

File No. 200577

Committee Item No. 2

Board Item No. 6

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Government Audit and Oversight

Date: July 2, 2020

Board of Supervisors Meeting:

Date: July 21, 2020

Cmte Board

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| <input type="checkbox"/> | <input type="checkbox"/> | Motion |
| <input type="checkbox"/> | <input type="checkbox"/> | Resolution |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Ordinance - VERSION 2 |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Legislative Digest - VERSION 2 |
| <input type="checkbox"/> | <input type="checkbox"/> | Budget and Legislative Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Youth Commission Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Introduction Form |
| <input type="checkbox"/> | <input type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/> | <input type="checkbox"/> | MOU |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Information Form |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Budget |
| <input type="checkbox"/> | <input type="checkbox"/> | Subcontract Budget |
| <input type="checkbox"/> | <input type="checkbox"/> | Contract/Agreement |
| <input type="checkbox"/> | <input type="checkbox"/> | Form 126 – Ethics Commission |
| <input type="checkbox"/> | <input type="checkbox"/> | Award Letter |
| <input type="checkbox"/> | <input type="checkbox"/> | Application |
| <input type="checkbox"/> | <input type="checkbox"/> | Public Correspondence |

OTHER

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| <input type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Sheriff's Presentation – July 2, 2020</u> |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>ADM Letter – June 11, 2020</u> |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>FYI Referral – June 10, 2020</u> |
| <input type="checkbox"/> | <input type="checkbox"/> | <u>_____</u> |
| <input type="checkbox"/> | <input type="checkbox"/> | <u>_____</u> |

Prepared by: John Carroll

Date: June 26, 2020

Prepared by: John Carroll

Date: July 6, 2020

[Administrative Code - Goods or Services Contracts for Incarcerated Persons]

1
2 **Ordinance amending the Administrative Code to prohibit the City from entering into an**
3 **agreement to provide goods or services to incarcerated persons of a jail facility that**
4 **allows the City to collect some or all of the revenue paid for those goods or services.**

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

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

13 Section 1. The Administrative Code is hereby amended by adding Chapter 21E,
14 consisting of Sections 21E.1 through 21E.45, to read as follows:

15 **CHAPTER 21E: GOODS OR SERVICES CONTRACTS FOR INCARCERATED PERSONS**

16
17 **SEC. 21E.1. BACKGROUND, FINDINGS, AND PURPOSE.**

18 (a) In June 2019, under the leadership of Mayor London Breed, San Francisco became the first
19 county and only the second city in the nation to commit to making incarcerated people's phone calls
20 from jail free and ending markups in the jail commissary store – ending the practice of generating
21 revenue for the City from incarcerated people and their families and loved ones.

22 (b) San Francisco took this action because phone call and commissary costs for incarcerated
23 people had been a significant drain on low-income communities and communities of color, which are
24 disproportionately impacted by policing and overrepresented in the jail system. Prior to these reforms,
25

1 San Francisco's prices for jail phone calls and marked-up jail store items extracted approximately \$1.7
2 million a year from incarcerated people and their families and support networks. These costs primarily
3 fell on low-income women of color who were supporting incarcerated loved ones; in San Francisco, the
4 Treasurer and Tax Collector's Financial Justice Project estimated that 80% of phone call costs were
5 paid by incarcerated families' support networks.

6 (c) Prior to these reforms, if a person incarcerated in San Francisco jails made two 15-minute
7 phone calls a day, it would typically cost \$300 over 70 days (the average jail stay) or \$1,500 over the
8 course of the year. Items in the commissary jail store such as stationery, stamps, soup, coffee, rice and
9 beans, and hygiene products were marked up an average of 43%.

10 (d) Marking up prices for phone calls and commissary costs is a common practice in jails and
11 prisons across the country. The practice generates revenue for jails and prisons, and profits for
12 corporations that provide these services. Through San Francisco's previous reliance on incarcerated
13 people's support networks to generate funding for jail operations, low-income communities, rather
14 than the public as a whole, were shouldering the burden of much of the cost of core operational
15 responsibilities. Further, the jail and prison communications industry, which benefited from San
16 Francisco's prior system, has grown to a \$1.2 billion a year business dominated by a few corporations,
17 and has come under increased scrutiny in recent years by the criminal justice reform community. This
18 predatory industry offers an array of other communications services to jails and prisons – including
19 video conferencing, tablets, and other services.

