

File No. 211044

Committee Item No. _____

Board Item No. 63

COMMITTEE/BOARD OF SUPERVISORS

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Date: _____

Board of Supervisors Meeting

Date: October 5, 2021

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Prepared by: Lisa Lew

Date: October 1, 2021

Prepared by: _____

Date: _____

1 [Concurring in Actions to Meet Local Emergency - Coronavirus Response - Thirty-Seventh
2 Supplement]

3 **Motion concurring in actions taken by the Mayor in the Thirty-Seventh Supplement to**
4 **the Proclamation of Emergency to meet the ongoing local emergency related to the**
5 **novel coronavirus COVID-19 pandemic by 1) authorizing the waiver of civil service**
6 **rules to hire employees to ensure the continuity of City services due to the**
7 **reassignment, suspension, termination, resignation, retirement, or leaves of City**
8 **employees that may result from vaccination policies or requirements, or return to in-**
9 **person work requirements; 2) extending the existing COVID-19 sick leave program for**
10 **City employees to October 31, 2021, and authorizing a possible further extension to**
11 **December 31, 2021; and 3) allowing City employees to continue to carry vacation hours**
12 **over the applicable cap until June 30, 2022.**

13
14 WHEREAS, On February 25, 2020, Mayor London N. Breed declared a local
15 emergency to exist in connection with the spread of the novel coronavirus COVID-19; and

16 WHEREAS, The Mayor transmitted a copy of that Proclamation Declaring the
17 Existence of a Local Emergency to the Board of Supervisors (the "Proclamation"), and on
18 March 3, 2020, the Board of Supervisors concurred in the Proclamation and in the actions
19 taken by the Mayor to meet the emergency; the Proclamation and the Board's concurring
20 Motion are on file with the Clerk of the Board of Supervisors in File No. 200228; and

21 WHEREAS, To protect the health and safety of City employees and the public, and to
22 comply with legal mandates, the City required all employees to report their vaccination status
23 by July 29, 2021; employees who failed to comply with this reporting requirement are subject
24 to progressive discipline, up to and including termination of employment; and

1 WHEREAS, To protect the health and safety of City employees and the public, City
2 policy requires all City employees to be fully vaccinated against COVID-19 no later than
3 November 1, 2021, subject to limited exemptions for medical disability and sincerely held
4 religious beliefs, and depending on their work duties some City employees must be fully
5 vaccinated prior to November 1, 2021, under State and City health orders; City policy also
6 provides that employees who are not vaccinated consistent with these requirements and who
7 do not have an approved exemption on medical or religious grounds that the department is
8 able to reasonably accommodate will be subject to non-disciplinary separation from City
9 employment for failure to meet a condition of City employment; and

10 WHEREAS, Presently, a significant number of City employees across a number of
11 departments have not been vaccinated, and except for employees with an approved
12 exemption to the vaccination requirement that the department is able to reasonably
13 accommodate, such employees will be separated from City employment if they refuse to
14 comply with the City's vaccination policy; and

15 WHEREAS, To ensure the continuity of City services due to the suspension,
16 termination, or non-disciplinary release of employees who fail to comply with the vaccination
17 policy reporting and vaccination requirements, it is in the public interest to temporarily waive
18 provisions of City law to expedite the process of filling positions left vacant due to vaccination
19 policy-related suspensions or terminations; and

20 WHEREAS, Some employees may resign from City employment or take extended
21 leave rather than comply with the City's vaccination policy, and others may resign or take
22 extended leave rather than return to in-person work after the City returns employees to the
23 workplace, currently scheduled for November 1, 2021; these resignations or extended leaves
24 may increase staffing vacancies already created by release of employees who fail to comply
25 with the vaccination policies; and

1 WHEREAS, In the Seventh Supplemental Proclamation, the Mayor authorized a
2 program for additional paid sick leave for City employees to ensure they have sufficient paid
3 time off balances to remain out of the workplace if they or their family members are sick,
4 quarantined, or otherwise impacted by COVID-19, so those employees could return to work
5 as soon as possible and function at full capacity in the service of the City; this program was
6 modified by the Thirtieth, Thirty-Fourth, and Thirty-Sixth Supplemental Proclamations, and the
7 leave program extended to September 30, 2021; due to the impacts of the Delta variant as
8 well as the possible use of such leave for vaccination-related purposes, it is in the public
9 interest to extend the program further; and

