

1 [Authorizing Request for Parole Entry to the Agreement- Department of Homeland Security -
2 District Attorney and Sheriff]

3 **Ordinance authorizing the District Attorney and Sheriff to enter an agreement with the**
4 **send a Request for Parole Entry to the United States Department of Homeland Security**
5 **(“DHS”) under which DHS would agree to facilitate parole entry into the United States**
6 **of a criminal defendant for prosecution in San Francisco, and excluding the agreement**
7 **from certain requirements in Chapters 12H and 12I of the Administrative Code, and**
8 **authorizing the District Attorney and Sheriff to notify DHS immediately if the defendant**
9 **posts bail or is acquitted, or if no probable cause determination is found.**

10 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
11 **Additions to Codes** are in *single-underline italics Times New Roman font*.
12 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
13 **Board amendment additions** are in double-underlined Arial font.
14 **Board amendment deletions** are in ~~strikethrough Arial font~~.
15 **Asterisks (* * * *)** indicate the omission of unchanged Code
16 subsections or parts of tables.

17 Be it ordained by the People of the City and County of San Francisco:

18 Section 1. Findings and Background.

19 (a) On June 29, 2018, following an initial investigation by the San Francisco Police
20 Department, the Superior Court for the County of San Francisco issued a warrant of arrest for
21 a defendant on charges of violating California Penal Code Sections 261(a)(3) and
22 261(a)(4)(A) (San Francisco Superior Court Criminal Case No. 170861188). The defendant is
23 currently in Canada, where the Canadian Ministry of Justice is holding him in custody pending
24 possible extradition to the United States for criminal prosecution consistent with the arrest
25 warrant. If the defendant is paroled to the United States, he will be housed in the San

1 Francisco County Jail in the custody of the Sheriff, and the District Attorney will prosecute the
2 criminal charges against him.

3 (b) The District Attorney has requested that the United States Department of
4 Homeland Security (“DHS”) approve parole entry to allow the defendant to be transported to
5 San Francisco to facilitate the criminal prosecution. DHS has informed the District Attorney
6 that it will not approve parole entry for the defendant unless the District Attorney and the
7 Sheriff agree send a Request for Parole Entry to DHS, which includes assurances that they
8 will to notify DHS immediately if the defendant posts bail, if the defendant is acquitted, or if no
9 probable cause determination is found, or is otherwise to be released from custody either
10 before or after the conclusion of the criminal proceeding. Upon receiving the notification from
11 the District Attorney or Sheriff, DHS could take action to effect the removal of the defendant
12 from the United States.

13 (c) This ordinance does not modify or alter any Sections of Administrative Code
14 Chapters 12H and 12I in any way, maintaining the integrity and purpose of all Administrative
15 Code Sections in Chapters 12H and 12I. This ordinance serves to narrowly address this rare
16 criminal case involving extradition of a foreign national and to authorize two City departments
17 to submit a conditional request for parole entry in this one case.

18
19 Section 2. Authorization to Submit Request for Parole Entry ~~Enter Agreement.~~

20 (a) The District Attorney and the Sheriff are hereby authorized to ~~enter an~~
21 ~~agreement with~~ send a Request for Parole Entry to DHS to facilitate parole entry for the
22 defendant in San Francisco Superior Court Criminal Case No. 170861188. Notwithstanding
23 Administrative Code Sections 12H.2(c) and 12I.3(c), the District Attorney and/or the Sheriff
24 may, pursuant to the request for parole entry, under the terms of the agreement, (1) respond
25 to a notification request, as that term is defined in Section 12I.2, regarding the defendant’s

1 pretrial release or disposition, and (2) provide information to DHS regarding the ~~release status~~
2 ~~or other personal information regarding the defendant's~~ pretrial release or disposition, as
3 those terms are defined in Section 12I.2. All other requirements of Chapters 12H and 12I
4 shall apply, and the District Attorney and Sheriff may not agree to forgo any of those
5 requirements.

6 (b) Within 30 days of ~~an agreement with DHS being fully executed by all~~
7 ~~parties submitting the request for parole entry~~, the District Attorney shall provide the final
8 ~~agreement~~ letter to the Clerk of the Board for inclusion in File No. _____.

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10 Section 3. Effective Date. This ordinance shall become effective 30 days after
11 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
12 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
13 of Supervisors overrides the Mayor's veto of the ordinance.

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16 APPROVED AS TO FORM:
17 DENNIS J. HERRERA, City Attorney

18 By: _____
19 JON GIVNER
Deputy City Attorney

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