CITY AND COUNTY OF SAN FRANCISCO

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MEMORANDUM

TO: Honorable London N. Breed, Mayor
Honorable Members, Board of Supervisors
Naomi Kelly, City Administrator

CC: Angela Calvillo, Clerk of the Board of Supervisors
Members, Sunshine Ordinance Task Force

FROM: Jon Givner
Paul Zarefsky
Mimi Pradhan
Brad Rosen
Deputy City Attorneys

DATE: March 16, 2020

RE: Temporary Modifications to Public Records Laws During COVID-19 Local Emergency

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On February 25, 2020, the Mayor proclaimed a local state of emergency due to the COVID-19 pandemic; the Governor also issued a statewide declaration of emergency. Both the City and the State have issued stay-safe-at-home orders to help reduce the spread of COVID-19 during the emergency. The Mayor issued two supplementary orders, on March 13 and March 16, suspending select provisions of the Sunshine Ordinance during the emergency due to the impact the emergency has placed on the City's ability to respond to public records requests. Each order applies to all requests that were then pending and to all future requests until the order terminates. In this memorandum we summarize those temporary changes to assist City agencies as they respond to public records requests during the emergency.

SUMMARY

The Mayor's orders made the following changes during the emergency:

- **Immediate Disclosure Requests:** City agencies are not required to respond within one business day to requests for "immediate disclosure" of public records. Agencies that receive "immediate disclosure requests" must respond within 10 calendar days (plus any applicable extensions), in the manner discussed below.
- **Deadlines for Agencies to Respond to Records Requests:** City agencies are not required to provide copies of records within 10 calendar days of a request or within a 14-day extension period. Instead, City departments must respond to requests by that deadline to inform the requestor whether disclosable records exist and the reasons for that determination, and to provide the requestor an estimated date when the agency will make the records available. This initial response may be relatively brief.
- **Duty to Provide Records:** Even though agencies are not legally required to provide records by a specific deadline, agencies still have a legal duty to provide records promptly if possible, unless there is a legal basis for withholding the records. But during