

1 [Slavery Era Disclosure Ordinance]

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3 **Ordinance amending the San Francisco Administrative Code by adding Chapter 12W,**
4 **Sections 12W.1 through 12W.7, to require contractors providing insurance and**
5 **insurance services, financial services, or textiles to the City to disclose any**
6 **participation in the slave trade, and creating an account, to which contractors subject**
7 **to this ordinance, and others, may make voluntary contributions, and requiring that**
8 **monies donated to this account be used to fund economic development and**
9 **educational initiatives designed to ameliorate the effects of slavery upon the residents**
10 **of San Francisco.**

11 Note: Additions are *single-underline italics Times New Roman*;
12 deletions are *strikethrough italics Times New Roman*.
13 Board amendment additions are double underlined.
14 Board amendment deletions are ~~strikethrough normal~~.

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

15 Section 1. The San Francisco Administrative Code is hereby amended by adding
16 Chapter 12W, to read as follows:

17 **Chapter 12W: San Francisco Slavery Disclosure Ordinance**

18 **SEC. 12W.1. FINDINGS AND PURPOSE.** The Board of Supervisors of the City
19 and County of San Francisco hereby finds and declares that:

20 (a) Insurance policies from the American slavery era, which have been
21 discovered in the archives of several insurance companies, document insurance
22 coverage to slaveholders for damage to or death of people subjected to slavery. In
23 some cases, existing insurance firms or their predecessor firms issued these policies.

24 (b) Further records may exist showing that insurance companies, financial
25 services firms, and textile companies, either directly or through their parent entities,

1 subsidiaries, predecessors in interest, or otherwise, bought or sold people subjected to
2 slavery, provided property insurance covering people subjected to slavery, provided
3 loans to purchase people subjected to slavery, used people subjected to slavery as
4 collateral for insurance policies or other transactions, profited from the trade in people
5 subjected to slavery, and/or provided related services to aid and abet such trade.

6 (c) Discovery and publication of these records is an important first step in
7 addressing the legacy of slavery in this country. For example, in June of 2005, the
8 Wachovia Corporation, in the course of complying with a Chicago law similar to this
9 Ordinance, discovered that some of its predecessor companies owned slaves and
10 used slaves as collateral for loans. Wachovia issued an apology for the actions of its
11 predecessor companies, and called for a "stronger dialogue about slavery and the
12 experience of African-Americans in our country."

13 (d) Insurance policies, loan documents and other documents and records
14 provide evidence of ill-gotten profits from slavery, which profits, in part, capitalized
15 insurers, financial services providers and textile companies. The successors of these
16 companies remain in existence today, and such profits from the uncompensated
17 labor of enslaved Africans represent a continuing legacy of slavery.

18 (e) Slavery was legal at the time that the contemptible practices outlined
19 above occurred, but that does not make the practices any less repugnant, abhorrent
20 or deplorable, nor in any way diminish the gravity of these wrongs or the importance
21 of rectifying and remediating these travesties.

22 (f) Deplorable treatment of Africans brought to this country as slaves was
23 not limited to the southern states. In 1852, the California Legislature passed a
24 California Fugitive Slave Act that gave white men the power to arrest Africans who
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1 they claimed were slaves, and return them to southern slave states. California's first
2 governor, Peter Burnet, recommended during the first session of the California
3 Legislature that the Assembly adopt a bill to exclude "Free Negroes" from California.
4 In 1858, the Assembly passed House Bill 395, "an Act to Restrict and Prevent the
5 Immigration to and Residence in this State of Negroes and Mulattoes." These laws,
6 and others like them, were a major factor in the decision of several hundred African
7 men and women to migrate from San Francisco to Victoria, Canada.

8 (g) Many San Francisco residents are descendants of people subjected to
9 slavery, people who were defined as private property and insured as such, people who
10 were used as collateral for insurance policies, loans and other transactions, were
11 dehumanized, snatched from their families, and coerced into performing labor without
12 appropriate compensation or benefits.

13 (h) Appropriate compensation to Africans for their labor would have been
14 bequeathed to their descendants to assist them in developing a solid economic base
15 that included individual wealth and thriving African American community institutions,
16 thereby providing a level playing field and ensuring equal opportunity in this country.

17 (i) The City and County of San Francisco acknowledges the loss of assets
18 that rightfully should be the property of descendants of African people subjected to slavery,
19 and extends its apologies to their descendants who continue to suffer the legacy of
20 slavery.

21 (j) The San Francisco Board of Supervisors pays tribute to and honors the
22 people subjected to slavery who toiled and sacrificed their lives in building this country's
23 economic foundation, and also honors descendants of those people subjected to slavery
24 in America who, notwithstanding the degradation of slavery and discrimination, and the
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1 systematic efforts to deprive them of a sense of family, human dignity and prosperity,
2 have developed a vibrant community, culture, and creative genius, and have made
3 untold contributions to the fabric of our society, in the absence of which this nation would
4 not be recognizable.

5 k) The effects of racism on the residents of the City and County of San
6 Francisco have been well documented in the San Francisco Human Rights
7 Commission's authorized study, The Unfinished Agenda, and in the Report of the 2004-
8 2005 Civil Grand Jury for the City and County of San Francisco, The More Things
9 Change, The More They Stay The Same: The City and County of San Francisco and the
10 San Francisco Unified School District Are Failing to Address the Educational Needs of
11 the Bayview Hunters Point Community.

12 (l) The aforesaid residents, and all of the residents of San Francisco, are
13 entitled to full disclosure of the information regarding the above-described transactions that
14 compensated slaveholders for damages to and death of people subjected to slavery and
15 provided other compensation and profits.

16 (m) In 2000, the California State Legislature passed Senate Bill 2199,
17 authored by then State Senator Tom Hayden, entitled "Slavery Era Insurance Policies."
18 Senate Bill 2199 (California Insurance Code section 13810 et seq.), effective January 1,
19 2001, requires that (1) the State Insurance Commissioner request and obtain information
20 from insurers licensed and doing business in California regarding records of slaveholder
21 insurance policies issued by predecessor corporations during the slavery era; (2) each
22 insurer licensed and doing business in California research and report to the Insurance
23 Commissioner with respect to any records in its possession or knowledge relating to
24 insurance policies issued to slaveholders that provided coverage for damage to or death of
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1 people subjected to slavery; (3) the State Insurance Commissioner obtain the names of
2 any slaveholders or people subjected to slavery described in the insurance records and
3 make the information available to the public and the Legislature; and (4) descendants of
4 people subjected to slavery, people who were defined as private property, dehumanized,
5 divided from their families, forced to perform labor without appropriate compensation or
6 benefits, and whose owners insured them as property, are entitled to full disclosure.

7 (n) The Board of Supervisors finds that full disclosure of the facts and
8 acknowledgement of the depth and scope of the shameful commerce in slavery furthers
9 healing in the San Francisco community, both on the part of those who have been and
10 are continuing to be harmed, as well as those who profited from this abhorrent practice.

11 (o) The Board of Supervisors finds that the establishment of a fund to which
12 contractors subject to this ordinance and others may make voluntary contributions will
13 promote healing and assist the City in rectifying and remedying some of the legacies of
14 the shameful commerce in slavery, thereby protecting and promoting public health, safety
15 and welfare of San Francisco residents and the San Francisco community.

16 (p) The purpose of this Ordinance is to promote full and accurate disclosure
17 to the public of: slavery insurance policies, including but not limited to policies issued to
18 slaveholders for damage to or death of persons subjected to slavery, and policies issued
19 to insure business transactions and operations related to the traffic in persons subjected
20 to slavery; evidence of purchase and sale of people subjected to slavery; provision of
21 loans to purchase people subjected to slavery; use of people subjected to slavery as
22 collateral for insurance policies, loans or other transactions; provision of any related
23 services to aid and abet such transactions; and profits derived from the slave trade; by (i)

1 any contractors providing insurance services or financial services to the City, and (ii) any
2 textile companies doing business with the City.

3 (q) The purpose of this Ordinance is also is to establish a fund to which
4 contractors subject to this ordinance and others may make voluntary contributions to
5 promote healing and assist in remedying depressed economic conditions, poverty, unequal
6 educational opportunity and other legacies of slavery era among the population of the City.

7 (r) This Ordinance promotes important policy objectives of the City, and the
8 City will suffer actual damages due to contractors' failure to comply with this Ordinance.
9 Because these actual damages will be impractical or extremely difficult to prove, the City is
10 justified in imposing liquidated damages for failure to comply with this Ordinance.

11 **SEC. 12W.2. DEFINITIONS.**

12 As used in this Chapter, the following capitalized terms shall have the following
13 meanings:

14 (a) "Contract" shall mean an agreement between the City and any person,
15 persons or other entity for public works or improvements to be performed, or for goods or
16 services to be purchased, out of the treasury of the City and County, or out of trust monies
17 under the control of or collected by the City and County.

18 (b) "Contract Amendment" shall mean an agreement entered into on or after
19 the effective date of this Ordinance pursuant to which a Contract entered into prior to the
20 effective date of this Ordinance is modified or supplemented to: (1) extend the term of the
21 Contract; (2) modify the total amount of money due from the City under the Contract; (3)
22 modify the scope of services to be performed under the Contract; or (4) increase the amount,
23 or change the nature of, goods to be provided under the Contract. The term "Contract
24 Amendment" does not include construction change orders.

1 (c) "Contractor" shall mean any person or persons, firm, partnership,
2 corporation, or combination thereof, which enters into a Contract with a department head or
3 other employee or officer empowered by law to enter into Contracts on the part of the City.

4 (d) "Director" shall mean the Director of Administrative Services.

5 (e) "Participated in the Slave Trade" shall mean: (1) issued slavery insurance
6 policies, including but not limited to policies issued to Slaveholders for damage to or death of
7 Persons Subjected to Slavery, and policies issued to insure business transactions and
8 operations related to the traffic in Persons Subjected to Slavery; (2) purchased, sold or held
9 Persons Subjected to Slavery; (3) provided loans to others to facilitate the purchase, sale,
10 transport, or enslavement of Persons Subjected to Slavery; (4) used Persons Subjected to
11 Slavery as collateral for insurance policies, loans or other transactions; (5) facilitated the traffic
12 in Persons Subjected Slavery by transporting such persons by boat or rail; or (vi) provided any
13 other services to aid and abet the traffic in Persons Subjected to Slavery.

14 (f) "Person Subjected to Slavery" shall mean any person who was wholly
15 subject to the will of another, whose person and services were wholly under the control of
16 another, who was in a state of enforced and compulsory service to another, and who was
17 deemed by law to be the property of another during the Slavery Era.

18 (g) "Predecessor Company" shall mean an entity whose ownership, title and
19 interest, including all rights, benefits, duties and liabilities, were acquired in an uninterrupted
20 chain of succession by the Contractor.

21 (h) "Profits from the Slave Trade" shall mean any economic advantage or
22 financial benefit derived from the labor of Persons Subjected to Slavery or from Participation
23 in the Slave Trade.

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1 (i) "Slaveholder" shall mean holders of Persons Subjected to Slavery,
2 owners of business enterprises that used the labor of Persons Subjected to Slavery, owners
3 of vessels or other modes of transport that transported Persons Subjected to Slavery, and
4 merchants or financiers dealing in the purchase, sale or other business transactions related to
5 Persons Subjected to Slavery.

6 (j) "Slavery Era" shall mean that period of time in the United States of
7 America prior to the year "1865."

8 **SEC. 12W.3. EXCEPTIONS.**

9 This Chapter shall not be applicable to the following:

10 (a) Contracts for: (1) the receipt, administration, management or investment of
11 monies held in trust by the City in the Retirement Fund or the Health Service System Trust
12 Fund; (2) the provision of medical or dental insurance to City employees; (3) the issuance,
13 sale, management or administration of City bonds, notes or lease financings, or other similar
14 obligations, and related credit, liquidity, payment exchange and other agreements; (4) the
15 safeguard, deposit and investment of City funds by the City Treasurer in accordance with
16 Charter section 6.106; and (5) the subordination or reorganization of debt held by the City.

17 (b) Contracts, loans or grant agreements with a federal or state agency, if the
18 application of this Chapter would violate, or be inconsistent with, the terms or conditions of
19 any such grant, loan or contract, or with the instructions or directions of the applicable federal
20 or state agency.

21 (c) Contracts for urgent litigation expenses, and agreements entered into pursuant
22 to the settlement of legal proceedings.

23 (d) Contracts for needed goods or services where the Director finds that such goods
24 or services are available from only one source that is (1) willing to enter into a contract with
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1 the City on the terms and conditions established by the City and (2) not currently disqualified
2 from doing business with the City.

3 (e) Contracts entered into in emergency situations in which it is necessary to
4 immediately procure commodities or services, or to make repairs to safeguard the lives or
5 property of the citizens of the City, or the property of the City, or to maintain public health or
6 welfare as a result of extraordinary conditions created by war, epidemic, natural disaster, or
7 the breakdown of any plant, equipment, or structure in the City.

