

1 [Local Business Enterprise and Non-Discrimination in Contracting Bonding and Financial
2 Assistance Program.]

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4 **Ordinance extending the term of the bonding assistance program to end on the earlier**
5 **of (1) June 30, 2013 or (2) the date on which the Controller is no longer able to certify**
6 **the availability of funds for any new guarantee agreement.**

7 Note: Additions are *single-underline italics Times New Roman*;
8 deletions are *strikethrough italics Times New Roman*.
9 Board amendment additions are double underlined.
Board amendment deletions are ~~strikethrough normal~~.

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

11 Section 1. The San Francisco Administrative Code is hereby amended by amending
12 Section 14B.16, to read as follows:

13 **SECTION 14B.16. BONDING AND OTHER ASSISTANCE.**

14 (A) Bonding and Financial Assistance Program.

15 (1) Program Description. The City and County of San Francisco, acting through the
16 Commission, intends to provide guarantees to private bonding companies and financial
17 institutions in order to induce those entities to provide required bonding and financing to
18 eligible contractors and subcontractors bidding on and performing City public work and
19 construction contracts. This bonding and financial assistance program is subject to the
20 provisions of this Section 14B.16(A).

21 (2) Eligible Contracts. The assistance described in this Section 14B.16(A) shall be
22 available for any City public works or construction contract to which this Ordinance applies.

23 (3) Eligible Businesses. Businesses must meet the following criteria to qualify for
24 assistance under this Section 14B.16(A).

25 (a) The business may be either a prime contractor or subcontractor; and

1 (b) The business must be certified by the Director as an LBE according to the
2 requirements of Section 14B.3;

3 (c) The business may be required to participate in a "bonding assistance training
4 program" as offered by the Commission, which is anticipated to provide the following:

5 (i) Bond application assistance,

6 (ii) Assistance in developing financial statements,

7 (iii) Assistance in development of a pre-bond surety profile,

8 (iv) Identification of internal financial control systems, and

9 (v) Development of accurate financial reporting tools.

10 (4) Agreements Executed by the Human Rights Commission. The Director is hereby
11 authorized to enter into the following agreements in order to implement the bonding and
12 financial assistance program described in this Section 14B.16(A):

13 (a) With respect to a surety bond, the agreement to guaranty up to 40 percent of the
14 face amount of the bond or \$750,000, whichever is less;

15 (b) With respect to a construction loan to be made to a contractor or subcontractor, an
16 agreement to guaranty up to 50 percent of the original principal amount of the construction
17 loan or 50 percent of the actual loss suffered by the financial institution as a result of a loan
18 default, whichever is less; provided that in any event the City's obligations with respect to a
19 guaranty shall not exceed \$750,000;

20 (c) Any other documents deemed necessary by the Director to carry out the objectives
21 of this program, provided that such documents shall be subject to review and approval by the
22 City Attorney's Office.

23 (5) Monitoring and Enforcement. The Director shall maintain records on the use and
24 effectiveness of this program, including but not limited to (1) the identities of the businesses
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1 and bonding companies participating in this program, (2) the types and dollar amounts of
2 public work contracts for which the program is utilized, and (3) the types and dollar amounts of
3 losses which the City is required to fund under this program. The Director shall submit written
4 reports to the Board of Supervisors every six months beginning January 1, 2007, advising the
5 Board of the status of this program and its funding capacity, and an analysis of whether this
6 program is providing to be useful and needed.

7 (6) Funding and Accounts. As of September 1, 2006, funding for this program may be
8 derived from the following sources:

9 (a) The Board of Supervisors has appropriated or will appropriate funds for the
10 operation of this program.

11 (b) Each Department authorized to contract for public works or improvements
12 pursuant to San Francisco Administrative Code Chapter 6 may commit to this program up to
13 ten percent (10%), but not less than one percent (1%), of the budget for every public work or
14 improvement undertaken. (A "public work or improvement" is defined in San Francisco
15 Administrative Code Chapter 6.).

16 (c) The Treasurer of the City and County of San Francisco is hereby authorized to
17 negotiate a line(s) of credit or any credit enhancement program(s) or financial products(s) with
18 a financial institution(s) to provide funding; the program's guaranty pool may serve as
19 collateral for any such line of credit.

20 In the event the City desires to provide credit enhancement under this Subsection for a
21 period in excess of one fiscal year, the full aggregate amount of the City's obligations under
22 such credit enhancement must be placed in a segregated account encumbered solely by the
23 City's obligations under such credit enhancement.

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1 (7) Term of Bonding Assistance Program. The Director is authorized to enter into the
2 agreements described in this Subsection for a period ending on the earlier of (1) June 30,
3 ~~2008~~ 2013 (2) the date on which the Controller is no longer able to certify the availability of
4 funds for any new guarantee agreement.

5 (8) Default on Guarantees. The Human Rights Commission shall decertify any
6 contractor that defaults on a loan or bond for which the City has provided a guarantee on the
7 contractor's behalf. However, the Human Rights Commission may in its sole discretion refrain
8 from such decertification upon a finding that the City has contributed to such default.

9 (B) Education and Training. The Director shall continue to develop and to strengthen
10 education and training programs for LBEs and City contract awarding personnel.

11 (C) Cooperative Agreements. With the approval of the Commission and the Board of
12 Supervisors, the Director may enter into cooperative agreements with agencies, public and
13 private, concerned with increasing the use of LBEs in government contracting.

14 (Added by Ord. 92-06, File No. 050784, App. 5/11/2006)

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

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19 By: _____
20 Alicia Cabrera
21 Deputy City Attorney

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