

File No. 240808

Committee Item No. 3

Board Item No. 21

COMMITTEE/BOARD OF SUPERVISORS

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Committee: Rules Committee

Date Sept 23, 2024

Board of Supervisors Meeting

Date October 1, 2024

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OTHER (Use back side if additional space is needed)

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Completed by: Victor Young Date Sept. 19, 2024

Completed by: _____ Date _____

1 [Administrative Code - SFPUC Social Impact Partnership Program]

2

3 **Ordinance amending the Administrative Code to expand the San Francisco Public**
4 **Utilities Commission’s (SFPUC) Social Impact Partnership Program by requiring that all**
5 **covered contracts that include a Social Impact commitment, including those contracts**
6 **that were solicited before April 22, 2023, increase such commitment upon amendment**
7 **or modification of the contract and by removing the minimum threshold for applicable**
8 **amendments or modifications.**

9

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 ~~*italics Times New Roman font*~~.
13 **Board amendment additions** are in Arial font.
14 **Board amendment deletions** are in ~~Arial font~~.
15 **Asterisks (* * * *)** indicate the omission of unchanged Code
16 subsections or parts of tables.

13

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

15

16 Section 1. Findings.

17 The Board of Supervisors authorized the San Francisco Public Utilities Commission
18 Social Impact Partnership Program in 2022 (Ordinance No. 261-22, File No. 221126; codified
19 at Chapter 21F of the Administrative Code) and established Social Impact Partnership
20 Program requirements for covered contracts first solicited on or after the operative date of the
21 ordinance, or April 22, 2023. The ordinance also required that when those same contacts
22 were amended to increase the contract amount above a certain threshold, the Social Impact
23 commitment amount would likewise be increased.

24

25

1 This ordinance will require that covered contracts first solicited before April 22, 2023
2 that include a Social Impact commitment when amended be subject to the same modification
3 or amendment provisions as a covered contract first solicited on or after April 22, 2023.

4 This ordinance will also remove the minimum threshold for modifications or
5 amendments subject to the provisions of Chapter 21F.

6 Section 2. Chapter 21F of the Administrative Code is hereby amended by revising
7 Sections 21F.1 and 21F.5, to read as follows:

8
9 **SEC. 21F.1. FINDINGS, AND PURPOSE, AND APPLICABILITY.**

10 **(a) Findings.** The City has a strong interest in protecting and promoting the local
11 economy and natural environment, and the health and well-being of persons in the City. The
12 City seeks to be a good neighbor to those impacted by the City’s operations and projects, and
13 desires that its contractors likewise be good neighbors to the communities on whose behalf
14 they are working and/or in the neighborhoods impacted by their work for the City.

15 **(b) Purpose.** The purpose of this Chapter 21F is to encourage private contractors
16 working under certain contracts with the San Francisco Public Utilities Commission (“SFPUC”)
17 to engage in corporate social responsibility with a focus on delivering specific community
18 outcomes aligned with demonstrated community needs related to the work they are
19 performing for the SFPUC. By evaluating prospective contractors for these contracts based on
20 their willingness to give back to communities affected by the SFPUC’s contracts, projects, and
21 operations, the SFPUC can harness corporate resources for the benefit of local residents and
22 neighborhoods.

1 (c) **Applicability.**

2 (1) As set forth in Ordinance No. 261-22, the requirements of this Chapter 21F apply to
3 Covered Contracts first solicited on or after the operative date of that ordinance, which was April 22,
4 2023.

5 (2) The requirements of Section 21F.5(b)(1) (Contract Amendments or Modifications)
6 apply to any Covered Contract amended or modified, regardless of the date of solicitation, provided
7 such contract includes a Social Impact Commitment. For such Covered Contracts solicited before
8 April 22, 2023, Section 21F.5(b)(1) applies to any amendment or modification approved on or after the
9 effective date of the ordinance in Board of Supervisors File No.240808, enacting this subsection
10 21F.1(c)(2).

11 **SEC. 21F.5. CONTRACT REQUIREMENTS.**

12 (a) **Contract Requirements.** Every Covered Contract that includes a Social Impact
13 Commitment shall include provisions consistent with the following:

14 (1) The Contractor must save, keep, hold harmless, and fully indemnify the City
15 and any of its officers or employees from all damages, costs, or expenses in law or equity, or
16 claims for same, that may at any time arise from performance of Social Impact Commitments.
17 The Contractor shall bear sole responsibility and liability, if any, for any breach of the Social
18 Impact Partnership Program provisions of its Covered Contract or this Chapter 21F.

19 (2) Failure to comply with the requirements of this Chapter 21F shall constitute
20 a material breach by the Contractor of the terms of the Covered Contract. The SFPUC in its
21 sole discretion shall determine such failure.

22 (3) The SFPUC shall specify by Rule and Regulation and/or contract provision
23 as appropriate, procedures and remedies for non-compliance with the Social Impact
24 Partnership Program and for enforcement. Remedies may include but need not be limited to
25 (A) revoke non-compliant Contractor's eligibility for Social Impact Commitment Bonus on

1 future Covered Contracts; (B) assess liquidated damages; (C) withhold progress payments;
2 (D) withhold release of retention; and/or (E) suspend or terminate the Covered Contract.

