

File No. 190009

Committee Item No. 1

Board Item No. \_\_\_\_\_

# COMMITTEE/BOARD OF SUPERVISORS

## AGENDA PACKET CONTENTS LIST

Committee: Rules Committee

Date January 23, 2019

Board of Supervisors Meeting

Date \_\_\_\_\_

### Cmte Board

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|-------------------------------------|--------------------------|--|
| <input type="checkbox"/>            | <input type="checkbox"/> | Motion                                       |
| <input type="checkbox"/>            | <input type="checkbox"/> | Resolution                                   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Ordinance                                    |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Legislative Digest                           |
| <input type="checkbox"/>            | <input type="checkbox"/> | Budget and Legislative Analyst Report        |
| <input type="checkbox"/>            | <input type="checkbox"/> | Youth Commission Report                      |
| <input type="checkbox"/>            | <input type="checkbox"/> | Introduction Form                            |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/>            | <input type="checkbox"/> | Memorandum of Understanding (MOU)            |
| <input type="checkbox"/>            | <input type="checkbox"/> | Grant Information Form                       |
| <input type="checkbox"/>            | <input type="checkbox"/> | Grant Budget                                 |
| <input type="checkbox"/>            | <input type="checkbox"/> | Subcontract Budget                           |
| <input type="checkbox"/>            | <input type="checkbox"/> | Contract/Agreement                           |
| <input type="checkbox"/>            | <input type="checkbox"/> | Form 126 - Ethics Commission                 |
| <input type="checkbox"/>            | <input type="checkbox"/> | Award Letter                                 |
| <input type="checkbox"/>            | <input type="checkbox"/> | Application                                  |
| <input type="checkbox"/>            | <input type="checkbox"/> | Form 700                                     |
| <input type="checkbox"/>            | <input type="checkbox"/> | Vacancy Notice                               |
| <input type="checkbox"/>            | <input type="checkbox"/> | Information Sheet                            |
| <input type="checkbox"/>            | <input type="checkbox"/> | Public Correspondence                        |

OTHER (Use back side if additional space is needed)

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Completed by: Victor Young Date Jan. 18, 2019

Completed by: \_\_\_\_\_ Date \_\_\_\_\_

1 [Authorizing Parole Entry Agreement - United States Department of Homeland Security -  
2 District Attorney and Sheriff]

3 **Ordinance authorizing the District Attorney and Sheriff to enter an agreement with the**  
4 **United States Department of Homeland Security (“DHS”) under which DHS would agree**  
5 **to facilitate parole entry into the United States of a criminal defendant for prosecution**  
6 **in San Francisco; and excluding the agreement from certain requirements in Chapters**  
7 **12H and 12I of the Administrative Code.**

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

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

16 Section 1. Findings and Background.

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

1 (b) The District Attorney has requested that the United States Department of  
2 Homeland Security ("DHS") approve parole entry to allow the defendant to be transported to  
3 San Francisco to facilitate the criminal prosecution. DHS has informed the District Attorney  
4 that it will not approve parole entry for the defendant unless the District Attorney and the  
5 Sheriff agree to notify DHS immediately if the defendant posts bail or is otherwise to be  
6 released from custody either before or after the conclusion of the criminal proceeding. Upon  
7 receiving the notification from the District Attorney or Sheriff, DHS could take action to effect  
8 the removal of the defendant from the United States.

9  
10 Section 2. Authorization to Enter Agreement.

11 (a) The District Attorney and the Sheriff are hereby authorized to enter an  
12 agreement with DHS to facilitate parole entry for the defendant in San Francisco Superior  
13 Court Criminal Case No. 170861188. Notwithstanding Administrative Code Sections 12H.2(c)  
14 and 12I.3(c), the District Attorney and/or the Sheriff may, under the terms of the agreement,  
15 (1) respond to a notification request, as that term is defined in Section 12I.2, regarding the  
16 defendant's pretrial release or disposition, and (2) provide information to DHS regarding the  
17 release status or other personal information regarding the defendant's pretrial release or  
18 disposition, as those terms are defined in Section 12I.2. All other requirements of Chapters  
19 12H and 12I shall apply, and the District Attorney and Sheriff may not agree to forgo any of  
20 those requirements.

21 (b) Within 30 days of an agreement with DHS being fully executed by all parties, the  
22 District Attorney shall provide the final agreement to the Clerk of the Board for inclusion in File  
23 No. 190009.

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

5  
6  
7 APPROVED AS TO FORM:  
8 DENNIS J. HERRERA, City Attorney

9 By:

  
10 JON GIVNER  
Deputy City Attorney

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**LEGISLATIVE DIGEST**

[Authorizing Parole Entry Agreement - Department of Homeland Security - District Attorney and Sheriff]

**Ordinance authorizing the District Attorney and Sheriff to enter an agreement with the United States Department of Homeland Security (“DHS”) under which DHS would agree to facilitate parole entry into the United States of a criminal defendant for prosecution in San Francisco; and excluding the agreement from certain requirements in Chapters 12H and 12I of the Administrative Code.**

Existing Law

Under existing law, City employees may not use City resources to provide information to the United States Department of Homeland Security (“DHS”) about the release status or personal information of any individual in City custody, except in limited circumstances.

Amendments to Current Law

In June 2018, the San Francisco Superior Court issued an arrest warrant for a suspect who is now in the custody of the Canadian Ministry of Justice. The District Attorney has requested that DHS approve parole entry (extradition) of this individual to the United States for criminal prosecution. DHS has informed the District Attorney that it will not approve parole entry for the defendant unless the District Attorney and the Sheriff agree to notify DHS immediately if the defendant posts bail or is otherwise to be released from custody either before or after the conclusion of the criminal proceeding. The proposed ordinance would authorize the District Attorney and Sheriff to agree to notify DHS in this case.

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George Gascón  
District Attorney

TO: BOS Legislation

DATE: January 7, 2019

RE: Submission of Ordinance for Introduction: Authorizing  
Parole Entry Agreement - Department of Homeland Security -  
District Attorney and Sheriff

Attached are a proposed ordinance and legislative digest authorizing the District Attorney and Sheriff to enter an agreement with the United States Department of Homeland Security ("DHS") under which DHS would agree to facilitate parole entry into the United States of a criminal defendant for prosecution in San Francisco, and excluding the agreement from certain requirements in Chapters 12H and 12I of the Administrative Code. The criminal defendant is currently being held in Canada pending our extradition request. His release date from Canadian custody is January 28, 2019 absent action taken allowing for this ordinance.

Contacts:

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The District Attorney requests that the Clerk arrange for introduction of this ordinance at the January 15, 2019 meeting.