

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. (415) 554-5184
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MEMORANDUM

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

FROM: Victor Young, Assistant Clerk *Victor Young*

DATE: April 25, 2024

SUBJECT: LEGISLATION INTRODUCED

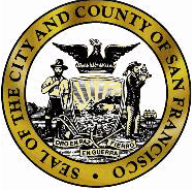
The Board of Supervisors' Rules Committee received the following proposed Ordinance:

File No. 240366

Ordinance amending the Administrative Code to provide direct purchasing authority to City departments that are completing City public work projects to rely on cooperative purchasing when procuring commodities or services for said projects, so long as the costs of the commodities or services do not exceed \$5,000,000; and to eliminate the condition that the City may contract with cooperative purchasing entities only if they are non-profit organizations.

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:** 30 Day Rule

Enacted: _____ **Effective:** _____

Version: 1 **In Control:** Rules Committee

File Name: Administrative Code - Cooperative Purchasing For City Construction Projects **Date Introduced:** 04/16/2024

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

Comment: _____ **Title:** Ordinance amending the Administrative Code to provide direct purchasing authority to City departments that are completing City public work projects to rely on cooperative purchasing when procuring commodities or services for said projects, so long as the costs of the commodities or services do not exceed \$5,000,000; and to eliminate the condition that the City may contract with cooperative purchasing entities only if they are non-profit organizations.

Sponsors: Mayor and Mandelman

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 [Administrative Code - Cooperative Purchasing For City Construction Projects]

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3 **Ordinance amending the Administrative Code to provide direct purchasing authority to**
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5 **purchasing when procuring commodities or services for said projects, so long as the**
6 **costs of the commodities or services do not exceed \$5,000,000; and to eliminate the**
7 **condition that the City may contract with cooperative purchasing entities only if they**
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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 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.

25 (b) **Cooperative Purchasing.** Notwithstanding any other provision of the Municipal Code,
Department Heads are authorized to enter into Eligible Contracts for Public Works or Improvements

1 by utilizing the competitive procurement process of any other public agency or private entity comprised
2 of multiple public agencies, under the terms established in that agency's or entity's competitive
3 procurement process and as agreed upon by the City and the procuring agency, upon the Department
4 Head making a written determination that (i) the procurement is for an Eligible Contract, (ii) the other
5 agency's or entity's procurement process was competitive or the result of a sole source award, and (iii)
6 the use of the other agency's or entity's procurement process would be in the City's best interests. If the
7 Award of the Eligible Contract requires approval of a board or commission, then the foregoing written
8 determination of the Department Head shall also be subject to the board or commission's approval.

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

12
13 Section 2. Chapter 21 of the Administrative Code is hereby amended by revising
14 Sections 21.04 and 21.16, to read as follows:

15 **SEC. 21.04. DIRECT PURCHASING AUTHORITY OF DEPARTMENTS.**

16 (a) Department heads shall be authorized to purchase Commodities or Services
17 directly and without the approval of purchasing, as provided in the Charter or Municipal Code
18 of San Francisco, or in the following circumstances:

19 * * * *

20 (9) A department may directly enter into a contract for Commodities or Services utilizing
21 the competitive procurement process of another public agency or a private entity comprised of multiple
22 public agencies under the terms established in that agency's or entity's competitive procurement
23 process and as agreed upon by the City and the procuring agency, provided that (A) the estimated cost
24 of the contract will not exceed the limit set forth in Administrative Code Section 6.77(a); (B) the
25 department has obtained a written determination regarding the procurement process as set forth in

1 Administrative Code Section 6.77(b); and (C) the department head certifies that the department will use
2 the Commodities or Services to complete a Public Work or Improvement as defined in Administrative
3 Code Section 6.1.

4 * * * *

5
6 **SEC. 21.16. USE OF PURCHASING AGREEMENTS OF AND RECIPROCAL**
7 **AGREEMENTS WITH OTHER ~~PUBLIC AND NON-PROFIT~~ AGENCIES; SOLICITATIONS**
8 **FOR MULTIPLE DEPARTMENTS.**

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

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

25 * * * *

LEGISLATIVE DIGEST

[Administrative Code - Cooperative Purchasing For City Construction Projects]

Ordinance amending the Administrative Code to provide direct purchasing authority to City departments that are completing City public work projects to rely on cooperative purchasing when procuring commodities or services for said projects, so long as the costs of the commodities or services do not exceed \$5,000,000; and to eliminate the condition that the City may contract with cooperative purchasing entities only if they are non-profit organizations.

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 Chapter 6 department usually has to conduct a competitive process before it can award a contract, and cannot forgo that step on the basis that it relied on the competitive process of another entity.

Chapter 21 of the Administrative Code sets rules for City contracts to purchase commodities and services generally. The City Purchaser usually awards these contracts on behalf of the departments seeking to enter into the contracts. The contracting department usually has to conduct its own competitive process to select the contractor, but the Purchaser can waive this requirement, and instead award the contract based on the department utilizing the process of a public agency or non-profit made up of multiple public agencies, if the Purchaser determines that the other agency's process was competitive or the result of a sole source award, and that using that process would be in the City's best interests. (This arrangement, where a City department relies on the competitive process of another entity, is sometimes referred to as "cooperative purchasing.")

Amendments to Current Law

The proposed ordinance would allow Chapter 6 departments to use cooperative purchasing when procuring commodities or services for projects to improve City property, if the estimated cost of the commodities or services does not exceed the limit of \$5,000,000. (The Controller would update this limit every five years for inflation, starting in 2030.) Also, the ordinance would eliminate the need for Purchaser approval and give the Chapter 6 departments direct authority to purchase commodities or services under Chapter 21, so long as the contracts had been cooperatively purchased, were within the \$5,000,000 limit, and are intended for a project to improve City property.

The proposed ordinance would also eliminate the condition that the City may contract with cooperative purchasing entities comprised of other public agencies only if those entities are organized as non-profit organizations.

Background Information

The City departments authorized to enter into public works contracts are San Francisco Public Works, the San Francisco Municipal Transportation Agency, the San Francisco Airport, the Port of San Francisco, the San Francisco Public Utilities Commission, and the Recreation and Park Department. The ordinance addresses the procurement process only, and does not waive any other standard contracting rules that may apply.

n:\legana\as2024\2400293\01747447.docx

From: [Trejo, Sara \(MYR\)](#)
To: [BOS Legislation, \(BOS\)](#)
Cc: [Paulino, Tom \(MYR\)](#); [PRADHAN, MANU \(CAT\)](#); [Ng, Beverly \(REC\)](#); [Madland, Sarah \(REC\)](#)
Subject: Mayor -- Ordinance -- Cooperative Purchasing For City Construction Projects
Date: Tuesday, April 16, 2024 2:39:30 PM
Attachments: [01747447 - legislative digest.DOCX](#)
[Ordinance - Administrative Code - Cooperative Purchasing For City Construction Projects.DOCX](#)

Hello Clerks,

Attached is an Ordinance amending the Administrative Code to provide direct purchasing authority to City departments completing public works projects to rely on cooperative purchasing when procuring commodities or services for said projects, so long as the costs of the commodities or services do not exceed \$5,000,000; and to eliminate the condition that the City may contract with cooperative purchasing entities only if they are non-profit organizations.

Best regards,

Sara Trejo

Legislative Aide

Office of the Mayor

City and County of San Francisco

415.554.6141 | sara.trejo@sfgov.org

From: [Ng, Beverly \(REC\)](#)
To: [Trejo, Sara \(MYR\)](#); [BOS Legislation, \(BOS\)](#)
Cc: [Paulino, Tom \(MYR\)](#); [PRADHAN, MANU \(CAT\)](#); [Madland, Sarah \(REC\)](#); [DeRuff, Henry \(BOS\)](#)
Subject: RE: Mayor -- Ordinance -- Cooperative Purchasing For City Construction Projects
Date: Tuesday, April 16, 2024 2:52:28 PM
Attachments: [01747447 - legislative digest.DOCX](#)
[Ordinance - Administrative Code - Cooperative Purchasing For City Construction Projects.DOCX](#)

Thank you Sara.

Hi Board Clerk – Lisa,

We understand that Sup. Mandelman is also interested in being a co-sponsor for this legislation. I'm adding his aide Henry DeRuff here for confirmation.

Many thanks - Beverly

From: Trejo, Sara (MYR) <Sara.Trejo@sfgov.org>
Sent: Tuesday, April 16, 2024 2:39 PM
To: BOS Legislation, (BOS) <bos.legislation@sfgov.org>
Cc: Paulino, Tom (MYR) <tom.paulino@sfgov.org>; PRADHAN, MANU (CAT) <Manu.Pradhan@sfcityatty.org>; Ng, Beverly (REC) <beverly.ng@sfgov.org>; Madland, Sarah (REC) <sarah.madland@sfgov.org>
Subject: Mayor -- Ordinance -- Cooperative Purchasing For City Construction Projects

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From: [Pradhan, Manu \(CAT\)](#)
To: [BOS Legislation, \(BOS\)](#); [Trejo, Sara \(MYR\)](#)
Cc: [Paulino, Tom \(MYR\)](#); [Ng, Beverly \(REC\)](#); [Madland, Sarah \(REC\)](#); [BOS Legislation, \(BOS\)](#)
Subject: RE: Mayor -- Ordinance -- Cooperative Purchasing For City Construction Projects
Date: Tuesday, April 16, 2024 3:15:33 PM
Attachments: [image004.png](#)
[01747752.DOCX](#)
[01747447.DOCX](#)

Seems to be a mistake—that version was a prior draft. The final documents are attached and approved as to form.

Manu Pradhan

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

From: BOS Legislation, (BOS) <bos.legislation@sfgov.org>
Sent: Tuesday, April 16, 2024 2:50 PM
To: Trejo, Sara (MYR) <Sara.Trejo@sfgov.org>; Pradhan, Manu (CAT) <Manu.Pradhan@sfcityatty.org>
Cc: Paulino, Tom (MYR) <tom.paulino@sfgov.org>; Ng, Beverly (REC) <beverly.ng@sfgov.org>; Madland, Sarah (REC) <sarah.madland@sfgov.org>; BOS Legislation, (BOS) <bos.legislation@sfgov.org>
Subject: RE: Mayor -- Ordinance -- Cooperative Purchasing For City Construction Projects

Thank you for the legislation submission. We are seeking the approval of Deputy City Attorney Manu Pradhan for use of his electronic signature and approval as to form. Kindly confirm that the attached ordinance is approved as to form, and the /s/ next to his name in the signature line of the ordinance has the same effect as his signature, by reply of this email.

Lisa Lew

San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102
T 415-554-7718 | F 415-554-5163
lisa.lew@sfgov.org | www.sfbos.org

(VIRTUAL APPOINTMENTS) To schedule a “virtual” meeting with me (on Microsoft Teams), please ask and I can answer your questions in real time.



Click [here](#) to complete a Board of Supervisors Customer Service Satisfaction form

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a member of the public elects to submit to the Board and its committees—may appear on the Board of Supervisors' website or in other public documents that members of the public may inspect or copy.

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25 * * * *

