnic areas, dog parks, and barbecue areas, is prohibited outside of residences, and all such areas shall be closed to public access including by signage and, as appropriate, by physical barriers;
 3. Use of shared facilities for recreational activities outside of residences, including, but not limited to, golf courses, tennis and pickle ball courts, rock parks, climbing walls, pools, spas, saunas, shooting and archery ranges, gyms, disc golf, team sports fields and basketball courts is prohibited and those areas must be closed for recreational purposes, including by signage and, as appropriate, by physical barriers. Such facilities may be repurposed during the emergency to provide essential services needed to address the COVID-19 pandemic; and
 4. Sports or activities that include the use of shared equipment may only be engaged in by members of the same household or living unit.

- iv. To perform work for an Essential Business or to otherwise carry out activities specifically permitted in this Order, including Minimum Basic Operations, as defined in this Section.
 - v. To provide necessary care for a family member or pet in another household who has no other source of care.
 - vi. To attend a funeral with no more than 10 individuals present.
 - vii. To move residences, but only if it is not possible to defer an already planned move, if the move is necessitated by safety, sanitation, or habitability reasons, if the move is necessary to preserve access to shelter, or necessary to secure employment in an essential service. When moving into or out of the Monterey Bay region, individuals are strongly urged to quarantine for 14 days. To quarantine, individuals should follow the guidance of the United States Centers for Disease Control and Prevention.
- b. For the purposes of this Order, individuals may leave their residence to work for, volunteer at, or obtain services at “Healthcare Operations,” including, without limitation, hospitals, clinics, COVID-19 testing locations, dentists, pharmacies, blood banks and blood drives, pharmaceutical and biotechnology companies, other healthcare facilities, healthcare suppliers, home healthcare services providers, mental health providers, or any related and/or ancillary healthcare services. “Healthcare Operations” also includes veterinary care and all healthcare services provided to animals. This exemption for Healthcare Operations shall be construed broadly to avoid any interference with the delivery of healthcare, broadly defined. “Healthcare Operations” excludes fitness and exercise gyms and similar facilities.
- c. For the purposes of this Order, individuals may leave their residence to provide any services or perform any work necessary to the operation and maintenance of “Essential Infrastructure,” including agriculture, airports, utilities (including water, sewer, gas, and electrical), oil and gas production and refining, energy production and supply, roads and highways, public transportation, solid waste facilities (including collection, removal, disposal, and processing facilities), cemeteries, mortuaries, crematoriums, and telecommunications systems (including the provision of essential global, national, and local infrastructure for internet, computing services, business infrastructure, communications, and web-based services).
- d. For the purposes of this Order, all first responders, emergency management personnel, emergency dispatchers, court personnel, and law enforcement personnel, and others who need to perform essential services are categorically exempt from this Order to the extent they are performing those essential services. Further, nothing in this Order shall prohibit any individual from performing or accessing “Essential Governmental Functions,” as determined by the governmental entity performing those functions in the County. Each governmental entity shall identify and designate appropriate employees,

volunteers, or contractors to continue providing and carrying out any Essential Governmental Functions, including the hiring or retention of new employees or contractors to perform such functions. Each governmental entity and its contractors must employ all necessary emergency protective measures to prevent, mitigate, respond to and recover from the COVID-19 pandemic, and all Essential Governmental Functions shall be performed in compliance with Social Distancing Requirements to the greatest extent feasible.

- e. For the purposes of this Order, a “business” includes any for-profit, non-profit, or educational entity, whether a corporate entity, organization, partnership or sole proprietorship, and regardless of the nature of the service, the function it performs, or its corporate or entity structure.
- f. For the purposes of this Order, “Essential Businesses” are:
 - i. Those businesses listed as “Essential Infrastructure;”
 - ii. Healthcare Operations and businesses that operate, maintain, or repair Essential Infrastructure;
 - iii. Grocery stores, certified farmers’ markets, farm and produce stands, supermarkets, food banks, convenience stores, and other establishments engaged in the retail sale of unprepared food, canned food, dry goods, non-alcoholic beverages, fresh fruits and vegetables, pet supply, fresh meats, fish, and poultry, as well as hygienic products and household consumer products necessary for personal hygiene or the habitability, sanitation, or operation of residences. The businesses included in this subparagraph (iii) include establishments that sell multiple categories of products provided that they sell a significant amount of essential products identified in this subparagraph, such as liquor stores that also sell a significant amount of food.
 - iv. Any form of cultivation of products for personal consumption or use, including farming, ranching, livestock, and fishing; and associated activities, including but not limited to, activities or businesses associated with planting, growing, harvesting, processing, cooling, storing, packaging, and transporting such products, or the wholesale or retail sale of such products, provided that, to the extent possible, such businesses comply with Social Distancing Requirements and otherwise provide for the health and safety of their employees;
 - v. Businesses that provide food, shelter, and social services, and other necessities of life for economically disadvantaged or otherwise needy individuals;
 - vi. Construction, but only of the types listed in this subparagraph below:
 - 1) Projects immediately necessary to the maintenance, operation or repair of Essential Infrastructure;
 - 2) Projects associated with Healthcare Operations, including creating or expanding Healthcare Operations;

- 3) Affordable housing that is or will be at least partially income-restricted, including multi-unit or mixed-use developments;
 - 4) Public works projects if specifically designated as an Essential Governmental Function by the lead governmental agency;
 - 5) Shelters and temporary housing, but not including hotels or motels;
 - 6) Projects immediately necessary to provide critical non-commercial services to individuals experiencing homelessness, elderly persons, persons who are economically disadvantaged, and persons with special needs;
 - 7) Construction necessary to ensure that existing construction sites that must be shut down under this Order are left in a safe and secure manner, but only to the extent necessary to do so; and
 - 8) Construction or repair necessary to ensure that residences and buildings containing Essential Businesses are safe, sanitary, or habitable and operable, to the extent such construction or repair cannot reasonably be delayed;
- vii. Newspapers, television, radio, and other media services;
 - viii. Gas stations and auto-supply, auto-repair (including, but not limited to, for cars, trucks, motorcycles and motorized scooters), and automotive dealerships, but only for the purpose of providing auto-supply and auto-repair services (and not, by way of example, car sales or car washes). This subparagraph (viii) does not restrict the on-line purchase of automobiles if they are delivered to a residence or Essential Business;
 - ix. Bicycle repair and supply shops;
 - x. Banks and related financial institutions;
 - xi. Service providers that enable residential transactions (including rentals, leases, and home sales), including, but not limited to, real estate agents, escrow agents, notaries, and title companies, provided that appointments and other residential viewings must only occur virtually or, if a virtual viewing is not feasible, by appointment with no more than two visitors at a time residing within the same household or living unit and one individual showing the unit (except that in person visits are not allowed when the occupant is still residing in the residence);
 - xii. Hardware stores;
 - xiii. Plumbers, electricians, exterminators, and other service providers who provide services that are necessary to maintaining the habitability, sanitation, and operation of residences and Essential Businesses, but not for cosmetic or other purposes;
 - xiv. Arborists, landscapers, gardeners, and similar service professionals, but only to the limited extent necessary to maintain the habitability, sanitation, operation of businesses or residences, or the safety of residents, employees, or the public (such as fire safety or tree trimming to prevent a

- dangerous condition), and not for cosmetic or other purposes (such as upkeep);
- xv. Businesses providing mailing and shipping services, including post office boxes;
 - xvi. Educational institutions—including public and private K-12 schools, colleges, and universities—for purposes of facilitating distance learning or performing essential functions, provided that social distancing of six-feet per person is maintained to the greatest extent possible;
 - xvii. Laundromats, drycleaners, and laundry service providers;
 - xviii. Restaurants and other facilities that prepare and serve food, but only for delivery or carry out. Schools and other entities that typically provide free food services to students or members of the public may continue to do so under this Order on the condition that the food is provided to students or members of the public on a pick-up and take-away basis only. Schools and other entities that provide food services under this exemption shall not permit the food to be eaten at the site where it is provided, or at any other gathering site;
 - xix. Funeral home providers, mortuaries, cemeteries, and crematoriums, to the extent necessary for the transport, preparation, or processing of bodies or remains;
 - xx. Businesses that supply other Essential Businesses with the support or supplies necessary to operate, but only to the extent that they support or supply these Essential Businesses. This exemption shall not be used as a basis for engaging in sales to the general public from retail storefronts;
 - xxi. Businesses that have the primary function of shipping or delivering groceries, food, or other goods directly to residences or businesses. This exemption shall not be used to allow for manufacturing or assembly of non-essential products or for other functions besides those necessary to the delivery operation;
 - xxii. Airlines, taxis, rental car companies, rideshare services (including shared bicycles and scooters), and other private transportation providers providing transportation services necessary for Essential Activities and other purposes expressly authorized in this Order;
 - xxiii. Home-based care for seniors, adults, children, and pets;
 - xxiv. Residential facilities and shelters for seniors, adults, and children;
 - xxv. Professional services, such as legal, notary, or accounting services, when necessary to assist in compliance with non-elective, legally required activities;
 - xxvi. Services to assist individuals in finding employment with Essential Businesses;
 - xxvii. Moving services that facilitate residential or commercial moves that are allowed under this Order;
 - xxviii. Childcare facilities providing services that enable owners, employees, volunteers, and contractors for Essential Businesses or Essential Governmental Functions to work as permitted. Children of owners,

employees, volunteers, and contractors who are not exempt under this Order may not attend childcare facilities. To the extent possible, childcare facilities must operate under the following conditions:

1. Childcare must be carried out in stable groups of 12 or fewer (“stable” means that the same 12 or fewer children are in the same group each day).
 2. Children shall not change from one group to another.
 3. If more than one group of children is cared for at one facility, each group shall be in a separate room. Groups shall not mix with each other.
 4. Childcare providers shall remain solely with one group of children.
- g. For the purposes of this Order, “Minimum Basic Operations” means the following activities for businesses, provided that owners, employees, and contractors comply with Social Distancing Requirements as defined this Section, to the extent possible, while carrying out such operations:
- i. The minimum necessary activities to maintain and protect the value of the business’s inventory and facilities; ensure security, safety, and sanitation; process payroll and employee benefits; provide for the delivery of existing inventory directly to residences or businesses; and related functions.
 - ii. The minimum necessary activities to facilitate owners, employees, and contractors of the business being able to continue to work remotely from their residences, and to ensure that the business can deliver its service remotely.
- h. For the purposes of this Order, all Essential Businesses must prepare and post by no later than 11:59 p.m. on April 8, 2020 a “Social Distancing Protocol” for each of their facilities in the County frequented by the public or employees. The Social Distancing Protocol must be substantially in the form attached to this Order as Appendix A. The Social Distancing Protocol must be posted at or near the entrance of the relevant facility, and shall be easily viewable by the public and employees. A copy of the Social Distancing Protocol must also be provided to each employee performing work at the facility. All Essential Businesses shall implement the Social Distancing Protocol and provide evidence of its implementation to any authority enforcing this Order upon demand. The Social Distancing Protocol must explain how the business is achieving the following, as applicable:
- i. Limiting the number of people who can enter into the facility and work areas at any one time to ensure that people in the facility and work areas can easily maintain a minimum six-foot distance from one another at all times, except as required to complete the Essential Business activity;
 - ii. Where lines may form at a facility, marking six-foot increments at a minimum, establishing where individuals should stand to maintain adequate social distancing;

- iii. Providing hand sanitizer, soap and water, or effective disinfectant at or near the entrance of the facility and in other appropriate areas for use by the public and employees, and in locations where there is high-frequency employee interaction with members of the public (e.g. cashiers);
 - iv. Providing for contactless payment systems or, if not feasible to do so, the providing for disinfecting all payment portals, pens, and styluses after each use;
 - v. Regularly cleaning and disinfecting other high-touch surfaces; and
 - vi. Posting a sign at the entrance of the facility and work area informing all employees and customers that they should: avoid entering the facility if they have a cough or fever; maintain a minimum six-foot distance from one another; sneeze and cough into one's elbow; not shake hands or engage in any unnecessary physical contact.
 - vii. Any additional social distancing measures being implemented (see the Centers for Disease Control and Prevention's guidance at: <https://www.cdc.gov/coronavirus/2019-ncov/community/guidance-business-response.html>).
- i. For the purposes of this Order, "Essential Travel" means travel for any of the following purposes:
- i. Travel related to the provision of or access to Essential Activities, Essential Infrastructure, Essential Governmental Functions, Essential Businesses, or Minimum Basic Operations.
 - ii. Travel to care for any elderly, minors, dependents, or persons with disabilities.
 - iii. Travel to or from educational institutions for purposes of receiving materials for distance learning, for receiving meals, and any other related services.
 - iv. Travel to return to a place of residence from outside the County.
 - v. Travel required by law enforcement or court order.
 - vi. Travel required for non-residents to return to their place of residence outside the County. Individuals are strongly encouraged to verify that their transportation out of the County remains available and functional prior to commencing such travel.
 - vii. Travel to manage after-death arrangements and burial.
 - viii. Travel to arrange for shelter or avoid homelessness.
 - ix. Travel to avoid domestic violence or child abuse.
 - x. Travel for parental custody arrangements.
 - xi. Travel to a place to temporarily reside in a residence or other facility to avoid potentially exposing others to COVID-19, such as a hotel or other facility provided by a governmental authority for such purposes.
- j. For purposes of this Order, "residences" include hotels, motels, shared rental units and similar facilities. Residences also include living structures and outdoor

spaces associated with those living structures, such as patios, porches, backyards, and front yards that are only accessible to a single family or household unit.

- k. For purposes of this Order, “Social Distancing Requirements” means:
- i. Maintaining at least six-foot social distancing from individuals who are not part of the same household or living unit;
 - ii. Frequently washing hands with soap and water for at least 20 seconds, or using hand sanitizer that is recognized by the Centers for Disease Control and Prevention as effective in combatting COVID-19;
 - iii. Covering coughs and sneezes with a tissue or fabric or, if not possible, into the sleeve or elbow (but not into hands); and
 - iv. Avoiding all social interaction outside the household when sick with a fever or cough.

All individuals must strictly comply with Social Distancing Requirements, except to the limited extent necessary to provide care (including childcare, adult or senior care, care to individuals with special needs, and patient care); as necessary to carry out the work of Essential Businesses, Essential Governmental Functions, or provide for Minimum Basic Operations; or as otherwise expressly provided in this Order.

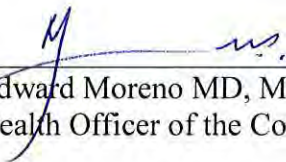
14. Government agencies and other entities operating shelters and other facilities that house or provide meals or other necessities of life for individuals experiencing homelessness must take appropriate steps to help ensure compliance with Social Distancing Requirements, including adequate provision of hand sanitizer. Also, individuals experiencing homelessness who are unsheltered and living in encampments should, to the maximum extent feasible, abide by 12 foot by 12 foot distancing for the placement of tents, and government agencies should provide restroom and hand washing facilities for individuals in such encampments as set forth in Centers for Disease Control and Prevention Interim Guidance Responding to Coronavirus 2019 (COVID-19) Among People Experiencing Unsheltered Homelessness (<https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/unsheltered-homelessness.html>).
15. Pursuant to Government Code sections 26602 and 41601 and Health and Safety Code section 101029, the Health Officer requests that the Sheriff and all chiefs of police in the County ensure compliance with and enforce this Order. The violation of any provision of this Order constitutes an imminent threat and menace to public health, constitutes a public nuisance, and is punishable by fine, imprisonment, or both.
16. This Order shall become effective at 11:59 p.m. on April 3, 2020 and will continue to be in effect until 11:59 p.m. on May 3, 2020, or until it is extended, rescinded, superseded, or amended in writing by the Health Officer.
17. Copies of this Order shall promptly be: (1) made available at County Government Center at 168 W. Alisal Street, Salinas CA 93901; (2) posted on the County Public Health Department website (www.co.monterey.ca.us), the County Health Department website

Order of the Monterey County Health Officer
to Shelter in Place

(www.co.monterey.ca.us/government/departments-a-h/health), and such other websites as the County may determine; (3) distributed to the electronic and print press; and (4) provided to any member of the public requesting this Order.

18. If any provision of this Order to its application to any person or circumstance is held to be invalid, the remainder of the Order, including the application of such part or provision to other persons or circumstances, shall not be affected and shall continue in full force and effect. To this end, the provisions of this Order are severable.

IT IS SO ORDERED:



Edward Moreno MD, MPH
Health Officer of the County of Monterey

Dated: April 3, 2020

Attachments: Appendix A – Social Distancing Protocol

EXHIBIT H

ORDER OF THE HEALTH OFFICER OF THE COUNTY OF MONTEREY
REQUIRING MEMBERS OF THE PUBLIC AND WORKERS TO WEAR
FACE COVERINGS

DATE OF ORDER: April 28, 2020

Please read this Order carefully. Violation of or failure to comply with this Order is a misdemeanor punishable by fine, imprisonment, or both (California Health and Safety Code §120295). Except as may be defined herein, each of the capitalized terms is defined in the April 3, 2020 Monterey County Health Officer Shelter in Place Order ("April 3rd Order").

The Centers for Disease Control and Prevention ("CDC"), California Department of Public Health ("CDPH"), and the Monterey County Health Department ("MCHD") recommend that members of the public that need to interact with others outside the home, especially where many people are present such as shopping and waiting in lines, cover the mouth and nose to prevent inadvertently spreading the virus that causes Coronavirus Disease 2019 ("COVID-19"). One key method of transmission of the COVID-19 virus is by respiratory droplets that people expel when they breathe, cough or sneeze. People infected with the virus may not have any symptoms, meaning they are asymptomatic, but they can still be contagious. People infected with the virus are contagious 48 hours before developing symptoms, the time when they are pre-symptomatic. Many people with the COVID-19 virus have mild symptoms and do not recognize they are infected and contagious, and they can unintentionally infect others. Therefore, the CDC, CDPH, and MCHD now believe that wearing a face covering, when combined with physical distancing of at least 6 feet and frequent hand washing, may reduce the risk of transmitting coronavirus when in public and engaged in essential activities by reducing the spread of respiratory droplets. And, because it is not always possible to maintain at least 6 feet of distance, members of the public and workers should wear face coverings while engaged in most essential activities and other activities when others are nearby. For clarity, although wearing a face covering is one tool for reducing the spread of the virus, doing so is not a substitute for sheltering in place, physical distancing of at

least 6 feet, and frequent hand washing.

