DATE:       June 1, 2020

TO:         Honorable Mayor and Members of the City Council

FROM:       Peggy Flynn, City Manager
            Eric Danly, City Attorney

SUBJECT:    A Resolution Praising the Efforts of the Petaluma Police Department and Other
            Local Agencies for Following the County Health Order and Directing Staff to
            Continue Enforcing that Order, and Denouncing the Recent Actions by the
            Sonoma County Sheriff Mark Essick to Cease Enforcement of the Order,
            Jeopardizing Public Health and Safety of the Community

RECOMMENDATION

It is recommended that the Council consider adopting the attached resolution to direct staff to
continue its enforcement of the County of Sonoma Stay-at-Home Public Health Order and
condemn the recent announcement by the Sonoma County Sheriff Mark Essick to no longer
uphold that Order, which jeopardizes the safety and health of our community and undermines the
compliance and enforcement efforts of our Police Department.

BACKGROUND

On March 17, the Sonoma County Health Officer issued a Health Order directing residents to
shelter in place after cases of local transmission from the coronavirus (COVID-19) were
discovered in the County. This Order followed a State Order by Governor Gavin Newsom
direction adults, age 65 and older, to remain at home. As of May 27, deaths in the U.S. due to
COVID-19 are estimated at 100,000, and worldwide the virus has infected more than 5.6 million
people and resulted in over 350,000 deaths, with the U.S. having the dubious distinction of
having the most confirmed cases by far, according to Johns Hopkins University.

All individuals currently living within the County, including the incorporated cities, were
ordered to shelter at their homes and required to maintain social distancing of at least six feet
from any other person outside of their residence. It limited activity, travel, and business functions
to only the most basic and essential needs.

This directive was based upon substantial input from the Centers for Disease Control and
Prevention (CDC), the California Department of Public Health (CDPH), and from international
health experts. Social distancing is scientifically proven to be one of the most effective methods
to slow the transmission of communicable disease, such as COVID-19.
To-date, this proactive action taken by the Sonoma County Health Officer has significantly curtailed the spread of the virus and based upon epidemiological data, the County has been able to revise its initial order frequently to allow for the safe reopening of business and resumption of daily activity, as the data supports.

As the Orders, both from the State and the County, remain in effect, local law enforcement agencies are required to enforce adherence to the Orders. The violation of any provision of these orders constitutes an imminent threat to public health and is enforced by local law enforcement.

From the beginning of this crisis, the Petaluma Police Department (PPD) has approached all potential violations by encouraging voluntary compliance with respect and consideration of individual circumstances, and without making assumptions about the level of knowledge the individual has regarding the Orders. The PPD initially responds with education about the violation of the County Order and that the violation jeopardizes the individual’s health and safety as well as those they come in contact with. Oftentimes this initial contact and education results in compliance, and in the few cases where there are repeat offenses which are placing our community members at risk the PPD cites the individual, and if violations continue, then files a criminal complaint with the District Attorney.

**DISCUSSION**

Overall, the case rate in Sonoma County has remained relatively low, with only 2.3% of the 23,362 tests returning positive for COVID-19 since testing began in March. However, new cases have doubled over the last two weeks, and there have been recent outbreaks of the virus at manufacturing plants, among farmworkers, and at residential care facilities. Due to this increase, the County Health Officer temporarily delayed further resumption of economic activity recently allowed by the State until the threat of the virus was tempered. Additionally, recent data from County Health showed a disproportionate impact of the virus on County’s Latinx community. Of all the County’s youth under 18 who have tested positive for the coronavirus, 95% are Latino—and Latinos of all ages account for 64% of confirmed cases in the County while representing 27% of the County’s population.

On Thursday, May 28, Sonoma County Sheriff Mark Essick posted a statement on social media stating that he and his department will no longer enforce the County’s order, and instead adhere to the State Order on a “case by case basis.” This action from the Sheriff’s Department elicited a counter response from local law enforcement jurisdictions including Santa Rosa, Healdsburg, Rohnert Park, and Petaluma, stating that those departments would continue to follow the County’s Health Order with the community’s health and safety as their continued mission.

The Sheriff’s action has placed local law enforcement agencies in a tenuous position where there is confusion in the community and increases the need for enforcement from already overtaxed agencies. It also threatens to jeopardize the low infection rate that is a direct result of adherence to the County Health Officer’s order. The alternative to not enforcing the local order can be seen nation and worldwide in areas that have been slow to direct shelter-in-place orders. The ultimate goal of a reopening based upon updated health data and science is to prevent a resurgence of the virus which would require another total shutdown of the economy. According to County
Supervisor Lynda Hopkins, the Sheriff’s actions may have “earned us a spot on the CDPH’s ‘Watch List,’ which could prevent us from moving further along in the reopening process. In an attempt to take a stand for ‘freedom,’ the action may make reopening more difficult.”

