

File No. 200498

Committee Item No. _____

Board Item No. 33

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: _____

Date: _____

Board of Supervisors Meeting

Date: May 19, 2020

Cmte Board

- Motion
- Resolution
- Ordinance
- Legislative Digest
- Budget and Legislative Analyst Report
- Youth Commission Report
- Introduction Form
- Department/Agency Cover Letter and/or Report
- MOU
- Grant Information Form
- Grant Budget
- Subcontract Budget
- Contract/Agreement
- Form 126 – Ethics Commission
- Award Letter
- Application
- Public Correspondence

OTHER

- Mayoral Proclamation - Thirteenth Supplement - 05/11/20
- _____
- _____
- _____
- _____
- _____
- _____
- _____

Prepared by: Lisa Lew

Date: May 15, 2020

Prepared by: _____

Date: _____

1 [Concurring in Actions to Meet Local Emergency - Coronavirus Response]

2

3 **Motion concurring in actions taken by the Mayor in the Thirteenth Supplement to the**
4 **Proclamation of Emergency, released on May 11, 2020, to meet the ongoing local**
5 **emergency related to the novel coronavirus COVID-19 pandemic.**

6

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

9 WHEREAS, The Mayor transmitted a copy of that Proclamation Declaring the
10 Existence of a Local Emergency to the Board of Supervisors (the "Proclamation"), and on
11 March 3, 2020, the Board of Supervisors concurred in the Proclamation and in the actions
12 taken by the Mayor to meet the emergency; the Proclamation and the Board's concurring
13 motion are on file with the Clerk of the Board of Supervisors in File No. 200228; and

14 WHEREAS, On March 11, 2020, and March 13, 2020, the Mayor took additional steps
15 to meet the local emergency by issuing the First and Second Supplements to the
16 Proclamation, and on March 24, 2020, the Board of Supervisors concurred in the actions
17 taken by the Mayor in those Supplements; the First and Second Supplements and the Board's
18 concurring motion are on file with the Clerk of the Board of Supervisors in File No. 200294;
19 and

20 WHEREAS, On March 17, 2020, March 18, 2020, and March 23, 2020, the Mayor took
21 additional steps to meet the local emergency by issuing the Third, Fourth, and Fifth
22 Supplements to the Proclamation, and on March 31, 2020, the Board of Supervisors
23 concurred in the actions taken by the Mayor in those Supplements; the Third, Fourth, and
24 Fifth Supplements and the Board's concurring motion are on file with the Clerk of the Board of
25 Supervisors in File No. 200326; and

1 WHEREAS, On March 27, 2020, and March 31 2020, the Mayor took additional steps
2 to meet the local emergency by issuing the Sixth and Seventh Supplements to the
3 Proclamation and on April 7, 2020, the Board of Supervisors concurred in the actions taken in
4 those Supplements; the Sixth and Seventh Supplements to the Proclamation and the Board's
5 concurring motion are on file with the Clerk of the Board of Supervisors in File No. 200352;
6 and

7 WHEREAS, On April 1, 2020, the Mayor took additional steps to meet the local
8 emergency by issuing the Eighth Supplement to the Proclamation, and on April 14, 2020, the
9 Board of Supervisors concurred in the actions taken in that Supplement; the Eighth
10 Supplement to the Proclamation and the Board's concurring motion are on file with the Clerk
11 of the Board of Supervisors in File No. 200369; and

12 WHEREAS, On April 10, 2020, and April 14, 2020, the Mayor took additional steps to
13 meet the emergency by issuing the Ninth and Tenth Supplements to the Proclamation, and on
14 April 21, 2020, the Board of Supervisors concurred in the actions taken in those Supplements;
15 the Ninth and Tenth Supplements and the Board's concurring motion are on file with the Clerk
16 of the Board of Supervisors in File No. 2000384; and

17 WHEREAS, On April 23, 2020, the Mayor took additional steps to meet the emergency
18 by issuing the Eleventh Supplement to the Proclamation, and on May 5, 2020, the Board of
19 Supervisors concurred in the actions taken in that Supplement; the Eleventh Supplement and
20 the Board's concurring motion are on file with the Clerk of the Board of Supervisors in File No.
21 200437; and

22 WHEREAS, On April 30, 2020, the Mayor took additional steps to meet the emergency
23 by issuing the Twelfth Supplement to the Proclamation, and on May 12, 2020, the Board of
24 Supervisors concurred in the actions taken in that Supplement; the Twelfth Supplement and
25

1 the Board's concurring motion are on file with the Clerk of the Board of Supervisors in File No.
2 200473.