This Order requires that people wear Face Coverings, which may be simple do-it-yourself coverings as further described below, in three main settings. First, members of the public must wear Face Coverings while a) inside of or waiting in line to enter Essential Businesses and other businesses or facilities engaged in Minimum Basic Operations, b) providing Essential Infrastructure or Essential Government Functions (except Healthcare Operations, which are subject to different requirements), c) when seeking healthcare from Healthcare Operations, and d) when waiting for or riding on public transportation and other types of shared transportation. Second, this Order also requires employees, contractors, owners, and volunteers of all Essential Businesses or those operating public transportation and other types of shared transportation to wear a Face Covering when at work. And third, this Order also requires workers engaged in Minimum Basic Operations, Essential Infrastructure, and Essential Government Functions to wear a Face Covering in areas where the public is present or likely to be, and at any time when others are nearby.

This Order includes certain exceptions. For instance, this Order does not require that any child aged twelve years or younger wear a Face Covering, and recommends that any child aged two years or younger should not wear one because of the risk of suffocation. This Order also does not apply to people who are in their own cars alone or with members of their own household. It also does not require people to wear Face Coverings while engaged in outdoor recreation such as walking, hiking, bicycling, or running, though it does recommend that they have a Face Covering with them and still requires them to practice social distancing and other measures to protect against transmission of the virus.

UNDER THE AUTHORITY OF CALIFORNIA HEALTH AND SAFETY CODE
SECTIONS 101040 AND 120175, THE HEALTH OFFICER OF THE
COUNTY OF MONTEREY ("HEALTH OFFICER") ORDERS:

1. This Order will take effect at 12:01a.m. on April 30, 2020, and will continue to be in effect until it is extended, rescinded, superseded, or amended in writing by the Health Officer. All individuals, businesses and government agencies in the unincorporated and incorporated areas of the County of Monterey ("County") are required to follow the

provisions of this Order.

2. This Order is based on evidence of increasing occurrence of COVID-19 within the County, California and the United States. In the County, as of April 26, 2020 there were 185 cases of COVID-19 and four fatalities, including a significant and increasing number of suspected cases of community transmission.
3. As used in this Order, a "Face Covering" means a covering made of cloth, fabric, or other soft or permeable material, without holes, that covers only the nose and mouth and surrounding areas of the lower face. A covering that hides or obscures the wearer's eyes or forehead is not a Face Covering. Examples of Face Coverings include a scarf or bandana; a neck gaiter; a homemade covering made from a T-shirt, sweatshirt, or towel, held on with rubber bands or otherwise; or a mask, which need not be medical-grade. A Face Covering may be factory-made, or may be handmade and improvised from ordinary household materials. The Face Covering should be comfortable, so that the wearer can breathe comfortably through the nose and does not need to adjust it frequently, so as to avoid touching the face. For as long as medical grade masks such as N95 masks and surgical masks are in short supply, members of the public should not purchase those masks as Face Coverings under this Order; medical grade masks should be reserved for health care providers and first responders. In general, even when not required by this Order, people are strongly encouraged to wear Face Coverings when in public. Also, for Face Coverings that are not disposed of after each use, people should clean them frequently and have extra ones available so that they have a clean one available for use.

Note that any mask that incorporates a one-way valve (typically a raised plastic cylinder about the size of a quarter on the front or side of the mask) that is designed to facilitate easy exhaling is not a Face Covering under this Order and is not to be used to comply with this Order's requirements. Valves of that type permit droplet release from the mask, putting others nearby at risk.

A video showing how to make a face covering and additional information about how to wear and clean Face Coverings may be

found at the website of Centers for Disease Control and Prevention, at www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/diy-cloth-face-coverings.html.

4. All members of the public, except as specifically exempted below, must wear a Face Covering outside their home or other place where they reside in the following situations:
 - a. When inside of, or in line to enter, or when conducting business through a car window or walk-up counter at any Essential Business (as that term is defined in Section 13.f of the April 3rd Order), including, but not limited to, grocery stores, convenience stores, supermarkets, laundromats and restaurants;
 - b. When inside or at any location or facility engaging in Minimum Basic Operations, or inside of any location or facility while seeking or receiving Essential Government Functions (as defined in Sections 13.g and 13.d, respectively, of the April 3rd Order);
 - c. When engaged in Essential Infrastructure work (as defined in Section 13.c of the April 3rd Order);
 - d. When obtaining services at Healthcare Operations (as defined in Section 13.b of the April 3rd Order), including hospitals, clinics, COVID-19 testing locations, dentists, pharmacies, blood banks and blood drives, other healthcare facilities, mental health providers, or facilities providing veterinary care and similar health care services for animals, unless directed otherwise by an employee or worker at the Healthcare Operation; or
 - e. When waiting for or riding on public transportation (including without limitation any bus or train) or paratransit, or are in a taxi, private car service, or ride-sharing vehicle.
5. Each driver or operator of any public transportation vehicle, paratransit vehicle, taxi, private car service or ride-sharing vehicle must wear a Face Covering while driving or operating such vehicle, regardless of whether a member of the public is in the vehicle, due to the need to reduce the spread of respiratory droplets in the vehicle at all times.
6. All Essential Businesses, as well as entities and organizations with workers engaged in Essential Infrastructure work, Minimum Basic

Operations, or Essential Government Functions (except for Healthcare Operations, which are subject to their own regulation regarding specified face coverings), must:

- a. Require their employees, contractors, owners, and volunteers to wear a Face Covering at the workplace and when performing work off-site any time the employee, contractor, owner, or volunteer is:
 - i. interacting in person with any member of the public;
 - ii. working in any space visited by members of the public, such as, by way of example and without limitation, reception areas, grocery store or pharmacy aisles, service counters, public restrooms, cashier and checkout areas, waiting rooms, service areas, and other spaces used to interact with the public, regardless of whether anyone from the public is present at the time;
 - iii. working in any space where food is prepared or packaged for sale or distribution to others;
 - iv. working in or walking through common areas such as hallways, stairways, elevators, and parking facilities; or
 - v. in any room or enclosed area when other people (except for members of the person's own household or residence) are present.

A Face Covering is not required when a person is in a personal office (a single room) when others outside of that person's household are not present as long as the public does not regularly visit the room. By way of example and without limitation, a construction worker, plumber, bank manager, accountant, or bike repair person, who is otherwise allowed to engage in work pursuant to the April 3rd Order, is not required to wear a Face Covering if that individual is alone and in a space not regularly visited by the public, but that individual must put on a Face Covering when coworkers are nearby, when being visited by a client/customer, and anywhere members of the public or other coworkers are regularly present; and

- b. Take reasonable measures, such as posting signs, to remind their customers and the public of the requirement that they wear a Face Covering while inside of or waiting in line to enter the business, facility, or location. Essential Businesses and entities or

organizations that are engaged in Essential Infrastructure work or Minimum Basic Operations must take all reasonable steps to prohibit any member of the public who is not wearing a Face Covering from entering and must not serve that person.


7. Any child aged two years or less should not wear a Face Covering because of the risk of suffocation. This Order does not require that any child twelve years of age or less wear a Face Covering, including but not limited to, when attending childcare activities. However, parents and caregivers should supervise the use of Face Coverings by children to avoid misuse.
8. Wearing a Face Covering is recommended but not required while engaged in outdoor recreation such as walking, hiking, bicycling, or running. But each person engaged in such activity must comply with social distancing requirements including maintaining at least six feet of separation from all other people to the greatest extent possible. Additionally, it is recommended that each person engaged in such activity bring a Face Covering and wear that Face Covering in circumstances where it is difficult to maintain compliance with social distancing requirements, and that they carry the Face Covering in a readily accessible location, such as around the person's neck or in a pocket, for such use. Running or bicycling causes people to more forcefully expel airborne particles, which makes the usual minimum 6 feet distance requirement less adequate. Therefore, runners and cyclists must take extra measures to avoid exposing others to airborne particles, including wearing a Face Covering when possible, maintaining physical distance of greater than 6 feet when engaging in these activities, avoiding spitting, and avoiding running or cycling directly in front of or behind another runner or cyclist who is not in the same household.
9. This Order does not require any person to wear a Face Covering while driving alone, or exclusively with other members of the same family or household, in a motor vehicle.
10. A Face Covering is also not required by this Order to be worn by an individual if the person can show either: 1) a medical professional has advised that wearing a Face Covering may pose a risk to the person wearing the mask for health-related reasons; or 2) wearing a Face Covering would create a risk to the person related to their work as

determined by local, state, or federal regulators or workplace safety guidelines. A Face Covering should also not be used by anyone who has trouble breathing or is unconscious, incapacitated, or otherwise unable to remove the Face Covering without assistance.

11. The intent of this Order is to ensure that all people who are visiting or working at Essential Businesses and all people who are seeking care at healthcare facilities or engaged in certain types of public transit or transportation with others wear a Face Covering to reduce the likelihood that they may transmit or receive the COVID-19 virus. The intent of this Order is also to ensure that people who work for or seek services from entities engaged in Essential Infrastructure work, Minimum Basic Operations, or Essential Government functions also wear a Face Covering when they are in close proximity to others. In so doing, this Order will help reduce the spread of the COVID-19 virus and mitigate the impact of the virus on members of the public and on the delivery of critical healthcare services to those in need. All provisions of this Order must be interpreted to effectuate this intent.
12. This Order is issued based on scientific evidence and best practices regarding the most effective approaches to slow the transmission of communicable diseases generally and COVID-19 specifically. Due to the outbreak of the COVID-19 virus in the general public, which is now a pandemic according to the World Health Organization, there is a public health emergency throughout the County.
13. This Order is issued in accordance with, and incorporates by reference, the: April 3, 2020 Order of the Monterey County Health Officer, the March 19, 2020 Order of the State Health Officer, The March 19, 2020 Executive Order N-33-20 issued by the Governor of California, the March 12, 2020 Executive Order (Executive Order N-25-20) issued by the Governor of California, the March 10, 2020 Resolution of the Board of Supervisors of the County of Monterey Ratifying and Extending the Proclamation of a Local Emergency, the March 6, 2020 Proclamation of a Local Emergency issued by the County Administrative Officer, the March 4, 2020 Proclamation of a State of Emergency issued by the California Governor, and guidance issued by the California Department of Public Health, as each of them have been and may be supplemented.

14. Failure to comply with any of the provisions of this Order constitutes an imminent threat and immediate menace to public health, constitutes a public nuisance, and is punishable by fine, imprisonment, or both.
15. To the extent necessary, pursuant to Government Code sections 26602 and 41601 and Health and Safety Code section 101029, the Health Officer requests that the Sheriff and all Chiefs of Police in the County ensure compliance with and enforcement of this Order.
16. Copies of this Order shall promptly be: (1) made available at the County Government Center at 168 West Alisal Street, CA 93901 and the County Health Department at 1270 Natividad Rd., Salinas CA 93906; (2) posted on the County Health Department website www.mtyhd.org; and (3) provided to any member of the public requesting a copy of this Order.
17. If any provision of this Order or its application to any person or circumstance is held to be invalid, then the remainder of the Order, including the application of such part or provision to other people or circumstances, shall not be affected and shall continue in full force and effect. To this end, the provisions of this Order are severable.
18. Questions or comments regarding this Order may be directed to Monterey County Health Department at (831) 755-4521.

IT IS SO ORDERED:



Edward Moreno, MD, MPH
Health Officer of the County of Monterey

Dated April 28, 2020

EXHIBIT I

**ORDER OF THE HEALTH OFFICER
OF THE COUNTY OF MONTEREY (1) DIRECTING
ALL INDIVIDUALS LIVING IN THE COUNTY TO CONTINUE
SHELTERING AT THEIR PLACE OF RESIDENCE AS PROVIDED IN
THIS ORDER; (2) CONTINUING TO EXEMPT HOMELESS
INDIVIDUALS FROM THE ORDER BUT URGING GOVERNMENT
AGENCIES TO PROVIDE THEM SHELTER AND HAND SANITATION
FACILITIES; (3) REQUIRING ESSENTIAL BUSINESSES TO
IMPLEMENT SOCIAL DISTANCING PROTOCOLS; (5) CLARIFYING
ESSENTIAL BUSINESS AND LOWER RISK ACTIVITIES; AND (6)
DIRECTING ALL BUSINESSES AND GOVERNMENT AGENCIES TO
CEASE NON-ESSENTIAL AND HIGHER RISK OPERATIONS**

DATE OF ORDER: May 1, 2020

Please read this Order carefully. Violation of or failure to comply with this Order is a misdemeanor punishable by fine, imprisonment, or both. (California Health and Safety Code § 120295, *et seq.*; and Cal. Penal Code §§ 69, 148(a)(1).

UNDER THE AUTHORITY OF CALIFORNIA HEALTH AND SAFETY CODE SECTIONS 101040 AND 120175, THE HEALTH OFFICER OF THE COUNTY OF MONTEREY (“HEALTH OFFICER”) ORDERS:

1. This Order supersedes the April 3, 2020 Order of the Health Officer directing all individuals to shelter in place (“Prior Shelter Order”). Modifications in this order were determined using a risk-based analysis to identify activities with lower risk of spread of COVID-19. As of the effective date and time of this Order set forth in Section 16 below, all individuals, businesses and government agencies in the County of Monterey (“County”) are required to follow the provisions of this Order.
2. The intent of this Order is to ensure that the maximum number of people shelter in their places of residence to the maximum extent feasible to slow the spread of COVID-19, and mitigate the impact of the COVID-19 pandemic on delivery of critical healthcare services to those in need. All provisions of this Order must be interpreted to effectuate this intent. Failure to comply with any of the provisions of this Order constitutes an imminent threat and menace to public health, constitutes a public nuisance, and is punishable by fine, imprisonment, or both.
3. All individuals currently living within the County are ordered to shelter at their place of residence. They may leave their residence only for Essential Activities, Essential Governmental Functions, to work for Essential Businesses, or to perform Minimum Basic Operations for non-essential businesses, all as defined in Section 13. Individuals

Order of the Monterey County Health Officer
to Shelter in Place

experiencing homelessness are exempt from this Section, but are strongly urged to obtain shelter, and governmental and other entities are strongly urged to, as soon as possible, make such shelter available and provide handwashing or hand sanitation facilities to persons who continue experiencing homelessness.

4. When people need to leave their place of residence for the limited purposes allowed in this Order, they must strictly comply with Social Distancing Requirements as defined in Section 13.k, except as expressly provided in this Order, as well as all Health Officer Orders issued related to COVID-19. In addition, all Essential Services including Essential Businesses, Minimum Basic Operations, Healthcare Operations, Essential Infrastructure, Essential Government Functions and Essential Travel shall comply with any Health Officer general or industry specific requirements related to COVID-19.
5. All businesses with a facility or outdoor work areas in the County, except Essential Businesses, as defined in Section 13.f, are required to cease all activities at such facilities or work areas located within the County except Minimum Basic Operations, as defined in Section 13.g. All businesses may continue operations consisting exclusively of owners, employees, volunteers, or contractors performing activities at their own residences (i.e., working from home). All Essential Businesses are strongly encouraged to remain open. However, Essential Businesses are directed to maximize the number of employees who work from home. Essential Businesses may only assign those employees who cannot perform their job duties from home to work outside the home. All Essential Businesses shall prepare, post, and implement a Social Distancing Protocol at each of their facilities or outdoor work areas at which they are maintaining operations, as specified in Section 13.h. Businesses that include an Essential Business component at their facilities alongside non-essential components must, to the extent feasible, scale down their operations to the Essential Business component only; provided, however, that mixed retail businesses that are otherwise allowed to operate under this Order may continue to stock and sell non-essential products.
6. All public and private gatherings of any number of people occurring outside a single household or living unit are prohibited, except for the limited purposes expressly permitted in this Order. Nothing in this Order prohibits members of a single household or living unit from engaging in Essential Travel or Essential Activities together.
7. All travel, including, but not limited to, travel on foot, bicycle, scooter, motorcycle, automobile, or public transit, except Essential Travel, as defined below in Section 13.i, is prohibited. People may use public transit only for purposes of performing Essential Activities or to travel to and from work to operate Essential Businesses, maintain Essential Governmental Functions, or to perform Minimum Basic Operations at non-essential businesses. Transit agencies and people riding on public transit must comply with Social Distancing Requirements, as defined in Section 13.k, to the greatest extent feasible. This Order allows travel into or out of the County only to perform Essential Activities, operate Essential Businesses, maintain Essential Governmental Functions, or perform Minimum Basic Operations at non-essential businesses.

8. This Order is issued based on evidence of ongoing occurrence of COVID-19 within the County and throughout neighboring counties, scientific evidence and best practices regarding the most effective approaches to slow the transmission of communicable diseases generally and COVID-19 specifically, and evidence that the age, condition, and health of a significant portion of the population of the County places that population at risk for serious health complications, including death, from COVID-19. Due to the outbreak of the COVID-19 disease in the general public, which is now a pandemic according to the World Health Organization, there is a public health emergency throughout the County. Making the problem worse, some individuals who contract the virus causing the COVID-19 disease have no symptoms or have mild symptoms, which means they may not be aware they carry the virus and are transmitting it to others. Because even people without symptoms can transmit the infection, and because evidence shows the infection is easily spread, gatherings and other interpersonal interactions can result in transmission of the virus. This public health emergency continues since the Prior Shelter Order of April 3, 2020, with increasing numbers of confirmed cases and deaths. At the same time, evidence suggests that the restrictions on mobility and social distancing requirements imposed by the Prior Shelter Order are slowing the rate of increase in community transmission and confirmed cases by limiting interactions among people, consistent with scientific evidence of the efficacy of similar measures in other parts of the country and world. Specifically, the Prior Shelter Order has resulted in prolonged doubling times for new confirmed cases, and stable hospital admission rates for greater than 14 days. The Prior Shelter Order has also afforded hospitals and clinics time to implement measures to admit and care for a greater number of patients when the surge of patients reaches its peak. This Order balances the social, emotional and economic benefits of fewer restrictions and the risk of increased transmission among the community. Scientific evidence shows that at this stage of the emergency, it remains essential to continue to slow virus transmission as much as possible to protect the most vulnerable populations, to prevent the health care system from being overwhelmed, and to prevent deaths. Extension of the Prior Shelter Order and strengthening of its restrictions are necessary to continue to reduce the spread of the COVID-19 disease, thus preserving critical and limited healthcare capacity in the County and advancing toward a point in the public health emergency where transmission can be controlled.
9. This Order is also issued in light of the existence, as of April 28, 2020, of 206 cases of COVID-19 and 5 deaths in the County, as well as sustained increase in the number of confirmed cases in neighboring counties and an ongoing increase of suspected cases due to community transmission. This Order is necessary to continue to slow the rate of spread, and the Health Officer will re-evaluate the Order as further data become available.
10. This Order is issued in accordance with, and incorporates by reference, the March 4, 2020 Proclamation of a State of Emergency issued by Governor Gavin Newsom, the March 6, 2020, Declaration of Local Emergency by the County Administrative Officer, the March 10, 2020 Resolution of the Board of Supervisors Ratifying and Extending the

Order of the Monterey County Health Officer
to Shelter in Place

Declaration of a Local Emergency, and the March 13, 2020 declaration of national emergency by the President of the United States.

