

File No. 211184

Committee Item No. _____

Board Item No. 24

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: _____

Date: _____

Board of Supervisors Meeting

Date: November 16, 2021

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OTHER

- Mayor Proclamation - Fortieth Supplement - 11/4/21
- Mayor Proclamation - Thirty-Ninth Supplement - 10/28/21
- Mayor Proclamation - Thirty-Ninth Supplement Terminated -11/4/21
- _____
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Prepared by: Lisa Lew

Date: November 12, 2021

Prepared by: _____

Date: _____

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

3 **Motion concurring in actions taken by the Mayor in the Fortieth Supplement to the**
4 **Proclamation of Emergency to meet the ongoing local emergency related to the novel**
5 **coronavirus COVID-19 pandemic by delegating to the Human Resources Director and**
6 **the Director of Transportation the authority until December 31, 2021, to waive or modify**
7 **provisions of Memoranda of Understanding with labor organizations representing**
8 **sworn employees of the Fire Department and Transit Operators related to**
9 **compensation, including overtime and premium pay, and to waive Charter or**
10 **Administrative Code provisions limiting the cash out of accrued vacation balances**
11 **where necessary or appropriate to ensure staffing to carry out essential government**
12 **services and respond to the pandemic.**

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 28, 2021, the Mayor took additional steps to meet the
22 emergency by issuing the Thirty-Ninth Supplement to the Proclamation, ordering two actions
23 to meet the emergency that were intended to address staffing shortages resulting from the
24 pandemic and the City's vaccination policy; the Thirty-Ninth Supplement is on file with the
25 Clerk of the Board of Supervisors in Board File No. 211184; and

1 WHEREAS, On November 4, 2021, the Mayor concluded that it was necessary to
2 revise the scope of the actions ordered in the Thirty-Ninth Supplement, and therefore
3 terminated that order; the termination of the Thirty-Ninth Supplement is on file with the Clerk
4 of the Board of Supervisors in Board File No. 211184; and

5 WHERAS, On November 4, 2021, the Mayor took additional steps to meet the
6 emergency by issuing the Fortieth Supplement to the Proclamation, ordering two actions to
7 meet the emergency; the Fortieth Supplement is on file with the Clerk of the Board of
8 Supervisors in Board File No. 211184; and

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

12 MOVED, That the Board of Supervisors concurs with the following actions taken by the
13 Mayor to meet the local emergency included in the Mayor's Fortieth Supplement to the
14 Proclamation, dated November 4, 2021, as such actions are described in full in the Fortieth
15 Supplement and summarized as follows:

16 Action 1: Delegating to the Human Resources Director until December 31,
17 2021, the authority to waive or modify provisions of Memoranda of Understanding with labor
18 organizations representing sworn employees of the Fire Department related to compensation,
19 including overtime and premium pay, and to waive Charter or Administrative Code provisions
20 limiting the cash out of accrued vacation balances, upon a written determination that such
21 waivers are necessary or appropriate to ensure appropriate staffing at the department to carry
22 out essential government services and respond to the pandemic.

23 Action 2: Delegating to the Director of Transportation until December 31,
24 2021, the authority to waive or modify provisions of the Memorandum of Understanding with
25 the labor organization representing transit operators related to compensation, including

1 overtime and premium pay, and to waive Charter or Administrative Code provisions limiting
2 the cash out of accrued vacation balances, upon a written determination that such waivers are
3 necessary or appropriate to ensure appropriate transit operator staffing to carry out essential
4 government services and respond to the pandemic.

