

1 [Administrative Code - City Contractors and Subcontractors - Consideration of Criminal
2 History in Hiring and Employment Decisions]

3 **Ordinance amending the Administrative Code to require that City contractors and their**
4 **subcontractors not discriminate against employees or applicants based on criminal**
5 **history and refrain from asking applicants about criminal history as part of their initial**
6 **application for employment.**

7 NOTE: Additions are *single-underline italics Times New Roman*;
8 deletions are ~~*strike-through italics Times New Roman*~~.
9 Board amendment additions are double-underlined;
Board amendment deletions are ~~strikethrough normal~~.

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

11 Section 1. Findings.

12 After public hearings and consideration of testimony and documentary evidence, the
13 Board of Supervisors finds and declares that reducing barriers to employment for people who
14 have previously offended, and decreasing unemployment in communities with concentrated
15 numbers of people who have previously offended, will improve public safety. The Board
16 further finds that employment opportunities are essential to enable ex-offenders to reintegrate
17 and remain law-abiding productive members of society.

18 Individuals with prior arrest and conviction records repeatedly cite employment and
19 housing opportunities as the top barriers to successful reintegration. See San Francisco
20 Community Corrections Partnership Executive Committee, *Public Safety Realignment in San*
21 *Francisco: The First 12 Months* (December 19, 2012). In January 2012, the journal
22 *Pediatrics* reported that by age 23, 30-41 percent of Americans have been arrested,
23 compared with under 23 percent in 1967. The increase reflects in part the considerable
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1 growth in arrests for drug offenses. Robert Brame et. al., *Cumulative Prevalence of Arrest*
2 *From Ages 8 to 23 in a National Sample*, 129 *Pediatrics* 21, 21-27 (January 2012).

3 The percentage of people of color convicted and incarcerated nationwide exceeds their
4 representation in the population as a whole, creating a disproportionate impact on their lives,
5 families and communities. "The impact of these arrests is felt for years. The ubiquity of
6 criminal-background checks and the efficiency of information technology in maintaining those
7 records and making them widely available, have meant that millions of Americans — even
8 those who served probation or parole but were never incarcerated — continue to pay a price
9 long after the crime." Alfred Blumstein & Kiminori Nakamura, *Paying a Price, Long After the*
10 *Crime*, NY Times, January 9, 2012.

11 Because one in four Americans, over 65 million people, have an arrest or conviction
12 record, the U.S. Equal Employment Opportunity Commission(EEOC), updated its guidance on
13 how employers should use criminal background checks in the hiring process. The new
14 guidelines reaffirm that improper use of arrest and conviction records in employment
15 decisions will violate Title VII in certain circumstances. EEOC Press Release, *Commission*
16 *Updates Guidance on Employer Use of Arrest and Conviction Records* (April 25, 2012)
17 <<http://www1.eeoc.gov//eeoc/newsroom/release/4-25-12.cfm?renderforprint=1>>. See also
18 *Reduce Barriers for Persons with Prior Arrest and Conviction Records : Resources*, SF
19 Human Rights Comm'n (visited on May 31, 2013) <[http://www.sf-](http://www.sf-hrc.org/index.aspx?page=145)
20 [hrc.org/index.aspx?page=145](http://www.sf-hrc.org/index.aspx?page=145)>.

21 Lack of employment is a significant cause of recidivism; people who are gainfully
22 employed are less likely to commit crimes. Unemployment among ex offenders is creating a
23 permanent underclass that undermines public safety. It is in the interest of the City & County
24 of San Francisco to remove barriers to employment for ex-offenders.

1 The San Francisco Civil Service Commission's Policy on Disclosure and Review of
2 Criminal History Records provides that persons with a criminal record are not barred from
3 employment with the City unless there are state or federal restrictions related to certain
4 classifications or positions that would bar such employment. *Disclosure and Review of*
5 *Criminal History Records*, Civil Service Commission Policy adopted at Regular Meeting on
6 January 17, 2006, <<http://city04.sfgov.org/sfgov3/index.aspx?page=402>>. It should be the
7 policy of our City to assure that those doing business with the City do not discriminate against
8 persons based on their conviction history or history of arrests absent state or federal
9 restrictions barring such employment.

