

File No. 200384

Committee Item No. _____

Board Item No. 26

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: _____

Date: _____

Board of Supervisors Meeting

Date: April 21, 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
- Award Letter
- Application
- Public Correspondence

OTHER

- Mayor Proclamation - Ninth Supplement - 4/10/20
- Mayor Proclamation - Tenth Supplement - 4/14/20
- _____
- _____
- _____
- _____
- _____
- _____

Prepared by: Jocelyn Wong

Date: April 17, 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 Ninth and Tenth Supplements**
4 **to the Proclamation of Emergency, released on April 10, 2020, and April 14, 2020, to**
5 **meet the ongoing local emergency related to the novel coronavirus COVID-19**
6 **pandemic.**

7

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

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

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

21 WHEREAS, On March 17, 2020, March 18, 2020, and March 23, 2020, the Mayor took
22 additional steps to meet the local emergency by issuing the Third, Fourth, and Fifth
23 Supplements to the Proclamation, and on March 31, 2020, the Board of Supervisors
24 concurred in the actions taken by the Mayor in those Supplements; the Third, Fourth, and

25

1 Fifth Supplements and the Board's concurring motion are on file with the Clerk of the Board of
2 Supervisors in File No. 200326; and

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

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

14 WHEREAS, On April 10, 2020, the Mayor issued the Ninth Supplement to the
15 Proclamation, ordering three actions to meet the emergency; the Ninth Supplement to the
16 Proclamation is on file with the Clerk of the Board of Supervisors in File No. 200384; and

17 WHEREAS, On April 14, 2020, the Mayor issued the Tenth Supplement to the
18 Proclamation, ordering three actions to meet the emergency; the Tenth Supplement to the
19 Proclamation is on file with the Clerk of the Board of Supervisors in File No. 200384; and

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

23 MOVED, That the Board of Supervisors concurs with the following actions taken by the
24 Mayor to meet the local emergency included in the Mayor's Ninth Supplement to the
25

1 Proclamation, dated April 10, 2020, as those actions are described in full in the Ninth
2 Supplement and summarized as follows:

3 Action #1: Capping the fee that third-party food delivery apps and online
4 platforms may charge restaurants at 15% per online order until such time as restaurants are
5 permitted to offer dine-in service. The cap on fees does not apply to fees charged to
6 restaurants that meet the definition of formula retail use;

7 Action #2: Revising and replacing Action #4 in the Second Supplement to the
8 Emergency Proclamation to authorize the Controller to accept and expend the donation of
9 goods – in addition to the donation of grants, gifts, and bequests of money – during the
10 emergency;

11 Action #3: Revising and replacing Action #9 in the Seventh Supplement to the
12 Emergency Proclamation to provide that all fees and charges authorized by the Board of
13 Supervisors for Fiscal Year 2019 – 2020 shall remain in effect until the Board’s adoption of the
14 Annual Appropriation Ordinance, or until otherwise altered by ordinance or emergency
15 declaration; and, be it

16 FURTHER MOVED, That the Board of Supervisors concurs with the following actions
17 taken by the Mayor to meet the local emergency included in the Mayor’s Tenth Supplement to
18 the Proclamation, dated April 14, 2020, as those actions are described in full in the Tenth
19 Supplement and summarized as follows:

20 Action #1: Prohibiting hotels from removing a guest who is COVID-19 positive,
21 has symptoms consistent with COVID-19, or who is self-isolating, subject to certain
22 exceptions;

23 Action #2: Waiving the public hearing requirement under Charter Section
24 16.112 for temporary facility closures, service reductions, and significant transit service
25

1 changes, unless such closures, reductions, or changes will last for more than 120 days after
2 termination or expiration of the Stay Safe At Home Order; and

3 Action #3: Allowing the Fire Department to continue promoting from an expired
4 H-40 Battalion Chief eligibility list.

5

6 n:\govern\as2020\2000377\01441100.docx

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25



**NINTH 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 7, 2020, the Local Health Officer ordered certain City facilities not to hold non-essential group events of more than 50 people for the two weeks from the date of the order and prohibited visitors from Laguna Honda Hospital; and

WHEREAS, On March 7, 2020, the Department of Human Resources issued guidance to minimize COVID-19 exposure risk for City employees who provide essential services to the local community, in particular during the current local emergency; and