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**FORTIETH 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 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, To protect the health and safety of City employees and the public, and to comply with legal mandates, the City required all 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. Employees who failed to comply with this reporting requirement are subject to progressive discipline, up to and including termination of employment; and

WHEREAS, To protect the health and safety of City employees and the public, 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 prior to November 1 under State and City health orders. To be approved for an exemption, an employee must establish a medical or sincerely held religious belief precluding vaccination, and the employee's department must be able to reasonably accommodate the employee in their position. City policy also provides that employees who are not vaccinated consistent with these requirements and who do not have an approved exemption will be subject to non-disciplinary separation from City employment for failure to meet a condition of City employment; and

WHEREAS, Presently, a significant but decreasing number of City employees across certain departments have not been vaccinated, and except for employees with an approved exemption to the vaccination requirement that the department is able to reasonably accommodate, such employees will be separated from City employment if they refuse to comply with the City's vaccination policy, creating staffing shortages; and

WHEREAS, Some departments have experienced unusually high resignation and retirement rates over 2020 and 2021, likely due to the pandemic or for 2021 employee departures, the vaccination-related employment requirements. These resignations and retirements have increased staffing vacancies already created by release of employees who fail to comply with the vaccination policies; and

WHEREAS, The pandemic and diversion of resources and personnel to the pandemic response limited the City's ability to safely conduct examinations and at the Fire Department to run training Academies, limiting departments ability to replace departing employees with properly trained new hires; and

WHEREAS, The Fire Department and the Municipal Transportation Agency are experiencing staffing shortages due to resignations, retirements related to the COVID-19 pandemic and the City's COVID-19 vaccination policy. The City anticipates further staffing issues due to suspensions and terminations related to the COVID-19 vaccination policy. To ensure the continuity of City services, it is in the public interest to provide certain compensation incentives to existing employees of these departments to encourage them to work in lieu of taking paid time off and to work overtime shifts until the City is able to fill vacant positions; and



WHEREAS, On October 28, 2021, the Mayor issued the Thirty-Ninth Supplement to the Proclamation of Local Emergency, which contained orders authorizing waivers of provisions of memoranda of understanding with unions representing employees of certain departments as well as provisions of local law with the goal of providing incentives to employees to work, as discussed above. Because such waivers are not presently necessary for some departments identified in the Thirty-Ninth Supplemental Proclamation, the Mayor terminated the Thirty-Ninth Supplemental Proclamation and now issues this revised 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) The Human Resources Director is delegated authority to waive or modify provisions of the Memoranda of Understanding with labor organizations representing sworn employees of the Fire Department related to compensation, including overtime and premium pay, and to waive Charter or Administrative Code provisions limiting the cash out of accrued vacation balances, upon a written determination that such waivers are necessary or appropriate to ensure appropriate staffing at the department to carry out essential government services and respond to the pandemic. This Order shall remain in effect until December 31, 2021, unless terminated earlier by the Mayor or the Board of Supervisors.

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(2) The Director of Transportation is delegated authority to waive or modify provisions of the Memorandum of Understanding with the union representing Transit Operators related to compensation, including overtime and premium pay, and to waive Charter or Administrative Code provisions limiting the cash out of accrued vacation balances, upon a written determination that such waivers are necessary or appropriate to ensure appropriate Transit Operator staffing to carry out essential government services and respond to the pandemic. This Order shall remain in effect until December 31, 2021, unless terminated earlier by the Mayor or the Board of Supervisors.

DATED: November 4, 2021

A handwritten signature in blue ink, reading "London N. Breed".

London N. Breed
Mayor of San Francisco



**THIRTY-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 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, To protect the health and safety of City employees and the public, and to comply with legal mandates, the City required all 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. Employees who failed to comply with this reporting requirement are subject to progressive discipline, up to and including termination of employment; and

WHEREAS, To protect the health and safety of City employees and the public, 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 prior to November 1 under State and City health orders. To be approved for an exemption, an employee must establish a medical or sincerely held religious belief precluding vaccination, and the employee’s department must be able to reasonably



accommodate the employee in their position. City policy also provides that employees who are not vaccinated consistent with these requirements and who do not have an approved exemption will be subject to non-disciplinary separation from City employment for failure to meet a condition of City employment; and

WHEREAS, Presently, a significant but decreasing number of City employees across a number of departments have not been vaccinated, and except for employees with an approved exemption to the vaccination requirement that the department is able to reasonably accommodate, such employees will be separated from City employment if they refuse to comply with the City's vaccination policy, creating staffing shortages; and

