Ordinance amending the Administrative Code to establish a program by which the City would provide up to 80 hours of paid release time from work to employees directly and significantly harmed by a regional disaster, where the Mayor declares a regional disaster affecting City employees, subject to eligibility criteria established by the Human Resources Director and program terms and conditions.

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. The Administrative Code is hereby amended by adding Section 16.8, to read as follows:

SEC. 16.8. EMPLOYEE REGIONAL DISASTER SUPPORT PROGRAM.

(a) Findings.

(1) Beginning Sunday, October 8, 2017, devastating and deadly fires swept through Sonoma, Napa, Solano, and other counties in the North Bay (the “North Bay Fires”), burning for days and sometimes weeks, forcing the evacuation of approximately 90,000 people, destroying over 7,200 homes and commercial buildings, including in some cases entire communities, and resulting in the deaths of at least 42 people. The City and County of San Francisco (“City”) dispatched firefighters and other first responders to provide mutual aid and support for the communities and people affected by the North Bay Fires.
(2) While the North Bay Fires did not directly affect the City, other than presenting smoke and air quality concerns, many City employees live in the affected areas. Some City employees were evacuated for days or lost their homes, cars, and most other possessions. While the City provides high-quality benefits to its employees, including generous paid time off, health coverage, and an Employee Assistance Program, additional support for these employees is needed in times of dire emergency resulting in extraordinary loss and harm.

(3) While the region encompassing the City and Bay Area is a wonderful, thriving, and diverse place to live, it is vulnerable to natural disasters such as earthquakes, flooding, and fires. The Bay Area recently marked the 28th anniversary of the devastating Loma Prieta earthquake, with over 50 deaths, the catastrophic failure of several of the region's major transportation structures, including the Bay Bridge, and severe damage throughout the Bay Area. And there is the always the potential for a disaster resulting from a terrorist attack. Tragedy can strike at any moment and render unthinkable consequences.

(4) The Board of Supervisors finds and hereby declares that it is in the public interest to provide a program to support City employees directly and significantly harmed by a regional disaster, through paid time off from work not to exceed 80 hours. Just as the City provided mutual aid and support to areas ravaged by the North Bay Fires, the City must support its employees suffering trauma and tragedy because of the direct and significant adverse effects of those fires, and be prepared to support employees in the event of future regional disasters. Such a program provides vital time and support to City employees directly and significantly harmed by a disaster, allowing them needed resources to focus on their recovery efforts, so they can return to work as soon as possible and function at full capacity in the service of the City and its residents. In addition, such a program is an important benefit for employees, and results in a more loyal, committed, and stable workforce.

(b) Purpose. The City hereby establishes an Employee Regional Disaster Support Program ("Program"). The purpose of the Program is to provide City employees directly and significantly
harmed by a Regional Disaster with Paid Release Time from work so they may focus their time, energy, and effort on recovering from the Regional Disaster, to facilitate their returning to work as soon as possible and functioning at full capacity in the service of the City and its residents.

(c) Definitions. For purposes of this Section 16.8, the following definitions apply:

"Employee" shall mean a full or part-time employee of the City appointed to a position with a regular work schedule.

"Paid Release Time" shall mean up to 80 hours of paid time off work. Not every Regional Disaster will warrant 80 hours of Paid Release Time, and eligible employees will not all receive the same amount of Paid Release Time. The criteria set by the Human Resources Director or designee under subsection (e) (1) will determine which employees are eligible for Paid Release Time and the amount of Paid Release Time they may receive under the Program, subject to approval by their Appointing Officer or designee.

"Regional Disaster" is an event that meets all of the following criteria: it (1) occurs in one or more of the nine Bay Area counties (Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Solano, and Sonoma); (2) involves a natural disaster such as an earthquake, flood, or fire, or a man-made disaster such as a terrorist attack; and (3) temporarily or permanently displaces City employees from their primary residences or otherwise directly and significantly affects their ability to report to work or perform their duties as City employees.

(d) Declaration of Regional Disaster. The Mayor may trigger the Program by declaring a Regional Disaster, which declaration may be retroactive to the start date of the Regional Disaster for purposes of the Program and an employee’s eligibility for Paid Release Time. The declaration shall establish an end date for the Program under the declared Regional Disaster, based on relevant factors including, but not limited to, the nature and scale of the Regional Disaster, the anticipated recovery period for City employees, the number of City employees affected by that Regional Disaster, and its
effect on those City employees. If additional time is needed to effectuate the purpose of the Program, the Mayor may extend the declaration of Regional Disaster.

(e) Criteria for Paid Release Time under the Program; Notice to Employees.

(1) If the Mayor declares a Regional Disaster under subsection (d), the Human Resources Director or designee shall promptly issue an order establishing criteria for eligibility under the Program for the declared Regional Disaster. The criteria may include the conditions that warrant Paid Release Time and the amount of Paid Release Time that may be provided for those conditions.

(2) The Human Resources Director or designee shall arrange for notice to City employees about the declaration of the Regional Disaster, the criteria for eligibility for the Program, and the end date for the Program for that declared Regional Disaster. The Human Resources Director or designee shall seek to identify employees who may have been directly and significantly harmed by the Regional Disaster using available information, and to provide targeted notice to those employees. Both the general notice and the targeted notice shall include information about the procedures and deadlines to apply for the Program, and such other information as the Human Resources Director deems appropriate. In addition, the Human Resources Director shall make any forms that employees must complete to apply for the Program readily available to employees.

(3) If the Mayor extends the declaration of a Regional Disaster, the Human Resources Director or designee shall arrange for an additional general notice and an additional targeted notice to City employees about the extended declaration of the Regional Disaster.

(f) Paid Release Time.

(1) Employees who are eligible for the Program for a declared Regional Disaster, based on the criteria established by the Human Resources Director under subsection (e)(1), may receive Paid Release Time in accordance with those criteria and as otherwise provided in subsections (f) and (g).
(2) To receive Paid Release Time, the employee’s Appointing Officer or designee must approve the Paid Release Time. The Appointing Office shall have discretion to grant or deny the Paid Release Time, and employees meeting the eligibility criteria are not automatically entitled to Paid Release Time, as further provided in subsection (g)(4).

(3) Employees must use the Paid Release Time before the end date for the Program for the declared Regional Disaster, as established by the Mayor in the declaration of Regional Disaster. If the Mayor extends the declaration of Regional Disaster, then that will extend the end date to use Paid Release Time under the Program for that declared Regional Disaster.

(4) Employees may not bank or accrue Paid Release Time under the Program. Paid Release Time under the Program may not be cashed out, upon separation from employment or otherwise.

(5) Paid Release Time shall not be considered hours worked for purposes of calculating overtime.

(6) If an employee’s Appointing Officer or designee has approved Paid Release Time for a declared Regional Disaster, and the employee had already used his or her paid time off balances to take approved time off work in response to the Regional Disaster, then, at the request of the employee, the City shall substitute the approved Paid Release Time for an equivalent amount of the previously taken paid time off and the City shall restore that amount of paid time off to the employee’s time off balances.

(7) If an employee’s Appointing Officer or designee has approved Paid Release Time for a declared Regional Disaster, and the employee took approved unpaid leave from work in response to the Regional Disaster, then, at the request of the employee, the City shall redesignate a portion of the unpaid time that is equivalent to the approved Paid Release Time as Paid Release Time and shall provide the employee with back pay for that time.
Procedures to Apply for the Program.

(1) Employees may apply for the Program using the procedures set and forms provided by the Human Resources Director or designee under subsection (e)(2). Employees shall submit their application to their Appointing Officer or designee. Along with the application forms, the employee shall provide any supporting documentation required by the application form or the Appointing Officer.

(2) To receive Paid Release Time, an employee must execute a certificate of eligibility under penalty of perjury. The Department of Human Resources shall develop the certificate form.

(3) The Appointing Officer or designee shall review the application and documentation supporting the application, and may ask the employee to submit further documentation.

(4) The Appointing Officer or designee shall grant or deny the application and notify the employee of the determination. If the Appointing Officer grants the application, the notice shall specify the amount of Paid Release Time granted. The Appointing Officer or designee shall deny the application if the employee does not meet the criteria for eligibility established by the Human Resources Director or designee, does not provide the certificate required under subsection (g)(2), or fails to provide requested documentation, absent exceptional circumstances. The Appointing Officer or designee may deny the application based on the operational needs of the department. The decision of the Appointing Officer or designee is final.

Administration and Rule-Making Authority. The Human Resources Director or designee has the authority to establish rules and guidelines not inconsistent with this Section 16.8 to implement the Program. The Department of Human Resources has the authority to administer the Program and enforce its requirements.

Ineligibility for Workers’ Compensation. Similar to vacation or other forms of paid time off work, Paid Release Time under the Program is not considered City employment or service for
purposes of workers’ compensation laws and benefits, and employees injured or becoming ill while on
Paid Release Time shall not be eligible for workers’ compensation benefits simply by virtue of their
paid status.

(j) **Promotion of General Welfare.** In undertaking the adoption and enforcement of this
Section 16.8, the City is assuming an undertaking only to promote the general welfare and the welfare
of its employees. It is not assuming, nor is it imposing on its officers and employees, an obligation for
breach of which it is liable in money damages to any person, including any employee, who claims that
such breach proximately caused injury.

Section 2. North Bay Fires. City employees directly and significantly harmed by the
North Bay Fires, as defined in Administrative Code Section 16.8(a)(1), may be eligible for Paid
Release Time under the Program established in Administrative Code Section 16.8 if the
Mayor declares the North Bay Fires a Regional Disaster. If the Mayor makes such a
declaration, the Human Resources Director or designee shall take the steps required by
subsection (e) of that Section, and employees may apply for the Program as provided in that
Section, subject to the Program terms and conditions as set forth therein.

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:
DENNIS J. HERRERA, City Attorney

By: [Signature]
KATHARINE HOBIN PORTER
Chief Labor Attorney
Ordinance amending the Administrative Code to establish a program by which the City would provide up to 80 hours of paid release time from work to employees directly and significantly harmed by a regional disaster, where the Mayor declares a regional disaster affecting City employees, subject to eligibility criteria established by the Human Resources Director and program terms and conditions.

April 25, 2018 Rules Committee - RECOMMENDED

May 01, 2018 Board of Supervisors - PASSED ON FIRST READING
Ayes: 11 - Breed, Cohen, Fewer, Kim, Peskin, Ronen, Safai, Sheehy, Stefani, Tang and Yee

May 08, 2018 Board of Supervisors - FINALLY PASSED
Ayes: 11 - Breed, Cohen, Fewer, Kim, Peskin, Ronen, Safai, Sheehy, Stefani, Tang and Yee

File No. 171137

I hereby certify that the foregoing Ordinance was FINALLY PASSED on 5/8/2018 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

Mark E. Farrell
Mayor

Date Approved 5/17/18