

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 Departments via Adam Thongsavat, Mayor's Office

FROM: Victor Young, Assistant Clerk *Victor Young*

DATE: May 29, 2025

SUBJECT: LEGISLATION INTRODUCED

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

File No. 250509

Ordinance amending the Administrative Code to expand the scope of emergency procurement provisions for goods and services; and to allow City departments to modify agreements in ways not contemplated in the original solicitations.

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. Aly Bonde, Mayor's Office



City and County of San Francisco

Master Report

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

File Number: 250509	File Type: Ordinance	Status: 30 Day Rule
Enacted:	Effective:	
Version: 1	In Control: Rules Committee	
File Name: Administrative Code - Procurement of Goods and Services	Date Introduced: 05/20/2025	
Requester: City Administrator	Cost:	Final Action:
Comment:	Title: Ordinance amending the Administrative Code to expand the scope of emergency procurement provisions for goods and services; and to allow City departments to modify agreements in ways not contemplated in the original solicitations.	

History of Legislative File 250509

Ver	Acting Body	Date	Action	Sent To	Due Date	Result
1	Clerk of the Board	05/09/2025	RECEIVED FROM DEPARTMENT			
1	President	05/20/2025	ASSIGNED UNDER 30 DAY RULE	Rules Committee	06/19/2025	

[Administrative Code - Procurement of Goods and Services]

Ordinance amending the Administrative Code to expand the scope of emergency procurement provisions for goods and services; and to allow City departments to modify agreements in ways not contemplated in the original solicitations.

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

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

Section 1. Chapter 21 of the Administrative Code is hereby amended by revising Sections 21.04, 21.3, 21.4, and 21.15 to read as follows:

SEC. 21.04. DIRECT PURCHASING AUTHORITY OF DEPARTMENTS.

(a) Department heads may purchase Commodities or Services directly and without the approval of purchasing, as provided in the Charter or Municipal Code, or in the following circumstances:

(1) Departments may directly enter into contracts when such purchase is recommended by a department head and is approved by the Purchaser. The Purchaser's approval of direct department purchases may be for individual contracts or for classes of contracts anticipated to be required by the department.

* * * *

1 (8) The Director of Health may contract directly for purchases under the authority
2 of Chapter 21A of this Code.

3 (9) The Chief of the Fire Department may directly enter into contracts to purchase
4 Fire Apparatus under the authority of Section 21.25-1. This subsection 21.04(a)(9) shall
5 expire by operation of law on July 1, 2030. After its expiration, the City Attorney shall be
6 authorized to cause this subsection 21.04(a)(9) to be removed from the Administrative Code.

7 (10) Departments may contract directly for purchases in emergency situations under the
8 authority of Section 21.15 of this Code.

9 (b) The Purchaser shall determine the scope of direct purchasing authority granted
10 under subsection (a) in the event of ambiguity.

11 (c) Nothing in this Section 21.04 is intended to affect the authorities granted to
12 departments elsewhere in this Code or in the Charter

13 **SEC. 21.3. COMPETITIVE SEALED BIDDING.**

14 (a) **Invitation for Bids.** Except as otherwise authorized in this Code, for any
15 Commodity or General Services purchase estimated to cost in excess of the Minimum
16 Competitive Amount, an invitation for Bids shall be issued to solicit Bids and shall include a
17 purchase description and all contractual terms and conditions applicable to the procurement,
18 including a reservation of the City's right to reject all Offers.

19 * * * *

20 (f) **Awards in the Public Interest.** If the Purchaser finds that the public interest
21 would be best served by accepting other than the lowest total or unit price the Purchaser is
22 authorized to accept the Bid(s) that in the Purchaser's opinion will best serve the public
23 interest, to make the awards and to enter into the necessary contracts. Prior to making an
24 award to a Bidder other than the lowest Bidder(s), the Purchaser shall submit a written
25 statement of the basis for the finding to the Director of Administrative Services.

1 (g) **Additional Purchases.** ~~Where the quantity of Commodities or General Services to be~~
2 ~~provided under a contract is fixed, the Contracting Officer may, within one year after award and~~
3 ~~subject to the Contractor's consent, purchase additional quantities of the specific Commodities or~~
4 ~~General Services for which award was made at the award price or a lower price, in accordance with~~
5 ~~the Purchaser's regulations.~~

6 (1) Where the quantity of Commodities or General Services to be provided under a
7 contract is inadequate, the Contracting Officer may, subject to the Contractor's consent, purchase
8 additional quantities of the specific Commodities or General Services for which award was made at the
9 current contract price or a comparable price, in accordance with the Purchaser's regulations.

