

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
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MEMORANDUM

TO: All City Department Heads via Tom Paulino, Mayor's Office

FROM: Victor Young, Assistant Clerk *Victor Young*

DATE: May 30, 2024

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Rules Committee received the following proposed Ordinance:

File No. 240366 (ver2)

Ordinance amending the Administrative Code to authorize City departments to rely on cooperative purchasing when entering into public works contracts of up to \$5,000,000; to authorize the Purchaser when procuring commodities or services to rely on all types of cooperative purchasing programs conducted by or for the benefit of public entities, including such programs that are not sponsored by non-profits; and to authorize the Purchaser to procure ancillary installation services when procuring commodities.

If you have comments or reports to be included with the file, please forward them to Victor Young at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102 or by email at: victor.young@sfgov.org.

c: Andres Power, Mayors, Office



City and County of San Francisco

Master Report

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

File Number: 240366 **File Type:** Ordinance **Status:** Pending Committee Action

Enacted: _____ **Effective:** _____

Version: 2 **In Control:** Rules Committee

File Name: Administrative Code - Cooperative Purchasing, Ancillary Installation Services **Date Introduced:** 05/21/2024

Requester: Recreation and Park Department **Cost:** _____ **Final Action:** _____

Comment: _____ **Title:** Ordinance amending the Administrative Code to authorize City departments to rely on cooperative purchasing when entering into public works contracts of up to \$5,000,000; to authorize the Purchaser when procuring commodities or services to rely on all types of cooperative purchasing programs conducted by or for the benefit of public entities, including such programs that are not sponsored by non-profits; and to authorize the Purchaser to procure ancillary installation services when procuring commodities.

Sponsor: Mayor

History of Legislative File 240366

Ver	Acting Body	Date	Action	Sent To	Due Date	Result
1	President	04/16/2024	ASSIGNED UNDER 30 DAY RULE	Rules Committee	05/16/2024	
1	Clerk of the Board	04/25/2024	REFERRED TO DEPARTMENT <i>Referred to all departments via the Mayor's Office for informational purposes.</i>			
2	President	05/21/2024	SUBSTITUTED AND ASSIGNED <i>Mayor introduced a substitute Ordinance bearing a new title.</i>	Rules Committee		

1 [Administrative Code - Cooperative Purchasing, Ancillary Installation Services]

2
3 **Ordinance amending the Administrative Code to authorize City departments to rely on**
4 **cooperative purchasing when entering into public works contracts of up to \$5,000,000;**
5 **to authorize the Purchaser when procuring commodities or services to rely on all types**
6 **of cooperative purchasing programs conducted by or for the benefit of public entities,**
7 **including such programs that are not sponsored by non-profits; and to authorize the**
8 **Purchaser to procure ancillary installation services when procuring commodities.**

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

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

18 Section 1. Chapter 6, Article IV, of the Administrative Code is hereby amended by
19 adding Section 6.77, to read as follows:

20 **SEC. 6.77. USE OF COOPERATIVE PURCHASING AGREEMENTS.**

21 (a) **Eligible Contracts.** For purposes of this Section 6.77, “Eligible Contract” shall mean a
22 Contract for a Public Work or Improvement with an estimated cost that does not exceed \$5,000,000.
23 Starting as of January 1, 2030, the Controller shall adjust this limit in the same manner as the
24 Controller adjusts the Threshold Amount for Public Works Contracts under Section 6.1 of this Code.

1 (b) **Cooperative Purchasing.** Notwithstanding any other provision of the Municipal Code,
2 Department Heads are authorized to enter into Eligible Contracts for Public Works or Improvements
3 by utilizing competitive procurements conducted by or for the benefit of other public agencies in
4 California or elsewhere, under the terms established in those procurements, upon the Department Head
5 making a written determination that (i) the procurement is for an Eligible Contract, (ii) the
6 procurement was competitive or the result of a sole source award, and (iii) the use of the procurement
7 would be in the City's best interests. If the Award of the Eligible Contract requires approval of a board
8 or commission, then the foregoing written determination of the Department Head shall also be subject
9 to the board or commission's approval.

10 (c) **Contract Terms.** Except as provided in subsection (b), Contracts awarded under this
11 Section 6.77 shall conform to the requirements of this Chapter 6, Administrative Code Chapter 14B,
12 and Labor and Employment Code Division II, as applicable.

13
14 Section 2. Chapter 21 of the Administrative Code is hereby amended by revising
15 Sections 21.03 and 21.16, to read as follows:

16 **SEC. 21.03. GENERAL AUTHORITY OF THE PURCHASER OF SUPPLIES.**

17 * * * *

18 (k) **Ancillary Installation Services for Commodities.** The Purchaser is authorized to
19 purchase installation Services ancillary to the purchase of Commodities, including installation Services
20 that must be performed by a licensed contractor and may otherwise be procured pursuant to Chapter 6
21 of the Administrative Code.

22 ~~(l)~~ **Rules and Regulations.** The Purchaser, with the approval of the Director of
23 Administrative Services and the Controller, shall establish rules and regulations for the
24 purpose of implementing the provisions of this Chapter 21.

1
2 **SEC. 21.16. USE OF COOPERATIVE PURCHASING AGREEMENTS AND**
3 **PROCUREMENTS CONDUCTED BY OR FOR THE BENEFIT OF OTHER PUBLIC ENTITIES;**
4 **~~OF AND RECIPROCAL AGREEMENTS WITH OTHER PUBLIC AND NON-PROFIT~~**
5 **~~AGENCIES~~; SOLICITATIONS FOR MULTIPLE DEPARTMENTS.**

6 (a) Notwithstanding any other provisions of the~~is~~ Municipal Code, in cases where the
7 Purchaser deems that it is in the City's best interests to do so, the Purchaser is authorized,
8 subject to the Board of Supervisors' approval by Resolution, to sell to, acquire from,
9 participate in, sponsor, conduct, or administer cooperative purchasing agreements for the
10 benefit of ~~with or made available by any public agency or non-profit made up of multiple~~ public
11 agencies in California or elsewhere, and may enter into reciprocal agreements ~~with such~~
12 ~~agencies~~ for the cooperative use of Commodities or Services or the common use or lease of
13 facilities, under the terms agreed upon between the parties.

14 (b) Notwithstanding any other provisions ~~of their~~ this Municipal Code, the Purchaser
15 may utilize ~~the~~ competitive procurements ~~process conducted by or for the benefit of other of any~~
16 ~~other public agency or non-profit made up of multiple~~ public agencies to make purchases of
17 Commodities or Services for the use of the City, under the terms established in ~~that agency's~~
18 ~~competitive those~~ procurements ~~process and as agreed upon by the City and the procuring agency,~~
19 upon making a determination that (i) the other ~~agency's~~ procurement ~~process~~ was competitive
20 or the result of a sole source award, and (ii) the use of the other ~~agency's~~ procurement would
21 be in the City's best interests.

22 * * * *

23
24 Section 3. Effective Date. This ordinance shall become effective 30 days after
25 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the

1 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
2 of Supervisors overrides the Mayor's veto of the ordinance.

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4 Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
5 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
6 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
7 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
8 additions, and Board amendment deletions in accordance with the "Note" that appears under
9 the official title of the ordinance.

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11 APPROVED AS TO FORM:
12 DAVID CHIU, City Attorney

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14 By: /s/
15 MANU PRADHAN
16 Deputy City Attorney
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LEGISLATIVE DIGEST
(Substituted 05/21/24)

[Administrative Code - Cooperative Purchasing, Ancillary Installation Services]

Ordinance amending the Administrative Code to authorize City departments to rely on cooperative purchasing when entering into public works contracts of up to \$5,000,000; to authorize the Purchaser when procuring commodities or services to rely on all types of cooperative purchasing programs conducted by or for the benefit of public entities, including such programs that are not sponsored by non-profits; and to authorize the Purchaser to procure ancillary installation services when procuring commodities.

Existing Law

Chapter 6 of the Administrative Code authorizes certain City departments to award contracts for construction and related professional services for City public works projects. A department usually must conduct its own competitive process before it can award a public works contract, and cannot forgo that step on the basis that it intends to use a contractor selected through the competitive process of another entity.

Chapter 21 of the Administrative Code authorizes the procurement of commodities and services generally. The City Purchaser usually awards these contracts on behalf of the departments seeking to enter into the contracts. A contracting department usually must conduct its own competitive process to select the contractor, but the Purchaser may waive that requirement if the department appropriately relied on the competitive process of another public agency or a non-profit. (This arrangement, where a City department relies on the competitive process conducted by another entity, is referred to as “cooperative purchasing.”)

Amendments to Current Law

The proposed ordinance would amend Chapter 6 to allow the use of cooperative purchasing for public works contracts, provided that the estimated cost of the contract does not exceed the limit of \$5,000,000. (The Controller would update this limit every five years for inflation, starting in 2030.)

The proposed ordinance would amend Chapter 21 to allow the Purchaser to rely on all types of cooperative purchasing programs that are conducted by or for the benefit of other public agencies, including if the sponsoring agency is not a non-profit. Also, the ordinance would authorize the Purchaser to procure installation services ancillary to procured commodities, including installation services that must be performed by a licensed contractor and may otherwise be procured under Chapter 6.

Background Information

The proposed ordinance addresses the procurement process only, and does not waive any other standard contracting rules that may apply.