11. This Order is issued in light of evidence that the Prior Health Order has been generally effective in increasing social distancing, but that at this time continued restrictions are necessary to further mitigate the rate of transmission of COVID-19, to prevent the health care system from being overwhelmed, and prevent death. This Order comes after the release of substantial guidance from the Centers for Disease Control and Prevention, the California Department of Public Health, and other public health officials throughout the United States and around the world, including an increasing number of orders imposing similar social distancing requirements and mobility restrictions to combat the spread and harms of COVID-19. The Health Officer will continue to assess the quickly evolving situation and may modify or extend this Order, issue additional Orders, or issue industry specific requirements related to COVID-19, as changing circumstances dictate. This Order is also issued in light of the Governor's statements of April 28, 2020, that the State is transitioning into a risk-based assessment of the impacts of COVID-19.
12. This Order is also issued in light of the March 19, 2020 Order of the State Public Health Officer ("Stay Home Order"), which set baseline statewide restrictions on non-residential business activities effective until further notice, as well as the Governor's March 19, 2020 Executive Order N-33-20 directing California residents to follow the State Stay Home Order. The State Stay Home Order was complementary to the Prior Shelter Order. This Order adopts in certain respects more stringent restrictions addressing the particular facts and circumstances in this County, which are necessary to control the public health emergency as it is evolving within the County and Central Coast Region. Without this tailored set of restrictions that reduces the number of interactions between persons, scientific evidence indicates that the public health crisis in the County will worsen to the point at which it may overwhelm available health care resources within the County and increase the death rate. Also, this Order enumerates certain restrictions on non-work-related travel not covered by the State Stay Home Order, including limiting such travel to performance of Essential Travel or Essential Activities; sets forth mandatory Social Distancing Requirements for all individuals in the County when engaged in activities outside their residences; and adds a mechanism to ensure that Essential Businesses comply with the Social Distancing Requirements. Where a conflict exists between this Order and any State Governor or State Public Health Officer Order related to the COVID-19 pandemic, the most restrictive provision controls. Consistent with California Health and Safety Code section 131080 and the Health Officer Practice Guide for Communicable Disease Control in California, except where the State Public Health Officer may issue an order expressly directed at this Order and based on a finding that a provision of this Order constitutes a menace to public health, any more restrictive measures in this Order continue to apply and control in this County.

13. Definitions and Exemptions.

- a. For the purposes of this Order, individuals may leave their residence only to perform the following “Essential Activities.” However, people at high risk of severe illness from COVID-19 and people who are sick are strongly urged to stay in their residence to the extent possible, except as necessary to seek or provide medical care or Essential Governmental Functions. Essential Activities are:
- i. To engage in activities or perform tasks important to their health and safety, or to the health and safety of their family or household members (including pets), such as, by way of example only and without limitation, obtaining medical supplies or medication, or visiting a health care professional, including a veterinarian.
 - ii. To obtain necessary services or supplies for themselves and their family or household members, or to deliver those services or supplies to others, such as, by way of example only and without limitation, canned food, dry goods, frozen foods, fresh fruits and vegetables, pet supply, fresh meats, fish, and poultry, and any other household consumer products, products needed to work from home, or products necessary to maintain the habitability, sanitation, and operation of residences.
 - iii. To engage in outdoor recreation activity, including, by way of example and without limitation, walking, hiking, bicycling, and running, in compliance with Social Distancing Requirements and with the following limitations:
 1. Outdoor recreation activity at parks, beaches, and other open spaces must be in conformance with any restrictions on access and use established by the Health Officer, a government agency, or other entity that manages such area, to reduce crowding and risk of transmission of COVID-19. Such restrictions may include, but are not limited to, restricting the number of entrants, closing the area to vehicular access and parking, or closure to all public access;
 2. Use of recreational areas with high-touch equipment or that encourage gathering, including, but not limited to, playgrounds, outdoor gym equipment, picnic areas, dog parks, and barbecue areas, is prohibited outside of residences, and all such areas shall be closed to public access including by signage and, as appropriate, by physical barriers;
 3. Use of shared facilities for recreational activities outside of residences, including, but not limited to, tennis, pickle ball courts, rock parks, climbing walls, pools, spas, saunas, shooting and archery ranges, gyms, team sports fields and basketball courts is prohibited and those areas must be closed for recreational purposes, including by signage and, as appropriate, by physical barriers. Such facilities may be repurposed during the emergency to provide essential services needed to address the COVID-19 pandemic; and

4. Sports or activities that include the use of shared equipment may only be engaged in by members of the same household or living unit.
 5. Use of golf courses and golf driving ranges, for the express purpose of promoting physical activity. Golf shall comply with Social Distancing Requirements and the Golf Safety Protocol listed in Appendix A and incorporated into this Order by this reference.
- iv. To perform work for an Essential Business or to otherwise carry out activities specifically permitted in this Order, including Minimum Basic Operations, as defined in this Section, or to obtain supplies they need to work from home.
 - v. To provide necessary care for a family member or pet in another household who has no other source of care.
 - vi. To attend a funeral with no more than 10 individuals present.
 - vii. To move residences, but only if it is not possible to defer an already planned move, if the move is necessitated by safety, sanitation, or habitability reasons, if the move is necessary to preserve access to shelter, or necessary to secure employment in an essential service. When moving into or out of the Monterey Bay Region, individuals are strongly urged to quarantine for 14 days. To quarantine, individuals should follow the guidance of the United States Centers for Disease Control and Prevention.
- b. For the purposes of this Order, individuals may leave their residence to work for, volunteer at, or obtain services at “Healthcare Operations,” including, without limitation, hospitals, clinics, COVID-19 testing locations, dentists, pharmacies, blood banks and blood drives, pharmaceutical and biotechnology companies, other healthcare facilities, healthcare suppliers, home healthcare services providers, mental health providers, or any related and/or ancillary healthcare services. “Healthcare Operations” also includes veterinary care and all healthcare services provided to animals. This exemption for Healthcare Operations shall be construed broadly to avoid any interference with the delivery of healthcare, broadly defined. “Healthcare Operations” excludes fitness and exercise gyms and similar facilities.
- c. For the purposes of this Order, individuals may leave their residence to provide any services or perform any work necessary to the operation and maintenance of “Essential Infrastructure,” including agriculture, airports, utilities (including water, sewer, gas, and electrical), oil and gas production and refining, energy production and supply, roads and highways, public transportation, solid waste and recycling facilities (including collection, removal, disposal, and processing facilities), cemeteries, mortuaries, crematoriums, and telecommunications systems (including the provision of essential global, national, and local infrastructure for internet, computing services, business infrastructure, communications, and web-based services).

- d. For the purposes of this Order, all first responders, emergency management personnel, emergency dispatchers, court personnel, individuals engaged in first responder training, and others who need to perform essential services are categorically exempt from this Order to the extent they are performing those essential services. Further, nothing in this Order shall prohibit any individual from performing or accessing “Essential Governmental Functions,” as determined by the governmental entity performing those functions in the County. Each governmental entity shall identify and designate appropriate employees, volunteers, or contractors to continue providing and carrying out any Essential Governmental Functions, including the hiring or retention of new employees or contractors to perform such functions. Each governmental entity and its contractors must employ all necessary emergency protective measures to prevent, mitigate, respond to and recover from the COVID-19 pandemic, and all Essential Governmental Functions shall be performed in compliance with Social Distancing Requirements to the greatest extent feasible.
- e. For the purposes of this Order, a “business” includes any for-profit, non-profit, or educational entity, whether a corporate entity, organization, partnership or sole proprietorship, and regardless of the nature of the service, the function it performs, or its corporate or entity structure.
- f. For the purposes of this Order, “Essential Businesses” are:
 - i. Those businesses listed as “Essential Infrastructure;”
 - ii. Healthcare Operations and businesses that operate, maintain, or repair Essential Infrastructure;
 - iii. Grocery stores, certified farmers’ markets, farm and produce stands, supermarkets, food banks, convenience stores, and other establishments engaged in the retail sale of unprepared food, canned food, dry goods, non-alcoholic beverages, fresh fruits and vegetables, pet supply, fresh meats, fish, and poultry, as well as hygienic products and household consumer products necessary for personal hygiene or the habitability, sanitation, or operation of residences. The businesses included in this subparagraph (iii) include establishments that sell multiple categories of products provided that they sell a significant amount of essential products identified in this subparagraph, such as liquor stores that also sell a significant amount of food.
 - iv. Any form of cultivation of products for personal consumption or use, including farming, ranching, livestock, and fishing; and associated activities, including but not limited to, activities or businesses associated with planting, growing, harvesting, processing, cooling, storing, packaging, and transporting such products, or the wholesale or retail sale of such products, provided that, to the extent possible, such businesses comply with Social Distancing Requirements and otherwise provide for the health and safety of their employees;

- v. Businesses that provide food, shelter, and social services, and other necessities of life for economically disadvantaged or otherwise needy individuals;
- vi. Construction, including workers who support operation, inspection, and maintenance of construction sites and construction projects, including but not limited to surveyors and workers conducting site inspections. Construction shall comply with Social Distancing Requirements and the Construction Safety Protocols listed in Appendices B-1 and B-2 and incorporated into this Order by this reference.
- vii. Newspapers, television, radio, and other media services.
- viii. Gas stations, vehicle supply, vehicle repair (including, but not limited to, for cars, trucks, motorcycles and motorized scooters), and vehicle dealerships, (and not, by way of example, car washes). Vehicle dealerships are encouraged to conduct on-line sales of vehicles and to deliver vehicles to a residence or Essential Business. Dealerships may provide test drives of vehicles for sale, provided that only members of the same family or household are in the vehicle at any time. Dealerships shall clean and sanitize vehicles after test drives;
- ix. Bicycle repair and supply shops;
- x. Banks and related financial institutions;
- xi. Service providers that enable residential transactions (including rentals, leases, and home sales), including but not limited to real estate agents, escrow agents, notaries, and title companies. Residential viewings should occur virtually as much as possible. In person residential viewings shall be by appointment only, with no more than two visitors at a time residing within the same household or living unit and one individual showing the unit. In person visits are not allowed when the occupant is still residing in the residence unless cloth face coverings are worn during the visit, there is no contact with staging items or personal property during the showing, and the seller or landlord cleans and sanitizes the property after the visit with products on the Environmental Protection Agency's approved list of disinfectants, paying attention to any areas that may be commonly touched, such as light switches, door knobs, handles, counter tops, appliances and staging items;
- xii. Hardware stores;
- xiii. Plumbers, electricians, exterminators, and other service providers who provide services that are necessary to maintaining the habitability, sanitation, and operation of residences and Essential Businesses;
- xiv. Businesses providing plant nursery, arboriculture, landscaping, gardening, grounds keeping and similar service professionals.
- xv. Businesses providing mailing and shipping services, including post office boxes;
- xvi. Educational institutions, including public and private K-12 schools, colleges, and universities, for purposes of facilitating distance learning or

- performing essential functions, provided that social distancing of six feet is maintained to the greatest extent possible;
- xvii. Laundromats, drycleaners, and laundry service providers;
 - xviii. Restaurants and other facilities that prepare and serve food, but only for delivery or carry out. Schools and other entities that typically provide free food services to students or members of the public may continue to do so under this Order on the condition that the food is provided to students or members of the public on a pick-up and take-away basis only. Schools and other entities that provide food services under this exemption shall not permit the food to be eaten at the site where it is provided, or at any other gathering site;
 - xix. Funeral home providers, mortuaries, cemeteries, and crematoriums, to the extent necessary for the transport, preparation, or processing of bodies or remains;
 - xx. Businesses that supply products needed for people to work from home;
 - xxi. Businesses that supply other Essential Businesses with the support or supplies necessary to operate, but only to the extent that they support or supply these Essential Businesses. This exemption shall not be used as a basis for engaging in sales to the general public from retail storefronts;
 - xxii. Businesses that have the primary function of shipping or delivering groceries, food, or other goods directly to residences or businesses. This exemption shall not be used to allow for manufacturing or assembly of non-essential products or for other functions besides those necessary to the delivery operation;
 - xxiii. Airlines, taxis, rental car companies, rideshare services (including shared bicycles and scooters), and other private transportation providers providing transportation services necessary for Essential Activities and other purposes expressly authorized in this Order;
 - xxiv. Home-based care for seniors, adults, children, and pets;
 - xxv. Residential facilities and shelters for seniors, adults, and children;
 - xxvi. Professional services, such as legal, notary, or accounting services, when necessary to assist in compliance with non-elective, legally required activities;
 - xxvii. Services to assist individuals in finding employment with Essential Businesses;
 - xxviii. Moving services that facilitate residential or commercial moves that are allowed under this Order;
 - xxix. Faith-based services provided through streaming or similar technology, including drive-in services where the individuals participating in such services remain in their vehicles and abide by Social Distancing Requirements.
 - xxx. Childcare establishments, summer camps, and other educational or recreational institutions or programs providing care or supervision for children of all ages that enable owners, employees, volunteers, and contractors for Essential Businesses, Minimum Basic Operations,

Healthcare Operations, Essential Infrastructure or Essential Governmental Functions to work as allowed under this Order. To the extent possible, programs must operate under the following conditions:

1. They must be carried out in stable groups of 12 or fewer (“stable” means that the same 12 or fewer children are in the same group each day).
 2. Children shall not change from one group to another.
 3. If more than one group of children is cared for at one facility, each group shall be in a separate room. Groups shall not mix with each other.
 4. Providers shall remain solely with one group of children.
- xxxii. Fabric stores and craft stores that supply fabric and related materials may transact business for the purposes of supplying materials necessary to create face coverings, gowns and other personal protective equipment.
- g. For the purposes of this Order, “Minimum Basic Operations” means the following activities for businesses, provided that owners, employees, and contractors comply with Social Distancing Requirements as defined this Section, to the extent possible, while carrying out such operations:
- i. The minimum necessary activities to maintain and protect the value of the business’s inventory and facilities; ensure security, safety, and sanitation; process payroll and employee benefits; provide for the delivery of existing inventory directly to residences or businesses; and related functions.
 - ii. The minimum necessary activities to facilitate owners, employees, and contractors of the business being able to continue to work remotely from their residences, and to ensure that the business can deliver its service remotely.
- h. For the purposes of this Order, all Essential Businesses must prepare and post a “Social Distancing Protocol” for each of their facilities in the County frequented by the public or employees. The Social Distancing Protocol must be substantially in the form attached to this Order, listed in Appendix C and incorporated into this Order by this reference. The Social Distancing Protocol must be posted at or near the entrance of the relevant facility, and shall be easily viewable by the public and employees. A copy of the Social Distancing Protocol must also be provided to each employee performing work at the facility. All Essential Businesses shall implement the Social Distancing Protocol and provide evidence of its implementation to any authority enforcing this Order upon demand. The Social Distancing Protocol must explain how the business is achieving the following, as applicable:
- i. Limiting the number of people who can enter into the facility and work areas at any one time to ensure that people in the facility and work areas can easily maintain a minimum six-foot distance from one another at all times, except as required to complete the Essential Business activity;

- ii. Where lines may form at a facility, marking six-foot increments at a minimum, establishing where individuals should stand to maintain adequate social distancing;
 - iii. Providing hand sanitizer, soap and water, or effective disinfectant at or near the entrance of the facility and in other appropriate areas for use by the public and employees, and in locations where there is high-frequency employee interaction with members of the public (e.g. cashiers);
 - iv. Providing for contactless payment systems or, if not feasible to do so, the providing for disinfecting all payment portals, pens, and styluses after each use;
 - v. Regularly cleaning and disinfecting other high-touch surfaces; and
 - vi. Posting a sign at the entrance of the facility and work area informing all employees and customers that they should: avoid entering the facility if they have a cough or fever; maintain a minimum six-foot distance from one another; sneeze and cough into one's elbow; not shake hands or engage in any unnecessary physical contact.
 - vii. Adhering to additional social distancing guidance recommended by the Centers for Disease Control and Prevention's at: <https://www.cdc.gov/coronavirus/2019-ncov/community/guidance-business-response.html>).
- i. For the purposes of this Order, "Essential Travel" means travel for any of the following purposes:
- i. Travel related to the provision of or access to Essential Activities, Essential Infrastructure, Essential Governmental Functions, Essential Businesses, or Minimum Basic Operations.
 - ii. Travel to care for any elderly, minors, dependents, or persons with disabilities.
 - iii. Travel to or from educational institutions for purposes of receiving materials for distance learning, for receiving meals, and any other related services.
 - iv. Travel to return to a place of residence from outside the County.
 - v. Travel required by law enforcement or court order.
 - vi. Travel required for non-residents to return to their place of residence outside the County. Individuals are strongly encouraged to verify that their transportation out of the County remains available and functional prior to commencing such travel.
 - vii. Travel to manage after-death arrangements and burial.
 - viii. Travel to arrange for shelter or avoid homelessness.
 - ix. Travel to avoid domestic violence or child abuse.
 - x. Travel for parental custody arrangements.
 - xi. Travel to a place to temporarily reside in a residence or other facility to avoid potentially exposing others to COVID-19, such as a hotel or other facility provided by a governmental authority for such purposes.