10 (2) If the Commodities or General Services to be provided under a contract are
11 unavailable, obsolete, or discontinued, the Contracting Officer may, subject to the Contractor's
12 consent, purchase replacements for the unavailable, obsolete, and/or discontinued Commodities or
13 General Services for which the award was made, in accordance with the Purchaser's regulations.

14 (h) **Substantially Related Purchases.** The Contracting Officer may, subject to the Contractor's
15 consent, purchase Commodities or General Services that were not specifically itemized in the original
16 bid, but that are substantially related in nature and limited in scope in accordance with the
17 Purchaser's regulations.

18 (h*i*) **Multi-step Bidding.** A Contracting Officer may prequalify Bidders prior to issuing
19 an Invitation for Bids based on prequalification criteria set forth in a Solicitation.

20 (h*i*) **Bid Protests.** The procedure for resolving Bid protests shall be established by
21 regulations adopted by the Purchaser.

22 23 **SEC. 21.4. INVITATIONS FOR COMPETITIVE PROPOSALS OR QUALIFICATIONS.**

24 (a) **Authorization; Evaluation Criteria.** A Contracting Officer may issue a request
25 for Proposals, or request for qualifications, for the selection of Professional Service

Contractors following consideration of the evaluation factors set forth in the request for Proposals, which may include cost, except as prohibited by law. If a department determines that it would be in the best interests of the City to acquire combined Commodities and Services or General Services by means of a request for Proposals or qualifications, rather than an invitation for Bids, such request for Proposals or qualifications shall be issued by the Purchaser. A request for Proposals or qualifications for Professional Services may be issued directly by the department.

* * * *

(f) **Mass-transit Vehicles.** Notwithstanding any other provision of the charter or laws of the City, the Public Transportation Department, through its department head and through the Purchaser is authorized to include among its purchasing specifications the use of negotiated procurement procedures for the purchase of mass-transit vehicles.

(g) **Purchases of Services or Commodities Substantially Related to the Request for Proposals or Qualifications.** The Contracting Officer may, subject to the Contractor's consent, purchase Services and Commodities not within the original scope advertised in the Request for Proposals or Qualifications, but that are substantially related in nature. Such additional purchases shall be limited in scope in accordance with the Purchaser's regulations.

SEC. 21.15. EMERGENCY PROCUREMENT PROCEDURES.

~~-(a) The Board of Supervisors hereby declares that an actual emergency shall exist when it becomes necessary to immediately procure Commodities or Services to make repairs, to safeguard the lives or property of the citizens or the property of the City or to maintain public health or welfare as a result of extraordinary conditions created by war, epidemic, weather, fire, flood, earthquake or other catastrophe, or the breakdown of any plant equipment, structure, street or public work.~~

1 ~~—(b) For any Commodities or Services that would normally be procured by the Purchaser, a~~
2 ~~contract may be executed by the Purchaser in the most expeditious manner, and shall be promptly~~
3 ~~confirmed by issuance of a regular purchase order.~~

4 ~~—(c) The department head responsible for the operations for which Commodities or Services~~
5 ~~are needed may also enter into a contract directly in the most expeditious manner necessary in order to~~
6 ~~respond to the emergency; however, if the emergency permits, the department head shall first secure~~
7 ~~the written approval of the president of the board or commission concerned, or from the Mayor or the~~
8 ~~Mayor's designee for any department under the Mayor's jurisdiction provided that the designee is not~~
9 ~~the department head of the department concerned, and in all cases the approval of the Board of~~
10 ~~Supervisors must be obtained for any contract in excess of \$100,000. If the emergency does not permit~~
11 ~~such approvals to be obtained before the contract is executed, such approvals shall be obtained as soon~~
12 ~~thereafter as it is possible to do so.~~

13 ~~—(d) The Purchaser or the department, as the case may be, shall attempt to obtain at least~~
14 ~~three Bids for emergency purchases.~~

15 ~~—(e) The Board of Supervisors hereby declares that an actual emergency shall exist during a~~
16 ~~period of material shortages when goods meeting the exact specifications as ordered are not~~
17 ~~procurable. When such goods are immediately required, the Purchaser, with the approval of the~~
18 ~~Director of Administrative Services, shall have authority to accept satisfactory substitutes and to make~~
19 ~~proper price adjustments therefor; provided, that if such price adjustment should increase the~~
20 ~~contractual obligation by more than 10 percent, the Purchaser shall first obtain approval by the~~
21 ~~Controller, who shall reserve the additional amount of money required to meet the increased~~
22 ~~obligation.~~

