Ordinance amending the Administrative Code to establish the COVID-19 Commercial Rent Relief Fund to provide financial support to landlords of certain Commercial Tenants where the tenant was unable to pay rent due to the COVID-19 pandemic, and setting a sunset date of 24 months from the effective date of the legislation.

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. Article XIII of Chapter 10 of the Administrative Code is hereby amended by adding Section 10.100-51.2, to read as follows:

SEC. 10.100-51.2. COVID-19 COMMERCIAL RENT RELIEF FUND.

(a) Establishment of Fund. The COVID-19 Commercial Rent Relief Fund (the “Fund”) is hereby established as a category eight fund to provide financial support to landlords of certain Commercial Tenants where the tenant was unable to pay rent due to a Financial Impact Related to COVID-19.

(b) Definitions. For purposes of this Section 10.100-51.2, the following terms shall have these meanings:

“Commercial Tenant” means a Covered Commercial Tenant as defined in Administrative Code Section 37C.2, provided that the Tenant has combined worldwide gross receipts for tax year 2019 for purposes of Article 12-A-1 of the Business and Tax Regulations Code equal to or less than $2.5 million.
which amount shall be prorated in the case of businesses that were not open for the entire 2019 tax year.

“Financial Impact Related to COVID-19” has the meaning given in Administrative Code Section 37C.2.

“Legacy Business” means a business registered as such under Administrative Code Section 2A.242.

“Moratorium Period” has the meaning given in Administrative Code Section 37C.2.

“Neighborhood Anchor Business” means a business registered as such under Administrative Code Section 2A.244.

(c) Administration of Fund. The Office of Economic and Workforce Development (OEWD) shall administer the Fund.

(1) In consultation with the Controller’s Office, and with any other City agency as OEWD deems appropriate, the OEWD Director or the Director’s designee shall adopt rules for administration of the Fund, including rules for the distribution of monies in the Fund and for the identification and prioritization of the most at-risk Commercial Tenants. OEWD shall make these rules available on its website and at its office.

(2) To the extent claims exceed available funds, OEWD shall give priority to landlords facing hardship, where the unpaid rent is likely to cause the landlord to become unable to pay mortgage payments, perform other preexisting obligations, or complete necessary repairs at the property. OEWD may develop additional criteria and procedures for the allocation of funds that promote equity, efficiency, and transparency in the administration of the grant program.

(3) OEWD may award grants from the Fund until June 30, 2022.

(4) OEWD may consult with organizations representing the interests of landlords and/or Commercial Tenants regarding its implementation of this Section 10.100-51.2.
(d) Use of Fund. OEWD’s rules regarding the distribution of monies from the Fund shall incorporate and develop the following criteria:

(1) The total grant may not exceed $35,000. In determining the amount of a grant, OEWD may consider any other financial assistance related to the COVID-19 pandemic that the landlord and the Commercial Tenant have received from government sources. OEWD shall determine the grant to a landlord based on the Commercial Tenant’s unpaid rent at a single location or business, regardless of whether the Tenant operates more than one location or business.

(2) The award of a grant shall be contingent upon the execution by the landlord and the Commercial Tenant of an agreement that either restructures the existing lease by extending the term of the lease as necessary to result in a term of at least three years from the date of the award of the grant, or commits the parties to honor an existing lease that has three years or more left on its term. The agreement shall also include provisions stating how the parties have addressed or will address the missed rent payments that originally fell due during the Moratorium Period. If the parties do not submit an agreement as specified in this subsection (d)(2), OEWD may, in its discretion, accept other documentation showing a mutually-agreed upon approach by the parties to the management of the unpaid rent and the extension of the lease terms or commitment to the existing lease terms consistent with this subsection (d)(2).

(3) The landlord or Commercial Tenant must submit an application signed under penalty of perjury by both parties that establishes all of the following:

(A) The grant request is based on unpaid rent that initially became due during the Moratorium Period;

(B) The Commercial Tenant was unable to pay the rent due to Financial Impact Related to COVID-19;

(C) The parties have satisfied the requirements of subsection (d)(2), above;
(D) The landlord and the Commercial Tenant acknowledge and agree that the landlord will credit the full amount of the grant against the Commercial Tenant’s unpaid rent that initially became due during the Moratorium Period; and,

(E) The Commercial Tenant still occupies the rented premises and has no present intent to vacate.

(4) It shall be City policy to distribute grants from the Fund to landlords whose tenants constitute a diverse range of businesses within the City.

(5) OEWD may give special consideration to businesses that are Legacy Businesses or Neighborhood Anchor Businesses.

(e) **Undertaking for the General Welfare.** In enacting and implementing this Section 10.100-51.2, the City is assuming an undertaking only to promote the general welfare. 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 who claims that such breach proximately caused injury.

(f) **Sunset Date.** This Section 10.100-51.2 shall expire by operation of law two years after the effective date of the ordinance in Board File No. 210809, establishing this Section. Upon expiration of this Section, the City Attorney shall cause it to be removed from the Administrative Code. Any monies left in the Fund after the expiration of this Section shall be transferred to the General Fund.
Section 2. 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: __/s/ Thomas J. Owen
   THOMAS J. OWEN
   Deputy City Attorney
Ordinance amending the Administrative Code to establish the COVID-19 Commercial Rent Relief Fund to provide financial support to landlords of certain Commercial Tenants where the tenant was unable to pay rent due to the COVID-19 pandemic, and setting a sunset date of 24 months from the effective date of the legislation.

September 15, 2021 Budget and Finance Committee - RECOMMENDED

September 21, 2021 Board of Supervisors - PASSED ON FIRST READING
   Ayes: 11 - Chan, Haney, Mandelman, Mar, Melgar, Peskin, Preston, Ronen, Safai, Stefani and Walton

September 28, 2021 Board of Supervisors - FINALLY PASSED
   Ayes: 11 - Chan, Haney, Mandelman, Mar, Melgar, Peskin, Preston, Ronen, Safai, Stefani and Walton

I hereby certify that the foregoing Ordinance was FINALLY PASSED on 9/28/2021 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

London N. Breed
Mayor

10/8/21 Date Approved