3 WHEREAS, On May 11, 2020, the Mayor issued the Thirteenth Supplement to the
4 Proclamation, ordering four actions to meet the emergency; the Thirteenth Supplement to the
5 Proclamation is on file with the Clerk of the Board of Supervisors in File No. 200498;

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

9 MOVED, That the Board of Supervisors concurs with the following actions taken by the
10 Mayor to meet the local emergency included in the Mayor's Thirteenth Supplement to the
11 Proclamation, dated May 11, 2020, as those actions are described in full in the Twelfth
12 Supplement and summarized as follows:

13 Action #1: Establishing an expedited procurement and approval process for
14 agreements with a term of one year or less related to the City's COVID-19 response; waiving
15 the requirement to include select contract terms if such terms would impede reimbursement
16 by the Federal Emergency Management Agency, or if the department head determines with
17 concurrence of Controller that inclusion of such terms is not feasible due to the emergency;
18 authorizing departments to enter into contracts to purchase personal protective and medical
19 equipment consistent with procedures established by the City Administrator; and establishing
20 reporting requirements for contracts related to COVID-19.

21 Action #2: Authorizing the Controller to adopt a policy for short term
22 extensions of existing agreements that are unrelated to the City's COVID-19 response without
23 competitive solicitation or compliance with the Administrative Code procurement procedures.

24 Action #3: Authorizing the Acting Executive Officer of the Civil Service
25 Commission to provide civil service approval for contracts addressing an exigency or

1 emergency if the Civil Service Commission is unable to meet to approve the contract by the
2 date necessary.

3 Action #4. Extending until July 11, 2020, the existing moratorium on water and
4 power shutoffs and imposition of late penalties by the San Francisco Public Utilities
5 Commission.

6

7 n:\govern\as2020\2000377\01447806.docx

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

CITY AND COUNTY OF SAN FRANCISCO

BOARD OF SUPERVISORS

BUDGET AND LEGISLATIVE ANALYST

1390 Market Street, Suite 1150, San Francisco, CA 94102 (415) 552-9292
FAX (415) 252-0461

May 15, 2020

TO: Board of Supervisors

FROM: Budget and Legislative Analyst



SUBJECT: May 19, 2020 Full Board of Supervisors Meeting

TABLE OF CONTENTS

Item	File	Page
33	20-0498 Concurring in Actions to Meet Local Emergency - Coronavirus Response	1

Item 33
Files 20-0498

Department:
N/A

EXECUTIVE SUMMARY

Legislative Objectives

The proposed motion would concur in actions taken by the Mayor in the Thirteenth Supplement to the Proclamation of Emergency, released on May 11, 2020, to meet the ongoing local emergency related to COVID-19.

Key Points

For contracts related to the COVID-19 response with terms up to one year, the Thirteenth Supplement to the Proclamation waives (a) competitive solicitation and commission approval requirements if deemed necessary by the department head, and (b) standard contract language requirements if deemed necessary by the department head in consultation with the Controller and City Attorney. The Thirteenth Supplement also authorizes the Controller to adopt a policy allowing City departments to modify agreements, including those unrelated to the emergency, without complying with competitive solicitation and procurement procedures, as long as the modifications do not (a) extend an agreement by more than six months, (b) extend the term of an agreement past June 30, 2021, or (c) increase the cost to the City.

Fiscal Impact

The City has spent an estimated \$52 million on COVID-19-related goods and services. The waiving or suspending of certain City contracting requirements could incur additional costs to the City if a more favorable contract or set of contract terms could have been obtained under the contracting requirements that would normally be in place.