This legislative digest corresponds to a substitute ordinance introduced on May 21, 2024 that included certain updates and corrections to the original ordinance.

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From: [Trejo, Sara \(MYR\)](#)
To: [BOS Legislation, \(BOS\)](#)
Cc: [Paulino, Tom \(MYR\)](#); [Ng, Beverly \(REC\)](#); [Madland, Sarah \(REC\)](#); [PRADHAN, MANU \(CAT\)](#)
Subject: Mayor -- Ordinance -- Cooperative Purchasing
Date: Tuesday, May 21, 2024 2:36:31 PM
Attachments: [01758358.DOCX](#)
[RE Sub. Leg. - Cooperative Purchasing For City Construction Projects.msg](#)
[01758334.DOCX](#)

Hello Clerks,

Attached is a substitute Ordinance for File [240366](#), amending the Administrative Code to authorize City departments to rely on cooperative purchasing when entering into public works contracts of up to \$5,000,000; to authorize the Purchaser when procuring commodities or services to rely on all types of cooperative purchasing programs conducted by or for the benefit of public entities, including such programs that are not sponsored by non-profits; and to authorize the Purchaser to procure ancillary installation services when procuring commodities.

Best regards,

Sara Trejo

Legislative Aide

Office of the Mayor

City and County of San Francisco

415.554.6141 | sara.trejo@sfgov.org

To: Ng, Beverly (REC); Paulino, Tom (MYR)
Subject: RE: Sub. Leg. - Cooperative Purchasing For City Construction Projects

From: Pradhan, Manu (CAT) <Manu.Pradhan@sfcityatty.org>
Sent: Wednesday, May 15, 2024 9:00 AM
To: Trejo, Sara (MYR) <Sara.Trejo@sfgov.org>; Paulino, Tom (MYR) <tom.paulino@sfgov.org>; Ng, Beverly (REC) <beverly.ng@sfgov.org>; Madland, Sarah (REC) <sarah.madland@sfgov.org>
Cc: PEARSON, ANNE (CAT) <Anne.Pearson@sfcityatty.org>; CHEESEBOROUGH, PAMELA (CAT) <Pamela.Cheeseborough@sfcityatty.org>; ZAREFSKY, PAUL (CAT) <Paul.Zarefsky@sfcityatty.org>; BUTA, ODAYA (CAT) <Odaya.Buta@sfcityatty.org>
Subject: RE: Mayor -- Ordinance -- Cooperative Purchasing For City Construction Projects

Tom,

I'm attaching a substitute for the cooperative purchasing ordinance, bos file no. 240366, along with an updated digest. I understand you are planning to introduce this on May 21 so i have noted that in the digest. Confirming by this email that it is approved as to form.

=====

[Administrative Code - Cooperative Purchasing, Ancillary Installation Services]

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Manu Pradhan

Deputy City Attorney
Office of City Attorney David Chiu
(415) 554-4658 Direct
www.sfcityattorney.org

1 (b) **Cooperative Purchasing.** Notwithstanding any other provision of the Municipal Code,
2 Department Heads are authorized to enter into Eligible Contracts for Public Works or Improvements
3 by utilizing competitive procurements conducted by or for the benefit of other public agencies in
4 California or elsewhere, under the terms established in those procurements, upon the Department Head
5 making a written determination that (i) the procurement is for an Eligible Contract, (ii) the
6 procurement was competitive or the result of a sole source award, and (iii) the use of the procurement
7 would be in the City's best interests. If the Award of the Eligible Contract requires approval of a board
8 or commission, then the foregoing written determination of the Department Head shall also be subject
9 to the board or commission's approval.

10 (c) **Contract Terms.** Except as provided in subsection (b), Contracts awarded under this
11 Section 6.77 shall conform to the requirements of this Chapter 6, Administrative Code Chapter 14B,
12 and Labor and Employment Code Division II, as applicable.

13
14 Section 2. Chapter 21 of the Administrative Code is hereby amended by revising
15 Sections 21.03 and 21.16, to read as follows:

16 **SEC. 21.03. GENERAL AUTHORITY OF THE PURCHASER OF SUPPLIES.**

17 * * * *

18 (k) **Ancillary Installation Services for Commodities.** The Purchaser is authorized to
19 purchase installation Services ancillary to the purchase of Commodities, including installation Services
20 that must be performed by a licensed contractor and may otherwise be procured pursuant to Chapter 6
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11 APPROVED AS TO FORM:
12 DAVID CHIU, City Attorney

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14 By: /s/
15 MANU PRADHAN
16 Deputy City Attorney
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LEGISLATIVE DIGEST
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APPROVED AS TO FORM:
DAVID CHIU, City Attorney

By: /s/
MANU PRADHAN
Deputy City Attorney
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