

REVISED LEGISLATIVE DIGEST

(2/4/2025, Amended in Board)

[Administrative Code - Core Initiatives to Strengthen City’s Responses to Homelessness, Drug Abuse, Mental Health Needs, and Related Crises]

Ordinance amending the Administrative Code to 1) provide that the existing waiver of competitive procurement rules for certain contracts and grants to support projects addressing homelessness will sunset in May 2029; 2) suspend until January 2026 the competitive procurement requirements for contracts, grants, and leases necessary to accelerate the City’s response to homelessness, drug overdoses and substance use disorders, mental health needs, integrated health needs, and public safety hiring (the “Core Initiatives”); 3) delegate to the Mayor the authority to approve certain types of contracts, grants, and leases for Core Initiatives under Charter Section 9.118, if the Board of Supervisors has failed to act within 45 days; 4) suspend until January 2026 the requirement under Chapter 23 of the Administrative Code that the Board of Supervisors approve leases, if the lease is for a Core Initiative; 5) authorize the City until January 2026 to accept gifts, grants, and other donations of up to \$10 million for Core Initiatives; 6) clarify the authority of the Controller to transfer surplus funds to support Core Initiatives; and 7) authorize the Office of the Mayor for six months to solicit donations from various private entities and organizations to support the City’s work on the Core Initiatives, notwithstanding the Behested Payment Ordinance.

Existing Law

City law requires departments to conduct a competitive process before awarding certain types of contracts and leases. Contracts involving the expenditure of City funds – for example, to procure goods or services, to improve City property, to fund private entities through grants or loans – typically must comply with these rules. Leases of real property owned by the City are subject to similar requirements.

The Administrative Code contains some exceptions to these requirements. For example, under Chapter 21B, competitive bids are not required for the Department of Public Works (“DPW”) or by the Department of Homelessness and Supportive Housing (“HSH”) to award contracts or grants that support projects addressing homelessness. This exception expires in May 2029, or at such time as the Board of Supervisors (“the Board”) finds that homelessness levels have dropped to a certain level, whichever is earlier.

City law also requires that some contracts and leases obtain Board approval. Under Chapter 23, the Board must approve certain leases – both where the City is the tenant, and where the City is leasing out its own property as the landlord. And Section 9.118 of the City Charter requires Board approval by resolution of contracts and leases that will do any of the following: (1) generate \$1 million or more in revenue for the City, (2) require anticipated expenditures of \$10 million or more, (3) modify an expenditure agreement previously approved by the Board

by \$500,000 or more, (4) have a term of 10 years or more, or (5) sell or transfer City real property. The Board can under certain specific conditions delegate its approval authority under Section 9.118.

The Board also is required to approve most gifts and grants to the City. In most cases, departments have delegated authority to accept gifts of up to \$10,000, and grants of up to \$100,000, without Board approval.

Finally, the City's Behested Payments Ordinance restricts designated City officials and employees from soliciting donations from persons in administrative proceedings before the City, City contractors, lobbyists, and permit consultants (collectively, "interested parties"). The Board is authorized to waive these restrictions for up to six months at a time.

Amendments to Current Law

The proposed ordinance establishes that the existing exemption in Chapter 21B, which allows DPW and HSH to award contracts and grants that support projects addressing homelessness without adhering to local competitive bidding requirements, will expire in May 2029.

The ordinance also suspends and delegates certain approvals for Contracts and Leases entered into by Designated Departments, where the Designated Department has provided the Mayor and the Board a written justification of why the Contract or Lease was necessary to support a Core Initiative.

- The term "Contracts" covers contracts for public works under Chapter 6, contracts for commodities and services under Chapter 21, grants awarded under Chapter 21G, and loan agreements for affordable housing under Chapter 66 and/or Chapter 120. The term "Leases" would be defined as set forth in Chapter 23.
- The "Designated Departments" are DPW, HSH, the Department of Public Health, the Police Department, the Sheriff's Department, the Department of Emergency Management, the Human Services Agency, the Mayor's Office of Housing and Community Development, the City Administrator, and the Department of Human Resources, and any other department or components of City government the Mayor may designate with approval of the Board of Supervisors by resolution.
- The term "Core Initiatives" means one or more of any of the following: (1) Projects Addressing Homelessness, (2) Projects Addressing Drug Overdoses and Substance Use Disorders; (3) Projects Addressing Mental Health Needs; (4) Projects Addressing Integrated Health Needs. and (5) Projects Addressing Public Safety Hiring. The ordinance describes the types of projects that can qualify as Core Initiatives under these sub-categories.

