

Controller's Office

To the Honorable Mayor and City Council of the City of Houston, Texas:

I hereby certify, with respect to the money required for the contract, agreement, obligation or expenditure contemplated by the ordinance set out below that:

- ( ) Funds have been encumbered out of funds previously appropriated for such purpose.
- ( ) Funds have been certified and designated to be appropriated by separate ordinance to be approved prior to the approval of the ordinance set out below.
- ( ) Funds will be available out of current or general revenue prior to the maturity of any such obligation.
- ( ) No pecuniary obligation is to be incurred as a result of approving the ordinance set out below.
- ( ) The money required for the expenditure or expenditures specified below is in the treasury, in the fund or funds specified below, and is not appropriated for any other purposes.
- ( ) A certificate with respect to the money required for the expenditure or expenditures specified below is attached hereto and incorporated herein by this reference.
- ( ) Other - Grant Funds Available

Date: \_\_\_\_\_, 2020

City Controller of the City of Houston, Texas

**FUND REF:** \_\_\_\_\_ **AMOUNT:** \_\_\_\_\_ **ENCUMB. NO.:** \_\_\_\_\_

City of Houston, Texas Ordinance No. \_\_\_\_\_

**AN ORDINANCE APPROVING AND AUTHORIZING THE EXECUTION OF AMENDMENTS AND OTHER CHANGES TO CONTRACTS AND LEASES TO ASSIST THE CITY AND RESIDENTS OF HOUSTON, TEXAS, IN RESPONDING TO THE PUBLIC HEALTH EMERGENCY CAUSED BY COVID-19; CONTAINING VARIOUS FINDINGS AND PROVISIONS RELATED TO THE FOREGOING SUBJECTS; AND DECLARING AN EMERGENCY.**

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**WHEREAS**, on January 27, 2020, as a result of confirmed cases of COVID-19, Alex M. Azar II, Secretary of U.S. Health and Human Services, pursuant to section 319 of the Public Health Service Act, determined and declared that a public health emergency exists and has existed since January 27, 2020, nationwide; and

**WHEREAS**, on March 11, 2020, the Mayor of the City of Houston, pursuant to the Texas Disaster Act of 1975, as amended, Texas Government Code Annotated, Chapter 418 (“Texas Disaster Act”) issued a proclamation declaring a local state of disaster for a public health emergency for the City of Houston resulting from the imminent threat to the public health and the potential for loss of life and property of people and communities of the City caused by the introduction, transmission, or spread (or imminent threat of the same) of the disease known as “coronavirus disease 2019” (“COVID-19”), which declaration Houston City Council extended by Ordinance No. 2020-212; and

**WHEREAS**, on March 13, 2020, the Governor of the State of Texas declared a state of disaster for all counties in Texas due to the imminent threat of disaster posed by COVID-19; and

**WHEREAS**, on March 13, 2020, President Trump declared a national emergency recognizing the threat that the novel (new) coronavirus known as SARS-CoV-2 poses to our national security and on March 25, 2020, President Trump approved a major disaster declaration for Texas, thereby making federal emergency aid available for the state of Texas; and

**WHEREAS**, pursuant to Section 81.082(d) of the Texas Health and Safety Code, the Commissioner of the Department of State Health Services declared a state of public health disaster for the entire State of Texas on March 19, 2020, which he has subsequently extended; and

**WHEREAS**, the Centers for Disease Control and Prevention warned that widespread transmission of COVID-19 would translate into large numbers of people needing medical care at the same time; schools, childcare centers, workplaces, and other places for mass gatherings may experience more absenteeism; public health and healthcare systems may become overloaded with elevated rates of hospitalizations and deaths; other critical infrastructure, such as law enforcement, emergency medical services, and transportation industry may also be affected; and health care providers and hospitals may be overwhelmed; and

**WHEREAS**, a percentage of the population contracting COVID-19 in the United States requires hospitalization and in some cases, contracting COVID-19 may result in a person’s death; and

**WHEREAS**, as of July 7, 2020, approximately 25,396 persons in Houston have tested positive for COVID-19, and it is anticipated that the number of persons diagnosed with the virus is likely to increase, as testing for the virus continues; and

**WHEREAS**, swift action is necessary to reduce the possibility of exposure to COVID-19, control the risk, promote the public health, and to compel persons to undergo additional health measures that prevent or control the spread of disease, including isolation, surveillance, quarantine, or placement of persons under public health observation, and the provision of temporary housing or emergency shelters for persons misplaced, isolated or quarantined; and

**WHEREAS**, to respond to this public health emergency and to protect those interacting with persons who have tested positive for COVID-19 or are suspected of having COVID-19 and individuals in

quarantine or isolation, the City of Houston, as well as its employees and residents, are in need of critical supplies and resources, such as shelter, food, medical care, personal protective equipment, and other essential supplies and services; and

**WHEREAS**, during this time of immediate need and nationwide health emergency and worldwide pandemic, there is a limited availability of certain supplies or resources and when such supplies and resources become available, they must be obtained immediately; and

**WHEREAS**, the City desires to make purchases by amending existing contracts, adding or deleting services and goods to existing contracts, or issuing change orders under existing contracts in connection with expenditures necessary to relieve the suffering of the City’s population, provide for and promote public health and safety, and otherwise respond to and recover from this public health emergency and prevent and control the transmission and spread of COVID-19; and