10 This ordinance is not intended and shall not be construed to require a City contractor or
11 subcontractor to hire or give preference to a person with an arrest or conviction record.
12 Rather, it is meant to implement procedures that set parameters for inquiring into individuals'
13 arrest and conviction records, and to give those individuals who wish to prove that they can be
14 law-abiding, productive members of society an opportunity to do so.

15 Section 2. The San Francisco Administrative Code is hereby amended by amending
16 Sections 12B.1 and 12B.2, to read as follows:

17 **SEC. 12B.1. ALL CONTRACTS AND PROPERTY CONTRACTS TO INCLUDE**
18 **NONDISCRIMINATION PROVISIONS; DEFINITIONS.**

19 (a) All contracting agencies of the City, or any department thereof, acting for or on
20 behalf of the City and County, shall include in all contracts and property contracts hereinafter
21 executed or amended in any manner or as to any portion thereof, a provision obligating the
22 contractor not to discriminate on the basis of the fact or perception of a person's race, color,
23 creed, religion, national origin, ancestry, age, sex, sexual orientation, gender identity,
24 domestic partner status, marital status, disability or Acquired Immune Deficiency Syndrome,
25 HIV status (AIDS/HIV status), weight, height, conviction history, history of arrests, association

1 with members of classes protected under this chapter or in retaliation for opposition to any
2 practices forbidden under this chapter against any employee of, any City employee working
3 with, or applicant for employment with such contractor and shall require such contractor to
4 include a similar provision in all subcontracts executed or amended thereunder.

5 (b) No contracting agency of the City, or any department thereof, acting for or on
6 behalf of the City and County, shall execute or amend any contract or property contract with
7 any contractor that discriminates in the provision of bereavement leave, family medical leave,
8 health benefits, membership or membership discounts, moving expenses, pension and
9 retirement benefits or travel benefits as well as any benefits other than bereavement leave,
10 family medical leave, health benefits, membership or membership discounts, moving
11 expenses, pension and retirement benefits or travel benefits between employees with
12 domestic partners and employees with spouses, and/or between the domestic partners and
13 spouses of such employees, where the domestic partnership has been registered with a
14 governmental entity pursuant to State or local law authorizing such registration, subject to the
15 following conditions. In the event that the contractor's actual cost of providing a certain benefit
16 for the domestic partner of an employee exceeds that of providing it for the spouse of an
17 employee, or the contractor's actual cost of providing a certain benefit for the spouse of an
18 employee exceeds that of providing it for the domestic partner of an employee, the contractor
19 shall not be deemed to discriminate in the provision of benefits if the contractor conditions
20 providing such benefit upon the employee agreeing to pay the excess costs. In addition, in the
21 event a contractor is unable to provide a certain benefit, despite taking reasonable measures
22 to do so, the contractor shall not be deemed to discriminate in the provision of benefits if the
23 contractor provides the employee with a cash equivalent.

24 (c) Definitions. As used in this Chapter the following words and phrases shall have
25 the meanings indicated herein:

1 "Age" shall mean the age of any employee or applicant for employment who has
2 attained the age of 40 years and has not attained the age of 65 years. For the purposes of this
3 Chapter, discrimination because of age shall mean dismissal from employment of, or refusal
4 to employ or rehire any person because of his or her age, if such person has attained the age
5 of 40 years and has not attained the age of 65 years, if the person is physically able and
6 mentally competent to perform the services required. Age limitations of apprenticeship
7 programs in which the State or its political subdivisions participate shall not be considered
8 discriminatory within the meaning of this Chapter.

9 "Amend" shall mean to substantively change the terms of a pre-existing contract, and
10 shall not include amendments to decrease the scope of work or the amount to be paid under a
11 contract. Construction change orders shall not be construed as contract amendments for the
12 purposes of this Chapter.

13 "City" shall mean the City and County of San Francisco.

14 "Commission" shall mean the Human Rights Commission of the City and County of
15 San Francisco.

16 "Contract" shall mean an agreement for public works or improvements to be performed,
17 or for goods or services to be purchased or grants to be provided, at the expense of the City
18 and County or to be paid out of moneys deposited in the treasury or out of trust moneys under
19 the control or collected by the City and County, and does not include property contracts,
20 agreements entered into after June 1, 1997 pursuant to settlement of legal proceedings,
21 contracts for urgent litigation expenses, or contracts for a cumulative amount of \$5,000 or less
22 per vendor in each fiscal year.

23 "Contractor" means any person or persons, firm, partnership, corporation, or
24 combination thereof, who enters into a contract or property contract with a department head or
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1 officer empowered by law to enter into contracts or property contracts on the part of the City
2 and County.

3 "Criminal History" means one or more arrests or criminal convictions for violation of any
4 local, State or Federal law.

5 "Director" shall mean the Director of the Human Rights Commission.

6 "Disability" shall mean a physical or mental impairment which substantially limits one or
7 more major life activities, or a record of such an impairment.

8 "Domestic partner" shall mean any person who has a currently registered domestic
9 partnership with a governmental body pursuant to State or local law authorizing such
10 registration.

11 "Gender identity" shall mean a person's various individual attributes as they are
12 understood to be masculine and/or feminine.

13 "History of Arrests" means any arrests which did not result in a conviction and for which
14 criminal proceedings are not still pending.

15 "Property contract" shall mean a written agreement for the exclusive use or occupancy
16 of real property for a term exceeding 29 days in any calendar year, whether by singular or
17 cumulative instrument, (i) for the operation or use by others of real property owned or
18 controlled by the City for the operation of a business, social, or other establishment or
19 organization, including leases, concessions, franchises and easements, or (ii) for the City's
20 use or occupancy of real property owned by others, including leases, concessions, franchises
21 and easements. For the purposes of this Chapter, "exclusive use" means the right to use or
22 occupy real property to the exclusion of others, other than the rights reserved by the fee
23 owner. "Property contract" shall not include a revocable at-will use or encroachment permit for
24 the use of or encroachment on City property regardless of the ultimate duration of such
25 permit, except that "property contract" shall include such permits granted to a private entity for

1 the use of City property for the purpose of a for-profit activity. "Property contract" shall also not
2 include street excavation, street construction or street use permits, agreements for the use of
3 City right-of-way where a contracting utility has the power of eminent domain, or agreements
4 governing the use of City property which constitutes a public forum for activities that are
5 primarily for the purpose of espousing or advocating causes or ideas and that are generally
6 recognized as protected by the First Amendment to the U.S. Constitution, or which are
7 primarily recreational in nature.

8 "Qualified disabled employee" shall mean a person able to perform the essential
9 functions of a job with reasonable accommodation.

10 "Sex" shall mean the character of being male or female.

11 "Sexual orientation" shall mean the status of being lesbian, gay, bisexual or
12 heterosexual.

13 "Subcontract" shall mean an agreement to (i) provide goods and/or services, including
14 construction labor, materials or equipment, to a contractor, if such goods or services are
15 procured or used in the fulfillment of the contractor's obligations arising from a contract with
16 the City, or (ii) to transfer the right to occupy or use all or a portion of a real property interest
17 subject to a property contract to a subcontractor and pursuant to which the contractor remains
18 obligated under the property contract.

19 "Subcontractor" means any person or persons, firm, partnership, corporation or any
20 combination thereof, who enters into a subcontract with a contractor. Such term shall include
21 any person or entity who enters into an agreement with any subcontractor for the performance
22 of 10 percent or more of any subcontract.

23 (d) The requirements of this Chapter shall apply to (i) any of a contractor's
24 operations within San Francisco; (ii) a contractor's operations on real property outside of San
25 Francisco owned by the City or which the City has a right to occupy if the contractor's

1 presence at that location is connected to a contract or property contract with the City; (iii)
2 where the work is being performed by a contractor for the City within the United States; and
3 (iv) any of a contractor's operations elsewhere within the United States.

4 **SEC. 12B.2. NONDISCRIMINATION PROVISIONS.**

5 Every contract and property contract for or on behalf of the City shall incorporate by
6 reference and require the contractor to comply with the provisions of Section 12B.2. In
7 addition, all contractors must incorporate by reference in all subcontracts and require
8 subcontractors to comply with the requirements set forth in Sections 12B.2(a) and 12B.2(c)
9 through 12B.2(~~l~~), and failure to do so shall constitute a material breach of contract.

10 In the performance of a contract the contractor agrees as follows:

11 (a) The contractor or subcontractor will not discriminate against any employee, City
12 and County employee working with such contractor or subcontractor, or applicant for
13 employment with such contractor or subcontractor on the basis of the fact or perception of that
14 person's race, color, religion, ancestry, national origin, age, sex, sexual orientation, gender
15 identity, domestic partner status, marital status, disability, weight, height, AIDS/HIV status,
16 conviction history, history of arrests, or association with members of classes protected under this
17 chapter or in retaliation for opposition to any practices forbidden under this chapter.

18 Discrimination on the basis of sex includes sexual harassment as defined in Section 16.9-
19 25(b) of this Code. The contractor or subcontractor will take action to ensure that applicants
20 are employed, and that employees are treated equally during employment, without regard to
21 the fact or perception of their race, color, creed, religion, ancestry, national origin, age, sex,
22 sexual orientation, gender identity, domestic partner status, marital status, disability ~~or~~
23 AIDS/HIV status, conviction history, or history of arrests. Such action shall include, but not be
24 limited to, the following: Employment, upgrading, demotion or transfer; recruitment or
25 recruitment advertising; layoff or termination; rate of pay or other forms of compensation; and

1 selection for training, including apprenticeship. Nothing in this Chapter shall require or prohibit
2 the establishment of new classifications of employees in any given craft. The provisions of this
3 Section with respect to age shall not apply to (1) termination of employment because of the
4 terms or conditions of any bona fide retirement or pension plan, (2) operation of the terms or
5 conditions of any bona fide retirement or pension plan which has the effect of a minimum
6 service requirement, and (3) operation of the terms or conditions of any bona fide group or
7 insurance plan. The provisions of this Section with respect to conviction history and history of arrests
8 shall be limited as specified in subsection (e). The contractor or subcontractor agrees to post in
9 conspicuous places, available to employees and applicants for employment, notices in such
10 form and content as shall be furnished or approved by the awarding authority setting forth the
11 provisions of this Section.

12 (b) The prime contractor shall state that the prime contractor does not, and will not
13 during the term of the contract discriminate in the provision of bereavement leave, family
14 medical leave, health benefits, membership or membership discounts, moving expenses,
15 pension and retirement benefits or travel benefits as well as any benefits other than
16 bereavement leave, family medical leave, health benefits, membership or membership
17 discounts, moving expenses, pension and retirement benefits or travel benefits between
18 employees with domestic partners and employees with spouses, and/or between the domestic
19 partners and spouses of such employees, where the domestic partnership has been
20 registered with a governmental entity pursuant to State or local law authorizing such
21 registration, subject to the following conditions. In the event that the contractor's actual cost of
22 providing a certain benefit for the domestic partner of an employee exceeds that of providing it
23 for the spouse of an employee, or the contractor's actual cost of providing a certain benefit for
24 the spouse of an employee exceeds that of providing it for the domestic partner of an
25 employee, the contractor shall not be deemed to discriminate in the provision of benefits if the

1 contractor conditions providing such benefit upon the employee agreeing to pay the excess
2 costs. In addition, in the event a contractor is unable to provide a certain benefit, despite
3 taking reasonable measures to do so, the contractor shall not be deemed to discriminate in
4 the provision of benefits if the contractor provides the employee with a cash equivalent. The
5 Director shall be the final arbiter of a contractor's or property contractor's compliance or
6 substantial compliance with this Chapter and the Director's determination shall not be
7 appealable to the Commission. Contractors shall treat as confidential to the maximum extent
8 allowed by law or the requirements of contractor's insurance provider any request by an
9 employee or applicant for employment for domestic partner or spousal benefits or any
10 documentation of eligibility for domestic partner or spousal benefits submitted by an employee
11 or applicant for employment.

12 In adopting this Section 12B.2(b), the intent of the Board of Supervisors is to equalize
13 to the maximum extent legally permitted the total compensation between similarly situated
14 employees with spouses and employees with domestic partners.

15 In particular, consistent with the severability clause set forth in Section 12B.6 below,
16 the Board of Supervisors intends that if a court or agency of competent jurisdiction finds that a
17 State or federal law, rule or regulation invalidates (1) the application of this Section to any
18 business, person, type of compensation or benefit, or location; or (2) any other requirement of
19 this Section, then the court or agency should sever the invalid clause and leave in effect the
20 remainder of this Section.

21 (c) The contractor or subcontractor shall provide reasonable accommodation for
22 qualified disabled applicants for employment and for qualified disabled employees. Said
23 contractor or subcontractor need not provide reasonable accommodation if such would
24 present an undue hardship. An undue hardship may include but not be limited to more than a
25 de minimus cost, violation of the seniority rights of other co-workers as established by a bona

1 fide seniority system, or a health or safety risk to the employee or co-employees. The burden
2 of establishing an undue hardship rests on the employer.

3 (d) The contractor or subcontractor will in all solicitations or advertisements for
4 employees placed by or on his or her behalf, state that qualified applicants will receive
5 consideration for employment without regard to the fact or perception of their race, creed,
6 religion, color, ancestry, national origin, age, sex, sexual orientation, gender identity, domestic
7 partner status, marital status, disability, weight, height ~~or~~ AIDS/HIV status, conviction history or
8 history of arrests consistent with the provisions of this Section 12B.2.

9 (e) Arrest and Conviction History.

10 (1) The Contractor or subcontractor shall not require applicants for employment to
11 disclose the fact or details of any prior arrest or criminal conviction, and shall not inquire into any
12 prior arrest or criminal conviction, as part of the initial written application or at any time prior to the
13 interview stage of the hiring process, unless state or federal law would preclude employment in the
14 position based on a record of arrest or conviction for certain offenses.

15 (2) If during the interview stage of the hiring process, the Contractor or subcontractor
16 determines that the applicant is otherwise qualified for the position, the Contractor or subcontractor
17 may only then inquire into arrest and conviction history, and only to the following extent:

18 (A) prior convictions as permitted by law;

19 (B) any arrests for which charges are pending; and

20 (C) any arrests for which state or federal law permits employer consideration
21 due to the nature of the position.

22 (3) The antidiscrimination provisions of this Section 12B.2 with respect to arrest and
23 conviction history shall not apply to applicants for employment if:

24 (A) state or federal law precludes employment in the position based on the
25 applicant's arrest or conviction history; or

1 (B) Based on the applicant's conviction history, an arrest for which charges
2 are pending, or an arrest that the employer is permitted to consider under state or federal law, the
3 Contractor or subcontractor determines that the applicant is unsuitable for the position after an
4 evaluation of the following factors:

5 (i) the nature and gravity of the offense;

6 (ii) the degree to which the arrest or conviction is related to the duties
7 and responsibilities of the job;

8 (iii) age when arrested or convicted;

9 (iv) time elapsed since the arrest or conviction;

10 (v) evidence of rehabilitation; and

11 (vi) any other mitigating circumstances.

12 (4) The antidiscrimination provisions of this Section 12B.2 with respect to arrest
13 and conviction history shall not apply to consideration of offenses occurring after the start of
14 employment, if the offense or offenses are permitted by law to be examined and used as a basis for
15 disciplinary action, including termination, and the offense or offenses are material to the employee's
16 employment.

17 (ef) The contractor or subcontractor will send to each labor union or representative
18 of workers with which he or she has a collective bargaining agreement or other agreement or
19 understanding, a notice, in such form and content as shall be furnished or approved by the
20 awarding authority, advising the said labor union or workers' representative of the contractor's
21 or subcontractor's commitments under this Section, and shall post copies of the notice in
22 conspicuous places available to employees and applicants for employment.

23 (fg) The contractor or subcontractor will permit access to its records of employment,
24 employment advertisements, application forms, and other pertinent data and records by the
25 Commission, the City's awarding authority or the Fair Employment and Housing Commission,

1 for the purposes of investigation to ascertain compliance with the nondiscrimination provisions
2 of this Chapter, and upon request shall provide evidence that the contractor has complied or
3 will comply with the nondiscrimination provisions of this Chapter.

4 (~~g~~h) A contractor or subcontractor shall be deemed to have breached the
5 nondiscrimination provisions of this Chapter upon:

6 (1) A finding by the Director or such other official who may be designated by
7 the Commission, that the contractor or subcontractor has wilfully violated such
8 nondiscrimination provisions; or

9 (2) A finding by the California Fair Employment and Housing Commission
10 that a contractor or subcontractor has violated any provision of the California Fair Employment
11 and Housing Act or the nondiscrimination provisions of this Chapter, provided that the
12 California Fair Employment and Housing Commission has issued a final order pursuant to
13 Section 12970 of the Government Code, or has obtained a judgment and order enforcing the
14 final order pursuant to Section 12973 of the Government Code; provided further, that for the
15 purposes of these provisions, an order or injunction shall not be considered final during the
16 period within which (1) appeal may be taken, or (2) the same has been stayed by order of
17 court, or (3) further proceedings for vacation, reversal or modification are in progress before a
18 competent administrative or judicial tribunal.

19 (3) Upon such finding by the Director or other official designated by the
20 Commission, or the California Fair Employment and Housing Commission, the awarding
21 authority shall notify the contractor or subcontractor that unless the contractor or
22 subcontractor demonstrates to the satisfaction of the Director or other official designated by
23 the Commission, within such reasonable period as the Commission shall determine, that the
24 violation has been corrected, action will be taken as set forth in Subsections (i) and (j) hereof.

1 (4) The Commission shall, within 10 days of the date of issuance of any
2 finding by the Director or other official designated by the Commission for the enforcement of
3 this Chapter, mail to any person or persons affected by said finding, a copy of said finding,
4 together with written notice of the right to appeal such finding. Notice of appeal must be filed
5 in writing with the Chairperson of the Commission within 20 days of the date of mailing said
6 copy and notice.

7 (5) For purpose of appeal proceedings under this Section, a quorum shall
8 consist of eight members of the Commission. The vote of the majority of the full Commission
9 shall be necessary to affirm, reverse or modify such decisions, order or other action rendered
10 hereunder. Should a member of the Commission be designated under Section 12B.2(h)(1) of
11 this Chapter, that Commissioner may not participate in an appeal under this Section except as
12 a witness.

13 (6) The presiding officer of the Commission shall have the power to
14 administer oaths to witnesses in appeals before the Commission under this Section. In the
15 event that any person shall fail or refuse to appear as a witness in any such proceeding after
16 being requested to do so, and if it shall appear to the Commission that his or her testimony, or
17 books, records, documents or other things under his or her control are material and relevant
18 as evidence in the matter under consideration by the Commission in the proceeding, the
19 presiding officer of the Commission may subpoena such person, requiring his or her presence
20 at the proceeding, and requiring him or her to bring such books, records, documents or other
21 things under his or her control.

22 (7) All appeals to the Commission shall be open to the public. Records and
23 minutes shall be kept of such proceedings and shall be open to public inspection. Upon
24 reaching a decision in any appeal, the Commission shall give written notice thereof to the
25 Director or other official designated by the Commission, and the appellant or appellants. The

1 decision of the Commission shall be final unless within 15 days of the filing and service of
2 written notice thereof appropriate legal proceedings are filed in a court of competent
3 jurisdiction by any party to the contract, property contract or subcontract.

4 (8) If any contractor or subcontractor shall fail to appear at an appeal
5 proceeding of the Commission after having been given written notice to appear, such failure to
6 appear shall be grounds for termination of the contract, property contract or subcontract and
7 such contractor or subcontractor shall be deemed to have forfeited all rights, benefits and
8 privileges thereunder.

