



City Hall

**1 Dr. Carlton B. Goodlett Place, Room 244
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MEMORANDUM

TO: Paul Miyamoto, Sheriff
William Scott, Police Chief
Chesa Boudin, District Attorney
Manohar Raju, Public Defender
Shakirah Simley, Director, Office of Racial Equity
Naomi Kelly, City Administrator

FROM: John Carroll, Assistant Clerk,
Government Audit and Oversight Committee, Board of Supervisors

DATE: June 10, 2020

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Government Audit and Oversight Committee has received the following proposed legislation, introduced by Supervisor Fewer on June 2, 2020:

File No. 200577

Ordinance amending the Administrative Code to prohibit the City from entering into an agreement to provide goods or services to incarcerated persons of a jail facility that allows the City to collect some or all of the revenue paid for those goods or services.

If you have any comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

c: Johanna Saenz, Sheriff's Department
Katherine Johnson, Sheriff's Department
Nancy Crowley, Sheriff's Department
Rowena Carr, Police Department
Asja Steeves, Police Department
Lynn Khaw, Office of the City Administrator
Lihmeei Leu, Office of the City Administrator

1 [Administrative Code - Goods or Services Contracts for Incarcerated Persons]

2

3 **Ordinance amending the Administrative Code to prohibit the City from entering into an**
4 **agreement to provide goods or services to incarcerated persons of a jail facility that**
5 **allows the City to collect some or all of the revenue paid for those goods or services.**

6 **NOTE:** **Unchanged Code text and uncodified text** are in plain Arial font.
7 **Additions to Codes** are in *single-underline italics Times New Roman font*.
8 **Deletions to Codes** are in ~~strikethrough italics Times New Roman font~~.
9 **Board amendment additions** are in double-underlined Arial font.
10 **Board amendment deletions** are in ~~strikethrough Arial font~~.
11 **Asterisks (* * * *)** indicate the omission of unchanged Code
12 subsections or parts of tables.

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

14 Section 1. The Administrative Code is hereby amended by adding Chapter 21E,
15 consisting of Sections 21E.1 through 21E.5, to read as follows:

16 **CHAPTER 21E: GOODS OR SERVICES CONTRACTS FOR INCARCERATED PERSONS**

17 **SEC. 21E.1. BACKGROUND, FINDINGS, AND PURPOSE.**

18 (a) *In June 2019, under the leadership of Mayor London Breed, San Francisco became the first*
19 *county and only the second city in the nation to commit to making incarcerated people's phone calls*
20 *from jail free and ending markups in the jail commissary store – ending the practice of generating*
21 *revenue for the City from incarcerated people and their families and loved ones.*

22 (b) *San Francisco took this action because phone call and commissary costs for incarcerated*
23 *people had been a significant drain on low-income communities and communities of color, which are*
24 *disproportionately impacted by policing and overrepresented in the jail system. Prior to these reforms,*

1 San Francisco's prices for jail phone calls and marked-up jail store items extracted approximately \$1.7
2 million a year from incarcerated people and their families and support networks. These costs primarily
3 fell on low-income women of color who were supporting incarcerated loved ones; in San Francisco, the
4 Treasurer and Tax Collector's Financial Justice Project estimated that 80% of phone call costs were
5 paid by incarcerated families' support networks.

6 (c) Prior to these reforms, if a person incarcerated in San Francisco jails made two 15-minute
7 phone calls a day, it would typically cost \$300 over 70 days (the average jail stay) or \$1,500 over the
8 course of the year. Items in the commissary jail store such as stationery, stamps, soup, coffee, rice and
9 beans, and hygiene products were marked up an average of 43%.

10 (d) Marking up prices for phone calls and commissary costs is a common practice in jails and
11 prisons across the country. The practice generates revenue for jails and prisons, and profits for
12 corporations that provide these services. Through San Francisco's previous reliance on incarcerated
13 people's support networks to generate funding for jail operations, low-income communities, rather
14 than the public as a whole, were shouldering the burden of much of the cost of core operational
15 responsibilities. Further, the jail and prison communications industry, which benefited from San
16 Francisco's prior system, has grown to a \$1.2 billion a year business dominated by a few corporations,
17 and has come under increased scrutiny in recent years by the criminal justice reform community. This
18 predatory industry offers an array of other communications services to jails and prisons – including
19 video conferencing, tablets, and other services.

20 (e) Research shows that increased communication between incarcerated people and their loved
21 ones increases safety within jails, decreases recidivism, and improves reentry outcomes after release.
22 Communication provides incarcerated people a lifeline to their support networks. Yet, under a system
23 in which phone calls are costly, incarcerated people often have to choose between paying for phone
24 calls and purchasing items in the jail store.

25

1 (f) The City should never again generate revenue for jail operations from incarcerated persons
2 and their families. The purpose of this Chapter 21E is to make these reforms permanent to the extent
3 permissible by law. In addition, this ordinance is to serve as a model that can inspire other counties
4 and cities nationwide to put people over profits, end the generation of revenue for jail operations from
5 incarcerated people and their families, and move towards a system of making services like phone calls
6 free for incarcerated people and their families and loved ones.

7

8 **SEC. 21E.2. DEFINITIONS.**

9 “Contract for Goods or Services for Incarcerated Persons” means an agreement the City enters
10 into, to provide goods or services to incarcerated persons in a jail, that involves incarcerated persons
11 or their families and support networks paying for goods or services.

12

13 **SECTION 21E.3. PROFITING FROM CONTRACTS FOR INCARCERATED PERSONS**
14 **PROHIBITED.**

15 (a) The City shall not enter into a Contract for Goods or Services for Incarcerated Persons that
16 includes a provision by which the City will receive some or all revenue generated from payments
17 provided by incarcerated persons in jails.

18 (b) This Section 21E.3 shall not interfere with the Sheriff's authority under state law, including
19 the Sheriff's authority to enter into contracts under Section 4025 of the Penal Code.

20

21 **SECTION 21E.4. ANNUAL REPORTING.**

22 The Sheriff shall report annually to the Board of Supervisors on all Contracts for Goods or
23 Services for Incarcerated Persons. The first report shall be due six months after the effective date of
24 this Chapter 21E, and by December 31st of each calendar year thereafter. The report shall include the
25 names of the contractor, the types of goods or services provided, the dollar amount for each contract,

1 *and a link to each contract referenced. The report shall also be posted on the Sheriff's Department's*
2 *website.*

3

4 **SECTION 21E.5. UNDERTAKING FOR THE GENERAL WELFARE.**

5 *In enacting and implementing this Chapter 21E, the City is assuming an undertaking only to*
6 *promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an*
7 *obligation for breach of which it is liable in money damages to any person who claims that such breach*
8 *proximately caused injury.*

9

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

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15 APPROVED AS TO FORM:
16 DENNIS J. HERRERA, City Attorney

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18 By: /s/
19 BRADLEY A. RUSSI
20 Deputy City Attorney

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LEGISLATIVE DIGEST

[Administrative Code - Goods or Services Contracts for Incarcerated Persons]

Ordinance amending the Administrative Code to prohibit the City from entering into an agreement to provide goods or services to incarcerated persons of a jail facility that allows the City to collect some or all of the revenue paid for those goods or services.

Existing Law

Local law does not prohibit the City from entering into contracts that involve the City sharing in revenue generated from the provision of goods or services to people incarcerated in a City jail facility.

Amendments to Current Law

The proposed ordinance would prohibit the City from entering into an agreement for the provision of goods or services to people incarcerated in a jail facility by which the City would receive some or all of the revenue incarcerated persons or their families pay for such goods or services.

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Introduction Form

By a Member of the Board of Supervisors or Mayor

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

Time stamp
or meeting date

- 1. For reference to Committee. (An Ordinance, Resolution, Motion or Charter Amendment).
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning :"Supervisor" [redacted] inquiries"
- 5. City Attorney Request.
- 6. Call File No. [redacted] from Committee.
- 7. Budget Analyst request (attached written motion).
- 8. Substitute Legislation File No. [redacted]
- 9. Reactivate File No. [redacted]
- 10. Topic submitted for Mayoral Appearance before the BOS on [redacted]

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission
- Youth Commission
- Ethics Commission
- Planning Commission
- Building Inspection Commission

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

Sponsor(s):

Fewer, Walton

Subject:

Administrative Code - Goods or Services Contracts for Incarcerated Persons

The text is listed:

Ordinance amending the Administrative Code to prohibit the City from entering into an agreement to provide goods or services to incarcerated persons of a jail facility that allows the City to collect some or all of the revenue paid for those goods or services.

Signature of Sponsoring Supervisor: Sandra Lee Fewer

For Clerk's Use Only