Be it ordained by the People of the City and County of San Francisco:

Section 1. Chapter 6 of the San Francisco Administrative Code is hereby amended by amending Subsection 6.1(F), Section 6.7, Section 6.21, Section 6.40, Section 6.62 and Section 6.80 to read as follows:

SEC. 6.1. DEFINITIONS.

(F) Contract. For the purposes of this Chapter, a contract is an agreement in writing between the City and County of San Francisco and any party to perform professional design services, consultant services, construction management services or construction services relative to a public work or improvement. No contract shall be deemed awarded, effective or binding on the City and County of San Francisco until such time as the requirements for award are met, as provided in this Chapter.

SEC. 6.7. VOID CONTRACT.

Any public works or related professional services contract or subcontract that is not awarded in accordance with the requirements ((under this Chapter)) or which does not comply with the provisions of this Chapter shall be null and void; and no recovery shall be had.

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FILE NO. 001919
thereon. Any officer, board or commission who shall sign, execute or approve such a contract shall be deemed guilty of misfeasance in office. (Added by Ord. 286-99, File No. 991645, App. 11/5/99)

6.21. ((BID)) REQUIREMENTS FOR BIDS AND QUOTES.

   A. Bids.--All Advertisements For Bids for construction contracts in excess of the Threshold Amount shall conform to and at a minimum require the following:

      (A) (1) Published Advertisement. The department head authorized to execute the contract for the public work or improvement to be performed shall advertise for competitive bids in at least one local newspaper or periodical of general circulation. Such advertisement shall be published not fewer than ten (10) days prior to bid opening. The department may, in its discretion, include in the published advertisement the amount of the engineer's estimate for the work to be performed.

      (B) (2) Award and Certification Required. All published advertisements and Advertisements For Bid shall contain the following language [wording in brackets should be chosen as appropriate to the department]:

        In accordance with San Francisco Administrative Code Chapter 6, no bid is accepted and no contract in excess of [the Threshold Amount] is awarded by the City and County of San Francisco until such time as [(1) for departments with boards or commissions, (a) the department head recommends the contract for award and (b) the board or commission then adopts a resolution awarding the contract]; or [(2) for departments under the Mayor, (a) the Mayor or the Mayor's designee approves the contract for award and (b) the department head then issues an order of award]. Pursuant to

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Charter section 3.105, all contract awards are subject to certification by the Controller as to the availability of funds.

Failure of a department to include such language in a published advertisement or Advertisement For Bids does not give rise to a contract right by a bidder or contractor outside of the requirements of the Charter or Administrative Code of the City and County of San Francisco.

((C)) 3. **Form of Bid.** All bids shall be sealed and directed to the department head advertising for bids, in the format prescribed by the department head with the authority to execute the contract.

((D)) 4. **Bid Bond.** All bids in excess of $25,000 shall be accompanied by a corporate surety bond, or an irrevocable letter of credit on a bank or trust company doing business and having an office in the State of California, having a combined capital and surplus of at least $50,000,000, and subject to supervision or examination by Federal or State authority, or a certified check on a bank or trust company doing business and having an office in the State of California, having a combined capital and surplus of at least $50,000,000, and subject to supervision or examination by Federal or State authority, payable on sight to the City and County of San Francisco, the amount of which corporate surety bond, irrevocable letter of credit or certified check shall be fixed by the department head or officer as stated in the Advertisement For Bids, which amount shall not be less than 10 percent of the amount bid for the cost of the proposed work of improvement, and no bid shall be considered unless accompanied by a corporate surety bond or irrevocable letter of credit or certified check. Any irrevocable letter submitted pursuant to this Chapter shall be on a form provided by the City and County. If the amount of security required is fixed by the department head or officer in an amount in excess of $15,000, the form of security required shall be that of a corporate surety bond or irrevocable letter of credit. The requirement for a corporate surety bond, irrevocable
letter of credit or certified check described in this subsection shall be referred to collectively as
the "bid security requirements."

Notwithstanding the above, the bid security requirements for a particular
contract may be modified by the department head in accordance with Administrative Code
section 12D.A.9.(A)(4).

((E) 5. Fees. The department head or officer calling for bids may specify in the
Advertisement For Bids for any project a nonrefundable fee to be paid by each prospective
bidder for each set of bidding documents (including plans and specifications), such fee to
defray the cost of reproducing each set of bidding documents as determined by the
department head or officer, and all such fees shall be deposited as an abatement of the
expenditure of the appropriation against which the cost of reproducing said bidding
documents was charged.

((F) 6. License. The department head shall specify in all Advertisements For
Bids and plans for public work projects the classification of the contractor's license which a
contractor shall possess at the time bids are submitted.

((G) 7. Qualifications. The department head responsible for the public work
shall require from all bidders information concerning their experience and financial
qualifications, and shall take such information into consideration in the award of any contract.
At a minimum, the department head shall require (1) information concerning the contractor's
experience, financial qualifications and ability to perform the terms and conditions of the
contract and (2) information as to whether the contractor possesses, or can obtain in time to
perform the contract, the necessary equipment. In the event that a bidder fails to provide
such information within fourteen calendar days of bid opening, or as otherwise required in the
Advertisement For Bids, the department head could find that the bidder is refusing to enter
into the contract, resulting in a forfeiture of the bidder's bid bond.

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(H) 8. Business Tax Registration Certificate. All Advertisements For Bids shall require that bidders submit proof of a current Business Tax Registration Certificate. Failure of a bidder to provide such proof within fourteen calendar days of bid opening, or as otherwise required in the Advertisement For Bids, could, at the discretion of the department head, constitute a refusal to enter into the contract and result in a forfeiture of the bid bond.

(I) 9. Apprenticeship Program or Fund. All Advertisements For Bids shall require that bidders submit a declaration affirming the bidder's commitment on behalf of itself and its subcontractors, as a material term of the contract, to fully comply with the requirements of the State Apprenticeship Program as set forth in the California Labor Code, Division 3, Chapter 4 (commencing at section 3070) and section 1777.5. Such declaration shall provide either (1) that the contractor and its subcontractors hold current approval certificates issued by the joint apprenticeship committee administering the apprenticeship standards of the craft or trade to be performed under the contract approving the contractor and its subcontractors for the employment and training of apprentices or (2) that the contractor and its subcontractors shall apply to the joint apprenticeship committee administering the apprenticeship standards of the craft or trade in the area of the site of the public work, prior to performing any of the work under the contract, for a certificate approving the contractor or subcontractor for the employment and training of apprentices. The declaration shall also include a provision that the contractor and its subcontractors shall contribute to a fund or funds to administer and conduct the apprenticeship program in any craft or trade in the area of the site of the public work, to which fund or funds other contractors in the area of the site of the public work are contributing in the same amount and on the same basis and in the same manner as the other contractors do, but where the trust fund administrators are unable to accept the funds, contractors not signatory to the trust agreement shall pay a like amount to the California Apprenticeship Council.
Failure to provide such declaration within fourteen calendar days of bid opening, or as otherwise required by the Advertisement For Bids, could, at the discretion of the department head, constitute a refusal to enter into the contract and result in a forfeiture of the bid bond.

((J)) 10. Designation of Subcontractors; Subcontracting and Subletting. All bidders shall designate their subcontractors in accordance with and shall be subject to the California Subcontracting and Subletting Act, at Government Code §4000, et seq., as amended from time-to-time. In addition to the penalties provided by Government Code §4000, et seq., violation of this subsection may be grounds for a determination of nonresponsibility under Article V of this Chapter.

B. Quotes. All requests for quotes for construction contracts less than the Threshold Amount shall be posted with three-days’ notice. Such requests shall at a minimum require a contractor's license, qualifications, a Business Tax Registration Certificate, participation in an apprenticeship program and compliance with subcontractor listing laws, all in accordance with the above-listed provisions of this Section 6.21.

((K))C. Right to Reject Any or All Bids or Quotes. The department head shall have the right to reject any or all bids or quotes for any reason or no reason. All Advertisements For Bids shall reserve this right, but failure to make such reservation shall not abrogate the right to reject. For public work contracts in excess of the Threshold Amount, the department head shall obtain the approval of the Mayor or the Mayor's Designee or the board or commission, as appropriate, in the rejection of bids.

((L))D. Bid Protests. Only a bidder may submit a bid protest. The department head concerned shall prescribe in the Advertisement For Bids procedures for submitting bid protests. Such procedures shall set the time by which bid protests must be received, but may
A. Minimum competitive amount. The minimum competitive amount for temporary outside professional service contracts shall be $25,000. On January 1, 2005, and every five years thereafter, the Controller shall recalculate the minimum competitive amount to reflect any proportional increase in the Urban Regional Consumer Price Index from January 1, 2000, rounded to the nearest $1,000.

(A)(B). Selection Process. For professional services contracts in excess of ($10,000) the minimum competitive amount, the department head for the department empowered to contract for the public work shall designate one or more panels to review proposals and interview and rate respondents with respect to a request for proposals or qualifications for a professional services contract. A panel shall consist of not fewer than two persons. The department head may establish a multi-tier selection process whereby, for example, a technical panel recommends a shortlist of qualified respondents and a second panel ranks the shortlist.

The department head shall ensure that all panel members are impartial and that all respondents are treated fairly. The panel members rating the respondents shall do so according to their independent assessment of the respondent's qualifications for the public
work project; questions relating to a respondent's expertise, qualifications and experience shall remain within the sole purview of the panel members.

Any rating sheet completed by any panel member may be considered a matter of public record, but the names of the individual panel members shall not. Any name appearing on a rating sheet produced in accordance with the Public Records Act or the San Francisco Sunshine Ordinance shall be redacted.

C. Negotiation. Following the process outlined in subsection 6.40(A), and should the department concerned desire to enter into a contract, the department head shall invite the highest-ranked qualified respondent to negotiate a professional services agreement. In the event that the department head determines, in the department head's sole discretion, that negotiations are unfruitful, the department head shall terminate negotiations in writing and may then invite the next-ranked respondent to negotiate a contract. In such event, the department head shall as soon as practicable make a report to the Mayor, board or commission as appropriate to the department.

6.62. JOB ORDER CONTRACTS.

The job order contracting system ("JOC") provides for an indefinite quantity contract with a predefined set of bid items that are assigned on a periodic or task order basis for the performance of public work maintenance, repair and minor construction projects. The department heads authorized to execute contracts for public work projects are authorized to utilize JOC according to the procedures set forth below.

A. Each JOC contract is to be advertised for competitive bids in accordance with the procedures set forth in this Chapter and awarded to the responsible bidder who submits the lowest responsive bid.

B. The Advertisement For Bids shall include unit prices and detailed technical specifications for each construction task contemplated to be performed under the JOC
contract. Each task item shall include direct costs for material, equipment and labor.

Construction tasks shall be grouped by trade.

C. The Advertisement For Bids for a JOC contract shall contain the City's estimate regarding the percentage of work under the JOC contract that will be performed by each trade. The Human Rights Commission shall set goals for MBE/WBE subcontractor participation in accordance with Administrative Code Chapter 12D.A. Calculation of whether a contractor's bid has met the goals will be based on the City's estimate of the amount of work that will be performed by each trade.

D. Contractor's bid shall identify by trade group which tasks will be performed by contractor and which tasks will be performed under subcontract. Contractor shall identify in its bid all subcontractors to be utilized, including the subcontractors' name, business tax registration certificate number, license number and the location of the place of business of each subcontractor. Contractor agrees that it is qualified for and will perform with its own forces work of all trades for which a subcontractor is not listed in the bid. This paragraph supersedes the listing requirements of section 6.21(J). Substitutions of JOC subcontractors shall be in accordance with California Public Contract Code section 4107. Penalties set forth in Administrative Code sections 6.22 and 6.80 shall apply to JOC contracts for violation of this section.

E. Contractors submitting bids on the JOC contract shall state in their bids an adjustment on a percentage basis either increasing or decreasing the unit prices for all construction tasks set forth in the bid documents. There may be a single adjustment factor that applies to all tasks. For example, an adjustment factor of 25% below the unit prices stated in the bid documents would be bid as .75. All of the contractor's profit, overhead and indirect costs shall be included in the adjusted unit prices.
F. The Advertisement For Bids and the contract specifications shall contain a maximum dollar amount of the JOC contract, which maximum amount shall not exceed three million dollars. The cumulative modifications to a JOC contract shall result in a contract sum not to exceed one hundred fifty percent of the original contract amount.

G. JOC contracts shall provide for an expiration term of not more than three years, including all modifications.

H. Projects will be assigned under the JOC contract on a work order basis at the sole discretion of the department head concerned.

I. A contractor who enters into a JOC contract with a particular City department is not eligible during the term of such JOC contract to submit a bid on a subsequent JOC contract advertised by the same contracting department; however, a contractor may submit a bid on a subsequent JOC contract advertised by the same contracting department if the contractor's existing JOC contract will expire in 120 days or fewer or if the contractor has performed work valued by the City in an amount equal to or exceeding 90% of the maximum dollar amount of the existing JOC contract.

SEC. 6.80. VIOLATIONS AND FALSE CLAIMS; DEBARMENT AND MONETARY PENALTIES.

Any contractor, subcontractor, supplier, consultant or subconsultants who fails to comply with the terms of its contract with the City and County, or contractor, subcontractor, supplier, consultant or subconsultant who violates any provision of Administrative Code Chapter 6 or who fails to abide by any rules and/or regulations adopted pursuant to Administrative Code Chapter 6 or who submits false claims, may be declared an irresponsible bidder or an unqualified consultant and debarred according to the procedures set forth below. Additionally, any contractor, subcontractor, supplier, consultant or subconsultant who submits...
a false claim to the City and County may also be subject to monetary penalties, investigation
and prosecution as described below. (Added by Ord. 286-99, File No. 991645, App. 11/5/99)

APPROVED AS TO FORM:

LOUISE H. RENNE, City Attorney

By:  
SHERYL L. BREGMAN
Deputy City Attorney
Ordinance amending Chapter 6 of the Administrative Code to effect technical corrections/clarifications to subsection 6.1(F), Section 6.7 and Section 6.80; to add requirements to Section 6.21 for quotations for public works less than or equal to the threshold amount; to define and increase the minimum competitive amount for professional service contracts in Section 6.40 from $10,000 to $25,000; and to add a subsequent contract limitation to Section 6.62 for job order contracts.

December 11, 2000 Board of Supervisors — PASSED, ON FIRST READING
    Ayes: 11 - Ammiano, Becerril, Bierman, Brown, Katz, Kaufman, Leno, Newsom, Teng, Yaki, Yee

December 18, 2000 Board of Supervisors — FINALLY PASSED
    Ayes: 9 - Ammiano, Becerril, Bierman, Brown, Kaufman, Leno, Newsom, Yaki, Yee
    Absent: 2 - Katz, Teng
I hereby certify that the foregoing Ordinance was FINALLY PASSED on December 18, 2000 by the Board of Supervisors of the City and County of San Francisco.

Date Approved

DECEMBER 28, 2000

Gloria L. Young
Clerk of the Board

Mayor Willie L. Brown Jr.