9 (9) The Commission shall promulgate rules and regulations for the
10 implementation of the nondiscrimination provisions of this Chapter.

11 (~~h~~*i*) The awarding authority may deduct from the amount payable to the contractor or
12 subcontractor by the City under any contract or property contract subject to this Chapter, or
13 may impose upon the contractor or subcontractor, a penalty of \$50 for each person for each
14 calendar day during which such person was discriminated against in violation of the provisions
15 of this Chapter. In addition to any other penalties provided for the violation of the
16 nondiscrimination provisions of this Chapter or for the failure of any contractor or
17 subcontractor to abide by the rules and regulations of the Commission, the contract, property
18 contract or subcontract may be terminated or suspended, in whole or in part, by the awarding
19 authority upon the basis of a finding as set forth in Section 12B.2(~~h~~*l*) that the contractor has
20 discriminated contrary to the provisions of this Chapter, and all moneys due or to become due
21 hereunder may be forfeited to, and retained by, the City.

22 (~~i~~*j*) A breach of the nondiscrimination provisions in the performance of a contract,
23 property contract or subcontract shall be deemed by the City to be material breach of contract
24 and the basis for determination by the awarding authority that the contractor or subcontractor
25 is an irresponsible bidder as to all future contracts or property contracts for which such

1 contractor or subcontractor may submit bids. Such contractor or subcontractor shall not for a
2 period of up to two years thereafter, or until it shall establish and carry out a program in
3 conformity with the nondiscrimination provisions of this Chapter, be allowed to act as a
4 contractor or subcontractor under any contract or property contract.

5 (~~j~~k) Nothing contained in this Chapter shall be construed in any manner so as to
6 prevent the City from pursuing any other remedies that may be available at law, equity or
7 under any contract or property contract.

8 (~~k~~l) The contractor or subcontractor will meet the following standards for
9 compliance:

10 (1) If the contractor or subcontractor has been held to be an irresponsible
11 bidder under Section 12B.2(~~j~~) hereof, the contractor or subcontractor shall furnish evidence
12 that it has established and is carrying out a program in conformity with the nondiscrimination
13 provisions of this Chapter.

14 (2) The contractor or subcontractor may be required to file with the
15 Commission a basic compliance report, which may be a copy of the federal EEO-1, or a more
16 detailed report as determined by the Commission. Wilful false statements made in such
17 reports shall be punishable as provided by law. No contractor or subcontractor shall be held in
18 noncompliance for not filing such a report with the Commission unless it has been specifically
19 required to do so in writing by the Commission.

20 (3) Personally, or through its representatives, the contractor or subcontractor
21 shall, through negotiations with the unions with whom it has collective bargaining or other
22 agreements requiring the contractor or subcontractor to obtain or clear its employees through
23 the union, or when the contractor or subcontractor otherwise uses a union as an employment
24 resource, attempt to develop an agreement which will:

1 (A) Define and outline responsibilities for nondiscrimination in hiring,
2 referral, upgrading and training;

3 (B) Otherwise implement a nondiscrimination program in terms of the
4 unions' specific areas of skill and geography, such as an apprenticeship program, to the end
5 that minority workers will be available and given an equal opportunity for employment.

6 (4) The contractor or subcontractor shall notify the awarding authority of
7 opposition to the nondiscrimination provisions of a contract by individuals, firms or
8 organizations during the term of the contract.

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

11 Section 4. In enacting this ordinance, the Board of Supervisors intends to amend only
12 those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation
13 marks, charts, diagrams, or any other constituent parts of the Administrative Code that are
14 explicitly shown in this ordinance as additions, deletions, Board amendment additions, and
15 Board amendment deletions in accordance with the "Note" that appears under the official title
16 of the ordinance.

17 APPROVED AS TO FORM:
18 DENNIS J. HERRERA, City Attorney

19 By: _____
20 SALLIE P. GIBSON
21 Deputy City Attorney

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