

1 [Administrative Code Waivers - SFMTA Contract for Automated Speed Enforcement System -
2 Design-Build-Operate-Maintain Delivery Model]

3 **Ordinance waiving certain contracting requirements under Chapters 6 and 21 of the**
4 **Administrative Code and authorizing the San Francisco Municipal Transportation**
5 **Agency (SFMTA) to procure design, construction, operation, maintenance, and related**
6 **services to implement an automated speed enforcement system utilizing a design-**
7 **build-operate-maintain delivery model, but requiring payment of prevailing wages, and**
8 **permitting a best-value selection of the contractor.**

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10 **NOTE:** **Unchanged Code text and uncodified text** are in plain Arial font.
11 **Additions to Codes** are in *single-underline italics Times New Roman font*.
12 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
13 **Board amendment additions** are in double-underlined Arial font.
14 **Board amendment deletions** are in ~~strikethrough Arial font~~.
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. General Background and Findings.

19 (a) In October 2023, the State of California enacted Assembly Bill 645 (“AB 645”),
20 authorizing six jurisdictions, including the City and County of San Francisco (“City”), to
21 implement an automated speed enforcement system pilot program (“Pilot Program”). The
22 Pilot Program involves the use of automated speed-limit enforcement cameras (“ASE
23 Systems”) to improve road safety and is authorized to be operational for five years or until
24 January 1, 2032, whichever comes first. The City actively supported AB 645 throughout the
25 legislative process.

(b) Excessive speed is a major contributor to traffic collisions that result in fatalities or
injuries. To meet its Vision Zero goals, the San Francisco Municipal Transportation Agency

1 (“SFMTA”) recognizes the critical importance of traffic speed enforcement to reduce traffic
2 collisions.

3 (c) ASE Systems have demonstrated high effectiveness in detecting speed violations.
4 The California State Transportation Agency and the National Transportation Safety Board
5 have acknowledged the effectiveness of ASE Systems in reducing speeding and enhancing
6 road safety. The National Highway Traffic Safety Administration has awarded automated
7 speed enforcement technology its maximum 5-star effectiveness rating for its significant
8 impact on traffic safety. When combined with educational initiatives and traffic engineering,
9 ASE Systems can significantly reduce speeding, improve traffic safety, and thereby prevent
10 traffic-related fatalities and injuries, including those involving roadway workers. ASE Systems
11 in other states have successfully reduced speeding and improved traffic safety.

12 (d) The implementation of ASE Systems advances equitable traffic enforcement. It
13 ensures more predictable and effective speeding control and, when broadly implemented,
14 helps change driver behavior. Enforcing speed limits using ASE Systems on streets where
15 speeding drivers create dangerous roadway environments is a reliable and cost-effective
16 method to prevent further fatalities and injuries.

17 (e) AB 645 authorizes the City to operate up to 33 ASE Systems. Prior to
18 implementation of the Pilot Program, the SFMTA will comply with any applicable requirements
19 in the Surveillance Technology Ordinance under Administrative Code 19B.

20 Section 2. Findings Regarding the DBOM Delivery Method.

21 (a) Recognized by the U.S. Department of Transportation’s Federal Highway
22 Administration and Federal Transit Administration, the design-build-operate-maintain
23 (“DBOM”) delivery method is an integrated procurement model that combines a project’s
24 design and construction services with longer-term operations and maintenance
25 responsibilities under a single contactor or contractor team. This method is also known as

1 "turnkey" procurement and "build-operate-transfer." It involves financing independently
2 secured by the project's public-sector owner.

3 (b) The DBOM method offers several key advantages:

4 (1) Enhanced Quality Assurance. It promotes higher quality across all project
5 phases, integrating design, construction, operation, and maintenance under a single
6 contractor.

7 (2) Efficiency in Project Execution. This single-contractor approach consolidates
8 multiple project phases and streamlines project delivery, enhancing coordination and
9 potentially reducing typical delays.

10 (3) Innovative Design and Construction. The alignment of design and
11 construction under one entity encourages innovative solutions, tailored to both immediate
12 construction needs and long-term operational efficiency.

13 (4) Proactive Maintenance Planning. The responsibility for long-term
14 maintenance under one entity allows for upfront, comprehensive planning, resulting in a more
15 sustainable and cost-effective approach to project upkeep.

16 (5) Risk Management and Allocation. DBOM offers clearer risk allocation,
17 leading to more effective management strategies and reducing delays caused by disputes or
18 uncertainties. This includes challenges related to coordinating various project components
19 and ensuring seamless integration, where the contractor assumes responsibility for managing
20 the interactions between different project elements.

21 (6) Cost and Time Savings. The DBOM model's ability to fast-track certain
22 project elements while maintaining a high-quality standard can result in significant cost and
23 time efficiencies.

24 (7) Alignment of Contractor and Project Goals. With the contractor responsible
25 for the entire project lifecycle, there is a strong incentive for high-quality, sustainable, and

1 efficient project execution, aligning the contractor's objectives with the project's long-term
2 success.