**WHEREAS**, the Governor of the State of Texas has issued multiple orders regarding occupancy and operational restrictions on open or reopened businesses in Houston, Texas, and elsewhere; and

**WHEREAS**, on March 27, 2020, the President of the United States signed into federal law the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”), which established the Coronavirus Relief Fund (“CRF”), and pursuant to the CARES Act, the United States Department of Treasury has provided the City with a direct payment from the Coronavirus Relief Fund for the City to cover costs that (1) are necessary expenditures incurred due to the public health emergency with respect to COVID-19; (2) were not accounted for in the City’s budget most recently approved as of March 27, 2020; and (3) were incurred on March 1, 2020, through and including December 30, 2020 (the “CRF Funds”); and

**WHEREAS**, pursuant to Ordinance No. 2020-361, the City Council created the CARES Act 2020 Fund for the purpose of receiving funds from any source, including the Coronavirus Relief Fund, for the purpose of providing economic relief pertaining to the COVID-19 pandemic; and

**WHEREAS**, the City intends to use Coronavirus Relief Fund monies exclusively to fulfill its obligations under this Ordinance, where eligible and to seek other federal and state funding, reimbursements, and grants; **NOW THEREFORE**,

\* \* \* \* \*

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HOUSTON, TEXAS:**

Section 1. The City Council hereby adopts the findings and recitals set forth above.

Section 2. The City Council hereby authorizes the Chief Procurement Officer and City employees to whom he has provided written designation authorizing them to make purchases related to the COVID-19 emergency in accordance with this Ordinance (“CPO”) to negotiate and execute contract or lease amendments, change orders, and similar documents to add to, delete from, or otherwise modify existing contracts or leases, with both private entities and other governmental entities, in connection with the procurement, purchase, and acquisition of goods, equipment, supplies, services, shelter or housing, and any other resources reasonably related to the COVID-19 disaster and public health emergency.

Section 3. The authority granted under this Ordinance expires on December 30, 2020, at 11:59 PM and only applies to transactions for goods, services, property or leases purchased or funded entirely with CRF Funds.

Section 4. Pursuant to authority granted under this Ordinance, changes in any binding legal documents, including, without limitation, amendments, change orders, or other forms for transactions for goods, services, property or leases purchased or funded entirely with CRF Funds may include, without limitation, changes to the scope of services and extensions of the contract term up to and including December 30, 2020 (the "Authorized Changes").

- a. The CPO must obtain the review and approval of the City Attorney or his designee ("City Attorney") of any Authorized Changes involving sums in excess of \$50,000 prior to the execution of any documents authorized by this Ordinance.
- b. The Administration must seek City Council approval as soon as practicable for Authorized Changes that:
  1. result in an increase of the then-current maximum contract amount by more than 25% (the "Threshold"); or
  2. extend the term of a contract or lease and increase the then-current maximum contract amount, provided, however, that the CPO may sign, implement or otherwise comply with the contract and pay obligations thereunder up to the Threshold prior to seeking Council approval.

Section 5. The Mayor, City Controller, and CPO are authorized to execute the amendments, change orders, or other changes referenced in this Ordinance and to bind the City without further authorization from City Council. The Mayor and the CPO are hereby authorized to take all actions necessary to effectuate the City's intent and objectives in approving such amendments, change orders, and other changes or other undertakings described in the title of this Ordinance, and in the event of changed circumstances. The City Secretary is authorized to attest to all such signatures and to affix the seal of the City to all such documents. The City Controller's authority under the City Charter is not limited or increased by this Ordinance. Accordingly, the CPO, from time to time, may increase the amounts of contracts (including leases) by amendment, change order or other change, subject to the provisions of this Ordinance, and when doing so shall notify the City Controller of the changes. Upon receipt of such notification and that sufficient funds are available to be allocated or have been allocated to the contract, the City Controller shall make any necessary adjustments in the City's financial system of record.

Section 6. The City Attorney is hereby authorized to take all action necessary to enforce all legal obligations under said amendments, change orders, and other changes or other undertakings without further authorization from Council.

Section 7. If any provision, section, subsection, sentence, clause, or phrase of this Ordinance, or the application of same to any person or set of circumstances is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this Ordinance or their application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council in adopting this Ordinance that no portion hereof or provision or regulation contained herein shall become

inoperative or fail by reason of any unconstitutionality, voidness or invalidity of any other portion hereof, and all provisions of this Ordinance are declared to be severable for that purpose.

Section 8. There exists a public emergency requiring that this Ordinance be passed finally on the date of its introduction as requested in writing by the Mayor; therefore, this Ordinance shall be passed finally on such date and shall take effect immediately upon its passage and approval by the Mayor; however, in the event that the Mayor fails to sign this Ordinance within five days after its passage and adoption, it shall take effect in accordance with Article VI, Section 6, Houston City Charter.

**PASSED AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2020.**

**APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2020.**

\_\_\_\_\_  
Mayor of the City of Houston, Texas

Pursuant to Article VI, Section 6, Houston City Charter, the effective date

of the foregoing Ordinance is \_\_\_\_\_.

\_\_\_\_\_  
City Secretary

(Prepared by Legal Dept. \_\_\_\_\_ )  
(MPB:MB 07/10/2020) Sr. Assistant City Attorney  
(Requested by Tantri Emo, Director, Finance Department)  
(L.D. File No. 0342000108001)

DocuSigned by:  
*Martin Buzak*  
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