

[Waiving Contracting Requirements of the Administrative Code for Port Leases approved by the Port Commission and the Board of Supervisors]

Ordinance waiving the contracting requirements of the Administrative Code for tenant improvements performed by a Port tenant or its agents for Port leases approved by the Port Commission and the Board of Supervisors.

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

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

Section 1. Findings and Purpose.

(a) Under its Burton Act (California Statutes of 1968, Chapter 1333, as amended) and City and County of San Francisco Charter Section B3.581, the Port leases space for various business uses, subject to Port Commission approval where required under the Port's policies and Board of Supervisor's approval where required by Charter Section 9.118.

(b) The economic downturn as a result of the COVID-19 pandemic has had an outsized impact on the Port's leasing revenue due to loss of tourism, vacant offices, and a sharp reduction of visitors to the waterfront.

(c) By Board of Supervisors Resolution No. 278-22, the Port was authorized to accept and expend up to \$115,887,377 in relief funds from the State's General Fund (originally sourced from the American Rescue Plan Act); this includes approximately \$10,000,000 to be used for "tenant Improvements to attract and retain tenants." The Port plans to provide a portion of those funds, as well as up to \$10,000,000 from the Port's Harbor Revenue Fund and other granted monies (subject to approval by the Port Commission and Board of

1 Supervisors to accept and expend such funds) (collectively, "Tenant Improvement Allowance
2 Funds") not to exceed \$20,000,000, directly to tenants at negotiated milestones or upon lease
3 or lease amendment commencement as a tenant improvement allowance to, among other
4 things, invest in agreed-upon improvements to Port facilities.

5 (d) The Port has determined that providing Tenant Improvement Allowance Funds
6 directly to tenants with new or amended leases is a commercially reasonable and effective
7 method to achieve greater economic recovery and revenue generation than would otherwise
8 be achieved without the addition of Tenant Improvement Allowance Funds.

9 (e) Tenant improvements to Port facilities paid for with Tenant Improvement Allowance
10 Funds may in some circumstances may be subject to the provisions of Chapter 6 of the
11 Administrative Code regarding contracting for "public works" projects.

12 (f) By providing a waiver of the Chapter 6 contracting requirements, this ordinance will
13 reduce potential costs to the Port and its tenants that likely would outweigh the benefits of the
14 granted monies, thus enhancing the Port's ability to attract and retain tenants and achieve
15 higher revenues.

16 Section 2. Administrative Code Chapter 6 Waiver; Prevailing Wage, Apprenticeship
17 and Local Hire Requirements Retained.

18 (a) The Board of Supervisors waives Administrative Code Chapter 6, to the extent
19 Chapter 6 would otherwise be applicable to tenant improvements performed by a Port tenant
20 or its agents paid for with Tenant Improvement Allowance Funds, as defined under subsection
21 (c) of Section 1 of this ordinance, under a lease or lease amendment approved by the Port
22 Commission and the Board of Supervisors.

23 (b) This ordinance does not waive the requirements of Administrative Code Sections
24 23.61 and 23.62 regarding payment of prevailing wages, apprenticeship, and local hiring.

(c) This ordinance does not waive any other City requirements, including Charter Section 9.118, nor does it mandate that the Port enter into or amend any lease, or require the Port Commission or the Board of Supervisors to take any action with respect to a lease or lease amendment. The Port Commission retains discretion under this ordinance to make decisions regarding Port property in a manner that serve the needs of the department.

Section 3. Effective Date.

This ordinance shall become effective 30 days after enactment. 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.

APPROVED AS TO FORM:
DAVID CHIU, City Attorney

By: /s/
MICHELLE W. SEXTON
Deputy City Attorney

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