Policy Consideration

Under the San Francisco Charter, actions taken by the Mayor to meet a declared emergency are subject to concurrence by the Board of Supervisors. An order issued by the Mayor remains in effect until the Board of Supervisors acts, by motion, to either concur or reject.

Recommendations

- The Board of Supervisors should request the Controller to (1) provide information to the Board on which City departments have existing non-emergency contracts that could be extended up to six months without competitive solicitation, and which non-emergency contracts could be extended, and (2) set an end date, but no later than July 11, 2020, for which this provision would be in effect.
- The Board of Supervisors should consider adopting legislation to require that all Mayoral Supplements to the February 25, 2020 Proclamation of Emergency and other Mayoral orders related to COVID-19 be heard at the next scheduled meeting of the full Board of Supervisors for which the agenda has not been finalized.
- Approval of the proposed motion is a policy decision for the Board of Supervisors.

MANDATE STATEMENT

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. During a declared emergency, San Francisco Charter Section 3.100(14) vests the Mayor with the power to direct the personnel and resources of any department, command the aid of other persons, and do whatever else the Mayor may deem necessary to meet the emergency, subject to concurrence by the Board of Supervisors.

BACKGROUND

On February 25, 2020, the Mayor issued a Proclamation declaring a local emergency to exist in connection with the imminent spread of a novel coronavirus, COVID-19, within San Francisco. On March 3, 2020, the Board of Supervisors concurred in the Mayor's Proclamation and in the actions taken by the Mayor to meet the emergency. On March 4, 2020, the Governor of California proclaimed a state of emergency to exist within California due to the threat posed by COVID-19. On March 6, 2020, the San Francisco Local Health Officer declared a local health emergency under Section 101080 of the California Health and Safety Code. The Board of Supervisors concurred in the local health emergency declaration on March 10, 2020. Since the Mayor's initial Proclamation declaring a local emergency on February 25, 2020, the Mayor has issued thirteen Supplements to the Proclamation containing additional orders and actions.

Under San Francisco Charter Section 3.100(14), the actions taken by the Mayor to meet the declared emergency are subject to concurrence by the Board of Supervisors. The Charter requires that the Mayor seek the concurrence of the Board of Supervisors "as soon as reasonably possible," but according to a March 24, 2020 memorandum from the City Attorney's Office ("Process for Board of Supervisors Action on Emergency Orders"), neither state nor local law establishes a deadline by which the Board of Supervisors must act. An order issued by the Mayor under a declaration of emergency remains in effect until the Board of Supervisors acts, by motion, to either concur or reject.

The March 24, 2020 memorandum from the City Attorney's Office specifies that when considering a mayoral order where the Mayor has included more than one action, the Board may concur in or reject each of the actions taken. If the Board concurs in some of the actions and rejects others, the Board's action changes the substance of the order, similar to an amendment of the whole order. However, the Charter does not authorize the Board to revise the order to modify the actions or include different or additional actions. Therefore, if the Board wishes to change an action ordered by the Mayor, it must reject the action in its entirety. The Mayor may then decide to submit a new order with changes that are acceptable to the Board. Alternatively, the Board may pursue its policy goal through an emergency ordinance using its legislative power.

DETAILS OF PROPOSED MOTION

The proposed motion would concur in actions taken by the Mayor in the Thirteenth Supplement to the Proclamation of Emergency, which was released on May 11, 2020, to meet the ongoing local emergency related to COVID-19. The Mayor's actions taken in the Thirteenth Supplement to the Proclamation of Emergency are outlined below.

Emergency Contracting Procedures

- (1) The Thirteenth Supplement to the Proclamation of Emergency waives or suspends, under certain conditions, certain City procedural and substantive contracting requirements for agreements related to the City's response to the emergency (COVID-19-Related Contracts), including contracts for the procurement of commodities or services, contracts for public works, and grant agreements.