20 (e) Research shows that increased communication between incarcerated people and their loved
21 ones increases safety within jails, decreases recidivism, and improves reentry outcomes after release.
22 Communication provides incarcerated people a lifeline to their support networks. Yet, under a system
23 in which phone calls are costly, incarcerated people often have to choose between paying for phone
24 calls and purchasing items in the jail store.

1 (f) The City should never again generate revenue for jail operations from incarcerated persons
2 and their families. The purpose of this Chapter 21E is to make these reforms permanent to the extent
3 permissible by law. In addition, this ordinance is to serve as a model that can inspire other counties
4 and cities nationwide to put people over profits, end the generation of revenue for jail operations from
5 incarcerated people and their families, and move towards a system of making services like phone calls
6 free for incarcerated people and their families and loved ones.

7 (g) The funds generated from incarcerated persons and their support networks was
8 primarily used, via the Inmate Welfare Fund, for programs and services in the jails, including
9 but not limited to Prisoner Legal Services, religious services, substance use programs,
10 contracts with community-based organizations who provide parenting classes and violence
11 prevention programs, and program staff to coordinate all jail programming. When this policy
12 change was implemented in 2019, it was done so with the commitment that funding for
13 programming for incarcerated people would not be reduced; rather it was the intent that the
14 City and County provide financial support for these programs, and not rely on incarcerated
15 people and their support networks to do so. It is the intent of the Board, through this
16 legislation, to maintain that commitment to jail programs.

17
18 **SEC. 21E.2. DEFINITIONS.**

19 “Contract for Goods or Services for Incarcerated Persons” means an agreement the City enters
20 into, to provide goods or services to incarcerated persons in a jail, that involves incarcerated persons
21 or their families and support networks paying for goods or services.

1 **SECTION 21E.3. PROFITING FROM CONTRACTS FOR INCARCERATED PERSONS**

2 **PROHIBITED.**

3 (a) The City shall not enter into a Contract for Goods or Services for Incarcerated Persons that
4 includes a provision by which the City will receive some or all revenue generated from payments
5 provided by incarcerated persons in jails.

6 (b) This Section 21E.3 shall not interfere with the Sheriff's authority under state law, including
7 the Sheriff's authority to enter into contracts under Section 4025 of the Penal Code.

8
9 **SECTION 21E.4. ANNUAL REPORTING.**

10 ~~The Sheriff shall report annually to the Board of Supervisors on all Contracts for Goods~~
11 ~~or Services for Incarcerated Persons. The first report shall be due six months after the~~
12 ~~effective date of this Chapter 21E, and by December 31st of each calendar year thereafter.~~
13 ~~The report shall include the names of the contractor, the types of goods or services provided,~~
14 ~~the dollar amount for each contract, and a link to each contract referenced. The report shall~~
15 ~~also be posted on the Sheriff's Department's website.~~

16
17 **SECTION 21E.45. UNDERTAKING FOR THE GENERAL WELFARE.**

18 In enacting and implementing this Chapter 21E, the City is assuming an undertaking only to
19 promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an
20 obligation for breach of which it is liable in money damages to any person who claims that such breach
21 proximately caused injury.

22
23 Section 2. Effective Date. This ordinance shall become effective 30 days after
24 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
25

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.

3
4 APPROVED AS TO FORM:
5 DENNIS J. HERRERA, City Attorney

6 By: _____ /s/
7 BRADLEY A. RUSSI
8 Deputy City Attorney

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REVISED LEGISLATIVE DIGEST

(July 2, 2020 – Amended in GAO)

[Administrative Code - Goods or Services Contracts for Incarcerated Persons]

Ordinance amending the Administrative Code to prohibit the City from entering into an agreement to provide goods or services to incarcerated persons of a jail facility that allows the City to collect some or all of the revenue paid for those goods or services.

Existing Law

Local law does not prohibit the City from entering into contracts that involve the City sharing in revenue generated from the provision of goods or services to people incarcerated in a City jail facility.

Amendments to Current Law

The proposed ordinance would prohibit the City from entering into an agreement for the provision of goods or services to people incarcerated in a jail facility by which the City would receive some or all of the revenue incarcerated persons or their families pay for such goods or services.

San Francisco Sheriff's Office



Good & Services Contracts for Incarcerated Persons

Government Audit and Oversight Committee
July 2, 2020



San Francisco Sheriff's Office

Good & Services Contracts for Incarcerated Persons



Good & Services Contracts for Incarcerated Persons – Overview

Inmate Welfare Fund (IWF)

- Authorized by California Penal Code 4025
- Allows for phone/commissary pricing to support programs for incarcerated persons
- Historically ~50% of San Francisco phone/commissary revenue supports IWF
- 95% of FY18-19 funding supported community-based programming & legal services

Evolution

- Sheriff's Office has reduced phone service costs since FY2013-14

Current Process

- Collaborative process with SHF, MYR, TTX and community advocates
- Eliminated 43% commissary mark-up beginning March 2020
- Eliminates phone charges beginning July 2020

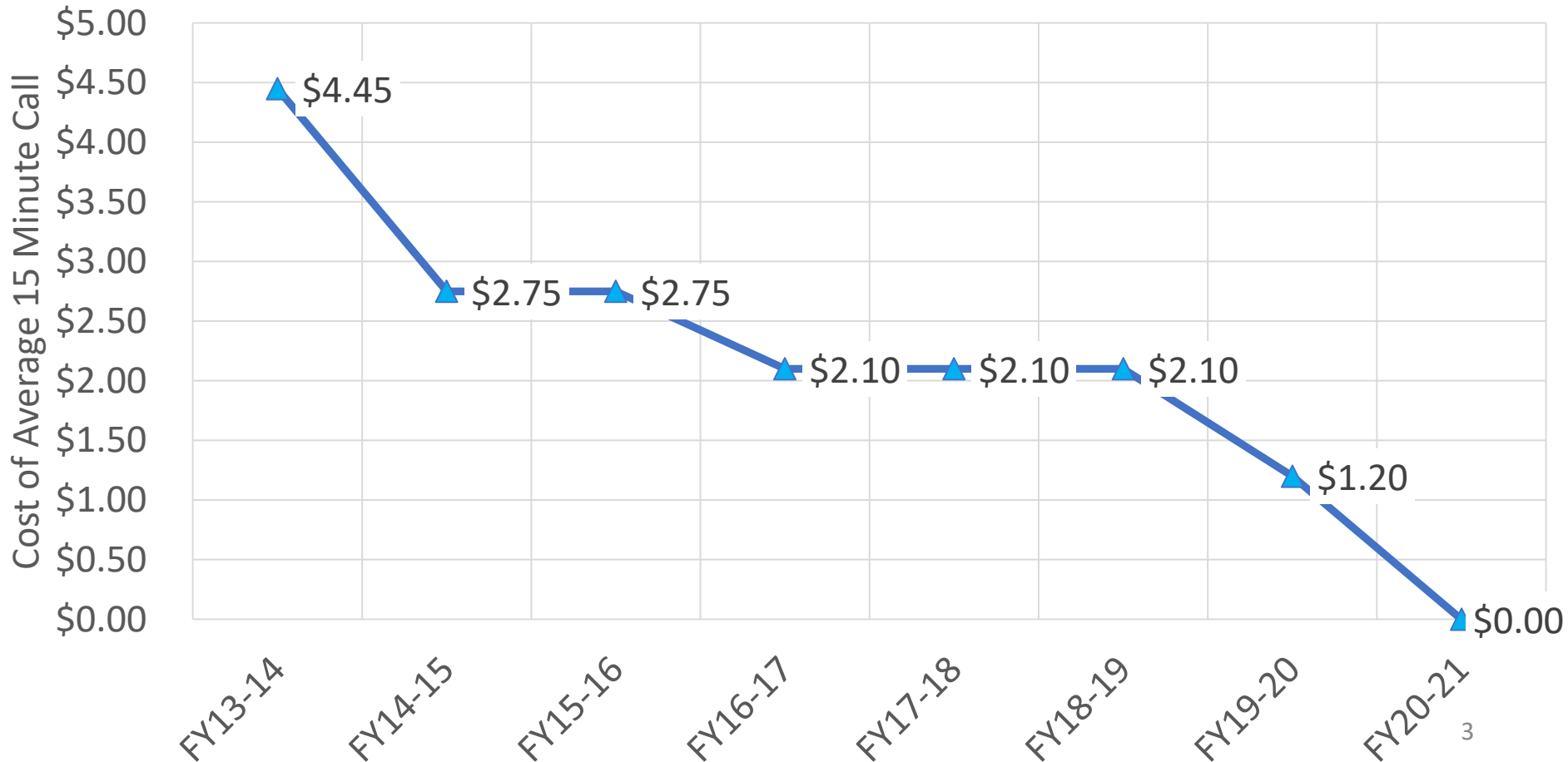


San Francisco Sheriff's Office

San Francisco Pretrial Diversion Project
Grant Agreement Extension



Eliminating Phone Charges for Incarcerated Persons






OFFICE OF THE CITY ADMINISTRATOR



London N. Breed, Mayor
Naomi M. Kelly, City Administrator

TO: Government Audit and Oversight Committee

FROM: City Administrator Naomi M. Kelly 

CC: Sailaja Kurella, Acting Purchaser

SUBJECT: Support – Ordinance Amending Administrative Code – Goods or Services Contracts for Incarcerated Persons

DATE: June 11, 2020

I write in support of an ordinance introduced by Supervisors Fewer and Walton to amend the Administrative Code to prohibit the City from entering into agreements to provide goods or services to incarcerated persons that allow the City to collect revenue paid from these transactions.

The Office of Contract Administration advises that there are no citywide contracts that include these provisions. As City Administrator and as former City Purchaser, it has been my view that we should get the best value in each agreement. Adding expenses at the cost of incarcerated persons is not consistent with the City's overall purchasing approach.

Thank you for addressing this critical issue in our community. Please let me know if I may be of assistance in your efforts.

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

MEMORANDUM

TO: Paul Miyamoto, Sheriff
William Scott, Police Chief
Chesa Boudin, District Attorney
Manohar Raju, Public Defender
Shakirah Simley, Director, Office of Racial Equity
Naomi Kelly, City Administrator

FROM: John Carroll, Assistant Clerk,
Government Audit and Oversight Committee, Board of Supervisors

DATE: June 10, 2020

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Government Audit and Oversight Committee has received the following proposed legislation, introduced by Supervisor Fewer on June 2, 2020:

File No. 200577

Ordinance amending the Administrative Code to prohibit the City from entering into an agreement to provide goods or services to incarcerated persons of a jail facility that allows the City to collect some or all of the revenue paid for those goods or services.

If you have any comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

c: Johanna Saenz, Sheriff's Department
Katherine Johnson, Sheriff's Department
Nancy Crowley, Sheriff's Department
Rowena Carr, Police Department
Asja Steeves, Police Department
Lynn Khaw, Office of the City Administrator
Lihmei Leu, Office of the City Administrator

Introduction Form

By a Member of the Board of Supervisors or Mayor

Time stamp
or meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee. (An Ordinance, Resolution, Motion or Charter Amendment).
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning : "Supervisor inquiries"
- 5. City Attorney Request.
- 6. Call File No. from Committee.
- 7. Budget Analyst request (attached written motion).
- 8. Substitute Legislation File No.
- 9. Reactivate File No.
- 10. Topic submitted for Mayoral Appearance before the BOS on

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission
- Youth Commission
- Ethics Commission
- Planning Commission
- Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use the Imperative Form.

Sponsor(s):

Fewer, Walton

Subject:

Administrative Code - Goods or Services Contracts for Incarcerated Persons

The text is listed:

Ordinance amending the Administrative Code to prohibit the City from entering into an agreement to provide goods or services to incarcerated persons of a jail facility that allows the City to collect some or all of the revenue paid for those goods or services.

Signature of Sponsoring Supervisor: Sandra Lee Fewer