

LEGISLATIVE DIGEST

[Administrative Code Waivers - SFMTA Potrero Yard Modernization Project - Project Delivery Procedure]

Ordinance authorizing the San Francisco Municipal Transportation Agency to exempt certain design, construction, finance, maintenance, asset management, and related agreements for the development of the Potrero Yard Modernization Project, located at 2500 Mariposa Street, from Chapters 6, 14B, and 21 of the Administrative Code, but requiring the payment of prevailing wages, implementation of a local business enterprise utilization program, and compliance with the City’s local hire policy and first source hiring ordinance, as applicable to such agreements, and permitting a best-value selection of the developer team if the City elects to proceed with the Project after completing its review under the California Environmental Quality Act.

Existing Law

Administrative Code Chapter 6 establishes the policies, procedures, and required contract terms that apply under City law to public works contracts, including construction contracts and contracts for related design and engineering services. Administrative Code Chapter 21 establishes the policies, procedures, and required contract terms that apply to City contracts for professional services, including financial advisory services, and general services, including maintenance and asset management services. Administrative Code Chapter 14B establishes the City’s policies and requirements for utilization of Local Business Enterprises (LBEs) on and non-discrimination in public contracts generally.

Amendments to Current Law

The proposed ordinance would exempt the Potrero Yard Modernization Project (“Project”) from the requirements of Administrative Code Chapters 6, 14B, and 21, and would authorize the San Francisco Municipal Transportation Agency (“SFMTA”) to:

- Utilize a competitive two-step process, comprised of a request for qualifications and request for proposals, to select a private-sector party to develop and deliver the Project.
- Select the proposal that offers the best overall value to the City, based on evaluation criteria that include, but are not limited to, the qualifications of respondents, projected construction and financing costs, life-cycle cost savings, and design quality.
- Enter into one or more agreements with the successful respondent to develop and deliver the Project and, at all stages, obtain any applicable approvals from the SFMTA Board of Directors or Board of Supervisors.

- Offer reasonable payments to qualified but unsuccessful respondents in exchange for designs and other work product included in their proposals, which the SFMTA may utilize on the Project or other City projects.

The proposed ordinance would not waive the requirements in Administrative Code Chapters 6, 14B, or 21 requiring payment of prevailing wages, implementation of a an LBE utilization program, and compliance with the City's local hire policy and first source hiring ordinance.

Background Information

The SFMTA is undertaking conceptual plans and studies to replace the Potrero Yard's obsolete maintenance building and bus yard with a modern and more efficient bus maintenance and storage facility to support and improve transit operations in the City. The SFMTA is also exploring the joint development of housing, especially affordable housing, and complementary commercial uses on the site to address the City's demand for housing.

Unlike conventional methods of public works contracting, where a public entity procures discrete functions through separate contracts, joint development projects use a single private entity that has the full responsibility and financial liability for performing a significant number of services under a long-term contractual arrangement with the public entity.

Under a joint development project, the private sector partner may make a substantial cash, at-risk, equity investment in the project if the financing structure and final risk allocation calls for it, and the public sector gains access to new revenue and/or service delivery capacity without having to pay the private-sector partner upfront. The SFMTA has determined it is appropriate and in the City's best interest to pursue joint development for the Project.

The joint development services the SFMTA requires to develop and potentially deliver the Project span the subject matters of Administrative Code Chapters 6, 14B, and 21. But none of these chapters contemplates the acquisition of these services under a single procurement and contracting process, which is required for joint development projects.

The proposed ordinance would put in place a procedure to continue to develop, study, and design the Project, and, if the Project is approved following environmental review, to implement and deliver the Project. At all stages of the Project's procurement process, the SFMTA would obtain applicable approvals from the SFMTA Board of Directors or Board of Supervisors as required under the San Francisco Charter or Municipal Code.