

## LEGISLATIVE DIGEST

[Design Professional Services Agreement - Mark Cavagnero Associates - Water Enterprise City Distribution Division Facilities - 2000 Marin Street - \$27,800,000 - Grant of Exemption to Behested Payment Prohibition in Campaign and Governmental Conduct Code]

**Ordinance approving a Design Professional Services Agreement with Mark Cavagnero Associates for the new San Francisco Public Utilities Commission (SFPUC) Water Enterprise City Distribution Division facilities at 2000 Marin Street for a total cost not to exceed \$27,800,000 with a term of five years; exempting San Francisco officers and employees from the prohibition on behested payments in the Campaign and Governmental Conduct Code, for any involvement regarding the Social Impact Partnership (SIP) program obligations included in the Agreement; and authorizing the SFPUC to include its SIP program in the Agreement notwithstanding that prohibition.**

### Existing Law

Under Campaign and Governmental Conduct (C&GC) Code Section 3.600, *et seq.*, behested payments by interested parties are prohibited. (Ordinance No. 232-21 (File No. 201132).) The prohibition became effective January 23, 2022.

Under Charter Section 9.118, contracts of \$10 million are subject to approval by the Board of Supervisors by resolution.

### Amendments to Current Law

This is an uncodified ordinance to exempt one SFPUC Agreement from the prohibition against behested payments. SFPUC received proposals for the Agreement prior to the enactment or effective date of the prohibition.

The exemption would authorize City officers and employees to include, execute, administer, and enforce the SIP program provisions in the subject Agreement without any potential personal liability for their involvement, and authorizes the SFPUC to include and implement the program provisions in that Agreement.

The ordinance additionally functions as an approval resolution under Charter Section 9.118 for the subject Agreement, SFPUC Agreement No. PRO.0232, and authorizes the General Manager of the SFPUC to execute the agreement with Mark Cavagnero Associates in an amount not to exceed \$27,800,000 and with a term of five years for design services for the New City Distribution Division Campus at 2000 Marin Street.

### Background Information

SFPUC has a longstanding Community Benefits program to address the negative impacts of SFPUC operations on San Francisco residents and businesses. A component of the Community Benefits program is the Social Impact Partnership (SIP) program. Under the SIP, proposers competing for certain SFPUC contracts may submit a plan to donate money and/or time to community-based organizations; the plan is evaluated and scored as part of the competitive process and becomes an obligation under an awarded contract.

On September 17, 2021, SFPUC published a Request For Proposals seeking design professional services for SFPUC's new Water Enterprise City Distribution Division facilities at 2000 Marin Street. The Agreement (SFPUC Agreement No. PRO.0232) would have a term of five years and an amount of \$27,800,000. The Request For Proposals included the SIP program. On October 14, 2021, SFPUC accepted proposals that included SIP proposals.

In December 2021, the City enacted Ordinance No. 232-21 (File No. 201132) prohibiting City officials from soliciting behested payments from interested parties as defined in that legislation (the "New Behested Payment Ordinance"). Under the New Behested Payment Ordinance, a proposer seeking an SFPUC contract in a competitive selection process is an "interested party" and City officials may not solicit any donation from a proposer, including donations made under the SIP program. The effective date of the New Behested Payment Ordinance was January 23, 2022.

On February 22, 2022, the SFPUC awarded Agreement No. PRO.0232 to Mark Cavagnero Associates, with the express condition that the SIP program provisions of the Agreement would be subject to the Board of Supervisors granting an exemption by ordinance to the New Behested Payment Ordinance, and subject to Board of Supervisors approval under Charter Section 9.118.