Ordinance amending the Administrative Code by adding sections 6.22(Q) and 6.42(F) to require all public works contractors to pay subcontractors within seven days of receipt of payment from the City.

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 adding Section 6.22(Q), to read as follows:

(Q) Contractor Prompt Payment. All construction contracts under this Chapter shall require the contractor to pay its subcontractors within seven calendar days after receipt of each progress payment from the City, unless otherwise agreed to in writing in advance by both contractor and subcontractor. In the event that there is a good faith dispute over all or any portion of the amount due on a progress payment from a contractor to a subcontractor, the contractor may withhold the disputed amount but shall pay the undisputed amount.

Any contractor who violates this subsection shall pay to the subcontractor a penalty of 2% of the amount due per month for every month or portion thereof that payment is not made. This subsection is enforceable in a court of competent jurisdiction, and is not intended to create a private right of action against the City and County of San Francisco.

Section 2. The San Francisco Administrative Code is hereby amended by adding Section 6.42(F), to read as follows:
(F) **Contractor Prompt Payment.** All professional services contracts under this Chapter shall require the contractor to pay its subcontractors within seven calendar days after receipt of each progress payment from the City, unless otherwise agreed to in writing in advance by both contractor and subcontractor. In the event that there is a good faith dispute over all or any portion of the amount due on a progress payment from a contractor to a subcontractor, the contractor may withhold the disputed amount but shall pay the undisputed amount.

Any contractor who violates this subsection shall pay to the subcontractor a penalty of 2% of the amount due per month for every month or portion thereof that payment is not made. This subsection is enforceable in a court of competent jurisdiction, and is not intended to create a private right of action against the City and County of San Francisco.

**Section 3. Effective Date.** This ordinance shall become effective 30 days from the date of passage.

**Section 4.** This section is uncodified. In enacting this Ordinance, the Board intends to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation, charts, diagrams, or any other constituent part of the Administrative Code that are explicitly shown in this legislation as additions, deletions, Board amendment additions, and Board amendment deletions in accordance with the "Note" that appears under the official title of the legislation.

APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

By: [Signature]
Yadira Taylor
Deputy City Attorney
File Number: 121200          Date Passed: February 12, 2013

Ordinance amending the Administrative Code, by adding Sections 6.22(Q) and 6.42(F), to require all public works contractors to pay subcontractors within seven days of receipt of payment from the City.

January 24, 2013 Government Audit and Oversight Committee - AMENDED

January 24, 2013 Government Audit and Oversight Committee - RECOMMENDED AS AMENDED.

February 05, 2013 Board of Supervisors - PASSED, ON FIRST READING
   Ayes: 11 - Avalos, Breed, Campos, Chiu, Chu, Cohen, Farrell, Kim, Mar, Wiener and Yee

February 12, 2013 Board of Supervisors - FINALLY PASSED
   Ayes: 11 - Avalos, Breed, Campos, Chiu, Chu, Cohen, Farrell, Kim, Mar, Wiener and Yee

File No. 121200

I hereby certify that the foregoing Ordinance was FINALLY PASSED on 2/12/2013 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

Mayor

Date Approved