

## ORDINANCE NO. .

### BOARD OF SUPERVISORS, COUNTY OF SAN MATEO, STATE OF CALIFORNIA

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#### ORDINANCE AMENDING CHAPTER 2.84 OF THE SAN MATEO COUNTY ORDINANCE CODE REGARDING EQUAL BENEFITS AND NON-DISCRIMINATION CONTRACT PROCEDURE REQUIREMENTS FOR VENDORS

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**WHEREAS**, the County of San Mateo routinely enters into written agreements pursuant to which vendors provide services, with or without the provision of goods, as requested by the County, and the County has adopted various ordinances, resolutions, and other procedures governing to the process of entering into such service agreements; and

**WHEREAS**, in 2006 this Board adopted Chapter 2.84 of the San Mateo County Ordinance Code, which generally requires vendors that enter into service agreements with the County to provide the same benefits to the vendor's employees who have registered domestic partners as the vendor provides to its employees with married spouses, regardless of the gender of the employee's domestic partner or spouse; and

**WHEREAS**, since 2006 the law has rapidly evolved regarding marriage equality in California and the United States, culminating in a United States Supreme Court decision in 2015 that guarantees same-sex couples the same marriage rights as are enjoyed by opposite-sex couples throughout the United States; and

**WHEREAS**, given this change, it would be illegal for an employer to discriminate

in the provision of benefits as between an employee with same-sex married spouse and an employee with an opposite-sex married spouse; and

**WHEREAS**, in 2001 this Board adopted Resolution No. 64225, which generally gives the County an enforcement mechanism by which the County may require vendors that contract with the County to comply with the County's requirements that prohibit vendors from discriminating during the course of providing services at the County's request; and

**WHEREAS**, the requirements listed in Resolution No. 64225 need to be updated, and it would be efficient to include the revised requirements into the San Mateo County Ordinance Code; and

**WHEREAS**, this Board has determined that updating these requirements for county contracts is appropriate and necessary and that Chapter 2.84 to the San Mateo County Ordinance Code should be amended accordingly.

**NOW, THEREFORE**, the Board of Supervisors of the County of San Mateo hereby **ORDAINS** as follows:

**SECTION 1.** Resolution No. 64225 is hereby repealed in its entirety and is no longer in effect.

**SECTION 2.** Chapter 2.84, consisting of Sections 2.84.010 through 2.84.050, of the San Mateo County Ordinance Code is hereby amended to read as follows:

**Chapter 2.84 – CONTRACTS: EQUAL BENEFITS AND NON-DISCRIMINATION ENFORCEMENT**

**Section 2.84.010 – Applicability.**

This Chapter shall apply to all agreements for services, or services with goods, entered into by the County.

**Section 2.84.020 – Discrimination in the provision of benefits prohibited.**

It is the policy of the County of San Mateo that no party providing services to the County, with or without the provision of goods, via contract shall discriminate in offering benefits to its employees between an employee with a same-sex married spouse and an employee with an opposite-sex married spouse. To that effect, all service contracts with the County shall contain the following statement or one to similar effect: “Contractor shall comply with all laws relating to the provision of benefits to its employees and their spouses or domestic partners, including, but not limited to, such laws prohibiting discrimination in the provision of such benefits on the basis that the spouse or domestic partner of the Contractor’s employee is of the same or opposite sex as the employee.” This statement in any given contract may be modified or omitted pursuant to County policies.

**Section 2.84.030 – Non-discrimination enforcement.**

- (a) All contracts for services entered into with the County, with or without the provision of goods, shall contain the following language or language to similar effect:

Violation of the non-discrimination provisions of this Agreement shall be considered a breach of this Agreement and subject the Contractor to penalties, to be determined by the County Manager, including but not limited to the following:

- (i) termination of this Agreement;
- (ii) disqualification of the Contractor from proposing for or being awarded a County contract for a period of up to 3 years;
- (iii) liquidated damages of \$2,500 per violation; and
- (iv) imposition of other appropriate contractual and civil remedies and sanctions, as determined by the County Manager.

To effectuate the provisions of this paragraph, the County shall have the authority to set off all or any portion of the amount described in this paragraph against amounts due to Contractor under this Agreement or any other contract between Contractor and County.

Contractor shall also report to the County the filing by any person in any court any complaint of discrimination or the filing by any person of any and all charges with the Equal Employment Opportunity Commission, the Fair Employment and Housing Commission, or any other entity charged with the investigation of allegations of

discrimination within 75 days of such filing, provided that within such 75 days such entity has not notified Contractor that such charges are dismissed or otherwise unfounded. Such notification to County shall include a general description of the allegations and the nature of specific claims being asserted. Contractor shall provide County with a statement regarding how it responded to the allegations within 60 days of its response and shall update County regarding the nature of the final resolution of such allegations.

(b) This language in any given contract may be modified or omitted pursuant to County policies.

**Section 2.84.040 – [Repealed].**

**Section 2.84.050 – Date of application.**

The provisions of this Chapter shall apply to any service contract executed or amended by the County on or after July 1, 2016.

**SECTION 3. EFFECTIVE DATE**

This Ordinance shall be effective 30 days after the date of adoption by this Board of Supervisors.

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