10 WHEREAS, In the Seventh and Thirty-First Supplemental Proclamations, the Mayor
11 waived provisions of local law to allow City employees to accrue up to 80 hours of vacation
12 over the applicable vacation cap because many City employees were unable to use vacation
13 balances due to the demands of their duties related to the emergency; the Thirty-First
14 Supplemental Proclamation authorized the accrual of such additional vacation hours until
15 June 30, 2021, and required City employees to use the additional vacation by December 31,
16 2021; given that emergency conditions have continued and City operations are still in the
17 process of returning to pre-pandemic normal, some City employees have been unable to
18 reduce their vacation balances, thus it is in the public interest to authorize employees to
19 maintain vacation balances above the cap until June 30, 2022, to provide employees
20 additional time to reduce vacation balances; and

21 WHEREAS, On September 28, 2021, the Mayor took additional steps to meet the
22 emergency by issuing the Thirty-Seventh Supplement to the Proclamation, ordering three
23 actions to meet the emergency; the Thirty-Seventh Supplement is on file with the Clerk of the
24 Board of Supervisors in Board File No. 211044; and

1 WHEREAS, Government Code, Sections 8550 et seq. and Charter, Section 3.100
2 provide for the concurrence by members of the Board of Supervisors in such emergency
3 declaration and in action taken by the Mayor to meet the emergency; now, therefore, be it

4 MOVED, That the Board of Supervisors concurs with the following actions taken by the
5 Mayor to meet the local emergency included in the Mayor’s Thirty-Seventh Supplement to the
6 Proclamation, dated September 28, 2021, as such actions are described in full in the Thirty-
7 Seventh Supplement and summarized as follows:

8 Action 1: Authorizing the Human Resources Director and the Director of
9 Transportation to waive Civil Service Rules and Charter provisions to hire employees upon a
10 determination that such waiver is necessary or appropriate to ensure the continuity of City
11 services due to the reassignment, suspension, or termination of City employees as a result of
12 the City’s vaccination policy, and including continuity of service needs due to employee
13 resignations, retirements, or leaves in response to the vaccination policy or requirements or
14 return to in-person work requirements.

15 Action 2: Extending the existing COVID-19 sick leave program for City
16 employees, due to expire on September 30, 2021, to October 31, 2021, and authorizing the
17 Human Resources Director to further extend the program to December 31, 2021, upon written
18 determination that extending the availability of this leave will mitigate the impacts of COVID-19
19 on City employees and their families, support continued delivery of City programs and
20 services, or support the health and safety of City employees or the public.

21 Action 3. Waiving provisions of local law to allow City employees to continue
22 to carry vacation hours over the applicable vacation cap until June 30, 2022.

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**THIRTY-SEVENTH SUPPLEMENT TO MAYORAL PROCLAMATION
DECLARING THE EXISTENCE OF A LOCAL EMERGENCY DATED
FEBRUARY 25, 2020**

WHEREAS, California Government Code Sections 8550 et seq., San Francisco Charter Section 3.100(14) and Chapter 7 of the San Francisco Administrative Code empower the Mayor to proclaim the existence of a local emergency, subject to concurrence by the Board of Supervisors as provided in the Charter, in the case of an emergency threatening the lives, property or welfare of the City and County or its citizens; and

WHEREAS, On February 25, 2020, the Mayor issued a Proclamation (the “Proclamation”) declaring a local emergency to exist in connection with the imminent spread within the City of a novel (new) coronavirus (“COVID-19”); and

WHEREAS, On March 3, 2020, the Board of Supervisors concurred in the Proclamation and in the actions taken by the Mayor to meet the emergency; and

WHEREAS, On March 4, 2020, Governor Gavin Newsom proclaimed a state of emergency to exist within the State due to the threat posed by COVID-19; and

WHEREAS, On March 6, 2020, the Health Officer declared a local health emergency under Section 101080 of the California Health and Safety Code, and the Board of Supervisors concurred in that declaration on March 10, 2020; and