WHEREAS, Some departments have experienced unusually high resignation and retirement rates over 2020 and 2021, likely due to the pandemic or for 2021 employee departures, the vaccination-related employment requirements. These resignations and retirements have increased staffing vacancies already created by release of employees who fail to comply with the vaccination policies; and

WHEREAS, The pandemic and diversion of resources and personnel to the pandemic response limited the City's ability to safely conduct examinations and at public safety departments to run training Academies, limiting departments ability to replace departing employees with properly trained new hires; and

WHEREAS, The Fire Department, the Municipal Transportation Agency, Police Department, Sheriff's Department and Department of Public Health are experiencing staffing shortages due to resignations, retirements related to the COVID-19 pandemic and the City's COVID-19 vaccination policy. The City anticipates further staffing issues due to suspensions and terminations related to the COVID-19 vaccination policy. To ensure the continuity of City services, it is in the public interest to provide certain compensation incentives to existing employees of these departments to encourage them to work in lieu of taking paid time off and to work overtime shifts until the City is able to fill vacant positions;

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) The Human Resources Director is delegated authority to waive or modify provisions of the Memoranda of Understanding with labor organizations representing sworn employees of the Fire Department, Police Department and Sheriff's Department and Registered Nurses at the Department of Public Health related to compensation, including overtime and premium pay, and to waive Charter or Administrative Code provisions limiting the cash out of accrued vacation balances, upon a written determination that such waivers are necessary or appropriate to ensure appropriate staffing at these departments to carry out essential government services and respond to the pandemic. This Order shall remain in effect until December 31, 2021, unless terminated earlier by the Mayor or the Board of Supervisors.

(2) The Director of Transportation is delegated authority to waive or modify provisions of the Memorandum of Understanding with the union representing Transit Operators related to compensation, including overtime and premium pay, and to waive Charter or Administrative Code provisions limiting the cash out of accrued vacation balances, upon a written determination that such waivers are necessary or appropriate ensure appropriate Transit Operator staffing to carry out essential government services and respond to the pandemic. This Order shall remain in effect until December 31, 2021, unless terminated earlier by the Mayor or the Board of Supervisors.

DATED: October 28, 2021

A handwritten signature in blue ink, reading "London N. Breed".

London N. Breed
Mayor of San Francisco



TERMINATION OF ORDER ISSUED UNDER PROCLAMATION OF LOCAL EMERGENCY

WHEREAS, On February 25, 2020, the Mayor issued a Proclamation of Local Emergency under California Government Code Sections 8550 et seq., San Francisco Charter Section 3.100(14) and Chapter 7 of the San Francisco Administrative, in connection with the imminent spread within the City of a novel (new) coronavirus (“COVID-19”); and

WHEREAS, Certain orders issued under the Proclamation of Local Emergency remain necessary to the City’s response to the emergency conditions presented by ongoing COVID-19 pandemic; and

WHEREAS, On October 28, 2021, I issued the Thirty-Ninth Supplement to the Proclamation of Local Emergency, intended to address staffing shortages resulting from the pandemic and the City’s vaccination policy. It is necessary to revise the scope of the Thirty-Ninth Supplemental Proclamation, and I am concurrently issuing a new supplemental order to make such changes;

NOW, THEREFORE

I, London N. Breed, Mayor of the City and County of San Francisco terminate Section 1 and Section 2 of the [Thirty-Ninth Supplement](#) to the Proclamation of Local Emergency, effective immediately.

DATED: November 4, 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 Fortieth Supplement to the Proclamation of Emergency to meet the ongoing local emergency related to the novel coronavirus COVID-19 pandemic by delegating to the Human Resources Director and the Director of Transportation the authority until December 31, 2021 to waive or modify provisions of Memoranda of Understanding with labor organizations representing sworn employees of the Fire Department and Transit Operators related to compensation, including overtime and premium pay, and to waive Charter or Administrative Code provisions limiting the cash out of accrued vacation balances where necessary or appropriate to ensure staffing to carry out essential government services and respond to the pandemic.

Signature of Sponsoring Supervisor: