

1 [Administrative Code - Goods or Services Contracts for Incarcerated Persons]

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3 **Ordinance amending the Administrative Code to prohibit the City from entering into an**
4 **agreement to provide goods or services to incarcerated persons of a jail facility that**
5 **allows the City to collect some or all of the revenue paid for those goods or services.**

6 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
7 **Additions to Codes** are in *single-underline italics Times New Roman font*.
8 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
9 **Board amendment additions** are in double-underlined Arial font.
10 **Board amendment deletions** are in ~~strikethrough Arial font~~.
11 **Asterisks (* * * *)** indicate the omission of unchanged Code
12 subsections or parts of tables.

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

14 Section 1. The Administrative Code is hereby amended by adding Chapter 21E,
15 consisting of Sections 21E.1 through 21E.45, to read as follows:

16 **CHAPTER 21E: GOODS OR SERVICES CONTRACTS FOR INCARCERATED PERSONS**

17 **SEC. 21E.1. BACKGROUND, FINDINGS, AND PURPOSE.**

18 *(a) In June 2019, under the leadership of Mayor London Breed, San Francisco became the first*
19 *county and only the second city in the nation to commit to making incarcerated people’s phone calls*
20 *from jail free and ending markups in the jail commissary store – ending the practice of generating*
21 *revenue for the City from incarcerated people and their families and loved ones.*

22 *(b) San Francisco took this action because phone call and commissary costs for incarcerated*
23 *people had been a significant drain on low-income communities and communities of color, which are*
24 *disproportionately impacted by policing and overrepresented in the jail system. Prior to these reforms,*
25

1 San Francisco's prices for jail phone calls and marked-up jail store items extracted approximately \$1.7
2 million a year from incarcerated people and their families and support networks. These costs primarily
3 fell on low-income women of color who were supporting incarcerated loved ones; in San Francisco, the
4 Treasurer and Tax Collector's Financial Justice Project estimated that 80% of phone call costs were
5 paid by incarcerated families' support networks.

6 (c) Prior to these reforms, if a person incarcerated in San Francisco jails made two 15-minute
7 phone calls a day, it would typically cost \$300 over 70 days (the average jail stay) or \$1,500 over the
8 course of the year. Items in the commissary jail store such as stationery, stamps, soup, coffee, rice and
9 beans, and hygiene products were marked up an average of 43%.

10 (d) Marking up prices for phone calls and commissary costs is a common practice in jails and
11 prisons across the country. The practice generates revenue for jails and prisons, and profits for
12 corporations that provide these services. Through San Francisco's previous reliance on incarcerated
13 people's support networks to generate funding for jail operations, low-income communities, rather
14 than the public as a whole, were shouldering the burden of much of the cost of core operational
15 responsibilities. Further, the jail and prison communications industry, which benefited from San
16 Francisco's prior system, has grown to a \$1.2 billion a year business dominated by a few corporations,
17 and has come under increased scrutiny in recent years by the criminal justice reform community. This
18 predatory industry offers an array of other communications services to jails and prisons – including
19 video conferencing, tablets, and other services.

20 (e) Research shows that increased communication between incarcerated people and their loved
21 ones increases safety within jails, decreases recidivism, and improves reentry outcomes after release.
22 Communication provides incarcerated people a lifeline to their support networks. Yet, under a system
23 in which phone calls are costly, incarcerated people often have to choose between paying for phone
24 calls and purchasing items in the jail store.

1 (f) The City should never again generate revenue for jail operations from incarcerated persons
2 and their families. The purpose of this Chapter 21E is to make these reforms permanent to the extent
3 permissible by law. In addition, this ordinance is to serve as a model that can inspire other counties
4 and cities nationwide to put people over profits, end the generation of revenue for jail operations from
5 incarcerated people and their families, and move towards a system of making services like phone calls
6 free for incarcerated people and their families and loved ones.

7 (g) The funds generated from incarcerated persons and their support networks was
8 primarily used, via the Inmate Welfare Fund, for programs and services in the jails, including
9 but not limited to Prisoner Legal Services, religious services, substance use programs,
10 contracts with community-based organizations who provide parenting classes and violence
11 prevention programs, and program staff to coordinate all jail programming. When this policy
12 change was implemented in 2019, it was done so with the commitment that funding for
13 programming for incarcerated people would not be reduced; rather it was the intent that the
14 City and County provide financial support for these programs, and not rely on incarcerated
15 people and their support networks to do so. It is the intent of the Board, through this
16 legislation, to maintain that commitment to jail programs.

17
18 **SEC. 21E.2. DEFINITIONS.**

19 “Contract for Goods or Services for Incarcerated Persons” means an agreement the City enters
20 into, to provide goods or services to incarcerated persons in a jail, that involves incarcerated persons
21 or their families and support networks paying for goods or services.

1 **SECTION 21E.3. PROFITING FROM CONTRACTS FOR INCARCERATED PERSONS**

2 **PROHIBITED.**

3 (a) The City shall not enter into a Contract for Goods or Services for Incarcerated Persons that
4 includes a provision by which the City will receive some or all revenue generated from payments
5 provided by incarcerated persons in jails.

6 (b) This Section 21E.3 shall not interfere with the Sheriff's authority under state law, including
7 the Sheriff's authority to enter into contracts under Section 4025 of the Penal Code.

8
9 **SECTION 21E.4. ANNUAL REPORTING.**

10 ~~The Sheriff shall report annually to the Board of Supervisors on all Contracts for Goods~~
11 ~~or Services for Incarcerated Persons. The first report shall be due six months after the~~
12 ~~effective date of this Chapter 21E, and by December 31st of each calendar year thereafter.~~
13 ~~The report shall include the names of the contractor, the types of goods or services provided,~~
14 ~~the dollar amount for each contract, and a link to each contract referenced. The report shall~~
15 ~~also be posted on the Sheriff's Department's website.~~

16
17 **SECTION 21E.45. UNDERTAKING FOR THE GENERAL WELFARE.**

18 In enacting and implementing this Chapter 21E, the City is assuming an undertaking only to
19 promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an
20 obligation for breach of which it is liable in money damages to any person who claims that such breach
21 proximately caused injury.

22
23 Section 2. Effective Date. This ordinance shall become effective 30 days after
24 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the



City and County of San Francisco

Tails
Ordinance

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

File Number: 200577

Date Passed: July 21, 2020

Ordinance amending the Administrative Code to prohibit the City from entering into an agreement to provide goods or services to incarcerated persons of a jail facility that allows the City to collect some or all of the revenue paid for those goods or services.

July 02, 2020 Government Audit and Oversight Committee - AMENDED, AN AMENDMENT OF THE WHOLE BEARING SAME TITLE

July 02, 2020 Government Audit and Oversight Committee - RECOMMENDED AS AMENDED

July 14, 2020 Board of Supervisors - PASSED ON FIRST READING

Ayes: 11 - Fewer, Haney, Mandelman, Mar, Peskin, Preston, Ronen, Safai, Stefani, Walton and Yee

July 21, 2020 Board of Supervisors - FINALLY PASSED

Ayes: 11 - Fewer, Haney, Mandelman, Mar, Peskin, Preston, Ronen, Safai, Stefani, Walton and Yee

File No. 200577

I hereby certify that the foregoing Ordinance was FINALLY PASSED on 7/21/2020 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

London N. Breed
Mayor

7.31.20

Date Approved