23 (a) Scope. An emergency shall exist:
24
25

1 (1) When a sudden, unforeseeable, and unexpected event necessitates immediate action
2 to prevent or remedy harm or avert imminent danger to the lives or property of the citizens or the
3 property of the City or to maintain public health or welfare;

4 (2) When necessary Commodities or Services are in scarce supply due to local, national
5 or global shortages in material or labor;

6 (3) When the City's ability to ensure continuity of its operations are adversely impacted
7 by an extraordinary condition, including, but not limited to, severe acts of nature or weather events
8 including floods, fires, earthquakes, hurricanes, or explosions; war, acts of terrorism, and epidemics;
9 expropriation or condemnation by governmental authorities; and inflationary surges or other
10 disruptions to market conditions; or

11 (4) When an emergency has been formally declared by the Mayor pursuant to Section
12 3.100(14) of the Charter.

13 **(b) New Agreements.**

14 (1) Commodities or Services procured pursuant to subsection 21.15(a) may be purchased
15 by the Purchaser or department head in the most expeditious manner necessary to meet the
16 circumstances of the emergency and shall be confirmed by a written contract or purchase order as
17 soon as feasible.

18 (2) Emergency contracts shall be limited to a length of time deemed reasonable and
19 appropriate by the Purchaser or department head to respond to the emergency.

20 (3) Emergency contracts shall be exempt from the City's solicitation requirements and
21 are not subject to the provisions of the Municipal Code, including but not limited to the Administrative,
22 Labor and Employment, Environment, or Police Codes, imposing obligations or other restrictions on
23 contractors, except that the Purchaser or department shall attempt to obtain three Quotations for
24 emergency purchases.

1 (4) When a department head contracts directly for Commodities or Services
2 necessary to respond to an emergency, the department head, if the emergency permits, shall secure the
3 written approval of the president of the board or commission concerned, or from the Mayor or the
4 Mayor's designee for any department under the Mayor's jurisdiction, provided that the Mayor's
5 designee is not also the department head of the department concerned; and for any contract in excess
6 of the Minimum Competitive Amount the department head must obtain the approval of the Board of
7 Supervisors as soon as feasible.

8 (c) **Modification of Existing Agreements.** During an emergency as defined by subsection
9 21.15(a), the Purchaser or department head is authorized to renegotiate existing Commodities and
10 Services contracts to modify commercial terms and conditions, including without limitation scope,
11 duration, price, quantity, and not-to-exceed amount, regardless of originally advertised terms, so as to
12 ensure continuity of operations, including timely delivery or performance of the Commodities and
13 Services purchased. Contract modifications pursuant to this subsection 21.15(c) shall be limited to a
14 length of time deemed reasonable and appropriate by the Purchaser or department head to respond to
15 the emergency. The Purchaser or department head shall enter into a new contract for the Commodities
16 or Services or revert to the original terms of the contract as soon as feasible.

17 (d) **Extensions for Continuity of Operations.** When necessitated by the events described in
18 subsection 21.15(a), the Purchaser and departments may extend any existing contract when no other
19 purchasing authority exists, provided such extension is critical to maintaining the continuity of the
20 City's mission-critical operations and the Purchaser or department, despite diligent efforts, lacks
21 sufficient time or resources to execute a new contract due to the impact of the emergency. Extensions
22 completed pursuant to this subsection 21.15(d) shall be limited to a length of time deemed reasonable
23 and appropriate by the Purchaser or department head to respond to the emergency. The Purchaser or
24 department head shall enter into a new contract for the Commodities or Services as soon as feasible.

1 (e) **Reporting.** By July 31 of every fiscal year, each City department shall provide to the Board
2 of Supervisors a list of all contracts and purchase orders issued or amended by the Purchaser or
3 department under subsections 21.15(b), (c), and (d) during the past fiscal year.

4 (f) **Rules and Regulations.** The Purchaser shall develop regulations regarding subsections
5 21.15(c) and (d) within 60 days of enactment of this ordinance to give guidance on ensuring price
6 controls in modifications. This subsection 21.15(f) shall expire by operation of law one year after the
7 effective date of this ordinance. After the expiration, the City Attorney is authorized to cause this
8 Section to be removed from the Administrative Code.

9
10 Section 2. Effective Date. This ordinance shall become effective 30 days after
11 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
12 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
13 of Supervisors overrides the Mayor's veto of the ordinance.

14
15 Section 3. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
16 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
17 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
18 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
19 additions, and Board amendment deletions in accordance with the "Note" that appears under
20 the official title of the ordinance.

21 APPROVED AS TO FORM:
22 DAVID CHIU, City Attorney

23 By: /s/ Gus Guibert
24 Gustin R. Guibert
Deputy City Attorney

25 n:\legana\as2025\2500334\01839216.docx

LEGISLATIVE DIGEST

[Administrative Code - Procurement of Goods and Services]

Ordinance amending the Administrative Code to expand the scope of emergency procurement provisions for goods and services; and to allow City departments to modify agreements in ways not contemplated in the original solicitations.

Existing Law

Commodities and services procurements that are immediately needed may be purchased under emergency procedures detailed in Chapter 21, Section 21.15 of the Administrative Code. The current statute states what constitutes an emergency, actions the Purchaser and departments may take to respond, and adjustments the Purchaser may make to contracts in response to goods shortages.

Agreements that are procured by an Invitation for Bid process may be modified to include additional goods not specified in the original Bid in limited instances, and under a different procurement authority.

Amendments to Current Law

Departments would be explicitly allowed to purchase commodities and services directly. The concept of an emergency would be significantly expanded. The larger scope would include: remedying potential harm rather than only actual harm, taking actions to preserve continuity of City government operations, effects of material shortages, and government actions that create extraordinary conditions being classified as an emergency event. Agreements procured under emergency authority would now be explicitly intended to be as short as possible, this concept was previously implicit.

Departments and the Purchaser would be able to modify existing agreements to respond to emergency conditions. An existing contract may be modified to allow for increased costs. An existing contract may be modified to extend agreements where the City lacks resources to procure those commodities or services anew.

The Purchaser would be charged with creating rules and regulations to offer guidance and structure of on renegotiating agreements, especially towards ensuring beneficial financial terms.

Agreements procured through Bids would have fewer restrictions on the catalog of items purchased if modified. Additional purchases and substantially related purchases could be added to the agreement if in compliance with the Purchaser's rules and regulations.

Background Information

The existing emergency procurement section was last updated in the 1990's. The section does not fully address many of the concerns of the present time, and the gaps were more evident during the Covid-19 Pandemic. The Government Operations Recovery Project undertook this overhaul to align the emergency procedures to what was implicitly being interpreted and expanded to address longer term extraordinary conditions.

The processes for purchasing additional commodities and services for agreements has historically been tightly connected to the underlying procurement. The Office of Contract Administration, the Purchaser, has indicated that minor modifications to existing agreements is a better use of resources than reprocurring agreements each time a new related commodity or service is needed, but was not originally contemplated in the bid.

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To: Angela Calvillo, Clerk of the Board of Supervisors

From: Sophie Hayward, Director of Public Affairs; Lily Moser, Legislative and Communications Analyst

Date: May 8, 2025

Subject: Administrative Code to expand the scope of emergency procurement provisions for goods and services

Ordinance Title: [Administrative Code - Procurement of Goods and Services]

Dear Clerk of the Board,

Attached please find the necessary documents for a Department submission of a proposed administrative code ordinance for Board of Supervisors approval.

This ordinance would amend the Administrative Code to expand the scope of emergency procurement provisions for goods and services; and to allow City departments to modify agreements in ways not contemplated in the original solicitations. The following is a list of accompanying documents:

- Proposed Ordinance with CAT signature (Word document)
- Legislative Digest

Please contact Lily Moser, Legislative and Communications Analyst in the Office of the City Administrator, at lily.moser@sfgov.org or (415) 412-4750 with any questions.

We respectfully request that this matter be scheduled at the Rules Committee.

Departmental representative to receive a copy of the adopted resolution:

Name: Lily Moser

Phone: 415-412-4750

Interoffice Mail Address: City Hall Room 362

Certified copy required Yes ☐

No ☒

From: [Moser, Lily \(ADM\)](#)
To: [BOS Legislation, \(BOS\)](#)
Cc: [Hayward, Sophie \(ADM\)](#); [Peterson, Molly \(ADM\)](#); [GUIBERT, GUS \(CAT\)](#); [Glaser-Nolan, Sam \(ADM\)](#); [Walker, Lorna \(ADM\)](#); [Tang, Stephanie \(ADM\)](#); [Cukierman, Rachel \(ADM\)](#); [Kurella, Sailaja \(ADM\)](#)
Subject: Legislative Introduction: Emergency Procurement
Date: Friday, May 9, 2025 3:55:20 PM
Attachments: [Legislative Package_Emergency Procurement.zip](#)

Dear Clerk of the Board,

Please see an ordinance that would amend the Administrative Code to expand the scope of emergency procurement provisions for goods and services; and to allow City departments to modify agreements in ways not contemplated in the original solicitations.

The attached package includes:

- Proposed Ordinance with CAT signature (Word document)
- Legislative Digest
- Cover letter on Department Letterhead (pdf)

Let me know if you have any questions and when this will be introduced. Thanks for all you do!

Best,
Lily Moser

Lily Moser | she/her
Communications and Legislative Analyst
Office of the City Administrator
City and County of San Francisco

From: [Guibert, Gus \(CAT\)](#)
To: [BOS Legislation, \(BOS\)](#); [Moser, Lily \(ADM\)](#); [BOS Legislation, \(BOS\)](#)
Cc: [Hayward, Sophie \(ADM\)](#); [Peterson, Molly \(ADM\)](#); [Glaser-Nolan, Sam \(ADM\)](#); [Walker, Lorna \(ADM\)](#); [Tang, Stephanie \(ADM\)](#); [Cukierman, Rachel \(ADM\)](#); [Kurella, Sailaja \(ADM\)](#)
Subject: RE: Legislative Introduction: Emergency Procurement
Date: Friday, May 9, 2025 4:11:41 PM

Greetings to you.

By the power vested in me, I hereby confirm my use of electronic signature to denote my approval as to form. Have a nice weekend.

Gus

Gustin R. Guibert, Deputy City Attorney (he/his)
Office of City Attorney David Chiu
(415) 554-4213 (email preferred)
Gus.Guibert@sfcityatty.org

Please note that I am intermittently working remotely and email is the best way to reach me; if the matter is urgent please indicate the urgency in the subject line of the email. I check only occasionally any voicemail messages left on my direct work line above.

CONFIDENTIAL - ATTORNEY CLIENT PRIVILEGE

The information contained in this email may be confidential and may be subject to the attorney-client privilege and/or the attorney work product doctrine. It is intended only for the use of the individual or entity to whom it is addressed. If you are not the intended recipient, you are notified that any use, dissemination or copying of this communication is strictly prohibited. If you have received this email in error, please delete the original message from your email system. Thank you.

From: BOS Legislation, (BOS) <bos.legislation@sfgov.org>
Sent: Friday, May 9, 2025 4:08 PM
To: Moser, Lily (ADM) <Lily.Moser@sfgov.org>; BOS Legislation, (BOS) <bos.legislation@sfgov.org>
Cc: Hayward, Sophie (ADM) <sophie.hayward@sfgov.org>; Peterson, Molly (ADM) <Molly.Peterson@sfgov.org>; Guibert, Gus (CAT) <Gus.Guibert@sfcityatty.org>; Glaser-Nolan, Sam (ADM) <sam.glaser-nolan@sfgov.org>; Walker, Lorna (ADM) <Lorna.Walker@sfgov.org>; Tang, Stephanie (ADM) <Stephanie.Tang@sfgov.org>; Cukierman, Rachel (ADM) <rachel.cukierman@sfgov.org>; Kurella, Sailaja (ADM) <sailaja.kurella@sfgov.org>
Subject: RE: Legislative Introduction: Emergency Procurement

Greetings,

We are seeking the confirming from Deputy City Attorney Gus Guibert for use of his electronic signature and approval as to form for the attached proposed Ordinance, by reply to this email. This item is slated to be introduced the week of May 20, 2025. Thank you.

Jocelyn Wong

Legislative Clerk

San Francisco Board of Supervisors

1 Dr. Carlton B. Goodlett Place, Room 244

San Francisco, CA 94102

T: 415.554.7702 | F: 415.554.5163

jocelyn.wong@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.

The [Legislative Research Center](#) provides 24-hour access to Board of Supervisors legislation, and archived matters since August 1998.

Disclosures: *Personal information that is provided in communications to the Board of Supervisors is subject to disclosure under the California Public Records Act and the San Francisco Sunshine Ordinance. Personal information provided will not be redacted. Members of the public are not required to provide personal identifying information when they communicate with the Board of Supervisors and its committees. All written or oral communications that members of the public submit to the Clerk's Office regarding pending legislation or hearings will be made available to all members of the public for inspection and copying. The Clerk's Office does not redact any information from these submissions. This means that personal information—including names, phone numbers, addresses and similar information that 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.*

From: Moser, Lily (ADM) <Lily.Moser@sfgov.org>

Sent: Friday, May 9, 2025 3:55 PM

To: BOS Legislation, (BOS) <bos.legislation@sfgov.org>

Cc: Hayward, Sophie (ADM) <sophie.hayward@sfgov.org>; Peterson, Molly (ADM) <Molly.Peterson@sfgov.org>; GUIBERT, GUS (CAT) <Gus.Guibert@sfcityatty.org>; Glaser-Nolan, Sam (ADM) <sam.glaser-nolan@sfgov.org>; Walker, Lorna (ADM) <Lorna.Walker@sfgov.org>; Tang, Stephanie (ADM) <Stephanie.Tang@sfgov.org>; Cukierman, Rachel (ADM) <rachel.cukierman@sfgov.org>; Kurella, Sailaja (ADM) <sailaja.kurella@sfgov.org>

Subject: Legislative Introduction: Emergency Procurement

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Best,

Lily Moser

Lily Moser | she/her

Communications and Legislative Analyst

Office of the City Administrator

City and County of San Francisco

[Administrative Code - Procurement of Goods and Services]

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* * * *

1 (8) The Director of Health may contract directly for purchases under the authority
2 of Chapter 21A of this Code.

3 (9) The Chief of the Fire Department may directly enter into contracts to purchase
4 Fire Apparatus under the authority of Section 21.25-1. This subsection 21.04(a)(9) shall
5 expire by operation of law on July 1, 2030. After its expiration, the City Attorney shall be
6 authorized to cause this subsection 21.04(a)(9) to be removed from the Administrative Code.

7 (10) Departments may contract directly for purchases in emergency situations under the
8 authority of Section 21.15 of this Code.

9 (b) The Purchaser shall determine the scope of direct purchasing authority granted
10 under subsection (a) in the event of ambiguity.

11 (c) Nothing in this Section 21.04 is intended to affect the authorities granted to
12 departments elsewhere in this Code or in the Charter

13 **SEC. 21.3. COMPETITIVE SEALED BIDDING.**

14 (a) **Invitation for Bids.** Except as otherwise authorized in this Code, for any
15 Commodity or General Services purchase estimated to cost in excess of the Minimum
16 Competitive Amount, an invitation for Bids shall be issued to solicit Bids and shall include a
17 purchase description and all contractual terms and conditions applicable to the procurement,
18 including a reservation of the City's right to reject all Offers.

19 * * * *

20 (f) **Awards in the Public Interest.** If the Purchaser finds that the public interest
21 would be best served by accepting other than the lowest total or unit price the Purchaser is
22 authorized to accept the Bid(s) that in the Purchaser's opinion will best serve the public
23 interest, to make the awards and to enter into the necessary contracts. Prior to making an
24 award to a Bidder other than the lowest Bidder(s), the Purchaser shall submit a written
25 statement of the basis for the finding to the Director of Administrative Services.

1 (g) **Additional Purchases.** ~~Where the quantity of Commodities or General Services to be~~
2 ~~provided under a contract is fixed, the Contracting Officer may, within one year after award and~~
3 ~~subject to the Contractor's consent, purchase additional quantities of the specific Commodities or~~
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5 ~~the Purchaser's regulations.~~

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7 contract is inadequate, the Contracting Officer may, subject to the Contractor's consent, purchase
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9 current contract price or a comparable price, in accordance with the Purchaser's regulations.

10 (2) If the Commodities or General Services to be provided under a contract are
11 unavailable, obsolete, or discontinued, the Contracting Officer may, subject to the Contractor's
12 consent, purchase replacements for the unavailable, obsolete, and/or discontinued Commodities or
13 General Services for which the award was made, in accordance with the Purchaser's regulations.

14 (h) **Substantially Related Purchases.** The Contracting Officer may, subject to the Contractor's
15 consent, purchase Commodities or General Services that were not specifically itemized in the original
16 bid, but that are substantially related in nature and limited in scope in accordance with the
17 Purchaser's regulations.

18 (h*i*) **Multi-step Bidding.** A Contracting Officer may prequalify Bidders prior to issuing
19 an Invitation for Bids based on prequalification criteria set forth in a Solicitation.

20 (h*i*) **Bid Protests.** The procedure for resolving Bid protests shall be established by
21 regulations adopted by the Purchaser.

22 23 **SEC. 21.4. INVITATIONS FOR COMPETITIVE PROPOSALS OR QUALIFICATIONS.**

24 (a) **Authorization; Evaluation Criteria.** A Contracting Officer may issue a request
25 for Proposals, or request for qualifications, for the selection of Professional Service

1 Contractors following consideration of the evaluation factors set forth in the request for
2 Proposals, which may include cost, except as prohibited by law. If a department determines
3 that it would be in the best interests of the City to acquire combined Commodities and
4 Services or General Services by means of a request for Proposals or qualifications, rather
5 than an invitation for Bids, such request for Proposals or qualifications shall be issued by the
6 Purchaser. A request for Proposals or qualifications for Professional Services may be issued
7 directly by the department.

8 * * * *

9 (f) **Mass-transit Vehicles.** Notwithstanding any other provision of the charter or laws
10 of the City, the Public Transportation Department, through its department head and through
11 the Purchaser is authorized to include among its purchasing specifications the use of
12 negotiated procurement procedures for the purchase of mass-transit vehicles.

13 (g) **Purchases of Services or Commodities Substantially Related to the Request for Proposals**
14 **or Qualifications.** The Contracting Officer may, subject to the Contractor's consent, purchase Services
15 **and Commodities not within the original scope advertised in the Request for Proposals or**
16 **Qualifications, but that are substantially related in nature. Such additional purchases shall be limited**
17 **in scope in accordance with the Purchaser's regulations.**

19 **SEC. 21.15. EMERGENCY PROCUREMENT PROCEDURES.**

20 ~~-(a) The Board of Supervisors hereby declares that an actual emergency shall exist when it~~
21 ~~becomes necessary to immediately procure Commodities or Services to make repairs, to safeguard the~~
22 ~~lives or property of the citizens or the property of the City or to maintain public health or welfare as a~~
23 ~~result of extraordinary conditions created by war, epidemic, weather, fire, flood, earthquake or other~~
24 ~~catastrophe, or the breakdown of any plant equipment, structure, street or public work.~~

1 ~~—(b) For any Commodities or Services that would normally be procured by the Purchaser, a~~
2 ~~contract may be executed by the Purchaser in the most expeditious manner, and shall be promptly~~
3 ~~confirmed by issuance of a regular purchase order.~~

4 ~~—(c) The department head responsible for the operations for which Commodities or Services~~
5 ~~are needed may also enter into a contract directly in the most expeditious manner necessary in order to~~
6 ~~respond to the emergency; however, if the emergency permits, the department head shall first secure~~
7 ~~the written approval of the president of the board or commission concerned, or from the Mayor or the~~
8 ~~Mayor's designee for any department under the Mayor's jurisdiction provided that the designee is not~~
9 ~~the department head of the department concerned, and in all cases the approval of the Board of~~
10 ~~Supervisors must be obtained for any contract in excess of \$100,000. If the emergency does not permit~~
11 ~~such approvals to be obtained before the contract is executed, such approvals shall be obtained as soon~~
12 ~~thereafter as it is possible to do so.~~

13 ~~—(d) The Purchaser or the department, as the case may be, shall attempt to obtain at least~~
14 ~~three Bids for emergency purchases.~~

15 ~~—(e) The Board of Supervisors hereby declares that an actual emergency shall exist during a~~
16 ~~period of material shortages when goods meeting the exact specifications as ordered are not~~
17 ~~procurable. When such goods are immediately required, the Purchaser, with the approval of the~~
18 ~~Director of Administrative Services, shall have authority to accept satisfactory substitutes and to make~~
19 ~~proper price adjustments therefor; provided, that if such price adjustment should increase the~~
20 ~~contractual obligation by more than 10 percent, the Purchaser shall first obtain approval by the~~
21 ~~Controller, who shall reserve the additional amount of money required to meet the increased~~
22 ~~obligation.~~

23 (a) Scope. An emergency shall exist:
24
25

1 (1) When a sudden, unforeseeable, and unexpected event necessitates immediate action
2 to prevent or remedy harm or avert imminent danger to the lives or property of the citizens or the
3 property of the City or to maintain public health or welfare;

4 (2) When necessary Commodities or Services are in scarce supply due to local, national
5 or global shortages in material or labor;

6 (3) When the City's ability to ensure continuity of its operations are adversely impacted
7 by an extraordinary condition, including, but not limited to, severe acts of nature or weather events
8 including floods, fires, earthquakes, hurricanes, or explosions; war, acts of terrorism, and epidemics;
9 expropriation or condemnation by governmental authorities; and inflationary surges or other
10 disruptions to market conditions; or

11 (4) When an emergency has been formally declared by the Mayor pursuant to Section
12 3.100(14) of the Charter.