- j. For purposes of this Order, “residences” include bed and breakfasts, hotels, motels, shared rental units and similar facilities. Residences also include living structures and outdoor spaces associated with those living structures, such as patios, porches, backyards, and front yards that are only accessible to a single family or household unit.
- k. For purposes of this Order, “Social Distancing Requirements” means:
 - i. Maintaining at least six-foot social distancing from individuals who are not part of the same household or living unit;
 - ii. Frequently washing hands with soap and water for at least 20 seconds, or using hand sanitizer that is recognized by the Centers for Disease Control and Prevention as effective in combatting COVID-19;
 - iii. Covering coughs and sneezes with a tissue or fabric or, if not possible, into the sleeve or elbow (but not into hands); and
 - iv. Wearing a face covering when out in public, consistent with orders or guidance of the Health Officer;
 - v. Avoiding all social interaction outside the household when sick with a fever or cough.

All individuals must strictly comply with Social Distancing Requirements, except to the limited extent necessary to provide care (including childcare, adult or senior care, care to individuals with special needs, and patient care); as necessary to carry out the work of Essential Businesses, Essential Governmental Functions, or provide for Minimum Basic Operations; or as otherwise expressly provided in this Order.

- 14. Government agencies and other entities operating shelters and other facilities that house or provide meals or other necessities of life for individuals experiencing homelessness must take appropriate steps to help ensure compliance with Social Distancing Requirements, including adequate provision of hand sanitizer. Also, individuals experiencing homelessness who are unsheltered and living in encampments should, to the maximum extent feasible, abide by 12 foot by 12 foot distancing for the placement of tents, and government agencies should provide restroom and hand washing facilities for individuals in such encampments as set forth in Centers for Disease Control and Prevention Interim Guidance Responding to Coronavirus 2019 (COVID-19) Among People Experiencing Unsheltered Homelessness (<https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/unsheltered-homelessness.html>).
- 15. Pursuant to Government Code sections 26602 and 41601 and Health and Safety Code section 101029, the Health Officer requests that the Sheriff and all chiefs of police in the County ensure compliance with and enforce this Order. The violation of any provision of this Order constitutes an imminent threat and menace to public health, constitutes a public nuisance, and is punishable by fine, imprisonment, or both.

16. This Order shall become effective at 12:01 a.m. on May 4, 2020 and will continue to be in effect until 11:59 p.m. on May 31, 2020, or until it is extended, rescinded, superseded, or amended in writing by the Health Officer.
17. Copies of this Order shall promptly be: (1) made available at County Government Center at 168 W. Alisal Street, Salinas CA 93901; (2) posted as a link on the Monterey County Health Department website <https://www.co.monterey.ca.us/government/departments-a-h/health/diseases/2019-novel-coronavirus-covid-19>; (3) distributed to the electronic and print press; and (4) provided to any member of the public requesting this Order.
18. If any provision of this Order to its application to any person or circumstance is held to be invalid, the remainder of the Order, including the application of such part or provision to other persons or circumstances, shall not be affected and shall continue in full force and effect. To this end, the provisions of this Order are severable.

IT IS SO ORDERED:



Edward Moreno MD, MPH
Health Officer of the County of Monterey
Dated: May 1, 2020

Attachments: Appendix A Golf Safety Protocol
Appendix B-1 Small Construction Project Safety Protocol
Appendix B-2 Large Construction Project Safety Protocol
Appendix C Social Distancing Protocol

Appendix C: Social Distancing Protocol (Updated April 29, 2020)

Business name: Click or tap here to enter text.

Facility Address: Click or tap here to enter text.

Approximate gross square footage of space open to the public: Click or tap here to enter text.

Businesses must implement all applicable measures listed below, and be prepared to explain why any measure that is not implemented is inapplicable to the business.

Signage:

Signage at each public entrance of the facility to inform all employees and customers that they should: avoid entering the facility if they have COVID-19 symptoms; maintain a minimum six-foot distance from one another; sneeze and cough into a cloth or tissue or, if not available, into one's elbow; wear face coverings, as appropriate; and not shake hands or engage in any unnecessary physical contact.

Signage posting a copy of the Social Distancing Protocol at each public entrance to the facility.

Measures To Protect Employee Health (check all that apply to the facility):

Everyone who can carry out their work duties from home has been directed to do so.

All employees have been told not to come to work if sick.

Symptom checks are being conducted before employees may enter the work space.

Employees are required to wear face coverings, as appropriate.

All desks or individual work stations are separated by at least six feet.

Break rooms, bathrooms, and other common areas are being disinfected frequently, on the following schedule:

Break rooms:

Bathrooms:

Other (Click or tap here to enter text.): Click or tap here to enter text.

Disinfectant and related supplies are available to all employees at the following location(s):

Hand sanitizer effective against COVID-19 is available to all employees at the following location(s):

Soap and water are available to all employees at the following location(s): Click or tap here to enter text.

Copies of this Protocol have been distributed to all employees.

Optional—Describe other measures: Click or tap here to enter text.

Measures To Prevent Crowds From Gathering (check all that apply to the facility):

Limit the number of customers in the store at any one time to Click or tap here to enter text., which allows for customers and employees to easily maintain at least six-foot distance from one another at all practicable times.

Post an employee at the door to ensure that the maximum number of customers in the facility set forth above is not exceeded.

Appendix C: Social Distancing Protocol (Updated April 29, 2020)

- Placing per-person limits on goods that are selling out quickly to reduce crowds and lines. Explain:

- Optional—Describe other measures: [Click or tap here to enter text.](#)

Measures To Keep People At Least Six Feet Apart (check all that apply to the facility)

- Placing signs outside the store reminding people to be at least six feet apart, including when in line.
- Placing tape or other markings at least six feet apart in customer line areas inside the store and on sidewalks at public entrances with signs directing customers to use the markings to maintain distance.
- Separate order areas from delivery areas to prevent customers from gathering.
- All employees have been instructed to maintain at least six feet distance from customers and from each other, except employees may momentarily come closer when necessary to accept payment, deliver goods or services, or as otherwise necessary.
- Optional—Describe other measures: [Click or tap here to enter text.](#)

Measures To Prevent Unnecessary Contact (check all that apply to the facility):

- Preventing people from self-serving any items that are food-related.
- Lids for cups and food-bar type items are provided by staff; not to customers to grab.
- Bulk-item food bins are not available for customer self-service use.
- Not permitting customers to bring their own bags, mugs, or other reusable items from home.
- Providing for contactless payment systems or, if not feasible, sanitizing payment systems regularly.
Describe: [Click or tap here to enter text.](#)
- Optional—Describe other measures (e.g. providing senior-only hours): [Click or tap here to enter text.](#)

Measures To Increase Sanitization (check all that apply to the facility):

- Disinfecting wipes that are effective against COVID-19 are available near shopping carts and shopping baskets.
- Employee(s) assigned to disinfect carts and baskets regularly.
- Hand sanitizer, soap and water, or effective disinfectant is available to the public at or near the entrance of the facility, at checkout counters, and anywhere else where people have direct interactions.
- Disinfecting all payment portals, pens, and styluses after each use.
- Disinfecting all high-contact surfaces frequently.
- Optional—Describe other measures: [Click or tap here to enter text.](#)

* Any additional measures not included here should be listed on separate pages and attached to this document.

You may contact the following person with any questions or comments about this protocol:

Name: [Click or tap here to enter text.](#)

Phone number: [Click or tap here to enter text.](#)

EXHIBIT J

EXECUTIVE DEPARTMENT
STATE OF CALIFORNIA

EXECUTIVE ORDER N-60-20

WHEREAS on March 4, 2020, I proclaimed a State of Emergency to exist in California as a result of the threat of COVID-19; and

WHEREAS on March 19, 2020, I issued Executive Order N-33-20, which directed all California residents to immediately heed current State public health directives; and

WHEREAS State public health directives, available at <https://covid19.ca.gov/stay-home-except-for-essential-needs/>, have ordered all California residents stay home except for essential needs, as defined in State public health directives; and

WHEREAS COVID-19 continues to menace public health throughout California; and

WHEREAS the extent to which COVID-19 menaces public health throughout California is expected to continue to evolve, and may vary from place to place within the State; and

WHEREAS California law promotes the preservation of public health by providing for local health officers—appointed by county boards of supervisors and other local authorities—in addition to providing for statewide authority by a State Public Health Officer; and

WHEREAS these local health officers, working in consultation with county boards of supervisors and other local authorities, are well positioned to understand the local needs of their communities; and

WHEREAS local governments are encouraged to coordinate with federally recognized California tribes located within or immediately adjacent to the external geographical boundaries of such local government jurisdiction; and

WHEREAS the global COVID-19 pandemic threatens the entire State, and coordination between state and local public health officials is therefore, and will continue to be, necessary to curb the spread of COVID-19 throughout the State; and

WHEREAS State public health officials have worked, and will continue to work, in consultation with their federal, state, and tribal government partners; and

WHEREAS the State Public Health Officer has articulated a four-stage framework—which includes provisions for the reopening of lower-risk businesses and spaces (“Stage Two”), to be followed by the reopening of higher-risk businesses and spaces (“Stage Three”)—to allow Californians to gradually resume various activities while continuing to preserve public health in the face of COVID-19; and

WHEREAS the threat posed by COVID-19 is dynamic and ever-changing, and the State's response to COVID-19 (including implementation of the four-stage framework) should likewise retain the ability to be dynamic and flexible; and

WHEREAS to preserve this flexibility, and under the provisions of Government Code section 8571, I find that strict compliance with the Administrative Procedure Act, Government Code section 11340 et seq., would prevent, hinder, or delay appropriate actions to prevent and mitigate the effects of the COVID-19 pandemic.

NOW, THEREFORE, I, GAVIN NEWSOM, Governor of the State of California, in accordance with the authority vested in me by the State Constitution and statutes of the State of California, and in particular, Government Code sections 8567, 8571, 8627, and 8665; and also in accordance with the authority vested in the State Public Health Officer by the laws of the State of California, including but not limited to Health and Safety Code sections 120125, 120130, 120135, 120140, 120145, 120150, 120175, and 131080; do hereby issue the following Order to become effective immediately:

IT IS HEREBY ORDERED THAT:

- 1) All residents are directed to continue to obey State public health directives, as made available at <https://covid19.ca.gov/stay-home-except-for-essential-needs/> and elsewhere as the State Public Health Officer may provide.
- 2) As the State moves to allow reopening of lower-risk businesses and spaces ("Stage Two"), and then to allow reopening of higher-risk businesses and spaces ("Stage Three"), the State Public Health Officer is directed to establish criteria and procedures—as set forth in this Paragraph 2—to determine whether and how particular local jurisdictions may implement public health measures that depart from the statewide directives of the State Public Health Officer.

In particular, the State Public Health Officer is directed to establish criteria to determine whether and how, in light of the extent to which the public health is menaced by COVID-19 from place to place within the State, local health officers may (during the relevant stages of reopening) issue directives to establish and implement public health measures less restrictive than any public health measures implemented on a statewide basis pursuant to the statewide directives of the State Public Health Officer.

The State Public Health Officer is further directed to establish procedures through which local health officers may (during the relevant stages of reopening) certify that, if their respective jurisdictions are subject to proposed public health measures (which they shall specify to the extent such specification may be required by the State Public Health Officer) that are less restrictive than public health measures implemented on a statewide basis pursuant to the statewide directives of the State Public Health Officer, the public health will not be menaced. The State Public Health Officer shall additionally establish procedures to permit, in a manner consistent with public health and

safety, local health officers who submit such certifications to establish and implement such less restrictive public health measures within their respective jurisdictions.

The State Public Health Officer may, from time to time and as she deems necessary to respond to the dynamic threat posed by COVID-19, revise the criteria and procedures set forth in this Paragraph 2. Nothing related to the establishment or implementation of such criteria or procedures, or any other aspect of this Order, shall be subject to the Administrative Procedure Act, Government Code section 11340 et seq. Nothing in this Paragraph 2 shall limit the authority of the State Public Health Officer to take any action she deems necessary to protect public health in the face of the threat posed by COVID-19, including (but not limited to) any necessary revision to the four-stage framework previously articulated by the State Public Health Officer.

- 3) Nothing in this Order shall be construed to limit the existing authority of local health officers to establish and implement public health measures within their respective jurisdictions that are more restrictive than, or that otherwise exist in addition to, the public health measures imposed on a statewide basis pursuant to the statewide directives of the State Public Health Officer.

IT IS FURTHER ORDERED that as soon as hereafter possible, this Order be filed in the Office of the Secretary of State and that widespread publicity and notice be given of this Order.

This Order is not intended to, and does not, create any rights or benefits, substantive or procedural, enforceable at law or in equity, against the State of California, its agencies, departments, entities, officers, employees, or any other person.

IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 4th day of May 2020.



GAVIN NEWSOM
Governor of California

ATTEST:

ALEX PADILLA
Secretary of State

EXHIBIT K



ORDER OF THE STATE PUBLIC HEALTH
OFFICER
May 7, 2020

On March 19, 2020, I issued an order directing all individuals living in the State of California to stay at home except as needed to facilitate authorized, necessary activities or to maintain the continuity of operations of critical infrastructure sectors. (See <https://covid19.ca.gov/stay-home-except-for-essential-needs/>.) I then set out California's path forward from this "Stay-at-Home" Order in California's Pandemic Roadmap <https://www.gov.ca.gov/wp-content/uploads/2020/05/5.4.20-Update-on-Californias-Pandemic-Roadmap.pdf>. That Roadmap identifies four stages of the pandemic: safety and preparation (Stage 1), reopening of lower-risk workplaces and other spaces (Stage 2), reopening of higher-risk workplaces and other spaces (Stage 3), and finally an easing of final restrictions leading to the end of the stay at home order (Stage 4).

Today, COVID-19 continues to present a significant risk to the health of individuals throughout California. There are confirmed cases of the virus in 54 of the 58 counties across the State, and each day over the past two weeks over one thousand new cases have been confirmed in California and dozens of people have lost their lives due to the virus. However, owing to Californians' mitigation efforts, statewide data currently demonstrates stable rates of new infections and hospitalizations, the maintenance of surge capacity, and an improved ability to test, contact trace, isolate, and provide support to individuals exposed to COVID-19. As State Public Health Officer, I have determined that the statewide data now supports the gradual movement of the entire state from Stage 1 to Stage 2 of California's Pandemic Resilience Roadmap.

Gradual movement into Stage 2 is intended to reintroduce activities and sectors in a phased manner and with necessary modifications, in order to protect public health and result in a lower risk for COVID-19 transmission and outbreak in a community. Such deliberate phasing is critical to allowing the State to protect the public, and to mitigate and manage the impact of the re-openings, such that our health care delivery system has the capacity to respond to potential increased demands. Differences across the state in the prevalence of COVID-19, as well as testing rates, containment capability, and hospital capacity, have resulted in differences among local health jurisdictions' ability to safely progress through the various stages. The low and stable data reported by some local health officers in their local health jurisdictions, combined with sufficient COVID-19 preparedness, justifies allowance for some variation in the speed with which some local health jurisdictions will be able to move through the phases of Stage 2.

NOW, THEREFORE, I as State Public Health Officer and Director of the California Department of Public Health, order:

1. All local health jurisdictions in the state may begin gradual movement into Stage 2, as set forth in this Order, effective on May 8, 2020; however, a local health jurisdiction may implement or continue more restrictive public health measures if the jurisdiction's Local Health Officer believes conditions in that jurisdiction warrant it.
2. I will progressively designate sectors, businesses, establishments, or activities that may reopen with certain modifications, based on public health and safety needs, and I will add additional sectors, businesses, establishments, or activities at a pace designed to protect public health and safety. Those sectors, businesses, establishments, or activities that are permitted to open will be designated, along with necessary modifications, at <https://covid19.ca.gov/roadmap/>, as I announce them.
3. To the extent that such sectors are re-opened, Californians may leave their homes to work at, patronize, or otherwise engage with those businesses, establishments, or activities and must, when they do so, continue at all times to practice physical distancing, minimize their time outside of the home, and wash their hands frequently. To prevent further spread of COVID-19 to and within other jurisdictions within the State, Californians should not travel significant distances and should stay close to home. My March 19, 2020, Order otherwise remains in full effect.

4. The California Department of Public Health has set forth criteria to help local health officers assess the capacity of their local health jurisdictions to move through Stage 2. Local health jurisdictions that meet the criteria and follow the process set forth <https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/COVID-19-County-Variance-Attestation-Memo.aspx> will be permitted to move through Stage 2 more quickly than the State as a whole and reopen additional low-risk businesses before the rest of the state, if they choose to do so. A list of the sectors, businesses, establishments, or activities, and any necessary modifications, that such a qualifying jurisdiction may choose to reopen will be available at <https://covid19.ca.gov/roadmap-counties/>, and may be expanded if I deem it to be in the interest of public health and safety.

Pursuant to the authority under EO N-60-20, and Health and Safety Code sections 120125, 120140, 131080, 120130(c), 120135, 120145, 120175 and 120150, this Order is to go into effect immediately and shall stay in effect until further notice.

This Order is being issued to protect the public health of Californians as we move as expeditiously to minimize risk to the extent possible throughout the Stages of the Pandemic Resilience Roadmap.



Sonia Y Angell, MD, MPH
State Public Health Officer & Director
California Department of Public Health

EXHIBIT L

**SUPPLEMENTAL ORDER OF THE HEALTH
OFFICER OF THE COUNTY OF MONTEREY
DIRECTING ALL INDIVIDUALS LIVING IN THE
COUNTY TO CONTINUE SHELTERING AT
THEIR PLACE OF RESIDENCE AND RELAXING
RESTRICTIONS ON CERTAIN LOWER-RISK
BUSINESSES CONSISTENT WITH DIRECTION
FROM THE STATE OF CALIFORNIA**

DATE OF ORDER: May 8, 2020

Please read this Supplemental Order carefully. Violation of or failure to comply with this Order is a misdemeanor punishable by fine, imprisonment, or both (California Health and Safety Code § 120295, *et seq.*).

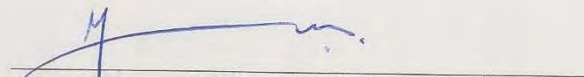
UNDER THE AUTHORITY OF CALIFORNIA HEALTH AND SAFETY CODE SECTIONS 101040 AND 120175, THE HEALTH OFFICER OF THE COUNTY OF MONTEREY ("HEALTH OFFICER") ORDERS:

1. This Supplemental Order supplements, but does not replace, the May 1, 2020 Order of the County Health Officer directing all individuals to shelter in place ("Prior Shelter Order"). This Supplemental Order shall become effective at 12:00 p.m. on May 8, 2020 and will continue to be in effect until it is rescinded or amended in writing by the County Health Officer. Except as supplemented herein, the terms, conditions and directives of the May 1, 2020 Order remain in effect and are incorporated herein by reference.
2. Governor Gavin Newsom has announced that the State of California will move into the early phase of Stage 2 of the COVID-19 reopening process beginning on Friday, May 8, 2020 (hereinafter "State Order for Stage 2"). This Supplemental Order will allow additional lower-risk retail businesses and associated manufacturing and supply chain businesses that support these businesses to resume business with modifications, if they can meet the guidelines provided by the state, and can comply with the County Health Officer Social Distancing Requirements and all Health Officer Orders in effect. These workplaces include, but are not limited to, bookstores, jewelry stores, toy stores, clothing stores, shoe stores, home and furnishing stores, sporting goods stores, antique stores, music stores, florists, all of which may

provide services to the public via curbside pick-up and delivery only. Members of the public may place orders online or via telephone only, and retailers are not allowed to display merchandise on sidewalks. By way of this Supplemental Order, the County Health Officer aligns the Prior Shelter in Place Order with the State Order for Stage 2, consistent with orders and guidance issued by the Governor and the State Department of Public Health. Businesses are advised to carefully review State Orders and guidance to determine whether their business falls within the confines of the State Order for Stage 2 such that they can resume business. Those businesses that do not fall within the confines of the State Order for Stage 2 and do not fall into the confines of the Prior Shelter in Place Order are prohibited from reopening and are subject to citation for violation of this Supplemental Order.

3. Copies of this Supplemental Order shall promptly be: (1) made available at the County Government Center at 168 West Alisal Street, CA 93901 and the County Health Department at 1270 Natividad Rd., Salinas CA 93906; (2) posted on the County Health Department website www.mtyhd.org; and (3) provided to any member of the public requesting a copy of this Order.
4. If any provision of this Supplemental Order or its application to any person or circumstance is held to be invalid, the remainder of this Supplemental Order, including the application of such part or provision to other persons or circumstances, shall not be affected and shall continue in full force and effect. To this end, the provisions of this Supplemental Order are severable.
5. Questions or comments regarding this Order may be directed to Monterey County Health Department at (831) 755-4521.

IT IS SO ORDERED:



Edward Moreno, MD, MPH
Health Officer of the County of Monterey

Dated May 8, 2020

JEANNINE M. PACIONI
Monterey County District Attorney
Emily D. Hickok (SBN 247175)
Christopher J. Judge (SBN 274418)
Deputy District Attorneys
1200 Aguajito Road, Room 301
Monterey, CA 93940
Telephone: (831) 647-7710
Email: HickokED@co.monterey.ca.us
Email: JudgeC@co.monterey.ca.us
Attorneys for Plaintiff
The People of the State of California

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF MONTEREY**

PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

vs.

THE TUCK BOX, a business of unknown origin;
JEFFREY LETOWT, an individual; and
DOES 1-10, inclusive,

Defendants.

Case No.: 20CV001448

**DECLARATION OF CARMEL
POLICE DEPARTMENT OFFICER
BRUNO IN SUPPORT OF
TEMPORARY RESTRAINING
ORDER AND ORDER TO SHOW
CAUSE REGARDING
PRELIMINARY INJUNCTION**

I, Michael Bruno, declare that if called and sworn as a witness, I could and would testify to the following:

1. I am a police officer with the Carmel Police Department, and I have worked in that capacity for 6 1/2 years.

2. On or about May 4, 2020, I spoke to Jeffrey LeTowt in front of his restaurant, the Tuck Box, in Carmel-by-the-Sea. LeTowt expressed his dislike for the Monterey County Shelter in Place Order and told me that he planned on defying the order and opening his business and allowing patrons to dine and consume food in the restaurant. I advised LeTowt that he could face civil and criminal charges for violating the Shelter in Place Order.

3. On May 10, 2020, at approximately 11:15 a.m., I arrived at the Tuck Box and observed the business open, with six separate tables seated with customers: three tables inside and three tables outside.

4. I noted that inside the restaurant, three customers were at one table and two customers were at another table in the corner. Both of these two tables were less than six feet away from one another. The patrons at the table closer to me were in the process of consuming food and beverages. A true and accurate copy of a photograph that I took of these tables is attached hereto as Exhibit A.

5. I also observed another table inside with six people sitting around it, including four adults and two children.

6. Outside, I observed three separate tables with two customers each. I noted that two of these three tables had customers seated less than six feet away from one another. A true and accurate copy of a photograph that I took of the patio area is attached hereto as Exhibit B.

7. As I was driving away, I observed LeTowt walking into the restaurant.

8. While I was at the Tuck Box on this day, I did not observe any patrons or employees in the restaurant wearing face coverings.

9. All exhibits are incorporated herein by reference.

I declare under penalty of perjury under the laws of the State of California that the above statements are of my own knowledge and are true and correct. Executed at Carmel, California, on May 10, 2020.

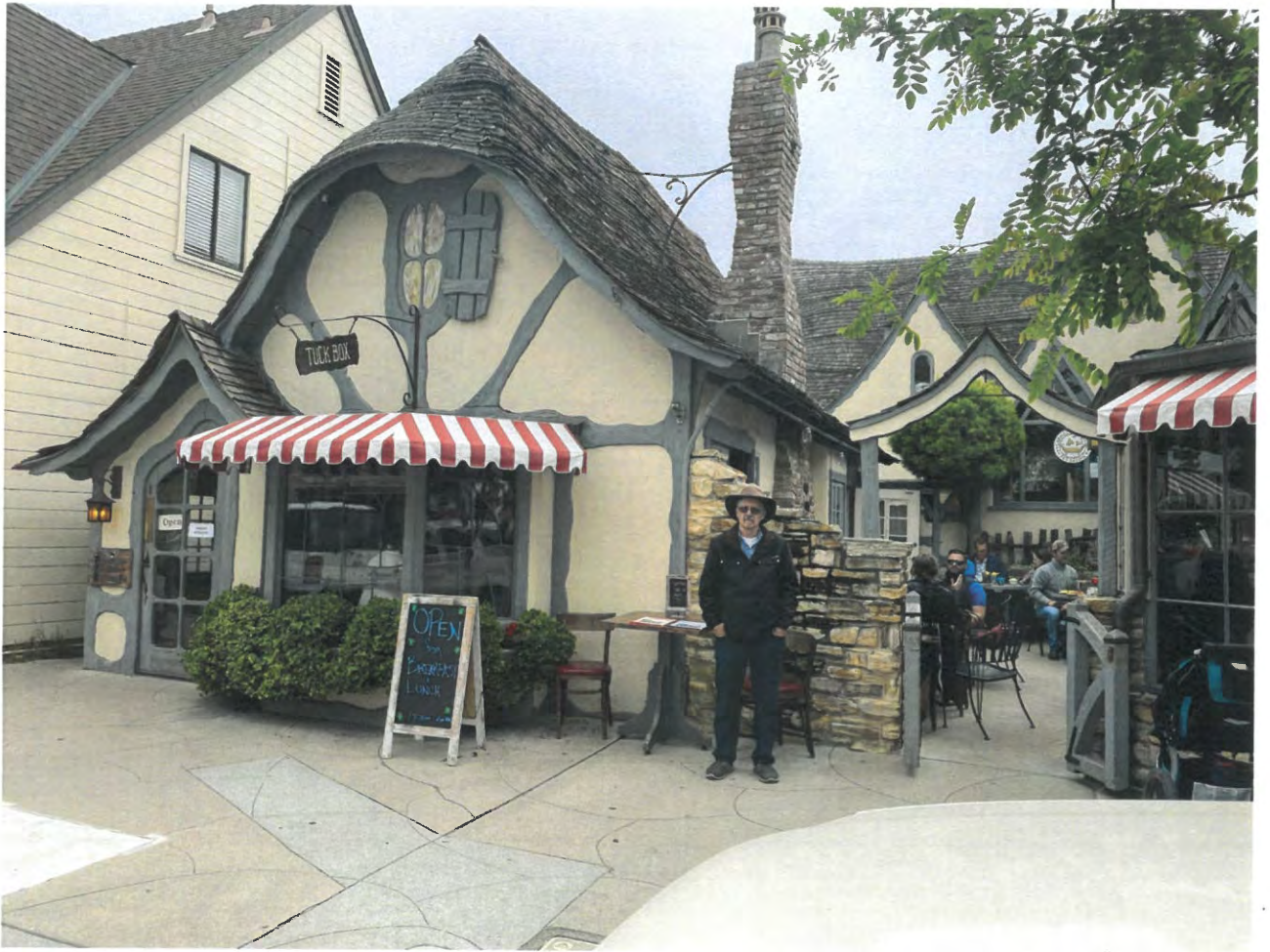


Michael Bruno

EXHIBIT A



EXHIBIT B



1 JEANNINE M. PACIONI
2 Monterey County District Attorney
3 Emily D. Hickok (SBN 247175)
4 Christopher J. Judge (SBN 274418)
5 Deputy District Attorneys
6 1200 Aguajito Road, Room 301
7 Monterey, CA 93940
8 Telephone: (831) 647-7710
9 Email: HickokED@co.monterey.ca.us
10 Email: JudgeC@co.monterey.ca.us
11 *Attorneys for Plaintiff*
12 *The People of the State of California*

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **FOR THE COUNTY OF MONTEREY**

11 PEOPLE OF THE STATE OF CALIFORNIA,

12 Plaintiff,

13 vs.

14 THE TUCK BOX, a business of unknown origin;
15 JEFFREY LETOWT, an individual; and
16 DOES 1-10, inclusive,

17 Defendants.

Case No.: 20CV001448

**DECLARATION OF CARMEL
POLICE DEPARTMENT CHIEF
TOMASI IN SUPPORT OF
TEMPORARY RESTRAINING
ORDER AND ORDER TO SHOW
CAUSE REGARDING
PRELIMINARY INJUNCTION**

18
19 I, Paul Tomasi, declare that if called and sworn as a witness, I could and would testify to the
20 following:

21 1. I am the Chief of the Carmel Police Department, and I have worked in that capacity for
22 three years.

23 2. On May 5, 2020, I went to the Tuck Box restaurant in Carmel-by-the-Sea to speak with
24 the owner, Jeffrey LeTowt. The following describes our interaction at the Tuck Box restaurant on May
25 5, 2020.
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EXHIBIT A

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1 JEANNINE M. PACIONI
2 Monterey County District Attorney
3 Emily D. Hickok (SBN 247175)
4 Christopher J. Judge (SBN 274418)
5 Deputy District Attorneys
6 1200 Aguajito Road, Room 301
7 Monterey, CA 93940
8 Telephone: (831) 647-7710
9 Email: HickokED@co.monterey.ca.us
10 Email: JudgeC@co.monterey.ca.us
11 *Attorneys for Plaintiff*
12 *The People of the State of California*

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **FOR THE COUNTY OF MONTEREY**

11 PEOPLE OF THE STATE OF CALIFORNIA,

12 Plaintiff,

13 vs.

14 THE TUCK BOX, a business of unknown origin;
15 JEFFREY LETOWT, an individual; and
16 DOES 1-10, inclusive,

17 Defendants.

Case No.: 20CV001448

**DECLARATION OF CARMEL
POLICE DEPARTMENT OFFICER
JOHNSON IN SUPPORT OF
TEMPORARY RESTRAINING
ORDER AND ORDER TO SHOW
CAUSE REGARDING
PRELIMINARY INJUNCTION**

18
19
20 I, Greg Johnson, declare that if called and sworn as a witness, I could and would testify to the
21 following:

22 1. I am a police officer with the Carmel Police Department, and I have worked in that
23 capacity for twelve (12) years.

24 2. On May 9, 2020, at approximately 12:22 p.m., I was on foot patrol in the area of Dolores
25 Street and 7th Avenue, investigating an unrelated matter.

26 3. I was in the area of the Tuck Box restaurant and I attempted to contact the owner, Jeffrey
27 LeTowt. The front door of the restaurant was locked, but I was able to enter the business from the
28 courtyard.

EXHIBIT A

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1 JEANNINE M. PACIONI
2 Monterey County District Attorney
3 Emily D. Hickok (SBN 247175)
4 Christopher J. Judge (SBN 274418)
5 Deputy District Attorneys
6 1200 Aguajito Road, Room 301
7 Monterey, CA 93940
8 Telephone: (831) 647-7710
9 Email: HickokED@co.monterey.ca.us
10 Email: JudgeC@co.monterey.ca.us
11 *Attorneys for Plaintiff*
12 *The People of the State of California*

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **FOR THE COUNTY OF MONTEREY**

11 PEOPLE OF THE STATE OF CALIFORNIA,

12 Plaintiff,

13 vs.

14 THE TUCK BOX, a business of unknown origin;
15 JEFFREY LETOWT, an individual; and
16 DOES 1-10, inclusive,

17 Defendants.

Case No.: 20CV001448

**DECLARATION OF DISTRICT
ATTORNEY INVESTIGATOR
COSTA IN SUPPORT OF
TEMPORARY RESTRAINING
ORDER AND ORDER TO SHOW
CAUSE REGARDING
PRELIMINARY INJUNCTION**

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19
20 I, George Costa, declare that if called and sworn as a witness, I could and would testify to the
21 following:

22 1. I am an investigator with the Monterey County District Attorney's Office, and I have
23 held that position for six years. Prior to working for the Monterey County District Attorney's Office, I
24 worked as a peace officer for the California Department of Insurance for six years.

25 2. On May 12, 2020, I reviewed the Facebook social media page for The Tuck Box
26 restaurant in Carmel-by-the-Sea. On Facebook, a business can create a page within the Facebook
27 website in which the business can post information about itself and users can post photographs to a page
28 and leave comments. I verified that photographs on the Facebook page for Tuck Box depicted the

1 restaurant's façade and I noted that the address posted on the page was that of the Tuck Box's in
2 Carmel-by-the-Sea. I observed several such posts from May 3, 2020 and May 11, 2020 in which users
3 recommended the Tuck Box and mentioned that the restaurant was open, with a corresponding photo
4 showing dine-in service. Based on this information, I concluded that the Facebook page corresponded to
5 the Tuck Box Restaurant that I had been assigned to investigate for violations of the Shelter in Place
6 Orders related to COVID-19. Photographs accompanying these posts depicted the restaurant serving
7 patrons. A post dated May 10, 2020 showed photographs of what appeared to be customers dining inside
8 of the restaurant. None of the customers appear to be wearing face coverings. I captured screenshots of
9 the Facebook posts and true and accurate copies of these screenshots are attached hereto as Exhibit A.

10 3. On May 13, 2020, at approximately 11:26 a.m., I along with District Attorney
11 Investigator Jennifer Mendoza, went to the Tuck Box on Dolores Avenue in Carmel. We walked by the
12 restaurant and observed two females sitting at a table in the outside patio dining area. I did not observe
13 any other customers at that time. We continued to walk around the downtown area to see if any other
14 customers arrived.

15 4. We met up with an agent from the California Department of Alcoholic Beverage Control
16 (ABC) who was also in the vicinity with his partner.

17 5. At approximately 11:51 a.m., I, along with my fellow investigator and the two ABC
18 agents walked by the restaurant and observed two tables occupied in the outside dining area. None of
19 these customers were wearing face coverings. A true and accurate photograph that DAI Mendoza took
20 on May 13, 2020 is attached hereto as Exhibit B.

21 6. I contacted the owner of the restaurant, Jeffrey LeTowt. LeTowt was not wearing a face
22 covering and did not wear one for the duration of our conversation. I also observed a female server at the
23 restaurant, who was tending to customers, and she was not wearing a face covering.

24 7. LeTowt confirmed that he was the same person that had been contacted by Carmel Police
25 Department about this matter.

26 8. LeTowt said that some of the customers he was serving were locals and a lot of people
27 came for Mother's Day weekend.

28

1 9. LeTowt indicated that he knew “exactly what [he was] getting into” by violating the
2 orders.

3 10. During our conversation, I provided LeTowt with a copy of the Monterey County Shelter
4 in Place Order dated May 1, 2020 and a copy of the Supplemental Order dated May 8, 2020.

5 11. I asked LeTowt if he intended to continue to serve dine-in customers. LeTowt said
6 “Yeah, I mean look, I gotta eat.”

7 12. We explained the potential civil and criminal penalties and fines for not complying with
8 the orders and LeTowt said that he was familiar.

9 13. I issued LeTowt a criminal citation for violating the Shelter in Place order pursuant to
10 Government Code section 8665.

11 14. On May 15, 2020, District Attorney Investigator Mendoza and I returned to The Tuck
12 Box to determine whether or not LeTowt had come into compliance with the Shelter in Place Orders
13 after we issued him a citation, or whether he was continuing to violate the Orders.

14 15. As we approached the restaurant on May 15, 2020, we encountered LeTowt walking on
15 the sidewalk and carrying what appeared to be a box of supplies for the restaurant. He stated that he
16 wanted to talk to us and then went inside the restaurant. I took a photograph of the patio of the Tuck Box
17 restaurant showing people dining on the patio. A true and correct copy of this photograph is attached
18 hereto as Exhibit C.

19 16. I saw that the inside dining area of the restaurant had approximately six occupied tables.

20 17. Although LeTowt stated that he wanted to talk to us, he did not come out to speak with
21 us. We waited for several minutes and then left the area.

22 18. On this day, neither LeTowt, the server that I saw tending to customers on the patio, or
23 the customers were wearing face coverings.

24 19. I have observed news coverage of this situation, for example, on May 15, 2020, I
25 recorded a video from the KSBW news internet site dated May 14, 2020. In the video, LeTowt was
26 interviewed and stated publicly that he intends to continue to allow dine-in service at his business.

27 ///

28 ///

EXHIBIT A



The Tuck Box Restaurant

Call Now

Like Save Suggest Edits ...

Unofficial Page Is this your business?

About



Address Dolores between Ocean & 7th
Carmel, California 93921

Phone (831) 624-6365

Website <http://www.tuckbox.com/>

Status Closed until tomorrow 7:30 AM - 2:30 PM

Hours Mon - Sun: 7:30 AM - 2:30 PM

Price \$\$

Tags [nightlife](#)

Menu [View Menu](#)

383 likes 3,821 visits

Sandy Rodrigues recommends The Tuck Box.
May 3 at 1:51 PM

Great food and scones come on in their open



Like Comment Share

Rodney Worth recommends The Tuck Box.
21 hrs

Great little gem! Service was great!

Best brunch · Great food

Like Comment Share

Posts about The Tuck Box

Yvonneandart Loera is at The Tuck Box.
May 10 at 3:05 PM · Carmel



4 1 Comment

Like Comment Share

Debbie G. Grace I had a amazing day..so nice of you guys ...
Love you lots
Mom

Like · Reply · 1d

EXHIBIT B



EXHIBIT C



1 JEANNINE M. PACIONI
2 Monterey County District Attorney
3 Emily D. Hickok (SBN 247175)
4 Christopher J. Judge (SBN 274418)
5 Deputy District Attorneys
6 1200 Aguajito Road, Room 301
7 Monterey, CA 93940
8 Telephone: (831) 647-7710
9 Email: HickokED@co.monterey.ca.us
10 Email: JudgeC@co.monterey.ca.us
11 *Attorneys for Plaintiff*
12 *The People of the State of California*

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **FOR THE COUNTY OF MONTEREY**

11 PEOPLE OF THE STATE OF CALIFORNIA,

12 Plaintiff,

13 vs.

14 THE TUCK BOX, a business of unknown origin;
15 JEFFREY LETOWT, an individual; and
16 DOES 1-10, inclusive,

17 Defendants.

Case No.: 20CV001448

**DECLARATION OF DEPUTY
DISTRICT ATTORNEY HICKOK IN
SUPPORT OF TEMPORARY
RESTRAINING ORDER AND
ORDER TO SHOW CAUSE
REGARDING PRELIMINARY
INJUNCTION**

19 I, Emily Hickok, declare that if called and sworn as a witness, I could and would testify to the
20 following:

21 1. I am deputy district attorney with the Monterey County District Attorney's Office, and I
22 have held that position for over nine years.

23 2. According to the World Health Organization's Coronavirus disease (COVID-19)
24 situation report 119 dated May 18, 2020, which I have reviewed, 87,180 people in the United States
25 have died from COVID-19 as of that date. A copy of this report is available at

26 <https://www.who.int/docs/default-source/coronaviruse/situation-reports/20200518-covid-19-sitrep->
27

1 [119.pdf?sfvrsn=4bd9de25_4](#) (last viewed on May 19, 2020). A true and correct copy of this report is
2 also attached hereto as Exhibit A.

3 3. On May 5, 2020 I was informed by the Carmel Police Department that The Tuck Box
4 restaurant in Carmel was providing dine-in table service in violation of the Monterey County Shelter in
5 Place Orders.

6 4. On May 7, 2020, I emailed a letter to an email address that appeared on the website for
7 the Tuck Box restaurant: info@tuckbox.com. The letter advised Jeffrey LeTowt, the owner of the Tuck
8 Box, of the complaints that the District Attorney's Office received alleging that he was in violation of
9 the Monterey County Shelter in Place Orders. The letter also advised of the potential civil and criminal
10 penalties for violating these orders.

11 5. An individual responded to my email from the info@tuckbox.com email address and
12 signed the email "Jeff Le Towt, The Tuck Box." He confirmed receipt of my letter, raised various
13 objects to the Shelter in Place Orders, and at the end of his email stated "I will agree to immediately
14 comply with the SHELTER-IN-PLACE ORDER until further consulting with my attorneys." I
15 responded asking for the name of his attorney, however, he declined to provide me with a name. This
16 email exchange is attached hereto as Exhibit B.

17 6. Despite his comment that he would comply, he was thereafter observed to be violating
18 the Shelter in Place Orders, as described in the declarations of Officer Greg Johnson (May 9), Officer
19 Michael Bruno (May 10), and Investigator George Costa (May 13).

20 7. As a result of these continuing violations, the District Attorney's Office filed a criminal
21 complaint against LeTowt alleging three counts of violating Government Code 8665, for violating the
22 State Stay Home Order, the Monterey County Shelter in Place Orders, Social Distancing Protocols and
23 Face Coverings Order.

24 **NOTICE**

25 8. On May 19, 2020, at or around 5:00 p.m., I along with District Attorney Investigator
26 George Costa attempted to telephone Jeffrey LeTowt to provide him with notice of the ex parte
27 application. We telephoned the following phone numbers, which were obtained from the Carmel Police
28 Department police reports related to this matter, and law enforcement databases: (831) 624-3396, 831-

1 624-6365, and 831-238-5441. No one answered either one of these phone numbers so I requested that
2 District Attorney Investigator Ferreria notify the Defendant.

3 9. All exhibits are incorporated herein by reference.
4

5 I declare under penalty of perjury under the laws of the State of California that the above
6 statements are of my own knowledge and are true and correct. Executed at Salinas, California, on May
7 20, 2020.
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11 _____
12 Emily Hickok
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Exhibit A

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Coronavirus disease (COVID-19)

Situation Report – 119

Data as received by WHO from national authorities by 10:00 CEST, 18 May 2020

Highlights

The [73rd World Health Assembly](#) which opened today, will focus on the COVID-19 pandemic. Member States will deliver statements, report their progress in fighting the coronavirus, share knowledge on the evolving situation and consider a draft resolution on COVID-19. It is available [live online](#) in Arabic, Chinese, Russian, English, French, and Spanish.

[WHO has signed an agreement with the International Olympic Committee](#) (IOC) to work together to promote health through sport and physical activity. The agreement has a special focus on preventing non-communicable diseases (NCDs). This collaboration is timely because the current COVID-19 pandemic is particularly affecting people with NCDs.

[Flooding in Somalia has raised concerns of an upsurge in cholera cases as the country deals with a growing number of COVID-19 cases.](#) WHO's country office has sent urgently needed essential medical supplies, however funding for humanitarian operations in Somalia remains very low.

[Sony Music Latin and Global Citizen have released a new “Color Esperanza” track](#) with proceeds benefiting the Pan American Health Organization (PAHO) – WHO's Regional Office for the Americas - and its COVID-19 relief efforts throughout the Americas.

WHO has cautioned against recommending or administering unproven treatments to patients with COVID-19. In the '[Subject in Focus](#)' below, we highlight how the WHO Solidarity Trial is helping find an effective treatment for COVID-19.

Situation in numbers (by WHO Region)

Total (new cases in last 24 hours)

Globally	4 618 821 cases (93 324)	311 847 deaths (4 452)
Africa	61 163 cases (2 500)	1 748 deaths (38)
Americas	2 017 811 cases (50 879)	121 609 deaths (2 810)
Eastern Mediterranean	338 560 cases (11 992)	9 979 deaths (138)
Europe	1 890 467 cases (19 922)	167 173 deaths (1 222)
South-East Asia	141 593 cases (7 062)	4 582 deaths (231)
Western Pacific	168 515 cases (969)	6 743 deaths (13)

Subject in Focus: Accelerating a treatment with the Solidarity Trial

While the research for an effective treatment continues, until there is sufficient evidence, WHO has cautioned against recommending or administering unproven treatments to patients with COVID-19 or people self-medicating with them. The consensus among world experts is that potential exists but that far more studies are urgently needed to determine if existing anti-viral drugs can be effective to treat COVID-19. If these treatments prove to be effective, they could reduce the burden of COVID-19.

In order to fast-track this research, [WHO launched](#) the [Solidarity Trial](#) on March 18 – a large international clinical trial to help find an effective treatment for COVID-19. Enrolling patients in one single randomized trial will help facilitate the rapid worldwide comparison of candidate treatments and overcome the risk of multiple small trials not generating the strong evidence needed to determine the relative effectiveness of potential treatments.

Initially, the Solidarity Trial will compare four treatment options against the standard of care, based on evidence from laboratory, animal and clinical studies. These include: chloroquine or hydroxychloroquine, remdesivir, lopinavir/ritonavir, and lopinavir/ritonavir with interferon beta-1a. By enrolling patients in multiple countries, the Solidarity Trial aims to rapidly discover whether any of these existing drugs slow disease progression or improve survival. The primary outcome measurement is all-cause mortality, subdivided by severity of disease at the time of randomisation. The major secondary outcomes are duration of hospital stay and time to first receiving ventilation (or intensive care).

The Solidarity Trial is unlike any other clinical trial and its objective will be achieved through new ways of working that embrace:

- **Speed** to act fast now, to simplify procedures with a simple randomized control clinical trial protocol and a paperless / web-based randomization and data system allowing for rapid centralized analyses. The adaptive study design allows for quickly adding novel treatment arms while the trial is in progress or discontinuing some treatment arms that are proven ineffective or unsafe.
- **Scale** by prioritizing counties at highest risk and hospitals that have the most number of adults (age ≥18 years) in hospital with definite COVID-19 symptoms and no contra-indication to any of the study drugs; this approach ensures the greatest level of enrolment.
- **Access** by ensuring all countries can join the Solidarity Trial and receive WHO technical and financial support including access to all trial drugs free-of-charge, thanks to donations that WHO negotiated with five manufacturers.

Since its launch, over 100 countries have expressed an interest in participating in the Solidarity Trial and WHO is actively engaged with more than 60. The engagement involves multiple steps to support countries. Some of these steps include ethical and regulatory approvals of the WHO core protocol; the identification of hospitals that will participate in the trial; the training of hospital clinicians in the web-based randomization and data system; and shipping the trial drugs as requested by each participating country.

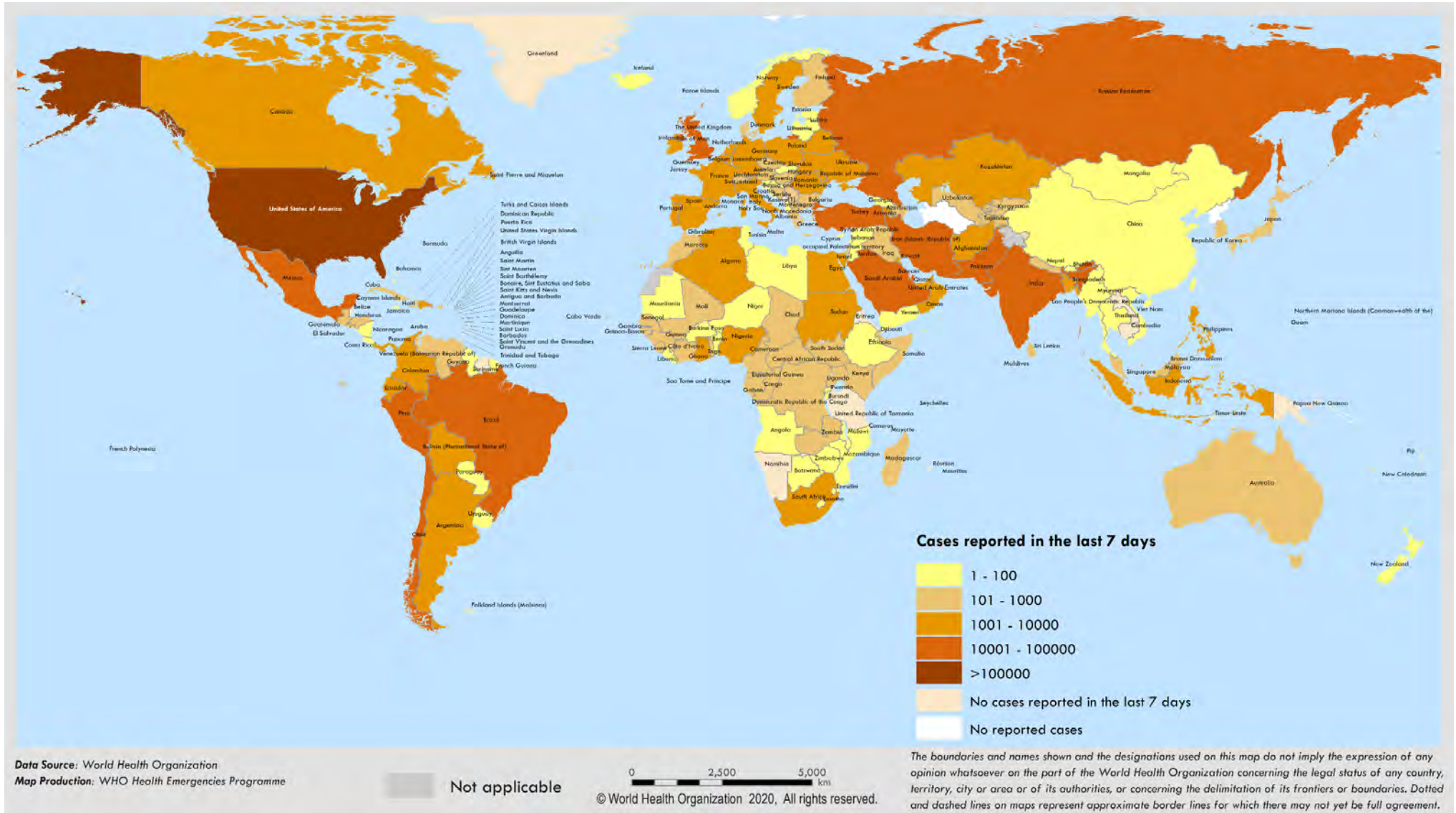
To date, 18 countries from five out of the six WHO regions and representing three out of the four World Bank income groups have started the Solidarity Trial. These 18 countries represent over 245 hospitals with 885 clinicians involved. Patient enrollment is nearing 3000.

By the end of May, we expect another 10-12 countries to start the Solidarity Trial. At that point, we anticipate that an interim trial analysis will be produced and will be monitored by a global Data and Safety Monitoring Committee (DSMC), an independent group of experts.

Further updates on the Solidarity Trial will continue to be made available from this dedicated [WHO webpage](#).

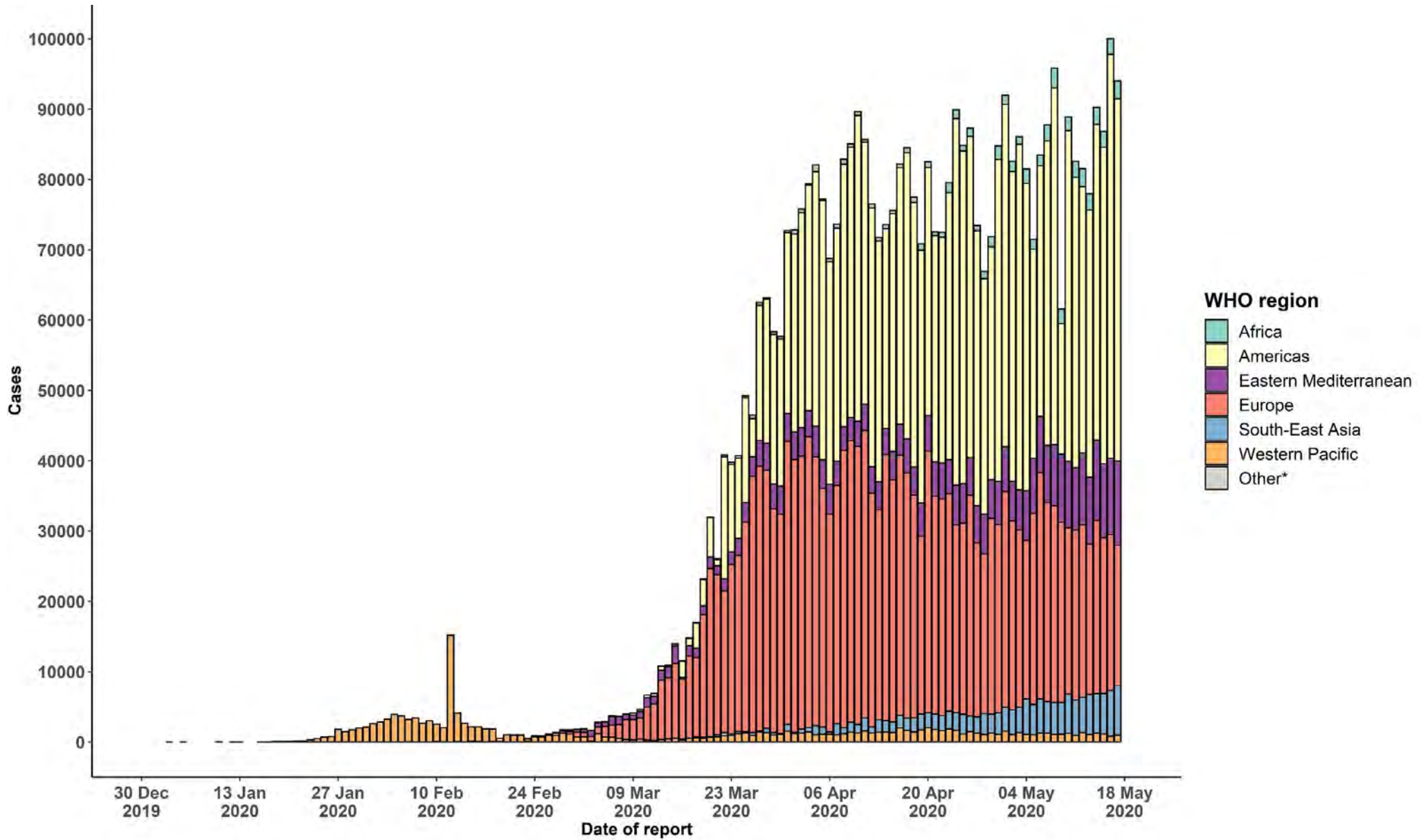
Surveillance

Figure 1. Number of confirmed COVID-19 cases reported in the last seven days by country, territory or area, 12 May to 18 May**



**See Annex 1 for data, table and figure notes.

Figure 2. Number of confirmed COVID-19 cases, by date of report and WHO region, 30 December 2019 through 18 May 2020**



**See [Annex 1](#) for data, table and figure notes.

Table 1. Countries, territories or areas with reported laboratory-confirmed COVID-19 cases and deaths, by WHO region. Data as of 10 AM CEST, 18 May 2020**

Reporting Country/Territory/Area	Total confirmed cases	Total confirmed new cases	Total deaths	Total new deaths	Transmission classification ⁱ	Days since last reported case
Africa						
South Africa	15 515	1 160	264	3	Community transmission	0
Algeria	7 019	198	548	6	Community transmission	0
Nigeria	5 959	338	182	6	Community transmission	0
Ghana	5 735	0	29	0	Community transmission	1
Cameroon	3 047	0	139	0	Community transmission	2
Guinea	2 727	69	16	0	Community transmission	0
Senegal	2 480	51	25	0	Community transmission	0
Côte d'Ivoire	2 109	48	27	2	Community transmission	0
Democratic Republic of the Congo	1 454	0	60	0	Community transmission	1
Gabon	1 320	0	11	0	Community transmission	1
Guinea-Bissau	990	77	4	1	Community transmission	0
Niger	904	15	54	3	Community transmission	0
Kenya	887	57	50	0	Community transmission	0
Mali	860	25	52	4	Community transmission	0
Burkina Faso	796	14	51	0	Community transmission	0
Zambia	753	74	7	0	Community transmission	0
Equatorial Guinea	719	29	7	0	Community transmission	0
United Republic of Tanzania	509	0	21	0	Community transmission	10
Sierra Leone	505	43	32	3	Clusters of cases	0
Chad	503	29	53	3	Community transmission	0
Congo	410	19	15	0	Community transmission	0

Reporting Country/Territory/Area	Total confirmed cases	Total confirmed new cases	Total deaths	Total new deaths	Transmission classification ¹	Days since last reported case
Benin	339	0	2	0	Community transmission	3
Mauritius	332	0	10	0	Clusters of cases	21
Cabo Verde	328	0	3	0	Clusters of cases	1
Central African Republic	327	26	0	0	Sporadic cases	0
Ethiopia	317	11	5	0	Clusters of cases	0
Madagascar	304	21	1	1	Clusters of cases	0
Togo	301	3	11	0	Community transmission	0
Rwanda	292	3	0	0	Sporadic cases	0
South Sudan	282	51	4	3	Clusters of cases	0
Uganda	227	0	0	0	Sporadic cases	1
Liberia	226	3	21	1	Community transmission	0
Eswatini	203	1	2	0	Clusters of cases	0
São Tomé and Príncipe	169	0	7	0	Clusters of cases	1
Mozambique	137	8	0	0	Clusters of cases	0
Malawi	70	5	3	0	Clusters of cases	0
Mauritania	62	22	4	0	Sporadic cases	0
Angola	48	0	2	0	Clusters of cases	3
Zimbabwe	44	0	4	0	Sporadic cases	1
Burundi	42	15	1	0	Clusters of cases	0
Eritrea	39	0	0	0	Sporadic cases	29
Botswana	25	0	1	0	Clusters of cases	1
Gambia	24	1	1	0	Sporadic cases	0
Namibia	16	0	0	0	Sporadic cases	42

Reporting Country/Territory/Area	Total confirmed cases	Total confirmed new cases	Total deaths	Total new deaths	Transmission classification ¹	Days since last reported case
Comoros	11	0	1	0	Community transmission	8
Seychelles	11	0	0	0	Clusters of cases	41
Lesotho	1	0	0	0	Pending	4
Territoriesⁱⁱ						
Mayotte	1 342	84	18	2	Clusters of cases	0
Réunion	443	0	0	0	Clusters of cases	1
Americas						
United States of America	1 432 265	22 813	87 180	1 320	Community transmission	0
Brazil	233 142	14 919	15 633	816	Community transmission	0
Peru	88 541	4 046	2 523	131	Community transmission	0
Canada	76 204	1 211	5 702	107	Community transmission	0
Mexico	47 144	2 112	5 045	278	Community transmission	0
Chile	43 781	2 353	450	29	Community transmission	0
Ecuador	32 723	1 256	2 688	94	Community transmission	0
Colombia	14 939	723	562	16	Community transmission	0
Dominican Republic	12 314	204	428	0	Community transmission	0
Panama	9 449	181	269	3	Community transmission	0
Argentina	7 805	326	366	3	Community transmission	0
Bolivia (Plurinational State of)	3 826	249	165	1	Clusters of cases	0
Honduras	2 565	105	138	4	Community transmission	0
Cuba	1 872	10	79	0	Clusters of cases	0
Guatemala	1 763	120	33	3	Clusters of cases	0
El Salvador	1 338	73	27	2	Clusters of cases	0
Costa Rica	853	10	10	2	Clusters of cases	0

Reporting Country/Territory/Area	Total confirmed cases	Total confirmed new cases	Total deaths	Total new deaths	Transmission classification ⁱ	Days since last reported case
Paraguay	786	8	11	0	Community transmission	0
Uruguay	734	2	19	0	Clusters of cases	0
Venezuela (Bolivarian Republic of)	541	37	10	0	Clusters of cases	0
Jamaica	517	6	9	0	Clusters of cases	0
Haiti	358	48	20	0	Clusters of cases	0
Guyana	117	1	10	0	Clusters of cases	0
Trinidad and Tobago	116	0	8	0	Sporadic cases	20
Bahamas	96	0	11	0	Clusters of cases	2
Barbados	86	1	7	0	Clusters of cases	0
Antigua and Barbuda	25	0	3	0	Clusters of cases	14
Nicaragua	25	0	8	0	Clusters of cases	4
Grenada	22	0	0	0	Clusters of cases	2
Belize	18	0	2	0	Sporadic cases	33
Saint Lucia	18	0	0	0	Sporadic cases	13
Saint Vincent and the Grenadines	17	0	0	0	Sporadic cases	13
Dominica	16	0	0	0	Clusters of cases	37
Saint Kitts and Nevis	15	0	0	0	Sporadic cases	27
Suriname	10	0	1	0	Sporadic cases	44
Territoriesⁱⁱ						
Puerto Rico	2 646	57	123	1	Clusters of cases	0
French Guiana	197	8	1	0	Clusters of cases	0
Martinique	192	0	14	0	Clusters of cases	1
Guadeloupe	155	0	13	0	Clusters of cases	5
Bermuda	123	0	9	0	Clusters of cases	1

Reporting Country/Territory/Area	Total confirmed cases	Total confirmed new cases	Total deaths	Total new deaths	Transmission classification ¹	Days since last reported case
Aruba	101	0	3	0	Sporadic cases	12
Cayman Islands	94	0	1	0	Clusters of cases	1
Sint Maarten	78	0	15	0	Sporadic cases	4
United States Virgin Islands	69	0	6	0	Clusters of cases	7
Saint Martin	39	0	3	0	Sporadic cases	7
Curaçao	16	0	1	0	Sporadic cases	20
Falkland Islands (Malvinas)	13	0	0	0	Clusters of cases	22
Turks and Caicos Islands	12	0	1	0	Sporadic cases	20
Montserrat	11	0	1	0	Sporadic cases	34
British Virgin Islands	8	0	1	0	Sporadic cases	2
Bonaire, Sint Eustatius and Saba	6	0	0	0	Sporadic cases	20
Saint Barthélemy	6	0	0	0	Sporadic cases	48
Anguilla	3	0	0	0	Sporadic cases	44
Saint Pierre and Miquelon	1	0	0	0	Sporadic cases	40
Eastern Mediterranean						
Iran (Islamic Republic of)	120 198	1 806	6 988	51	Community transmission	0
Saudi Arabia	54 752	2 736	312	10	Clusters of cases	0
Pakistan	42 125	1 974	903	30	Clusters of cases	0
Qatar	32 604	1 632	15	0	Community transmission	0
United Arab Emirates	23 358	731	220	6	Pending	0
Kuwait	14 850	1 048	112	5	Clusters of cases	0
Egypt	12 229	510	630	18	Clusters of cases	0
Afghanistan	7 072	437	173	4	Clusters of cases	0
Bahrain	6 930	183	12	0	Clusters of cases	0

Reporting Country/Territory/Area	Total confirmed cases	Total confirmed new cases	Total deaths	Total new deaths	Transmission classification ⁱ	Days since last reported case
Morocco	6 870	129	192	0	Clusters of cases	0
Oman	5 379	193	23	1	Clusters of cases	0
Iraq	3 404	144	123	2	Clusters of cases	0
Sudan	2 591	302	105	8	Community transmission	0
Somalia	1 421	64	56	1	Sporadic cases	0
Djibouti	1 401	70	4	0	Clusters of cases	0
Tunisia	1 037	0	45	0	Community transmission	1
Lebanon	911	9	26	0	Clusters of cases	0
Jordan	613	6	9	0	Clusters of cases	0
Yemen	132	6	21	2	Pending	0
Libya	65	0	3	0	Clusters of cases	1
Syrian Arab Republic	58	7	3	0	Community transmission	0
Territoriesⁱⁱ						
occupied Palestinian territory	560	5	4	0	Clusters of cases	0
Europe						
Russian Federation	290 678	8 926	2 722	91	Clusters of cases	0
The United Kingdom	243 699	3 534	34 636	170	Community transmission	0
Spain	231 350	652	27 650	87	Community transmission	0
Italy	225 435	675	31 908	145	Community transmission	0
Germany	174 697	342	7 935	21	Community transmission	0
Turkey	149 435	1 368	4 140	44	Community transmission	0
France	140 036	28	28 059	481	Community transmission	0
Belgium	55 280	291	9 052	47	Community transmission	0
Netherlands	43 995	125	5 680	10	Community transmission	0

Reporting Country/Territory/Area	Total confirmed cases	Total confirmed new cases	Total deaths	Total new deaths	Transmission classification ¹	Days since last reported case
Switzerland	30 504	15	1 602	1	Community transmission	0
Sweden	30 143	466	3 679	5	Community transmission	0
Belarus	29 650	969	165	5	Community transmission	0
Portugal	29 036	226	1218	15	Community transmission	0
Ireland	24 112	64	1543	10	Community transmission	0
Ukraine	18 616	325	535	21	Community transmission	0
Poland	18 529	272	925	10	Community transmission	0
Romania	16 871	167	1 097	16	Community transmission	0
Israel	16 607	-1	271	3	Pending	0
Austria	16 154	14	629	1	Community transmission	0
Denmark	10 927	69	547	4	Community transmission	0
Serbia	10 610	114	230	2	Pending	0
Czechia	8 475	20	298	2	Community transmission	0
Norway	8 197	0	232	0	Clusters of cases	2
Kazakhstan	6 440	283	34	0	Pending	0
Finland	6 347	61	298	1	Pending	0
Republic of Moldova	6 060	126	211	2	Pending	0
Armenia	4 823	351	61	1	Clusters of cases	0
Luxembourg	3 945	15	107	3	Pending	0
Hungary	3 535	26	462	11	Community transmission	0
Azerbaijan	3 274	136	39	3	Clusters of cases	0
Greece	2 834	15	163	1	Clusters of cases	0
Uzbekistan	2 762	21	12	1	Clusters of cases	0
Bosnia and Herzegovina	2 289	24	132	1	Community transmission	0

Reporting Country/Territory/Area	Total confirmed cases	Total confirmed new cases	Total deaths	Total new deaths	Transmission classification ⁱ	Days since last reported case
Bulgaria	2 235	24	110	2	Clusters of cases	0
Croatia	2 226	2	95	0	Community transmission	0
Iceland	1 802	0	10	0	Community transmission	4
North Macedonia	1 792	30	101	3	Clusters of cases	0
Estonia	1 774	4	63	0	Pending	0
Lithuania	1 541	7	56	1	Community transmission	0
Slovakia	1 494	1	28	0	Clusters of cases	0
Slovenia	1 466	1	104	1	Clusters of cases	0
Tajikistan	1 322	0	39	0	Pending	1
Kyrgyzstan	1 216	78	14	0	Clusters of cases	0
Latvia	1 008	11	19	0	Clusters of cases	0
Albania	948	2	31	0	Clusters of cases	0
Cyprus	916	2	17	0	Clusters of cases	0
Andorra	761	0	51	0	Community transmission	4
Georgia	701	6	12	0	Community transmission	0
San Marino	668	16	41	0	Community transmission	0
Malta	553	7	6	0	Sporadic cases	0
Montenegro	324	0	9	0	Clusters of cases	12
Monaco	96	0	1	0	Sporadic cases	7
Liechtenstein	83	0	1	0	Pending	22
Holy See	12	0	0	0	Sporadic cases	11
Territoriesⁱⁱ						
Kosovo ^[1]	955	11	29	0	Community transmission	0
Isle of Man	335	1	24	0	Pending	0

Reporting Country/Territory/Area	Total confirmed cases	Total confirmed new cases	Total deaths	Total new deaths	Transmission classification ¹	Days since last reported case
Jersey	297	0	27	0	Community transmission	2
Guernsey	252	0	13	0	Community transmission	15
Faroe Islands	187	0	0	0	Pending	24
Gibraltar	147	0	0	0	Clusters of cases	5
Greenland	11	0	0	0	Pending	42
South-East Asia						
India	96 169	5 242	3 029	157	Clusters of cases	0
Bangladesh	22 268	1 273	328	14	Clusters of cases	0
Indonesia	17 514	489	1 148	59	Community transmission	0
Thailand	3 031	3	56	0	Clusters of cases	0
Maldives	1 094	16	4	0	Clusters of cases	0
Sri Lanka	981	21	9	0	Clusters of cases	0
Nepal	304	13	2	1	Sporadic cases	0
Myanmar	187	5	6	0	Clusters of cases	0
Timor-Leste	24	0	0	0	Clusters of cases	24
Bhutan	21	0	0	0	Sporadic cases	2
Western Pacific						
China	84 494	10	4 645	0	Clusters of cases	0
Singapore	28 038	682	22	0	Clusters of cases	0
Japan	16 305	20	749	5	Clusters of cases	0
Philippines	12 513	208	824	7	Community transmission	0
Republic of Korea	11 065	15	263	1	Clusters of cases	0
Australia	7 045	9	98	0	Clusters of cases	0
Malaysia	6 894	22	113	0	Clusters of cases	0

Reporting Country/Territory/Area	Total confirmed cases	Total confirmed new cases	Total deaths	Total new deaths	Transmission classification ⁱ	Days since last reported case
New Zealand	1 149	0	21	0	Clusters of cases	1
Viet Nam	320	2	0	0	Clusters of cases	0
Brunei Darussalam	141	0	1	0	Clusters of cases	10
Mongolia	136	1	0	0	Sporadic cases	0
Cambodia	122	0	0	0	Sporadic cases	36
Lao People's Democratic Republic	19	0	0	0	Sporadic cases	35
Fiji	18	0	0	0	Sporadic cases	27
Papua New Guinea	8	0	0	0	Sporadic cases	25
Territoriesⁱⁱ						
Guam	149	0	5	0	Clusters of cases	3
French Polynesia	60	0	0	0	Sporadic cases	12
Northern Mariana Islands (Commonwealth of the)	21	0	2	0	Pending	1
New Caledonia	18	0	0	0	Sporadic cases	45
Subtotal for all regions	4 618 109	93 324	311 834	4 452		
Other*	712	0	13	0	-	63
Grand total	4 618 821	93 324	311 847	4 452		

**See [Annex 1](#) for data, table and figure notes.

Technical guidance and other resources

- To view all technical guidance documents regarding COVID-19, please go to [this webpage](#).
- Updates from WHO regional offices
 - [WHO AFRO](#)
 - [WHO EMRO](#)
 - [WHO EURO](#)
 - [WHO PAHO](#)
 - [WHO SEARO](#)
 - [WHO WPRO](#)
- [Research and Development](#)
- [Online courses on COVID-19](#) and in [additional national languages](#)
- [The Strategic Preparedness and Response Plan](#) (SPRP) outlining the support the international community can provide to all countries to prepare and respond to the virus
- [WHO Health Emergency dashboard](#)
- [Weekly COVID-19 Operations Updates](#)

Recommendations and advice for the public

- [Protect yourself](#)
- [Questions and answers](#)
- [Travel advice](#)
- [EPI-WIN](#): tailored information for individuals, organizations and communities

Case definitions

WHO periodically updates the [Global Surveillance for human infection with coronavirus disease \(COVID-19\)](#) document which includes surveillance definitions.

Definition of COVID-19 death

COVID-19 death is defined for surveillance purposes as a death resulting from a clinically compatible illness in a probable or confirmed COVID-19 case, unless there is a clear alternative cause of death that cannot be related to COVID-19 disease (e.g. trauma). There should be no period of complete recovery between the illness and death.

Further guidance for certification and classification (coding) of COVID-19 as cause of death is available [here](#).

Annex 1: Data, table and figure notes

Caution must be taken when interpreting all data presented. Differences are to be expected between information products published by WHO, national public health authorities, and other sources using different inclusion criteria and different data cut-off times. While steps are taken to ensure accuracy and reliability, all data are subject to continuous verification and change. Case detection, definitions, testing strategies, reporting practice, and lag times differ between countries/territories/areas. These factors, amongst others, influence the counts presented, with variable underestimation of true case and death counts, and variable delays to reflecting these data at global level.

The designations employed, and the presentation of these materials do not imply the expression of any opinion whatsoever on the part of WHO concerning the legal status of any country, territory or area or of its authorities, or concerning the delimitation of its frontiers or boundaries. Dotted and dashed lines on maps represent approximate border lines for which there may not yet be full agreement. Countries, territories and areas are arranged under the administering WHO region.

^[1] All references to Kosovo should be understood to be in the context of the United Nations Security Council resolution 1244 (1999). In the map, number of cases of Serbia and Kosovo (UNSCR 1244, 1999) have been aggregated for visualization purposes.