WHEREAS, To protect the health and safety of City employees and the public, and to comply with legal mandates, the City required all employees to report their vaccination status by July 29, 2021. For employees who reported their status as unvaccinated, City policy required them to update that status as they received vaccination for COVID-19. Employees who failed to comply with this reporting requirement are subject to progressive discipline, up to and including termination of employment; and

WHEREAS, To protect the health and safety of City employees and the public, City policy requires all City employees to be fully vaccinated against COVID-19 no later than November 1, 2021, subject to limited exemptions for medical disability and sincerely held religious beliefs, and depending on their work duties some City employees must be fully vaccinated prior to November 1 under State and City health orders. City policy also provides that employees who are not vaccinated consistent with these requirements and who do not have an approved exemption on medical or religious grounds that the



department is able to reasonably accommodate will be subject to non-disciplinary separation from City employment for failure to meet a condition of City employment; and

WHEREAS, Presently, a significant number of City employees across a number of departments have not been vaccinated, and except for employees with an approved exemption to the vaccination requirement that the department is able to reasonably accommodate, such employees will be separated from City employment if they refuse to comply with the City's vaccination policy; and

WHEREAS, To ensure the continuity of City services due to the suspension, termination, or non-disciplinary release of employees who fail to comply with the vaccination policy reporting and vaccination requirements, it is in the public interest to temporarily waive provisions of City law to expedite the process of filling positions left vacant due to vaccination policy-related suspensions or terminations; and

WHEREAS, Some employees may resign from City employment or take extended leave rather than comply with the City's vaccination policy, and others may resign or take extended leave rather than return to in-person work after the City returns employees to the workplace, currently scheduled for November 1, 2021. These resignations or extended leaves may increase staffing vacancies already created by release of employees who fail to comply with the vaccination policies; and

WHEREAS, In the Seventh Supplemental Proclamation, the Mayor authorized a program for additional paid sick leave for City employees to ensure they have sufficient paid time off balances to remain out of the workplace if they or their family members are sick, quarantined, or otherwise impacted by COVID-19, so those employees could return to work as soon as possible and function at full capacity in the service of the City. This program was modified by the Thirtieth, Thirty-Fourth, and Thirty-Sixth Supplemental Proclamations, and the leave program extended to September 30, 2021. Due to the impacts of the Delta variant as well as the possible use of such leave for vaccination-related purposes, it is in the public interest to extend the program further; and

WHEREAS, In the Seventh and Thirty-First Supplemental Proclamations, the Mayor waived provisions of local law to allow City employees to accrue up to 80 hours of vacation over the applicable vacation cap because many City employees were unable to use vacation balances due to the demands of their duties related to the emergency. The Thirty-First Supplemental Proclamation authorized the accrual of such additional



vacation hours until June 30, 2021, and required City employees to use the additional vacation by December 31, 2021. Given that emergency conditions have continued and City operations are still in the process of returning to pre-pandemic normal, some City employees have been unable to reduce their vacation balances, thus it is in the public interest to authorize employees to maintain vacation balances above the cap until June 30, 2022, to provide employees additional time to reduce vacation balances;

NOW, THEREFORE,

I, London N. Breed, Mayor of the City and County of San Francisco, proclaim that there continues to exist an emergency within the City and County threatening the lives, property or welfare of the City and County and its citizens;

In addition to the measures outlined in the Proclamation and in the Supplements to the Proclamation issued on various dates, it is further ordered that:

(1) The Human Resources Director is delegated authority to temporarily waive, for a period not to exceed the duration of the local emergency, provisions of the Civil Service Commission Rules and provisions of the Charter regarding hiring for any specified department or classification, including, without limitation, permanent civil service hiring, if the Human Resources Director determines in writing submitted to the Civil Service Commission that such waiver is necessary or appropriate to ensure the continuity of City services due to the reassignment, suspension or termination of City employees as a result of the City's policy concerning vaccination or federal, state, or local vaccination requirements. This waiver authority extends to continuity of service needs due to employee resignations, retirements, or leaves in response to any of these policies or requirements or return to in-person work requirements. The Director of Transportation is delegated authority with regard to San Francisco Municipal Transportation Agency service critical positions to temporarily waive, for a period not to exceed the duration of the local emergency, provisions of the Civil Service Commission Rules and provisions of the Charter regarding hiring for service critical positions, including permanent civil service hiring, if the Director of Transportation determines in writing submitted to the Civil Service Commission that such waiver is necessary or appropriate to ensure the continuity of City services due to the reassignment, suspension or termination of City employees as a result of the City's policy concerning vaccination or federal, state, or local vaccination requirements. This waiver authority extends to continuity of service needs due to employee resignations, retirements, or leaves in response to any of these policies or requirements or return to in-person work requirements. This Order shall



remain in effect during the local emergency, unless terminated earlier by the Mayor or the Board of Supervisors.

(2) The program providing an additional 80 hours of new paid sick leave to employees employed as of April 1, 2020, enacted in Section 2 of the Mayor's Seventh Supplemental Proclamation, and supplemented in the Mayor's Thirtieth, Thirty-Fourth, and Thirty-Sixth Supplemental Proclamations is modified to extend the expiration date for leave available under the program to October 31, 2021. The Human Resources Director is delegated authority to further extend the expiration date for leave under the program to no later than December 31, 2021, upon a written determination that extending the availability of this leave will mitigate the impacts of COVID-19 on City employees and their families, support continued delivery of City programs and services, or support the health and safety of City employees or the public. The Human Resources Director shall transmit any such determination to extend the program to the Mayor and the Clerk of the Board of Supervisors. The other terms of the program in Section 2 of the Mayor's Seventh Supplemental Proclamation as modified by the Mayor's Thirtieth, Thirty-Fourth, and Thirty-Sixth Supplemental Proclamations shall remain in effect. This Order shall remain in effect until December 31, 2021, unless terminated earlier by the Mayor or the Board of Supervisors.

(3) Employees who accrued additional vacation hours above the maximum accrual limit under Section 3 of the Thirty-First Supplement to the Proclamation of Local Emergency must use vacation time and reduce their balance below the maximum accrual limit by June 30, 2022. Any provisions of the Charter, the Municipal Code, and City rules or regulations that would limit or prevent employees from carrying vacation balances above the maximum accrual limit are waived, including but not limited to Charter Section A8.440 and Administrative Code Section 16.12. The Human Resources Director and Controller, or their designees, are authorized to implement this program and issue any necessary rules and guidance. This Order shall remain in effect until June 30, 2022, unless terminated earlier by the Mayor or the Board of Supervisors.

DATED: September 28, 2021

A handwritten signature in blue ink, reading "London N. Breed".

London N. Breed
Mayor of San Francisco

Introduction Form

By a Member of the Board of Supervisors or Mayor

Time stamp
or meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee. (An Ordinance, Resolution, Motion or Charter Amendment).
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning : "Supervisor inquiries"
- 5. City Attorney Request.
- 6. Call File No. from Committee.
- 7. Budget Analyst request (attached written motion).
- 8. Substitute Legislation File No.
- 9. Reactivate File No.
- 10. Topic submitted for Mayoral Appearance before the BOS on

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission
- Youth Commission
- Ethics Commission
- Planning Commission
- Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use the Imperative Form.

Sponsor(s):

Walton

Subject:

Concurring in Actions to Meet Local Emergency - Coronavirus Response

The text is listed:

Motion concurring in actions taken by the Mayor in the Thirty-Seventh Supplement to the Proclamation of Emergency to meet the ongoing local emergency related to the novel coronavirus COVID-19 pandemic by 1) authorizing the waiver of civil service rules to hire employees to ensure the continuity of City services due to the reassignment, suspension, termination, resignation, retirement, or leaves of City employees that may result from vaccination policies or requirements, or return to in-person work requirements; 2) extending the existing COVID-19 sick leave program for City employees to October 31, 2021, and authorizing a possible further extension to December 31, 2021; and 3) allowing City employees to continue to carry vacation hours over the applicable cap until June 30, 2022.

Signature of Sponsoring Supervisor: