

File No. 111246

Committee Item No. 6

Board Item No. 25

### COMMITTEE/BOARD OF SUPERVISORS

#### AGENDA PACKET CONTENTS LIST

Committee: Budget and Finance Committee

Date: December 7, 2011

Board of Supervisors Meeting

Date 12/13/11

#### Cmte Board

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| <input type="checkbox"/>            | <input type="checkbox"/>            | Budget & Legislative Analyst Report          |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Ethics Form 126                              |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Introduction Form (for hearings)             |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Department/Agency Cover Letter and/or Report |
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| <input type="checkbox"/>            | <input type="checkbox"/>            | Grant Information Form                       |
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#### OTHER

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Completed by: Victor Young

Date: December 2, 2011

Completed by: Victor Young

Date: 12-8-11

An asterisked item represents the cover sheet to a document that exceeds 25 pages. The complete document is in the file.

1 [Administrative Code - Health Service System Contracting Authority; Employee Benefit  
2 Cafeteria Plan]

3 Ordinance amending Sections 16.900 through 16.905 and 21.02 of the San Francisco  
4 Administrative Code, to update provisions regarding: 1) the San Francisco Health  
5 Service System's contracting authority; and 2) the City's employee benefit Cafeteria  
6 Plan.

7 NOTE: Additions are *single-underline italics Times New Roman*;  
8 deletions are *strike through italics Times New Roman*.  
9 Board amendment additions are double-underlined;  
10 Board amendment deletions are ~~strikethrough normal~~.

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

12 Section 1. The San Francisco Administrative Code is hereby amended by amending  
13 Sections 16.900 through 16.905 and 21.02 to read as follows:

14 **SEC. 16.900. ESTABLISHMENT OF A CAFETERIA PLAN.**

15 The ~~Department of Human Resources~~ San Francisco Health Service System may establish an  
16 employee cafeteria plan as provided and regulated under Section 125 of Title 26 of the United  
17 States Internal Revenue Code.

18 **SEC. 16.901. PURPOSE.**

19 The purpose of this plan is to extend to employees of the City and County of San  
20 Francisco, San Francisco Unified School District, ~~and the~~ San Francisco Community College  
21 District, ~~and the~~ Superior Court of California, County of San Francisco and the San Francisco  
22 County Transportation Authority (Participating Employers), those types of benefits that  
23 ordinarily accrue from participation in a cafeteria plan. The City and County of San Francisco  
24 does not and cannot represent or guarantee that any particular federal or state income,  
25

1 payroll or other tax consequence will occur by reason of an employee's participation in this  
2 plan. The participant should consult with his or her own attorney or other representative  
3 regarding all tax consequences of participation in this plan.

4 **SEC. 16.902. ADMINISTRATION BY THE ~~DEPARTMENT OF HUMAN RESOURCES~~ SAN  
5 FRANCISCO HEALTH SERVICE SYSTEM.**

6 The cafeteria plan established pursuant to this Article may be administered by the  
7 ~~Department of Human Resources~~ the San Francisco Health Service System which may prescribe such  
8 forms, and adopt such rules and regulations as are necessary to carry out the purposes of the  
9 plan. The San Francisco Health Service System shall also have the authority to amend the plan to  
10 ensure compliance with applicable laws and regulations, to reflect changes in benefit offerings by the  
11 City and County of San Francisco or Participating Employers, and to make modifications for the  
12 reasonable administration of the plan. The ~~Department of Human Resources~~ the San Francisco Health  
13 Service System may contract with a financially responsible independent contractor to administer  
14 and coordinate the plan.

15 **SEC. 16.903. NO COST TO CITY AND COUNTY.**

16 This cafeteria plan shall be administered free of direct cost to, or appropriation by, the  
17 City and County of San Francisco or the Participating Employers. Except as herein provided, all  
18 such costs shall be borne by the participants or by any plan administrator appointed  
19 hereunder, except to the extent that any subsequent ordinance or appropriation might provide  
20 expressly to the contrary. Nothing contained in this Section shall be deemed to prohibit the  
21 inclusion of a hold harmless provision in any contract between the City and any plan  
22 administrator appointed hereunder, which provision has been approved by the City's Risk  
23 Manager pursuant to Administrative Code Section 1.24.

24 **SEC. 16.904. VOLUNTARY EMPLOYEE BENEFITS.**

1 Based upon individual authorized deductions, the Controller is hereby authorized to  
2 deduct and collect monies from the salaries or wages of employees of the City and County of  
3 San Francisco, ~~and the San Francisco Community College District, and the Superior Court of~~  
4 California, County of San Francisco. in accordance with San Francisco Administrative Code  
5 Sections 16.91 and 16.92. Pursuant to Section 125, this voluntary authorized deduction shall  
6 not be revocable by the employee during the cafeteria plan year unless the revocation and  
7 new election are in conformance with Section 125 and the terms of the plan.

8 **SEC. 16.905. CAFETERIA PLAN BENEFITS.**

9 The Board of Supervisors hereby approves the inclusion of those benefit plans  
10 qualifying under the employee cafeteria plan as provided and regulated under Section 125 of  
11 Title 26 of the United States Code as well as the medical care plans adopted by the Health  
12 Service Board and approved by the Board of Supervisors annually under Section A8.422 of  
13 the Charter and Administrative Code Section ~~16.157~~16.703 and which medical plans are on file  
14 with the Clerk of the Board of Supervisors.

15 **SEC. 21.02. DEFINITIONS.**

16 As used in this Chapter the following words shall have the following respective  
17 meanings:

- 18 (a) "Bid" shall mean a bid, quotation, or other offer, other than a Proposal, from a  
19 person or entity to sell a Commodity or Service to the City at a specified price.
- 20 (b) "Bidder" shall mean any person or entity which submits a Bid.
- 21 (c) "City" shall mean the City and County of San Francisco.
- 22 (d) "Code" or "this Code" shall mean the most current version of the San  
23 Francisco Charter and the San Francisco Municipal Code.
- 24 (e) "Commodity" shall mean products, including materials, equipment and  
25 supplies, purchased by the City. "Commodity" shall specifically exclude legal and litigation

1 related contracts or contracts entered into pursuant to settlement of legal proceedings, and  
2 employee benefits, including, without limitation, health plans, retirement or deferred  
3 compensation benefits, insurance and flexible accounts, provided by or through the City's  
4 Human Resources Department or the Retirement Board.

5 (f) "Contractor" shall mean any corporation, partnership, individual, sole  
6 proprietorship, joint venture or other legal entity which enters into a contract to sell  
7 Commodities or Services to the City.

8 (g) "Contracting Officer" shall mean the City employee who is authorized to  
9 execute a contract, which may be either the Department head or a person designated in  
10 writing by the Department head, board or commission as having the authority to sign contracts  
11 for the Department. A designation of authority to sign contracts on behalf of a Department  
12 may specify authority to sign a single contract, specified classes of contracts, or all contracts  
13 entered into by a Department.

14 (h) "Electronic" shall mean electrical, digital, magnetic, optical, electromagnetic or  
15 other similar technology for conveying documents or authorizations, excluding facsimile.

16 (i) "General Services" shall mean those services that are not Professional  
17 Services. General Services include, but are not limited to, janitorial, security guard, pest  
18 control, parking lot management, and landscaping services.

19 (j) "Minimum Competitive Amount" shall mean (i) for the procurement of  
20 Commodities and Professional Services, the "Minimum Competitive Amount" as defined in  
21 Section 6.40(A) of the Administrative Code, which shall be \$100,000 and (ii) for the  
22 procurement of General Services, an amount equivalent to the "Threshold Amount" as defined  
23 in Chapter 6.1(M) of the Administrative Code which shall be \$400,000, provided that on  
24 January 1, 2015 and every five years thereafter, the Controller shall recalculate the Minimum  
25 Competitive Amount (and the Threshold Amount from which the Minimum Competitive

1 Amount for General Services is calculated) to reflect any proportional increase in the Urban  
2 Regional Consumer Price Index from January 1, 2010, rounded to the nearest \$1,000.

3 (k) "Offer" shall mean a Bid or Proposal submitted to the City in response to an  
4 invitation for Bids or a Request for Proposals. "Offer" may include a response to a request for  
5 qualifications if no further ranking prior to Contractor selection is contemplated by the  
6 procurement process.

7 (l) "Offeror" shall mean a person or entity that submits an Offer to the City to  
8 provide Commodities or Services.

9 (m) "Professional Services" shall mean those services which require extended  
10 analysis, the exercise of discretion and independent judgment in their performance, and/or the  
11 application of an advanced, specialized type of knowledge, expertise, or training customarily  
12 acquired either by a prolonged course of study or equivalent experience in the field.

13 Professional service providers include, but are not limited to, licensed professionals such as  
14 architects, engineers, and accountants, and non-licensed professionals such as software  
15 developers and financial consultants.

16 (n) "Proposal" shall mean a response to a request for Proposals issued by the  
17 City for Commodities or Services, or a response to a request for qualifications if no further  
18 ranking prior to Contractor selection is contemplated by the procurement process.

19 (o) "Proposer" shall mean a person or entity that submits a Proposal in response  
20 to a request for Proposals issued by the City.

21 (p) "Purchase Order" shall mean an authorization document designated as such  
22 by the Purchaser for the procurement of Commodities or Services, whether issued in a paper  
23 or electronic format, including blanket purchase orders for purchases involving multiple  
24 payments.

1 (q) "Purchaser" shall mean the Purchaser of Commodities or Services of the City  
2 and County of San Francisco, or his or her designee(s).

3 (r) "Quotation" shall mean an Offer to supply Commodities or Services to the City  
4 for a specified price (and possibly subject to other terms and conditions) which is acquired  
5 without the use of advertising to solicit Bids.

6 (s) "Services" shall mean Professional Services and General Services. "Services"  
7 shall specifically exclude grants to a nonprofit entity to provide services to the community,  
8 which may include incidental purchases of commodities; legal and litigation related services or  
9 contracts entered into pursuant to settlement of legal proceedings; and services related to  
10 employee benefits, including, without limitation, health plans, retirement or deferred  
11 compensation benefits, insurance and flexible accounts, provided by or through the ~~City's~~  
12 ~~Human Resources Department~~ the San Francisco Health Service System or the Retirement Board.

13 (t) "Solicitation" shall mean an invitation for Bids, request for Quotations, request  
14 for qualifications, or request for Proposals issued by the City for the purpose of soliciting Bids,  
15 Quotations, or Proposals to perform a City contract.

16 (u) "Technology Store" shall mean the City-wide, multiple award contract for the  
17 procurement of certain Commodities and Services awarded pursuant to the "Request for  
18 Proposal for Computer Hardware, Software, Peripherals and Appropriate Network,  
19 Consulting, Maintenance, Training and Support Services," and any successor contracts  
20 thereto.

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1 Section 2. Effective Date. This ordinance shall become effective 30 days from the date of  
2 passage.

3  
4 APPROVED AS TO FORM:  
5 DENNIS J. HERRERA, City Attorney

6 By: Erik A. Rapoport  
7 Erik A. Rapoport  
8 Deputy City Attorney  
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## LEGISLATIVE DIGEST

[Administrative Code - Health Service System Contracting Authority; Employee Benefit Cafeteria Plan]

**Ordinance amending the San Francisco Administrative Code by amending Sections 16.900 through 16.905 and 21.02 of the San Francisco Administrative Code to designate the Health Service System as the City department responsible for administering the City's employee benefit cafeteria plan and for contracting for services related to employee benefits.**

### Existing Law

The San Francisco Administrative Code currently designates the City's Department of Human Resources (DHR) as the employee benefit cafeteria plan administrator. The Administrative Code also identifies DHR as the City department that contracts for services related to employee benefits.

### Amendments to Current Law

The proposed Ordinance would amend the Administrative Code to designate the Health Service System as the City department responsible for administering the City's employee benefit cafeteria plan and for contracting for services related to employee benefits. The Ordinance would also confirm that the Superior Court of California, County of San Francisco, and the San Francisco County Transportation Authority are participating employer in the City's cafeteria plan.

### Background Information

In 2004, the voters approved Proposition C which removed the Health Service System from the City's Department of Human Resources and made it a separate City department. This Ordinance updates the San Francisco Administrative Code to reflect that change.