If a department enters into a COVID-19-Related Contract after May 11, 2020 under exceptions (a), (b), or (d) below, the Department Head or designee must submit a copy of the contract to the Mayor and the Clerk of the Board of Supervisors by no later than the 15th day of the month following the month in which the contract was executed. Departments must submit to the Mayor and the Clerk of the Board of Supervisors by May 31, 2020 a copy of any COVID-19-Related Contract entered between January 1, 2020 and May 11, 2020 that did not comply with competitive solicitation and procurement procedures in the Administrative Code, did not receive required approval from an oversight commission of the Civil Service Commission, or did not include terms otherwise required by the Administrative and Environment Codes.

Departments may enter into COVID-19-Related Contracts with a term of one year or less if they comply with the following exceptions:

- a. Solicitation and procurement: Departments will not be required to follow competitive solicitation and procurement procedures outlined in the Administrative Code, provided that:
 - i. the department attempts to obtain at least three quotes before entering into a COVID-19-Related Contract; or
 - ii. the Department Head or designee determines in writing, and the Controller or designee concurs, that it is not feasible to obtain multiple quotes prior to executing the COVID-19-Related Contract.
- b. Commission approvals: Departments will not be required to obtain approval for a COVID-19-Related Contract from the commission overseeing the department, provided that:
 - i. the Department Head or designee determines in writing that the commission is unable to meet in a timely manner to approve the COVID-19-Related Contract within the time needed to address the emergency;

- ii. the Department Head or designee informs the chairperson and commission secretary in advance that the department is entering into the COVID-19-Related Contract; and
 - iii. the Department Head or designee submits a copy of the contract to the commission by the 15th day of the month following the month in which the contract was executed.
- c. Contract terms: COVID-19-Related Contracts will not be required to include contract terms that the Department Head or designee, in consultation with the City Attorney and Controller, determines may impede the City's ability to obtain reimbursement from the Federal Emergency Management Agency or the California Governor's Office of Emergency Services. All other contract terms required in the Administrative and Environment Codes must be included in COVID-19-Related Contracts unless:
 - i. the Department Head or designee determines in writing that strict compliance is not feasible due to emergencies; and
 - ii. the Department Head or designee provides the written designation determination to the Controller or designee, and the Controller or designee concurs.
- d. Personal protective and medical equipment: Departments may enter into COVID-19-Related Contracts for the procurement or delivery of personal protective equipment or medical equipment needed to address the COVID-19 emergency and shall not be required to (a) comply with competitive solicitation and procurement procedures in the Administrative Code, (b) obtain commission approval, or (c) include substantive terms otherwise required by the Administrative or Environment Codes, provided that either:
 - i. the department complies with the City Administrator's March 10, 2020 memorandum ("New Purchasing Restrictions and Procedures for COVID-19-Related Goods and Services"); or
 - ii. the department receives written permission from the City Administrator or Controller if compliance with the March 10 memorandum is infeasible.
- e. Civil service commission approvals: Departments may enter into COVID-19-Related Contracts that require approval from the Civil Service Commission as authorized in Section 3, described below.

Waiver of Other Contracting Procedures

- (2) The Thirteenth Supplement to the Proclamation of Emergency authorizes the Controller to adopt a policy allowing all City departments to modify agreements in place on May 11, 2020, including agreements that are not related to the response to the emergency, without complying with competitive solicitation and procurement procedures in the Administrative Code. However, the policy shall not allow any modifications that (i) extend an agreement by more than six months, (ii) extend the term of an agreement past June 30, 2021, or (iii) increase the cost to the City, except that modifications to a general services, professional services, commodity, lease, or grant agreement may increase the not-to-exceed amount to the extent permitted by the policy and as necessary given the extension duration. These modifications shall not be subject to approval by the Civil Service Commission.
- (3) The Thirteenth Supplement to the Proclamation of Emergency allows the Civil Service Commission Acting Executive Officer, in her discretion, to approve a personal services contract after consultation with the Civil Service Commission Chairperson and/or Vice Chairperson if:
- a. a Department Head or designee determines in writing that a personal services contract that requires Civil Service Commission approval must be finally approved by a specific date to address an exigency or emergency; and
 - b. the Civil Service Commission Acting Executive Officer determines that the Civil Service Commission is unable to meet to approve the personal services contract by that date.

The Department Head or designee must provide the Acting Executive Officer a written explanation of the exigency or emergency that requires immediate action on the contract. If the Acting Executive Officer approves the contract, then the Department Head or designee shall submit the executed contract to the Civil Service Commission by no later than the 15th day of the month following the month in which the contract was executed.

Water and Utilities

- (4) The Thirteenth Supplement to the Proclamation of Emergency extends Section 2 of the Second Supplement to the Emergency Proclamation, dated March 13, 2020, for an additional 60 days through July 11, 2020. Section 2 of the Second Supplement to the Emergency Proclamation authorizes the San Francisco Public Utilities Commission to suspend for 60 days (a) the discontinuation or shut off of water service for residents and businesses in the City for non-payment of water and sewer bills, (b) the imposition of late payment penalties or fees for delinquent water and/or sewer bills, (c) the discontinuation or shut off of power service for Hetch Hetchy Power customers in San Francisco for non-payment of power bills, (d) the imposition of late payment penalties or fees for delinquent Hetch Hetchy Power customer accounts, and (e) the return of delinquent CleanPowerSF customers to PG&E generation service for failure to pay CleanPowerSF charges.

FISCAL IMPACT

According to City budget documents, the City has spent an estimated \$52 million on COVID-19-related goods and services.

Approval of the proposed motion would waive or suspend, under certain conditions, certain City procedural and substantive contracting requirements for agreements related to the City's response to the COVID-19 emergency. The waiving or suspending of these requirements, including competitive bid requirements, commission approval requirements, and contract term requirements, could incur additional costs to the City if a more favorable contract or set of contract terms could have been obtained under the contracting requirements that would normally be in place.

POLICY CONSIDERATION**Emergency and Other Contracting**

For contracts for services and goods necessary to the City's response to COVID-19 and with terms up to one year, the Thirteenth Supplement to the Proclamation waives (a) competitive solicitation and commission approval requirements if deemed necessary by the department head, and (b) standard contract language requirements if deemed necessary by the department head in consultation with the Controller and City Attorney.

City contracting procedures in response to the COVID-19 emergency were previously defined in the First Supplement to the Proclamation, issued on March 11, 2020, which directed City departments to comply with orders issued by the City Administrator regarding the purchase of commodities and services required to address the emergency. On March 10, 2020, the Office of the City Administrator issued a memorandum to all department heads and purchasing officers outlining purchasing procedures for the procurement of any emergency-related commodity or service ("New Purchasing Restrictions and Procedures for COVID-19-Related Goods and Services").

The City Administrator's purchasing procedures as specified in the March 10, 2020 memorandum require that departments' requests for specific emergency-related goods or services be submitted to the Emergency Operations Center (EOC) for review and prioritization, which in coordination with the Office of Contract Administration (OCA) determines whether the department may make the purchase directly or whether the purchase should go through OCA.

Waiver of Competitive Solicitation and Obtaining Quotes

According to the City Administrator's purchasing procedures as specified in the March 10, 2020 memorandum, City departments and OCA should attempt when feasible to solicit three quotes so that the City is able to request reimbursement from the Federal Emergency Management Agency. The Thirteenth Supplement states that departments will not be required to follow competitive solicitation and procurement procedures outlined in the Administrative Code, provided that (i) the department attempts to obtain at least three quotes before entering into a

COVID-19-Related Contract; or (ii) the Department Head or designee determines in writing, and the Controller or designee concurs, that it is not feasible to obtain multiple quotes prior to executing the COVID-19-Related Contract.