8 (f) Contracts for a cumulative amount of \$5,000 or less per vendor in each fiscal
9 year.

10 **SEC. 12W.4. SLAVERY ERA DISCLOSURE**

11 (a) Each Contractor providing: 1) insurance or insurance services; 2) financial
12 services, or 3) textiles to the City, shall complete an affidavit verifying that the Contractor has
13 searched through any and all records in the Contractor's possession or control, including
14 records of any parent or subsidiary entity or Predecessor Company, and has made a good
15 faith effort to search any relevant records that are within the Contractor's knowledge but not
16 within its possession or control, for evidence that the Contractor, its parent or subsidiary
17 entity, or its Predecessor Company Participated in the Slave Trade or received Profits from
18 the Slave Trade.

19 (b) Each Contractor described above shall file an affidavit with the Director attesting
20 to the search for relevant records, and stating whether the Contractor located any relevant
21 records. If the Contractor located relevant records, the Contractor shall include in the
22 affidavit: (1) the names of each Person Subjected to Slavery, each Slaveholder, and each
23 person or entity who Participated in the Slave Trade or derived Profits from the Slave Trade,
24 mentioned in the records, (2) a description of the type of transactions, services, or other acts
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1 evidenced by the records; and (3) the extent and nature of any Profits from the Slave Trade
2 evidenced by the records.

3 (c) information contained in the affidavits shall be subject to public disclosure. The
4 Director, after consultation with the City Attorney, shall, to the extent consistent with local,
5 state, and federal law: (1) provide the affidavits to the public upon request, (2) provide an
6 initial report to the Mayor and the Board of Supervisors, at an open public meeting no later
7 than nine months following the effective date of this Ordinance, setting forth the number of
8 affidavits received in the initial nine-month period, and summarizing the information contained
9 in those affidavits; and (3) continue to provide such reports annually to the Board of
10 Supervisors.

11 (d) After the effective date of this Ordinance, no new Contract or new Contract
12 Amendment shall be binding upon the City until the Director receives the affidavit described
13 above.

14 **SEC. 12W.5. VOLUNTARY CONTRIBUTIONS TO AMELIORATE THE EFFECTS OF**
15 **SLAVERY**

16 (a) The Controller shall establish an account for the collection of voluntary
17 contributions from Contractors subject to this Ordinance, and from any other persons or
18 entities, to be used to ameliorate the legacy of the Slavery Era on Persons Subjected to
19 Slavery and their descendants.

20 (b) The Director shall encourage all Contractors subject to this Ordinance to make
21 voluntary contributions to the account.

22 (c) The Director shall include in the report to the Board of Supervisors required by
23 section 12W.4(c)(2), above, the amount of any contributions to the account collected during
24 the first nine months after the effective date of this Ordinance. The Director, after consultation
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1 with the San Francisco African American Historical & Cultural Society, shall include in this
2 initial report a recommendation for a method of determining how to expend monies
3 contributed to the account.

4 (d) The Director shall include a report on contributions to and expenditures from the
5 account in each subsequent annual report required by Section 12W.4(c)(3) of this Ordinance.

6 **SEC. 12W.6. ENFORCEMENT**

7 (a) All Contracts shall provide that in the event the Director finds that a Contractor
8 has failed to file an affidavit as required by section 12W.4(a), or has willfully filed a false
9 affidavit, the Contractor shall be liable for liquidated damages for each Contract in an amount
10 equal to the Contractor's net profit on the Contract, 10 percent of the total amount of the
11 Contract, or \$1,000, whichever is greatest, as determined by the Director. All Contracts shall
12 also contain a provision in which the Contractor acknowledges and agrees that the liquidated
13 damages assessed shall be payable to the City upon demand and may be set off against any
14 monies due to the Contractor from any Contract with the City.

15 (b) All Contracts shall require Contractors to maintain records necessary for
16 monitoring their compliance with this Ordinance.

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23 **SEC. 12W.7. SEVERABILITY**

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1 In the event that a court or agency of competent jurisdiction holds that federal or state
2 law, rule or regulation invalidates any clause, sentence, paragraph or section of this Chapter
3 or the application thereof to any person or circumstances, it is the intent of the Board of
4 Supervisors that the court or agency sever such clause, sentence, paragraph or section so
5 that the remainder of this Chapter shall remain in effect.

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

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10
11 By: _____
12 Mariam M. Morley
13 Deputy City Attorney