

File No. 130586

Committee Item No. 3

Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Government Audit and Oversight

Date: June 27, 2013

Cmte Board

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| <input type="checkbox"/> | <input type="checkbox"/> | MOU |
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Completed by: Andrea Ausberry Date June 21, 2013

Completed by: _____ Date _____

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

1 [Administrative Code - Film Rebate Program]

2
3 **Ordinance amending the Administrative Code to allow the Director of Property of the**
4 **Department of Real Estate, in consultation with the Executive Director of the Film**
5 **Commission, to lease property and sublease such property to film companies for film-**
6 **related activities; to expand the production costs eligible for the Film Rebate Program**
7 **to include rent payments for such property; and making environmental findings.**

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

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

13 Section 1. The Planning Department has determined that the actions contemplated in
14 this ordinance comply with the California Environmental Quality Act (California Public
15 Resources Code Section 21000 et seq.). Said determination is on file with the Clerk of the
16 Board of Supervisors in File No. 130586 and is incorporated herein by reference.

17 Section 2. The Administrative Code is hereby amended by amending Section 57.8, to
18 read as follows:

19 **SEC. 57.8. FILM REBATE PROGRAM.**

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

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

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

3 "Qualified film production" means a feature-length film, documentary film, docudrama film,
4 television film, television pilot, "reality" program or each episode of a television series, regardless of
5 the medium used to create or convey it, that is created by a film company that expends at least 65
6 percent of the total principal photography days exclusively in the City. "Qualified film production"
7 shall not include:

8 (1) a news or current affairs program, interview or talk program, instructional film or
9 program, film or program consisting primarily of stock footage, sporting event or sporting program,
10 game show, award ceremony, film or program intended primarily for industrial, corporate or
11 institutional end-users, fundraising film or program, commercials, or music videos; or

12 (2) a production for which records are required under Title 18 United States Code Section
13 2257, to be maintained with respect to any performer in such production.

14 ~~(2)~~ "Qualified low-budget film production" means a feature-length film, documentary
15 film, docudrama film, television film, television pilot, "reality" program or each episode of a
16 television series, regardless of the medium used to create or convey it, that is produced by a
17 film company that expends at least 55 percent of the total principal photography days
18 exclusively in the City and has a total budget of no more than \$3,000,000. "Qualified low-
19 budget film production" shall not include:

20 ~~(1)~~ a news or current affairs program, interview or talk program, instructional film or
21 program, film or program consisting primarily of stock footage, sporting event or sporting
22 program, game show, award ceremony, film or program intended primarily for industrial,
23 corporate or institutional end-users, fundraising film or program, commercials, or music
24 videos; or

1 (~~ii~~) a production for which records are required under Title 18 United States Code
2 Section 2257, to be maintained with respect to any performer in such production.

3 ~~(3) "Qualified film production" means a feature-length film, documentary film, docudrama~~
4 ~~film, television film, television pilot, "reality" program or each episode of a television series,~~
5 ~~regardless of the medium used to create or convey it, that is created by a film company that expends at~~
6 ~~least 65 percent of the total principal photography days exclusively in the City. "Qualified film~~
7 ~~production" shall not include:~~

8 ~~(i) a news or current affairs program, interview or talk program, instructional film or~~
9 ~~program, film or program consisting primarily of stock footage, sporting event or sporting program,~~
10 ~~game show, award ceremony, film or program intended primarily for industrial, corporate or~~
11 ~~institutional end-users, fundraising film or program, commercials, or music videos; or~~

12 ~~(ii) a production for which records are required under Title 18 United States Code~~
13 ~~Section 2257, to be maintained with respect to any performer in such production.~~

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

16 ~~(A1) Any taxes, with the exception of hotel or sales taxes, paid to the City, or any of its~~
17 ~~constituent departments, the proceeds of which are placed in the general fund;~~

18 ~~(B2) Any moneys paid to the City, or any of its constituent departments, for the use of~~
19 ~~City property, equipment, or employees other than police services as described in Chapter~~
20 ~~10B of this Administrative Code except as authorized in subsection (D5) below;~~

21 ~~(3) Any moneys paid to the City, or any of its constituent departments, for the use of property~~
22 ~~leased by the City;~~

23 ~~(C4) Any daily use fees charged by the Film Commission, pursuant to Section 57.5 of~~
24 ~~the Administrative Code, to engage in film production in the City; and~~

1 (D5) Police services as described in Chapter 10B of this Administrative Code, provided
2 that ~~the~~ such services do not exceed 4 Police Officers per day for a total of 12 hours
3 maximum per day per officer.

4 (c) Rebate Program.

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

15 (2) Amount of Rebate. Effective July 1, 2012, the City shall pay one dollar for
16 each dollar the qualified low budget film production or qualified film production paid in qualified
17 production cost not to exceed \$2 million dollars by June 30, 2014 subject to annual
18 appropriation. The rebate shall be paid from ~~the fund into which the qualified production cost was~~
19 ~~originally deposited~~ the project account that the Controller has set aside for Film Rebate Program funds
20 (the "Film Rebate Project Account"). In no event shall the amount of any rebate paid for a
21 single production after April 1, 2009 exceed \$600,000.00. The rebate shall not be paid from
22 funds dedicated under bond or other legal financing covenants. Rebates paid under this
23 Ordinance shall be paid only to those qualified film productions whose filming commenced on
24 or after the effective date of this Ordinance.