Since the start of this crisis, Petalumans have valiantly adhered to both the State and County Orders, often at the detriment to their livelihoods and economic stability. The COVID-19 pandemic has severely impacted Petaluma businesses, many of them still closed after two and a half months, or have been operating at a vastly reduced pace (e.g. curbside takeout food only, etc.); and/or have been forced to furlough or lay off staff. Staff are already aware of local businesses that have permanently shut their doors due to the dramatic drop in revenue.

While the City of Petaluma has a long tradition of collaboration with, and outreach to, our business community, and has even increased this support of our businesses during this difficult time, despite declining revenues and increased unemployment of local residents which has affected the overall vibrancy of our City—we recognize the ultimate goal of these Health Orders is to help us emerge from this pandemic safely and for the long-term.

**ATTACHMENTS**

1. Resolution
RESOLUTION NO. _____

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PETALUMA
COMMENDING THE PETALUMA POLICE DEPARTMENT’S COMMITMENT TO
ENFORCEMENT OF STATE AND LOCAL HEALTH ORDERS CONCERNING
COVID-19 EMPHASIZING INFORMATION SHARING AND SUPPORT TO
PETALUMA RESIDENTS AND BUSINESSES AND PURSUING ENFORCEMENT
ONLY REGARDING COMMUNITY MEMBERS THAT REFUSE TO COMPLY TO
PROTECT THE PUBLIC HEALTH AND SAFETY, DIRECTING THAT THE
PETALUMA POLICE DEPARTMENT CONTINUE ITS IMPORTANT WORK
PROTECTING LOCAL PUBLIC HEALTH AND SAFETY AND THE LOCAL
ECONOMY, AND URGING ALL OTHER SONOMA COUNTY LAW ENFORCEMENT
OFFICIALS TO CONTINUE TO ENFORCE STATE AND LOCAL HEALTH ORDERS
CONCERNING COVID-19 CONSISTENT WITH ORDERS ISSUED BY GOVERNOR
GAVIN NEWSOM PURSUANT TO THE EMERGENCY SERVICES ACT AND
APPLICABLE LAW AND LAW ENFORCEMENT PERSONEL’S SWORN DUTIES
TO PROTECT THE HEALTH AND SAFETY OF SONOMA COUNTY RESIDENTS, SO
AS TO KEEP THE SONOMA COUNTY COMMUNITY SAFE, AVOID LOSS OF LIFE,
AND SUPPORT THE SAFE REOPENING OF SONOMA COUNTY BUSINESSES,
SCHOOLS, GOVERNMENT AGENCIES, AND OTHER INSTITUTIONS AND
ORGANIZATIONS

WHEREAS, according to the Center for Disease Control and Prevention (CDC), part of
the U.S. Department of Health and Human Services:

A. The CDC is responding to an outbreak of respiratory disease caused by a new corona
virus first detected in China and which was subsequently detected in approximately 90 locations
internationally, including the United States; and

B. The new corona virus has been named “SARS-COV-2” and the disease it causes has been
named “Coronavirus Disease 2019” (abbreviated as “COVID-19”); and

C. On January 30, 2020, the Health Regulations Emergency Committee of the World Health
Organization declared the COVID-19 outbreak to be a “public health emergency of international
concern;” and

D. On January 31, 2020, the U.S. Health and Human Services Secretary declared a public
health emergency for the United States to aid the nation’s healthcare community in responding to
COVID-19; and
E. Many patients at the COVID-19 outbreak epicenter in Wuhan, Hubei Province, China, had some link to a large seafood and live animal market, suggesting animal to person spread of the disease, while later, a growing number of patients reportedly did not have exposure to animal markets, indicating person to person spread, with person to person spread subsequently reported outside of Hubei and China, including in the United States, and with community spread of the virus also reported, meaning people becoming infected without it being known how or where they became infected, including in the United States; and

WHEREAS, on March 2, 2020, the County of Sonoma declared a local Public Health Emergency as well as a Local Emergency to respond to COVID-19 to allow the County to prepare to respond to the possibility of community spread of COVID-19, and the County partially activated the County Emergency Operations Center to support necessary activities; and

WHEREAS, on March 2, 2020, the Director of Emergency Services of the City of Santa Rosa proclaimed the existence of a local emergency throughout the City based on findings regarding the threat to the community health posed by COVID-19; and

WHEREAS, on March 4, 2020, California Governor Gavin Newsom declare the existence of a state of emergency in California pursuant to the California Emergency Services Act and reported that as of that date, there were more than 94,000 cases of COVID-19 worldwide, resulting in more than 3,000 deaths of COVID-19 worldwide, with 129 confirmed cases of COVID-19 in the U.S., including 53 in California; and

WHEREAS, the Sonoma County Department of Health Services confirmed on March 5, 2020, a second presumptive positive case of COVID-19 in a resident who travelled internationally on the Grand Princes ship from San Francisco to Mexico, and that both Sonoma County patients were in isolation rooms at a local hospital; and

WHEREAS, on March 5, 2020, the Director of Emergency Services for the City of Rohnert Park proclaimed the existence of a local emergency based on findings of peril to the safety of persons and property within the City; and