WHEREAS, On March 11, 2020, March 13, 2020, March 17, 2020, March 18, 2020, and March 23, 2020, the Mayor issued supplements to the Proclamation, ordering additional measures to respond to the emergency; 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, through April 7, 2020, and on March 31, 2020, the Health Officer extended the Stay Safe At Home Order through May 3, 2020; and

WHEREAS, On March 19, 2020, the Governor issued Executive Order N-33-20 and the California Public Health Officer issued a corresponding order requiring people to stay home except as needed subject to certain exceptions; and

WHEREAS, There are currently 797 confirmed cases of COVID-19 within the City and there have been 13 COVID-19-related deaths in the City; there are more than 20,000 confirmed cases in California, and there have been 542 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, To reduce the spread of the virus and protect the public health, the Stay Safe At Home Order prohibits restaurants in the City from offering dine-in service, limiting restaurants to delivery and takeout offerings only; and

WHEREAS, Restricting restaurants to takeout and delivery offerings only has placed a sudden and severe financial strain on many restaurants, particularly those that are small businesses that already operate on thin margins, adding to financial pressures in the industry that predate the COVID-19 crisis; and

WHEREAS, It is in the public interest to take action to maximize restaurant revenue from the takeout and delivery orders that are currently the sole source of revenue for these small businesses to enable restaurants to survive this crisis and remain as sources of employment and neighborhood vitality in the City; and



WHEREAS, Many consumers use third-party applications and websites to place orders with restaurants for delivery and takeout, and these third-party platforms charge restaurants fees; service agreements between some restaurants and third-party platforms provide that the platform charges the restaurant 10% of the purchase price per order, while some agreements provide for higher per-order fees; and

WHEREAS, Restaurants, and particularly restaurants that are small businesses with few locations, have limited bargaining power to negotiate lower fees with third-party platforms, given the high market saturation of third-party platforms, and the dire financial straits small business restaurants are facing in this COVID-19 emergency; and

WHEREAS, Capping the per-order fees at 15% will accomplish the legitimate public purpose of easing the financial burden on struggling restaurants during this emergency while not unduly burdening third-party platforms, as this fee is recognized as reasonable, and third-party platforms continue to earn significant profits; and

WHEREAS, In the Second Supplement to the Emergency Proclamation, dated March 13, 2019, the Mayor authorized the Controller to establish a fund to receive private donations to support the City's COVID-19 response efforts; private parties have also expressed interest in donating goods to assist with emergency response efforts, and it is in the public interest to expand the prior authorization to allow the acceptance and use of such goods; 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, 2020, it is further ordered that:

(1) It shall be unlawful for a third-party food delivery service to charge a covered establishment a fee per online order for the use of its services that totals more than 15% of the purchase price of such online order.



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

“Covered establishment” means a restaurant that offers, in a single commercial transaction over the internet, whether directly or through a third-party food delivery service, the sale and same-day delivery of food to customers from one or more retail locations within the City. Covered establishment shall not include any restaurant that meets the definition of a formula retail use under Section 303.1 of the Planning Code.

“Online order” means an order placed by a customer through a platform provided by a third-party food delivery service for delivery or pickup within the City.

“Purchase price” means the menu price of an online order. Such term therefore excludes taxes, gratuities and any other fees that may make up the total cost to the customer of an online order.

“Restaurant” shall have the meaning provided in Section 451 of the Health Code.

“Third-party food delivery service” means any website, mobile application or other internet service that offers or arranges for the sale of food and beverages prepared by, and the same-day delivery or same-day pickup of food and beverages from, no fewer than 20 separately owned and operated food service establishments.

(b) The Director of the Office of Economic and Workforce Development, or the Director’s designee, is authorized to implement this order and issue any necessary guidance or rules consistent with this order.

(c) This order shall take effect on April 13, 2020, and shall terminate at such time as the Health Officer amends or terminates the order prohibiting restaurants from offering dine-in service or that prohibition otherwise expires, so that dine-in service is then allowed.

(d) A third-party food delivery service shall not be found in violation of this order if between April 13, 2020 and April 20, 2020, it imposes a fee per online order for the use of its services that totals more than 15% of the purchase price of such online order, provided it refunds the portion of the fee that exceeds 15% of the purchase price to the covered establishment prior to April 27, 2020.



(e) If a third-party food delivery service charges a covered establishment fees that violate this order, the covered establishment shall provide written notice to the third-party food delivery service requesting a refund within seven days. If the third-party food delivery service does not provide the refund requested after seven days or the third-party food delivery service continues to charge fees in violation of this order after the initial notice and seven-day cure period, a covered establishment may enforce this order by means of a civil action seeking damages and injunctive relief. The prevailing party in any such action shall be entitled to an award of reasonable attorney fees.

(2) Item 4 in the Second Supplement to the Emergency Proclamation, dated March 13, 2020, is revised and replaced as follows:

The Controller is authorized to accept and expend funds in any amount and accept, distribute and use goods valued at any amount contributed by individuals or entities for the purposes of assisting the City's efforts to respond to the COVID-19 emergency. Notwithstanding any authorization in the Administrative Code or other City laws to accept and expend funds or accept, distribute and use goods, all donations, grants, gifts and bequests of money and goods to the City for the purpose of responding to the emergency shall be accepted by the Controller, and expenditures of such funds and the distribution and use of such goods shall be subject to the Controller's direction. Funds and goods accepted by the Controller may be expended or used by the City to provide shelter, food, financial assistance including but not limited to loans, grants, or rent, mortgage and utility payments, and other assistance to individuals and families in the City who are impacted by the emergency; to replace, repair, and rebuild public buildings, infrastructure, and other assets for use in the City's efforts to respond to the emergency; to issue and administer grants and/or interest-free loans to small businesses in the City to compensate for economic harms resulting from COVID-19; and for other City efforts to address the impacts of COVID-19. Goods accepted by the Controller may be distributed by the City or used for any City effort to address the impacts of COVID-19. The Controller may coordinate with or delegate responsibility to any other department or agency to develop criteria for and administer the expenditure of funds and the distribution or use of goods. Provisions of existing agreements and of local law are suspended to the extent they would impede the disbursement of funds or the distribution or use of goods to outside entities for the purposes described above; and



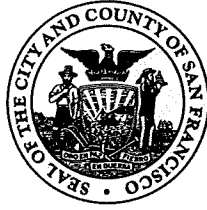
(3) Item 9 in the Seventh Supplement to the Emergency Proclamation, dated March 31, 2020, is revised and replaced as follows:

All fees and charges authorized by the Board of Supervisors for Fiscal Year 2019-2020 shall remain in effect until the Board's adoption of the Annual Appropriation Ordinance, or until otherwise altered by ordinance or emergency declaration.

DATED: April 10, 2020

A handwritten signature in blue ink that reads "London Breed".

London N. Breed
Mayor of San Francisco



**TENTH 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 7, 2020, the Local Health Officer ordered certain City facilities not to hold non-essential group events of more than 50 people for the two weeks from the date of the order and prohibited visitors from Laguna Honda Hospital; and

WHEREAS, On March 7, 2020, the Department of Human Resources issued guidance to minimize COVID-19 exposure risk for City employees who provide essential services to the local community, in particular during the current local emergency; 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, through April 7, 2020, and on March 31, 2020, the Health Officer extended the Stay Safe At Home Order through May 3, 2020; and

WHEREAS, On March 19, 2020, the Governor issued Executive Order N-33-20 and the California Public Health Officer issued a corresponding order requiring people to stay home except as needed subject to certain exceptions; and

WHEREAS, There are currently 957 confirmed cases of COVID-19 within the City and there have been 15 COVID-19-related deaths in the City; there are more than 24,000 confirmed cases in California, and there have been 725 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, A crucial means of controlling the spread of the virus is for individuals who have been exposed to the virus, who exhibit symptoms of the virus, or who have tested positive for the virus to isolate from others, and hotel rooms are ideal for this purpose; it is in the public interest and will protect the public health to prohibit hotels from removing guests who are self-isolating or quarantined; and

WHEREAS, The City's rapidly evolving response to the pandemic and the Stay Safe At Home Order have required the City to reallocate resources, temporarily modify some services including transportation services, and temporarily close some facilities including libraries; given how quickly these decisions must be made and the disruption the crisis has caused to government operations, it is not feasible to hold public hearings prior to implementing these changes, and it is in the public interest to waive the public hearing requirement for these temporary changes; and

WHEREAS, The emergency has impacted the City's ability to administer promotional tests including the test for the position of H-40 Battalion Chief in the Fire Department, and it is necessary to take action to ensure that vacant positions in that classification can continue to be filled using an eligibility list that recently expired; 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, and April 10, 2020, it is further ordered that:

(1) The following restrictions shall apply to tourist hotels:

(a) It shall be unlawful for a tourist hotel to remove any guest staying in a tourist unit if the guest:

(i) requests to continue occupying the unit;

(ii) informs the tourist hotel that the guest either (A) has tested positive for, contracted, or is showing symptoms consistent with COVID-19, or (B) is self-isolating or quarantining, either voluntarily or under order, because of actual or potential exposure to the COVID-19 virus; and

(iii) agrees to pay the tourist hotel for the tourist unit at the same rate as the tourist hotel is charging for comparable units at the hotel.

(b) For purposes of this Order, "tourist hotel" and "tourist unit" shall have the meanings provided in Section 41.4 of the Administrative Code.

(c) This Order shall not prohibit the removal of a guest protected under subsection (a) who (i) has engaged in unlawful conduct, including violence or threats of violence, or (ii) poses a risk to the health and safety of staff or other guests by failing to comply with social distancing requirements imposed by the Health Officer. The tourist hotel shall notify the Department of Public Health prior to removing a guest under this exception unless the guest poses an immediate threat due to unlawful conduct, including violence or threats of violence, in which case the tourist hotel shall provide the notification as soon as practicable following the removal. The tourist hotel may seek the assistance of the Police Department, as necessary.



(d) This Order does not require a tourist hotel to provide a guest protected under subsection (a) food or medical care on terms or conditions different than it would provide any other guest. This Order does not require a tourist hotel to provide in-unit delivery of food or beverages.

(e) If a tourist hotel intends to temporarily or permanently close and has a guest or guests protected by subsection (a), the tourist hotel shall contact the Department of Public Health to develop a plan for transferring the affected guest or guests to other suitable locations prior to closure. A tourist hotel shall not close because it has a guest or guests protected by subsection (a).

(f) When subsection (a) prohibits a tourist hotel from removing a guest, the tourist unit in which the guest is staying shall not lose its designation as a tourist or transient use under the Planning Code or Administrative Code Chapter 41, and Administrative Code Chapter 37 shall not apply.

(g) The Director of the Mayor's Office of Housing and Community Development, or the Director's designee, is authorized to implement this Order and issue any necessary guidance or rules consistent with this Order, including but not limited to publishing guidance on how tourist hotels must provide notification to the Department of Public Health under subsection (c).

(h) This Order shall take effect on April 15, 2020, and shall remain in place during the local emergency unless terminated earlier by the Mayor.

(2) The requirement under Charter Section 16.112, subsections (a) and (b) to hold a public hearing prior to certain City actions including facility closures and service changes is suspended as to temporary closures or service changes that have occurred or may occur during the emergency. This Order shall remain in place until 120 days after termination or expiration of the Stay Safe At Home Order or any extension thereof. If any action subject to this Order, including any closure or service change implemented during the emergency, will extend beyond the termination date described in the previous sentence, the City shall hold a public hearing regarding the action at least 15 days before that termination date.



(3) The Human Resources Director is authorized to revive and extend the recently expired H-40 Battalion Chief Eligible List, for an additional year from the date of this Order, to ensure the Fire Department can continue to make appointments to this rank. Any provision of the Charter or Civil Service Rules that would prohibit this action or the use of the expired list is waived.

DATED: April 14, 2020

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 [redacted] inquiries"
- 5. City Attorney Request.
- 6. Call File No. [redacted] from Committee.
- 7. Budget Analyst request (attached written motion).
- 8. Substitute Legislation File No. [redacted]
- 9. Reactivate File No. [redacted]
- 10. Topic submitted for Mayoral Appearance before the BOS on [redacted]

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):

Supervisor Yee

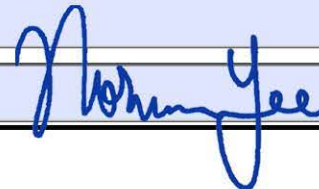
Subject:

Concurring in Actions to Meet Local Emergency - Coronavirus Response

The text is listed:

Motion concurring in actions taken by the Mayor in the Ninth and Tenth Supplements to the Proclamation of Emergency, released on April 10, 2020 and April 14, 2020, to meet the ongoing local emergency related to the novel coronavirus COVID-19 pandemic.

Signature of Sponsoring Supervisor:



For Clerk's Use Only