OFFICE OF THE MAYOR
SAN FRANCISCO

LONDON N. BREED
MAYOR

FIFTH 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, and March 18, 2020, the Mayor issued supplements to the Proclamation, ordering additional measures to respond to the emergency; and

WHEREAS, On March 16, 2020, the Local Health Officer issued an order requiring most people to remain at home 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

WHEREAS, On March 16, 2020, the Governor issued Executive Order N-28-20, finding that it is necessary to promote stability among residential and commercial tenancies to further public health and to mitigate the economic pressures of the emergency, and waiving certain provisions of state law so that local jurisdictions may achieve these purposes; and

WHEREAS, On March 17, 2020, the Governor issued Executive Order N-29-20, suspending provisions of state and local law to allow policy bodies to hold public meetings remotely without providing a physical meeting place so long as the policy body provides a means for the public to observe and address the policy body; 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 to maintain the continuity of operations of federal critical infrastructure sectors; and

WHEREAS, On March 21, 2020, the Governor issued Executive Order N-35-20, suspending provisions of state law to allow policy bodies to simultaneously receive briefings from local, state, or federal officials concerning information relevant to the COVID-19 emergency outside of a meeting of the policy body and to ask questions of such officials, so long as the members of the policy body do not discuss the briefing amongst themselves or take any action; and

WHEREAS, There are currently over 131 confirmed cases of COVID-19 within the City, more than 2,100 confirmed cases in California, and there have been 39 COVID-19-related deaths in California; and

WHEREAS, On March 18, 2020, the San Francisco Superior Court stayed all actions of unlawful detainer cases for 90 days, except those resulting from violence, threats of violence, or health and safety issues, and ordered that the period from March 18, 2020, through April 15, 2020 is deemed a holiday for purposes of computing time under Code

of Civil Procedure Section 1167, with the exception of unlawful detainer cases resulting from violence, threats of violence, or health and safety issues; and

WHEREAS, In the Mayor's Second Supplement to the Proclamation dated March 13, 2020, the Mayor temporarily suspended certain provisions of the City's Rent Ordinance that allow landlords to evict tenants due to non-payment of rent; the extreme circumstances presented by the COVID-19 crisis warrant expanding the protections in the Second Supplement so that there is a temporary moratorium on additional evictions, consistent with the Governor's Executive Order N-28-20 and the Superior Court's March 18, 2020 order; and

WHEREAS, Construction of temporary medical and public health facilities for testing and treatment may be necessary to address the crisis posed by COVID-19, and it is in the public interest to remove barriers in local law that would prohibit or slow the creation of such facilities; and

WHEREAS, The City is taking immediate action to procure rooms in hotels and similar facilities so that the City can provide temporary shelter to vulnerable persons who are unable to self-quarantine, and to persons who are assisting in the emergency response, and it will be essential that the City be able to transition these persons in and out of the rooms, in order to quickly and safely address the spread of the virus, and it is in the public interest to suspend local laws that may slow the process or disincentivize owners of hotels and similar facilities from making their properties available for these purposes; and

WHEREAS, Administrative Code Section 14.3(f)(2) requires employers to report annually on health care expenditures pursuant to the San Francisco Health Care Security Ordinance and Police Code Section 4910(b) requires employers to report annually on compliance with the San Francisco Fair Chance Ordinance; and the work required to compile and report this data would require some employers to engage in non-essential travel to their places of business and would place further economic strain on employers; and

WHEREAS, The COVID-19 emergency and related health restrictions has impacted the ability of City policy bodies to safely meet in person; as noted above, the Governor has relaxed state laws governing public meetings; it is in the public interest to suspend select

provisions of local law to allow policy bodies to meet efficiently and safely during the emergency consistent with state law and while ensuring public participation; and

WHEREAS, Many City employees have been reassigned from their normal duties or deployed as Disaster Service Workers to assist in the emergency response effort; other City employees must prioritize and devote their work time to work related to the emergency response; City departments have been directed to support telecommuting to the extent possible, and telecommuting employees may not have access to City records; and many City employees are unable to work full-time because they are caring for children and family members at home who have been impacted by the pandemic; these changes to the typical functioning of the City workforce and workplace have burdened the City's ability to respond to requests for public records; temporarily suspending select provisions of the Sunshine Ordinance will allow the City to devote limited staff resources to emergency services and providing services to the public while still providing transparency; the California Public Records Act will continue to apply; and

WHEREAS, The Mayor proclaims that the conditions of extreme peril exist and continue to warrant and necessitate the existence of a local emergency,

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, and March 18, 2020, it is further ordered that:

(1) It is necessary to amend the temporary moratorium on eviction for non-payment of rent by residential tenants directly impacted by the COVID-19 crisis, as stated in Section 1 of the Second Supplement dated March 13, 2020, to clarify that it also applies to housing providers who are exempt from the Rent Ordinance because their rent is controlled or regulated by the City; to allow tenants to obtain extensions due to expenses that are non-medical in nature; and to modify the notification and timing procedures that apply when a tenant requires an extension. Accordingly, Section 1 of the Second Supplement is hereby withdrawn, and the temporary moratorium shall be as follows:

(a) Notwithstanding Section 37.9(a)(1) of the Administrative Code, if a residential tenant has not timely made a rent payment that was due on or after March 13, 2020, the landlord may not recover possession of the unit under Section 37.9(a)(1) if the tenant has provided notice to the landlord within 30 days after the date that rent was due that the tenant is unable to pay rent due to financial impacts related to COVID-19. This eviction moratorium also applies to housing providers who are exempt from Chapter 37 on the basis that the rent is controlled or regulated by the City (including without limitation privately-operated units regulated by the Mayor's Office of Housing and Community Development or the Department of Homelessness and Supportive Housing).

(b) For purposes of this Order, "financial impacts" means a substantial loss of household income due to business closure, loss of compensable hours of work or wages, layoffs, or extraordinary out-of-pocket expenses. A financial impact is "related to COVID-19" if it was caused by the COVID-19 pandemic, the Mayor's Proclamation, the Local Health Officer's Declaration of Local Health Emergency, or orders or recommended guidance related to COVID-19 from local, state, or federal authorities.

(c) Within one week of providing notice under subsection (1)(a), the tenant shall provide the landlord documentation or other objectively verifiable information that due to financial impacts related to COVID-19, the tenant is unable to pay rent. The landlord may attempt to proceed under Section 37.9(a)(1) if the tenant does not comply with this requirement to provide documentation of financial impact within one week. If the tenant has provided documentation, then the tenant shall automatically receive an additional month after the date the tenant provided the documentation to pay the rent. If the tenant does not pay the rent at that time, the landlord must inform the tenant of the breach in writing, and the landlord and tenant shall then attempt to discuss the matter in good faith in order to develop a payment plan for the tenant to pay the missed rent.

(d) This Order shall last for a period of 30 days, until the Proclamation of Local Emergency is terminated, or upon further Order from the Mayor, whichever occurs sooner. The Mayor may extend this Order by an additional period of 30 days if conditions at that time warrant extension. The Mayor shall provide notice of the extension through an Executive Order posted on the Mayor's website and delivered to the Clerk of the Board of Supervisors.

(e) Upon expiration or termination of this Order, a tenant who provided the notice required under subsection (1)(a) shall have up to six months to pay the rent owed to the

landlord, before the landlord may recover possession due to those missed rent payments under Section 37.9(a)(1). The foregoing sentence does not prevent a landlord from providing a tenant additional time under a payment plan. During the six-month period, a landlord may request documentation of the tenant's ongoing inability to pay, and the tenant shall pay if able to do so, but under no circumstances shall a tenant's failure to timely respond to a follow-up request for documentation invalidate the six-month extension period. At the end of the six-month extension period, if the tenant still has not paid all outstanding rent, Section 37.9(a)(1) shall apply.

(f) Nothing in this Order relieves a tenant of the obligation to pay rent, nor restricts a landlord's ability to recover the rent due through means other than an eviction for non-payment.

(g) The Director of the Mayor's Office of Housing and Community Development or the Director's designee, in consultation with the Executive Director of the Rent Board as appropriate, is delegated authority to adopt regulations and to develop and publish guidelines consistent with this Order, including through the development of forms and recommendations of the types of documentation that may show financial impacts related to COVID-19.

(2) There shall be a moratorium on attempts to recover possession of rental units from residential tenants, if the effective date of the notice of termination of tenancy would fall within 60 days after the date this Order expires or is terminated, except where the landlord is endeavoring to recover possession due to violence, threats of violence, or health and safety issues. This Order shall apply to evictions under Section 37.9(a)(13) only if and when the Governor or State Legislature authorize such limitations on Ellis Act evictions during this state of emergency. The Executive Director of the Rent Board is directed to develop a form that landlords shall be required to include with any eviction notices, to inform tenants of the requirements of Sections (1) and (2) of this Order, and of the Superior Court Order.

(3) Temporary medical or public health facilities related to the City's COVID-19 response, as recommended by the Director of Public Health or the Director's designee and authorized by the Mayor or the Mayor's designee, shall be allowed in the City, including on any City streets; any provision in City law that limits or restricts deployment of any emergency public health response is hereby waived, and any applicable local

requirements for public notice, the filing or approval of a permit application, or payment of fees are hereby waived.

(4) Any hotel, or other tourist or transient use, may be used for residential purposes related to the City's COVID-19 response without losing its designation as a hotel, tourist, or transient use under the Planning Code or Administrative Code Chapter 41. Any provision in City law that limits or restricts such conversions to residential use is hereby waived during the local emergency, and all otherwise applicable local requirements for public notice, the filing or approval of a permit application, or payment of fees are hereby waived. Chapter 37 of the Administrative Code shall not apply to any rooms used for the City's COVID-19 response in a hotel or other tourist or transient use property. For avoidance of doubt, the rooms shall not be "rental units" for the purpose of the Rent Ordinance under Administrative Code Section 37.2(r), and individuals staying in such rooms shall not be "tenants" under Administrative Code Section 37.2(t).

(5) The requirements for employers to report in 2020 on prior year health care expenditures and Fair Chance Ordinance compliance pursuant to Administrative Code Section 14.3(f)(2) and Police Code Section 4910(b) are waived.

(6) The following provisions of City law governing policy body meetings are hereby suspended, until the termination of the emergency, unless the Mayor provides notice to the Board of Supervisors that the suspension is no longer necessary and rescinds this Order:

(a) The requirements in Administrative Code Section 67.6(f) that policy bodies provide 72 hours' notice of special meetings and 15 days' notice of special meetings held at a location other than the building where the policy body holds regular meetings.

(b) All requirements in the Municipal Code, including in Administrative Code Chapters 8 and 67, that agendas or other information be posted at the Main Library, provided that the policy body makes reasonable efforts to post the agenda outside Room 244 in City Hall, the office for the Board of Supervisors, but only so long as the Main Library is not open to the general public.

(c) Any requirement in the Administrative Code or Campaign and Governmental Conduct Code to televise policy body meetings if the chairperson of the

policy body determines, in consultation with the Mayor's office or the staff of SFGOVTV, that televising a particular meeting is not reasonably feasible.

(d) Any requirement in Administrative Code Chapter 67 requiring policy bodies to provide a physical location for members of the public to attend or make public comment at a meeting in which all members of the policy body are teleconferencing from remote locations. The chairperson of each policy body may determine, in consultation with the Mayor's office and the clerk or secretary of the policy body, whether to provide a physical location for a particular meeting.

(e) All requirements in Chapter 67 of the Administrative Code concerning passive meetings and passive meeting bodies.

(f) The provision of Section 67.15(c) of the Administrative Code requiring that each member of the public be provided an equal amount of time for public comment, provided that any departure from the equal time rule not be intended to favor or discriminate against a particular viewpoint.

(g) Administrative Code Section 67.3(b) is suspended to the extent it would prohibit policy bodies from receiving updates relevant to the declared emergency as permitted by the Governor's Executive Order N-35-20, or any other order of the Governor in the exercise of his emergency powers.

(7) The following provisions of City law governing public records are hereby suspended for pending and future records requests, until the termination of the emergency, unless the Mayor provides notice to the Board of Supervisors that the suspension is no longer necessary and rescinds this Order:

(a) The requirements in Administrative Code Section 67.21(a) and (b) that City agencies comply with requests for inspection or copying of a public record within 10 days following receipt of the request, or provide a written justification for withholding a record within 10 days. The foregoing sentence only addresses those deadlines under the Sunshine Ordinance, and does not affect a City agency's obligation to provide an initial response to a requester within the timeframes set forth in California Government Code Section 6253(c).

(b) The requirement in Administrative Code Section 67.21(c) that City agencies comply with requests for descriptions of records.

(c) The requirement in Administrative Code Section 67.24(e)(3) that City agencies prepare and provide documents and information during the course of contract negotiations.

(d) The restriction in Administrative Code Sections 67.24(g) and 67.24(i) prohibiting City departments from relying upon Government Code Section 6255 or any similar provision as the basis for withholding any documents or information. This paragraph does not suspend Administrative Code Section 67.24(h) regarding a "deliberative process" exemption.

(e) All deadlines in Administrative Code Section 67.21 for the Sunshine Ordinance Task Force or the Supervisor of Records to make determinations, and all deadlines in the Administrative Code or in regulations for parties to submit information to the Sunshine Ordinance Task Force. All such deadlines shall be tolled until 15 days after the termination of this Order.

(f) The requirement in Administrative Code Section 67.21(e) that an authorized representative of the custodian of records attend any hearing concerning a records request and explain its decision to withhold the records requested.

(8) Any provision of City law, including but not limited to Administrative Code Chapter 67, that relates to meetings of policy bodies or public records is hereby suspended to the extent that it either (i) conflicts with an executive order of the Governor issued in the exercise of his emergency powers, or (ii) would render it unlawful to comply with such a gubernatorial order without meeting additional requirements imposed by City law. The purpose of this paragraph is to align City law with state law to the extent any provision of state law regarding meetings of policy bodies or public records is modified or suspended by the Governor in the exercise of his emergency powers.

DATED: March 23, 2020

London Breed

London N. Breed
Mayor of San Francisco

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