

1 [Annual Contributions to the San Francisco Self-Insurance Surety Bond Fund.]

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3 **Ordinance amending the San Francisco Bonding and Financial Assistance Program to**
4 **require annual contributions to the San Francisco Self-Insurance Surety Bond Fund.**

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

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

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

11 **SECTION 14B.16. *San Francisco* BONDING AND OTHER ASSISTANCE.**

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

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

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

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

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

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

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

- 3 (i) Bond application assistance,
- 4 (ii) Assistance in developing financial statements,
- 5 (iii) Assistance in development of a pre-bond surety profile,
- 6 (iv) Identification of internal financial control systems, and
- 7 (v) Development of accurate financial reporting tools.

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

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

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

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

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

5 (6) ~~Funding and Accounts~~Contributions to the San Francisco Self-Insurance Surety Bond
6 Fund.

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

12 (7) No later than May 1, 2009, the Director in consultation with the City's Risk Manager shall
13 conduct a study of the City's maintenance and facility contracts for the purpose of recommending a
14 process for the annual contribution rate that would enable the City to include such contracts in the
15 City's Bonding and Financial Assistance Program. No later than June 1, 2009, the Director shall
16 transmit to the Board of Supervisors appropriate legislation to include maintenance and facility
17 contracts in the program.

18 ~~As of September 1, 2006, funding for this program may be derived from the following sources:~~

19 ~~(a) The Board of Supervisors has appropriated or will appropriate funds for the operation of~~
20 ~~this program.~~

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

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

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

9 **(78) Term of Bonding Assistance Program.** The Director is authorized to enter into
10 the agreements described in this Subsection for a period ending on the earlier of (1) June 30,
11 2013 ~~2008~~. or (2) the date on which the Controller is no longer able to certify the availability of
12 funds for any new guarantee agreement.

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

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

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

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

3 By: _____
4 ALICIA CABRERA
5 Deputy City Attorney
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