3 (c) The SFMTA is committed to implementing the Pilot Project as quickly as possible,
4 aiming to be the first jurisdiction in California to begin the use of this potentially life-saving
5 technology. This goal faces considerable scheduling risks and challenges in coordinating and
6 integrating various components and system if the SFMTA lets separate contracts for design,
7 construction, operation, and maintenance, which is required under its existing contracting
8 authority. Therefore, the Director of Transportation has determined that the DBOM delivery
9 method is appropriate to achieve the time efficiencies necessary to achieve this goal and,
10 therefore, is in the public's best interest. On March 19, 2024, the SFMTA Board of Directors
11 adopted Resolution No. 240319-029, endorsing the Director of Transportation's
12 recommendation to utilize DBOM method for the Pilot Project in San Francisco. A copy of
13 said resolution is on file with the Clerk of the Board of Supervisors in Board File No. 240226.

14 (d) The SFMTA estimates the design-build phase of the DBOM contract will last
15 approximately six months. Following this phase, the contract will transition into the operations
16 and maintenance phase, which includes staff training. This operation and maintenance phase
17 will have an initial term of five years, with a projected cost of at least \$5 million. The costs
18 incurred during the design-build phase may be paid several ways: as progress payments
19 during the design-build phase; as a milestone payment upon substantial completion; or they
20 can be amortized and added to the operations and maintenance payments, which would start
21 after substantial completion.

22 Section 3. The DBOM Procurement Process; Waiver of Certain Administrative Code
23 Provisions.

24 (a) **General Description: Administrative Code Chapters 6 and 21.** Administrative
25 Code Chapter 6 codifies the City's public works contracting policies and procedures, and

1 includes contracting requirements for design, engineering, and construction services; and
2 Administrative Code Chapter 21 regulates the City's acquisition of commodities and services,
3 and includes contracting requirements for professional and general services. The design,
4 construction, operation, maintenance, and related services necessary to implement the Pilot
5 Project span the subject matter of Chapters 6 and 21, but neither of these chapters
6 contemplate contracting for these services under a single solicitation.

7 (b) **Authorization of Best-Value Solicitation Process.** Notwithstanding any provision
8 of the San Francisco Municipal Code, the SFMTA is authorized to contract for design,
9 construction, operation, maintenance, and any other services the Director of Transportation
10 deems necessary or appropriate to implement the Pilot Project in the City utilizing a best-
11 value solicitation process described below. This process is structured to ensure the selection
12 of a DBOM contractor or contractor team that provides the best value to the City.

13 (1) **Request for Qualifications.**

14 (A) The SFMTA may issue a request for qualifications ("RFQ") specifically
15 targeted at identifying and shortlisting potential contractors with expertise in automated speed
16 enforcement technology. The RFQ shall include project details, a scope of services related to
17 automated speed enforcement technology, and minimum qualifications necessary for
18 consideration.

19 (B) Respondents shall be required to submit statements of qualifications
20 that include, without limitation, information describing their experience with automated speed
21 enforcement technology or similar technologies, proposed teams and key personnel, financial
22 stability, and past performance in projects of similar size and scope.

23 (C) The SFMTA may conduct interviews with respondents or enter
24 discussions to seek clarifications on the statements of qualifications submitted.

1 (D) Respondents must comply with submittal and other requirements set
2 forth in the RFQ. Responsive statements of qualifications shall be evaluated and scored
3 based on criteria that address their corresponding submittal requirements. The relative
4 weightings of the criteria shall be established by the Director of Transportation.

5 (E) Based on the evaluation and scoring of the statements of
6 qualifications, the SFMTA may select a shortlist of the highest scoring respondents. The
7 Director of Transportation shall determine the number of shortlisted respondents based on
8 their relative rankings and as reasonably necessary to preserve competition.

9 **(2) Request for Proposals.**

10 (A) The SFMTA may issue a request for proposals ("RFP") to shortlisted
11 respondents. This RFP must describe the SFMTA's requirements related to the Pilot Project,
12 including technological, operational, and maintenance requirements.

13 (B) Respondents shall be required to submit proposals that include,
14 without limitation, their technical approaches to design, build, operate, and maintain the Pilot
15 Project, data security approach, changes, if any, to proposed teams and key personnel from
16 their statements of qualifications, schedule, and price.

17 (C) The SFMTA may conduct interviews with respondents or enter
18 discussions to seek clarifications on the proposals submitted.

19 (D) Respondents must comply with submittal and other requirements set
20 forth in the RFP. Responsive proposals shall be evaluated and scored based on criteria that
21 address their corresponding submittal requirements. The relative weightings of the criteria
22 shall be established by the Director of Transportation.

23 **(3) Combined Request for Qualifications/Proposals.**

24 If the Director of Transportation determines it is more time-efficient and
25 beneficial, the RFQ and RFP phases may be combined into a single solicitation phase. In that

1 event, the SFMTA may issue a single document that solicits both the qualifications and
2 proposals of interested contractors or contractor teams. This document will outline the
3 requirements for both the RFQ and request for proposals components, and respondents shall
4 be required to address both qualifications and proposal requirements in their submissions.

5 **(4) Contract Award.**

6 (A) Based on the evaluation and scoring of the proposals, the SFMTA
7 may select the respondent with the highest proposal score as the presumptive best-value
8 proposer, with which the SFMTA may enter negotiations to finalize one or more contracts to
9 provide DBOM services for the Pilot Project. If negotiations with the presumptive best-value
10 proposer are unsuccessful, the SFMTA may enter negotiations with the next highest-scoring
11 respondent, and so on, until negotiations are successful.

12 (B) The SFMTA may enter into one or more contracts for DBOM services
13 with the successful respondent ("DBOM contractor").

14 **(5) Reserved Rights.** At any time during the best-value solicitation process, the
15 Director of Transportation may cancel or restart the process if the Director determines it is in
16 the best interest of the City. Other SFMTA-reserved rights regarding the solicitation must be
17 set forth in the RFQ and RFP.

18 **(c) Administrative Code Waivers.** Except as provided below, any requirements from
19 Chapters 6 and 21 that are found to conflict with or be unreasonably onerous for DBOM
20 contracting, as determined in writing by the SFMTA after consultation with the City Attorney's
21 Office, shall be waived for any contract let or awarded in connection with the Pilot Project.

22 (1) The SFMTA shall require that all contractors or subcontractors performing
23 any construction or other covered work or improvement to comply with the requirements of
24 Section 6.22(e) of Article II of Chapter 6 of the Administrative Code, including without
25 limitations, requirements to pay prevailing wages and to submit certified payroll through the

1 City's certified payroll reporting system; and comply with the requirements of the State
2 Apprenticeship Program in accordance with Section 6.22(n) of Article II of Chapter 6. The
3 SFMTA shall incorporate the requirements of Section 6.22(e) of Article II of Chapter 6 into all
4 contracts, and require its contractors to include those requirements in all subcontracts. To the
5 extent the provisions of law referenced in this subsection (c)(1) are transferred to the Labor
6 and Employment Code, the requirements imposed by this subsection shall continue to apply.

7 (2) At all stages of the solicitation process, the SFMTA must obtain applicable
8 approvals from the SFMTA Board of Directors or Board of Supervisors as required under the
9 Charter or Municipal Code. If the SFMTA intends to contract for an agreement with a cost that
10 could exceed \$10 million or a term beyond ten years, the SFMTA will at the appropriate time
11 request that the Board of Supervisors approve the corresponding agreement or agreements
12 pursuant to Charter Section 9.118.

13 (d) The provisions of this ordinance shall be implemented in a manner consistent with
14 the civil service provisions of the Charter.

15 (e) In any agreement for DBOM services that involves the use of any funds furnished,
16 given, or loaned by the government of the United States or the State of California, all laws,
17 rules, and regulations of the government of the United States or the State of California or of
18 any of their agencies, relative to the performance of the services under the agreement and the
19 conditions under which the services are to be performed, shall prevail over the requirements
20 of this ordinance when such laws, rules, or regulations are in conflict with or otherwise
21 preempt the requirements of this ordinance.

22 Section 4. Effective Date.

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

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4 APPROVED AS TO FORM:
5 DAVID CHIU, City Attorney

6 By: _____ /s/
7 MISHA TSUKERMAN
8 Deputy City Attorney

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City and County of San Francisco
Tails
Ordinance

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

File Number: 240226

Date Passed: April 16, 2024

Ordinance waiving certain contracting requirements under Chapters 6 and 21 of the Administrative Code and authorizing the San Francisco Municipal Transportation Agency (SFMTA) to procure design, construction, operation, maintenance, and related services to implement an automated speed enforcement system utilizing a design-build-operate-maintain delivery model, but requiring payment of prevailing wages, and permitting a best-value selection of the contractor.

March 25, 2024 Rules Committee - RECOMMENDED

April 02, 2024 Board of Supervisors - PASSED ON FIRST READING

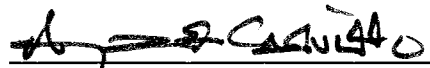
Ayes: 11 - Chan, Dorsey, Engardio, Mandelman, Melgar, Peskin, Preston, Ronen, Safai, Stefani and Walton

April 16, 2024 Board of Supervisors - FINALLY PASSED


Ayes: 11 - Chan, Dorsey, Engardio, Mandelman, Melgar, Peskin, Preston, Ronen, Safai, Stefani and Walton

File No. 240226

I hereby certify that the foregoing Ordinance was FINALLY PASSED on 4/16/2024 by the Board of Supervisors of the City and County of San Francisco.



Angela Calvillo
Clerk of the Board



For London N. Breed
Mayor

4-18-24

Date Approved