The proposed ordinance would suspend any competitive procurement requirements that may apply under local law, for the Designated Departments' Core Initiative Contracts and Leases. It would also suspend the Chapter 23 requirement concerning the Board's approval of Leases, for Leases that are for Core Initiatives, so long as the Lease does not require the City to pay above market rent. These waivers would apply to all Core Initiative Contracts and Leases awarded on or before January 8, 2026, as well as to those approved by the Mayor following introduction under Charter Section 9.118 of a resolution on or before January 8, 2026, as described in the next paragraph.

As to Charter Section 9.118, the ordinance authorizes the Mayor to approve certain types of Core Initiative Contracts and Leases under Section 9.118(b) and (c) on the Board's behalf. A resolution seeking the Board's approval would first need to be introduced at the Board on or before January 8, 2026. If the Board had failed to act on the resolution within 45 days after it was published by the Clerk of the Board (not counting time when the matter was under CEQA review or while the Board was on recess), then the Mayor could approve the Contract or Lease on the Board's behalf.

- The resolution would need to be signed by the Department Head and the Mayor, and state why the Contract or Lease is necessary for a Core Initiative;
- The Contract or Lease could not require anticipated expenditures by City of \$25 million or more, or in the case of a modification or amendment of an existing Contract could not have an impact of \$25 million or more;
- The Contract or Lease could not have a term of ten years or more, or for an amendment or modification of an existing Contract or Lease could not extend the term by ten years or more, with the exception of (A) leases of City property for affordable housing development which shall not exceed 99 years, (B) loans for acquisition, development, construction, rehabilitation, or reconstruction of affordable housing; and (C) grants to subsidize rents or operations of an affordable housing development which shall not exceed 30 years; and
- The Contract or Lease would need to be substantially in the form of the applicable City template for such a Contract or Lease, and incorporate City-standard requirements related to matters such as insurance and indemnity following consultation with the City Attorney and Risk Manager.
- In this context, the Board would have "failed to act" if it had neither approved nor disapproved the resolution within 45 days after it was published by the Clerk of the Board. Both the defeat of a motion to approve, and the passage of a motion to disapprove, would constitute the disapproval of the resolution.

Until January 8, 2026, the ordinance would also authorize Designated Departments to accept gifts, grants, services, and similar donations (up to \$10 million) provided for the purpose of supporting the Core Initiatives. And it would clarify the legal authority of the Controller to transfer funds within the City budget for purposes of supporting the Core Initiatives.

Finally, the ordinance would grant the Mayor and certain members of the Mayor's Office a six-month waiver from the Behested Payments Ordinance, to facilitate fundraising to support the Core Initiatives.

BACKGROUND

The ordinance suspends competitive procurement rules but does not waive or alter any other contracting requirements that may apply under federal, state, or local law. Also, the ordinance does not expand the general contracting or leasing authority of any Designated Departments.

On January 29, 2025, the ordinance was amended in Committee in the following key respects: requiring Board approval to designate additional departments; requiring additional notice and reporting to the Board; changing the dates when new waivers will expire; tolling the 45-day period for the Board to consider 9.118 resolutions; reducing the 9.118 threshold to \$25 million; eliminating any provisions that would amend Administrative Code Section 6.76; making various clarifying changes; and providing that donations for Core Initiatives may be accepted without further Board approval if the value does not exceed \$10 million.

On February 4, 2025, the ordinance was amended to update the long title, to address when the 45-day period for reviewing 9.118 resolutions commences, and to narrow the scope of the behested payments waiver.

n:\legana\as2025\2500187\01817193.docx