Counts reflect laboratory-confirmed cases and deaths, based on [WHO case definitions](#), unless stated otherwise (see *Country, territory, or area-specific updates and errata*), and include both domestic and repatriated cases.

Other*: includes cases reported from an international conveyance (Diamond Princess).

Due to the recent trend of countries conducting data reconciliation exercises which remove large numbers of cases or deaths from their total counts, WHO will now display such data as *negative* numbers in the “new cases” / “new deaths” columns as appropriate. This will aid readers in identifying when such adjustments occur. When additional details become available that allow the subtractions to be suitably apportioned to previous days, graphics will be updated accordingly. Prior situation reports will not be edited; see covid19.who.int for the most up-to-date data.

Additional table notes

ⁱ Transmission classification is based on a process of country/territory/area self-reporting.

Classifications are reviewed on a weekly basis, may be revised as new information becomes available, and are based on the highest category reported. Differing degrees of transmission may be present within countries/territories/areas. Categories:

- No cases: with no confirmed cases (not shown in table).
- Sporadic cases: with one or more cases, imported or locally detected.
- Clusters of cases: experiencing cases, clustered in time, geographic location and/or by common exposures.
- Community transmission: experiencing larger outbreaks of local transmission defined through an assessment of factors including, but not limited to: large numbers of cases not linkable to transmission chains; large numbers of cases from sentinel lab surveillance; and/or multiple unrelated clusters in several areas of the country/territory/area.
- Pending: transmission classification has not been reported to WHO.

ⁱⁱ “Territories” include territories, areas, overseas dependencies and other jurisdictions of similar status.

Country, territory, or area-specific updates and errata

None

Exhibit B

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From: info@tuckbox.com
To: Hickok, Emily D. x7710
Subject: RE: Violations of Shelter-in-Place Order at The Tuck Box
Date: Saturday, May 9, 2020 10:21:35 AM

[CAUTION: This email originated from outside of the County. Do not click links or open attachments unless you recognize the sender and know the content is safe.]

Ms. Hickok,

I am consulting with counsel and will advise when complete.

On Friday 08/05/2020 at 12:15 pm, "Hickok, Emily D. x7710" wrote:

>
> Mr. Letowt,
>
> Thank you for your email. You indicated below that you are represented
> by an attorney regarding this matter, and ethical rules prohibit me
> from communicating with you further about this matter without your
> attorney's presence or permission. Could you please let me know who
> your attorney is so that I may follow up with them?

>
> Sincerely,
>
>
> Emily D. Hickok
> Deputy District Attorney
> Monterey County District Attorney's Office
> 1200 Aguajito Road, Room 301
> Monterey, CA 93940
> Phone: (831) 647-7710
> E-mail: HickokED@co.monterey.ca.us

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> From: info@tuckbox.com <info@tuckbox.com>
> Sent: Thursday, May 7, 2020 4:40 PM
> To: Hickok, Emily D. x7710 <HickokED@co.monterey.ca.us>
> Subject: Re: Violations of Shelter-in-Place Order at The Tuck Box

>
>
> [CAUTION: This email originated from outside of the County. Do not
> click links or open attachments unless you recognize the sender and
> know the content is safe.]

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>
>
> Dear Ms. Hickock,
>
> Your letter raises so many questions in my mind.
>
> First, the Health Officer's Orders are unsupported by statutorily

> required facts. Health and Safety Code Section 120175 requires, by its
> plain language, that the orders you have sent me be
> “necessary.” It states as follows:
>
> Each health officer knowing or having reason to believe that any case
> of the diseases made reportable by regulation of the department, or
> any other contagious, infectious or communicable disease exists, or
> has recently existed, within the territory under his or her
> jurisdiction, shall take measures as may be necessary to prevent the
> spread of the disease or occurrence of additional cases.
>
> California courts have also held that Public Health Officials’
> authority over the rights of personal liberty is limited. Before
> exercising their full powers to quarantine, there must be
> “reasonable grounds [] to support the belief that the person so held
> is infected.” Ex parte Martin, 83 Cal. App. 2d 164 (1948). Public
> Health Officials must be able to show “probable cause to believe the
> person so held has an infectious disease ...” Id. California
> courts found that Public Health Officials could not quarantine 12
> blocks of San Francisco Chinatown because of nine (9) deaths due to
> bubonic plague. See Jew Ho v. Williamson, 103 F. 10 (C.C. Cal. 1900),
> and Wong Wai v. Williamson, 103 F. 1 (C.C. Cal. 1900). In Jew Ho v.
> Williamson, 103 F. 10 (C.C. Cal 1900), and Wong Wai v. Williamson, 103
> F. 1 (CC Cal. 1900), the California courts found that there were more
> than 15,000 people living in the twelve blocks of San Francisco
> Chinatown who were to be quarantined. The courts found it unreasonable
> to shut down the ability of over 15,000 people to make a living
> because of nine deaths. This was one death for every 1,666
> inhabitants of Chinatown.
>
> In Monterey County there are 6 deaths in 434,000 people. And even
> those numbers are questionable due to the financial incentive being
> provided to medical practitioners to mark a death as COVID related.
>
> Dr. Moreno cannot prove the necessity rendering his order in excess of
> his jurisdiction. Necessary requires there be no other option other
> than close down businesses and force people to wear dangerous masks
> against their will. There are ZERO cases in Carmel. There are only 247
> out of 434,000 people on the whole peninsula and the majority of them
> are in Salinas. In fact, according to the Monterey County website,
> there are 7 in the “Peninsula and Big Sur” area. Community
> Hospital is empty and they are laying off doctors and nurses. When Dr.
> Moreno extended the order to May 31, 2020, there was ONE more case on
> the peninsula. It is incomprehensible how this is continuing when we
> are losing millions of dollars, including tax payer revenue on the
> peninsula. I am informed we are losing 2 million dollars a month in
> TOT revenue, the City of Seaside and Monterey are laying off people,
> and we haven't even tallied the number of suicides, domestic violence
> matters, alcoholism and drug use in this county due to the many
> unemployed people.
>
> The shelter in place order itself is void. California courts have
> found that “a mere suspicion [of a contagious disease], unsupported
> by facts giving rise to reasonable or probable cause, will afford no
> justification at all for depriving persons of their liberty and
> subjecting them to virtual imprisonment under a purported order of
> quarantine.” Ex parte Arta, 52 Cal. App. 380, 383 (1921)

>

> Frankly, there are plenty of other options to allow businesses to be
> open. Home Depot, Safeway, Lucky's, hardware stores...all can be open
> with the recommended social distancing guidelines but restaurants
> can't? People who want to practice social distancing can and those who
> don't can stay home.

>

> Your letter also mentions the business and professions code which is
> not a criminal statute. Why are you quoting a civil statute? Are you
> planning to sue businesses civilly? Where do you get your authority
> for the mentioned civil penalties?

>

> Dr. Moreno's Orders also constitute a violation of the Federal Civil
> Rights Act, 42 U.S.C. Section 1983 as overbroad and unconstitutional
> by forcing "non-essential" businesses to bear an undue
> public burden. This could subject Monterey County government officials
> to civil liability. The Orders plainly violate the Due Process and
> Equal Protection Clauses of the 5th and 14th Amendments in that they
> unconstitutionally and disparately apply one set of rules to
> businesses arbitrarily deemed "Essential" versus all other
> businesses that are deemed "Non-Essential".

>

> Most importantly, my business is my property. Under the fifth
> amendment to the constitution, rights which are never suspended during
> a time of emergency, you cannot take my property without due process
> of law. The Orders effectively amount to an impermissible
> "partial" or "complete" taking in violation of the Takings
> Clause of the Fifth Amendment of the U.S.
> Constitution in that the prohibition of business owner's operation of
> their "Non-Essential" businesses constitutes a regulatory taking
> of private property, without just compensation. The Orders further
> violate Article 1 Sections 1, 7 and 19 of the California Constitution.

>

> Dr. Moreno's Orders are not "narrowly tailored" to further any
> compelling governmental interest. Dr. Moreno, under color of law, has
> granted numerous special exemptions to Monterey County bans on public
> gatherings and conduct, including for purportedly "Essential"
> businesses and activities, provided that social distancing practices
> are observed. Since these gatherings may be permitted, there can be no
> doubt that Monterey County may, and therefore must, permit Plaintiffs
> to engage in equivalent business activities provided that Plaintiffs
> also adhere to
> the social distancing guidelines currently in place.

>

> I have done more than my fair share to help prevent the spread of
> Covid-19. After having been shut down completely for a month and a
> half I have lost between \$55,000 -\$60,000 in revenue. I can't
> afford my taxes, mortgage, rent or pay my credit cards. My employees
> are being crushed as well. You should also know that I have it on
> good authority there are as many as 25 restaurants in Carmel
> restarting dine in service to varying degrees.

>

> That being said, I will agree to immediately comply with the
> SHELTER-IN-PLACE ORDER until further consulting with my attorneys.

>

> I look forward to the answers to my questions.

>

> Jeff Le Towt
> The Tuck Box
>
>
>
> On Thursday 07/05/2020 at 10:44 am, "Hickok, Emily D. x7710"
> wrote:
>
>
> Dear Mr. Letowt,
>
> Please read the attached letter, which requests a response by 5:00
> p.m. today, May 7, 2020.
>
> Sincerely,
>
> Emily D. Hickok
> Deputy District Attorney
> Monterey County District Attorney's Office
> 1200 Aguajito Road, Room 301
> Monterey, CA 93940
> Phone: (831) 647-7710
> E-mail: HickokED@co.monterey.ca.us
> [Image]
>
>

1 JEANNINE M. PACIONI
2 Monterey County District Attorney
3 Emily D. Hickok (SBN 247175)
4 Christopher J. Judge (SBN 274418)
5 Deputy District Attorneys
6 1200 Aguajito Road, Room 301
7 Monterey, CA 93940
8 Telephone: (831) 647-7710
9 Email: HickokED@co.monterey.ca.us
10 Email: JudgeC@co.monterey.ca.us
11 *Attorneys for Plaintiff*
12 *The People of the State of California*

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **FOR THE COUNTY OF MONTEREY**

11 PEOPLE OF THE STATE OF CALIFORNIA,

12 Plaintiff,

13 vs.

14 THE TUCK BOX, a business of unknown origin;
15 JEFFREY LETOWT, an individual; and
16 DOES 1-10, inclusive,

17 Defendants.

Case No.: 20CV001448

**DECLARATION OF DISTRICT
ATTORNEY INVESTIGATOR
FERRERIA IN SUPPORT OF
TEMPORARY RESTRAINING
ORDER AND ORDER TO SHOW
CAUSE REGARDING
PRELIMINARY INJUNCTION**

19 I, John Ferreria, declare that if called and sworn as a witness, I could and would testify to the
20 following:

21 1. I am an investigator with the Monterey County District Attorney's Office. Prior to
22 working for the Monterey County District Attorney's Office, I worked as a police officer for the Los
23 Angeles Police Department.

24 2. On May 19, 2020, at approximately 6:30 p.m., I went to Defendant Jeffrey LeTowt's
25 home at 24517 Lower Trail Street, Carmel, CA 93921. I spoke to LeTowt and indicated that the People
26 were moving for a temporary restraining order and order to show cause regarding a preliminary
27 injunction, to prevent him from violating the Shelter In Place Orders on Thursday, May 21, 2020 at
28

1 10:00 a.m. in the Monterey Superior Court located at 1200 Aguajito Road, Monterey CA, in a
2 department to be determined. I provided him with a draft copy of the Notice of Ex Parte Application for
3 a temporary restraining order and a draft copy of the Proposed Order. I also served him with the filed
4 Complaint, Summons, and Notice of Assignment and Case Management Conference.

5 3. Mr. LeTowt did not indicate whether he planned to appear to contest the issuance of the
6 injunction.

7
8 I declare under penalty of perjury under the laws of the State of California that the above
9 statements are of my own knowledge and are true and correct. Executed at Marina, California, on May
10 20, 2020.

11
12
13 
14 John Ferreria

1 JEANNINE M. PACIONI
2 Monterey County District Attorney
3 Emily D. Hickok (SBN 247175)
4 Christopher J. Judge (SBN 274418)
5 Deputy District Attorneys
6 1200 Aguajito Road, Room 301
7 Monterey, CA 93940
8 Telephone: (831) 647-7710
9 Email: HickokED@co.monterey.ca.us
10 Email: JudgeC@co.monterey.ca.us
11 *Attorneys for Plaintiff*
12 *The People of the State of California*

13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
14 **FOR THE COUNTY OF MONTEREY**

15 PEOPLE OF THE STATE OF CALIFORNIA,

16 Plaintiff,

17 vs.

18 THE TUCK BOX, a business of unknown origin;
19 JEFFREY LE TOWT, an individual; and
20 DOES 1-10, inclusive,

21 Defendants.

Case No.: 20CV001448

**[PROPOSED] TEMPORARY
RESTRAINING ORDER AND ORDER
TO SHOW CAUSE REGARDING
ISSUANCE OF PRELIMINARY
INJUNCTION**

DATE: May 21, 2020

TIME: 10:00 a.m.

DEPARTMENT: TBD

22 **TO DEFENDANTS, THE TUCK BOX AND JEFFREY LE TOWT:**

23 Plaintiff THE PEOPLE OF THE STATE OF CALIFORNIA's Ex Parte Application for
24 temporary restraining order and order to show cause regarding issuance of preliminary injunction came
25 on for ex parte hearing on May 21, 2020 at 10:00 a.m. in Department _____ before the Honorable
26 _____, presiding in the Monterey Superior Courthouse, Civil Division,
27 located at 1200 Aguajito Road, Monterey, California 93940.

28 ///

///

///

1 **TEMPORARY RESTRAINING ORDER**

2 TO DEFENDANTS, THE TUCK BOX AND JEFFREY LE TOWT:

3 Based upon the People of the State of California’s Complaint, Ex Parte Application for
4 Temporary Restraining Order and Order to Show Cause Regarding Issuance of a Preliminary Injunction,
5 Memorandum of Points and Authorities in support thereof, the Declarations of Monterey County Health
6 Officer Dr. Edward Moreno, Carmel Police Officer Greg Johnson, Carmel Police Chief Paul Tomasi,
7 Carmel Police Officer Michael Bruno, District Attorney Investigator George Costa, Deputy District
8 Attorney Emily Hickok, and District Attorney Investigator John Ferreria, and any and all written
9 materials submitted in support thereof, the arguments of all counsel and parties at the hearing on the
10 matter, and good cause appearing herein, the Court GRANTS the People’s request for a Temporary
11 Restraining Order against Defendants The Tuck Box and Jeffrey Le Towt. The Court finds that there is
12 at least a reasonable probability that the People will prevail on the merits of its Business and Professions
13 Code section 17200, *et seq.* claims against Defendants, and that the harm to the People if the Temporary
14 Restraining Order is not granted outweighs the harm to Defendants if the Court grants the Temporary
15 Restraining Order and that irreparable harm will result if the injunction does not issue.

16 **IT IS HEREBY ORDERED:**

17 Pursuant to Business and Professions Code section 17203, and until the hearing on the Order to
18 Show Cause regarding the preliminary injunction, Defendants, The Tuck Box and Jeffrey Le Towt, and
19 all of their respective owners, agents, employees, and all persons acting for or in concert with them, and
20 their assignees and successors, are enjoined and prohibited and ordered to immediately cease and desist
21 from: (1) providing dine-in or table-side service to patrons at The Tuck Box restaurant, located on
22 Dolores Street between Ocean and 7th Avenue until such activity is authorized by the Monterey County
23 Health Officer; (2) allowing patrons to consume food on The Tuck Box’s premises until such activity is
24 authorized by the Monterey County Health Officer; (3) engaging in violations of the April 28, 2020
25 Order Requiring Face Coverings until such order is lifted; (4) engaging in violations of the May 1, 2020
26 Shelter-in-Place Order until such order is lifted; (5) failing to comply with social distancing protocols as
27 required by the Monterey County Health Officer orders and/or the May 1, 2020 Shelter-in-Place Order.

28 ///

1 Order Requiring Face Coverings until such order is lifted; (4) engaging in violations of the May 1, 2020
2 Shelter-in-Place Order until such order is lifted; (5) failing to comply with social distancing protocols as
3 required by the Monterey County Health Officer orders and/or the May 1, 2020 Shelter-in-Place Order.

4 Defendants are also ordered to show cause why the Court should not order all the below
5 provisions of the temporary restraining order to remain in effect as part of the preliminary injunction
6 order:

7 That the People and its personnel, including District Attorney Investigators, are hereby
8 authorized to: enter onto the property at The Tuck Box restaurant, located on Dolores Street between
9 Ocean and 7th Avenue, to post notice of this Order in visible locations on said Property, including, but
10 limited to, exterior fences, gates, structures, doors or any other structure thereupon and to distribute this
11 Order to Defendants and/or any other persons present on the Property.

12 That the Defendants shall preserve evidence related to this matter pertaining to the period of
13 March 17, 2020 (the date restaurants were prohibited from allowing dine-in service) through and
14 including the date that Monterey County permits dine-in restaurant service, including but not limited to:
15 sales receipts, sales register reports, and/or deposit slips evidencing daily sales totals of customer
16 purchases for food and beverages.

17 This Order to Show Cause and Temporary Restraining Order shall be served on Defendants by
18 the People no later than _____ by personal service, overnight courier, facsimile,
19 or electronic mail.

20 Proof of service shall be filed no later than _____.

21 Any Opposition papers to the Order to Show Cause shall be filed by Defendants and served on
22 Plaintiff by personal service, overnight courier, facsimile, or electronic mail no later than

23 _____.

24 Any Reply papers to the Order to Show Cause shall be filed by Plaintiff and served on
25 Defendants by personal service, overnight courier, facsimile, or electronic mail no later than

26 _____.

27 ///

28 ///

1 The Temporary Restraining Order granted herein shall expire on _____.

2 In accordance with Code of Civil Procedure section 995.220(a), no bond is required of Plaintiff.

3
4 **IT IS SO ORDERED.**

5
6 Dated: _____

7 By: _____
8 Judge of the Monterey County Superior Court

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