

File No. 210200

Committee Item No. 2

Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

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Committee: Government Audit and Oversight

Date: April 15, 2021

Board of Supervisors Meeting:

Date: _____

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- Thirty-Fifth Supplement – February 19, 2021
- _____
- _____
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- _____

Prepared by: John Carroll

Date: April 9, 2021

Prepared by: John Carroll

Date: _____

Prepared by: John Carroll

Date: _____

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

3 **Motion concurring in actions taken by the Mayor in the Thirty-Fifth Supplement to the**
4 **Proclamation of Emergency to meet the ongoing local emergency related to the novel**
5 **coronavirus COVID-19 pandemic by allowing departments to extend COVID-19-related**
6 **contracts through a streamlined process for an additional twelve months; allowing the**
7 **Civil Service Commission to approve emergency personal service contracts without**
8 **requiring advance union notification otherwise required by memoranda of**
9 **understanding; authorizing the Controller to adopt a policy concerning streamlined**
10 **approval of certain amendments to non-COVID-19-related contracts; and authorizing**
11 **the Controller to adopt a policy under which the City may provide expedited payments**
12 **of funds covering cost-of-doing-business or cost-of-living increases to nonprofit**
13 **organizations that provide services under existing agreements with the City.**

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

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

22 WHEREAS, On May 19, 2020, the Board of Supervisors concurred in the Mayor's
23 Thirteenth Supplement to the Proclamation, dated May 11, 2020, which established
24 streamlined procedures for contracts of one year or less for procurements related to the
25 emergency response, and authorized departments to modify existing agreements without

1 competitive solicitation and procurement procedures to extend those agreements by up to six
2 months but no later than June 30, 2021; and

3 WHEREAS, On February 19, 2021, the Mayor took additional steps to meet the
4 emergency by issuing the Thirty-Fifth Supplement to the Proclamation, ordering four actions
5 to meet the emergency; the Thirty-Fifth Supplement is on file with the Clerk of the Board of
6 Supervisors in Board File No. 210200;

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

10 MOVED, That the Board of Supervisors concurs with the following four actions taken
11 by the Mayor to meet the local emergency included in the Mayor's Thirty-Fifth Supplement to
12 the Proclamation, dated February 19, 2021, as such actions are described in full in the Thirty-
13 Fifth Supplement and summarized as follows:

14 Action 1: Allowing COVID-19-related contracts entered into under the 13th
15 Supplement to be extended for an additional 12 months, and revising the 13th Supplement to
16 no longer require departments to submit all COVID-19-related contracts to the Mayor and
17 Board, but to instead maintain a list of such contracts, and requiring the Controller to maintain
18 a list of such contracts and report to the Mayor and the Board, and waiving the requirement
19 that a department submit such contracts to commission overseeing the department, unless
20 requested.

21 Action 2: Revising and replacing Section 3 of the 13th Supplement to the
22 Proclamation concerning Civil Service Commission approval of COVID-19-related contracts to
23 modify the process for emergency approval of such contracts by waiving advance union
24 notification otherwise required by Memoranda of Understanding and requiring that unions be
25

1 notified after approval, and requiring certain reporting to the Civil Service Commission of such
2 contracts.

3 Section 3: Authorizing the Controller to adopt a policy for short term
4 extensions of existing agreements unrelated to the City’s COVID-19 response without
5 competitive solicitation or compliance with the Administrative Code procurement procedures.

6 Section 4: Authorizing the Controller to adopt a policy under which the City
7 may provide expedited payments of funds covering cost-of-doing-business or cost-of-living
8 increases in the current fiscal year appropriated in the Budget and Annual Appropriation
9 Ordinance enacted on October 1, 2020, to nonprofit organizations that provide services under
10 existing agreements with the City in place on the date of this Order.

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**THIRTY-FIFTH 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, On March 16, 2020, the City’s Health Officer issued a stay safe at home order, Health Officer Order No. C19-07 (the “Stay Safer 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 Safer At Home Order to modify the ongoing restrictions; and

WHEREAS, There have been over 33,000 confirmed cases of COVID-19 within the City and 387 COVID-19-related deaths in the City; there have been more than 3,400,000 confirmed cases in California and more than 48,000 COVID-19-related deaths in California; and



WHEREAS, The 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. To expedite the process, the Mayor authorized streamlined contracting procedures in Section 1 of the Thirteenth Supplement to the Proclamation of Local Emergency, dated May 11, 2020, for contracts related to the City’s response to the emergency, including contracts for procurement of commodities or services, contracts for public works, and grant agreements (“COVID-19-Related Contracts”). The Board of Supervisors concurred in the Thirteenth Supplement on May 19, 2020. Section 1 of the Thirteenth Supplement allows City departments to utilize the streamlined procedures to enter into contracts of one year or less for procurements related to the emergency response. Because emergency conditions persist, it is in the public interest to allow these contracts to be extended beyond one year to ensure these necessary services are not disrupted; and

WHEREAS, Section 1 of the Thirteenth Supplement also required departments to provide the Mayor and the Clerk of the Board of Supervisors copies of all COVID-19-Related Contracts entered under the streamlined procedures each month. That reporting requirement has imposed additional burdens on departments at a time when those departments are focused on responding to the emergency; and

WHEREAS, Section 2 of the Thirteenth Supplement authorized the Controller to adopt a policy allowing City departments to modify agreements in place on May 11, 2020 without complying with competitive solicitation and procurement procedures that would otherwise be required. The order permitted the Controller’s policy to authorize contract modifications that extend agreements by up to six months but no later than June 30, 2021. The emergency and the Stay Safer At Home Order has continued to stretch the City’s workforce, requiring many City workers to serve assignments as disaster service workers and requiring 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 longer period of time and waive necessary local law to ensure continuity of services while the City returns to normal operations; and

WHEREAS, As a result of the COVID-19 pandemic, many nonprofit organizations that provide critical services to the public and to the City have faced significant operational challenges. To compensate those organizations for increases in the cost of doing



business, the Budget and Annual Appropriation Ordinance enacted on October 1, 2020 authorized funding increases for nonprofit organizations that have contracts or grants with the City. But in many cases, the City must modify contracts or grant agreements and take additional administrative steps before providing these nonprofit organizations with the additional funds that have been appropriated in the budget. These delays could threaten the continuous operation of services to the public and the City;

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) Section 1 of the Thirteenth Supplement to the Proclamation of Local Emergency is revised as follows: City departments may modify COVID-19-Related Contracts executed before February 1, 2021, to extend the term of the agreement up to an additional twelve months. To clarify any ambiguity in the Thirteenth Supplement, COVID-19-Related Contracts are any agreements related to the City's response to the emergency, including contracts for procurement of commodities or services, contracts for public works, grant agreements, leases, and other agreements for use or occupation of space on City property.

For all COVID-19-Related Contracts newly executed or amended on or after February 1, 2021, the Department Head shall not be required to submit a copy of the agreement to the Mayor and the Clerk of the Board of Supervisors; rather, each Department Head shall maintain a list of COVID-19-Related Contracts executed or amended under this Order that did not comply with competitive solicitation and procurement procedures in the Administrative Code, did not receive required advance approval from a commission that would otherwise be required, did not include terms otherwise required by the Administrative and Environment Codes, or did not receive approval from the Civil Service Commission that would be otherwise required. The Controller also shall maintain a list of all such COVID-19-Related Contracts and provide it to the Mayor and Board of Supervisors upon request and at appropriate intervals determined by the Controller.



For all COVID-19-Related Contracts newly executed or amended on or after February 1, 2021, Departments shall not be required to obtain approval that would otherwise be required 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 or amendment within the time needed to address the exigency or emergency; or (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 or amendment. Upon request from the commission, the Department Head or designee shall submit a copy of the COVID-19-Related Contract or amendment to the commission.

Amendments to COVID-19-Related Contracts under this Order that require approval from the Civil Service Commission may be authorized as provided in Section 2 of this 35th Supplement. All other provisions of Section 1 of the Thirteenth Supplement remain unchanged.

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 or the Board of Supervisors.

(2) Section 3 of the Thirteenth Supplement to the Proclamation of Local Emergency is revised and replaced as follows: Except as provided in Section 2(c), Departments shall obtain Civil Service Commission ("CSC") approval for all COVID-19-Related Contracts subject to the CSC Personal Services Contracts policy, and for all amendments to such contracts (collectively, "PSCs").

