NOTE:

[Administrative Code - Arts Commission Contracting Authority]

Ordinance amending the Administrative Code to authorize the Arts Commission to contract for the development, fabrication, maintenance, conservation, removal, or installation of art work.

Unchanged Code text and uncodified text are in plain Arial font.

Additions to Codes are in <u>single-underline italics Times New Roman font</u>.

Deletions to Codes are in <u>strikethrough italics Times New Roman font</u>.

Board amendment additions are in <u>double-underlined Arial font</u>.

Board amendment deletions are in <u>strikethrough Arial font</u>.

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. The Administrative Code is hereby amended by adding Section 6.75, to read as follows:

SEC. 6.75. CONTRACTING BY THE ARTS COMMISSION FOR THE DEVELOPMENT,

FABRICATION, MAINTENANCE, CONSERVATION, REMOVAL, AND/OR INSTALLATION

OF ART WORK.

In the administration of the civic art collection and other works of art owned by or in the care of the City and County of San Francisco, and when such art work requires development, fabrication, maintenance, conservation, removal, and/or installation by a Contractor, the Arts Commission may enter into Contracts for definite or indefinite quantities of work for such development, fabrication, maintenance, conservation, removal, and/or installation in conformance with the following procedures:

(a) General As-Needed Contracts. The Director of Cultural Affairs may issue an

Advertisement For Bids for development, fabrication, maintenance, conservation, removal, and/or

installation services on an as-needed basis, with work to be assigned by contract service orders based

on costs contained in the Bid. The as-needed Contract shall provide for a not-to-exceed amount and an expiration term of not more than five years, including all modifications. The Director of Cultural Affairs shall not issue any new contract service order after four years from the date the Contract is certified by the Controller. Additionally, the cumulative modifications to the as-needed Contract shall result in a contract sum not to exceed 150% of the original Contract amount. No contract service order or multiple contract service orders for any single Public Work, whether in one phase or multiple phases, shall cumulatively exceed the Threshold Amount. Notwithstanding the above, the Arts Commission may authorize any contract service order(s) to exceed the Threshold Amount only upon review of the Director of Cultural Affairs' written determination establishing the need for the work and the justification for proceeding under this Section 6.75 rather than by formal competitive process.

(b) Master Agreement Contracts. The Arts Commission may award master agreement

Contracts for the development, fabrication, maintenance, conservation, removal, and/or installation of

art work on an "if-and-as-needed" basis, to qualified Contractors in conformance with the following

procedures:

(1) Contract Award. The Arts Commission may award master agreement Contracts, on an "if-and-as-needed" basis to Contractors who can establish all of the licensing, qualifications, experience, and certifications, as required by the Director of Cultural Affairs. A Contractor may apply for a master agreement under this Section 6.75 by providing the Director of Cultural Affairs with a statement of its experience and qualifications and other information as required by the Director of Cultural Affairs. Within 60 days of receiving such information, the Director of Cultural Affairs shall advise the applicant of its eligibility for an award of a master agreement.

(2) Contract Terms. Master agreements shall provide for an expiration term of not more than five years from the date of Award, including all modifications. All master agreements shall provide for a maximum total dollar value of work each Contractor is authorized to perform during the contract period. No master agreement may be modified to exceed 150% of the original contract

amount. Master agreements shall contain no minimum dollar amount. Master agreements shall provide
that the Director of Cultural Affairs may assign work on a task order basis, "if-and-as-needed,"
through competition among master agreement Contractors.

- (3) Task Order Competitive Solicitation. To assign work under master agreement

  Contracts, the Director of Cultural Affairs shall solicit Quotations from no fewer than three qualified

  master agreement Contractors. Solicitations shall conform to Section 6.21, except that neither a

  published advertisement nor bid security shall be required. Solicitations shall include a description of
  the proposed task order scope of work, including plans or specifications, if any, and may include
  provisions for liquidated damages for delay if and as appropriate to the particular project. Responsive

  Quotations must include subcontractor listing, if any, in conformance with subsection 6.21(a)(9).
- (4) Task Order Award. The Director of Cultural Affairs shall issue a task order for the performance of work under a master agreement to the Contractor submitting the lowest Responsive Quotation. In the event that the Director of Cultural Affairs is unable to obtain three Quotations, the award shall be based on the Quotation or Quotations received. If the Director of Cultural Affairs believes that the public interest would best be served, by accepting other than the lowest Quotation, the Director of Cultural Affairs is hereby authorized to accept the Quotation that in his or her discretion will best serve the public interest.
- (5) Task Order Terms. No task order or multiple task orders for any single Public Work, whether in one phase or multiple phases, shall cumulatively exceed the Threshold Amount, including all modifications. Notwithstanding the above, the Arts Commission may authorize to exceed the foregoing limitation only upon the review of the Director of Cultural Affairs' written determination establishing the urgency of the work and the justification for proceeding under this Section 6.75, rather than through San Francisco Public Works, in conformance with Section 6.2.
- (c) **Best Value**. The Director of Cultural Affairs is authorized to issue requests for proposals for the development, fabrication, maintenance, conservation, removal, and/or installation of art work

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2

estimated to cost less than \$1,000,000. Proposals will be evaluated based upon qualifications, cost, and any other criteria stated in the request for proposals. The Arts Commission may award the Contract to the highest-ranked Responsible proposer. If award to such proposer is not made for any reason, the Arts Commission may award the Contract to the next highest-ranked proposer.

- (d) Other Procurements. The Director of Cultural Affairs may contract for the development, fabrication, maintenance, conservation, removal, and/or installation of art work estimated to cost less than \$1,000,000, subject to the provisions of Section 6.73.
- (e) Contract Terms and Conditions. Except as provided above, Contracts awarded under this Section 6.75 shall conform to the requirements of this Chapter 6 and Administrative Code Chapters 12B, 12C, and 14B, as applicable. Any Contract awarded under this Section 6.75 shall require the Contractor to coordinate its efforts with the artist, the Director of Cultural Affairs, the department responsible for any related Public Work, and the Contractor performing such Public Work, if any.

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.

APPROVED AS TO FORM:

DENNIS J. HERRERA, City Attorney

By:

Deputy City Attorney

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## City and County of San Francisco Tails

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

## **Ordinance**

File Number:

170679

Date Passed: July 25, 2017

Ordinance amending the Administrative Code to authorize the Arts Commission to contract for the development, fabrication, maintenance, conservation, removal, or installation of art work.

June 16, 2017 Budget and Finance Committee - CONTINUED

June 22, 2017 Budget and Finance Committee - RECOMMENDED

July 11, 2017 Board of Supervisors - CONTINUED ON FIRST READING Ayes: 11 - Breed, Cohen, Farrell, Fewer, Kim, Peskin, Ronen, Safai, Sheehy, Tang and Yee

July 18, 2017 Board of Supervisors - PASSED ON FIRST READING Ayes: 11 - Breed, Cohen, Farrell, Fewer, Kim, Peskin, Ronen, Safai, Sheehy, Tang and Yee

July 25, 2017 Board of Supervisors - FINALLY PASSED Ayes: 11 - Breed, Cohen, Farrell, Fewer, Kim, Peskin, Ronen, Safai, Sheehy, Tang and Yee

File No. 170679

I hereby certify that the foregoing Ordinance was FINALLY PASSED on 7/25/2017 by the Board of Supervisors of the City and County of San Francisco.

> Angela Calvillo Clerk of the Board