

1 [Administrative Code - Rescinding Sunset in San Francisco Bonding and Financial Assistance  
2 Program]

3 **Ordinance amending the San Francisco Administrative Code, Section 14B.16, to**  
4 **rescind the sunset clause in the San Francisco Bonding and Financial Assistance**  
5 **Program, make technical amendments, and make environmental findings and findings**  
6 **of consistency with General Plan.**

7  
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 ~~strike-through 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. 121211 and is incorporated herein by reference.

17 Section 2. The San Francisco Administrative Code is hereby amended by amending  
18 Section 14B.16, to read as follows:

19 (A) **San Francisco Bonding and Financial Assistance Program.**

20 (1) **Program Description.** The City and County of San Francisco, acting through the  
21 City Administrator, or, in his or her discretion, as delegated to the Director of Risk Management, a  
22 division of the Office of the City Administrator ("Risk Manager")~~Commission~~, intends to provide  
23 guarantees to private bonding companies and financial institutions in order to induce those  
24 entities to provide required bonding and financing to eligible contractors and subcontractors  
25

1 bidding on and performing City public works/construction contracts. This bonding and financial  
2 assistance program is subject to the provisions of this Section 14B.16(A).

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

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

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

8 (b) The business must be certified by the ~~Director~~ Contract Monitoring Division of  
9 the Office of the City Administrator ("CMD") as an LBE according to the requirements of Section  
10 14B.3, 14B.5, or 14B.6;

11 (c) The business may be required to participate in a "bonding assistance  
12 training program" as offered by the ~~Risk Manager~~ Commission, which is anticipated to provide  
13 the following:

- 14 (i) Bond application assistance.
- 15 (ii) Assistance in developing financial statements,
- 16 (iii) Assistance in development of a pre-bond surety profile,
- 17 (iv) Identification of internal financial control systems, and
- 18 (v) Development of accurate financial reporting tools.

19 (4) **Agreements Executed by the ~~Risk Manager~~ Human Rights Commission.** The ~~Risk~~  
20 ~~Manager~~ Director is hereby authorized to enter into the following agreements in order to  
21 implement the bonding and financial assistance program described in this Section 14B.16(A):

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

24 (b) With respect to a construction loan to be made to a contractor or  
25 subcontractor, an agreement to guaranty up to 50 percent of the original principal amount of

1 the construction loan or 50 percent of the actual loss suffered by the financial institution as a  
2 result of a loan default, whichever is less; provided that in any event the City's obligations with  
3 respect to a guaranty shall not exceed \$750,000;

4 (c) Any other documents deemed necessary by the Risk Manager~~Director~~ to  
5 carry out the objectives of this program, provided that such documents shall be subject to  
6 review and approval by the City Attorney's Office.

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

15 (6) **Contributions to the San Francisco Self-Insurance Surety Bond Fund.** Subject  
16 to the budgetary and fiscal provisions of the San Francisco Charter, each department that  
17 conducts public works or improvements under Chapter 6 of the Administrative Code shall  
18 contribute annually to the San Francisco Self-Insurance Surety Bond Fund ("the Fund") an  
19 amount that is set by multiplying the annual contribution rate set pursuant to Section  
20 10.100-371(c) times its total appropriations for capital construction and improvement.

21 ~~(7) — No later than May 1, 2009, the Director in consultation with the City's Risk Manager~~  
22 ~~shall conduct a study of the City's maintenance and facility contracts for the purpose of recommending~~  
23 ~~a process for the annual contribution rate that would enable the City to include such contracts in the~~  
24 ~~City's Bonding and Financial Assistance Program. No later than June 1, 2009, the Director shall~~

1 ~~transmit to the Board of Supervisors appropriate legislation to include maintenance and facility~~  
2 ~~contracts in the program.~~

3 (78) The Treasurer of the City and County of San Francisco is hereby authorized to  
4 negotiate a line(s) of credit or any credit enhancement program(s) or financial product(s) with  
5 a financial institution(s) to provide funding; the program's guaranty pool may serve as  
6 collateral for any such line of credit.

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

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

15 (810) **Default on Guarantees.** The ~~City Administrator~~~~Human Rights Commission~~ shall  
16 decertify any contractor that defaults on a loan or bond for which the City has provided a  
17 guarantee on the contractor's behalf. However, the ~~City Administrator~~~~Human Rights Commission~~  
18 may in its sole discretion refrain from such decertification upon a finding that the City has  
19 contributed to such default.

20 (B) **Education and Training.** The ~~City Administrator~~~~Director~~ shall ~~continue to~~ develop  
21 and ~~to~~ strengthen existing education and training programs for LBEs and City contract  
22 awarding personnel.

23 (C) **Cooperative Agreements.** With the approval of the ~~Commission and the~~ Board of  
24 Supervisors, the ~~City Administrator~~~~Director~~ may enter into cooperative agreements with  
25

1 agencies, public and private, concerned with increasing the use of LBEs in government  
2 contracting.

3 Section 3. Effective Date. This ordinance shall become effective 30 days from the  
4 date of passage.

5 Section 4. This section is uncodified. In enacting this Ordinance, the Board intends to  
6 amend only those words, phrases, paragraphs, subsections, sections, articles, numbers,  
7 punctuation, charts, diagrams, or any other constituent part of the Administrative Code that  
8 are explicitly shown in this legislation as additions, deletions, Board amendment additions,  
9 and Board amendment deletions in accordance with the "Note" that appears under the official  
10 title of the legislation.

11

12

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

15

16 By: \_\_\_\_\_  
17 Catharine Barnes  
18 Deputy City Attorney

19

20

21

22

23

24

25