File No. 120406

Committee Item No. 11
Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

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Committee: Budget and Finance Sub-Committee **Date** May 16, 2012

Board of Supervisors Meeting **Date** _____

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Completed by: Victor Young **Date** May 11, 2012
Completed by: Victor Young **Date** _____

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

[Administrative Code - Film Rebate Program Extension and Funding]

Ordinance amending the San Francisco Administrative Code Section 57.8 to: 1) extend the Film Rebate Program for two additional years, through June 30, 2014; and 2) to increase the total amount of available funds to $2,000,000 for film rebates during that period.

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

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

Section 1. The San Francisco Administrative Code is hereby amended by amending Section 57.8, to read as follows:

SEC. 57.8. FILM REBATE PROGRAM.

(a) Purpose. The purpose of the Film Rebate Program is to increase the number of qualified film productions being made in San Francisco, increase the number of City residents employed in the filmmaking industry, and encourage the resulting economic benefits to increased filmmaking in San Francisco.

(b) Definitions. As used in this Section, the following terms shall have the following meanings:

(1) "Principal photography" means the time period and phase of film production during which the main photography occurs.

(2) "Qualified low-budget film production" means a feature-length film, documentary film, docudrama film, television film, television pilot, "reality" program or each episode of a television series, regardless of the medium used to create or convey it, that is

produced by a film company that expends at least 55 percent of the total principal photography days exclusively in the City and has a total budget of no more than $3,000,000. "Qualified low-budget film production" shall not include: (i) a news or current affairs program, interview or talk program, instructional film or program, film or program consisting primarily of stock footage, sporting event or sporting program, game show, award ceremony, film or program intended primarily for industrial, corporate or institutional end-users, fundraising film or program, commercials, or music videos; or (ii) a production for which records are required under Title 18 United States Code Section 2257, to be maintained with respect to any performer in such production.

(3) "Qualified film production" means a feature-length film, documentary film, docudrama film, television film, television pilot, "reality" program or each episode of a television series, regardless of the medium used to create or convey it, that is created by a film company that expends at least 65 percent of the total principal photography days exclusively in the City. "Qualified film production" shall not include: (i) a news or current affairs program, interview or talk program, instructional film or program, film or program consisting primarily of stock footage, sporting event or sporting program, game show, award ceremony, film or program intended primarily for industrial, corporate or institutional end-users, fundraising film or program, commercials, or music videos; or (ii) a production for which records are required under Title 18 United States Code Section 2257, to be maintained with respect to any performer in such production.

(4) "Qualified production cost," means the following expenses of a qualified low-budget film production or a qualified film production:

(A) Any taxes, with the exception of hotel or sales taxes, paid to the City, or any of its constituent departments, the proceeds of which are placed in the general fund;

(B) Any moneys paid to the City, or any of its constituent departments, for the use of City property, equipment, or employees other than police services as described in Chapter 10B of this Administrative Code except as authorized in subsection (D) below;

(C) Any daily use fees charged by the Film Commission, pursuant to Section 57.5 of the Administrative Code, to engage in film production in the City; and

(D) Police services as described in Chapter 10B of this Administrative Code, provided that the such services do not exceed 4 Police Officers per day for a total of 12 hours maximum per day per officer.

(c) Rebate Program.

(1) Allowance of Rebate. A qualified low-budget film production or qualified film production that pays qualified production costs shall be entitled to a rebate, to be calculated as provided herein, provided that the qualified production has entered into a first source hiring agreement with the City that demonstrates good faith efforts to hire economically disadvantaged individuals referred by the San Francisco Workforce Development System to work for the qualified production. Good faith efforts shall include, at a minimum, consulting with the FSHA for the purpose of preparing a list of positions for which individuals referred by the City might qualify, providing that list to the FSHA at least two weeks prior to the first day of shooting, and documenting efforts to contact and interview job candidates referred by the City to fill the positions listed.

(2) Amount of Rebate. The City shall pay one dollar for each dollar the qualified low budget film production or qualified film production paid in qualified production cost not to exceed ~~*$1.8 million*~~*2 million* dollars by June 30, ~~*2012*~~*2014*. The rebate shall be paid from the fund into which the qualified production cost was originally deposited. In no event shall the amount of any rebate paid *for a single production* after April 1, 2009 exceed $600,000.00. The rebate shall not be paid from funds dedicated under bond or other legal financing covenants.

Rebates paid under this Ordinance shall be paid only to those qualified film productions whose filming commenced on or after the effective date of this Ordinance.

(3) Implementation. After holding a public hearing, the Executive Director of the Film Commission, in consultation with the Controller, shall promulgate rules and regulations to establish the procedures for implementation of the Film Rebate Program. Such rules shall include provisions describing the application process, the standards used to evaluate the applications, the documentation that will be required to substantiate the amount of the rebate, the appeal process, and any such other provisions as deemed necessary and appropriate to carry out the Film Rebate Program.

(d) Reports. The Executive Director shall report annually to the Board of Supervisors on the implementation of the Film Rebate Program. The report shall include a list of each qualified film production, residency of employees, and the total of qualified production costs submitted and paid to each film production. Annually for the first three years after enactment of this Ordinance the Controller shall perform an assessment and review of the effect of the Film Rebate Program. Based on such assessment and review, the Controller shall prepare and submit an analysis to the Board of Supervisors. The Analysis shall be based on criteria deemed relevant by the Controller, and may include but is not limited to data contained in the annual reports to the Board of Supervisors submitted by the Director of the Film Commission.

(1) By December 31, ~~2011~~*2013*, the Film Commission, working with the Controller's Office, shall submit a report to the Board of Supervisors on the *current* results of the Film Rebate Program, addressing the objectives of the Program. The report should include a list of all film production companies that have had permits with the Film Commission, the number of qualified film productions, the number of San Francisco residents employed on such film productions, verification of the number of jobs and the salaries paid to economically disadvantaged San Francisco residents hired through the City's Workforce Development

Program, the amount of the rebates paid to the film production companies, and the overall economic impact from the City's Film Rebate Program *since the last Film Commission report to the Board of Supervisors*.

(e) The Film Rebate Program shall expire on June 30, ~~2012~~*2014*, unless extended by ordinance. If the Film Rebate Program is not extended, the City Attorney shall cause this Section to be removed from future editions of the San Francisco Municipal Code without further action of the Board.

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

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

By: _____
ADINE VARAH
Deputy City Attorney

FILE NO. 120406

LEGISLATIVE DIGEST

[Administrative Code – Film Rebate Program Extension and Funding]

Ordinance amending the San Francisco Administrative Code by amending Section 57.8, to: 1) extend the Film Rebate Program for two additional years, through June 30, 2014; and 2) to increase the total amount of available funds to $2,000,000 for film rebates during that period.

Existing Law

Under Chapter 57 of the San Francisco Administrative Code, the Film Rebate Program expires on June 30, 2012 and provides for $1.8 million of rebate funding over the three year period spanning from July 1, 2009 to June 30, 2012.

Amendments to Current Law

This ordinance would extend the Film Rebate Program for two additional years, through June 30, 2014, and increase the total amount of available funds to $2,000,000 for film rebates during that two-year period.

Background Information

The purpose of the San Francisco Rebate program, known as the "Scene in San Francisco Rebate Program," is to increase the number of film productions being made in San Francisco, increase the number of City residents employed in the filmmaking industry, and encourage the resulting economic benefits from filmmaking in San Francisco. Since 2006, the Film Rebate Program has offered rebates to several qualified film and television production companies for certain expenses paid to the City in an effort to increase local film and television production, support local hiring, and provide economic benefits to the City. Specifically, the current Film Rebate Program provides rebates for certain "qualified production costs" paid to the City, including, for example, film permit fees, payroll taxes, expenses for certain police services as described in Chapter 10B of the Administrative Code, and rental fees for City property or equipment used for film production activities.

Item 11 File 12-0406	Department: Film Commission

EXECUTIVE SUMMARY

Legislative Objective

- The proposed ordinance would authorize a two-year extension of the Film Rebate Program from July 1, 2012 through June 30, 2014. Under the proposed ordinance the City may pay up to $2,000,000 in rebates to qualified film and television production companies, subject to Board of Supervisors appropriation approval.

Key Points

- In 2006, the Board of Supervisors established a three-year Film Rebate Program (File No. 06-0065) which allows the City to rebate Payroll Taxes and fees, previously paid to the City by qualified film and television production companies that meet certain criteria, in an effort to increase local film and television production, support local hiring, and provide economic benefits to the City. Under the Film Rebate Program, the City rebates, to qualified production companies, Payroll Taxes and fees, previously paid to the City.
- Under the original ordinance, the City could pay rebates to qualified production companies up to a total of $1,800,000 over the three-year period from FY 2006-07 through FY 2008-09. In 2009, the Board of Supervisors extended the Film Rebate Program for an additional three years from FY 2009-10 through FY 2011-12, for a total of six years, but did not increase the total amount of the rebates that the City could pay to qualified production companies because of the low utilization of the rebates in the first three years of the program. Therefore, under the existing Film Rebate Program, the City can pay up to a total of $1,800,000 in rebates to qualified production companies over the six-year period from FY 2006-07 through FY 2011-12. In the first three years of the program from FY 2006-07 through FY 2008-09, the City paid $213,200 in rebates. In the second three years of the program from FY 2009-10 through FY 2011-12, the City paid $1,326,621 in rebates. Therefore, a total of $1,539,821 has been paid in rebates to production companies over a six year period.

Fiscal Impacts

- Under the proposed ordinance, the City may pay up to $2,000,000 in rebates to qualified production companies over the two-year period from FY 2012-13 through FY 2013-14, subject to Board of Supervisors appropriation approval. According to Ms. Susannah Greason Robbins, Film Commission Executive Director, the Film Commission expects increased utilization of the film rebates in FY 2012-13 and FY 2013-14 due to the Film Commission's increased outreach, and the release of the HBO production, *Hemingway & Gellhorn*, which utilized the Film Rebate Program. According to Ms. Greason Robbins, two film production companies are expected to apply for and receive a rebate over the next two years, a Woody Allen film expected to begin shooting in August 2012 and an untitled stop motion animation production by Disney.

Recommendation

- Approval of the proposed ordinance is a policy matter for the Board of Supervisors.

MANDATE STATEMENT / BACKGROUND

Mandate Statement

According to Charter Section 2.105, the Board of Supervisors shall act only by written ordinance or resolution, except that it may act by motion on matters over which the Board of Supervisors has exclusive jurisdiction.

Background

In 2006, the Board of Supervisors established a Film Rebate Program (File No. 06-0065) which allows the City to rebate permit fees and taxes, previously paid to the City by qualified film and television production companies that meet certain criteria, in an effort to increase local film and television production, support local hiring, and provide economic benefits to the City. The Film Rebate Program, administered by the San Francisco Film Commission, was originally approved for three years, from July 1, 2006 through June 30, 2009. In 2009 the Board of Supervisors approved an additional three-year extension of the program through June 30, 2012, for a total of six years (File No. 09-0024).

The Film Rebate Program offers a dollar-for-dollar rebate on all Payroll taxes and fees previously paid to the City by film and television production companies, up to a maximum amount of $600,000 per production, for productions in which the majority of the company's principal photography takes place in San Francisco. To qualify for rebates, film productions with a total budget of less than $3,000,000 must have at least 55 percent of their principal photography take place in San Francisco. For film productions with total budgets of $3,000,000 or more, at least 65 percent of their photography must take place in San Francisco.

The City collects daily use (or permit) fees from production companies for the right to film in the City. Additional fees are intended to cover the City's costs for the production company's use of City property, equipment and employees, including police, fire and transit employees. The City collects Payroll Taxes, based on wages paid by film and television production companies for the time that such company employees are working in San Francisco. Under the Film Rebate Program, Payroll Taxes paid to the City's General Fund by film production companies and daily use and other permit fees, may be rebated by the City back to the film production companies.

The Board of Supervisors appropriated $1,800,000 to fund the Film Rebate Program over the six year period, from July 1, 2006 through June 30, 2012

As shown in Table 1 below, out of the $1,800,000 previously appropriated by the Board of Supervisors, the Film Commission has authorized $1,539,821 in rebates to film production companies, leaving a balance of $260,179 for additional rebates.