3 (b) **Modifications.** The SFPUC Social Impact Partnership Program Rules and
4 Regulations shall provide procedures and requirements for modifications of Social Impact
5 Commitments within the following guidelines:

6 (1) **Contract Amendments or Modifications** ~~Over 10%.~~ When the SFPUC
7 modifies or amends a Covered Contract *that includes a Social Impact Commitment* that will result
8 in ~~the cumulative an~~ increase of the total value of the Covered Contract ~~being 10% or more of its~~
9 ~~original value~~, the SFPUC shall require that the Contractor propose an increase to its Social
10 Impact Commitment for the Covered Contract. Such increase shall (A) be proportional to the
11 increase in contract value under the amendment or modification and (B) consistent with
12 Section 21F.4, not increase the costs to the SFPUC.

13 (2) **Modifications to Social Impact Commitments.** In the event that fulfillment
14 of Social Impact Commitments as provided in the Covered Contract becomes impossible or
15 impracticable, the Contractor may request a modification to its Social Impact Commitments by
16 documenting the impossibility or impracticability of proceeding with its existing Social Impact
17 Commitments and proposing one or more alternatives subject to review and approval by the
18 SFPUC as provided in the Covered Contract.

19
20 Section 2. Effective Date. This ordinance shall become effective 30 days after
21 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
22 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
23 of Supervisors overrides the Mayor's veto of the ordinance.

LEGISLATIVE DIGEST

[Administrative Code - PUC Social Impact Partnership Program]

Ordinance amending the Administrative Code to expand the San Francisco Public Utility Commission’s (PUC) Social Impact Partnership Program by requiring that all covered contracts that include a Social Impact commitment, including those contracts that were solicited before April 22, 2023, increase such commitment upon amendment or modification of the contract and by removing the minimum threshold for applicable amendments or modifications.

Existing Law

By adopting Administrative Code Chapter 21F (Ordinance No. 261-22 (File No. 221126)), the Board of Supervisors authorized the San Francisco Public Utilities Commission to implement a Social Impact Partnership Program within certain parameters. The ordinance applied to Covered Contracts (as so defined) first solicited on or after the operative date of the ordinance, or April 22, 2023.

Among the parameters in the existing law is under Section 21F.5, *Contract Requirements*. Under Section 21F.5(b)(1), an amendment or modification of a Covered Contract increasing the contract amount requires a proportionate increase in the Social Impact Commitment amount but only where the cumulative increase in the Covered Contract amount was 10% or more than the original contract amount.

Amendments to Current Law

This ordinance adds a new subsection 21F.1(c) *Applicability* to clarify the applicable date of the original ordinance enacting Chapter 21F and to expand the applicability of Section 21F.5, *Contract Requirements*, subsection (b)(1), *Contract Amendments or Modifications*, to Covered Contract awarded before the original operative date of Chapter 21F (April 22, 2023).

This ordinance also adds clarifying language to Section 21F.5 to confirm that the subsection applies only to Covered Contracts that include a Social Impact Commitment.

Additionally, this ordinance removes the threshold for applicable amendments or modifications and renders all amendments or modifications of Covered Contracts approved after the effective date of this ordinance subject to the proportionate increase provision of Section 21F.5(b)(1).

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Background Information

As the Board of Supervisors found in enacting Chapter 21F, the SFPUC had a pre-existing Social Impact Partnership Program and had awarded contracts that included a Social Impact Commitment.

This ordinance expands the applicability of Section 21F.5 to such Covered Contracts first solicited before April 22, 2023 that already included a Social Impact Commitment. The provisions of Section 21F.5 will apply to such Covered Contracts that the SFPUC amends or modifies after the effective date of this ordinance regardless of the amount of the amendment or modification.

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BOARD of SUPERVISORS



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Fax No. (415) 554-5163
TDD/TTY No. (415) 554-5227

MEMORANDUM

TO: Dennis Herrera, General Manager Public Utilities Commission

FROM: Victor Young, Assistant Clerk *Victor Young*

DATE: August 30, 2024

SUBJECT: LEGISLATION INTRODUCED

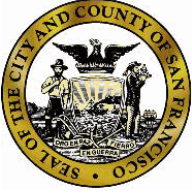
The Board of Supervisors' Rules Committee received the following proposed Ordinance:

File No. 240808

Ordinance amending the Administrative Code to expand the San Francisco Public Utilities Commission's (SFPUC) Social Impact Partnership Program by requiring that all covered contracts that include a Social Impact commitment, including those contracts that were solicited before April 22, 2023, increase such commitment upon amendment or modification of the contract and by removing the minimum threshold for applicable amendments or modifications.

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: Masood Ordikhani, Public Utilities Commission
Jeremy Spitz, Public Utilities Commission



City and County of San Francisco

Master Report

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

File Number: 240808 **File Type:** Ordinance **Status:** 30 Day Rule

Enacted: _____ **Effective:** _____

Version: 1 **In Control:** Rules Committee

File Name: Administrative Code - SFPUC Social Impact Partnership Program **Date Introduced:** 07/30/2024

Requester: _____ **Cost:** _____ **Final Action:** _____

Comment: _____ **Title:** Ordinance amending the Administrative Code to expand the San Francisco Public Utilities Commission’s (SFPUC) Social Impact Partnership Program by requiring that all covered contracts that include a Social Impact commitment, including those contracts that were solicited before April 22, 2023, increase such commitment upon amendment or modification of the contract and by removing the minimum threshold for applicable amendments or modifications.

Companion 221126 Files: _____ **Sponsor:** Walton

History of Legislative File 240808

| Ver | Acting Body | Date | Action | Sent To | Due Date | Result |
|-----|-------------|------------|----------------------------|-----------------|------------|--------|
| 1 | President | 07/30/2024 | ASSIGNED UNDER 30 DAY RULE | Rules Committee | 08/29/2024 | |