

1 [City Policy Regarding Contract Approval.]

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Resolution making it the policy of the City and County that the Board of Supervisors not approve the exercise of options to renew contracts and leases under Charter Section 9.118 where the initial term together with the extension would exceed ten years, if the original agreement was not brought to the Board for its information and review before the agreement was executed.

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WHEREAS, Charter Section 9.118 requires that the Board of Supervisors approve all City contracts and leases having a term in excess of ten years; and

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WHEREAS, This requirement has been interpreted by the Office of the City Attorney not to apply to an agreement where the initial term binds the City to a term of less than ten years and the agreement reserves to the City the sole discretion to exercise any options to renew, or to approve in its sole discretion the exercise by the other party of any option to renew, that would if exercised extend the total term beyond ten years; and

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WHEREAS, Charter Section 9.118 has been interpreted by the City Attorney as requiring Board approval of such an agreement where the City seeks to exercise or approve the exercise of an option to renew, if the cumulative terms of the original agreement and the option would exceed ten years; and

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WHEREAS, The Board's discretion to withhold its approval of the exercise of the option under such a agreement could be hindered when a department seeks approval for the exercise of the option after the department and third party contractor already have invested several years' worth of time and money during the initial term of the agreement based on the assumption that if the department is satisfied with the contractor's performance, the City will exercise future options; and

1 WHEREAS, This practice could have the practical effect of denying the citizens of San
2 Francisco the protections of Section 9.118; now, therefore, be it

3 RESOLVED, That it is the policy of the City and County of San Francisco to urge City
4 departments to bring to the Board of Supervisors for its information and review all contracts
5 and leases that are not initially subject to review under Section 9.118 of the Charter but which
6 include any options to renew that would be subject to City approval if exercised, before such
7 agreements are executed; and, be it

8 FURTHER RESOLVED, That it is the further policy of City and County that the Board
9 of Supervisors not approve the exercise of such options if the department did not bring the
10 original contract or lease to the Board for its information and review before the agreement was
11 executed; and, be it

12 FURTHER RESOLVED, That the Board of Supervisors directs the Budget Analyst, in
13 reviewing any departmental request for approval of the exercise of such options, to report on
14 whether the department brought the original agreement to the Board for its information and
15 review consistent with this resolution; and, be it

16 FINALLY RESOLVED, That, upon final adoption of this resolution, the Clerk of the
17 Board of Supervisors is directed to provide a copy of this resolution to the director of every
18 City department.

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