

File No. 211116

Committee Item No. _____

Board Item No. 61

COMMITTEE/BOARD OF SUPERVISORS

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Date: _____

Board of Supervisors Meeting

Date: October 26, 2021

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Prepared by: Lisa Lew

Date: October 22, 2021

Prepared by: _____

Date: _____

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

3 **Motion concurring in actions taken by the Mayor in the Thirty-Eighth Supplement to the**
4 **Proclamation of Emergency to meet the ongoing local emergency related to the novel**
5 **coronavirus COVID-19 pandemic by: 1) requiring employees of existing City**
6 **contractors and subcontractors who spend substantial time working in close proximity**
7 **to City employees while performing work under the contract at a City facility to be fully**
8 **vaccinated or granted an exemption based on medical or religious grounds by no later**
9 **than December 31, 2021; and 2) requiring members of City boards, commissions, and**
10 **advisory bodies to report vaccination status to the City by no later than December 15,**
11 **2021, and prohibiting unvaccinated members from attending in-person meetings of a**
12 **policy body after January 1, 2022, without exception.**

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;

21 WHEREAS, On October 8, 2021, the Mayor took additional steps to meet the
22 emergency by issuing the Thirty-Eighth Supplement to the Proclamation, ordering two actions
23 to meet the emergency; the Thirty-Eighth Supplement is on file with the Clerk of the Board of
24 Supervisors in Board File No. 211116; 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; and 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-Eighth Supplement to the
6 Proclamation, dated October 8, 2021, as such actions are described in full in the Thirty-Eighth
7 Supplement and summarized as follows:

8 Action 1: Requiring employees of existing City contractors and
9 subcontractors who spend substantial time working in close proximity to City employees while
10 performing work under the contract at a City facility to be fully vaccinated or granted an
11 exemption based on medical or religious grounds by no later than December 31, 2021;
12 requiring that this requirement be added as a condition of new contracts beginning January 1,
13 2022; and requiring the City Administrator to issue a policy and guidance providing direction to
14 department on implementation and possible waivers.

15 Action 2: Requiring members of City boards, commissions, and advisory
16 bodies (“policy bodies”) to report their vaccination status to the Department of Human
17 Resources no later than December 15, 2021, and prohibiting unvaccinated members from
18 attending in-person meetings of a policy body after January 1, 2022, without exception.

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**THIRTY-EIGHTH 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, The U.S. Center for Disease Control advises that the vaccinations approved for use in the United States to control COVID-19 prevent severe illness, hospitalization, and death. The California Public Health Officer issued an order on August 5, 2021, requiring most workers in health care facilities to be vaccinated by September 30, 2021. On August 24, 2021, the San Francisco Health Officer issued an order limiting access to designated high-risk settings, such as acute care hospitals, skilled nursing facilities, residential care facilities for the elderly, homeless shelters, and jails, to personnel who have received their final dose of vaccine by September 30, 2021. The Health Officer’s order further prohibited personnel who may occasionally or intermittently enter those designated high-risk settings in the course of their work from entering such facilities after October 13, 2021, if those employees are not fully vaccinated; and



WHEREAS, To protect the health and safety of City employees and the public, and to comply with legal mandates, the City required all City 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. 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 before November 1 under State and City health orders, including, but not limited to, the orders mentioned above. 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, San Francisco recently experienced a surge in new COVID-19 cases and an increase in hospitalizations, mostly among people not fully vaccinated, due to the highly contagious Delta variant. Future surges may occur due to other variants, and it is critical to protecting the public health and safety and safety in the workplace that all eligible individuals obtain vaccinations as soon as possible to protect them from COVID-19; and

WHEREAS, The City contracts with many third-parties to perform work and provide services at City facilities and other locations. Some employees of contractors or subcontractors working under these agreements may spend time working in close proximity to City employees. To help protect those City employees from the risk of COVID-19 transmission by contractors and subcontractors, it is in the public interest to require City contractors and subcontractors to ensure their employees who work in such settings prove that they have been fully vaccinated against COVID-19, as soon as possible but no later than December 31, 2021; and

WHEREAS, During the local emergency, as authorized by state and local law, City boards, commissions, and advisory bodies have met remotely with very limited exceptions, and members of the public have observed and participated in meetings by phone or through online platforms. In light of improving public health indicators, it is anticipated that in-person public meetings of these City bodies will resume in the near future. Most meetings of City boards, commissions, and policy bodies are staffed by City employees, and City employees regularly present to such bodies and sit in close



proximity to members of these bodies during meetings. To protect City employees and members of the public participating in these meetings from the risk of COVID-19 transmission, it is in the public interest to require members of City boards, commissions, and advisory bodies to prove that they are fully vaccinated against COVID-19, as soon as possible but no later than January 1, 2022. Because of the location and nature of indoor in-person meetings and the extended close interactions that members of these bodies have with other members and the public, it is infeasible to accommodate members who are unvaccinated by granting exceptions to the vaccination requirement in this Order;

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) Vaccination Requirements for City Contractors and Subcontractors.

(a) For purposes of this Order, the following definitions apply:

“Contract” means an agreement between the City and any other entity or individual and any subcontract under such agreement, where Covered Employees of the Contractor or Subcontractor work in-person with City employees in connection with the work or services performed under the agreement at a City owned, leased, or controlled facility. Such agreements include professional services contracts, general services contracts, public works contracts, and grants. “Contract” includes such agreements currently in place or entered into during the term of this order. “Contract” does not include an agreement with a state or federal governmental entity or agreements that do not involve the City paying or receiving funds.

“Contractor” means any individual or legal entity that enters into a Contract with the City.



“Covered Employee” means any person employed by a Contractor or Subcontractor whose job duties require the employee to work in close proximity to City employees for a substantial amount of the employee’s working hours.

“Fully Vaccinated” means two weeks after completing the entire recommended series of vaccination (usually one or two doses) with a vaccine authorized to prevent COVID-19 by the FDA, including by way of an emergency use authorization, or by the World Health Organization. For example, as of the date of issuance of this Order, an individual would be fully vaccinated at least two weeks after receiving a second dose of the Pfizer or Moderna COVID-19 vaccine or two weeks after receiving the single dose Johnson & Johnson’s Janssen COVID-19 vaccine. A list of FDA authorized vaccines is available at <https://www.fda.gov/emergency-preparedness-and-response/coronavirus-disease-2019-covid-19/covid-19-vaccines>. A list of WHO authorized vaccines is available at <https://extranet.who.int/pqweb/vaccines/covid-19-vaccines>.

“Qualifying Medical Reason” means a medical condition or disability recognized by the FDA or CDC as a contra-indication to COVID-19 vaccination.

“Religious Beliefs” means a sincerely held religious belief, practice, or observance protected by state or federal law.

“Subcontractor” means any individual or legal entity that performs services under a Contract.

(b) As soon as possible but no later than December 31, 2021, Contractors must ensure that all Covered Employees are Fully Vaccinated, or have a valid exemption based on a Qualifying Medical Reason or Religious Beliefs that can be reasonably accommodated with appropriate safety precautions consistent with those that the City affords at the City work setting.

(c) Within 14 days of the date of this Order, the City Administrator shall issue a Vaccination Policy for City Contractors (“Vaccination Policy”). The Vaccination Policy shall create processes and procedures for City departments to implement and enforce the requirement of subsection (b) and shall provide guidance to City departments and Contractors as the City Administrator deems necessary. The Vaccination Policy shall authorize Contractors and Subcontractors to grant exemptions to Covered Employees for Qualifying Medical Reasons or Religious Beliefs, provided that any exemption from the



vaccination requirement complies with local and state health orders and that any accommodation the Contractor or Subcontractor grants is consistent with the availability of accommodations for City employees working at the same worksite. The Vaccination Policy may impose additional health and safety requirements, such as periodic testing and masking, for Covered Employees for whom a Contractor or Subcontractor grants an exemption from the vaccination requirement based on Qualifying Medical Reasons or Religious Beliefs. The Vaccination Policy shall create a process for City departments to grant waivers to Contractors from compliance with subsection (b) and shall specify the allowable bases for such waivers.

(d) The City Administrator is delegated authority to modify the definition of Fully Vaccinated under this Order, upon the prior written approval of the Health Officer. The City Administrator is further delegated authority to modify the definition of Contract under this order, with written consent of the Mayor or the Mayor's designee upon a determination that such modification is necessary or appropriate to further the intent of this Order.

(e) In addition to applying to all Contracts in place on the date of this Order, beginning on January 1, 2022, City departments shall require as a condition of any new Contract the City enters into during the term of this Order that the Contractor comply with the City Administrator's Vaccination Policy and that the Contractor require any Subcontractor to comply with the City Administrator's Vaccination Policy.

(f) This Order does not supersede the Safer Return Together Order or any other order or directive of the Health Officer, or any other, state or federal orders or laws, and to the extent any of those orders or laws are more protective of public health or safety than this order, they control. Also, this Order does not supersede the policy of any City department that has implemented a policy to ensure compliance with orders or directives of the Health Officer, or any state or federal orders or laws with respect to facilities under the department's control, to the extent such policy is more protective of public health or safety than this Order. This Order does not supersede the policy of the San Francisco International Airport regarding vaccination of the on-site personnel of Airport tenants or contractors.

(g) This Order shall remain in place during the local emergency unless terminated earlier by the Mayor or the Board of Supervisors.



(2) Vaccination Requirements for Members of City Policy Bodies.

(a) For purposes of this Order, the following definitions apply:

“Fully Vaccinated” and “Full Vaccination” mean two weeks after completing the entire recommended series of vaccination (usually one or two doses) with a vaccine authorized to prevent COVID-19 by the FDA, including by way of an emergency use authorization, or by the World Health Organization. For example, as of the date of issuance of this Order, an individual would be fully vaccinated at least two weeks after receiving a second dose of the Pfizer or Moderna COVID-19 vaccine or two weeks after receiving the single dose Johnson & Johnson’s Janssen COVID-19 vaccine. A list of FDA authorized vaccines is available at <https://www.fda.gov/emergency-preparedness-and-response/coronavirus-disease-2019-covid-19/covid-19-vaccines>. A list of WHO authorized vaccines is available at <https://extranet.who.int/pqweb/vaccines/covid-19-vaccines>.

“City Policy Body” means a City board, commission, committee, task force, or other legislative or policy body established by the Charter, City ordinance, or California statute and that is subject to the open meeting requirements of the Ralph M. Brown Act (Cal. Govt. Code §§ 54950 et seq.). “City Policy Body” also means all subcommittees of bodies described in the preceding sentence. “City Policy Body” does not include passive meeting bodies under Administrative Code Section 67.4, other City bodies that were not established through legislation, bodies whose jurisdiction is not limited to the City (e.g., Association of Bay Area Governments Executive Board, Bay Area Air Quality Management District Board, Transbay Joint Powers Authority Board, and Metropolitan Transportation Commission), and bodies that govern agencies distinct from the City (e.g., Board of Education, Governing Board of the Community College District, Housing Authority Commission, Law Library Board of Trustees, Parking Authority, Health Authority, Local Agency Formation Commission, Commission on Community Investment and Infrastructure, and Oversight Board of the Successor Agency to the San Francisco Redevelopment Agency).

(b) By no later than October 31, 2021, each City department that provides administrative support to one or more City Policy Bodies (“Supporting Department”) shall submit to the Department of Human Resources a list of the City Policy Bodies that the Supporting Department supports and the name of each member of each such City Policy Body. Each City department shall timely submit updated information of the names of the members of



each such City Policy Body to reflect any changes in the composition of each such City Policy Body. The Department of Human Resources shall take any necessary steps to ensure that each City Policy Body member may provide information about their vaccination status in the City's People & Pay portal as required in section (c).

(c) By no later than December 15, 2021, every member of a City Policy Body must submit information to the City's People & Pay portal stating whether the member is Fully Vaccinated, or must provide such information to the Supporting Department to submit to the portal. If the member is Fully Vaccinated, the member must provide any documentary verification requested by the City. If the member is not Fully Vaccinated on December 15, 2021, the member must report whether the member intends to become Fully Vaccinated, the date that the member anticipates becoming Fully Vaccinated, and any additional information required by the City. The department head of each Supporting Department shall designate one or more individuals to review information in the portal regarding the vaccination status of each City Policy Body member. In the discretion of the Human Resources Director, the Department of Human Resources is authorized to issue guidance specifying alternative means other than the portal for City Policy Body members to submit information about their vaccination status.

(d) On and after January 1, 2022, no member of a City Policy Body may attend or participate in an in-person meeting of the City Policy Body unless the member is Fully Vaccinated. To the extent local or State law requires members of the City Policy Body to be physically present at the in-person meeting, the member who is not Fully Vaccinated may not attend and shall be marked absent from the meeting.

(e) Violations of section (c) or (d) of this Order shall be official misconduct.

(f) This Order shall remain in place during the local emergency unless terminated earlier by the Mayor or the Board of Supervisors.

DATED: October 8, 2021

A handwritten signature in blue ink that reads "London 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:

Motion concurring in actions taken by the Mayor in the Thirty-Eighth Supplement to the Proclamation of Emergency to meet the ongoing local emergency related to the novel coronavirus COVID-19 pandemic by: 1) requiring employees of existing City contractors and subcontractors who spend substantial time working in close proximity to City employees while performing work under the contract at a City facility to be fully vaccinated or granted an exemption based on medical or religious grounds by no later than December 31, 2021; and 2) requiring members of City boards, commissions, and advisory bodies to report vaccination status to the City by no later than December 15, 2021, and prohibiting unvaccinated members from attending in-person meetings of a policy body after January 1, 2022, without exception.

Signature of Sponsoring Supervisor: