

BOARD of SUPERVISORS



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## MEMORANDUM

TO: All City Departments through Adam Thongsavat, Mayor's Office

FROM: Victor Young, Assistant Clerk *Victor Young*

DATE: April 10, 2025

SUBJECT: LEGISLATION INTRODUCED

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

File No. 250209

Ordinance amending the Administrative Code to allow City departments to purchase content and data subscriptions without complying with solicitation requirements that would otherwise apply, and without adhering to provisions in the Municipal Code that impose obligations on contracting parties as a condition to agreement with the City; and to list conditions required for amendment or modification of such agreements.

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](mailto: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

<b>File Number:</b> 250209	<b>File Type:</b> Ordinance	<b>Status:</b> 30 Day Rule
<b>Enacted:</b>	<b>Effective:</b>	
<b>Version:</b> 1	<b>In Control:</b> Rules Committee	
<b>File Name:</b> Administrative Code - Content and Data Subscriptions	<b>Date Introduced:</b> 03/04/2025	
<b>Requester:</b>	<b>Cost:</b>	<b>Final Action:</b>
<b>Comment:</b>	<b>Title:</b> Ordinance amending the Administrative Code to allow City departments to purchase content and data subscriptions without complying with solicitation requirements that would otherwise apply, and without adhering to provisions in the Municipal Code that impose obligations on contracting parties as a condition to agreement with the City; and to list conditions required for amendment or modification of such agreements.	
		<b>Sponsors:</b> Mahmood; Mandelman, Melgar, Sherrill and Sauter

### History of Legislative File 250209

Ver	Acting Body	Date	Action	Sent To	Due Date	Result
1	President	03/04/2025	ASSIGNED UNDER 30 DAY RULE	Rules Committee	04/03/2025	

[Administrative Code - Content and Data Subscriptions]

**Ordinance amending the Administrative Code to allow City departments to purchase content and data subscriptions without complying with solicitation requirements that would otherwise apply, and without adhering to provisions in the Municipal Code that impose obligations on contracting parties as a condition to agreement with the City; and to list conditions required for amendment or modification of such agreements.**

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.  
**Board amendment deletions** are in ~~strikethrough Arial font~~.  
**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 Section 21.30, to read as follows:

**SEC. 21.30. AGREEMENTS FOR SOFTWARE LICENSESING, SUPPORT, ESCROW, FINANCE, ~~AND EQUIPMENT MAINTENANCE AGREEMENTS, AND CONTENT AND DATA~~ SUBSCRIPTION.**

(a) The Board of Supervisors ("BOS") hereby approves the execution of perpetual, nonexclusive software licensing agreements which warrant performance of the software according to specifications and which are for an amount of less than \$10 ~~ten~~ million ~~dollars~~, including any associated escrow agreement for source code or finance agreement, without further BOS ~~Board~~ approval.

(b) Software licensing procurements are not subject to the contracting requirements of the Administrative, Labor and Employment, or Environment Codes, but shall be subject to the

1 requirements established by ~~S~~subsection 21.03(j) and Chapter 67 *of the Administrative Code*.  
2 For the purpose of this ~~s~~Section 21.30, software licensing procurements shall be deemed to  
3 include both the licensed software product, any escrow agreement for source code, finance  
4 agreements, and support services for such product where support for that product is available  
5 only from the licensor.

6 (c) Agreements for the development of software shall include acceptance testing of  
7 the software and/or performance criteria, and shall condition payments on successful  
8 completion of the acceptance test or satisfaction of the performance criteria specified in the  
9 contract.

10 (d) Where a vendor has proprietary rights to software or where maintenance of  
11 equipment by a particular vendor is required to preserve a warranty, software support and  
12 equipment maintenance agreements entered into with that vendor shall be treated as a sole  
13 source for the purposes of any contract requirements included in the Municipal Code.

14 (e) A Contracting Officer is authorized to make payment for software license fees and  
15 software support, equipment maintenance, ~~and~~ associated escrow and finance fees, and  
16 content and data subscriptions, in advance of receiving services under a contract.

17 (f) Content and data subscription procurements and resulting contracts are not subject to  
18 provisions of the Municipal Code, including but not limited to the Administrative, Labor and  
19 Employment, Environment, or Police Codes imposing obligations or other restrictions on contractors,  
20 with the exception of the Campaign and Governmental Conduct Code. Content and data subscription  
21 procurements are exempt from the solicitation requirements of Chapters 21 and 14B. For the purposes  
22 of this subsection (f), content and data subscription procurements shall include procurements where the  
23 City is seeking to purchase usage rights to review, download, or republish proprietary content,  
24 including but not limited to digital content, digital databases, digital media libraries, or print media.  
25 Content and data subscription procurements shall not include contracts where public funds are

expended in violation of Administrative Code Chapter 12G or where personal information is disclosed in violation of Administrative Code Chapter 12M.

(g) Contracts resulting from software licensing procurements and content and data subscription procurements may only be altered or modified through a contract amendment executed in the same manner as the original contract. Any contract clause or click-to-accept terms appearing to product users that purport to bind the City to new, updated, or dynamic terms that materially alter the obligations stated in the agreement shall be null and void.

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

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

APPROVED AS TO FORM:  
DAVID CHIU, City Attorney

By: /s/ Gus Guibert  
GUSTIN R. GUIBERT  
Deputy City Attorney

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## **LEGISLATIVE DIGEST**

[Administrative Code - Content and Data Subscriptions]

**Ordinance amending the Administrative Code to allow City departments to purchase content and data subscriptions without complying with solicitation requirements that would otherwise apply, and without adhering to provisions in the Municipal Code that impose obligations on contracting parties as a condition to agreement with the City; and to list conditions required for amendment or modification of such agreements.**

### **Existing Law**

Agreements for the purchase of Content and Data Subscriptions are subject to Chapter 21 and general City contract contracting terms imposed, including specialized obligations imposed by virtue of contracting with the City that are not generally found in commercial agreements. Contract law dictates that material contract terms are fixed upon agreement, and require a formal amendment to modify those terms.

### **Amendments to Current Law**

Agreements for the purchase of Content and Data Subscriptions would be largely exempt from the procurement requirements and laws imposing restrictions upon contractors found in the City's Municipal Codes. This exemption would not extend to obligations imposed by the Campaign and Governmental Conduct Code, or transactions that would potentially involve violations of Chapters 12G and 12M of Administrative Code. The principle that formal amendment would be required to change material terms of a contract would be codified, ensuring that in the event a contractor includes terms claiming advanced approval of material changes, such terms would be invalid.

### **Background Information**

Departments have raised concerns that Content and Data Subscriptions are becoming more challenging to procure. Contractors may be unwilling to agree to, or even consider, the City's proposed terms. The City may be hamstrung without access to this information. This legislation, drafted in conjunction with the Gov Ops project, is intended to remove many of the required terms that may impede a successful contract negotiation and acceptance. The City's regular internal procedures relating to contracting such as budgeting, delegation of contracting authority, approval, are still in effect.

Contractors are increasingly including terms that purport to accept in advance material modifications. To strengthen the City's position, the City's longstanding requirement for formal modification to materially change a contract is codified.

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## Introduction Form

(by a Member of the Board of Supervisors or the Mayor)

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

- ☒ 1. For reference to Committee (Ordinance, Resolution, Motion or Charter Amendment)
- ☐ 2. Request for next printed agenda (For Adoption Without Committee Reference)  
(Routine, non-controversial and/or commendatory matters only)
- ☐ 3. Request for Hearing on a subject matter at Committee
- ☐ 4. Request for Letter beginning with "Supervisor [ ] inquires..."
- ☐ 5. City Attorney Request
- ☐ 6. Call File No. [ ] from Committee.
- ☐ 7. Budget and Legislative Analyst Request (attached written Motion)
- ☐ 8. Substitute Legislation File No. [ ]
- ☐ 9. Reactivate File No. [ ]
- ☐ 10. Topic submitted for Mayoral Appearance before the Board on [ ]

The proposed legislation should be forwarded to the following (please check all appropriate boxes):

- ☐ Small Business Commission    ☐ Youth Commission    ☐ Ethics Commission
- ☐ Planning Commission    ☐ Building Inspection Commission    ☐ Human Resources Department

General Plan Referral sent to the Planning Department (proposed legislation subject to Charter 4.105 & Admin 2A.53):

- ☐ Yes    ☐ No

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

Sponsor(s):

Mahmood; Mandelman, Melgar, Sherrill, Sauter

Subject:

Administrative Code - Content and Data Subscriptions

Long Title or text listed:

Ordinance amending the Administrative Code to allow City departments to purchase content and data subscriptions without complying with solicitation requirements that would otherwise apply, and without adhering to provisions in the Municipal Code that impose obligations on contracting parties as a condition to agreement with the City; and to list conditions required for amendment or modification of such agreements.

Signature of Sponsoring Supervisor: /s/ Bilal Mahmood