[Administrative Code - Mayor’s Selection of Designees in Matters Regarding Contracting and Other Matters]

Ordinance amending the Administrative Code to prohibit the Mayor from designating the department head as the Mayor’s designee regarding contracting decisions and other matters in which the Mayor has discretion to delegate a designee to review a department head’s proposals.

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

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

Section 1. Chapter 6 of the Administrative Code is hereby amended by revising Section 6.1 to read as follows:

SEC. 6.1. DEFINITIONS.

* * * *

Integrated Furniture, Fixtures, and Equipment (IFF&E). Furniture, fixtures, and/or equipment that require integration that significantly affects the building design and/or the design of interior renovation of a Public Work or Improvement due to physical dimension, power connection, or data communication, and/or coordination with construction trades, including but not limited to, electrical, plumbing, mechanical, or building controls.

Mayor. The Mayor of the City and County of San Francisco or Mayor’s designee, provided that the designee is not the Department Head of the department concerned in the particular matter that the Mayor is responsible for reviewing.
**Prevailing Wage or Prevailing Rate of Wage.** For purposes of this Chapter 6, 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 for the various crafts and kinds of labor employed in the performance of any Public Work or Improvement. "Per diem wages" are defined pursuant to Labor Code Section 1773.1, as amended from time to time.

* * * *

Section 2. The Administrative Code is hereby amended by revising Chapter 6, as follows:

Whenever the terms “Mayor or the Mayor’s designee” or “Mayor, the Mayor’s designee” is used in the following sections, the words "or the Mayor’s designee" or “the Mayor’s designee" as applicable, shall be deleted:

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<td>6.22(h)</td>
<td>6.40(c)</td>
<td>6.73(a)</td>
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Section 3. Chapter 8 of the Administrative Code is hereby amended by revising Sections 8.3 and 8.12.2, to read as follows:

**SEC. 8.3. RETENTION AND DESTRUCTION OF RECORDS GENERALLY.**

It shall be the duty of each department head to classify the department’s records, using the classifications set forth in Section 8.4 of this Code, and to prepare a schedule for the
systematic retention and destruction of such records, which schedule shall comply with the
provisions of this Section and of Sections 8.4 and 8.9 of this Code and will be effective only
upon approval by the officers and boards specified below.

* * * *

If requested by the Retirement Board, payroll checks, time cards and related
documents shall be delivered to the Retirement Board instead of being destroyed. Current
records and storage records less than five years old may be destroyed or otherwise disposed
of if their destruction or other disposition within a shorter length of time will not be detrimental
to the City and County or defeat any public purpose and if a definitive description of such
records and the retention period applicable to them are set forth in a schedule for the
systematic retention and destruction of records that is prepared by the department head,
approved by the Mayor or the Mayor's designee (provided that the designee is not department
head of the department concerned), or the board or commission concerned, and approved by the
City Attorney as to records of legal significance, by the Controller as to records relating to
financial matters, by the Retirement Board as to time rolls, time cards, payroll checks and
related matters.

* * * *

SEC. 8.12.2. COST OF PUBLICATION, ETC.

When funds have been provided, the Purchaser of Supplies may publish such
manuals, documents, pamphlets, bulletins or other publications as may be deemed to be in
the best interests of the City and County, or for information, upon the recommendation of a
department head, and with the approval of the Mayor or the Mayor's designee (provided that
the designee is not department head of the department concerned), or the board or commission that
oversees the department.
The cost of handling and distribution by the Purchaser of Supplies in accordance herewith shall be payable out of the departmental funds referred to in this Section.

Section 4. Chapter 10 of the Administrative Code is hereby amended by revising Sections 10.24, 10.28-1, 10.100-233, 10.126, and 10.171, to read as follows:

SEC. 10.24. CLAIMS IN FAVOR OF THE CITY AND COUNTY - SETTLEMENT.

* * * *

(c) Litigated Claim Under $25,000.00. Any litigated claim in favor of the City and County in which the total claim does not exceed in amount the sum of $25,000.00; may be settled and compromised by the City Attorney upon written recommendation of the head of the department in favor of which such claim is made, subject to the written approval of the Mayor or the Mayor’s designee with respect to the departments under the Mayor’s jurisdiction (provided that the designee is not department head of the department concerned), and subject to the approval by resolution of the board or commission having jurisdiction over such department in other cases.

SEC. 10.28-1. AUTHORIZATION AND AUTHORITY FOR USE OF PRIVATE AUTOMOBILES.

Subject to the fiscal and accounting procedures of the Charter, officers and employees shall be allowed traveling and incidental expenses and compensation for the use of privately owned automobiles in connection with official routine duty or service for or on account of the City and County as provided by this Article.

When funds have been appropriated for such purpose, each elective officer in charge of an administrative office, the Controller, the Mayor or the Mayor’s designee and each board or commission may authorize officers and employees within their respective jurisdictions to
use privately owned automobiles in connection with any official routine duty or service and to be compensated for such use, on the basis of the actual number of miles traveled, at rates to be established by the Controller. If the Mayor designates a City employee or officer to authorize the use of privately owned automobiles under this Section 10.28-1, the Mayor’s designee may not be the officer or employee using the authorized automobile.

SEC. 10.100-233. PUBLIC WORKS LITTER CONTROL FUND.

(a) Establishment of Fund. The Public Works Litter Control Fund is hereby established as a category six fund for the purpose of receiving all cash gifts, donations and contributions of money that may from time to time be offered to the City and County through any of its officers, boards or commissions for litter control.

(b) Use of Fund. All monies deposited into the fund shall, consistent with the gift, donation, or contribution, be expended for litter control.

(c) Exceptions to Fund Category. All expenditures from the fund shall be made upon the recommendation of the Director of Public Works and subject to the approval of the Mayor or the Mayor’s designee, provided that the Mayor’s designee is not the Director of Public Works or an employee in the Department of Public Works.

SEC. 10.126. CASH REVOLVING FUNDS – PURPOSES.

Expenditures may be made from departmental revolving funds for such classes of transactions as may be in writing recommended by the department head, approved by the Mayor or Mayor’s designee (provided that the designee is not department head of the department concerned), board, or commission, if any, and specifically concurred in by the Controller.

SEC. 10.171. CODE ENFORCEMENT.
The Director of Public Works is hereby empowered, authorized and directed, with the approval of the Mayor or the Mayor’s designee (provided that the Mayor’s designee is not the Director of Public Works or an employee in the Department of Public Works) to do any and all things necessary to plan and carry out any program of concentrated Code enforcement required by contract between the City and County and the Secretary of the Department of Housing and Urban Development of the United States and for the assistance of which a Code enforcement grant has been made to the City and County by said secretary pursuant to the provisions of Section 117 of Title I of the Housing Act of 1949, as amended.

Section 5. The Administrative Code is hereby amended by revising Section 21.15, to read as follows:

SEC. 21.15. EMERGENCY PROCUREMENT PROCEDURES.

(a) The Board of Supervisors hereby declares that an actual emergency shall exist when it becomes necessary to immediately procure Commodities or Services to make repairs, to safeguard the lives or property of the citizens or the property of the City or to maintain public health or welfare as a result of extraordinary conditions created by war, epidemic, weather, fire, flood, earthquake or other catastrophe, or the breakdown of any plant equipment, structure, street or public work.

(b) For any Commodities or Services that would normally be procured by the Purchaser, a contract may be executed by the Purchaser in the most expeditious manner, and shall be promptly confirmed by issuance of a regular purchase order.

(c) The department head responsible for the operations for which Commodities or Services are needed may also enter into a contract directly in the most expeditious manner necessary in order to respond to the emergency; however, if the emergency permits, the department head shall first secure the written approval of the president of the board or
commission concerned, or from the Mayor or the Mayor's designee for any department under
the Mayor's jurisdiction provided that the designee is not the department head of the department
concerned, and in all cases the approval of the Board of Supervisors must be obtained for any
contract in excess of $100,000. If the emergency does not permit such approvals to be
obtained before the contract is executed, such approvals shall be obtained as soon thereafter
as it is possible to do so.

* * * *

Section 4. The Administrative Code is hereby amended by revising Sections 14B.7
and 14B.13, to read as follows:

SEC. 14B.7. PRIME CONTRACTS

(A) Good Faith Efforts by Awarding Authorities to Obtain LBE Bids on Prime
Contracts. Contract Awarding Authorities shall use good-faith efforts for all Contracts subject
to the Discount provisions of this Chapter to solicit and obtain Bids from the broadest possible
diversity of LBEs and to ensure that MBEs, WBEs, and OBEs are not arbitrarily excluded from
participation. Good faith efforts shall include the following:

(1) Arranging Contracts by size and type of work to maximize the opportunities for
LBEs to participate. This includes dividing projects into smaller parts.

(a) As soon as practical before soliciting Bids, Contract Awarding Authorities
shall submit Large Contract Proposals to the Director for review. The Director shall determine
whether the proposed Contract can be divided into smaller Contracts so as to enhance the
opportunity for participation by LBEs. For purposes of this paragraph, "Large Contract
Proposals" means any Public Works/Construction Contract estimated to cost more than
$5,000,000, any Professional Services Contract estimated to cost more than $1,000,000, and
any Commodities Contract with a term greater than one year, including any options to renew or extend.

(b) If the Director determines, after consulting with the Contract Awarding Authority, that the Contract can be divided into smaller Contracts, then the Director and the Contract Awarding Authority shall confer regarding all of the costs and benefits of soliciting the Contract as a single Contract or dividing it into smaller Contracts, including but not limited to the potential for enhanced opportunities for LBE participation as Prime Contractors, the potential for LBE participation as Subcontractors, suitability of procuring the work through Micro-LBE Set-Aside under 14B.7(K), relative costs, administrative issues, and any other matters relevant to the accomplishment of the purpose of the subject Contract or Contracts. If, after exchanging information and conferring regarding these issues, the Contract Awarding Authority and the Director are unable to agree on whether to divide the Contract into smaller Contracts or how to divide the Contract, the Mayor or the Mayor's designee provided that the designee is not the department head of the Contract Awarding Authority shall resolve the matter.

*    *    *    *

SEC. 14B.13. POWERS AND DUTIES OF CONTRACT AWARDING AUTHORITIES.

*    *    *    *

(D) Subject to the budgetary and fiscal provisions of the San Francisco Charter and to any limitations or requirements associated with the issuance of municipal financings, including but not limited to the use of tax-exempt financing and other long-term obligations, Contract Awarding Authorities shall set aside the following percentage of the value of each Contract, to be used solely to fund CMD's actual costs of administering and enforcing this Chapter. This Section 14B.13(D) shall not apply to Contracts funded by bonds that were authorized prior to June 10, 2006.
(1) For Contracts having an estimated value under $1 million, the Contract Awarding Authority shall set aside two percent (2%) of the value of the Contract for the purpose described in this Section.

(2) For Contracts having an estimated value of at least $1 million but less than $10 million, the Contract Awarding Authority shall set aside one percent (1%) of the value of the Contract for the purpose described in this Section.

(3) For Contracts having an estimated value of at least $10 million but less than $50 million, the Contract Awarding Authority shall set aside one half of one percent (0.5%) of the value of the Contract for the purpose described in this Section.

(4) For Contracts having an estimated value of $50 million or more, the Director, in consultation with the Contract Awarding Authority, shall determine the level of funding necessary to administer and enforce this Chapter with respect to the subject Contract, provided that the funding shall not exceed one half of one percent (0.5%) of the value of the Contract. The Contract Awarding Authority shall set aside the designated funds to be used solely for the purpose described in this Section.

(5) Notwithstanding Sections 14B.13(D)(1), (2), (3) and (4), with respect to each Contract to be issued by the Port of San Francisco, the San Francisco Public Utilities Commission, the San Francisco Department of Public Works, and the San Francisco International Airport, each such Contract Awarding Authority shall confer with the Director and jointly shall estimate the costs of administering and enforcing this Chapter with respect to each Contract. The Contract Awarding Authority shall set aside the agreed-upon funds to be used solely for the purpose described in this Section.

If, after exchanging information regarding the nature of the Contract and the administrative activities required, the Contract Awarding Authority and the Director do not agree on the cost of administering and enforcing this Chapter, the Mayor or the Mayor's
designee provided that the designee is not the department head of the Contract Awarding Authority, shall determine the appropriate amount to be set aside for the purpose described in this Section.

The Director shall report on compliance by Contract Awarding Authorities with set-asides determined under this Section 14B.13(D)(5) and on the agreed upon funds for Contract Awarding Authorities under 14B.13(D)(5) in the CMD’s annual report under Section 14B.15(A).

Section 6. The Administrative Code is hereby amended by revising Section 21C.1, to read as follows:

SEC. 21C.1. PREVAILING RATE OF WAGES IN MOTOR BUS SERVICE CONTRACTS.

In the case of any contract for Services wherein motor bus service is to be rendered to the general public on any facility owned by the City, or in the case of any contract for the transportation within the boundaries of the City of any Commodities owned or in the possession of the City, the Purchaser, on recommendation of the department head concerned and approval of the Mayor or the Mayor's designee provided that the designee is not the department head of the department concerned or the board or commission in charge of such department upon the ground that the public interest would be best served by requiring the inclusion of such a provision in the contract, may require that any person performing labor thereunder shall be paid not less than the highest general prevailing rate of wages, including fringe benefits or the matching equivalents thereof, paid in private employment for similar work in the area in which the contract is being performed, as determined by the Civil Service Commission; provided, however, if such a provision is to be included in the contract the notice
inviting offers under Section 21.2 of this Code must call attention of Offerors to the
requirements of said provision.

Section 7. Effective Date. This ordinance shall become effective 30 days after
enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
of Supervisors overrides the Mayor’s veto of the ordinance.

Section 8. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
additions, and Board amendment deletions in accordance with the “Note” that appears under
the official title of the ordinance.

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

By: /s/ 
YADIRA TAYLOR
Deputy City Attorney
File Number: 200949  Date Passed: October 27, 2020

Ordinance amending the Administrative Code to prohibit the Mayor from designating the department head as the Mayor's designee regarding contracting decisions and other matters in which the Mayor has discretion to delegate a designee to review a department head's proposals.

October 01, 2020 Government Audit and Oversight Committee - RECOMMENDED

October 20, 2020 Board of Supervisors - PASSED ON FIRST READING
Ayes: 11 - Fewer, Haney, Mandelman, Mar, Peskin, Preston, Ronen, Safai, Stefani, Walton and Yee

October 27, 2020 Board of Supervisors - FINALLY PASSED
Ayes: 11 - Fewer, Haney, Mandelman, Mar, Peskin, Preston, Ronen, Safai, Stefani, Walton and Yee

File No. 200949

I hereby certify that the foregoing Ordinance was FINALLY PASSED on 10/27/2020 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

London N. Breed
Mayor

Date Approved: 11/6/20