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

8 (d) Authority to Lease Private Property for Film Company Use. Subject to the Controller's
9 certification of funds in the Film Rebate Project Account or other available funding source
10 ("Controller's Certification"), the Director of Property of the Department of Real Estate, in
11 consultation with the Executive Director of the Film Commission, shall have the authority to lease
12 property and sublease such property to film companies for film-related activities including, but not
13 limited to filming, editing, film production office space, and stage space uses ("Film Production
14 Leases") when the Executive Director determines, in consultation with the Director of Property, that
15 no suitable alternative City property is available. Notwithstanding any other provision of the
16 Municipal Code, including Administrative Code Sections 23.26 and 23.31, where a proposed Film
17 Production Lease is for a year-to-year or shorter tenancy and has received the Controller's
18 Certification under this subsection (d), the Director of Property may enter into such Film Production
19 Lease, including any corresponding sublease with a film company subtenant, regardless of whether the
20 monthly rent exceeds \$5,000, without action of the Board of Supervisors unless otherwise required by
21 the City Charter.

22 ~~(d)~~ (e) Reports.

23 (1) Annual Reports. The Executive Director shall report annually to the Board of
24 Supervisors on the implementation of the Film Rebate Program. The report shall include a list
25 of each qualified film production, residency of employees, and the total of qualified production

1 costs submitted and paid to each film production. ~~Annually for the first three years after~~
2 ~~enactment of this Ordinance the~~ The Controller shall perform an annual assessment and review of
3 the effect of the Film Rebate Program. Based on such assessment and review, the Controller
4 shall prepare and submit an analysis to the Board of Supervisors. The Analysis shall be
5 based on criteria deemed relevant by the Controller, and may include but is not limited to data
6 contained in the annual reports to the Board of Supervisors submitted by the Director of the
7 Film Commission.


8 (12) 2013 Report. By December 31, 2013, the Film Commission, working with
9 the Controller's Office, shall submit a report to the Board of Supervisors on the current results
10 of the Film Rebate Program, addressing the objectives of the Program. The report should
11 include a list of all film production companies that have had permits with the Film Commission,
12 the number of qualified film productions, the number of San Francisco residents employed on
13 such film productions, verification of the number of jobs and the salaries paid to economically
14 disadvantaged San Francisco residents hired through the City's Workforce Development
15 Program, the amount of the rebates paid to the film production companies, and the overall
16 economic impact from the City's Film Rebate Program since the last Film Commission report
17 to the Board of Supervisors.

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

22
23 Section 3. Effective Date. This ordinance shall become effective 30 days from the
24 date of passage.
25

1 Section 4. In enacting this ordinance, the Board of Supervisors intends to amend only
2 those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation
3 marks, charts, diagrams, or any other constituent parts of the Administrative Code that are
4 explicitly shown in this ordinance as additions, deletions, Board amendment additions, and
5 Board amendment deletions in accordance with the "Note" that appears under the official title
6 of the ordinance.

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

9 By: 
10 ADINE K. VARAH
11 Deputy City Attorney

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LEGISLATIVE DIGEST

[Administrative Code – Film Rebate Program]

Ordinance amending the Administrative Code to allow the Director of Property of the Department of Real Estate, in consultation with the Executive Director of the Film Commission, to lease property and sublease such property to film companies for film-related activities; to expand the production costs eligible for the Film Rebate Program to include rent payments for such property; and making environmental findings.

Existing Law

Under Section 57.8 of the Administrative Code, the City provides a Film Rebate Program in order to increase the number of qualified film productions in San Francisco, increase the number of City residents employed in the filmmaking industry, and encourage the resulting economic benefits to increased filmmaking. As part of the Film Rebate Program, qualified film productions are eligible for rebates on certain qualified film production expenses paid to the City. Currently, the Film Rebate Program does not allow qualified film production companies to obtain a rebate for rent payments made for use of non-City property. Section 57.8 does not expressly allow the Film Commission to sublease non-City property to film companies.

Amendments to Current Law

Under the proposed Ordinance, the Director of Property of the Department of Real Estate, in consultation with the Executive Director of the Film Commission, shall have the authority to lease property and sublease such property to film companies for film-related activities including, but not limited to filming, editing, film production office space, and stage space uses (“Film Production Leases”) when the Executive Director determines, in consultation with the Director of Property, that no suitable alternative City property is available. In addition, the proposed Ordinance expressly expands the definition of the “qualified production costs” that are eligible for rebate to include rental payments made to the City for the “use of property leased by the City.” Where a proposed Film Production Lease is for a year-to-year or shorter tenancy and has received the Controller’s certification of available funds in the Film Rebate Account or other available funding source, the Director of Property may enter into such Film Production Lease, including any corresponding sublease with a film company subtenant, without action of the Board of Supervisors unless otherwise required by the City Charter.

Background Information

According to the Film Commission, although the Film Commission encourages film production companies to use City property, suitable City property is not always available for proposed film production activities. Accordingly, in some cases, the City would need to lease space in order to accommodate and facilitate film production activities.

Introduction Form

By a Member of the Board of Supervisors or the Mayor

Time stamp
or meeting date

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

- 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 [] inquires"
- 5. City Attorney request.
- 6. Call File No. [] from Committee.
- 7. Budget Analyst request (attach written motion).
- 8. Substitute Legislation File No. [130586]
- 9. Request for Closed Session (attach written motion).
- 10. Board to Sit as A Committee of the Whole.
- 11. Question(s) submitted for Mayoral Appearance before the BOS on []

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 a Imperative

Sponsor(s):

Supervisor Mark E. Farrell

Subject:

Administrative Code - Film Rebate Program

The text is listed below or attached:

Attached

Signature of Sponsoring Supervisor: Mark E. Farrell

For Clerk's Use Only: