

LEGISLATIVE DIGEST

[Administrative Code – Rescinding Sunset in San Francisco Bonding and Financial Assistance Program]

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

Existing Law

The San Francisco Bonding and Financial Assistance Program, commonly referred to as the "Surety Bond Program," provides guarantees to private surety bonding companies and financial lending institutions to enable certified LBEs to obtain the bonds and construction loans needed to bid for prime and/or subcontracting opportunities on City public works contracts. The guarantees provided through the Surety Bond Program currently are individually backed by letters of credit issued by a commercial banking institution (currently Union Bank of California) under separate contract with the City.

The Human Rights Commission ("HRC") and the Treasurer's Office administered the Surety Bond Program prior to the Mayor's transfer of HRC functions to the City Administrator. After the transfer of functions, the Treasurer's functions under the Surety Bond Program are unchanged, the HRC Commission's functions are transferred to the City Administrator, and the HRC Director's functions are transferred to the head of the City Administrator's Contract Monitoring Division.

Since its initial adoption in 1998, the ordinance establishing the Surety Bond Program has included a sunset clause. The Board of Supervisors periodically has extended the sunset date so that the ordinance has never expired.

Amendments to Current Law

This Ordinance rescinds 14B.16(A)(9), the sunset provision in Surety Bond Program.

This Ordinance also makes two types of technical amendments:

It amends various provisions of 14B.16 to reflect the Mayor's transfer of HRC functions (1) to the City Administrator acting in the capacity of the former HRC Commission, and (2) to the City Administrator as may be delegated to the Director of Risk Management or Contract Monitoring Division, each of whom acting in the capacity of the former HRC Director for the specified functions; and

It deletes Section 14B.16 (A)(7) which sets forth a reporting and legislative drafting requirement that expired in 2009.

Background Information

The sunset clause eliminated by this Ordinance adds costs to the Surety Bond program in two ways:

(1) commercial banking institutions that provide letters of credit to back the bond or loan guarantees will not contractually commit to extend credit to the City beyond the ordinance sunset date. The City therefore has been required to renegotiate its bank agreement every 3-5 years as the sunset date looms - even though the Board of Supervisors to date has always extended the sunset date before the ordinance expires; and

(2) the terms of the individual letters of credit themselves cannot exceed the sunset of the authorizing ordinance, and in fact, are by their terms callable by the surety bond issuer 45 days in advance of the sunset date. Accordingly, as the sunset date approaches, the City pays the same issuance fees for letters of credit with progressively shorter terms.

The sunset clause requires the Board of Supervisors to "re-visit" the Surety Bond program at defined intervals. Without the sunset clause, the Board of Supervisors retains the authority to revise or rescind the program by ordinance or to reduce or eliminate its funding through the budget process.