Waiver of Standard Contract Language

According to the City Administrator's purchasing procedures as specified in the March 10, 2020 memorandum, during a declared emergency, the supplier does not need to be compliant with the 12B Equal Benefits Program, which requires firms to administer benefits equally to employees with domestic partners and employees with spouses, or other social policy provisions of the City. The Mayor's Thirteenth Supplement further waives standard contracting language for emergency contracts for COVID-19-related goods or services if (i) the Department Head determines, in consultation with the City Attorney and Controller, that standard contract language may impede the City's ability to obtain reimbursement from the Federal Emergency Management Agency or the California Governor's Office of Emergency Services; or (ii) the Department Head determines, and the Controller concurs, that strict compliance is not feasible due to emergencies.

Other Non-Emergency Contracting Provisions

The Thirteenth Supplement also authorizes the Controller to develop policies to extend existing contracts up to six months without competitive solicitation even if the contract is not specific to the COVID-19 response. This provision would be in place for the duration of the emergency. The Board of Supervisors should request the Controller to (1) provide information to the Board of Supervisors on which departments and which contracts would be affected by this provision, and (2) set an end date, but no later than July 11, 2020, for which this provision would be in effect.

Mayor's Reporting to Board of Supervisors

Under San Francisco Charter Section 3.100(14), actions taken by the Mayor to address a declared emergency are subject to concurrence by the Board of Supervisors. The Charter requires that the Mayor seek the concurrence of the Board of Supervisors "as soon as reasonably possible," but according to the City Attorney's Office, neither state nor local law establish a deadline by which the Board of Supervisors must act. An order issued by the Mayor under a declaration of emergency remains in effect until the Board of Supervisors acts, by motion, to either concur or reject. Given that the Board of Supervisors continues to hold regularly-scheduled meetings during the COVID-19 emergency, the Board of Supervisors should consider adopting legislation to require that all Mayoral Supplements to the February 25, 2020 Proclamation of Emergency and other Mayoral orders related to COVID-19 be heard at the next scheduled meeting of the full Board of Supervisors for which the agenda has not been finalized.

RECOMMENDATIONS

1. The Board of Supervisors should request the Controller to (1) provide information to the Board on which City departments have existing non-emergency contracts that could be extended up to six months without competitive solicitation, and which non-emergency

contracts could be extended, and (2) set an end date, but no later than July 11, 2020, for which this provision would be in effect.

2. The Board of Supervisors should consider adopting legislation to require that all Mayoral Supplements to the February 25, 2020 Proclamation of Emergency and other Mayoral orders related to COVID-19 be heard at the next scheduled meeting of the full Board of Supervisors for which the agenda has not been finalized.
3. Approval of the proposed motion is a policy decision for the Board of Supervisors.



**THIRTEENTH 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 Local 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, On March 6, 2020, the City issued public health guidance to encourage social distancing to disrupt the spread of COVID-19 and protect community health; and

WHEREAS, On March 16, 2020, the City’s Health Officer issued a stay safe at home order, Health Officer Order No. C19-07 (the “Stay Safe At Home Order”), requiring most people to remain in their homes subject to certain exceptions including obtaining essential goods such as food and necessary supplies, and requiring the closure of non-essential businesses; the Health Officer has amended the Stay Safe At Home Order and extended it through May 31, 2020; and

WHEREAS, There are currently 1,954 confirmed cases of COVID-19 within the City and there have been 35 COVID-19-related deaths in the City; there are more than 67,000 confirmed cases in California, and there have been more than 2,700 COVID-19-related deaths in California; and



WHEREAS, This order and the previous orders issued during this emergency have all been issued because of the propensity of the virus to spread person to person and also because the virus physically is causing property loss or damage due to its proclivity to attach to surfaces for prolonged periods of time; and

WHEREAS, The local emergency has required the City to take very quick action to secure services and supplies necessary to mount an adequate response, and due to the expediency required to address the emergency it has not been feasible to comply with the City's normal procurement rules and obtain the normal approvals for emergency-related contracts. It is in the public interest to waive procurement rules for emergency response-related procurements and to create more flexible rules to ensure proper monitoring and controls; and

WHEREAS, The local emergency and the Stay Safe At Home Order has stretched the City's workforce, requiring many City workers to serve assignments as disaster service workers and required City offices to close. These disruptions have inhibited the City's ability to engage in normal procurement, and it is therefore in the public interest to allow existing contracts to be extended for a period of time and waive necessary local law to ensure continuity of services while the City returns to normal operations; and

WHEREAS, Loss of income as a result of the global COVID-19 pandemic may inhibit San Francisco residents and businesses from fulfilling their financial obligations including public utility payments such as water and sewer charges; and

WHEREAS, Ensuring that all people in San Francisco continue to have access to running water during this public health crisis to enable people to regularly wash their hands and maintain access to clean drinking water will help to prevent the spread of COVID-19 and prevent or alleviate illness or death due to the virus; and

WHEREAS, Ensuring that all customers in San Francisco that receive power services from the San Francisco Public Utilities Commission continue to have access to electricity so they are able to receive important COVID-19 information, keep critical medical equipment functioning, and utilize power as needed will help to prevent the spread of COVID-19 and prevent or alleviate illness or death due to the virus; and



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 dated March 11, March 13, March 17, March 18, March 23, March 27, March 31, and April 1, April 10, April 14, April 23, and April 30, 2020, it is further ordered that:

(1) All agreements related to the City's response to the emergency entered after the date of this Order, including contracts for procurement of commodities or services, contracts for public works, and grant agreements ("COVID-19-Related Contracts"), shall comply with all procedural and substantive requirements in City laws and policies, except that departments may enter COVID-19-Related Contracts with a term of one year or less to the extent they comply with the following exceptions:

(a) Solicitation and Procurement: Departments shall not be required to follow competitive solicitation and procurement procedures in the Administrative Code, provided that either (i) the department attempts to obtain at least three quotes prior to entering the COVID-19-Related Contract; or (ii) the Department Head or the Department Head's designee determines in writing that it is not feasible to obtain multiple quotes prior to executing the COVID-19-Related Contract, the Department Head or designee provides that written determination to the Controller or the Controller's designee, and the Controller or designee concurs in the written determination.

(b) Commission Approvals: Departments shall not be required to obtain approval for a COVID-19-Related Contract from the commission overseeing the department, provided that (i) the Department Head or the Department Head's designee determines in writing that the commission is unable to meet in a timely manner to enable approval of the COVID-19-Related Contract within the time needed to address the exigency or emergency; (ii) the Department Head or designee informs the chairperson and secretary of the commission in advance that the department is entering into the COVID-19-Related Contract; and (iii) the Department Head or designee submits a copy of the COVID-19-Related Contract to the commission by no later than the 15th day of the month following the month in which the COVID-19-Related Contract was finally executed.



(c) Contract Terms: COVID-19-Related Contracts shall not be required to include contract terms that the Department Head or the Department Head's designee, in consultation with the City Attorney and the Controller, determines may impede the City's ability to obtain reimbursement from the Federal Emergency Management Agency or the California Governor's Office of Emergency Services. All other contract terms required by the Administrative and Environment Codes must be included in COVID-19-Related Contracts unless (i) the Department Head or designee determines in writing that strict compliance with these laws is not feasible due to exigencies or emergencies; and (ii) the Department Head or designee provides the written determination to the Controller or the Controller's designee, and the Controller or designee concurs in the written determination.

(d) Personal Protective and Medical Equipment: Departments may enter COVID-19-Related Contracts for the procurement or delivery of personal protective equipment or medical equipment needed to address the COVID-19 emergency and shall not be required to comply with competitive solicitation and procurement procedures in the Administrative Code, obtain commission approval, or include substantive terms otherwise required by the Administrative or Environment Codes, as long as the department either (i) complies with the City Administrator's March 10, 2020 memorandum ("New Purchasing Restrictions and Procedures for COVID-19-Related Goods and Services") and any modifications to that memorandum authorized under Item 7 of the First Supplement to the Proclamation, or (ii) receives written permission from the City Administrator or the Controller if compliance with the March 10 memorandum is infeasible.

(e) Civil Service Commission Approvals: Departments may enter COVID-19-Related Contracts that require approval from the Civil Service Commission as authorized in Section 3 of this Order.

If a department enters a COVID-19-Related Contract after the date of this Order under the exceptions in paragraph (a), (b) or (d), the Department Head or the Department Head's designee shall submit a copy of the COVID-19-Related Contract to the Mayor and the Clerk of the Board of Supervisors by no later than the 15th day of the month following the month in which the COVID-19-Related Contract was finally executed.



By no later than May 31, 2020, departments shall submit to the Mayor and the Clerk of the Board of Supervisors a copy of any COVID-19-Related Contract entered between January 1, 2020 and the date of this Order if the COVID-19-Related Contract did not comply with competitive solicitation and procurement procedures in the Administrative Code, did not receive required advance approval from a commission, did not include terms otherwise required by the Administrative and Environment Codes, or did not receive required approval from the Civil Service Commission.

Nothing in this Order waives or modifies the requirements and restrictions of the Campaign and Governmental Conduct Code, the approval requirements of Charter Section 9.118 with regard to any COVID-19-Related Contract, the requirement for approval as to form by the City Attorney, or requirements for certification of available funds by the Controller.

The Controller, in consultation with the Office of Contract Administration, may issue guidance and regulations to implement this Order.

This Order shall remain in place during the local emergency unless terminated earlier by the Mayor.

(2) The Controller is authorized to adopt a policy allowing all City departments to modify agreements in place on the date of this Order, including but not limited to services contracts, grant agreements, construction contracts, and leases, and including agreements that are not related to the response to the emergency (“Existing Contract Modifications”) without complying with competitive solicitation and procurement procedures in the Administrative Code. The Controller’s policy shall not allow any Existing Contract Modifications that (a) extend an agreement by more than six months, (b) extend the term of an agreement past June 30, 2021, or (c) increase the cost to the City, except that modifications to a general services, professional services, commodity, lease, or grant agreement may increase the not-to-exceed amount to the extent permitted by the policy and as necessary given the extension duration noted above. Existing Contract Modifications authorized by the policy shall not be subject to approval by the Civil Service Commission. Nothing in this Order waives or modifies the approval requirements of Charter Section 9.118. This Order shall remain in place during the local emergency unless terminated earlier by the Mayor.



(3) If a Department Head or designee determines in writing that a Personal Services Contract (“PSC”) that requires approval from the Civil Service Commission (“CSC”) must be finally approved by a specific date to address an exigency or emergency, and the CSC Acting Executive Officer determines that the CSC is unable to meet to approve the PSC by that date, then the Acting Executive Officer may in her discretion approve the PSC after consultation with the CSC Chairperson and/or Vice Chairperson. The Department Head or designee must provide the Acting Executive Officer a written explanation of the exigency or emergency that requires immediate action on the PSC. If the Acting Executive Officer approves the PSC, then the Department Head or designee shall submit the fully-executed PSC to the CSC by no later than the 15th day of the month following the month in which the PSC was finally executed. This Order shall remain in place during the local emergency unless terminated earlier by the Mayor.

(4) Section 2 of the Second Supplement to the Emergency Proclamation, dated March 13, 2020, authorizing the San Francisco Public Utilities Commission (“SFPUC”) to suspend for 60 days, (a) the discontinuation or shut off of water service for residents and businesses in the City for non-payment of water and sewer bills, (b) the imposition of late payment penalties or fees for delinquent water and/or sewer bills, (c) the discontinuation or shut off of power service for SFPUC Hetch Hetchy Power Customers in San Francisco for non-payment of power bills, (d) the imposition of late payment penalties or fees for delinquent Hetch Hetchy Power Customer accounts, and (e) the return of delinquent CleanPowerSF Customers to PG&E generation service for failure to pay CleanPowerSF charges, is extended for an additional 60 days through July 11, 2020.

DATED: May 11, 2020

A handwritten signature in blue ink that reads "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):

Subject:

The text is listed:

Signature of Sponsoring Supervisor:

For Clerk's Use Only