13 **(b) New Agreements.**

14 (1)Commodities or Services procured pursuant to subsection 21.15(a) may be purchased
15 by the Purchaser or department head in the most expeditious manner necessary to meet the
16 circumstances of the emergency and shall be confirmed by a written contract or purchase order as
17 soon as feasible.

18 (2)Emergency contracts shall be limited to a length of time deemed reasonable and
19 appropriate by the Purchaser or department head to respond to the emergency.

20 (3)Emergency contracts shall be exempt from the City's solicitation requirements and
21 are not subject to the provisions of the Municipal Code, including but not limited to the Administrative,
22 Labor and Employment, Environment, or Police Codes, imposing obligations or other restrictions on
23 contractors, except that the Purchaser or department shall attempt to obtain three Quotations for
24 emergency purchases.

1 (4) When a department head contracts directly for Commodities or Services
2 necessary to respond to an emergency, the department head, if the emergency permits, shall secure the
3 written approval of the president of the board or commission concerned, or from the Mayor or the
4 Mayor's designee for any department under the Mayor's jurisdiction, provided that the Mayor's
5 designee is not also the department head of the department concerned; and for any contract in excess
6 of the Minimum Competitive Amount the department head must obtain the approval of the Board of
7 Supervisors as soon as feasible.

8 (c) **Modification of Existing Agreements.** During an emergency as defined by subsection
9 21.15(a), the Purchaser or department head is authorized to renegotiate existing Commodities and
10 Services contracts to modify commercial terms and conditions, including without limitation scope,
11 duration, price, quantity, and not-to-exceed amount, regardless of originally advertised terms, so as to
12 ensure continuity of operations, including timely delivery or performance of the Commodities and
13 Services purchased. Contract modifications pursuant to this subsection 21.15(c) shall be limited to a
14 length of time deemed reasonable and appropriate by the Purchaser or department head to respond to
15 the emergency. The Purchaser or department head shall enter into a new contract for the Commodities
16 or Services or revert to the original terms of the contract as soon as feasible.

17 (d) **Extensions for Continuity of Operations.** When necessitated by the events described in
18 subsection 21.15(a), the Purchaser and departments may extend any existing contract when no other
19 purchasing authority exists, provided such extension is critical to maintaining the continuity of the
20 City's mission-critical operations and the Purchaser or department, despite diligent efforts, lacks
21 sufficient time or resources to execute a new contract due to the impact of the emergency. Extensions
22 completed pursuant to this subsection 21.15(d) shall be limited to a length of time deemed reasonable
23 and appropriate by the Purchaser or department head to respond to the emergency. The Purchaser or
24 department head shall enter into a new contract for the Commodities or Services as soon as feasible.

1 (e) **Reporting.** By July 31 of every fiscal year, each City department shall provide to the Board
2 of Supervisors a list of all contracts and purchase orders issued or amended by the Purchaser or
3 department under subsections 21.15(b), (c), and (d) during the past fiscal year.

4 (f) **Rules and Regulations.** The Purchaser shall develop regulations regarding subsections
5 21.15(c) and (d) within 60 days of enactment of this ordinance to give guidance on ensuring price
6 controls in modifications. This subsection 21.15(f) shall expire by operation of law one year after the
7 effective date of this ordinance. After the expiration, the City Attorney is authorized to cause this
8 Section to be removed from the Administrative Code.

9
10 Section 2. Effective Date. This ordinance shall become effective 30 days after
11 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
12 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
13 of Supervisors overrides the Mayor's veto of the ordinance.

14
15 Section 3. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
16 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
17 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
18 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
19 additions, and Board amendment deletions in accordance with the "Note" that appears under
20 the official title of the ordinance.

21 APPROVED AS TO FORM:
22 DAVID CHIU, City Attorney

23 By: /s/ Gus Guibert
24 Gustin R. Guibert
Deputy City Attorney

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