WHEREAS, on March 9, 2020, Petaluma City Manager Peggy Flynn, in her capacity as the City’s Emergency Services Director, proclaimed a local emergency pursuant to Government Code Section 8558(c) as a result of threats posed by COVID-19 to the health, safety and welfare of Petaluma residents and visitors and to continuity of services provided by the City, other local governments, businesses and non-profit organizations in the City, noting pursuant to Petaluma Municipal Code Section 2.32.060(F)(3) her authority to require emergency service of any City officer or employee, that in accordance with Petaluma Municipal Code section 2.32.090, all
officers and employees of the City, along with volunteer forces and groups aiding during an emergency, may be charged with duties incident to the protection of life and property in the City during a proclaimed emergency, and that in accordance with Government Code Section 3100 all public employees are declared to be disaster service workers subject to such disaster service activities as may be assigned to them by their superiors or by law, and in accordance with Government Code Section 8665, refusal or neglect to obey lawful orders issued to disaster service workers is a misdemeanor; and

WHEREAS, on March 16, 2020, the Petaluma City Council adopted resolution No. 2020-040 N.C.S. ratifying the City Manager’s Emergency Proclamation and stated on behalf of the City an intent to take all necessary and appropriate steps to protect the public health and safety and to avoid interrupted services of the City, other local government service providers, local businesses and nonprofit organizations, and to coordinate with Federal, state and local governments to deploy resources in a coordinate fashion to help minimize the threat posed by COVID-19; and

WHEREAS, since adoption of the City’s emergency proclamation, other local governments throughout the nation and national, state and local governments in other countries have issued emergency declarations in response to COVID-19; and

WHEREAS, following the California State and Sonoma County emergency declarations, President Trump proclaimed on March 13, 2020, the existence of a national emergency due to COVID-19, and on March 18, 2020, the Sonoma County Health Officer issued Order C19-03 requiring Sonoma County residents to shelter in place, subject to specified exceptions for providing and receiving essential services, and Governor Newsom issued a statewide sheltering order on March 19, 2020, with exceptions for maintaining continuity of the federal critical infrastructure sectors; and

WHEREAS, since the initial state and Sonoma County shelter orders have been issued, both orders have been modified and additional orders have been issued to expand sheltering requirements, and more recently, to begin relaxing specified sheltering requirements to begin to permit business and other activities such as outdoor activities to resume, subject to public safety measures including social distancing, facial covering and other sanitation requirements necessary to prevent further spread of COVID-19; and

WHEREAS, COVID-19 has continued to spread throughout the United States and Sonoma County, with deaths in the United States due to the virus now exceeding 100,000 lives lost, with 3 lives lost in Sonoma County, and currently 531 cases of COVID-19 in Sonoma County; and
WHEREAS, in accordance with Governor Newsom’s Executive Order N-25-20, all California residents are ordered to heed any ordinance and guidance of state and local public health officials, including but not limited to the imposition of social distancing measures to control the spread of COVID-19; and

WHEREAS, in accordance with Health and Safety Code Section 101040, local health officers may take any preventive measure that may be necessary to protect and preserve the public health from any public health hazard during any state of emergency or local emergency as defined by Section 8558 of the Government Code within his or her jurisdiction; and

WHEREAS, the Sonoma County Health Officer has requested the Sonoma County Sheriff and the Sonoma County Chiefs of Police to enforce her health orders concerning COVID-19 as necessary to protect the public health and safety; and

WHEREAS, the Petaluma Police Department, under the leadership of Chief Ken Savano have been active throughout the Petaluma community sharing information, answering questions and supporting community residents and business owners in complying with current health orders, and only pursuing enforcement action regarding community member that refuse to comply to protect the public health and safety;

NOW, THEREFORE, be it resolved by the City Council of the City of Petaluma as follows:

1. The above recitals are hereby declared to be true and correct and are hereby incorporated into this resolution as findings of the City Council.
2. The Petaluma Police Department, and each Department member, under the leadership of Chief Ken Savano, are hereby commended for their efforts to share information, answer questions and support residents and business owners in the Petaluma community in complying with current health orders, and only pursuing enforcement action regarding community members that refuse to comply to protect the public health and safety.
3. The Petaluma Police Department, and each Department member, under the leadership of Chief Ken Savano are hereby directed to continue their important work protecting the local public health and safety and the local economy by assisting Petaluma residents and business owners in complying with current state and local health orders, pursuing enforcement action only as necessary regarding community members that refuse to comply as need to protect the public health and safety.
4. All other Sonoma County law enforcement officials are hereby urged to continue to enforce applicable state and local health orders concerning COVID-19 consistent with the orders issued by Governor Newsom pursuant to the Emergency Services Act and applicable law and law enforcement personnel’s sworn duties to protect the health and safety of Sonoma County residents so as to keep the Sonoma County community safe, avoid loss of life, and support the safe reopening of Sonoma County businesses, schools, government agencies, and other institutions and organizations.
5. The City Council denounces any decisions by local law enforcement officials, such as that recently announced on behalf of Sheriff Mark Essick, to not enforce local health orders, despite the related serious risk to the public health and safety and the economy, and despite the direction of Governor Newsom that all state and local health orders should be heeded.