(a) Emergency CSC Approval.



(i) Should a Department Head or designee determine that CSC approval is normally required for a proposed COVID-19-Related PSC or amendment to such PSC, and that due to posting and other requirements, CSC approval will not be possible by the specific date the COVID-19-Related PSC or PSC amendment must be finally approved to address an exigency or emergency, the Department Head or designee must provide the CSC Executive Officer (“Executive Officer”) a written explanation of the exigency or emergency that requires immediate action on the PSC. The Executive Officer may then in her discretion approve the PSC after consultation with the CSC Chairperson or Vice Chairperson. The Executive Officer shall respond to emergency PSC approval requests within 48 hours (which shall include weekends and holidays). Emergency PSC approval by the Executive Officer is not subject to revision or reversal.

(ii) Following any emergency CSC approval by the Executive Officer, the Department Head or designee shall provide union notification of the PSC to the extent such notification would otherwise have been required in advance of the CSC approval under any Memorandum of Understanding. The notification required by this subsection (ii) shall supersede any requirement for advance notification in a Memorandum of Understanding. After providing the notice required by this subsection (ii), the Department Head or designee shall provide a report regarding the PSC at a CSC meeting no more than 30 days after the Executive Officer’s approval.

(b) Reporting of Previous PSCs. Within 30 days of the date of this Order, Departments shall submit a written report to the Executive Officer regarding any COVID-19-Related PSC or PSC amendment executed before the date of this Order for which the Department did not obtain regular CSC approval or emergency CSC approval. The Executive Officer may prescribe the form and content of these reports. These reports shall be made publicly available and shall be reviewed at a CSC meeting as soon as practicable after their submittal.

(c) Waiver of CSC Approval for COVID-19-Related Purchase Orders. CSC approval is not required for COVID-19-Related Purchase Orders that include a service component. The CSC, in consultation with the Office of the Controller and the Office of Contract Administration, shall make publicly available a report on all COVID-19-Related Purchase Order transactions that are subject to the CSC Personal Services Contracts policy.

The CSC may issue guidance and regulations to implement this Order.



(3) The Controller is authorized to adopt a policy allowing all City departments to modify agreements in place on the date of this Order that expire on or before June 30, 2021, including but not limited to services contracts, grant agreements, construction contracts, and leases (“Existing Contract Modifications”) without complying with competitive solicitation and procurement procedures in the Administrative Code. The Controller’s policy shall allow Existing Contract Modifications to extend the term of a contract in intervals up to six months, and shall specify criteria and approval requirements for any term extension that will exceed six months. The Controller’s policy shall not allow any Existing Contract Modifications that extend the term of an agreement past June 30, 2022, or 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 not apply to COVID-19-Related Contracts as defined by Section 1, above, and amendments of those contracts shall be governed by Section 1 of this Order. This Order shall remain in place during the local emergency unless terminated earlier by the Mayor or the Board of Supervisors.

(4) The Controller is authorized to adopt a policy under which the City may provide expedited payments of funds covering cost-of-doing-business or cost-of-living increases in the current fiscal year appropriated in the Budget and Annual Appropriation Ordinance (Ordinance No. 165-20), enacted on October 1, 2020, to nonprofit organizations that provide services under existing agreements with the City in place on the date of this Order. The policy may authorize these payments without requiring City departments to execute amendments to modify the budgets, rates of payments, not-to-exceed requirements, or other terms in existing agreements between the City and the nonprofit organizations.

DATED: February 19, 2021

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):

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-Fifth Supplement to the Proclamation of Emergency to meet the ongoing local emergency related to the novel coronavirus COVID-19 pandemic by allowing departments to extend COVID-19-related contracts through a streamlined process for an additional twelve months; allowing the Civil Service Commission to approve emergency personal service contracts without requiring advance union notification otherwise required by memoranda of understanding; authorizing the Controller to adopt a policy concerning streamlined approval of certain amendments to non-COVID-19-related contracts; and authorizing the Controller to adopt a policy under which the City may provide expedited payments of funds covering cost-of-doing-business or cost-of-living increases to nonprofit organizations that provide services under existing agreements with the City.

Signature of Sponsoring Supervisor: /s/ Shamann Walton