Table 1
Film Rebate Program Productions and Rebates

Fiscal Year	Production*	Rebate Amount
FY 2006-07	Harrison Montgomery	$42,151
FY 2008-09	Mission Street Rhapsody	10,364
FY 2008-09	Milk	99,215
FY 2008-09	Trauma Pilot	61,470
Subtotal for FY 2006-07 through FY 2008-09		*$213,200*
FY 2009-10	5 Trauma Episodes	535,212
FY 2010-11	1 Trauma Episode	164,277
FY 2011-12	Hemingway & Gellhorn	571,563
FY 2011-12	Knife Fight	45,523
FY 2011-12	Cherry	10,046
Subtotal for FY 2009-10 through FY 2011-12		*$1,326,621*
Total Rebates		**$1,539,821**
Total Board of Supervisors Appropriation FY 2006-07 through FY 2011-12		**$1,800,000**
Unexpended Balance		**$260,179**

Source: San Francisco Film Commission

* Total of seven production companies with the Trauma Pilot and Trauma Episodes included as one production company. Under Administrative Code, Section 57.8, each episode of a television series is considered a qualified low-budget film production, with each episode eligible for up to $600,000 in rebates.

In accordance with Administrative Code Section 57.8, the Executive Director of the Film Commission must report annually to the Board of Supervisors on the implementation of the Film Rebate Program, including a list of each qualified film production, residency of employees, and the total of qualified productions costs submitted and paid to each film production. According to Ms. Susannah Greason Robbins, Executive Director of the Film Commission, an annual report for FY 2010-11 was submitted to the Board of Supervisors. According to Ms. Greason Robbins, reports on the Film Rebate Program submitted to the Board of Supervisors by previous Executive Directors could not be located.

According to the San Francisco Film Commission, 504 film and television productions have filmed in San Francisco since 2008, of which only seven productions, or 1.4 percent of the 504 film and television productions, have applied for the Film Rebate Program.

DETAILS OF PROPOSED LEGISLATION

The proposed ordinance would:

- Authorize an extension of the Film Rebate Program for two additional years, from July 1, 2012 through June 30, 2014 (Fiscal Years 2012-13 and 2013-14);

- Provide for up to $2,000,000 in film rebates to qualified production companies for the two-year period from July 1, 2012 through June 30, 2014, subject to appropriation approval by the Board of Supervisors.

Under the proposed ordinance, the Executive Director would continue to be required to report annually to the Board of Supervisors on the implementation of the Film Rebate Program. In addition, the Executive Director would be required to report to the Board of Supervisors by December 31, 2013 on the current results of the program.

FISCAL IMPACTS

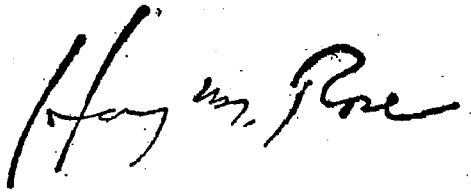
Under the proposed ordinance, the City would make available up to $2,000,000 in film rebates for the two year period from July 1, 2012 through June 30, 2014, subject to Board of Supervisors appropriation approval.

As noted in Table 1 above, there is an available balance for rebates of $260,179. Therefore, a balance of $2,260,179 would be available for additional rebates to qualified film and television production companies if the Board of Supervisors appropriates the additional $2,000,000 specified in this proposed ordinance.

According to Ms. Greason Robbins, two film production companies are expected to apply for and receive a rebate over the next two years, a Woody Allen film expected to begin shooting in August 2012 and an untitled stop motion animation production by Disney. The production by Disney is anticipated to be completed in three years and, according to Ms. Greason Robbins, Disney will apply for rebate amounts every six months. The total amount of the rebates for the single Disney production will still have the existing cap at $600,000. Ms. Greason Robbins further notes that more than 200 producers learned about the San Francisco Film Rebate Program in a brunch hosted by the California Film Commission on April 27, 2012. With the release of the HBO production, *Hemingway & Gellhorn* and its previous utilization of the Film Rebate Program, Ms. Greason Robbins anticipates an increase in applications for the rebate over the next two years.

RECOMMENDATION

Approval of the proposed ordinance is a policy matter for the Board of Supervisors.



Harvey M. Rose

cc: Supervisor Chu
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