

FILE NO. 001353

ORDINANCE NO. 255-00

1 [Bonding and Financial Assistance Program]

2 AMENDING SUBSECTION 12D.A.10(C) OF THE SAN FRANCISCO ADMINISTRATIVE
3 CODE EFFECTIVE JULY 1, 2001 TO AUTHORIZE ADDITIONAL FUNDING SOURCES FOR
4 THE BONDING AND FINANCIAL ASSISTANCE PROGRAM, TO LIMIT THE TERM OF THE
5 PROGRAM TO JUNE 30, 2005, AND TO PROVIDE FOR DECERTIFICATION IN THE
6 EVENT OF DEFAULT.

7 Note: Additions are underlined; deletions are in ((double parentheses)).

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

9 Section 1. Chapter 12D.A of the San Francisco Administrative Code is hereby
10 amended effective July 1, 2001, by amending Subsection 12D.A.10(C), to read as follows:

11 **SEC. 12D.A.10. PUBLIC WORKS CONTRACTS.**

12 **(C) Bonding and Financial Assistance Program.**

13 1. **Program Description.** The City and County of San Francisco, acting through its
14 Human Rights Commission ("HRC"), intends to provide guarantees to private bonding
15 companies and financial institutions in order to induce those entities to provide required
16 bonding and financing to eligible contractors bidding on and performing City public work
17 contracts. This bonding and financial assistance program is subject to the provisions of this
18 Subsection 12D.A.10(C).

19 2. **Eligible Contracts.** The assistance described in this Subsection 12D.A.10(C) shall
20 be available for any City public works contract awarded in accordance with San Francisco
21 Administrative Code Chapter 6.

22 3. **Eligible Contractors.** Contractors must meet the following criteria to qualify for
23 assistance under this Subsection 12D.A.10(C):

- 24 (a) The contractor may be either a prime contractor or subcontractor firm; and
25 (b) The contractor must be certified by the HRC as a Minority Business Enterprise

SUPERVISOR BROWN
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1 (“MBE”), Woman Business Enterprise (“WBE”) or Local Business Enterprise (“LBE”)
2 according to the requirements of San Francisco Administrative Code Chapter 12D.A;

3 (c) The contractor may be required to participate in a “bonding assistance training
4 program” as offered by the HRC, 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,
- 9 (v) Development of accurate financial reporting tools, and

10 **4. Agreements Executed by the Human Rights Commission.** The HRC is hereby
11 authorized to enter into the following agreements in order to implement the bonding and
12 financial assistance program described in this Subsection 12D.A.10(C):

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

20 (c) Any other documents deemed necessary by the HRC 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 HRC shall maintain records on the use and
24 effectiveness of this program, including but not limited to (1) the identities of the contractors
25 and bonding companies participating in this program, (2) the types and dollar amounts of

1 public work contracts for which the program is utilized, and (3) the types and dollar amounts of
2 losses which the City is required to fund under this program. The HRC shall submit written
3 reports to the Board of Supervisors every six months, beginning January 1, 2001, advising the
4 Board of the status of this program and its funding capacity, and an analysis of whether this
5 program is proving to be useful and needed.

6 **6. Funding and Accounts.** As of July 1, 2001, funding for this program may be
7 derived from the following sources:

8 (a) The Board of Supervisors has appropriated or will appropriate funds for the
9 operation of this program. ((In addition, the City will pursue private contributions to assist in
10 implementation of this program, including both technical assistance to participating entities
11 and monetary contributions to support credit enhancement.))

12 (b) Each Department authorized to contract for public works or improvements pursuant
13 to San Francisco Administrative Code Chapter 6 shall commit to this program up to ten
14 percent (10%), but not less than one percent (1%), of the budget for every public work or
15 improvement undertaken. (A "public work or improvement" is defined in San Francisco
16 Administrative Code Chapter 6.) This subsection is effective for those public works or
17 improvements where the award of the construction contract (as defined and regulated by
18 Administrative Code Chapter 6) occurs after July 1, 2001.

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

23 In the event the City desires to provide credit enhancement under this Subsection for a
24 period in excess of one fiscal year, the full aggregate amount of the City's obligations under
25 such credit enhancement must be ((set aside)) placed in a segregated account, encumbered

1 solely by the City's obligations under such credit enhancement.

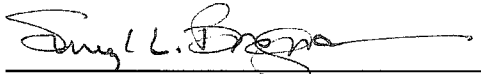
2 **7. Term of Bonding Assistance Program.** The HRC is authorized to enter into the
3 agreements described in this Subsection for a period ending on the earlier of (1) June 30,
4 2005 or (2) the date on which the Controller is no longer able to certify the availability of funds
5 for any new guarantee agreement.

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

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11 APPROVED AS TO FORM:

12 LOUISE H. RENNE, City Attorney

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15 By:



16 Sheryl L. Bregman
17 Deputy City Attorney
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City and County of San Francisco

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Tails

Ordinance

File Number: 001353

Date Passed:

Ordinance amending Subsection 12D.A.10(C) of the San Francisco Administrative Code effective July 1, 2001 to authorize additional funding sources for the Bonding and Financial Assistance Program, to limit the term of the program to June 30, 2005, and to provide for decertification in the event of default.

October 16, 2000 Board of Supervisors — PASSED, ON FIRST READING

Ayes: 10 - Ammiano, Becerril, Bierman, Brown, Katz, Leno, Newsom, Teng,
Yaki, Yee

Absent: 1 - Kaufman

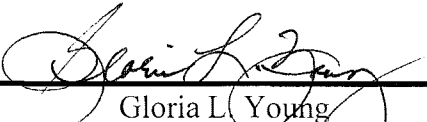
October 23, 2000 Board of Supervisors — FINALLY PASSED

Ayes: 8 - Ammiano, Becerril, Bierman, Brown, Leno, Teng, Yaki, Yee

Absent: 3 - Katz, Kaufman, Newsom

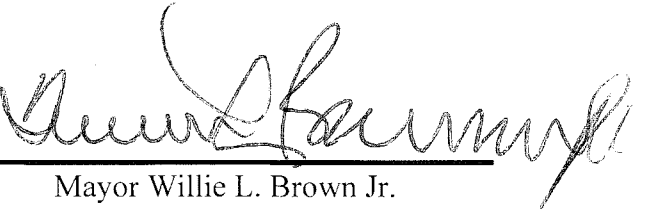
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I hereby certify that the foregoing Ordinance
was FINALLY PASSED on October 23, 2000
by the Board of Supervisors of the City and
County of San Francisco.



Gloria L. Young
Clerk of the Board

NOV 03 2000
Date Approved



Mayor Willie L. Brown Jr.