

1 [Emergency Ordinance - Delegation of Authority to Amend Certain Agreements]

2
3 **Emergency ordinance to delegate Board of Supervisors approval authority under**
4 **Charter, Section 9.118, to City departments to amend certain existing agreements to**
5 **comply with recommendations and requirements for potential reimbursement of funds**
6 **from the Federal Emergency Management Agency or the California Governor's Office**
7 **of Emergency Services for expenditures in response to the public health emergency**
8 **related to COVID-19.**

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

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

17 Section 1. Declaration of Emergency Pursuant to Charter Section 2.107.

18 (a) Section 2.107 of the Charter authorizes passage of an emergency ordinance in
19 cases of public emergency affecting life, health, or property, or for the uninterrupted operation
20 of any City or County department or office required to comply with time limitations established
21 by law. The Board of Supervisors hereby finds and declares that an actual emergency exists
22 that requires the passage of this emergency ordinance.

23 (b) On February 25, 2020, Mayor London Breed proclaimed a state of emergency in
24 response to the spread of the novel coronavirus COVID-19. On March 3, 2020, the Board of
25 Supervisors concurred in the February 25 Proclamation and in the actions taken by the Mayor
to meet the emergency.

1 (c) To mitigate the spread of COVID-19, on March 16, 2020, the Local Health Officer
2 issued Order No. C19-07, replaced by Order No. C19-07b on March 31, 2020, directing San
3 Franciscans to stay safe in their homes. These Orders generally require individuals to stay in
4 their homes through May 3, and require businesses to cease all non-essential operations at
5 physical locations in the City.

6
7 Section 2. Findings and Purpose.

8 (a) Following major disasters and emergencies declared by the President, the Federal
9 Emergency Management Agency ("FEMA") provides supplemental assistance to states,
10 territories, tribes, and local governmental entities, as well as certain private non-profit
11 organizations. Additionally, the California Governor's Office of Emergency Services ("OES")
12 may provide matching fund assistance for cost-sharing required under FEMA's public
13 assistance programs. Through these assistance programs of FEMA and OES, the City may
14 be eligible to receive reimbursement for certain expenditures made in response to the COVID-
15 19 emergency, including payments made by departments under City contracts.

16 (b) Federal law and regulations require local agencies such as the City to implement
17 certain procurement procedures and use certain contract clauses to qualify for FEMA
18 reimbursement in some circumstances. These requirements are set forth in part at 2 Code of
19 Federal Regulations sections 200.318 et seq. Since the COVID-19 emergency began, City
20 departments have entered into several contracts necessitated by the emergency, and have
21 endeavored to comply with all FEMA requirements and recommendations to maximize
22 potential federal and state reimbursement. City departments may also seek to amend some
23 existing contracts to modify, remove, or add terms to comply with these requirements and
24 recommendations.

1 (c) Charter Section 9.118 requires the Board of Supervisors by resolution to review
2 and approve certain types of significant contracts and some amendments to those contracts.
3 With some limitations, the Board may delegate authority to departments in certain specific
4 circumstances to enter into contracts or amendments that would otherwise require approval
5 under Section 9.118.

6 (d) This emergency ordinance is necessary to enable departments to amend existing
7 contracts immediately to ensure compliance with FEMA requirements as soon as possible,
8 without the potential delay that could be caused by seeking Board of Supervisors approval for
9 individual amendments. In this respect, the emergency ordinance will ensure the
10 uninterrupted and effective operation of City departments and maximize the City's ability to
11 protect the life, health, and property of residents and workers in San Francisco.
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13 Section 3. Delegation of Authority to Amend Existing Agreements.

14 Notwithstanding the requirements of Charter Section 9.118, City departments may
15 amend existing agreements without seeking approval by the Board of Supervisors for the
16 amendment, provided that all the following conditions are met:

17 (a) The agreement that the department intends to amend has already been approved
18 by the Board of Supervisors under Section 9.118;

19 (b) The department head, or the department head's designee, determines that the City
20 may be eligible for financial reimbursement from the federal or state government for funds
21 expended under the agreement to address the COVID-19 emergency;

22 (c) The department head, or the department head's designee, in consultation with the
23 City Attorney, determines that the existing agreement may not fully comply with the
24 requirements and recommendations to obtain federal or state reimbursement;
25

1 (d) The amendment modifies the agreement solely to add, change, or remove terms to
2 maximize the ability of the City to obtain federal or state reimbursement; and

3 (e) The amendment does not increase the cost to the City under the agreement,
4 change the duration of the contract, or impose any obligations on the City other than those
5 required or recommended to obtain federal or state reimbursement.
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7 Section 4. Reporting Requirements.

8 (a) Within seven business days of the execution of an amendment to an existing
9 agreement under the authority of Section 3 of this emergency ordinance, the Purchaser or the
10 department entering into the amendment, in consultation with the Controller, shall advise the
11 Board of Supervisors of such amendment

12 (b) Within ten business days of the expiration of this emergency ordinance, the
13 Purchaser, in consultation with the Controller, shall submit a report to the Board of
14 Supervisors listing all agreements that were amended under the authority of Section 3 of this
15 emergency ordinance.
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17 Section 45. Transmittal to the Clerk of the Board.

18 The department shall submit a copy of any agreement executed under the delegated
19 authority of Section 3 of this ordinance to the Clerk of the Board of Supervisors within 30 days
20 of execution of the agreement.
21

22 Section 56. Effective Date; Expiration.

23 Consistent with Charter Section 2.107, this emergency ordinance shall become
24 effective immediately upon enactment, and shall expire on the 61st day following enactment
25 unless reenacted as provided by Section 2.107. Enactment occurs when the Mayor signs the

ordinance, the Mayor returns the ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the Mayor's veto of the ordinance.

1 Section 67. Supermajority Vote Required.

2 In accordance with Charter Section 2.107, passage of this emergency ordinance by the
3 Board of Supervisors requires an affirmative vote of two-thirds of the Board of Supervisors.

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

7 By: /s/
8 JON GIVNER
9 Deputy City Attorney

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