Ordinance amending San Francisco Administrative Code Chapter 6 to revise Section 6.68 concerning integrated project delivery contracting procedures and revise Subsection 6.1(H) to allow a department head to designate an individual to execute on his or her behalf contracts awarded under Chapter 6 and related documents.

NOTE: Additions are single-underline italics Times New Roman; deletions are strike-through italics Times New Roman. Board amendment additions are double-underlined; Board amendment deletions are strikethrough-normal.

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

Section 1. The San Francisco Administrative Code is hereby amended by amending Section 6.68, to read as follows:

SEC. 6.68. INTEGRATED PROJECT DELIVERY

Integrated project delivery is an approach to the procurement of construction services whereby a construction manager/general contractor ("CM/GC") is retained during the design process to review and provide comments as to the constructability of the Architect/Engineer's design within the established budget. The department heads authorized to execute contracts for public work projects are authorized to seek proposals from qualified CM/GCs for construction of public work projects using an integrated project delivery under the following conditions:

(A) Before the request for qualifications is issued, the department head shall determine that an integrated project delivery is necessary or appropriate to achieve
anticipated cost savings or time efficiencies, or both, and that such a process is in the public's best interest.

(B) If the proposed public work project is for the use or benefit of a department that is under the jurisdiction of a commission, then such commission shall first approve the solicitation of integrated project delivery proposals. If the public work is for the use or benefit of a department not under the jurisdiction of a commission, then the City Administrator must first approve this process.

(C) Pre-qualification. Department heads shall require that prospective proposers be pre-qualified to submit proposals on a specific project. The procedure for pre-qualification is as follows:

(1) The department head shall issue a request for qualifications inviting interested parties to submit their qualifications to perform the project. The request for qualifications shall include criteria by which the prospective proposers shall be evaluated. The evaluation criteria shall be based on qualifications and experience relevant to the services needed for the particular project. The list of criteria may include, but is not limited to the following: including: (i) ability to perform required pre-construction and construction phase services; (ii) evidence of financial capacity; (iii) experience on similar projects of similar size and complexity; (iv) commitment to comply with the goals and requirements of Administrative Code Chapters 12 and 14; (v) ability to collaboratively and cooperatively deliver projects on time and on budget; (vi) liquidated damages for delay and other damages paid on prior projects, and prior litigation history; (vii) reputation with owners of prior projects; (viii) claims history with insurance carriers and sureties; and (ix) compliance with all of the requirements established in the request for qualifications and other criteria that the department head in consultation with the Human Rights Supervisors Maxwell, Mar, Chiu BOARD OF SUPERVISORS Page 2 5/4/2010
Commission may deem appropriate. The department head shall set objective scoring criteria and incorporate the criteria into any scoring procedure.

(2) The department head shall designate a panel to review pre-qualification responses and interview and rate respondents with respect to the request for qualifications. Only those respondents found to be qualified will be eligible to submit proposals. The list of pre-qualified respondents shall be valid for not more than two years following the date of initial pre-qualification.

(D) Request for Proposals and Selection Process. The department head shall issue a request for proposals inviting pre-qualified CM/GCs to submit competitive cost proposals for the project. The request for proposals shall include information describing the scope of pre-construction and construction phase services for the project. The request for proposals shall request the following minimum cost information from each proposer: (i) fees for pre-construction services and (ii) fees for construction phase services, including overhead, profit and general conditions, and (iii) the qualitative criteria as described in (1) below.

(E) Final Selection Process. The department head may recommend the award of a contract to the responsible CM/GC bidder submitting the lowest responsive bid. If the award to that CM/GC bidder is not made for any reason, the department head may recommend the award of a contract to the responsible CM/GC bidder submitting the next lowest responsive bid, and so forth. The department head may, at his or her sole discretion, conduct any negotiations that are necessary to effectuate the award of a contract.

(F) Alternative Final Selection Process. If the department head determines that it is in the City's best interest to consider non-cost criteria as part of the final selection process, the department head shall issue a request for proposals inviting pre-qualified CM/GCs to submit integrated project delivery proposals, which will be evaluated based upon both non-cost criteria and project costs.
(1) The department head shall designate a panel to evaluate integrated project delivery proposals and rank the proposals to determine which provides the overall best value to the City with respect to non-cost and cost criteria. The list of non-cost criteria may include but is not limited to the following: (i) plan for expediency in completing the proposed project; (ii) quality of proposal; (iii) commitment to comply with the goals set by the Human Rights Commission and requirements of Administrative Code Chapters 12 and 14; (iv) commitment to meet City hiring goals (e.g., CityBuild or First Source Hiring); and (v) compliance with all the requirements and criteria established by the department head or HRC in the request for proposals. The department head shall set objective scoring criteria and incorporate the criteria into any scoring procedure. The cost criterion shall constitute not less than sixty-five percent (65%) of the overall evaluation.

(2) The department head shall set forth in the request for proposals and in the contract liquidated damages to be assessed against the successful CM/GC in the event it fails to fulfill the commitments made in its proposal.

(3) The department head may recommend the award of a contract to the highest-ranked CM/GC whose total proposed fee is not more than twenty percent (20%) greater for contracts the estimated cost of which is $10 million or less, or is not more than ten percent (10%) greater for contracts the estimated cost of which is in excess of $10 million, than the total proposed fee of the lowest responsive bid. If award to such CM/GC is not made for any reason, the department head may recommend the award of a contract to the next highest-ranked CM/GC whose total proposed fee is not more than ten percent (10%) greater than the total proposed fee of the lowest responsive bid, and so forth. In making the final determination, the department head shall apply the LBE discount to proposals submitted by LBEs, in accordance with Administrative Code Chapter 14B.

(E) Alternate Request for Proposals and Selection Process. If the department head determines that it is in the City's best interest to exclude consideration of non-cost criteria as part of the final selection process, the department head shall issue a request for proposals.
inviting pre-qualified CM/GCs to submit integrated project delivery proposals, which will be evaluated based upon project costs only. If the proposed public work project is for the use or benefit of a department that is under jurisdiction of a commission, then such commission shall approve the use of this alternate process. If the public work is for the use or benefit of a department not under the jurisdiction of a commission, then the City Administrator must approve the use this alternate process.

(FGF) The City shall retain the absolute discretion to determine, at any time during the process, not to proceed with any proposed project, which right may be exercised without liability to CM/GCs for costs incurred during the entire pre-qualification, proposal and negotiation process, and such rights shall be reserved in all requests for qualifications and proposals.

(GHG) The bid security and subcontractor listing requirements of section 6.21 will not apply to the selection of CM/GCs under this section 6.68. Any resulting contract with a CM/GC shall comply with section 6.22.

(HHF) Procurement of Trade Subcontractors. Department heads shall require the selected CM/GC to procure trade work contracts through a pre-qualification and competitive bid process, as follows:

(1) Pre-qualification. The department head shall require the CM/GC to pre-qualify all trade subcontractors, subject to the approval of the department head. The CM/GC shall attempt to establish a pool of no fewer than three pre-qualified subcontractors for each trade package, subject to the approval of the department head.

(2) Competitive Bid. The department head shall require the CM/GC to receive sealed bids from the pre-qualified trade subcontractors. The bid security provisions of section 6.21 will not apply. The CM/GC shall award a trade package subcontract to the responsible bidder submitting the lowest responsive bid, except that the CM/GC may negotiate and award...
a portion of the trade package subcontracts as provided in paragraph (3), below. Only those Administrative Code provisions that normally apply to subcontracts will apply to the trade package subcontracts.

(3) The department head may authorize the CM/GC to negotiate subcontracts for trade work as appropriate for the project, up to an amount not exceeding seven and one-half percent of the total estimated subcontract costs. The department head shall establish a maximum dollar value for each negotiated trade subcontract as appropriate for the project.

All actions heretofore taken by a department head consistent with the provisions of this section are hereby approved.

Section 2. The San Francisco Administrative Code is hereby amended by amending Section 6.1(H) to read as follows:

Sec. 6.1. DEFINITIONS.

(A) Advertisement For Bid. An Advertisement For Bid is a set of documents which includes without limitation the published advertisement for bids on a construction contract; the forms to be submitted with a bid, as required by the contracting department and the Human Rights Commission; the construction contract general and special conditions; and the plans and specifications for the public work or improvement.

(B) Award. For contracts in excess of the Threshold Amount as defined below, a contract is awarded by the City and County of San Francisco when the following events have occurred:
(1) For departments under the Mayor, (a) the Mayor or the Mayor's designee has approved the contract for award and (b) the department head has then issued an order of award;

(2) For departments with boards or commissions, (a) the department head has recommended to the board or commission concerned a contract for award and (b) such board or commission has then adopted a resolution awarding the contract.

For contracts less than or equal to the Threshold Amount as defined below, a contract is awarded when the department head either signs the contract or issues an order of award, whichever occurs first. Pursuant to Charter Section 3.105, all contract awards are subject to certification by the Controller as to the availability of funds.

(C) Bid. A sealed document submitted in response to an Advertisement For Bids. No bid shall be deemed accepted by the City and County of San Francisco until such time as the contract is awarded in accordance with this Chapter.

(D) Bidder. One who submits a bid in response to an Advertisement For Bids.

(E) Construction Manager. Any individual, firm, partnership, corporation, association, joint venture or other legal entity permitted by law to furnish construction management services to the City and County.

(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.
(G) Contractor. A party who contracts directly with the City and County of San Francisco to perform professional design services, consultant services, construction management services or construction services relevant to a public work or improvement. A contractor performing construction services may also be referred to as a "general contractor" or a "prime contractor."

(H) Department Head. The duly appointed General Manager, Director, or Executive Director of a City and County of San Francisco department authorized to perform public work under this Chapter. For purposes of this Chapter only, an authorized department head may designate a Deputy General Manager or Deputy Director an individual to execute on his or her behalf any document referenced in this Chapter, including but not limited to Contracts, Change Orders, Modifications, Service Orders, Task Orders, approvals, progress payments, and certificates of completion. Such designation shall be in writing and shall identify the individual deputy by name and title and the scope and term of the designation.

(I) Prevailing Wage or Prevailing Rate of Wage. The prevailing wage, as used in this Chapter, is the highest general prevailing rate of wage plus "per diem wages" and wages paid for overtime and holiday work paid in private employment in the City and County of San Francisco for the various crafts and kinds of labor employed in the performance of any public work or improvement under this Chapter. "Per diem wages" are defined pursuant to Labor Code section 1773.1, as amended from time to time.

(J) Public Work or Improvement. A public work or public work or improvement, as used in this Chapter, is any erection, construction, renovation, alteration, improvement, demolition, excavation, installation, or repair of any public building, structure, infrastructure, bridge, road, street, park, dam, tunnel, utility or similar public facility performed by or for the
City and County of San Francisco, the cost of which is to be paid wholly or partially out of moneys deposited in the treasury of the City and County.

(K) Responsible. A responsible bidder or contractor is one who (1) meets the qualifying criteria required for a particular project, including without limitation the expertise, experience, record of prior timely performance, license, resources, bonding and insurance capability necessary to perform the work under the contract and (2) at all times deals in good faith with the City and County and shall submit bids, estimates, invoices claims, requests for equitable adjustments, requests for change orders, requests for contract modifications or requests of any kind seeking compensation on a City contract only upon a good faith honest evaluation of the underlying circumstances and a good faith, honest calculation of the amount sought.

(L) Responsive. A responsive bid is one that complies with the requirements of the subject Advertisement For Bids without condition or qualification.

(M) Threshold Amount. The Threshold Amount, for the purposes of this Chapter, is $400,000. On January 1, 2015, and every five years thereafter, the Controller shall recalculate the Threshold Amount to reflect any proportional increase in the Urban Regional Consumer Price Index from January 1, 2010, rounded to the nearest $1,000.
Ordinance amending San Francisco Administrative Code Chapter 6 to revise Section 6.68 concerning integrated project delivery contracting procedures and revise Subsection 6.1(H) to allow a department head to designate an individual to execute, on his or her behalf, contracts awarded under Chapter 6 and related documents.

May 04, 2010 Board of Supervisors - PASSED, ON FIRST READING
Ayes: 11 - Alioto-Pier, Avalos, Campos, Chiu, Chu, Daly, Duffy, Elsbernd, Mar, Maxwell and Mirkarimi

May 11, 2010 Board of Supervisors - FINALLY PASSED
Ayes: 11 - Alioto-Pier, Avalos, Campos, Chiu, Chu, Daly, Duffy, Elsbernd, Mar, Maxwell and Mirkarimi

I hereby certify that the foregoing Ordinance was FINALLY PASSED on 5/11/2010 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

Mayor Gavin Newsom

Date Approved